



Doing Business in Kenya 2010

COMPARING REGULATION IN 11 LOCALITIES AND 183 ECONOMIES



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Doing Business in Kenya 2010 and other subnational and regional *Doing Business* studies can be downloaded at no charge at <http://subnational.doingbusiness.org>

Additional copies of the *Doing Business* global reports: *Doing Business 2010: Reforming through Difficult Times*, *Doing Business 2009*, *Doing Business 2008*, *Doing Business 2007: How to Reform*, *Doing Business in 2006: Creating Jobs*, *Doing Business in 2005: Removing Obstacles to Growth* and *Doing Business in 2004: Understanding Regulations*, may be purchased at www.doingbusiness.org

About the Investment Climate Advisory Services of the World Bank Group

The Investment Climate Advisory Services of the World Bank Group helps governments implement reforms to improve their business environment, and encourage and retain investment, thus fostering competitive markets, growth and job creation. Funding is provided by the World Bank Group (IFC, MIGA, and the World Bank) and over fifteen donor partners working through the multi-donor FIAS platform.

Contents

Doing Business in Kenya 2010 is a new subnational report of the *Doing Business* series on the sub-Saharan African region, following the subnational *Doing Business* report on Nigeria. It measures business regulations and their enforcement in 11 Kenyan localities: Eldoret, Garissa, Isiolo, Kilifi, Kisumu, Malaba, Mombasa, Nairobi, Narok, Nyeri, and Thika. The localities can be compared against each other, and with 183 economies worldwide.

Comparisons with other economies are based on the indicators in *Doing Business 2010: Reforming Through Difficult Times*, the seventh in a series of annual reports published by the World Bank and the International Finance Corporation. The indicators in *Doing Business in Kenya 2010* are also comparable with the data in other subnational *Doing Business* reports. All *Doing Business* data and reports are available at <http://subnational.doingbusiness.org> and at www.doingbusiness.org.

Doing Business investigates the regulations that enhance business activity and those that constrain it. Regulations affecting four stages of the life of a business are measured at the subnational level in Kenya: starting a business, dealing with construction permits, registering property, and enforcing contracts. These indicators have been selected because they cover areas of local jurisdiction in practice. The data in *Doing Business in Kenya 2010* are current as of June 2009.

The indicators are used to analyze economic outcomes and identify what reforms have worked, where, and why. Other areas important to business—such as a country's proximity to large markets, the quality of infrastructure services (other than services related to trading across borders), the security of property from theft and looting, the transparency of government procurement, macroeconomic conditions, or the underlying strength of institutions—are not directly studied by *Doing Business*. To make the data comparable across localities, the indicators refer to a specific type of business—generally a small- or medium-sized limited-liability company.

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About Doing Business and Doing Business in Kenya 2010

In 1664 William Petty, an adviser to England's Charles II, compiled the first known national accounts. He made 4 entries. On the expense side, "food, housing, clothes and all other necessities" were estimated at £40 million. National income was split among 3 sources: £8 million from land, £7 million from other personal estates and £25 million from labor income.

In later centuries estimates of country income, expenditure and material inputs and outputs became more abundant. But it was not until the 1940s that a systematic framework was developed for measuring national income and expenditure, under the direction of British economist John Maynard Keynes. As the methodology became an international standard, comparisons of countries' financial positions became possible. Today the macroeconomic indicators in national accounts are standard in every country.

Governments committed to the economic health of their country and opportunities for its citizens now focus on more than macroeconomic conditions. They also pay attention to the laws, regulations and institutional arrangements that shape daily economic activity.

The global financial crisis has renewed interest in good rules and regulation. In times of recession, effective business regulation and institutions can support economic adjustment. Easy entry and exit of firms, and flexibility in redeploying resources, make it easier

to stop doing things for which demand has weakened and to start doing new things. Clarification of property rights and strengthening of market infrastructure (such as credit information and collateral systems) can contribute to confidence as investors and entrepreneurs look to rebuild.

Until very recently, however, there were no globally available indicator sets for monitoring such microeconomic factors and analyzing their relevance. The first efforts, in the 1980s, drew on perceptions data from expert or business surveys. Such surveys are useful gauges of economic and policy conditions. But their reliance on perceptions and their incomplete coverage of poor countries constrain their usefulness for analysis.

The *Doing Business* project, launched 8 years ago, goes one step further. It looks at domestic small and medium-size companies and measures the regulations applying to them through their life cycle. *Doing Business* and the standard cost model initially developed and applied in the Netherlands are, for the present, the only standard tools used across a broad range of jurisdictions to measure the impact of government rule-making on business activity.

The first *Doing Business* report, published in 2003, covered 5 indicator sets in 133 economies. This year's report covers 10 indicator sets in 183 economies. The project has benefited from feedback from governments, academics, practitioners

and reviewers. The initial goal remains: to provide an objective basis for understanding and improving the regulatory environment for business.

WHAT DOING BUSINESS IN KENYA 2010 COVERS

Doing Business in Kenya 2010 provides a quantitative measure of the national and local regulations for starting a business, dealing with construction permits, registering property and enforcing contracts—as they apply to domestic small and medium-size enterprises.

A fundamental premise of *Doing Business* is that economic activity requires good rules. These include rules that establish and clarify property rights and reduce the costs of resolving disputes, rules that increase the predictability of economic interactions and rules that provide contractual partners with core protections against abuse. The objective is: regulations designed to be efficient, to be accessible to all who need to use them and to be simple in their implementation. Accordingly, some *Doing Business* indicators give a higher score for more regulation, such as stricter disclosure requirements in related-party transactions. Some give a higher score for a simplified way of implementing existing regulation, such as completing business start-up formalities in a one-stop shop.

Doing Business in Kenya 2010 encompasses 2 types of data. The first come from readings of laws and regula-

tions. The second are time and motion indicators that measure the efficiency in achieving a regulatory goal (such as granting the legal identity of a business). Within the time and motion indicators, cost estimates are recorded from official fee schedules where applicable. Here, *Doing Business* builds on Hernando de Soto's pioneering work in applying the time and motion approach first used by Frederick Taylor to revolutionize the production of the Model T Ford. De Soto used the approach in the 1980s to show the obstacles to setting up a garment factory on the outskirts of Lima, Peru.

WHAT DOING BUSINESS IN KENYA 2010 DOES NOT COVER

It is important to know the scope and limitations of *Doing Business in Kenya 2010* in order to interpret the results of this report.

LIMITED IN SCOPE

Doing Business in Kenya 2010 focuses on four topics, with the specific aim of measuring the regulation and red tape relevant to the life cycle of a domestic small to medium-size firm. Accordingly:

- *Doing Business in Kenya 2010* does not measure all ten indicators covered in the global *Doing Business* report. The report covers only those 4 areas of business regulation that are the provenance of municipal or national governments and where local differences exist.
- *Doing Business in Kenya 2010* does not measure all aspects of the business environment that matter to firms or investors—or all factors that affect competitiveness. It does not, for example, measure security, macroeconomic stability, corruption, the labor skills of the population, the underlying strength of institutions or the quality of infrastructure. Nor does it focus on regulations specific to foreign investment.
- *Doing Business in Kenya 2010* does not assess the strength of the financial system or market regulations, both

important factors in understanding some of the underlying causes of the global financial crisis.

- *Doing Business* does not cover all regulations, or all regulatory goals, in any locality. As economies and technology advance, more areas of economic activity are being regulated. For example, the European Union's body of laws (*acquis*) has now grown to no fewer than 14,500 rule sets. *Doing Business in Kenya 2010* measures just 4 phases of a company's life cycle, through 4 specific sets of indicators. The indicator sets also do not cover all aspects of regulation in the particular area. For example, the indicators on starting a business do not cover all aspects of commercial legislation.

BASED ON STANDARDIZED CASE SCENARIOS

The indicators analyzed in *Doing Business in Kenya 2010* are based on standardized case scenarios with specific assumptions, such as that the business is located in one of the 11 localities benchmarked in the report. Economic indicators commonly make limiting assumptions of this kind. Inflation statistics, for example, are often based on prices of consumer goods in a few urban areas. Such assumptions allow global coverage and enhance comparability, but they inevitably come at the expense of generality.

In areas where regulation is complex and highly differentiated, the standardized case used to construct each *Doing Business in Kenya 2010* indicator needs to be carefully defined. Where relevant, the standardized case assumes a limited liability company. This choice is in part empirical: private, limited liability companies are the most prevalent business form in most economies around the world. The choice also reflects one focus of *Doing Business*: expanding opportunities for entrepreneurship. Investors are encouraged to venture into business when potential losses are limited to their capital participation.

FOCUSED ON THE FORMAL SECTOR

In defining the indicators, *Doing Business in Kenya 2010* assumes that entrepreneurs are knowledgeable about all regulations in place and comply with them. In practice, entrepreneurs may spend considerable time finding out where to go and what documents to submit. Or they may avoid legally required procedures altogether—by not registering for social security, for example.

Where regulation is particularly onerous, levels of informality are higher. Informality comes at a cost: firms in the informal sector typically grow more slowly, have poorer access to credit and employ fewer workers—and their workers remain outside the protections of labor law. *Doing Business in Kenya 2010* measures one set of factors that help explain the occurrence of informality and give policy makers insights into potential areas of reform. Gaining a fuller understanding of the broader business environment, and a broader perspective on policy challenges, requires combining insights from *Doing Business in Kenya 2010* with data from other sources, such as the World Bank Enterprise Surveys.

WHY THIS FOCUS

Doing Business in Kenya 2010 functions as a kind of cholesterol test for the regulatory environment for domestic businesses. A cholesterol test does not tell us everything about the state of our health. But it does measure something important for our health. And it puts us on watch to change behaviors in ways that will improve not only our cholesterol rating but also our overall health.

One way to test whether *Doing Business* serves as a proxy for the broader business environment and for competitiveness is to look at correlations between the *Doing Business* rankings and other major economic benchmarks. The indicator set closest to *Doing Business* in what it measures is the Organisation for Economic Co-operation and Development's indicators of product market regulation; the correlation here is 0.75.

The World Economic Forum's Global Competitiveness Index and IMD's World Competitiveness Yearbook are broader in scope, but these too are strongly correlated with *Doing Business* (0.79 and 0.72, respectively). These correlations suggest that where peace and macroeconomic stability are present, domestic business regulation makes an important difference in economic competitiveness.

A bigger question is whether the issues on which *Doing Business* focuses matter for development and poverty reduction. The World Bank study *Voices of the Poor* asked 60,000 poor people around the world how they thought they might escape poverty. The answers were unequivocal: women and men alike pin their hopes above all on income from their own business or wages earned in employment. Enabling growth—and ensuring that poor people can participate in its benefits—requires an environment where new entrants with drive and good ideas, regardless of their gender or ethnic origin, can get started in business and where good firms can invest and grow, generating more jobs.

Small and medium-size enterprises are key drivers of competition, growth and job creation, particularly in developing countries. But in these economies up to 80% of economic activity takes place in the informal sector. Firms may be prevented from entering the formal sector by excessive bureaucracy and regulation.

Where regulation is burdensome and competition limited, success tends to depend more on whom you know than on what you can do. But where regulation is transparent, efficient and implemented in a simple way, it becomes easier for any aspiring entrepreneurs, regardless of their connections, to operate within the rule of law and to benefit from the opportunities and protections that the law provides.

In this sense *Doing Business* values good rules as a key to social inclusion. It also provides a basis for studying effects of regulations and their application. For example, *Doing Business 2004* found that faster contract enforcement was associ-

ated with perceptions of greater judicial fairness—suggesting that justice delayed is justice denied.

In the current global crisis policy-makers face particular challenges. Both developed and developing economies are seeing the impact of the financial crisis flowing through to the real economy, with rising unemployment and income loss. The foremost challenge for many governments is to create new jobs and economic opportunities. But many have limited fiscal space for publicly funded activities such as infrastructure investment or for the provision of publicly funded safety nets and social services. Reforms aimed at creating a better investment climate, including reforms of business regulation, can be beneficial for several reasons. Flexible regulation and effective institutions, including efficient insolvency or bankruptcy systems, can facilitate reallocation of labor and capital. And regulatory institutions and processes that are streamlined and accessible can help ensure that, as businesses rebuild, barriers between the informal and formal sectors are lowered, creating more opportunities for the poor.

DOING BUSINESS IN KENYA 2010 AS A BENCHMARKING EXERCISE

Doing Business in Kenya 2010, in capturing some key dimensions of regulatory regimes, can be useful for benchmarking. Any benchmarking—for individuals, firms or economies—is necessarily partial: it is valid and useful if it helps sharpen judgment, less so if it substitutes for judgment.

Doing Business in Kenya 2010 provides 2 approaches on the data it collects: it presents “absolute” indicators for each locality for each of the 4 regulatory topics it addresses, and it provides rankings of localities, both by indicator and in aggregate. Judgment is required in interpreting these measures for any locality and in determining a sensible and politically feasible path for reform.

Reviewing the *Doing Business* rankings in isolation may show unexpected

results. Some localities may rank unexpectedly high on some indicators. And some localities that have had rapid growth or attracted a great deal of investment may rank lower than others that appear to be less dynamic.

But for reform-minded governments, how much their indicators improve matters more than their absolute ranking. As localities develop, they strengthen and add to regulations to protect investor and property rights. Meanwhile, they find more efficient ways to implement existing regulations and cut outdated ones. One finding of *Doing Business*: dynamic and growing economies around the world continually reform and update their regulations and their way of implementing them, while many poor economies still work with regulatory systems dating to the late 1800s.

DOING BUSINESS—A USER'S GUIDE

Quantitative data and benchmarking can be useful in stimulating debate about policy, both by exposing potential challenges and by identifying where policy makers might look for lessons and good practices. These data also provide a basis for analyzing how different policy approaches—and different policy reforms—contribute to desired outcomes such as competitiveness, growth and greater employment and incomes.

Seven years of *Doing Business* data have enabled a growing body of research on how performance on *Doing Business* indicators—and reforms relevant to those indicators—relate to desired social and economic outcomes. Some 405 articles have been published in peer-reviewed academic journals, and about 1,143 working papers are available through Google Scholar. Among the findings:

- Lower barriers to start-up are associated with a smaller informal sector.
- Lower costs of entry encourage entrepreneurship, enhance firm productivity and reduce corruption.
- Simpler start-up translates into greater employment opportunities.

HOW DO GOVERNMENTS USE DOING BUSINESS?

A common first reaction is to doubt the quality and relevance of the *Doing Business* data. Yet the debate typically proceeds to a deeper discussion exploring the relevance of the data to the economy and areas where reform might make sense.

Most reformers start out by seeking examples, and *Doing Business* helps in this. For example, Saudi Arabia used the company law of France as a model for revising its own. Many countries in Africa look to Mauritius—the region's strongest performer on *Doing Business* indicators—as a source of good practices for reform. In the words of Luis Guillermo Plata, the minister of commerce, industry and tourism of Colombia,

It's not like baking a cake where you follow the recipe. No. We are all different. But we can take certain things, certain key lessons, and apply those lessons and see how they work in our environment.

Over the past 7 years there has been much activity by governments in reforming the regulatory environment for domestic businesses. Most reforms relating to *Doing Business* topics were nested in broader programs of reform aimed at enhancing economic competitiveness. In structuring their reform programs, governments use multiple data sources and indicators. And reformers respond to many stakeholders and interest groups, all of whom bring important issues and concerns into the reform debate.

World Bank support to these reform processes is designed to encourage critical use of the data, sharpening judgment and avoiding a narrow focus on improving *Doing Business* rankings.

METHODOLOGY AND DATA

Doing Business in Kenya 2010 covers 11 localities, including Nairobi. The data are based on national and local laws and regulations as well as administrative requirements. (For a detailed explanation of the *Doing Business in Kenya 2010* methodology, see the Data notes).

INFORMATION SOURCES FOR THE DATA

Most of the indicators are based on laws and regulations. In addition, most of the cost indicators are backed by official fee schedules. *Doing Business* respondents both fill out written surveys and provide references to the relevant laws, regulations and fee schedules, aiding data checking and quality assurance.

For some indicators part of the cost component (where fee schedules are lacking) and the time component are based on actual practice rather than the law on the books. This introduces a degree of subjectivity. The *Doing Business* approach has therefore been to work with legal practitioners or professionals who regularly undertake the transactions involved. Following the standard methodological approach for time and motion studies, *Doing Business* breaks down each process or transaction, such as starting and legally operating a business, into separate steps to ensure a better estimate of time. The time estimate for each step is given by practitioners with significant and routine experience in the transaction.

The *Doing Business* approach to data collection contrasts with that of enterprise or firm surveys, which capture often one-time perceptions and experiences of businesses. A corporate lawyer registering 100–150 businesses a year will be more familiar with the process than an entrepreneur, who will register a business only once or maybe twice. A bankruptcy judge deciding dozens of cases a year will have more insight into bankruptcy than a company that may undergo the process.

DEVELOPMENT OF THE METHODOLOGY

The methodology for calculating each indicator is transparent, objective and easily replicable. Leading academics collaborate in the development of the indicators, ensuring academic rigor. Seven of the background papers underlying the indicators have been published in leading economic journals. One is at an advanced stage of publication.

Doing Business uses a simple averaging approach for weighting subindica-

tors and calculating rankings. Other approaches were explored, including using principal components and unobserved components. The principal components and unobserved components approaches turn out to yield results nearly identical to those of simple averaging. The tests show that each set of indicators provides new information. The simple averaging approach is therefore robust to such tests.

IMPROVEMENTS TO THE METHODOLOGY AND DATA REVISIONS

The methodology has undergone continual improvement over the years. Changes have been made mainly in response to country suggestions. In accordance with the *Doing Business* methodology, these changes have been incorporated into the *Doing Business in Kenya 2010*.

For enforcing contracts, for example, the amount of the disputed claim in the case study was increased from 50% to 200% of income per capita after the first year of data collection, as it became clear that smaller claims were unlikely to go to court.

Another change relates to starting a business. The minimum capital requirement can be an obstacle for potential entrepreneurs. Initially, *Doing Business* measured the required minimum capital regardless of whether it had to be paid up front or not. In many economies only part of the minimum capital has to be paid up front. To reflect the actual potential barrier to entry, the paid-in minimum capital has been used since 2004.

All changes in methodology are explained in the Data notes section of this report as well as on the *Doing Business* website. In addition, data time series for each indicator and locality are available on the website. The website also makes available all original data sets used for background papers.

Information on data corrections is provided in the Data notes and on the website. A transparent complaint procedure allows anyone to challenge the data. If errors are confirmed after a verification process, they are expeditiously corrected.

Overview

Some paleontologists believe the first humans may have inhabited Kenya more than two million years ago. According to recent fossil evidence man was “born” on the eastern shores of Lake Rudolf, now Lake Turkana, which would make Kenya the “Biblical Garden of Eden, from which descendants moved out to populate the world.”¹ Later on, Kenya stood at the crossroad of important trading routes. Persian and Arab merchants traveled to the African shores to establish commercial ventures. In those days, they took advantage of the monsoon winds to reach their destination.² Nowadays, if they planned to open a business in Garissa, for example, they would end up catching a bus to Nairobi to submit the paperwork needed. In addition to the travel expenses, the trip would be time-consuming, maybe requiring an overnight stay at a hotel or with relatives. Why not take care of it in Garissa itself? Because many of the necessary permits, documents, and authorizations have to be approved in Nairobi.

Until three years ago, an aspiring entrepreneur in Assiut, Arab Republic of Egypt, would have faced a similar situation. Today, she can save time and money: opening a business at the new one-stop shop in Assiut is as easy and almost as fast as it is in Cairo. This example illustrates two lessons that may also apply to Kenya. First, as the experience in the Arab Republic of Egypt shows, decentralization can work. There,

reforms were initiated by the national government and implemented first in Cairo. Once the reforms proved successful, they were adopted all over the country. In the case of business start-up, the one-stop shop reduced the number of required procedures from ten to seven and cut start-up costs and time by more than half. Following the success of the one-stop shop in Cairo, the authority to process business registrations was delegated to regional one-stop shops. These replicated the Cairo success story. Second, interagency cooperation is crucial to bridge administrative gaps. In the Arab Republic of Egypt, business start-up reforms proved successful, because the different agencies involved assigned employees to the one-stop shops and gave them the necessary approval authority.³ As a result, entrepreneurs in Assiut no longer have to travel all the way from Upper Egypt to Cairo to start their business.

Doing Business studies business regulations from the perspective of a small- to medium-size domestic firm. Nairobi, the most populous city in Kenya, represents the country in the global *Doing Business* series. However, while Kenya is a centralized country, local business regulations and their enforcement differ across localities. This is why *Doing Business in Kenya 2010* goes beyond Nairobi and benchmarks ten additional localities: Eldoret, Garissa, Isiolo, Kilifi, Kisumu, Malaba, Mombasa,

TABLE 1.1

Doing Business in Kenya—where is it easiest?

Locality	AGGREGATE RANK
Narok (easiest)	1
Malaba	2
Thika	3
Kisumu	4
Mombasa	5
Nyeri	6
Garissa	7
Eldoret	8
Kilifi	9
Nairobi	10
Isiolo (most difficult)	11

Note: The aggregate ranking index is calculated as the ranking on the simple average of locality percentile rankings on each of the 4 topics covered in *Doing Business in Kenya 2010*.

Source: *Doing Business* database.

Narok, Nyeri, and Thika. The study covers four *Doing Business* topics—starting a business, dealing with construction permits, registering property, and enforcing contracts. These indicators were selected because they reveal differences in national and local regulatory policies and practices. The results are presented here (table 1.1).

Across Kenya, doing business is easier in Narok, Malaba, and Thika. It is more difficult in Kilifi, Nairobi, and Isiolo. While Nairobi has the fastest time to start a business, it lags behind other localities in the time needed to register property or enforce a contract before a court. However, large cities can also perform well. The other major business center, Mombasa, ranks fifth overall; it is the best performing locality in register-

TABLE 1.2
The top 10 reformers in 2008/09

Economy	Starting a business	Dealing with construction permits	Employing workers	Registering property	Getting credit	Protecting investors	Paying taxes	Trading across borders	Enforcing contracts	Closing a business
Rwanda	✓		✓	✓	✓	✓		✓		✓
Kyrgyz Republic	✓	✓	✓	✓	✓		✓	✓		
Macedonia, FYR	✓	✓	✓	✓	✓	✓	✓			
Belarus	✓	✓	✓	✓			✓	✓		
United Arab Emirates	✓	✓						✓		
Moldova	✓			✓			✓			
Colombia	✓	✓		✓	✓	✓	✓	✓		✓
Tajikistan	✓	✓			✓	✓				✓
Egypt, Arab Rep.	✓	✓			✓				✓	
Liberia	✓	✓						✓		

Note: Economies are ranked on the number and impact of reforms. First, *Doing Business* selects the economies that implemented reforms making it easier to do business in 3 or more of the *Doing Business* topics. Second, it ranks these economies on the increase in rank on the ease of doing business from the previous year. The larger the improvement, the higher the ranking as a reformer.

Source: *Doing Business* database.

ing property and ranks third in starting a business.

Doing Business rankings do not tell the whole story. The indicators do not account for all factors important for doing business—for example, macro-economic conditions, infrastructure, workforce skills, or security. Nor do they assess the strength of the financial infrastructure or market regulation, both important factors in understanding some of the underlying causes of the global financial crisis. But improvements in an economy's ranking do indicate that the government is creating a regulatory environment that is more conducive to business. At the same time, good performance should not lead to government complacency. Both Singapore and New Zealand—ranked 1 and 2 on the ease of doing business—know this well. Despite being top performers for a number of years, both have introduced several reforms to ease business entry and operation in the past two years.

KENYA IS REFORMING—WHAT GETS MEASURED GETS DONE

Since 2004, *Doing Business* has recorded more than 1,000 reforms worldwide—287 of those took effect between June 2008 and June 2009 alone. Low- and lower-middle-income economies accounted for two-thirds of reforms recorded during the last year, continuing

a trend that started 3 years ago. Indeed, three-quarters of such economies covered by *Doing Business* reformed. In sub-Saharan Africa 29 of 46 economies reformed in 2008/09, implementing 67 reforms. As in the previous year, nearly half the reforms in the region focused on making it easier to start a business or trade across borders. And for the first time a sub-Saharan African economy, Rwanda, led the world in *Doing Business* reforms (table 1.2).

Rwanda has steadily reformed its commercial laws and institutions since 2001. In the past year it introduced a new company law that simplified business start-up and strengthened minority shareholder protections. Entrepreneurs can now start a business in 2 procedures and 3 days. Reforms also included measures to speed up trade and property registration. Delays at the borders were reduced thanks to longer operating hours and simpler requirements for documents. Reforms removed bottlenecks at the property registry and at the Rwanda Revenue Authority, reducing the time required to register property by 255 days (figure 1.1).

Kenya has been implementing regulatory reforms across several *Doing Business* topics over various years. In 2005, Kenya launched a “guillotine initiative”⁴ to review 1,325 business licenses that were crippling business performance. In 2006, the first phase eliminated 26 of

these in only 8 weeks. As of November 2008, 315 licenses have been eliminated, 379 simplified, 294 retained, and 26 prioritized for reform.

In order to facilitate business entry, the national government enacted the Licensing Laws (Repeals and Amendments) Act in 2006, reducing the number of mandatory business permits. In 2007, the Commercial Registry managed to improve the quality of its services, thanks to better coordination between the Ministry of Lands and Housing and the Kenya Revenue Authority. As a result of these reforms, the time to start a business dropped from 54 to 44 days in 2007 and to 34 days in 2009.

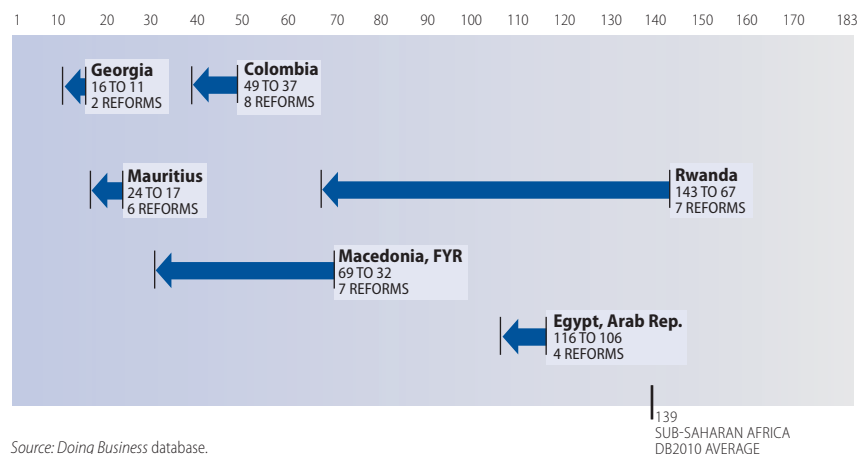
Property registration also underwent reforms. Well aware that an affordable and efficient immovable property registration system reduces informality, the Registry Superintendent of the Ministry of Lands and Housing decided to allow the private sector to provide property valuations in addition to valuations available from the public sector; today, the time needed for an entrepreneur to get a valuation is only 7 days.

Another area of reform is construction permits. In November 2006, the Minister of Housing and Lands launched the Rapid Response Initiative (RRI). As part of the initiative, the Physical Planning Department of the City of Nairobi started to look into why the issuance of building approval and occupancy

FIGURE 1.1

Consistent reformers continued reform efforts in 2008/09

Improvement in the ranking on the ease of doing business, DB2009–DB2010

Source: *Doing Business* database.

permits took so long. One reason was that the fire, water and public health clearances required from the various agencies within the Physical Planning Department had to be reviewed by an internal committee. Because the committee only convened sporadically, this review significantly delayed the building approval process. The RRI removed the need for the committee review, shortening the time to obtain a building permit from 80 to 50 days. In 2009, the time was shortened further to 40 days. Under the Physical Planning Act, the Department further administratively consolidated the procedure for obtaining a certificate of compliance with the occupancy permit. Thanks to this consolidation, the average time to obtain an occupancy permit dropped from 17 to 14 days. The total time to get a construction permit decreased from 133 to 120 days.

COMPARING BUSINESS REGULATIONS IN KENYA—WIDE VARIATIONS ACROSS LOCALITIES

If you were returning to Kenya from studying abroad, with a great idea for a new business, starting your company would be fastest and least expensive in Nairobi, where it takes 34 days and costs 36% of income per capita. If you tried to do the same in Nyeri, it would take 80 days and cost 6% more (42% of income per capita). Obtaining all permits to build a new warehouse and hook it up to

utilities would take only about 69 days in Narok, placing Narok in fifteenth position worldwide just behind Hong Kong, China and in the same position as Denmark. It would take almost one month and a half longer in Malaba (111 days) and two more months in Isiolo (127 days). Getting the construction permit is cheapest in Nyeri (132% of income per capita), but if you want to construct a warehouse in Kilifi, it will cost more than twice as much (284% of income per capita).

If you decided to purchase property in Mombasa, your new real estate would be registered in 23 days, almost as fast as in Colombia, but 10 times longer than in Thailand or Saudi Arabia, the global leaders. If in Garissa, transferring the property title would take four times longer, similar to Nigeria and Sri Lanka. The cost of transferring property is similar across the 11 benchmarked localities at 4.2% of property value. However, if you want to transfer property in Isiolo, it will cost 24.2%. This is due to a transfer tax in the amount of 20% of property value levied by the Isiolo County Council. The transfer tax makes Isiolo one of the most expensive places in the world; among the 183 economies measured in *Doing Business*, Isiolo is cheaper only than the Syrian Arab Republic (28%).

Resolving a dispute in the courts is generally time-consuming across localities, but is faster in Malaba at 11 months,

similar to France. A commercial dispute in Nairobi will take 1 year and three months to resolve. Kenya has a significant backlog of cases. Most lawyers and litigants cite this as a primary source of delays. This is not a problem that is unique to courts in Kenya alone. It is mainly a consequence of inefficiency and the high number of inactive cases that accumulate due to lack of action from the litigants. Because courts do not have the power to revive an inactive case (this is the prerogative of the parties), they clog the system and interfere with the court diary, impeding the efficient allocation of resources.

These examples show some significant variations in the way local government regulations enhance or restrain business activity across Kenya. While local governments share the same basic legal framework, they also interpret and implement national regulations differently. Some localities have made processes more efficient with the help of technology. Global competition is becoming increasingly local. It is not only countries that compete with each other, but increasingly, specific locations—Mombasa versus Lagos (Nigeria) or Casablanca (Morocco), rather than Kenya versus Nigeria or Morocco. Kenyan local authorities must expedite their pace of reform to convince investors that it is more profitable to invest scarce capital in such places as Kilifi or Thika rather than Lagos or Kampala; without forgetting that the National Government has a key role—especially given the high degree of centralization in Kenya.

LEARNING FROM EACH OTHER—ADOPTING GOOD LOCAL PRACTICES

Publishing comparable data on the ease of doing business inspires governments to act. Comparisons among localities within the same country are even stronger drivers of reform. Local officials have a difficult time explaining why it takes longer or costs more to comply with administrative procedures in their town or state than in their neighbors²—despite sharing a similar legal and regulatory

TABLE 1.3
Best practices in Kenya compared internationally

Indicator	Kenya's performance in DB2010 (represented by Nairobi)	Best performing city	Best local practice	Global rank (183 economies) How Kenyan localities would compare globally
Number of procedures to build a warehouse	11 procedures	Kisumu	10 procedures	9
Days to build a warehouse	120 days	Narok	69 days	15
Days to enforce a contract	465 days	Malaba	330 days	23
Days to register property	64 days	Mombasa	23 days	51
Cost to register property	4.2% of the property value	Thika	4.1% of the property value	78
Cost to build a warehouse	161.7% of income per capita	Nyeri	132.4% of income per capita	88
Days to start a business	34 days	Nairobi	34 days	124
Cost to start a business	36.5% of income per capita	Nairobi	36.5% of income per capita	130
Number of procedures to register property	8 procedures	All localities	8 procedures	136
Cost to enforce a contract	47.2% of the claim value	Isiolo	38.4% of the claim value	140
Number of procedures to start a business	12 procedures	All localities	12 procedures	154
Hypothetical city of "Kenya"				78

Source: *Doing Business* database

framework. That was the case in India, where 10 cities were measured by *Doing Business in South Asia 2007* and again in 2009. The studies created competition to reform and the second benchmarking showed that 9 of the 10 states had reformed in at least one of the areas measured by *Doing Business in India*. As a result of the reforms, the average time to start up a company dropped from 54 to 35 days and the time to obtain a building permit was reduced by 25 days on average. The conclusion: what gets measured, gets reformed.

Localities in Kenya can learn from each other and adopt local best practices to compete globally. If a hypothetical city called "Kenya" were to adopt the good practices found in the benchmarked localities, it would move up 17 positions on the global ranking, placing the country ahead of Panama or Italy. Implementing Kenya's best practices would allow the country to rank 78 out of the 183 economies measured by *Doing Business 2010*. For example, business permits are issued by local authorities. If Garissa followed the example of Nairobi, it could speed up the business permit issuance by 3 days and cut the cost by half. If the local authorities across Kenya decided to

eliminate the requirement for a separate business permit all together, the ease of starting a business could move up 6 places globally, placing the country next to Vietnam and Poland and ahead of Austria and Tanzania.

The effectiveness of the Municipal Council in issuing building permits and the local presence of utility companies, make Narok the fastest locality in dealing with construction permits. Cutting the time to that of Narok—69 days—would put Kenya into position 15 worldwide on the time to deal with construction permits, ahead of Canada and Iceland. Adopting the time to register property from Mombasa, by creating opportunities for entrepreneurs to take care of their paperwork locally rather than traveling to Nairobi, would cut the time to 23 days and put the hypothetical city "Kenya" into position 51 worldwide, ahead of South Africa or Lebanon. Finally, the courts in Bungoma, where commercial disputes relating to Malaba are heard, tend to be strict on adjournments, which contributes to the speed of enforcement in Malaba. As a result, the 11 months needed in Malaba to solve a commercial dispute are faster than the OECD average of 462 days (table 1.3).

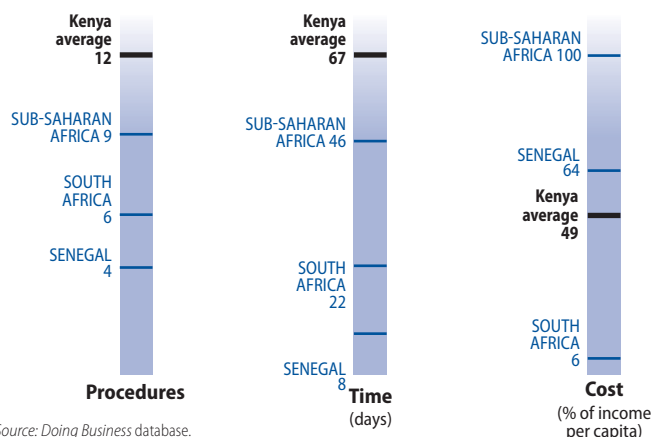
What began in 2007/2008 as a financial crisis has deteriorated into a global economic and employment crisis, posing major challenges for governments. Early attention has rightly focused on stabilization of the financial sector, and fiscal stimulus to check recessionary pressures. But as governments look to support recovery, the regulatory environment for businesses will also be critical. It affects how well firms can cope with the recession, capitalize on new opportunities and create jobs as recovery begins. As unemployment and public debt rise, it has become even more important to create the conditions that encourage businesses to grow, create productive jobs in the formal sector and stimulate incomes and potential tax revenues. While the crisis originated in the financial sector, it has brought renewed attention to the need for sound and effective regulation in all areas of the economy.

1. Muhoho, R. (2006). *Kenyan Culture, History, Food, People, Lifestyle, Tribes and Language*. Retrieved from <http://www.buzzle.com/articles/kenya-safaris-kenyan-culture-history-food-people-lifestyle-tribes-language.html>

2. Parkinson, T., Phillips, M. & Gourlay, W. (2006). *Lonely Planet Kenya*. History 25-33. Retrieved from <http://books.google.com>
3. World Bank. 2007. *Doing Business in Egypt 2008*. Washington D.C.: The World Bank Group.
4. The “guillotine” or “staged-repeal” is a process of identifying and then reviewing a large number of regulations or licenses against set criteria. Through the guillotine process the government eliminates those regulations or licenses that are obsolete or no longer needed, and streamlines others, without the need for lengthy and costly legal action on each regulation.

Starting a business

FIGURE 2.1
Many procedures to start a business in Kenya



Source: Doing Business database.

Benedict wants to set up a company to sell souvenirs in Mombasa City. Before he can open his doors to potential clients, he will have to wait 72 days and pay 50% of income per capita to complete the 12 procedures required to start his company. Instead of waiting for more than two months and spending more than KES 30,000 (about US\$ 385), Benedict decides to sell his merchandise informally on the beach. His business pays no taxes or social-security contributions. It will also have difficulties accessing credit and growing.

Kenyan entrepreneurs may find that establishing a business in their hometown is a lengthy and cumbersome process. Not only do they have to worry about location, capital and markets, they also have to deal with a maze of administrative procedures before they can legally

TABLE 2.1

Where is it easy to start a business—and where not?

Municipality	RANK
Nairobi (easiest)	1
Thika	2
Mombasa	3
Isiolo	4
Eldoret	5
Nyeri	5
Kilifi	7
Kisumu	7
Narok	9
Malaba	10
Garissa (most difficult)	11

Note: The ease of starting a business is a simple average of the locality rankings on the number of procedures, and the associated time and cost required to start a business. See the Data notes for details.

Source: Doing Business database.

operate. Starting a business in Kenya requires 12 procedures in the 11 measured localities, takes on average 67 days, and costs 49% of income per capita. The average benchmarked city would rank 135th when compared with the 183 economies measured worldwide, roughly the same as Accra, Ghana.

Doing Business records all procedures that are officially required to start up and formally operate an industrial or commercial small or medium sized business. These include obtaining necessary licenses and permits and completing required notifications, verifications and registrations for the company and its employees with the relevant authorities.¹

New Zealand is the world's top performer in this area—with only 1 procedure, 1 day and a cost of 0.4% of income per capita. Entrepreneurs in New Zealand must file all necessary information only once, because receiving agencies are linked through a unified database. Other economies in Eastern Europe and North Africa are not far behind: in Georgia, it takes 3 procedures and 3 days to start a business, while in the Arab Republic of Egypt the same can be done in 7 days.

In Kenya, one of the reasons it takes so long to start a business is the many steps required—three more than the regional average and three times as many as in Senegal (figure 2.1). Additional procedures not required elsewhere include the stamping of the memorandum and articles of association, the filing of

the declaration of compliance with the Commissioner for Oaths, and separate registrations with four different agencies: the Tax Department, the National Social-Security Fund (NSSF), the National Hospital Insurance Fund (NHIF) and the Kenya Revenue Authority (KRA). In contrast, Senegal's one-stop shop merged seven start-up procedures into one. Time dropped from 58 days to 8 days. Liberia also streamlined its business-registration process, cutting it by 3 months. Businesses there can now start operating in less than 1 month. Liberia also made the process more affordable, making the use of lawyers optional.²

Despite a similar regulatory framework for business registration, there are significant differences in time and cost. Nairobi is the easiest city to set up a business, Garissa the most difficult (table 2.1).

The Registrar of Companies has only one office in the entire country, located in Nairobi. Entrepreneurs across Kenya must travel to Nairobi in order to incorporate their companies. The Registrar of Companies approves the company name (procedure 1) and files the incorporation deed, the stamped memorandum and articles of association, as well as the statement of nominal capital (procedure 5). Even though the steps that follow obtaining the approval of the company name—i.e. stamping the memorandum and articles of association and a statement of the nominal capital, paying stamp

duty at an authorized bank and signing the declaration of compliance before a Commissioner for Oaths—could be done locally, the entrepreneur would still have to return to Nairobi to file the documents with the Registrar of Companies. It is hence common practice to get all five procedures done in Nairobi directly rather than traveling back and forth. This significantly increases costs—including transportation costs. For instance, an entrepreneur from Isiolo has to travel for 9 hours by bus in order to get to Nairobi and must pay KES 2,000 (US\$ 25) for a roundtrip bus fare.³ The rest of the incorporation procedures will have to be solved in Meru Town, which requires another 1-hour bus trip and KES 400 (US\$ 5) for the roundtrip bus fare.

Opening a business takes 34 days in Nairobi compared with 2½ times longer in Narok (81 days). The cost also varies greatly across localities. In Nairobi and Thika, entrepreneurs spend less than 40% of income per capita to open a business; for those in Malaba, Kilifi, or Isiolo the cost is above 55% (figure 2.2).

The biggest bottleneck for a business from Garissa is filing the deed with the Registrar of Companies in Nairobi (figure 2.3). Incorporation documents from companies based in Nairobi are given priority and are processed faster than those

from out-of-town companies—filing the deed takes 29 days for a company operating in Garissa, as compared to 10 days for a company operating in Nairobi.

Stamping the memorandum, articles of association and a statement of the nominal capital (procedure 2) is the source of long delays in Garissa and all across Kenya, despite several reform efforts to make this process more efficient. In the past, it was the Stamp Duty Office within the Ministry of Housing and Lands that collected the stamp duty and processed the stamped documents. In 2005, the Kenya Revenue Authority (KRA) took over stamp-duty collection. However, the memorandum, articles of association and statement of nominal capital must still first be submitted to the Stamp Duty Office of the Ministry of Lands and Housing, before payment can be processed by a KRA-designated bank. The entire process takes 23 days in the case of Garissa and 30 days in Narok, because the Stamp Duty Office has to receive confirmation of the bank payment after the funds have cleared. On average, the process takes 20 days across Kenya, down from 54 days in 2005.

The third longest procedure is getting a business permit which is issued locally by the municipal council. The time needed varies from 5 to 8 days across lo-

calities. It takes 8 days in Garissa, 3 days longer than in Nairobi. Ideally, a company registration certificate should suffice as a license to start any business not subject to separate licensing requirements for reasons of public safety or environmental concerns. Other countries, like Burkina Faso or Cameroon, do not require business licenses at the municipal level. Kenyan localities could follow suit.

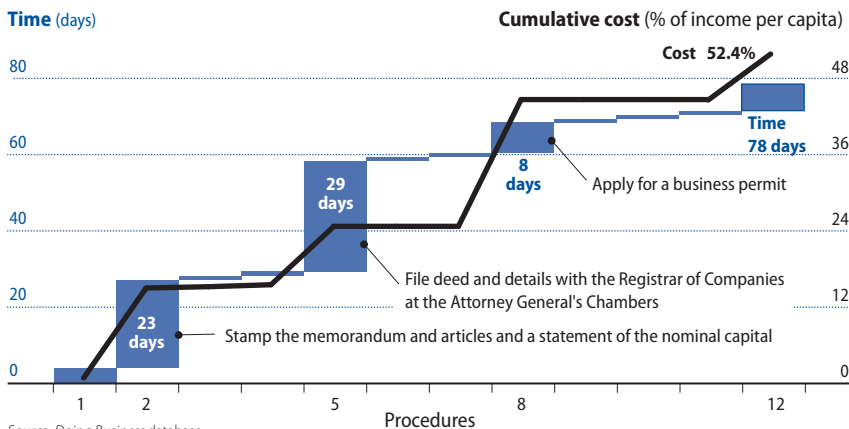
The business permit also accounts for the largest component of the business start up costs—30% on average. The cost is calculated by each municipal government according to the “Single Business-Permit Fee Schedule”. This schedule establishes the fee ranges municipal governments can charge an entrepreneur looking to do business in a certain locality. There are several categories. On one hand, companies are categorized by type of activity: general trade, personal services, retail, transport, storage, and communications. On the other hand, companies dedicated to general commerce are also classified by the number of employees:⁴ megastore or hypermarket, large trader, medium trader, or small trader. Given that municipal fees vary from KES 2,500 (US\$ 31) to KES 12,000 (US\$ 149) depending upon the locality, local governments have ample room for interpretation in determining the exact

FIGURE 2.2 Time and cost to start a business in Kenya and selected economies and regions



Source: Doing Business database.

FIGURE 2.3

Starting a business in Garissa—the most difficult locality in Kenya

Source: Doing Business database.

fee to charge. For instance, the Nairobi City Council will charge an entrepreneur KES 5,000 (US\$ 62) to incorporate a medium-trader shop that conducts general trade activities, whereas the municipal governments of Garissa, Isiolo and Kilifi will charge KES 12,000 (US\$ 149) for the same type of company.

Another expensive item is the company seal, which is still a standard commercial practice in Kenya, even though it is no longer mandatory by law. The cost ranges between KES 3,000 (US\$ 37) in Nairobi to KES 5,000 (US\$ 62) in Kilifi and the time needed for production ranges between 2-10 days.

One reason why governments should make business entry easier and more affordable is to encourage the creation of new companies. In the Arab Republic of Egypt in 2006, limited liability companies accounted for only 19% of registered firms. In 2008, after reforms, this share rose to 30%.⁵ And payoffs can be large. In Mexico, reforms cut the time to start a business from 58 to 28 days in 2008 and from 28 to 13 days in 2009. A recent study reports a boom in new businesses: the number of registered Mexican businesses rose by nearly 6%, employment increased by 2.6%, and prices fell by 1% because of the competition from new entrants.⁶ Finally, if it is easy to set up a business, companies that would otherwise operate in the informal sector are more likely to legalize their operations. Formally registered businesses

grow larger and contribute to government revenues by paying taxes.⁷

The National Government of Kenya recognizes the need to develop its formal sector, especially its small- and medium-sized enterprises, so as to create the basis for sustainable economic growth. In 2006, the Licensing Law (Repeals and Amendments) Act eliminated the requirement to obtain a trading license in addition to the business permit. In addition, the company registry underwent computerization. Moreover, as the authority to collect stamp duty was transmitted from the Ministry of Land and Housing to the Kenya Revenue Authority (KRA), stamping the memorandum, articles of association and Statement of the Nominal Capital became faster. Since early 2009, the Office of the Prime Minister is spearheading various reform initiatives: the Rapid Results Initiative (RRI) is a short-term reform pilot program that focuses on process re-engineering to reduce the time and procedures to undertake any activity. So far it has been implemented in 67 government institutions. The RRI is especially focused on decreasing both the time and procedures required to incorporate a company across the different provinces.

In addition, the Registrar of Companies introduced a new management system on March 16th, 2009, which is targeted at accelerating administrative processes and simplifying registration—eliminating outdated requirements, such as the typing of certificates, in order to

reduce the time to register a company. It is also currently working on reducing the time to stamp the memorandum and articles of association by improving the IT systems between the Stamp Duty Offices, the Kenya Revenue Authority (KRA) and designated banks.

A fast-track company registration option, at an extra charge, is also being introduced. For example, it is now possible to have the name search done in 1 day, for KES 500 (US\$ 6); in 2 days, for KES 200 (US\$ 3); as opposed to the usual 3 days at KES 100 (about US\$ 1.5). In addition, according to the information provided by the Registrar, the clerks will complete the entire company registration process on behalf of the entrepreneur in a maximum of 7 days, instead of the average of 67 days, for a flat fee of KES 30,000 (US\$ 374). However, this fast-track option is not widely known. Efforts to publicize these alternatives will provide entrepreneurs with a choice.

The Attorney General's IT department is finalizing the merger of three separate databases which would make it faster to do name searches, from 3 days on average to same-day searches. In addition, the Registrar is finalizing the procurement of heavy-duty scanners to speed up the scanning of documents, and this, too, is expected to reduce the time to register a business. The target for completing both activities is late October 2009.

WHAT TO REFORM?

OPEN LOCAL BRANCHES OF THE REGISTRAR OF COMPANIES

Entrepreneurs from across Kenya have to go to Nairobi to start their company. These trips involve delays and increase costs. Furthermore, the demand from other localities creates additional backlogs in the already congested Companies Registrar, as well as other agencies involved in business start-ups in Nairobi. A possible solution would be to create regional branches in towns such as Mombasa or Kisumu to where entrepreneurs of nearby localities could travel instead.

PUBLICIZE AND COMMUNICATE THE BENEFITS OF REFORMS TO ENTREPRENEURS AND THE PUBLIC

Some reformers are bad marketers. El Salvador first established a one-stop shop in 1999, but local entrepreneurs thought it was only for foreigners. A lesson was learned. The second time around, the president himself inaugurated the improved one-stop shop and widespread media coverage made sure that everyone knew about the new system.

In the case of Kenya, entrepreneurs are often not aware of the ongoing efforts of the national government to improve business-incorporation. The fast-track company registration option, for example, should be widely promoted. It is also important to communicate when a requirement is no longer necessary. A good example is the use of the company seal. A government communication campaign could raise awareness and inform the public that the seal is not legally required.

MAKE BUSINESS PERMITS AFFORDABLE AND TRANSPARENT

Although the fees obtained from the business permits are a source of revenue for local governments, high fees and uncertainty about the amount that will be charged may hinder formal economic activity. It would be beneficial for entrepreneurs to have clear expectations of how much the incorporation process will cost depending on the location across Kenya. Efforts should continue to reduce the number of different fee categories that a company can be placed in and lower the licensing fees across the board.

While the Licensing Laws (Repeals and Amendments) Act of 2006 eliminated the requirement to obtain a trading license, all new companies must still obtain a business permit. Ideally, a company registration certificate is the license to start any business activities which are not subject to separate licensing regulations. By requiring the business permit from all businesses—not just those dealing with

public safety or posing environmental concerns—the government of Kenya is imposing a significant burden on entrepreneurs without an overriding public benefit. In the medium term, the single business permit should be phased out.

CREATE A ONE-STOP SHOP FOR BUSINESS REGISTRATION

The Kenyan government should consider creating one-stop shops across the country, as it has been the most common and relatively straightforward reform in business start-up around the world. Thirty-nine countries have created or improved one-stop shops in the past 5 years with promising results. For example, in Azerbaijan registrations grew by 40% after the creation of a one-stop shop between January and May 2008, as compared to the same period in the previous year.⁸ Often these reforms do not require major legislative changes, but require instead willingness and a capacity to share databases, processes, and often staff.

PROMOTE ONLINE START-UPS

Making registration electronic is one of the most effective ways to make starting up faster. In the past 4 years, 13 countries introduced electronic registration, including Belgium, Ireland, Mauritius, and Norway, which lowered the average time to start a business from 40 to 17 days.⁹ Kenya is taking steps in that direction. An online portal will soon allow for online company name search. The Business Regulatory Reform Unit of the Ministry of Finance is posting all necessary operational licenses on the website of the e-Registry. A next step would be to ensure transactions and online approvals as well. By allowing digital signatures and standardized articles of incorporation, the entrepreneur would be able to register online. If all data were validated electronically, as in Denmark, the interactions with public officials would be greatly reduced in the process.

1. See the detailed description of the standard case in the Data notes.
2. World Bank. 2008. *Doing Business 2009*. Washington, D.C. World Bank Group.
3. On average, a lawyer from Isiolo will charge KES 49,000 (US\$ 610) in order to undertake all the incorporation procedures both in Nairobi and in Meru Town. For purposes of the present report, lawyer fees are not being considered.
4. “General Commerce” is the type of company we use as a reference.
5. World Bank. 2009. *Doing Business 2010: Reforming Through Difficult Times*. Washington, D.C. World Bank Group.
6. Bruhn, Miriam. 2008. “License to Sell: The Effect of Business Registration Reform on Entrepreneurial Activity in Mexico.” Policy Research Working Paper 4538. Washington, D.C.: The World Bank Group. The results were obtained after controlling for GDP per capita, number of economic establishments per capita, fixed assets per capita, and investments per capita in the benchmarked municipalities.
7. Djankov, Simeon, Rafael La Porta, Florencio Lopez-de-Silanes, and Andrei Shleifer. 2002. “The Regulation of Entry.” *Quarterly Journal of Economics* 117 (1): 1–37.
8. World Bank. 2008. *Doing Business 2009*. Washington, D.C. World Bank Group.
9. *Ibid.*

Dealing with construction permits

Jane and Musa own a bookstore chain in Kenya. Their business has grown rapidly in recent years and they need extra storage. Friends advised them to be careful in choosing where to build their warehouses, since in some localities it can take months to get a building permit, clearances and utility connections, and in some instances they may have to pay facilitation fees. This is why they search for the cheapest and fastest location in Kenya.

Finding the right balance between regulations aimed at protecting the public and regulations that are accessible, efficient and affordable is challenging. In Kenya, almost 30% of firms identify construction-related permits as a major constraint when doing business.¹ Overly rigid building rules and regulations may

backfire; rather than resulting in fewer accidents, they may push construction into the informal economy. On the other hand, objectively balanced regulations ensure both public safety and revenue for the government, while making the entire construction process easier.

Doing Business looks at construction permits as an example of licensing regulations that businesses face. It measures the procedures, time, and cost to build a commercial warehouse, hook it up to basic utilities, and register it. It assumes that the new warehouse will be used for storage of nonhazardous goods and is located in the peri-urban area of the benchmarked locality.²

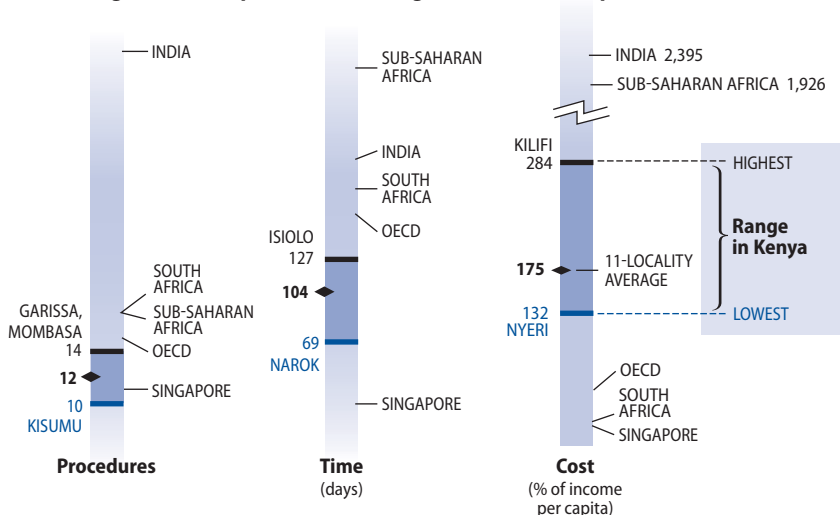
In Kenya, obtaining a construction permit is quite fast, but expensive. In an

average locality, Jane and Musa would go through 12 procedures that take 104 days and cost 174.5% of income per capita in order to deal with permits related to the construction of a warehouse. In contrast, in OECD countries, the same process takes 15 procedures, 157 days, and 56.1% of income per capita on average—3 additional procedures, 53 days longer, but 118.4% of income per capita cheaper. The good news for Jane and Musa is that Kenya is the second-best performer in the sub-Saharan African region where a company, on average, would spend 259 days and pay 1,925.6% of income per capita and go through 17 procedures to conclude its construction process (figure 3.1).

It is easier to deal with construction permits and utility connections in Narok, Nyeri, and Malaba than in Isiolo, Thika, and Mombasa (table 3.1). Topping the list is Narok, whose performance is comparable to Estonia. Globally, Narok would rank 21st among 183 economies on the ease of dealing with construction permits, ahead of the United States or South Africa, but behind Thailand or Singapore.

In Kisumu, Jane and Musa must go through 10 procedures to obtain construction-related approvals and utility connections, the same as in Jamaica. The same process requires 14 procedures in Mombasa. The variation in the number of procedures among Kenyan localities is mostly due to requirements to obtain

FIGURE 3.1
Best, average and worse practices in dealing with construction permits



Source: *Doing Business* database.

TABLE 3.1
Where is dealing with construction permits easy—and where not?

RANK	Locality	Procedures	Time (days)	Cost (% of income per capita)
1	Narok	11	69	136.5
2	Nyeri	11	100	132.4
3	Malaba	11	111	137.0
4	Kisumu	10	99	237.1
5	Garissa	14	80	156.9
5	Nairobi	11	120	161.7
7	Eldoret	11	117	168.7
8	Kilifi	11	103	283.6
9	Mombasa	14	96	162.9
10	Thika	11	123	208.4
11	Isiolo	13	127	134.8

Note: Rankings are the average of the locality rankings on the number of procedures, the associated time and cost (% of GNI per capita) required to deal with construction permits. See the Data notes for details.
 Source: Doing Business database

the building-plan approval during the preconstruction stage. In most Kenyan localities, besides getting approval from the local council, Jane and Musa must get their plans approved by the Physical Planning, Public Health and Land Departments and the National Environment Management Authority. While the requirements are similar, implementation varies. In Kisumu, all an entrepreneur has to do is submit a building plan to the Kisumu Municipal Council and wait for it to be approved. The Municipal Council will forward the plan to all the relevant approving authorities, includ-

ing national agencies. In contrast, in Mombasa the same entrepreneur must personally visit several departments to get approving signatures, before she can get the final approval from the Municipal Council.

In most localities, even though many inspections are mandated by the municipal bylaws, they are not strictly implemented. The nature of the inspections is rather random. A municipal inspector stops by the construction site and checks whether the construction is progressing in accordance with the submitted plans. In Nairobi, a construction company can fulfill the inspections requirements in-house, provided it has a licensed structural engineer and a professional plumber on staff. The engineer and the plumber check every phase of construction and provide approving signatures in the so-called “Physical Planning Act 1 Form (PPA1)”. After concluding construction, entrepreneurs must notify the building and planning authority to receive the final inspection in all localities. If the inspection determines that the building is in full compliance with all requirements, an occupancy certificate is issued.

The time needed to get all approvals to build a commercial warehouse and hook it up to utilities ranges from 69 days in Narok to 127 days in Isiolo. Narok, with 36 days to get a construction permit and occupancy certificate, and 33 days

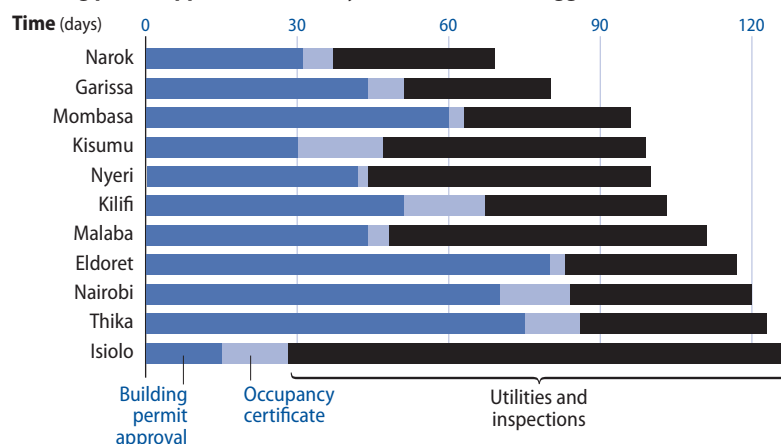
to get utility connections would rank 15th out of 183 economies on the time to deal with construction permits, ahead of South Africa, India and China.

The main bottlenecks are building permits and utility connections (figure 3.2). In most instances, differences across localities are administrative rather than regulatory. The time needed to get a building permit depends on the backlog in municipal offices. Nairobi and Mombasa, being the cities with the highest demand, are among the localities where it takes longest. Another factor that influences the time involved is the Environmental Impact Assessment (EIA). Although regulated nationally, the EIA is not implemented correspondingly on the ground—6 out of 11 localities apply it, the rest do not. The time required to get utility connections depends on whether the utility providers have a local branch. For example, in Isiolo it takes around 3 weeks to get an inspection from the electricity provider because the town must rely on inspectors from the neighboring town of Meru.

The average cost to comply with all requirements to build a warehouse and obtain utility connections is 174.5% of gross national income per capita. This average cost would rank the 11 Kenyan localities 96th among 183 economies globally. Nyeri is the cheapest, with 132%, while Kisumu and Kilifi are twice as expensive, with 237% and 284% of income per capita, respectively.

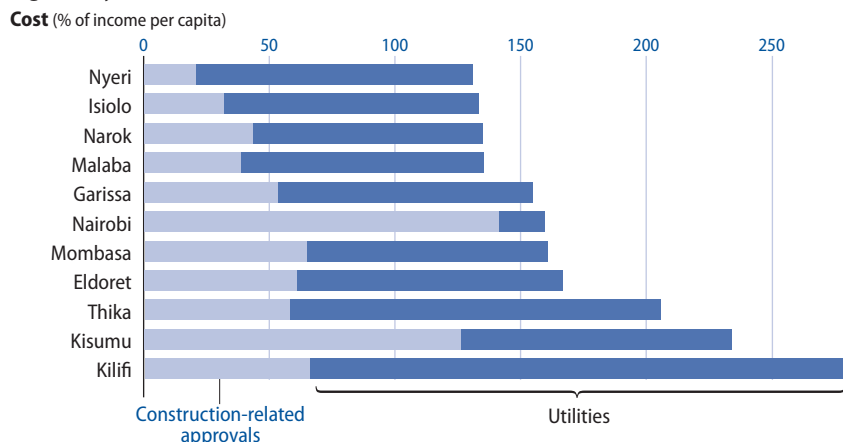
On average, 63% of total costs account for utilities, with the electricity connection being the most expensive (figure 3.3). This is predominantly due to the lack of proper infrastructure, especially in smaller localities. In most instances, if an entrepreneur wants to get a three-phase electricity connection, as specified in the case study, she has to pay substantially higher fees. If the warehouse is located in an area beyond the radius covered by the transformers provided by the Kenya Power & Lighting Company (KPLC), the cost increases at least sixfold. The local KPLC office in Isiolo calculated the cost for a three-

FIGURE 3.2
Building permit approvals and utility connections—the biggest bottlenecks



Source: Doing Business database.

FIGURE 3.3
High utility costs in most of the cities



Source: Doing Business database.

phase connection to be KES 54,000 (US\$ 673) if the warehouse location is within a 600-meter radius of the existing transformer. For connections outside of the radius covered by the transformer, the cost increases to more than KES 300,000 (US\$ 3,736).

Although Kenyan localities stand out in sub-Saharan Africa, sharing best practices among themselves is crucial. “Kenya,” a hypothetical locality that implements best practices that exist in the country, would rank 19th among 183 economies on the ease of dealing with construction permits, comparable to Berlin and Paris. This ranking is much better than the Kenyan average: 2 procedures, 35 days, and 42% of income per capita less—which means there is much room for improvement (figure 3.4).

WHAT TO REFORM?

CONSOLIDATE CLEARANCES

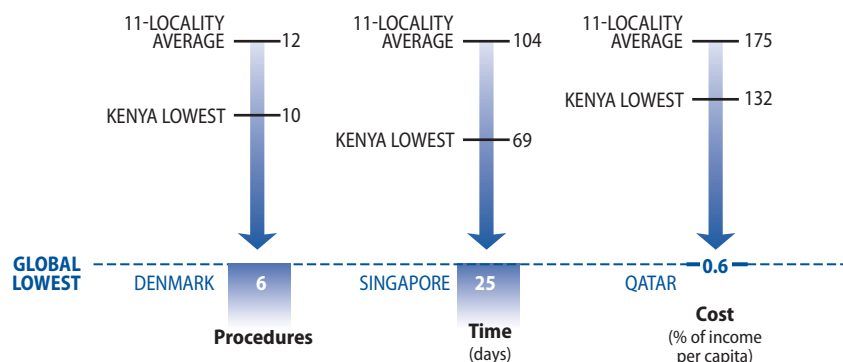
In Garissa, Isiolo, and other localities, builders have to obtain a number of clearances when applying for building permits. These require personal visits to various agencies, including the town-planning department, the public-health department, and the land department. In Italy, companies had to make separate visits to the fire department, worker-safety department, water department, sanitation department, health department, and tax department. That process took an average of eight months. Now all project clearances are centralized in one office—cutting the time to go through the bureaucracy to four months. Localities like Eldoret, Kilifi and Nairobi receive the building plans from the construction

company and then forward the plans to the relevant departments for approval. This is a good practice, but it is not optimal, since many town councils lack the necessary human resources to forward and follow-up on the documents. The challenge is to convince departments (both at the national and local level) to send representatives to a centralized location and delegate decision-making authority to them. In some countries, the compromise solution was to work out a part-time system, whereby representatives from the different agencies work at the one-stop shop regularly a few times a week. For instance, delegated officers from the physical planning department, health department, and other departments could spend agreed-upon hours or days at the town-council premises to review and approve building plans.

INTRODUCE ON-LINE APPLICATIONS FOR BUILDING PLAN APPROVAL AND UTILITIES CONNECTIONS

In Singapore, builders submit permit applications electronically. Developers in Austria, Denmark, Iceland, Malaysia, Norway, and the United States also complete their applications online. In Kenya, building applications and the filing of drawings are processed manually. In the future, it would be advantageous to computerize the system so that building information could be stored in an easily accessible fashion and development requests could be cross-checked for ownership, compliance, permits, and inspections. A first step would be to offer application forms online. Several municipalities have websites in place but they do not offer services related to building permits online. It is expected that the electronic registry of licenses being prepared by the Business Regulatory Reform Unit at the Treasury Department will provide key information on construction permits and related issues. Utility service providers also have well-established websites where an entrepreneur can easily access contact information and information regarding application procedures. As a next step,

FIGURE 3.4
Best practices: high potential for improvement



Source: Doing Business database.

making it possible for individuals and firms to apply on-line for new connections would save applicants and utility companies time.

PUBLICLY DISPLAY INFORMATION ABOUT THE CONSTRUCTION-PERMIT PROCESS

Builders need to understand how the process works. Flowcharts displayed in public places or on the Internet help. In 2001, the municipal authorities in Riga (Latvia) created a step-by-step guide with a list of required documents and flowcharts showing which offices to visit, when and with what documents, and listing the offices' addresses, working hours, and contact numbers. This simple reform cut two months off the process and gave builders confidence and trust in the construction-permit process.³

Utility companies in Kenya fail to provide detailed information about application and installation costs. Currently, in order to find out the cost of a utility connection, one has to call the utility companies, spending a considerable amount of time on the phone.

RATIONALIZE INSPECTIONS

While in most Kenyan localities municipal bylaws require several inspections for a construction project, Denmark requires only one. This does not imply that buildings in Denmark are less safe. Random inspections are not necessarily the best way to guarantee the safety of a building. One way to make inspections more efficient is to change from a system of random inspections to one that is risk-based, in which inspections are performed at critical phases of the construction process. Another popular approach among best-performing economies is the privatization of the inspection process. The Czech Republic adopted this method, creating a new and independent profession: authorized inspectors. If a business engages the services of an authorized inspector, it can speed up the process of obtaining construction permits by five weeks. Nevertheless, effective implementation of this recommendation requires that there be safeguards against corruption and real accountability for approvals issued by private inspectors. Best practices exist within Kenya, too. In Nairobi, a construction firm can have all inspections during the construction phase done by a licensed structural engineer and a professional plumber. Other Kenyan municipalities could follow suit.

1. World Bank. 2007. Enterprise Surveys Database. Washington, D.C.: The World Bank Group.
2. See the detailed description of the standard case in the Data notes.
3. World Bank. 2005. *Doing Business 2006: Creating Jobs*. Washington, D.C.: The World Bank Group.

Registering property

Felix is one of the best safari guides in Kilifi. Since he inherited his father's guesthouse two years ago, he has been improving the business in order to offer more services to his visitors from all over the world. His savings are not sufficient to buy the fully equipped safari jeep he has set his eyes on. But, luckily he owns the guesthouse. He hopes his bank will accept it as a guarantee for a loan.

An efficient property-registration system allows entrepreneurs such as Felix to use their property as collateral. Having access to credit is crucial for businesses to grow and generate employment. Because the private sector is the main engine of growth, improving and facilitating property registration in Kenya will benefit not only individual entrepreneurs but the whole economy—including government functions and services because of an increase in tax revenues.

Doing Business records the full sequence of procedures, time and costs necessary to transfer a property title from one business to another, when a company purchases a piece of land and a building. All procedures are recorded until the buyer can house his business on the property, sell the property to another company or use the property as collateral to obtain a loan. 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.¹

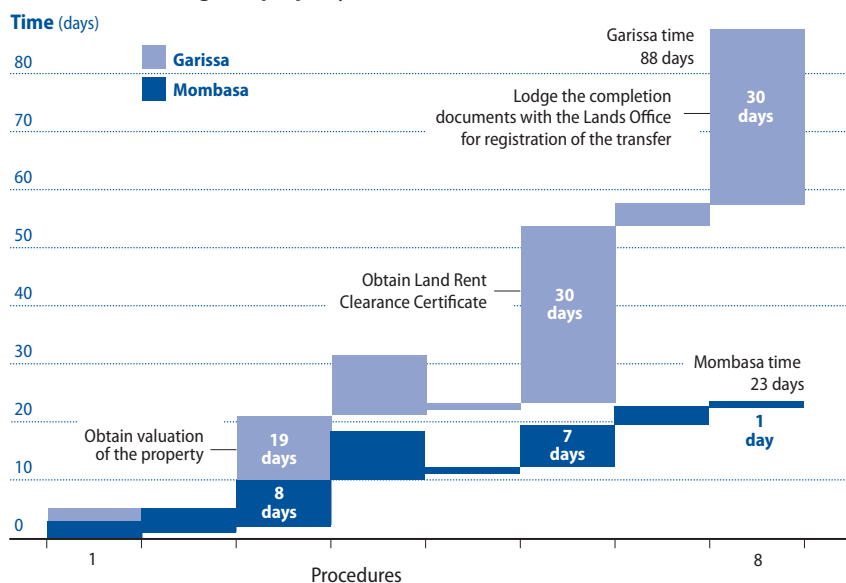
The global best performer in prop-

erty registration is Saudi Arabia, where an entrepreneur only needs to go through 2 procedures that take 2 days. The transaction is free of charge. On average, for a Kenyan entrepreneur, it takes 8 procedures, 53 days, and costs 6% of the property value to do the same. The same 8 procedures are required across Kenya. These involve interactions with agencies such as the Lands Office, the local authority and private banks, among others. In neighboring Tanzania and Uganda, an entrepreneur has to undertake more procedures—9 and 13, respectively. However, Kenya lags behind the sub-Saharan African regional average of 7 procedures.

Although the same procedures are required across Kenya, there are significant differences in the time and cost needed for registering property among the localities included in this report. These differences are mainly due to variations in the administrative efficiency of the agencies involved, local fees and taxes, as well as whether there is a local branch of the respective national agency present in the locality (table 4.1).

With 23 days needed to register a property, Mombasa is the fastest locality (figure 4.1). Internationally, Mombasa compares favorably with Namibia or South Africa (figure 4.2). Registering

FIGURE 4.1
Time and cost to register property in Mombasa and Garissa



Source: *Doing Business* database.

TABLE 4.1
Where is registering property easy—and where not?

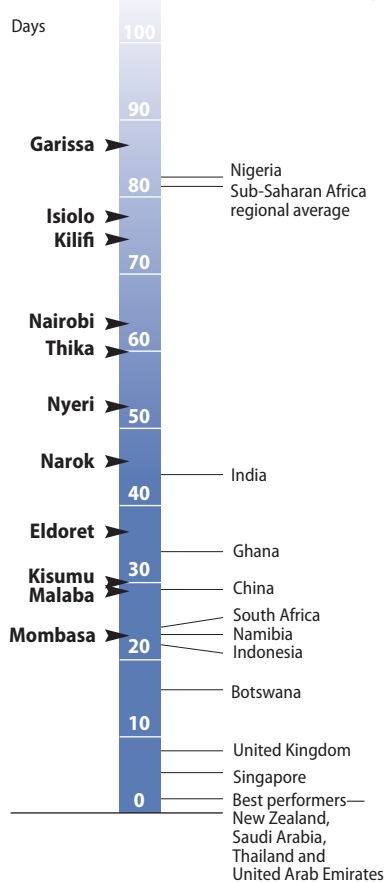
RANK	Locality	Procedures	Time (days)	Cost (% of property value)
1	Mombasa	8	23	4.14
2	Kisumu	8	30	4.11
3	Narok	8	46	4.11
4	Thika	8	60	4.09
5	Malaba	8	29	4.17
6	Eldoret	8	37	4.29
7	Kilifi	8	75	4.14
8	Nyeri	8	53	4.21
9	Nairobi	8	64	4.20
10	Garissa	8	87	4.14
11	Isiolo	8	77	24.16

Note: Rankings are the average of the locality rankings on the number of procedures, the associated time and cost (% of property value) required to register property. See the Data notes for details. Source: Doing Business database

property is slowest in Garissa and Isiolo, with 87 and 77 days—almost 4 times longer than in Mombasa. Large localities like Mombasa and Kisumu benefit from the fact that all paperwork can be taken care of locally. On the other hand, entrepreneurs from lagging localities like Garissa or Isiolo have to travel to bigger towns in their region or even to Nairobi to obtain needed documents, such as the Land Rent Clearance Certificate. “I have to wake up very early in the morning, and the days I spend in Nairobi are days I lose money,” says Ben, an entrepreneur in Thika who cannot take care of his business when he is away. In addition, poor customer service at the Lands Registry demands a permanent personal follow-up from the client. “You have to constantly make sure that your file is being processed, otherwise you come back the next week and find your documents in the same place you left them,” says Andy, another entrepreneur from Thika.

Another source of delays comes from obtaining the property valuation from a government assessor. This procedure alone can slow down the process for more than one month, especially in towns like Isiolo, where the entrepreneur has to wait for a government assessor from Meru—a town 45 kilometers away.

FIGURE 4.2
Big range in time to register property

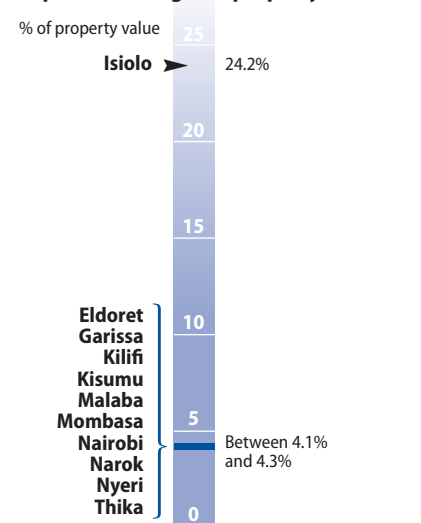


Source: Doing Business database.

With the exception of Isiolo, the average cost to transfer property is 4.2% of property value across the localities measured in this report. Thika, Narok, and Kisumu are least expensive at 4.1% of property value. These localities are cheaper than Mexico and Mauritius—with 5.2% and 10.7%, respectively—but still need to improve to compete against Brazil and China—2.7% and 3.2%, respectively. Costs stem largely from the stamp duty—4% of property value—and from the fees paid to obtain the Land Rent Clearance Certificate at the Lands Office and the Rates Clearance Certificate from the local government.

Isiolo is the town with the highest cost for registering property—6 times more expensive than the others. On top of the 4% of property value paid for stamp duty, an entrepreneur in Isiolo must pay a separate sales tax, worth 20% of the property value (figure 4.3). This

FIGURE 4.3
Expensive to register property in Isiolo



Source: Doing Business database.

sales tax is one of the charges levied by the County Council in order to obtain the Council’s consent to register the property with the Nairobi Land Registry. In total, an entrepreneur who wants to transfer a property in Isiolo has to pay 24.2% of the property value, only slightly below the most expensive country in the world, Syrian Arab Republic, with 28% of property value.

“I cannot afford to pay one fourth of the value of the property to register the sale,” says Douglas, who had to put on hold his plans to expand his business, because the cost of buying a land plot is too high.

On the global ranking, Kenya, represented by Nairobi, is ranked 125th among 183 economies, on the ease of registering property. If Nairobi adopted Mombasa’s practice regarding the time to register property and Thika’s practice regarding the cost, Kenya would jump 36 positions on this indicator.

WHAT TO REFORM?

COMPUTERIZE LAND REGISTRIES

Title searches and registration are still done manually at the Land Offices in Kenya. This causes delays. Computerization would digitalize files and these would no longer have to be physically handled. This would expedite property

registration and reduce the danger of losing documents. This would also be the first step in a more ambitious reform linking all registries in the country and allowing users to make online registrations. Zambia computerized its land registry and set up a customer service center to eliminate the backlog of registration requests. The time to register property fell from 70 days to 39 days between 2007 and 2008. Saudi Arabia became the best performer in the world by computerizing procedures in 2007, making it possible to register property with 2 procedures and 2 days.²

OPEN LOCAL BRANCHES

Entrepreneurs from small localities have to go to regional centers or even Nairobi to complete procedures, such as obtaining the Land Rent Clearance Certificate. Having to travel to other localities involves delays and higher registration costs. Furthermore, the demand from other localities affects the already congested Nairobi offices such as the Ardhi House, which is in charge of issuing clearances. Having local branches, independent and authorized to process applications on site, would also help the national government to have better control of property transactions and reduce tax evasion.

INTRODUCE A FLAT FEE FOR STAMP DUTY INSTEAD OF A PERCENTAGE OF THE PROPERTY VALUE

Replacing the current fee system with a fixed fee reduces the incentive for property owners to either undervalue their plots or not register their property altogether. In 2007, the Arab Republic of Egypt introduced a low fixed fee for stamp duty replacing the 3% registration fee. This led to a boom of property registrations that increased government revenues by 39% six months after the reform.³ In 2008, Rwanda replaced the 6% stamp duty with a low flat fee. In Kenya, the introduction of a flat fee would go beyond simply cutting the cost to register property: with a flat fee, there would be no need to have the property assessed by the government at the time of sale. This would be reflected in significant time savings, since obtaining the valuation alone may take more than one month in some cases.

1. See the detailed description of the standard case in the Data notes.
2. World Bank. 2008. *Doing Business 2009*. Washington, D.C.: The World Bank Group.
3. World Bank. 2007. *Doing Business 2008*. Washington, D.C.: The World Bank Group.

Enforcing contracts

Makini, a litigation lawyer in Nyeri, has spent the entire morning sitting in the courtroom waiting for his suit to be heard. Lawyers from both sides are ready to proceed and both witnesses are in court. The unexpected injunctions occasioned by his opponent in the past will therefore clearly not be an issue this time around. His case is fourth on the list, and since it is pretty straightforward, with only four witnesses, should be fully heard today. But alas, that is not to be. It has been five hours and the first case is still proceeding. The magistrate has to take down all the evidence by longhand, painstakingly writing down everything under the watchful eyes of the lawyers, so that nothing is left out of the record. Given that it is now one o'clock, the court adjourns and the remaining matters are allocated for other days, depending on

availability, as the afternoon has been reserved for judgments and rulings. This is exasperating for Makini and his client, as the lawyers check their diaries for mutual availability and proceed to the registry to apply for another trial date.

Makini's frustrations are shared by his colleagues in the various localities, where on average, it takes 418 days to enforce an identical contract at a cost of 40% of the claim value and requires 40 procedural steps. Overall, in the sub-Saharan African region, it takes on average 644 days, costs 49.26% of the claim value, and requires 39 procedural steps to enforce an identical contractual dispute. In this region, as in many other developing parts of the world, a common obstacle to doing business is the absence of strong courts. As a result, 80% of the people turn to informal institutions to seek justice.¹

An open, efficient, and globally integrated business environment requires an effective contract-enforcement regime and a well-functioning judiciary. In their absence, firms undertake fewer investments and business transactions. Weak judicial systems undermine commercial trust because firms and people will prefer to interact only with those whose trust they have gained through past interactions, inevitably reducing the scope of commercial activity.

The *Doing Business* enforcing contracts indicator measures the efficiency of the judicial system to resolve a standard-

ized commercial dispute. It looks at the time, cost, and procedural steps needed to enforce a contract through the courts.²

The process of resolving commercial disputes in Kenyan courts is regulated mainly by the Civil Procedure Act, Chapter (Cap) 21 of the Laws of Kenya, together with the Civil Procedure Rules. A number of other statutes come into play for substantive law, for example the Evidence Act, Cap 80; the Auctioneers' Act, Act No. 5 of 1996; and the Law of Contract Act, Cap 23.

Despite the identical body of laws and regulations and the central management of the court system in Kenya, the time to enforce a contract varies among the different localities. An entrepreneur would have to wait for 11 months to enforce the contract in Malaba—two months more than in Namibia. In Garissa, where contract enforcement is easiest (table 5.1) and Narok he would have to wait for an additional 3 weeks (a total of 351 days) before getting the judgment satisfied, which is exactly the same time that it takes in Antigua and Barbuda. In Nairobi, the waiting period would be at least 15-and-a-half months, the longest time among the localities measured in Kenya, and almost twice the amount of time that it takes in Hong Kong, China.

In measuring the time it takes to enforce the contract, *Doing Business* analyses the entire commercial litigation process for a standardized case, from filing and serving court papers; the pretrial

TABLE 5.1

Where is enforcing contracts easiest—and where is it the most difficult?

Locality	RANK
Garissa (easiest)	1
Narok	2
Malaba	3
Isiolo	4
Eldoret	5
Kilifi	6
Thika	7
Kisumu	8
Mombasa	9
Nyeri	10
Nairobi (most difficult)	11

Note: Rankings are the average of the locality rankings on the number of procedures, the associated time and cost to resolve a commercial dispute through the courts. See the Data notes for details. Source: *Doing Business* database

and trial process, including judgment; up to the satisfaction of the judgment through enforcement processes. Through this analysis, various points emerge as the time-consuming elements of the dispute-resolution process.

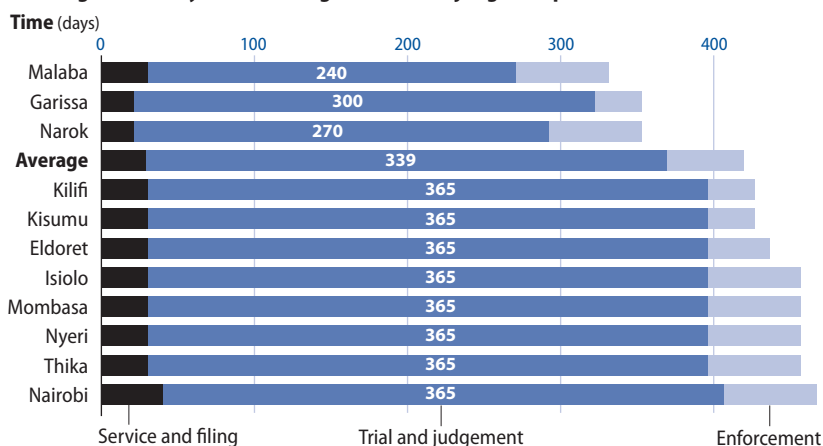
The filing and service period varies across localities, although the upper time limits are established by the Civil Procedure Rules. In some cities, it takes a shorter period to serve the initial documents once they are filed. In Garissa and Narok, it takes 21 days for filing and service, 6% of the total time to enforce the contract. The process takes longest in Nairobi—40 days for filing and service of initial court documents—almost six times longer than in Accra, Ghana.

After the filing and service period, the first hurdle that many lawyers have to jump is that of obtaining a hearing date, once all relevant court documents have been filed and exchanged between the parties. The availability of a trial date depends upon how congested the court diary is. In Nairobi, the diary for the entire year is typically full by the end of the first quarter of the year. This means that if the parties are ready to apply for a hearing date at the beginning of May, the earliest date that they would get would be in January of the following year. The same applies in Thika. In Kisumu and Nyeri, the delay is much shorter; parties can typically get a date within two to three months of closure of pleadings. Courts in Mombasa have a unique closed-diary system, in which the court diary is open in quarters according to the calendar year. This makes the fixing of hearing dates much faster. This is a practice that the other courts could consider adopting.

Adjournments also slow down the trial period considerably. The nature of the judicial process being an adversarial one means that the progress of the suit is for the most part at the pace of the parties and their lawyers. The role of judges is to neutrally referee the trial. Often lawyers take advantage of this latitude to delay the trial through obtaining injunctions. The law does not limit the number of injunctions that a party may be given. However,

FIGURE 5.1

The lengthiest delays occur during the trial and judgment phase



Source: Doing Business database.

various guidelines have been issued to limit the number of injunctions. Some magistrates tend to grant more injunctions than others. This is a problem that cuts across all the localities covered.

Moreover, adjournments are a double-edged sword. Not only do they cause unnecessary costs and inconvenience, but they may also delay the trial significantly. Once an adjournment is granted, the suit falls off the diary track and must be allocated a new date. If the court diary is full for the next months, this piles delay on top of delay. In some courts, the magistrates may grant another hearing date for adjournments while in court. This is typically easier and is done for example in Narok. In most other courts, one would have to get a date in the registry. The courts in Bungoma, where commercial disputes relating to Malaba are heard, tend to be strict on adjournments. This contributes to the speed of enforcement in Malaba.

Once the hearing has been concluded, parties may spend a significant amount of time awaiting judgment. The law does not provide for a mandatory period during which judgments must be delivered at the lower (magistrates') courts. There is a 42-day guideline provided for High Court matters, which magistrates' courts are by implication expected to follow. Rarely is this done in practice, however.

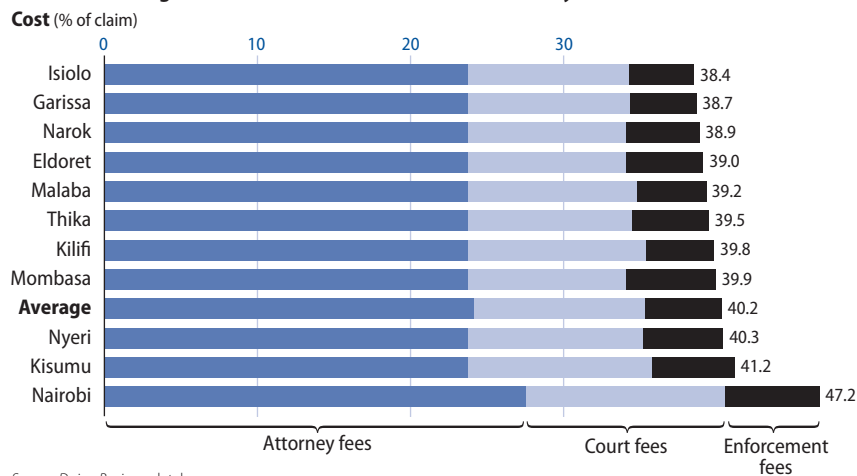
In all the localities covered, the bulk

of time is spent in the trial and judgment phase. The reasons for this are mainly the adjournments and delays in getting the trial date. In Malaba, the trial and judgement time takes 72.7% of the total time to enforce a contract. This amounts to 240 days, 50 days more than in Mexico City. In Kisumu and Kilifi, it takes about 85.9% of the total time, amounting to 365 days each, 7 months longer than in Singapore. On average, the trial and judgment period for a contractual dispute takes about 339 days or 80.9% of the total time to enforce the contract (figure 5.1).

Many of the enforcement procedures are provided for in the Civil Procedure Rules as well as the Auctioneers' Act. Delays may be occasioned by the fact that parties need to obtain court dates to have 'mention' proceedings in court as a prerequisite for confirmation of the judgment execution by auction. The period ranges from 30 days in Kisumu, Kilifi, and Garissa, to 60 days in Nairobi, Thika, Nyeri, Narok, Mombasa, Malaba, and Isiolo.

A number of reforms are being discussed or implemented. These include the pending amendments to the Civil Procedure Act and Rules. Part of the problem has been the complexity of these provisions of law and the goal is to simplify them for faster judicial process as well as to modernize them so that they are in line with contemporary commer-

FIGURE 5.2
Cost of enforcing a commercial contract in court across Kenya



Source: Doing Business database.

cial realities. There are also discussions to increase paralegal staff in courts and to set procedural time limits.

The fees and costs related to lawsuits are regulated by standard laws across the country. As a result, the variances between the cities are not significant. In Malaba, where enforcement takes the least time, it costs 39.23% of the claim value, proving that efficiency in contract enforcement does not necessarily go hand-in-hand with lower costs. The cost in Malaba is comparable to that in Zambia. The highest cost in enforcing contracts is in Nairobi, at 47.2% of the claim value. The average of the cost in the 11 localities is 40.2% almost double the cost in Australia (figure 5.2).

Lawyers' fees are regulated under specific guidelines, as a result of which these do not vary across the different localities.³ The law sets the minimum fees chargeable for specific services, thereby preventing undercutting. It is also important to note that the law allows for winning parties to recover the costs of the suit including attorney's fees, court costs, and enforcement costs.

Court costs include case filing fees, expert fees, and other court costs. The filing fees are regulated by law⁴ and are computed in the various registries upon filing the claim. The main variations in court costs are related to expert fees. The experts may be members of different professions and the fee is therefore a

matter of agreement between the parties. Expert fees as a percentage of court costs are the lowest at 38.5% in Garissa, and highest at 47.3% in Kisumu. The main reasons for the differences are the availability of experts and the extent to which they are flexible in their fees.

Enforcement costs include registering the judgment, organizing for the public sale of the goods, and other enforcement costs. In Kenya, the costs of extracting the decree are regulated and standardized under the law. The auctioneers' fees are also regulated⁵ although depending on the competition, there is room for negotiation with the client. In Malaba, the auctioneer's fee amounts to 72.1% of the enforcement costs while in Mombasa, it amounts to 83.9%. Auctioneers' fees generally tend to relate in direct proportion to the size of the locality. It is less than 80% of the enforcement costs in Malaba, Isiolo, Garissa, and Kilifi whereas it is above 80% in Kisumu, Mombasa, Narok, Nyeri, and Thika. In some towns, for example, Narok, the main issue is the availability of auctioneers. Because there is only one auctioneer, litigants are forced to travel to Nakuru, about three hours away by road. Because auctioneers are licensed to practice by province, litigants cannot use auctioneers outside the province⁶ even where these may be nearer. The average total enforcement costs amount to 5% of the claim. These can be recovered at

court interest rates by the winning party. It is much higher than in Tanzania (0%), Namibia (0.8%) and Botswana (1.5%).

If one were to create a hypothetical city, "Kenya," composed of the best contract-enforcement features, one would combine the total time required in Malaba (330 days) and the cost involved in Isiolo (38.4%). It would rank as 92nd overall in enforcing contracts, rather than 126th, as Kenya now does (table 5.2).

WHAT TO REFORM?

Running an efficient court system is by no means an easy task; it poses a continuous challenge even to more industrialized countries. Kenya is certainly no exception. Economies that score well on the ease of enforcing contracts keep courts efficient by streamlining case-processing from filing through appeals. They make enforcement of judgments faster and cheaper by introducing early-settlement options, case-management systems, strict procedural time limits, and specialized commercial courts. Kenya can learn from some of these reforms.

INTRODUCE SMALL CLAIMS COURTS

A major contributor to the backlog of cases is the large number of small claims filed. Given that it takes an average of 418 days at a cost of 40.2% of the claim value to prosecute a commercial dispute through the courts, it would be more cost and time effective to establish a separate stream of courts to handle disputes below a certain threshold. Such a court could be regulated under a simplified procedural regime, so that parties could file and handle matters without the need for lawyers, which would further reduce the costs. In Africa, this reform has recently been undertaken in Botswana, where small-claims courts have been added as an additional layer in the magistrates' courts, with a threshold of BWP 7,000 equivalent to KES 78,309 (USD 1,035). South Africa, Mauritius and Zambia are other sub-Saharan African countries with small-claims courts.

TABLE 5.2
How do Kenyan localities compare globally and regionally in enforcing contracts?

(selected economies)

Economy	Region	Ranking
Singapore	EAP	13
Tanzania	SSA	31
Namibia	SSA	41
Ghana	SSA	47
Malaysia	EAP	59
Mauritius	SSA	66
South Africa	SSA	85
"Kenya"	SSA	92
Kenya (Nairobi)	SSA	126
Jamaica	LAC	128
United Arab Emirates	MENA	134
Egypt, Arab Republic	MENA	148
India	SA	182

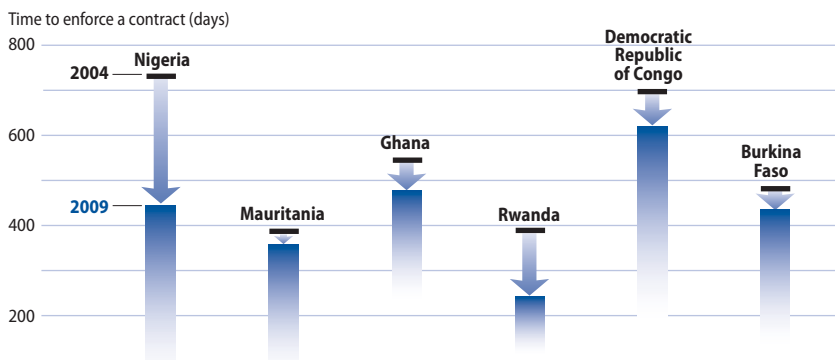
EAP: East Asia and Pacific; LAC: Latin America and the Caribbean
OECD: OECD high income; SA: South Asia; SSA: Sub-Saharan Africa.

Source: Doing Business database.

INCREASE PROCEDURAL EFFICIENCY BY STREAMLINING THE TRIAL AND JUDGMENT PROCESS

The trial process revolves around how proactive the litigating parties are and the availability of the magistrate to referee the process. When magistrates go on leave or when they are transferred to new duty stations, the trial process is put on hold. Not only does this add to the backlog, it considerably drives up the time and cost involved for the parties. Matters become more complicated if the hearing is closed and all that is awaited is the judgment. Often a magistrate transferred to a new duty station has to be called back to his or her old duty station to pronounce judgments of cases that they were handling. Only in extreme cases is the file passed on to another magistrate. Because magistrates have to transcribe all the evidence by hand, often there is a need to have the proceedings typed in order for the appointed magistrate to read them and write a judgment. The court administration can address such issues by setting up a changeover system to ensure smooth continuation of matters even with the movement of the magistrates handling them.

FIGURE 5.3
Specialized commercial courts in Africa help to reduce delays in enforcing contracts



Source: Doing Business database.

KEEP STATISTICS AND MEASURE THE IMPACT OF REFORMS

Statistical information helps assess court performance. Statistics are already being kept on the number of commercial cases being handled and disposed of, the clearance rate on how long cases take to be resolved, and the appeals rate. What is currently missing is a more detailed tracking of the time it takes for different types of commercial cases to move through the court process. Such statistics will inform management decisions and the development of improved policies and recommendations for legislative changes. Improved statistical capacities will also allow for careful analysis of the actual impact of the ongoing reforms to guide the direction of future policies of judicial reform.


REDUCE BACKLOG OF CASES

The backlog of cases in the Kenyan judicial system is related to the adversarial nature of the system, which requires the action of the parties to proceed. Many inactive, long-unprosecuted cases lie dormant, taking up space in the registries and hampering efficient case allocation among magistrates. Macedonia, FYR and Botswana are examples of countries that faced similar problems and introduced bold measures to tackle the problem. In Botswana, judicial officers set aside a number of days to conduct roll calls on aged matters and dismissed the unresponsive ones.⁷ The reform is too recent

for progress to be measured. In Macedonia, FYR, the number of cases pending for more than three years was reduced by 46%. Litigants in longstanding disputes were summoned to appear in court on set days and if neither appeared, the case was dismissed. The reform cut the time to enforce a contract in court from 509 days to 385 days.⁸

INTRODUCE SPECIALIZED COMMERCIAL COURTS

Most magistrates' courts in Kenya operate both as civil and criminal courts. In some, like in Nyeri, specific days are allocated to civil and to criminal matters. This slows down the process of commercial dispute resolution. In Nairobi, there are specialized commercial courts at the magistrate level. The government can consider introducing the same to other localities, beginning with those with the higher number of filed cases, and gradually expanding to others. This requires significant planning and structuring. Countries that have specialized courts or specialized commercial sections in the general courts resolve commercial disputes about 40% faster than countries that do not. A number of African economies have seen reductions in the time to enforce contracts after introducing these courts (figure 5.3). If reforms in the specialized courts yield satisfied users, they embolden governments to implement broader reforms.⁹

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1. Wojkowska, Ewa. 2006. "Doing Justice: How Informal Justice Systems Can Contribute." Oslo, Norway: Oslo Governance Centre, United Nations Development Programme.
 2. See the detailed description of the standard case in the Data notes.
 3. The Advocates (Remuneration) (Amendment) Order, 2009.
 4. The Judicature Act, Cap 8 of the Laws of Kenya.
 5. The Auctioneers' Act, Act No. 5 of 1996.
 6. Both Narok and Nakuru are in the Rift Valley Province, one of the eight provinces in the country.
 7. Case Management System introduced in Botswana on February 1, 2008.
 8. World Bank. 2006. *Doing Business 2007: How to Reform*. Washington, D.C.: The World Bank Group.
 9. World Bank. 2007. *Doing Business 2008*. Washington, D.C.: The World Bank Group.

Data notes

Economy characteristics

GROSS NATIONAL INCOME (GNI) PER CAPITA

Doing Business in Kenya 2010 reports 2008 income per capita and population as published in the World Bank's World Development Indicators 2009. Income is calculated using the Atlas method (current US\$). For cost indicators expressed as a percentage of income per capita, 2008 GNI in local currency units is used as the denominator. Kenya's GNI per capita in 2008 = US\$ 767

EXCHANGE RATE

The exchange rate used in this report is 1 US\$ = 80.29 KES (Kenyan Shillings)

POPULATION

Doing Business uses the World Bank regional and income group classifications, available at <http://www.worldbank.org/data/countryclass>.

The indicators presented and analyzed in *Doing Business in Kenya 2010* measure business regulation and the protection of property rights—and their effect on businesses, especially small and medium-size domestic firms. First, the indicators document the degree of regulation, such as the number of procedures to start a business, to construct a warehouse or to register and transfer commercial property. Second, they gauge regulatory outcomes, such as the time and cost to enforce a contract. For details on how the rankings on these indicators are constructed, see Aggregate Ranking at the end of this section.

In this project, *Doing Business* indicators have been created for 11 Kenyan localities—the complete list is available on page 29. The data for all sets of indicators in *Doing Business in Kenya 2010* are current as of June 2009.

METHODOLOGY

The *Doing Business in Kenya 2010* data are collected in a standardized way, following the methodology developed by the *Doing Business* team. To start, the *Doing Business* team, with academic advisers, designs a survey. The survey uses a simple business case to ensure comparability across economies and over time—with assumptions about the legal form of the business, its size, its location and the nature of its operations. Then, the survey is customized to the particular

case of Kenya. Surveys are administered through more than 115 local experts, including lawyers, business consultants, accountants, government officials and other professionals routinely administering or advising on legal and regulatory requirements. These experts have several rounds of interaction with the Subnational *Doing Business* team, through face-to-face interviews, conference calls, written correspondence and visits by the team. For *Doing Business in Kenya 2010* the team members visited Kenya two times to recruit respondents, verify data and meet with local government officials. The team also invited local government officials and judges to review the preliminary results and offered them a right of reply period. The data from surveys are subjected to numerous tests for robustness, which lead to revisions or expansions of the information collected.

The *Doing Business* methodology offers several advantages. It is transparent, using factual information about what laws and regulations say and allowing multiple interactions with local respondents to clarify potential misinterpretations of questions. Having representative samples of respondents is not an issue, as the texts of the relevant laws and regulations are collected and answers checked for accuracy. The methodology is inexpensive and easily replicable, so data can be collected in a large sample of economies. Because standard assumptions are used in the data collection,

comparisons and benchmarks are valid across economies. Finally, the data not only highlight the extent of specific regulatory obstacles to doing business but also identify their source and point to what might be reformed.

LIMITS TO WHAT IS MEASURED

The *Doing Business* methodology applied to *Doing Business in Kenya 2010* has 4 limitations that should be considered when interpreting the data. First, the data often focus on a specific business form—generally a limited liability company (or its legal equivalent) of a specified size—and may not be representative of the regulation on other businesses, for example, sole proprietorships. Second, transactions described in a standardized case scenario refer to a specific set of issues and may not represent the full set of issues a business encounters. Third, the measures of time involve an element of judgment by the expert respondents. When sources indicate different estimates, the time indicators reported in *Doing Business* represent the median values of several responses given under the assumptions of the standardized case.

Finally, the methodology assumes that a business has full information on what is required and does not waste time when completing procedures. In practice, completing a procedure may take longer if the business lacks information or is unable to follow up promptly. Alternatively, the business may choose

to disregard some burdensome procedures. For both reasons the time delays reported in *Doing Business in Kenya 2010* would differ from the recollection of entrepreneurs reported in the World Bank Enterprise Surveys or other perception surveys.

STARTING A BUSINESS

Doing Business in Kenya 2010 records all procedures that are officially required for an entrepreneur to start up and formally operate an industrial or commercial business. These include obtaining all necessary licenses and permits and completing any required notifications, verifications or inscriptions for the company and employees with relevant authorities.

After a study of laws, regulations and publicly available information on business entry, a detailed list of procedures is developed, along with the time and cost of complying with each procedure under normal circumstances and the paid-in minimum capital requirements. Subsequently, local incorporation lawyers and government officials complete and verify the data.

Information is also collected on the sequence in which procedures are to be completed and whether procedures may be carried out simultaneously. It is assumed that any required information is readily available and that all agencies involved in the start-up process function without corruption. If answers by local experts differ, inquiries continue until the data are reconciled.

To make the data comparable across economies, several assumptions about the business and the procedures are used.

ASSUMPTIONS ABOUT THE BUSINESS

The business:

- Is a limited liability company. If there is more than one type of limited liability company in the economy, the limited liability form most popular among domestic firms is chosen. Information on the most popular form is obtained from incorporation lawyers or the statistical office.

- Operates in the economy's selected localities.
- Is 100% domestically owned and has 5 owners, none of whom is a legal entity.
- Has start-up capital of 10 times income per capita at the end of 2008, paid in cash.
- Performs general industrial or commercial activities, such as the production or sale to the public of products or services. The business does not perform foreign trade activities and does not handle products subject to a special tax regime, for example, liquor or tobacco. It is not using heavily polluting production processes.
- Leases the commercial plant and offices and is not a proprietor of real estate.
- Does not qualify for investment incentives or any special benefits.
- Has at least 10 and up to 50 employees 1 month after the commencement of operations, all of them nationals.
- Has a turnover of at least 100 times income per capita.
- Has a company deed 10 pages long.

PROCEDURES

A procedure is defined as any interaction of the company founders with external parties (for example, government agencies, lawyers, auditors or notaries). Interactions between company founders or company officers and employees are not counted as procedures. Procedures that must be completed in the same building but in different offices are counted as separate procedures. If founders have to visit the same office several times for different sequential procedures, each is counted separately. The founders are assumed to complete all procedures themselves, without middlemen, facilitators, accountants or lawyers, unless the use of such a third party is mandated by law. If the services of professionals are required, procedures conducted by such professionals on behalf of the company are counted separately. Each electronic procedure is counted separately. If 2 procedures can be completed through the

same website but require separate filings, they are counted as 2 procedures.

Both pre- and post-incorporation procedures that are officially required for an entrepreneur to formally operate a business are recorded.

Procedures required for official correspondence or transactions with public agencies are also included. For example, if a company seal or stamp is required on official documents, such as tax declarations, obtaining the seal or stamp is counted. Similarly, if a company must open a bank account before registering for sales tax or value added tax, this transaction is included as a procedure. Shortcuts are counted only if they fulfill 4 criteria: they are legal, they are available to the general public, they are used by the majority of companies, and avoiding them causes substantial delays.

Only procedures required of all businesses are covered. Industry-specific procedures are excluded. For example, procedures to comply with environmental regulations are included only when they apply to all businesses conducting general commercial or industrial activities. Procedures that the company undergoes to connect to electricity, water, gas and waste disposal services are not included.

TIME

Time is recorded in calendar days. The measure captures the median duration that incorporation lawyers indicate is necessary to complete a procedure with minimum follow-up with government agencies and no extra payments. It is assumed that the minimum time required for each procedure is 1 day. Although procedures may take place simultaneously, they cannot start on the same day (that is, simultaneous procedures start on consecutive days). A procedure is considered completed once the company has received the final document, such as the company registration certificate or tax number. It is assumed that the entrepreneur does not waste time and commits to completing each remaining procedure without delay. The time that the entrepreneur spends on gathering

information is ignored. It is assumed that the entrepreneur is aware of all entry regulations and their sequence from the beginning but has had no prior contact with any of the officials.

COST

Cost is recorded as a percentage of the economy's income per capita. It includes all official fees and fees for legal or professional services if such services are required by law. Fees for purchasing and legalizing company books are included if these transactions are required by law. The company law, the commercial code and specific regulations and fee schedules are used as sources for calculating costs. In the absence of fee schedules, a government officer's estimate is taken as an official source. In the absence of a government officer's estimate, estimates of incorporation lawyers are used. If several incorporation lawyers provide different estimates, the median reported value is applied. In all cases the cost excludes bribes.

PAID-IN MINIMUM CAPITAL

The paid-in minimum capital requirement reflects the amount that the entrepreneur needs to deposit in a bank or with a notary before registration and up to 3 months following incorporation and is recorded as a percentage of the economy's income per capita. The amount is typically specified in the commercial code or the company law. Many economies have a minimum capital requirement but allow businesses to pay only a part of it before registration, with the rest to be paid after the first year of operation. In Italy in June 2009, the minimum capital requirement for limited liability companies was €10,000, of which at least €2,500 was payable before registration. The paid-in minimum capital recorded for Italy is therefore €2,500, or 9.7% of income per capita. In Mexico the minimum capital requirement was 50,000 pesos, of which one-fifth needed to be paid before registration. The paid-in minimum capital recorded for Mexico is therefore 10,000 pesos, or 8.9% of income per capita.

The data details on starting a business can be found for each economy at <http://www.doingbusiness.org> by selecting the economy in the drop-down list. This methodology was developed in Djankov and others (2002) and is adopted here with minor changes.

DEALING WITH CONSTRUCTION PERMITS

Doing Business in Kenya 2010 records all procedures required for a business in the construction industry to build a standardized warehouse. These procedures include submitting all relevant project-specific documents (for example, building plans and site maps) to the authorities; obtaining all necessary clearances, licenses, permits and certificates; completing all required notifications; and receiving all necessary inspections. *Doing Business in Kenya 2010* also records procedures for obtaining connections for electricity, water, sewerage and a fixed land line. Procedures necessary to register the property so that it can be used as collateral or transferred to another entity are also counted. The survey divides the process of building a warehouse into distinct procedures and calculates the time and cost of completing each procedure in practice under normal circumstances.

Information is collected from experts in construction licensing, including architects, construction lawyers, construction firms, utility service providers and public officials who deal with building regulations, including approvals and inspections. To make the data comparable across economies, several assumptions about the business, the warehouse project and the utility connections are used.

ASSUMPTIONS ABOUT THE CONSTRUCTION COMPANY

The business (BuildCo):

- Is a limited liability company.
- Operates in the economy's selected localities.
- Is 100% domestically and privately owned.

- Has 5 owners, none of whom is a legal entity.
- Is fully licensed and insured to carry out construction projects, such as building warehouses.
- Has 60 builders and other employees, all of them nationals with the technical expertise and professional experience necessary to obtain construction permits and approvals.
- Has at least 1 employee who is a licensed architect and registered with the local association of architects.
- Has paid all taxes and taken out all necessary insurance applicable to its general business activity (for example, accidental insurance for construction workers and third-person liability insurance).
- Owns the land on which the warehouse is built.

ASSUMPTIONS ABOUT THE WAREHOUSE

The warehouse:

- Will be used for general storage activities, such as storage of books or stationery. The warehouse will not be used for any goods requiring special conditions, such as food, chemicals or pharmaceuticals.
- Has 2 stories, both above ground, with a total surface of approximately 1,300.6 square meters (14,000 square feet). Each floor is 3 meters (9 feet, 10 inches) high.
- Has road access and is located in the periurban area of the economy's selected localities (that is, on the fringes of the localities but still within their official limits).
- Is not located in a special economic or industrial zone. The zoning requirements for warehouses are met by building in an area where similar warehouses can be found.
- Is located on a land plot of 929 square meters (10,000 square feet) that is 100% owned by BuildCo and is accurately registered in the cadastre and land registry.
- Is a new construction (there was no previous construction on the land).

- Has complete architectural and technical plans prepared by a licensed architect.
- Will include all technical equipment required to make the warehouse fully operational.

ASSUMPTIONS ABOUT THE UTILITY CONNECTIONS

The electricity connection:

- Is 10 meters (32 feet, 10 inches) from the main electricity network.
- Is a medium-tension, 3-phase, 4-wire Y, 140-kVA connection. Three-phase service is available in the construction area.
- Will be delivered by an overhead service, unless overhead service is not available in the periurban area.
- Consists of a simple hookup unless installation of a private substation (transformer) or extension of network is required.
- Requires the installation of only one electricity meter.

BuildCo is assumed to have a licensed electrician on its team to complete the internal wiring for the warehouse.

The water and sewerage connection:

- Is 10 meters (32 feet, 10 inches) from the existing water source and sewer tap.
- Does not require water for fire protection reasons; a fire extinguishing system (dry system) will be used instead. If a wet fire protection system is required by law, it is assumed that the water demand specified below also covers the water needed for fire protection.
- Has an average water use of 662 liters (175 gallons) a day and an average wastewater flow of 568 liters (150 gallons) a day.
- Has a peak water use of 1,325 liters (350 gallons) a day and a peak wastewater flow of 1,136 liters (300 gallons) a day.
- Will have a constant level of water demand and wastewater flow throughout the year.

The telephone connection:

- Is 10 meters (32 feet, 10 inches) from the main telephone network.
- Is a fixed land line.

PROCEDURES

A procedure is any interaction of the company's employees or managers with external parties, including government agencies, notaries, the land registry, the cadastre, utility companies, public and private inspectors and technical experts apart from in-house architects and engineers. Interactions between company employees, such as development of the warehouse plans and inspections conducted by employees, are not counted as procedures. Procedures that the company undergoes to connect to electricity, water, sewerage and telephone services are included. All procedures that are legally or in practice required for building a warehouse are counted, even if they may be avoided in exceptional cases.

TIME

Time is recorded in calendar days. The measure captures the median duration that local experts indicate is necessary to complete a procedure in practice. It is assumed that the minimum time required for each procedure is 1 day. Although procedures may take place simultaneously, they cannot start on the same day (that is, simultaneous procedures start on consecutive days). If a procedure can be accelerated legally for an additional cost, the fastest legal procedure available and used by the majority of construction companies is chosen. It is assumed that BuildCo does not waste time and commits to completing each remaining procedure without delay. The time that BuildCo spends on gathering information is ignored. It is assumed that BuildCo is aware of all building requirements and their sequence from the beginning.

COST

Cost is recorded as a percentage of the economy's income per capita. Only official costs are recorded. All the fees associated with completing the proce-

dures to legally build a warehouse are recorded, including those associated with obtaining land use approvals and preconstruction design clearances; receiving inspections before, during and after construction; getting utility connections; and registering the warehouse property. Nonrecurring taxes required for the completion of the warehouse project also are recorded. The building code, information from local experts and specific regulations and fee schedules are used as sources for costs. If several local partners provide different estimates, the median reported value is used.

The data details on dealing with construction permits can be found for each economy at <http://www.doingbusiness.org> by selecting the economy in the drop-down list.

REGISTERING PROPERTY

Doing Business in Kenya 2010 records the full sequence of procedures necessary for a business (buyer) to purchase a property from another business (seller) and to transfer the property title to the buyer's name so that the buyer can use the property for expanding its business, use the property as collateral in taking new loans or, if necessary, sell the property to another business. The process starts with obtaining the necessary documents, such as a copy of the seller's title if necessary, and conducting due diligence if required. The transaction is considered complete when it is opposable to third parties and when the buyer can use the property, use it 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.

To make the data comparable across economies, several assumptions about

the parties to the transaction, the property and the procedures are used.

ASSUMPTIONS ABOUT THE PARTIES

The parties (buyer and seller):

- Are limited liability companies.
- Are located in the periurban area of the economy's selected localities.
- Are 100% domestically and privately owned.
- Have 50 employees each, all of whom are nationals.
- Perform general commercial activities.

ASSUMPTIONS ABOUT THE PROPERTY

The property:

- Has a value of 50 times income per capita. The sale price equals the value.
- Is fully owned by the seller.
- Has no mortgages attached and has been under the same ownership for the past 10 years.
- Is registered in the land registry or cadastre, or both, and is free of title disputes.
- Is located in a periurban commercial zone, and no rezoning is required.
- Consists of land and a building. The land area is 557.4 square meters (6,000 square feet). A 2-story warehouse of 929 square meters (10,000 square feet) is located on the land. The warehouse is 10 years old, is in good condition and complies with all safety standards, building codes and other legal requirements. The property of land and building will be transferred in its entirety.
- Will not be subject to renovations or additional building following the purchase.
- Has no trees, natural water sources, natural reserves or historical monuments of any kind.
- Will not be used for special purposes, and no special permits, such as for residential use, industrial plants, waste storage or certain types of agricultural activities, are required.
- Has no occupants (legal or illegal), and no other party holds a legal interest in it.

PROCEDURES

A procedure is defined as any interaction of the buyer or the seller, their agents (if an agent is legally or in practice required) or the property with external parties, including government agencies, inspectors, notaries and lawyers. Interactions between company officers and employees are not considered. All procedures that are legally or in practice required for registering property are recorded, even if they may be avoided in exceptional cases. It is assumed that the buyer follows the fastest legal option available and used by the majority of property owners. Although the buyer may use lawyers or other professionals where necessary in the registration process, it is assumed that it does not employ an outside facilitator in the registration process unless legally or in practice required to do so.

TIME

Time is recorded in calendar days. The measure captures the median duration that property lawyers, notaries or registry officials indicate is necessary to complete a procedure. It is assumed that the minimum time required for each procedure is 1 day. Although procedures may take place simultaneously, they cannot start on the same day. It is assumed that the buyer does not waste time and commits to completing each remaining procedure without delay. If a procedure can be accelerated for an additional cost, the fastest legal procedure available and used by the majority of property owners is chosen. If procedures can be undertaken simultaneously, it is assumed that they are. It is assumed that the parties involved are aware of all regulations and their sequence from the beginning. Time spent on gathering information is not considered.

COST

Cost is recorded as a percentage of the property value, assumed to be equivalent to 50 times income per capita. Only official costs required by law are recorded, including fees, transfer taxes, stamp duties and any other payment to the property registry, notaries, public

agencies or lawyers. Other taxes, such as capital gains tax or value added tax, are excluded from the cost measure. Both costs borne by the buyer and those borne by the seller are included. If cost estimates differ among sources, the median reported value is used.

The data details on registering property can be found for each economy at <http://www.doingbusiness.org> by selecting the economy in the drop-down list.

ENFORCING CONTRACTS

Indicators on enforcing contracts measure the efficiency of the judicial system in resolving a commercial dispute. The data are built by following the step-by-step evolution of a commercial sale dispute before local courts. The data are collected through study of the codes of civil procedure and other court regulations as well as surveys completed by local litigation lawyers as well as by judges.

Assumptions about the case:

- The value of the claim equals 200% of the economy's income per capita.
- The dispute concerns a lawful transaction between 2 businesses (Seller and Buyer), located in the economy's selected localities. Seller sells goods worth 200% of the economy's income per capita to Buyer. After Seller delivers the goods to Buyer, Buyer refuses to pay for the goods on the grounds that the delivered goods were not of adequate quality.
- Seller (the plaintiff) sues Buyer (the defendant) to recover the amount under the sales agreement (that is, 200% of the economy's income per capita). Buyer opposes Seller's claim, saying that the quality of the goods is not adequate. The claim is disputed on the merits.
- A court in the economy's largest business city with jurisdiction over commercial cases worth 200% of income per capita decides the dispute.
- Seller attaches Buyer's movable assets (for example, office equipment,

vehicles) prior to obtaining a judgment because Seller fears that Buyer may become insolvent.

- Expert opinions are given on the quality of the delivered goods. If it is standard practice in the economy for each party to call its own expert witness, the parties each call one expert witness. If it is standard practice for the judge to appoint an independent expert, the judge does so. In this case the judge does not allow opposing expert testimony.
- The judgment is 100% in favor of Seller: the judge decides that the goods are of adequate quality and that Buyer must pay the agreed price.
- Buyer does not appeal the judgment. The judgment becomes final.
- Seller takes all required steps for prompt enforcement of the judgment. The money is successfully collected through a public sale of Buyer's movable assets (for example, office equipment, vehicles).

PROCEDURES

The list of procedural steps compiled for each economy traces the chronology of a commercial dispute before the relevant court. A procedure is defined as any interaction between the parties, or between them and the judge or court officer. This includes steps to file the case, steps for trial and judgment and steps necessary to enforce the judgment.

The survey allows respondents to record procedures that exist in civil law but not common law jurisdictions, and vice versa. For example, in civil law countries the judge can appoint an independent expert, while in common law countries each party submits a list of expert witnesses to the court. To indicate overall efficiency, 1 procedure is subtracted from the total number for economies that have specialized commercial courts, and 1 procedure for economies that allow electronic filing of court cases. Some procedural steps that take place simultaneously with or are included in other procedural steps are not counted in the total number of procedures.

TIME

Time is recorded in calendar days, counted from the moment the plaintiff files the lawsuit in court until payment. This includes both the days when actions take place and the waiting periods between. The average duration of different stages of dispute resolution is recorded: the completion of service of process (time to file the case), the issuance of judgment (time for the trial and obtaining the judgment) and the moment of payment (time for enforcement of judgment).

COST

Cost is recorded as a percentage of the claim, assumed to be equivalent to 200% of income per capita. No bribes are recorded. Three types of costs are recorded: court costs, enforcement costs and average attorney fees.

Court costs include all costs Seller (plaintiff) must advance to the court regardless of the final cost to Seller. Expert fees, if required by law or necessary in practice, are included in court costs. Enforcement costs are all costs Seller (plaintiff) must advance to enforce the judgment through a public sale of Buyer's movable assets, regardless of the final cost to Seller. Average attorneys fees are the fees Seller (plaintiff) must advance to a local attorney to represent Seller in the standardized case.

The data details on enforcing contracts can be found for each economy at <http://www.doingbusiness.org> by selecting the economy in the drop-down list. This methodology was developed in Djankov and others (2003) and is adopted here with minor changes.

AGGREGATE RANKING

The aggregate ranking index ranks localities from 1 to 11. The index is calculated as the ranking on the simple average of locality percentile rankings on each of the 4 topics covered in *Doing Business in Kenya 2010*. The ranking on each topic is the simple average of the percentile rankings on its component indicators.

The aggregate ranking index is limited in scope. It does not account for an economy's proximity to large markets, the quality of its infrastructure services (other than services related to trading across borders or construction permits), the security of property from theft and looting, macroeconomic conditions or the strength of underlying institutions. There remains a large unfinished agenda for research into what regulation constitutes binding constraints, what package of reforms is most effective and how these issues are shaped by the context of an economy. The *Doing Business* indicators provide a new empirical data set that may improve understanding of these issues.

*Doing
Business*
Indicators

Starting a business

	Procedures (number)	Time (days)	Cost (% of income per capita)	Paid-in minimum capital (% of income per capita)	Ease of starting a business (rank)
Eldoret	12	74	50.8	0	5
Garissa	12	78	52.4	0	11
Isiolo	12	62	55.5	0	4
Kilifi	12	68	57.0	0	7
Kisumu	12	74	51.8	0	7
Malaba	12	70	58.9	0	10
Mombasa	12	72	50.3	0	3
Nairobi	12	34	36.5	0	1
Narok	12	81	44.3	0	9
Nyeri	12	80	42.2	0	5
Thika	12	47	39.1	0	2

Dealing with construction permits

	Procedures (number)	Time (days)	Cost (% of income per capita)	Ease of dealing with construction permits (rank)
	11	117	168.7	7
	14	80	156.9	5
	13	127	134.8	11
	11	103	283.6	8
	10	99	237.1	4
	11	111	137.0	3
	14	96	162.9	9
	11	120	161.7	5
	11	69	136.5	1
	11	100	132.4	2
	11	123	208.4	10

Registering property

	Procedures (number)	Time (days)	Cost (% of property value)	Ease of registering property (rank)
Eldoret	8	37	4.3	6
Garissa	8	87	4.1	10
Isiolo	8	77	24.2	11
Kilifi	8	75	4.1	7
Kisumu	8	30	4.1	2
Malaba	8	29	4.2	5
Mombasa	8	23	4.1	1
Nairobi	8	64	4.2	9
Narok	8	46	4.1	3
Nyeri	8	53	4.2	8
Thika	8	60	4.1	4

Enforcing contracts

	Procedures (number)	Time (days)	Cost (% of claim)	Ease of enforcing contracts (rank)
	40	435	39.0	5
	40	351	38.7	1
	40	455	38.4	4
	40	425	39.8	6
	40	425	41.2	8
	40	330	39.2	3
	40	455	39.9	9
	40	465	47.2	11
	40	351	38.9	2
	40	455	40.3	10
	40	455	39.5	7

Locality tables

ELDORET

Aggregate rank	8		
Starting a business (rank)	5	Registering property (rank)	6
Procedures (number)	12	Procedures (number)	8
Time (days)	74	Time (days)	37
Cost (% of income per capita)	50.8	Cost (% of property value)	4.3
Paid in Min. Capital (% of income per capita)	0		
Dealing with construction permits (rank)	7	Enforcing contracts (rank)	5
Procedures (number)	11	Procedures (number)	40
Time (days)	117	Time (days)	435
Cost (% of income per capita)	168.7	Cost (% of claim)	39.0

GARISSA

Aggregate rank	7		
Starting a business (rank)	11	Registering property (rank)	10
Procedures (number)	12	Procedures (number)	8
Time (days)	78	Time (days)	87
Cost (% of income per capita)	52.4	Cost (% of property value)	4.1
Paid in Min. Capital (% of income per capita)	0		
Dealing with construction permits (rank)	5	Enforcing contracts (rank)	1
Procedures (number)	14	Procedures (number)	40
Time (days)	80	Time (days)	351
Cost (% of income per capita)	156.9	Cost (% of claim)	38.7

ISIOLO

Aggregate rank	11		
Starting a business (rank)	4	Registering property (rank)	11
Procedures (number)	12	Procedures (number)	8
Time (days)	62	Time (days)	77
Cost (% of income per capita)	55.5	Cost (% of property value)	24.2
Paid in Min. Capital (% of income per capita)	0		
Dealing with construction permits (rank)	11	Enforcing contracts (rank)	4
Procedures (number)	13	Procedures (number)	40
Time (days)	127	Time (days)	455
Cost (% of income per capita)	134.8	Cost (% of claim)	38.4

KILIFI

Aggregate rank	9		
Starting a business (rank)	7	Registering property (rank)	7
Procedures (number)	12	Procedures (number)	8
Time (days)	68	Time (days)	75
Cost (% of income per capita)	57.0	Cost (% of property value)	4.1
Paid in Min. Capital (% of income per capita)	0		
Dealing with construction permits (rank)	8	Enforcing contracts (rank)	6
Procedures (number)	11	Procedures (number)	40
Time (days)	103	Time (days)	425
Cost (% of income per capita)	283.6	Cost (% of claim)	39.8

KISUMU

Aggregate rank	4		
Starting a business (rank)	7	Registering property (rank)	2
Procedures (number)	12	Procedures (number)	8
Time (days)	74	Time (days)	30
Cost (% of income per capita)	51.8	Cost (% of property value)	4.1
Paid in Min. Capital (% of income per capita)	0		
Dealing with construction permits (rank)	4	Enforcing contracts (rank)	8
Procedures (number)	10	Procedures (number)	40
Time (days)	99	Time (days)	425
Cost (% of income per capita)	237.1	Cost (% of claim)	41.2

MALABA

Aggregate rank	2		
Starting a business (rank)	10	Registering property (rank)	5
Procedures (number)	12	Procedures (number)	8
Time (days)	70	Time (days)	29
Cost (% of income per capita)	58.9	Cost (% of property value)	4.2
Paid in Min. Capital (% of income per capita)	0		
Dealing with construction permits (rank)	3	Enforcing contracts (rank)	3
Procedures (number)	11	Procedures (number)	40
Time (days)	111	Time (days)	330
Cost (% of income per capita)	137.0	Cost (% of claim)	39.2

MOMBASA

Aggregate rank	5		
Starting a business (rank)	3	Registering property (rank)	1
Procedures (number)	12	Procedures (number)	8
Time (days)	72	Time (days)	23
Cost (% of income per capita)	50.3	Cost (% of property value)	4.1
Paid in Min. Capital (% of income per capita)	0		
Dealing with construction permits (rank)	9	Enforcing contracts (rank)	9
Procedures (number)	14	Procedures (number)	40
Time (days)	96	Time (days)	455
Cost (% of income per capita)	162.9	Cost (% of claim)	39.9

NAIROBI

Aggregate rank	10		
Starting a business (rank)	1	Registering property (rank)	9
Procedures (number)	12	Procedures (number)	8
Time (days)	34	Time (days)	64
Cost (% of income per capita)	36.5	Cost (% of property value)	4.2
Paid in Min. Capital (% of income per capita)	0		
Dealing with construction permits (rank)	5	Enforcing contracts (rank)	11
Procedures (number)	11	Procedures (number)	40
Time (days)	120	Time (days)	465
Cost (% of income per capita)	161.7	Cost (% of claim)	47.2

NAROK

Aggregate rank	1		
Starting a business (rank)	9	Registering property (rank)	3
Procedures (number)	12	Procedures (number)	8
Time (days)	81	Time (days)	46
Cost (% of income per capita)	44.3	Cost (% of property value)	4.1
Paid in Min. Capital (% of income per capita)	0		
Dealing with construction permits (rank)	1	Enforcing contracts (rank)	2
Procedures (number)	11	Procedures (number)	40
Time (days)	69	Time (days)	351
Cost (% of income per capita)	136.5	Cost (% of claim)	38.9

NYERI

Aggregate rank	6		
Starting a business (rank)	5	Registering property (rank)	8
Procedures (number)	12	Procedures (number)	8
Time (days)	80	Time (days)	53
Cost (% of income per capita)	42.2	Cost (% of property value)	4.2
Paid in Min. Capital (% of income per capita)	0		
Dealing with construction permits (rank)	2	Enforcing contracts (rank)	10
Procedures (number)	11	Procedures (number)	40
Time (days)	100	Time (days)	455
Cost (% of income per capita)	132.4	Cost (% of claim)	40.3

THIKA

Aggregate rank	3		
Starting a business (rank)	2	Registering property (rank)	4
Procedures (number)	12	Procedures (number)	8
Time (days)	47	Time (days)	60
Cost (% of income per capita)	39.0	Cost (% of property value)	4.0
Paid in Min. Capital (% of income per capita)	0		
Dealing with construction permits (rank)	10	Enforcing contracts (rank)	7
Procedures (number)	11	Procedures (number)	40
Time (days)	123	Time (days)	455
Cost (% of income per capita)	208.4	Cost (% of claim)	39.5

List of procedures

Starting a business

Dealing with
construction permits

Registering property

LIST OF PROCEDURES

Starting a business**Eldoret***Standard company legal form: Private Corporation**Paid-in-minimum capital requirement: none**Data as of: June 2009***Procedure: 1. Obtain approval for the company name from the Registrar of Companies****Time:** 4 days (time to obtain approval: 2 days + roundtrip: 2 days)**Cost:** KES 2,100 (filing fee: KES 100 + transportation: KES 2,000)

Comments: The company name reservation lasts 30 days but can be renewed for a similar period. This procedure can only be done in Nairobi. Usually, the company's promoters will hire an Eldoret lawyer whose agent will travel to Nairobi to undertake the necessary procedures. The common practice is that procedures one to five are performed in Nairobi given that the applicant, or the company's agent, is already in town. The time to do this procedure is 2 days, once the applicant is in Nairobi. However, it takes 1 day to travel from Eldoret to Nairobi and 1 day to go back. Travel time is considered within this procedure. The cost of this procedure is KES 100. The bus fare from Eldoret to Nairobi is KES 2,000 and is also considered within this procedure.

Procedure: 2. Stamp the memorandum and articles and a statement of the nominal capital**Time:** 16 days**Cost:** KES 8,160 (1% of nominal capital + KES 2,005 stamp duty on memorandum and articles of association)

Comments: Effective January 1, 2005, the Kenya Revenue Authority (KRA) took over stamp duty collection from the Ministry of Lands and Housing. As an administrative requirement, the KRA now requires the personal identification numbers (PINs) of all parties on whose behalf duty-stamped documents are submitted. Documents must be first assessed by the Stamp Duty Office before payment can be processed by the KRA-designated banks. The process was lengthened initially to about 2 weeks because the Stamp Duty Office waited to receive confirmation of bank payment after clearance of funds. However, the time was reduced in 2008 as a result of better communication between the Ministry of Lands and Housing and Kenya Revenue Authority (KRA) to 5-10 days.

This procedure is usually done in Nairobi since the applicant is already in town. However, this procedure can also be undertaken in Eldoret since there are KRA offices in Eldoret Town.

Procedure: 3. Pay stamp duty at bank**Time:** 1 day**Cost:** KES 100

Comments: This procedure can be done either in Eldoret or in Nairobi. The common practice is for applicants to stay in Nairobi since the applicant is already in the city to perform the previous procedures. KES 100 relates to the cost of the banker's check which is the mode of payment of the stamp duty.

Procedure: 4. Declaration of compliance (Form 208) is signed before a Commissioner for Oaths**Time:** 1 day**Cost:** KES 500

Comments: According to the Companies Act (Cap. 486), an advocate engaged in the formation of the company or a director or company secretary named in the Articles must sign Form 208, the declaration of compliance, which accompanies the registration documents to be submitted to the Registrar of Companies. The common practice is for this procedure to be done by a private lawyer with the power to commission documents.

Procedure: 5. File deed and details with the Registrar of Companies at the Attorney General's Chamber in Nairobi (Sheria House)**Time:** 30 days**Cost:** KES 5,893

Comments: The applicant must file with the Registrar of Companies the incorporation deed and the required documents and forms, which include:

- a. Stamped memorandum and articles of association;
- b. Statement of capital;
- c. Form 201, Particulars of directors and secretary;
- d. Form 203, Notice of proposed registered office;
- e. Form 208, Declaration of compliance and the prescribed registration fees;
- f. Copy of the company name approval.

Fee schedule for registration is the following:

- a. For the first KES 100,000 of nominal capital: KES 2,200;
- b. For every KES 20,000 of nominal capital after the first KES 100,000: KES 120, subject to a maximum of KES 60,000;
- c. Filing fee for three forms: KES 600.

The common practice is for the company's founder to hire a lawyer to undertake the administrative incorporation procedures in Nairobi. Given that the use of lawyers for such purposes is not mandatory in Eldoret, lawyer fees are not accounted on the overall incorporation costs. On average, a lawyer will charge KES 15,000 for the entire incorporation process.

Procedure: 6. Register with the Tax Department for a PIN**Time:** 1 day**Cost:** No cost

Comments: Registration for a personal and a company identification number (PIN) is required to register for the VAT (PIN certificates of at least two directors or 2 shareholders or a director and the secretary are required), the local service tax, and the pay-as-you-earn (PAYE) tax. The applicant must file the certificate of registration and a copy of the memorandum and articles of association. This procedure is done in Eldoret town.

Procedure: 7. Register with the VAT office**Time:** 3 days**Cost:** No cost

Comments: The application for a VAT certificate must be supported with application form, copies of the certificate of incorporation, the PIN certificates for the company and 2 of its directors and memorandum and articles of association. The VAT department is under the KRA. This procedure can be done at the KRA offices in Eldoret town.

Procedure: 8. Apply for a business permit**Time:** 5 days**Cost:** KES 10,000

Comments: The fee to apply for a business permit varies by type of business, number of employees, and size of the company's premises. The fee is payable to the Eldoret Municipal Council. The Municipal Council will issue a business permit.

Fee schedule for business permit is the following:

- a. Medium trader, shop, or retail service from 5 to 20 employees and/or premises 50–300 square meters (fair location): KES 10,000 on average;
- b. Mid-size business of 50 employees and premises 300 square meters: about KES 20,000 to KES 50,000 depending on the nature of the business.

The Licensing Laws (Repeals and Amendments) Act, 2006 (was enacted in December 2006 and came into effect on May 1, 2007), amends the Local Government Act (Cap. 265) by reducing the number of business permits required for a distributor of goods or provider of services to carry on its business activities. Applicants having obtained a business permit to operate from one local authority will not be required to obtain another business permit in another local authority. In addition, business permit applicants will have an opportunity to elect whether to apply for a 1- or 2-year permit. The 2006 law also eliminated the requirement to obtain a trading license in addition to the permit. For a first time business permit, the process takes, on average 5 days.

Procedure: 9. Register with the National Social Security Fund (NSSF)**Time:** 1 day**Cost:** No cost

Comments: The National Social Security Fund provides the employee with a lump-sum retirement benefit. Historically, the rate of return paid by the state is considerably less than that achieved by private schemes, but participation is mandatory. The employer pays a standard contribution of about 1% of salary, subject to a maximum of KES 400 per month. Half of the contribution is deductible from the employee's salary. The precise amount of the contribution (where less than the maximum) is determined by reference to salary bands. This procedure is commonly done in Eldoret.

Procedure: 10. Register with the National Hospital Insurance Fund (NHIF)**Time:** 1 day**Cost:** No cost

Comments: The employee contributes a fixed sum to the National Hospital Insurance Fund (NHIF), which must be deducted by the employer from the employees' salary. The maximum contribution is KES 320 per month. The contributions are used to offset the costs of medical treatment, but they only cover a fraction of actual costs. Hence, most companies provide employees with medical insurance. This procedure is done at the Eldoret NHIF office.

Procedure: 11. Register for PAYE**Time:** 1 day**Cost:** No cost

Comments: This procedure is commonly done in Eldoret Town.

Procedure: 12. Make a company seal after a certificate of incorporation has been issued**Time:** 10 days**Cost:** KES 4,500 (company's seal: KES 4,000 + courier: KES 500)

Comments: Seals are made by private entities who require sight of a copy of the certificate of incorporation. The average price of the company seal is KES 4,000. The common practice is for applicants to obtain the company seal in Nairobi. Applicants order this seal after filing the incorporation deed and before returning to Eldoret. Once the company seal is ready, private providers will send the seal by courier. The average cost of mailing the seal is KES 500.

*This procedure can be completed simultaneously with previous procedures

STARTING A BUSINESS

Garissa

Standard company legal form: Private Corporation

Paid-in-minimum capital requirement: none

Data as of: June 2009

Procedure: 1. Obtain approval for the company name from the Registrar of Companies**Time:** 4 days (time to obtain approval: 2 days + roundtrip: 2 days)**Cost:** KES 1,100 (filing fee: KES 100 + transportation: KES 1,000)

Comments: The company name reservation lasts 30 days but can be renewed for a similar period. The time to do this procedure is 2 days, once the applicant is in Nairobi. However, it takes one day to travel from Garissa to Nairobi and 1 day to go back. Travel time is considered within this procedure. The cost of this procedure is KES 100. The bus fare from Garissa to Nairobi is KES 1,000 (roundtrip) and is considered within the cost of this procedure.

Procedure: 2. Stamp the memorandum and articles and a statement of the nominal capital**Time:** 23 days**Cost:** KES 8,160 (1% of nominal capital + KES 2,005 stamp duty on memorandum and articles of association)

Comments: Effective January 1, 2005, the Kenya Revenue Authority (KRA) took over stamp duty collection from the Ministry of Lands and Housing. As an administrative requirement, the KRA now requires the personal identification numbers (PINs) of all parties on whose behalf duty-stamped documents are submitted. Documents must be first assessed by the Stamp Duty Office before payment can be processed by the KRA-designated banks. The process was lengthened initially to about 2 weeks because the Stamp Duty Office waited to receive confirmation of bank payment after clearance of funds. However, the time was reduced in 2008 as a result of better communication between the Ministry of Lands and Housing and Kenya Revenue Authority (KRA) to 5-10 days.

This procedure is usually done in Nairobi since the applicant is already in town. However, this procedure can also be undertaken in Garissa since there are KRA offices in Garissa.

Procedure: 3. Pay stamp duty at bank**Time:** 1 day**Cost:** KES 100

Comments: The cost relates to the banker's check which is the mode of payment of the stamp duty.

Procedure: 4. Declaration of compliance (Form 208) is signed before a Commissioner for Oaths**Time:** 1 day**Cost:** KES 200

Comments: According to the Companies Act (Cap. 486), an advocate engaged in the formation of the company or a director or company secretary named in the Articles must sign Form 208, the declaration of compliance, which accompanies the registration documents to be submitted to the Registrar of Companies. The common practice is for this procedure to be done by a private lawyer with the power to commission documents.

Procedure: 5. File deed and details with the Registrar of Companies at the Attorney General's Chamber in Nairobi (Sheria House)**Time:** 29 days**Cost:** KES 5,893

Comments: The applicant must file with the Registrar of Companies the incorporation deed and the required documents and forms, which include:

- Stamped memorandum and articles of association;
- Statement of capital;
- Form 201, Particulars of directors and secretary;
- Form 203, Notice of proposed registered office;
- Form 208, Declaration of compliance and the prescribed registration fees;
- Copy of the company name approval.

Fee schedule for registration is the following:

- For the first KES 100,000 of nominal capital: KES 2,200;
- For every KES 20,000 of nominal capital after the first KES 100,000: KES 120, subject to a maximum of KES 60,000;
- Filing fee for three forms: KES 600.

The common practice is for the company's founder to hire a lawyer to undertake the administrative incorporation procedures in Nairobi. Given that the use of lawyers for such purposes is not mandatory in Garissa, lawyer fees are not accounted on the overall incorporation costs. On average, a lawyer will charge KES 25,000 for the entire incorporation process.

Procedure: 6. Register with the Tax Department for a PIN**Time:** 1 day**Cost:** No cost

Comments: Registration for a personal and a company identification number (PIN) is required to register for the VAT (PIN certificates of at least two directors or 2 shareholders or a director and the secretary are required), the local service tax, and the pay-as-you-earn (PAYE) tax. The applicant must file the certificate of registration and a copy of the memorandum and articles of association. This procedure is done in Garissa.

Procedure: 7. Register with the VAT office**Time:** 1 day**Cost:** No cost

Comments: The application for a VAT certificate must be supported with application form, copies of the certificate of incorporation, the PIN certificates for the company and 2 of its directors and memorandum and articles of association. The VAT department is under the KRA. This procedure can be done at the KRA offices in Garissa.

Procedure: 8. Apply for a business permit**Time:** 8 days**Cost:** KES 12,000

Comments: The fee to apply for a business permit varies by type of business, number of employees, and size of the company's premises. The fee is payable to the Garissa Municipal Council. The Municipal Council will issue a business permit.

Fee schedule for business permit is the following:

- Medium trader, shop, or retail service from 5 to 20 employees and/or premises 50-300 square meters (fair location): KES 12,000 on average;
- Mid-size business of 50 employees and premises 300 square meters: about KES 20,000 to KES 50,000 depending on the nature of the business;

The Licensing Laws (Repeals and Amendments) Act, 2006 (was enacted in December of 2006 and came into effect on May 1, 2007), amends the Local Government Act (Cap. 265) by reducing the number of business permits required for a distributor of goods or provider of services to carry on its business activities. Applicants having obtained a business permit to operate from one local authority will not be required

to obtain another business permit in another local authority. In addition, business permit applicants will have an opportunity to elect whether to apply for a 1- or 2-year permit. The 2006 law also eliminated the requirement to obtain a trading license in addition to the permit. For a first time business permit, the process takes, on average 8 days.

Procedure: 9. Register with the National Social Security Fund (NSSF)

Time: 1 day

Cost: No cost

Comments: The National Social Security Fund provides the employee with a lump-sum retirement benefit. Historically, the rate of return paid by the state is considerably less than that achieved by private schemes, but participation is mandatory. The employer pays a standard contribution of about 1% of salary, subject to a maximum of KES 400 per month. Half of the contribution is deductible from the employee's salary. The precise amount of the contribution (where less than the maximum) is determined by reference to salary bands. This procedure is commonly done in Garissa.

Procedure: 10. Register with the National Hospital Insurance Fund (NHIF)

Time: 1 day

Cost: No cost

Comments: The employee contributes a fixed sum to the National Hospital Insurance Fund (NHIF), which must be deducted by the employer from the employees' salary. The maximum contribution is KES 320 per month. The contributions are used to offset the costs of medical treatment, but they only cover a fraction of actual costs. Hence, most companies provide employees with medical insurance. This procedure is done at the Garissa NHIF office.

Procedure: 11. Register for PAYE

Time: 1 day

Cost: No cost

Comments: This procedure is commonly done in Garissa.

Procedure: 12. Make a company seal after a certificate of incorporation has been issued

Time: 7 days

Cost: KES 4,800 (company's seal: KES 4,000 + courier: KES 800)

Comments: Seals are made by private entities who require sight of a copy of the certificate of incorporation. The average price of the company seal is KES 4,000. The common practice is for applicants to obtain the company seal in Nairobi. Applicants order this seal after filing the incorporation deed and before returning to Garissa. Once the company seal is ready, private providers will send the seal by courier. The average cost of mailing the seal is KES 800.

* This procedure can be completed simultaneously with previous procedures

STARTING A BUSINESS

Isiolo

Standard company legal form: Private Corporation

Paid-in-minimum capital requirement: none

Data as of: June 2009

Procedure: 1. Obtain approval for the company name from the Registrar of Companies

Time: 4 days (time to obtain approval: 2 days + roundtrip: 2 days)

Cost: KES 2,100 (filing fee: KES 100 + transportation: KES 2,000)

Comments: The company name reservation lasts 30 days but can be renewed for a similar period. This procedure can only be done in Nairobi. In Isiolo, there are few law firms and the common practice is to use the main branches in Nairobi to carry out procedures one to five. The time to do this procedure is 2 days, once the applicant is in Nairobi. However, it takes one day to travel from Isiolo to Nairobi and 1 day to go back. Travel time is considered within this procedure. The cost of this procedure is KES 100. The bus fare to Nairobi is KES 2,000 roundtrip.

Procedure: 2. Stamp the memorandum and articles and a statement of the nominal capital

Time: 21 days

Cost: KES 8,160 (1% of nominal capital + KES 2,005 stamp duty on memorandum and articles of association)

Comments: Effective January 1, 2005, the Kenya Revenue Authority (KRA) took over stamp duty collection from the Ministry of Lands and Housing. As an administrative requirement, the KRA now requires the personal identification numbers (PINs) of all parties on whose behalf duty-stamped documents are submitted. Documents must be first assessed by the Stamp Duty Office before payment can be processed by the KRA-designated banks. The process was lengthened initially to about 2 weeks because the Stamp Duty Office waited to receive confirmation of bank payment after clearance of funds. However, the time was reduced in 2008 as a result of better communication between the Ministry of Lands and Housing and Kenya Revenue Authority (KRA) to 5-10 days.

This procedure is usually done in Nairobi since the applicant is already in town. However, this procedure can also be undertaken in Meru town, one hour away from Isiolo, since there are KRA offices in Meru.

Procedure: 3. Pay stamp duty at bank

Time: 1 day

Cost: KES 100

Comments: The cost of this procedure relates to the banker's check which is the mode of payment of stamp duty.

Procedure: 4. Declaration of compliance (Form 208) is signed before a Commissioner for Oaths

Time: 1 day

Cost: KES 200

Comments: According to the Companies Act (Cap. 486), an advocate engaged in the formation of the company or a director or company secretary named in the Articles must sign Form 208, the declaration of compliance, which accompanies the registration documents to be submitted to the Registrar of Companies. The common practice is for this procedure to be done by a private lawyer with the power to commission documents immediately after procedures 2 and 3, since the person incorporating the company is already in town. The minimum cost provided by the Advocates Remuneration Order is KES 200. However, advocates charge on average KES 400 to perform this procedure. Lawyer fees are not considered since the use of lawyers is not mandatory.

Procedure: 5. File deed and details with the Registrar of Companies at the Attorney General's Chamber in Nairobi (Sheria House)

Time: 14 days

Cost: KES 5,893

Comments: The applicant must file with the Registrar of Companies the incorporation deed and the required documents and forms, which include:

- Stamped memorandum and articles of association;
- Statement of capital;
- Form 201, Particulars of directors and secretary;
- Form 203, Notice of proposed registered office;
- Form 208, Declaration of compliance and the prescribed registration fees;
- Copy of the company name approval.

Fee schedule for registration is the following:

- For the first KES 100,000 of nominal capital: KES 2,200;
- For every KES 20,000 of nominal capital after the first KES 100,000: KES 120, subject to a maximum of KES 60,000;
- Filing fee for three forms: KES 600.

The common practice is for the company's founder to hire a lawyer to undertake the administrative incorporation procedures in Nairobi. Given that the use of lawyers for such purposes is not mandatory in Isiolo, lawyer fees are not accounted on the overall incorporation costs. On average, a lawyer will charge KES 25,000 for the entire incorporation process.

Procedure: 6. Register with the Tax Department for a PIN

Time: 1 day (time to register: 1 day + roundtrip: 2 hours)

Cost: KES 400 (transportation)

Comments: Registration for a personal and a company identification number (PIN) is required to register for the VAT (PIN certificates of at least two directors or 2 shareholders or a director and the secretary are required), the local service tax, and the pay-as-you-earn (PAYE) tax. The applicant must file the certificate of registration and a copy of the memorandum and articles of association.

This procedure is done in Meru, 1 hour away from Isiolo. Given the proximity between these localities, additional time is not considered. The bus fare from Meru to Isiolo is KES 400 roundtrip. This procedure has no cost. However, transportation costs are considered within the cost of this procedure. Procedures 6 and 7 are performed in Meru since the applicant is already in town.

Procedure: 7. Register with the VAT office

Time: 1 day

Cost: No cost

Comments: The application for a VAT certificate must be supported with application form, copies of the certificate of incorporation, the PIN certificates for the company and 2 of its directors and memorandum and articles of association. The VAT department is under the KRA. This procedure can be done at the KRA offices in Meru.

Procedure: 8. Apply for a business permit

Time: 6 days

Cost: KES 12,000

Comments: The fee to apply for a business permit varies by type of business, number of employees, and size of the company's premises. The fee is payable to the Isiolo County Council. The County Council will issue a business permit.

Fee schedule for business permit is the following:

- Medium trader, shop, or retail service from 5 to 20 employees and/or premises 50–300 square meters (fair location): KES 12,000 on average;
- Mid-size business of 50 employees and premises 300 square meters: about KES 20,000 to KES 50,000 depending on the nature of the business.

The Licensing Laws (Repeals and Amendments) Act, 2006 (was enacted in December of 2006 and came into effect on May 1, 2007), amends the Local Government Act (Cap. 265) by reducing the number of business permits required for a distributor of goods or provider of services to carry on its business activities. Applicants having obtained a business permit to operate from one local authority will not be required to obtain another business permit in another local authority. In addition, business permit applicants will have an opportunity to elect whether to apply for a 1- or 2-year permit. The 2006 law also eliminated the requirement to obtain a trading license in addition to the permit. For a first time business permit, the process takes, on average 6 days.

Procedure: 9. Register with the National Social Security Fund (NSSF)

Time: 1 day (time to register: 1 day + roundtrip: 2 hours)

Cost: KES 400 (registration fee: No cost + transportation: KES 400)

Comments: The National Social Security Fund provides the employee with a lump-sum retirement benefit. Historically, the rate of return paid by the state is considerably less than that achieved by private schemes, but participation is mandatory. The employer pays a standard contribution of about 1% of salary, subject to a maximum of KES 400 per month. Half of the contribution is deductible from the employee's salary. The precise amount of the contribution (where less than the maximum) is determined by reference to salary bands. This procedure is commonly done in Meru.

Procedure: 10. Register with the National Hospital Insurance Fund (NHIF)

Time: 4 days

Cost: No cost

Comments: The employee contributes a fixed sum to the National Hospital Insurance Fund (NHIF), which must be deducted by the employer from the employees' salary. The maximum contribution is KES 320 per month. The contributions are used to offset the costs of medical treatment, but they only cover a fraction of actual costs. Hence, most companies provide employees with medical insurance. There is a branch of the NHIF that recently opened in Isiolo. However, the common practice is for applicants to perform this procedure in Meru Town since they register to the NSSF in Meru Town too.

Procedure: 11. Register for PAYE

Time: 1 day

Cost: No cost

Comments: This procedure commonly done at the KRA Offices in Meru Town.

Procedure: 12. Make a company seal after a certificate of incorporation has been issued

Time: 7 days

Cost: KES 4,900 (company's seal: KES 4,000 + courier: KES 900)

Comments: Seals are made by private entities who require sight of a copy of the certificate of incorporation. The average price of the company seal is KES 4,000. The common practice is for applicants to obtain the company seal in Nairobi. Applicants order this seal after filing the incorporation deed and before returning to Isiolo. Once the company seal is ready, private providers will send the seal by courier. The average cost of mailing the seal is KES 900.

* This procedure can be completed simultaneously with previous procedures

STARTING A BUSINESS

Kilifi

Standard company legal form: Private Corporation

Paid-in-minimum capital requirement: none

Data as of: June 2009

Procedure: 1. Obtain approval for the company name from the Registrar of Companies

Time: 4 days (time to obtain approval: 2 days + roundtrip: 2 days)

Cost: KES 2,700 (filing fee: KES 100 + transportation: KES 2,600)

Comments: The company name reservation lasts 30 days but can be renewed for a similar period. This procedure can only be done in Nairobi. Usually, the company's promoters will hire a Kilifi lawyer whose agent will travel to Nairobi to undertake the necessary procedures. The common practice is that procedures one to five are performed in Nairobi given that the applicant, or the company's agent, is already in town. The time to do this procedure is 2 days, once the applicant is in Nairobi. However, it takes 1 day to travel from Kilifi to Nairobi and 1 day to go back. Travel time is considered within this procedure. The cost of this procedure is KES 100. The bus fare from Kilifi to Nairobi is KES 2,600 and is also considered within this procedure.

Given that the use of lawyers is not mandatory for company incorporation around all the localities in Kenya, lawyer fees are not considered in the present report.

Procedure: 2. Stamp the memorandum and articles and a statement of the nominal capital

Time: 21 days

Cost: KES 8,160 (1% of nominal capital + KES 2,005 stamp duty on memorandum and articles of association)

Comments: Effective January 1, 2005, the Kenya Revenue Authority (KRA) took over stamp duty collection from the Ministry of Lands and Housing. As an administrative requirement, the KRA now requires the personal identification numbers (PINs) of all parties on whose behalf duty-stamped documents are submitted. Documents must be first assessed by the Stamp Duty Office before payment can be processed by the KRA-designated banks. The process was lengthened initially to about 2 weeks because the Stamp Duty Office waited to receive confirmation of bank payment after clearance of funds. However, the time was reduced in 2008 as a result of better communication between the Ministry of Lands and Housing and Kenya Revenue Authority (KRA) to 5-10 days. Bank handling charges of KES 100 for each transaction are also due.

This procedure is usually done in Nairobi since the applicant is already in town. However, this procedure can also be undertaken in Malindi or Mombasa since there are KRA offices in both localities.

Procedure: 3. Pay stamp duty at bank

Time: 3 days

Cost: KES 100

Comments: The cost relates to the banker's check which is the mode of payment of the stamp duty.

Procedure: 4. Declaration of compliance (Form 208) is signed before a Commissioner for Oaths

Time: 1 day

Cost: KES 200

Comments: According to the Companies Act (Cap. 486), an advocate engaged in the formation of the company or a director or company secretary named in the Articles must sign Form 208, the declaration of compliance, which accompanies the registration documents to be submitted to the Registrar of Companies. The common practice is for this procedure to be done by a private lawyer with the power

to commission documents immediately after procedures 2 and 3, since the person incorporating the company is already in town. The minimum cost provided by the Advocates Remuneration Order is KES 200. However, advocates charge on average KES 400 to perform this procedure. Lawyer fees are not considered since the use of lawyers is not mandatory.

Procedure: 5. File deed and details with the Registrar of Companies at the Attorney General's Chamber in Nairobi (Sheria House)

Time: 21 days

Cost: KES 5,893

Comments: The applicant must file with the Registrar of Companies the incorporation deed and the required documents and forms, which include:

- Stamped memorandum and articles of association;
- Statement of capital;
- Form 201, Particulars of directors and secretary;
- Form 203, Notice of proposed registered office;
- Form 208, Declaration of compliance and the prescribed registration fees;
- Copy of the company name approval.

Fee schedule for registration is the following:

- For the first KES 100,000 of nominal capital: KES 2,200;
- For every KES 20,000 of nominal capital after the first KES 100,000: KES 120, subject to a maximum of KES 60,000;
- Filing fee for three forms: KES 600.

The common practice is for the company's founder to hire a lawyer to undertake the administrative incorporation procedures in Nairobi. Given that the use of lawyers for such purposes is not mandatory in Kilifi, lawyer fees are not accounted on the overall incorporation costs. On average, a lawyer will charge KES 50,000 for the entire incorporation process.

Procedure: 6. Register with the Tax Department for a PIN

Time: 1 day (time to register: 1 day + roundtrip: 4 hours)

Cost: KES 500 (transportation)

Comments: Registration for a personal and a company identification number (PIN) is required to register for the VAT (PIN certificates of at least two directors or 2 shareholders or a director and the secretary are required), the local service tax, and the pay-as-you-earn (PAYE) tax. The applicant must file the certificate of registration and a copy of the memorandum and articles of association.

This procedure is done in Mombasa, 2 hours away from Kilifi. Given the proximity between these localities, additional time is not considered. The bus fare from Mombasa to Kilifi is KES 500 roundtrip. This procedure has no cost. However, transportation costs are considered within the cost of this procedure. Procedures 6 and 7 are performed in Mombasa since the applicant is already in town.

Procedure: 7. Register with the VAT office

Time: 1 day

Cost: No cost

Comments: The application for a VAT certificate must be supported with application form, copies of the certificate of incorporation, the PIN certificates for the company and 2 of its directors and memorandum and articles of association. The VAT department is under the KRA. This procedure can be done at the KRA offices in Mombasa.

Procedure: 8. Apply for a business permit

Time: 7 days

Cost: KES 12,000

Comments: The fee to apply for a business permit varies by type of business, number of employees, and size of the company's premises. The fee is payable to the Kilifi County Council. The County Council will issue a business permit.

Fee schedule for business permit is the following:

- Medium trader, shop, or retail service from 5 to 20 employees and/or premises 50–300 square meters (fair location): KES 12,000 on average;
- Mid-size business of 50 employees and premises 300 square meters: about KES 20,000 to KES 50,000 depending on the nature of the business.

The Licensing Laws (Repeals and Amendments) Act, 2006 (was enacted in December of 2006 and came into effect on May 1, 2007), amends the Local Government Act (Cap. 265) by reducing the number of business permits required for a distributor of goods or provider of services to carry on its business activities. Applicants having obtained a business permit to operate from one local authority will not be required to obtain another business permit in another local authority. In addition, business

permit applicants will have an opportunity to elect whether to apply for a 1- or 2-year permit. The 2006 law also eliminated the requirement to obtain a trading license in addition to the permit. For a first time business permit, the process takes, on average 7 days.

Procedure: 9. Register with the National Social Security Fund (NSSF)

Time: 1 day (time to register: 1 day + roundtrip: 2 hours)

Cost: KES 500 (registration fee: No cost + transportation: KES 500)

Comments: The National Social Security Fund provides the employee with a lump-sum retirement benefit. Historically, the rate of return paid by the state is considerably less than that achieved by private schemes, but participation is mandatory. The employer pays a standard contribution of about 1% of salary, subject to a maximum of KES 400 per month. Half of the contribution is deductible from the employee's salary. The precise amount of the contribution (where less than the maximum) is determined by reference to salary bands. This procedure is commonly done in Mombasa.

Procedure: 10. Register with the National Hospital Insurance Fund (NHIF)

Time: 1 day

Cost: No cost

Comments: The employee contributes a fixed sum to the National Hospital Insurance Fund (NHIF), which must be deducted by the employer from the employees' salary. The maximum contribution is KES 320 per month. The contributions are used to offset the costs of medical treatment, but they only cover a fraction of actual costs. Hence, most companies provide employees with medical insurance. This procedure is done at the Mombasa NHIF office.

Procedure: 11. Register for PAYE

Time: 1 day

Cost: No cost

Comments: This procedure is commonly done in Mombasa.

Procedure: 12. Make a company seal after a certificate of incorporation has been issued

Time: 6 days

Cost: KES 5,000

Comments: Seals are made by private entities who require sight of a copy of the certificate of incorporation. The average price of the company seal is KES 5,000. The common practice is for applicants from Kilifi to obtain the company seal in Mombasa. This seal is a way to make documents formal and legally solid. The seal provides the directors of the company a tool to control what are the contracts the company honors and what are the ones the company will not honor.

* This procedure can be completed simultaneously with previous procedures

STARTING A BUSINESS

Kisumu

Standard company legal form: Private Corporation

Paid-in-minimum capital requirement: none

Data as of: June 2009

Procedure: 1. Obtain approval for the company name from the Registrar of Companies

Time: 4 days (time to obtain approval: 2 days + roundtrip: 2 days)

Cost: KES 2,500 (filing fee: KES 100 + transportation: KES 2,400)

Comments: The company name reservation lasts 30 days but can be renewed for a similar period. This procedure can only be done in Nairobi. Usually, the company's promoters will hire a Kisumu lawyer whose agent will travel to Nairobi to undertake the necessary procedures. The common practice is that procedures one to five are performed in Nairobi given that the applicant, or the company's agent, is already in town. The time to do this procedure is 2 days, once the applicant is in Nairobi. However, it takes 1 day to travel from Kisumu to Nairobi and 1 day to go back. Travel time is considered within this procedure. The cost of this procedure is KES 100. The bus fare from Kisumu to Nairobi is KES 2,400 and is also considered within this procedure. Given that the use of lawyers is not mandatory for company incorporation around all the localities in Kenya, lawyer fees are not considered in the present report.

Procedure: 2. Stamp the memorandum and articles and a statement of the nominal capital

Time: 25 days

Cost: KES 8,160 (1% of nominal capital + KES 2,005 stamp duty on memorandum and articles of association)

Comments: Effective January 1, 2005, the Kenya Revenue Authority (KRA) took over stamp duty collection from the Ministry of Lands and Housing. As an administrative requirement, the KRA now requires the personal identification numbers (PINs) of all parties on whose behalf duty-stamped documents are submitted. Documents must be first assessed by the Stamp Duty Office before payment can be processed by the KRA-designated banks. The process was lengthened initially to about 2 weeks because the Stamp Duty Office waited to receive confirmation of bank payment after clearance of funds. However, the time was reduced in 2008 as a result of better communication between the Ministry of Lands and Housing and Kenya Revenue Authority (KRA) to 5-10 days. Bank handling charges of KES 100 for each transaction are also due.

This procedure is usually done in Nairobi since the applicant is already in town. However, this procedure can also be undertaken in Kisumu since there are KRA offices in Kisumu.

Procedure: 3. Pay stamp duty at bank

Time: 1 day

Cost: KES 100

Comments: The cost relates to the banker's check which is the mode of payment of the stamp duty.

Procedure: 4. Declaration of compliance (Form 208) is signed before a Commissioner for Oaths

Time: 5 days

Cost: KES 200

Comments: According to the Companies Act (Cap. 486), an advocate engaged in the formation of the company or a director or company secretary named in the Articles must sign Form 208, the declaration of compliance, which accompanies the registration documents to be submitted to the Registrar of Companies. The common practice is for this procedure to be done by a private lawyer with the power to commission documents immediately after procedures 2 and 3, since the person incorporating the company is already in town. The minimum cost provided by the Advocates Remuneration Order is KES 200. However, advocates charge on average KES 400 to perform this procedure. Lawyer fees are not considered since the use of lawyers is not mandatory.

Procedure: 5. File deed and details with the Registrar of Companies at the Attorney General's Chamber in Nairobi (Sheria House)

Time: 21 days

Cost: KES 5,893

Comments: The applicant must file with the Registrar of Companies the incorporation deed and the required documents and forms, which include:

- Stamped memorandum and articles of association;
- Statement of capital;
- Form 201, Particulars of directors and secretary;
- Form 203, Notice of proposed registered office;
- Form 208, Declaration of compliance and the prescribed registration fees;
- Copy of the company name approval.

Fee schedule for registration is the following:

- For the first KES 100,000 of nominal capital: KES 2,200;
- For every KES 20,000 of nominal capital after the first KES 100,000: KES 120, subject to a maximum of KES 60,000;
- Filing fee for three forms: KES 600.

The common practice is for the company's founder to hire a lawyer to undertake the administrative incorporation procedures in Nairobi. Given that the use of lawyers for such purposes is not mandatory in Kisumu, lawyer fees are not accounted on the overall incorporation costs. On average, a lawyer will charge KES 20,000 for the entire incorporation process.

Procedure: 6. Register with the Tax Department for a PIN

Time: 1 day

Cost: No cost

Comments: Registration for a personal and a company identification number (PIN) is required to register for the VAT (PIN certificates of at least two directors or 2 shareholders or a director and the secretary are required), the local service tax, and the pay-as-you-earn (PAYE) tax. The applicant must file the certificate of registration and a copy of the memorandum and articles of association. This procedure is done in Kisumu.

Procedure: 7. Register with the VAT office

Time: 1 day

Cost: No cost

Comments: The application for a VAT certificate must be supported with application form, copies of the certificate of incorporation, the PIN certificates for the company and 2 of its directors and memorandum and articles of association. The VAT department is under the KRA. This procedure can be done at the KRA offices in Kisumu.

Procedure: 8. Apply for a business permit

Time: 5 days

Cost: KES 10,000

Comments: The fee to apply for a business permit varies by type of business, number of employees, and size of the company's premises. The fee is payable to the Kisumu City Council. The City Council will issue a business permit.

Fee schedule for business permit is the following:

- Medium trader, shop, or retail service from 5 to 20 employees and/or premises 50-300 square meters. (fair location): KES 10,000 on average;
- Mid-size business of 50 employees and premises 300 square meters: about KES 20,000 to KES 50,000 depending on the nature of the business.

The Licensing Laws (Repeals and Amendments) Act, 2006 (was enacted in December of 2006 and came into effect on May 1, 2007), amends the Local Government Act (Cap. 265) by reducing the number of business permits required for a distributor of goods or provider of services to carry on its business activities. Applicants having obtained a business permit to operate from one local authority will not be required to obtain another business permit in another local authority. In addition, business permit applicants will have an opportunity to elect whether to apply for a 1- or 2-year permit. The 2006 law also eliminated the requirement to obtain a trading license in addition to the permit. For a first time business permit, the process takes, on average 5 days.

Procedure: 9. Register with the National Social Security Fund (NSSF)

Time: 1 day

Cost: No cost

Comments: The National Social Security Fund provides the employee with a lump-sum retirement benefit. Historically, the rate of return paid by the state is considerably less than that achieved by private schemes, but participation is mandatory. The employer pays a standard contribution of about 1% of salary, subject to a maximum of KES 400 per month. Half of the contribution is deductible from the employee's salary. The precise amount of the contribution (where less than the maximum) is determined by reference to salary bands. This procedure is commonly done in Kisumu.

Procedure: 10. Register with the National Hospital Insurance Fund (NHIF)

Time: 1 day

Cost: No cost

Comments: The employee contributes a fixed sum to the National Hospital Insurance Fund (NHIF), which must be deducted by the employer from the employees' salary. The maximum contribution is KES 320 per month. The contributions are used to offset the costs of medical treatment, but they only cover a fraction of actual costs. Hence, most companies provide employees with medical insurance. This procedure is done at the Kisumu NHIF office.

Procedure: 11. Register for PAYE

Time: 3 days

Cost: No cost

Comments: This procedure is commonly done in Kisumu.

Procedure: 12. Make a company seal after a certificate of incorporation has been issued

Time: 6 days

Cost: KES 5,000 (company's seal: KES 4,000 + courier: KES 1000)

Comments: Seals are made by private entities who require sight of a copy of the certificate of incorporation. The average price of the company seal is KES 4,000. The common practice is for applicants to obtain the company seal in Nairobi. Applicants order this seal after filing the incorporation deed and before returning to Kisumu. Once the company seal is ready, private providers will send the seal by courier. The average cost of mailing the seal is KES 1,000.

*This procedure can be completed simultaneously with previous procedures

STARTING A BUSINESS

Malaba

Standard company legal form: Private Corporation

Paid-in-minimum capital requirement: none

Data as of: June 2009

Procedure: 1. Obtain approval for the company name from the Registrar of Companies

Time: 4 days (time to obtain approval: 2 days + roundtrip: 2 days)

Cost: KES 4,100 (filing fee: KES 100 + transportation: KES 4,000)

Comments: The company name reservation lasts 30 days but can be renewed for a similar period. This procedure can only be done in Nairobi. Usually, the company's promoters will hire a Malaba lawyer whose agent will travel to Nairobi to undertake the necessary procedures. The common practice is that procedures one to five are performed in Nairobi given that the applicant, or the company's agent, is already in town. The time to do this procedure is 2 days, once the applicant is in Nairobi. However, it takes 1 day to travel from Malaba to Nairobi and 1 day to go back. Travel time is considered within this procedure. The cost of this procedure is KES 100. The bus fare from Malaba to Nairobi is KES 4,000 and is also considered within this procedure. Given that the use of lawyers is not mandatory for company incorporation around all the localities in Kenya, lawyer fees are not considered in the present report.

Procedure: 2. Stamp the memorandum and articles and a statement of the nominal capital

Time: 22 days

Cost: KES 8,160 (1% of nominal capital + KES 2,005 stamp duty on memorandum and articles of association)

Comments: Effective January 1, 2005, the Kenya Revenue Authority (KRA) took over stamp duty collection from the Ministry of Lands and Housing. As an administrative requirement, the KRA now requires the personal identification numbers (PINs) of all parties on whose behalf duty-stamped documents are submitted. Documents must be first assessed by the Stamp Duty Office before payment can be processed by the KRA-designated banks. The process was lengthened initially to about 2 weeks because the Stamp Duty Office waited to receive confirmation of bank payment after clearance of funds. However, the time was reduced in 2008 as a result of better communication between the Ministry of Lands and Housing and Kenya Revenue Authority (KRA) to 5-10 days. Bank handling charges of KES 100 for each transaction are also due.

This procedure is usually done in Nairobi since the applicant is already in town. However, this procedure can also be undertaken in Malaba since there are KRA offices in Malaba.

Procedure: 3. Pay stamp duty at bank

Time: 1 day

Cost: KES 100

Comments: The cost relates to the banker's check which is the mode of payment of the stamp duty.

Procedure: 4. Declaration of compliance (Form 208) is signed before a Commissioner for Oaths

Time: 1 day

Cost: KES 200

Comments: According to the Companies Act (Cap. 486), an advocate engaged in the formation of the company or a director or company secretary named in the Articles must sign Form 208, the declaration of compliance, which accompanies the registration documents to be submitted to the Registrar of Companies. The common practice is for this procedure to be done by a private lawyer with the power to commission documents immediately after procedures 2 and 3, since the person incorporating the company is already in town. The minimum cost provided by the Advocates Remuneration Order is KES 200. However, advocates charge on average KES 400 to perform this procedure. Lawyer fees are not considered since the use of lawyers is not mandatory.

Procedure: 5. File deed and details with the Registrar of Companies at the Attorney General's Chamber in Nairobi (Sheria House)

Time: 22 days

Cost: KES 5,893

Comments: The applicant must file with the Registrar of Companies the incorporation deed and the required documents and forms, which include:

- Stamped memorandum and articles of association;
- Statement of capital;
- Form 201, Particulars of directors and secretary;
- Form 203, Notice of proposed registered office;
- Form 208, Declaration of compliance and the prescribed registration fees;
- Copy of the company name approval.

Fee schedule for registration is the following:

- For the first KES 100,000 of nominal capital: KES 2,200;
- For every KES 20,000 of nominal capital after the first KES 100,000: KES 120, subject to a maximum of KES 60,000;
- Filing fee for three forms: KES 600.

The common practice is for the company's founder to hire a lawyer to undertake the administrative incorporation procedures in Nairobi. Given that the use of lawyers for such purposes is not mandatory in Malaba, lawyer fees are not accounted on the overall incorporation costs. On average, a lawyer will charge KES 25,000 for the entire incorporation process.

Procedure: 6. Register with the Tax Department for a PIN

Time: 1 day (time to register: 1 day + roundtrip: 2 hours)

Cost: KES 400 (transportation)

Comments: Registration for a personal and a company identification number (PIN) is required to register for the VAT (PIN certificates of at least two directors or 2 shareholders or a director and the secretary are required), the local service tax, and the pay-as-you-earn (PAYE) tax. The applicant must file the certificate of registration and a copy of the memorandum and articles of association.

This procedure is done in Bungoma, 1 hour away from Malaba. Given the proximity between these localities, additional time is not considered. The bus fare is from Bungoma to Malaba is KES 400 roundtrip. This procedure has no cost. However, transportation costs are considered within the cost of this procedure. Procedures 6 and 7 are performed in Mombasa since the applicant is already in town.

Procedure: 7. Register with the VAT office

Time: 1 day

Cost: No cost

Comments: The application for a VAT certificate must be supported with application form, copies of the certificate of incorporation, the PIN certificates for the company and 2 of its directors and memorandum and articles of association. The VAT department is under the KRA. This procedure can be done at the KRA offices in Bungoma.

Procedure: 8. Apply for a business permit

Time: 8 days

Cost: KES 12,000

Comments: The fee to apply for a business permit varies by type of business, number of employees, and size of the company's premises. The fee is payable to the Malaba County Council. The County Council will issue a business permit.

Fee schedule for business permit is the following:

- Medium trader, shop, or retail service from 5 to 20 employees and/or premises 50-300 square meters (fair location): KES 12,000 on average;
- Mid-size business of 50 employees and premises 300 square meters: about KES 20,000 to KES 50,000 depending on the nature of the business.

The Licensing Laws (Repeals and Amendments) Act, 2006 (was enacted in December of 2006 and came into effect on May 1, 2007), amends the Local Government Act (Cap. 265) by reducing the number of business permits required for a distributor of goods or provider of services to carry on its business activities. Applicants having obtained a business permit to operate from one local authority will not be required to obtain another business permit in another local authority. In addition, business permit applicants will have an opportunity to elect whether to apply for a 1- or 2-year permit. The 2006 law also eliminated the requirement to obtain a trading license in addition to the permit. For a first time business permit, the process takes, on average 8 days.

Procedure: 9. Register with the National Social Security Fund (NSSF)**Time:** 1 day (time to register: 1 day + roundtrip: 2 hours)**Cost:** KES 400 (transportation)

Comments: The National Social Security Fund provides the employee with a lump-sum retirement benefit. Historically, the rate of return paid by the state is considerably less than that achieved by private schemes, but participation is mandatory. The employer pays a standard contribution of about 1% of salary, subject to a maximum of KES 400 per month. Half of the contribution is deductible from the employee's salary. The precise amount of the contribution (where less than the maximum) is determined by reference to salary bands. This procedure is commonly done in Bungoma.

Procedure: 10. Register with the National Hospital Insurance Fund (NHIF)**Time:** 1 day**Cost:** No cost

Comments: The employee contributes a fixed sum to the National Hospital Insurance Fund (NHIF), which must be deducted by the employer from the employees' salary. The maximum contribution is KES 320 per month. The contributions are used to offset the costs of medical treatment, but they only cover a fraction of actual costs. Hence, most companies provide employees with medical insurance. This procedure is done at the Bungoma NHIF office.

Procedure: 11. Register for PAYE**Time:** 3 days**Cost:** No cost

Comments: This procedure is commonly done in Bungoma.

Procedure: 12. Make a company seal after a certificate of incorporation has been issued**Time:** 5 days**Cost:** KES 5,000 (company's seal: KES 4,000 + courier: KES 1000)

Comments: Seals are made by private entities who require sight of a copy of the certificate of incorporation. The average price of the company seal is KES 4,000. The common practice is for applicants to obtain the company seal in Nairobi. Applicants order this seal after filing the incorporation deed and before returning to Malaba. Once the company seal is ready, private providers will send the seal by courier. The average cost of mailing the seal is KES 1,000.

* This procedure can be completed simultaneously with previous procedures

STARTING A BUSINESS

Mombasa

Standard company legal form: Private Corporation

Paid-in-minimum capital requirement: none

Data as of: June 2009

Procedure: 1. Obtain approval for the company name from the Registrar of Companies**Time:** 4 days (time to obtain approval: 2 days + roundtrip: 2 days)**Cost:** KES 3,100 (filing fee: KES 100 + transportation: KES 3,000)

Comments: The company name reservation lasts 30 days but can be renewed for a similar period. This procedure can only be done in Nairobi. Usually, the company's promoters will hire a Mombasa lawyer whose agent will travel to Nairobi to undertake the necessary procedures. The common practice is that procedures one to five are performed in Nairobi given that the applicant, or the company's agent, is already in town. The time to do this procedure is 2 days, once the applicant is in Nairobi. However, it takes 1 day to travel from Mombasa to Nairobi and 1 day to go back. Travel time is considered within this procedure. The cost of this procedure is KES 100. The bus fare from Mombasa to Nairobi is KES 3,000 and is also considered within this procedure.

Given that the use of lawyers is not mandatory for company incorporation around all the localities in Kenya, lawyer fees are not considered in the present report.

Procedure: 2. Stamp the memorandum and articles and a statement of the nominal capital**Time:** 23 days**Cost:** KES 8,160 (1% of nominal capital + KES 2,005 stamp duty on memorandum and articles of association)

Comments: Effective January 1, 2005, the Kenya Revenue Authority (KRA) took over stamp duty collection from the Ministry of Lands and Housing. As an administrative requirement, the KRA now requires the personal identification numbers (PINs) of all parties on whose behalf duty-stamped documents are submitted. Documents must be first assessed by the Stamp Duty Office before payment can be processed by the KRA-designated banks. The process was lengthened initially to about 2 weeks because the Stamp Duty Office waited to receive confirmation of bank payment after clearance of funds. However, the time was reduced in 2008 as a result of better communication between the Ministry of Lands and Housing and Kenya Revenue Authority (KRA) to 5-10 days. Bank handling charges of KES 100 for each transaction are also due.

This procedure is usually done in Nairobi since the applicant is already in town. However, this procedure can also be undertaken in Mombasa since there are KRA offices in Mombasa.

Procedure: 3. Pay stamp duty at bank**Time:** 1 day**Cost:** KES 100

Comments: This procedure can be done either in Mombasa or in Nairobi. The common practice is for applicants to stay in Nairobi since the applicant is already in the city to perform the previous procedures. KES 100 relates to the cost of the banker's check which is the mode of payment of the stamp duty.

Procedure: 4. Declaration of compliance (Form 208) is signed before a Commissioner for Oaths**Time:** 1 day**Cost:** KES 200

Comments: According to the Companies Act (Cap. 486), an advocate engaged in the formation of the company or a director or company secretary named in the Articles must sign Form 208, the declaration of compliance, which accompanies the registration documents to be submitted to the Registrar of Companies. The common practice is for this procedure to be done by a private lawyer with the power to commission documents immediately after procedures 2 and 3, since the person incorporating the company is already in town. The minimum cost provided by the Advocates Remuneration Order is KES 200. However, advocates charge on average KES 400 to perform this procedure. Lawyer fees are not considered since the use of lawyers is not mandatory.

Procedure: 5. File deed and details with the Registrar of Companies at the Attorney General's Chamber in Nairobi (Sheria House)**Time:** 28 days**Cost:** KES 5,893

Comments: The applicant must file with the Registrar of Companies the incorporation deed and the required documents and forms, which include:

- Stamped memorandum and articles of association;
- Statement of capital;
- Form 201, Particulars of directors and secretary;
- Form 203, Notice of proposed registered office;
- Form 208, Declaration of compliance and the prescribed registration fees;
- Copy of the company name approval.

Fee schedule for registration is the following:

- For the first KES 100,000 of nominal capital: KES 2,200;
- For every KES 20,000 of nominal capital after the first KES 100,000: KES 120, subject to a maximum of KES 60,000;
- Filing fee for three forms: KES 600.

The common practice is for the company's founder to hire a lawyer to undertake the administrative incorporation procedures in Nairobi. Given that the use of lawyers for such purposes is not mandatory in Mombasa, lawyer fees are not accounted on the overall incorporation costs. On average, a lawyer will charge KES 10,000 for the entire incorporation process.

Procedure: 6. Register with the Tax Department for a PIN**Time:** 1 day**Cost:** No cost

Comments: Registration for a personal and a company identification number (PIN) is required to register for the VAT (PIN certificates of at least two directors or 2 shareholders or a director and the secretary are required), the local service tax, and the pay-as-you-earn (PAYE) tax. The applicant must file the certificate of registration and a copy of the memorandum and articles of association. This procedure is done in Mombasa.

Procedure: 7. Register with the VAT office

Time: 1 day

Cost: No cost

Comments: The application for a VAT certificate must be supported with application form, copies of the certificate of incorporation, the PIN certificates for the company and 2 of its directors and memorandum and articles of association. The VAT department is under the KRA. This procedure can be done at the KRA offices in Mombasa.

Procedure: 8. Apply for a business permit

Time: 5 days

Cost: KES 8,500

Comments: The fee to apply for a business permit varies by type of business, number of employees, and size of the company's premises. The fee is payable to the Mombasa City Council. The City Council will issue a business permit.

Fee schedule for business permit is the following:

- a. Medium trader, shop, or retail service from 5 to 20 employees and/or premises 50–300 square meters (fair location): KES 8,500 on average;
- b. Mid-size business of 50 employees and premises 300 square meters: about KES 20,000 to KES 50,000, depending on the nature of the business.

The Licensing Laws (Repeals and Amendments) Act, 2006 (was enacted in December of 2006 and came into effect on May 1, 2007), amends the Local Government Act (Cap. 265) by reducing the number of business permits required for a distributor of goods or provider of services to carry on its business activities. Applicants having obtained a business permit to operate from one local authority will not be required to obtain another business permit in another local authority. In addition, business permit applicants will have an opportunity to elect whether to apply for a 1- or 2-year permit. The 2006 law also eliminated the requirement to obtain a trading license in addition to the permit. For a first time business permit, the process takes, on average 5 days.

Procedure: 9. Register with the National Social Security Fund (NSSF)

Time: 1 day

Cost: No cost

Comments: The National Social Security Fund provides the employee with a lump-sum retirement benefit. Historically, the rate of return paid by the state is considerably less than that achieved by private schemes, but participation is mandatory. The employer pays a standard contribution of about 1% of salary, subject to a maximum of KES 400 per month. Half of the contribution is deductible from the employee's salary. The precise amount of the contribution (where less than the maximum) is determined by reference to salary bands. This procedure is commonly done in Mombasa.

Procedure: 10. Register with the National Hospital Insurance Fund (NHIF)

Time: 1 day

Cost: No cost

Comments: The employee contributes a fixed sum to the National Hospital Insurance Fund (NHIF), which must be deducted by the employer from the employees' salary. The maximum contribution is KES 320 per month. The contributions are used to offset the costs of medical treatment, but they only cover a fraction of actual costs. Hence, most companies provide employees with medical insurance. This procedure is done at the Mombasa NHIF office.

Procedure: 11. Register for PAYE

Time: 1 day

Cost: No cost

Comments: This procedure is commonly done in Mombasa.

Procedure: 12. Make a company seal after a certificate of incorporation has been issued

Time: 5 days

Cost: KES 5,000

Comments: Providers are hired in Mombasa. This seal is a way to make documents formal and legally solid. The seal provides the directors of the company a tool to control what are the contracts the company honors and what are the ones the company will not honor.

* This procedure can be completed simultaneously with previous procedures

STARTING A BUSINESS

Nairobi

Standard company legal form: Private Corporation

Paid-in-minimum capital requirement: none

Data as of: June 2009

Procedure: 1. Obtain approval for the company name from the Registrar of Companies

Time: 3 days

Cost: KES 100

Comments: The company name reservation lasts 30 days but can be renewed for a similar period.

Procedure: 2. Stamp the memorandum and articles and a statement of the nominal capital

Time: 8 days

Cost: KES 8,160 (1% of nominal capital + KES 2,005 stamp duty on memorandum and articles of association)

Comments: Effective January 1, 2005, the Kenya Revenue Authority (KRA) took over stamp duty collection from the Ministry of Lands and Housing. As an administrative requirement, the KRA now requires the personal identification numbers (PINs) of all parties on whose behalf duty-stamped documents are submitted. Documents must be first assessed by the Stamp Duty Office before payment can be processed by the KRA-designated banks. The process was lengthened initially to about 2 weeks because the Stamp Duty Office waited to receive confirmation of bank payment after clearance of funds. However, the time was reduced in 2008 as a result of better communication between the Ministry of Lands and Housing and Kenya Revenue Authority (KRA) to 5-10 days. Bank handling charges of KES 100 for each transaction are also due.

Procedure: 3*. Pay stamp duty at bank

Time: 1 day

Cost: KES 100

Comments: KES 100 relates to the cost of the banker's check which is the mode of payment of the stamp duty.

Procedure: 4. Declaration of compliance (Form 208) is signed before a Commissioner for Oaths

Time: 1 day

Cost: KES 200

Comments: According to the Companies Act (Cap. 486), an advocate engaged in the formation of the company or a director or company secretary named in the Articles must sign Form 208, the declaration of compliance, which accompanies the registration documents to be submitted to the Registrar of Companies. The common practice is for this procedure to be done by a private lawyer with the power to commission documents immediately after procedures 2 and 3, since the person incorporating the company is already in town. The minimum cost provided by the Advocates Remuneration Order is KES 200. However, advocates charge on average KES 400 to perform this procedure. Lawyer fees are not considered since the use of lawyers is not mandatory.

Procedure: 5. File deed and details with the Registrar of Companies at the Attorney General's Chamber in Nairobi (Sheria House)

Time: 10 days

Cost: KES 5,893

Comments: The applicant must file with the Registrar of Companies the incorporation deed and the required documents and forms, which include:

- a. Stamped memorandum and articles of association;
- b. Statement of capital;
- c. Form 201, Particulars of directors and secretary;
- d. Form 203, Notice of proposed registered office;

- e. Form 208, Declaration of compliance and the prescribed registration fees;
- f. Copy of the company name approval.

Fee schedule for registration is the following:

- a. For the first KES 100,000 of nominal capital: KES 2,200;
- b. For every KES 20,000 of nominal capital after the first KES 100,000: KES 120, subject to a maximum of KES 60,000;
- c. Filing fee for three forms: KES 600.

The common practice is for the company's founder to hire a lawyer to undertake the administrative incorporation procedures in Nairobi. Given that the use of lawyers for such purposes is not mandatory in Nairobi, lawyer fees are not accounted on the overall incorporation costs. On average, a lawyer will charge KES 15,000 for the entire incorporation process.

Procedure: 6. Register with the Tax Department for a PIN

Time: 1 day

Cost: No cost

Comments: Registration for a personal and a company identification number (PIN) is required to register for the VAT (PIN certificates of at least two directors or 2 shareholders or a director and the secretary are required), the local service tax, and the pay-as-you-earn (PAYE) tax. The applicant must file the certificate of registration and a copy of the memorandum and articles of association.

Procedure: 7. Register with the VAT office

Time: 1 day

Cost: No cost

Comments: The application for a VAT certificate must be supported with application form, copies of the certificate of incorporation, the PIN certificate for the company and 2 of its directors and memorandum and articles of association. The VAT department is under the KRA.

Procedure: 8. Apply for a business permit

Time: 5 days

Cost: KES 5,000

Comments: The fee to apply for a business permit varies by type of business, number of employees, and size of the company's premises. The fee is payable to the Nairobi City Council. The City Council will issue a business permit.

Fee schedule for business permit is the following:

- a. Medium trader, shop, or retail service from 5 to 20 employees and/or premises 50–300 square meters (fair location): KES 5,000 on average;
- b. Mid-size business of 50 employees and premises 300 square meters: about KES 20,000 to KES 50,000 depending on the nature of the business.

The Licensing Laws (Repeals and Amendments) Act, 2006 (was enacted in December of 2006 and came into effect on May 1, 2007), amends the Local Government Act (Cap. 265) by reducing the number of business permits required for a distributor of goods or provider of services to carry on its business activities. Applicants having obtained a business permit to operate from one local authority will not be required to obtain another business permit in another local authority. In addition, business permit applicants will have an opportunity to elect whether to apply for a 1- or 2-year permit. The 2006 law also eliminated the requirement to obtain a trading license in addition to the permit. For a first time business permit, the process takes, on average 5 days.

Procedure: 9. Register with the National Social Security Fund (NSSF)

Time: 1 day

Cost: No cost

Comments: The National Social Security Fund provides the employee with a lump-sum retirement benefit. Historically, the rate of return paid by the state is considerably less than that achieved by private schemes, but participation is mandatory. The employer pays a standard contribution of about 1% of salary, subject to a maximum of KES 400 per month. Half of the contribution is deductible from the employee's salary. The precise amount of the contribution (where less than the maximum) is determined by reference to salary bands.

Procedure: 10. Register with the National Hospital Insurance Fund (NHIF)

Time: 1 day

Cost: No cost

Comments: The employee contributes a fixed sum to the National Hospital Insurance Fund (NHIF), which must be deducted by the employer from the employees' salary. The maximum contribution is KES 320 per month. The contributions are used to offset the costs of medical treatment, but they only cover a fraction of actual costs. Hence, most companies provide employees with medical insurance.

Procedure: 11. Register for PAYE

Time: 1 day

Cost: No cost

Procedure: 12. Make a company seal after a certificate of incorporation has been issued

Time: 2 days

Cost: KES 3,000

Comments: Seals are made by private entities that require sight of a copy of the certificate of incorporation. The average price of the company seal is KES 3,000.

* This procedure can be completed simultaneously with previous procedures

STARTING A BUSINESS

Narok

Standard company legal form: Private Corporation

Paid-in-minimum capital requirement: none

Data as of: June 2009

Procedure: 1. Obtain approval for the company name from the Registrar of Companies

Time: 2 days (time to obtain approval: 2 days + roundtrip: 4 hours)

Cost: KES 900 (filing fee: KES 100 + transportation: KES 800)

Comments: The company name reservation lasts 30 days but can be renewed for a similar period. This procedure can only be done in Nairobi. Usually, the company's promoters will hire a Narok lawyer whose agent will travel to Nairobi to undertake the necessary procedures. The common practice is that procedures one to five are performed in Nairobi given that the applicant, or the company's agent, is already in town. The time to do this procedure is 2 days, once the applicant is in Nairobi. However, it takes 2 hours to travel from Narok to Nairobi and 2 hours to go back. Given the proximity between these localities, travel time is not considered within this procedure. The cost of this procedure is KES 100. The bus fare from Narok to Nairobi is KES 800 and is also considered within this procedure.

Given that the use of lawyers is not mandatory for company incorporation around all the localities in Kenya, lawyer fees are not considered in the present report.

Procedure: 2. Stamp the memorandum and articles and a statement of the nominal capital

Time: 30 days

Cost: KES 8,160 (1% of nominal capital + KES 2,005 stamp duty on memorandum and articles of association)

Comments: Effective January 1, 2005, the Kenya Revenue Authority (KRA) took over stamp duty collection from the Ministry of Lands and Housing. As an administrative requirement, the KRA now requires the personal identification numbers (PINs) of all parties on whose behalf duty-stamped documents are submitted. Documents must be first assessed by the Stamp Duty Office before payment can be processed by the KRA-designated banks. The process was lengthened initially to about 2 weeks because the Stamp Duty Office waited to receive confirmation of bank payment after clearance of funds. However, the time was reduced in 2008 as a result of better communication between the Ministry of Lands and Housing and Kenya Revenue Authority (KRA) to 5-10 days. Bank handling charges of KES 100 for each transaction are also due.

This procedure is usually done in Nairobi since the applicant is already in town. However, this procedure can also be undertaken in Narok since there are KRA offices in Narok.

Procedure: 3. Pay stamp duty at bank

Time: 1 day

Cost: KES 100

Comments: The cost relates to the banker's check which is the mode of payment of the stamp duty.

Procedure: 4. Declaration of compliance (Form 208) is signed before a Commissioner for Oaths**Time:** 3 days**Cost:** KES 200

Comments: According to the Companies Act (Cap. 486), an advocate engaged in the formation of the company or a director or company secretary named in the Articles must sign Form 208, the declaration of compliance, which accompanies the registration documents to be submitted to the Registrar of Companies. The common practice is for this procedure to be done by a private lawyer with the power to commission documents immediately after procedures 2 and 3, since the person incorporating the company is already in town. The minimum cost provided by the Advocates Remuneration Order is KES 200. However, advocates charge on average KES 400 to perform this procedure. Lawyer fees are not considered since the use of lawyers is not mandatory.

Procedure: 5. File deed and details with the Registrar of Companies at the Attorney General's Chamber in Nairobi (Sheria House)**Time:** 28 days**Cost:** KES 5,893

Comments: The applicant must file with the Registrar of Companies the incorporation deed and the required documents and forms, which include:

- Stamped memorandum and articles of association;
- Statement of capital;
- Form 201, Particulars of directors and secretary;
- Form 203, Notice of proposed registered office;
- Form 208, Declaration of compliance and the prescribed registration fees;
- Copy of the company name approval.

Fee schedule for registration is the following:

- For the first KES 100,000 of nominal capital: KES 2,200;
- For every KES 20,000 of nominal capital after the first KES 100,000: KES 120, subject to a maximum of KES 60,000;
- Filing fee for three forms: KES 600.

The common practice is for the company's founder to hire a lawyer to undertake the administrative incorporation procedures in Nairobi. Given that the use of lawyers for such purposes is not mandatory in Narok, lawyer fees are not accounted on the overall incorporation costs. On average, a lawyer will charge KES 25,000 for the entire incorporation process.

Procedure: 6. Register with the Tax Department for a PIN**Time:** 1 day**Cost:** No cost

Comments: Registration for a personal and a company identification number (PIN) is required to register for the VAT (PIN certificates of at least two directors or 2 shareholders or a director and the secretary are required), the local service tax, and the pay-as-you-earn (PAYE) tax. The applicant must file the certificate of registration and a copy of the memorandum and articles of association. This procedure is done in Narok.

Procedure: 7. Register with the VAT office**Time:** 1 day**Cost:** No cost

Comments: The application for a VAT certificate must be supported with an application form, copies of the certificate of incorporation, the PIN certificate for the company and two of its directors and memorandum and articles of association. The VAT department is under the KRA. This procedure can be done at the KRA offices in Narok.

Procedure: 8. Apply for a business permit**Time:** 8 days**Cost:** KES 7,500

Comments: The fee to apply for a business permit varies by type of business, number of employees, and size of the company's premises. The fee is payable to the Narok Municipal Council. The Municipal Council will issue a business permit.

Fee schedule for business permit is the following:

- Medium trader, shop, or retail service from 5 to 20 employees and/or premises 50–300 square meters (fair location): KES 7,500 on average;
- Mid-size business of 50 employees and premises 300 square meters: about KES 20,000 to KES 50,000 depending on the nature of the business.

The Licensing Laws (Repeals and Amendments) Act, 2006 (was enacted in December of 2006 and came into effect on May 1, 2007), amends the Local Government Act (Cap. 265) by reducing the number of business permits required for a distributor of goods or provider of services to carry on its business activities. Applicants having obtained a business permit to operate from one local authority will not be required to obtain another business permit in another local authority. In addition, business permit applicants will have an opportunity to elect whether to apply for a 1- or 2-year permit. The 2006 law also eliminated the requirement to obtain a trading license in addition to the permit. For a first time business permit, the process takes, on average 8 days.

Procedure: 9. Register with the National Social Security Fund (NSSF)**Time:** 1 day**Cost:** No cost

Comments: The National Social Security Fund provides the employee with a lump-sum retirement benefit. Historically, the rate of return paid by the state is considerably less than that achieved by private schemes, but participation is mandatory. The employer pays a standard contribution of about 1% of salary, subject to a maximum of KES 400 per month. Half of the contribution is deductible from the employee's salary. The precise amount of the contribution (where less than the maximum) is determined by reference to salary bands. This procedure is commonly done in Narok.

Procedure: 10. Register with the National Hospital Insurance Fund (NHIF)**Time:** 1 day**Cost:** No cost

Comments: The employee contributes a fixed sum to the National Hospital Insurance Fund (NHIF), which must be deducted by the employer from the employees' salary. The maximum contribution is KES 320 per month. The contributions are used to offset the costs of medical treatment, but they only cover a fraction of actual costs. Hence, most companies provide employees with medical insurance. This procedure is done at the Narok NHIF office.

Procedure: 11. Register for PAYE**Time:** 1 day**Cost:** No cost

Comments: This procedure is commonly done in Narok.

Procedure: 12. Make a company seal after a certificate of incorporation has been issued**Time:** 4 days**Cost:** KES 4,500 (company's seal: KES 4,000 + courier: KES 500)

Comments: Seals are made by private entities who require sight of a copy of the certificate of incorporation. The average price of the company seal is KES 4,000. The common practice is for applicants to obtain the company seal in Nairobi. Applicants order this seal after filing the incorporation deed and before returning to Narok. Once the company seal is ready, private providers will send the seal by courier. The average cost of mailing the seal is KES 500.

* This procedure can be completed simultaneously with previous procedures

STARTING A BUSINESS

Nyeri

Standard company legal form: Private Corporation

Paid-in-minimum capital requirement: none

Data as of: June 2009

Procedure: 1. Obtain approval for the company name from the Registrar of Companies**Time:** 2 days (time to obtain approval: 2 days + roundtrip: 6 hours)**Cost:** KES 800 (filing fee: KES 100 + transportation: KES 700)

Comments: The company name reservation lasts 30 days but can be renewed for a similar period. This procedure can only be done in Nairobi. Usually, the company's promoters will hire a Nyeri lawyer whose agent will travel to Nairobi to undertake the necessary procedures. The common practice is that procedures one to five are performed in Nairobi given that the applicant, or the company's agent, is already in town. The time to do this procedure is 2 days, once the applicant is in Nairobi. However, it takes 3 hours to travel from Nyeri to Nairobi and 3 hours to go back. Given

the proximity between these localities, travel time is not considered within this procedure. The cost of this procedure is KES 100. The bus fare from Nyeri to Nairobi is KES 700 and is also considered within this procedure.

Given that the use of lawyers is not mandatory for company incorporation around all the localities in Kenya, lawyer fees are not considered in the present report.

Procedure: 2. Stamp the memorandum and articles and a statement of the nominal capital

Time: 27 days

Cost: KES 8,160 (1% of nominal capital + KES 2,005 stamp duty on memorandum and articles of association)

Comments: Effective January 1, 2005, the Kenya Revenue Authority (KRA) took over stamp duty collection from the Ministry of Lands and Housing. As an administrative requirement, the KRA now requires the personal identification numbers (PINs) of all parties on whose behalf duty-stamped documents are submitted. Documents must be first assessed by the Stamp Duty Office before payment can be processed by the KRA-designated banks. The process was lengthened initially to about 2 weeks because the Stamp Duty Office waited to receive confirmation of bank payment after clearance of funds. However, the time was reduced in 2008 as a result of better communication between the Ministry of Lands and Housing and Kenya Revenue Authority (KRA) to 5-10 days. Bank handling charges of KES 100 for each transaction are also due.

This procedure is usually done in Nairobi since the applicant is already in town. However, this procedure can also be undertaken in Nyeri since there are KRA offices in Nyeri.

Procedure: 3. Pay stamp duty at bank

Time: 1 day

Cost: KES 100

Comments: The cost relates to the banker's check which is the mode of payment of the stamp duty.

Procedure: 4. Declaration of compliance (Form 208) is signed before a Commissioner for Oaths

Time: 3 days

Cost: KES 200

Comments: According to the Companies Act (Cap. 486), an advocate engaged in the formation of the company or a director or company secretary named in the Articles must sign Form 208, the declaration of compliance, which accompanies the registration documents to be submitted to the Registrar of Companies. The common practice is for this procedure to be done by a private lawyer with the power to commission documents immediately after procedures 2 and 3, since the person incorporating the company is already in town. The minimum cost provided by the Advocates Remuneration Order is KES 200. However, advocates charge on average KES 400 to perform this procedure. Lawyer fees are not considered since the use of lawyers is not mandatory.

Procedure: 5. File deed and details with the Registrar of Companies at the Attorney General's Chamber in Nairobi (Sheria House)

Time: 30 days

Cost: KES 5,893

Comments: The applicant must file with the Registrar of Companies the incorporation deed and the required documents and forms, which include:

- Stamped memorandum and articles of association;
- Statement of capital;
- Form 201, Particulars of directors and secretary;
- Form 203, Notice of proposed registered office;
- Form 208, Declaration of compliance and the prescribed registration fees;
- Copy of the company name approval.

Fee schedule for registration is the following:

- For the first KES 100,000 of nominal capital: KES 2,200;
- For every KES 20,000 of nominal capital after the first KES 100,000: KES 120, subject to a maximum of KES 60,000;
- Filing fee for three forms: KES 600.

The common practice is for the company's founder to hire a lawyer to undertake the administrative incorporation procedures in Nairobi. Given that the use of lawyers for such purposes is not mandatory in Nyeri, lawyer fees are not accounted on the overall incorporation costs. On average, a lawyer will charge KES 30,000 for the entire incorporation process.

Procedure: 6. Register with the Tax Department for a PIN

Time: 1 day

Cost: No cost

Comments: Registration for a personal and a company identification number (PIN) is required to register for the VAT (PIN certificates of at least two directors or 2 shareholders or a director and the secretary are required), the local service tax, and the pay-as-you-earn (PAYE) tax. The applicant must file the certificate of registration and a copy of the memorandum and articles of association. This procedure is done in Nyeri.

Procedure: 7. Register with the VAT office

Time: 1 day

Cost: No cost

Comments: The application for a VAT certificate must be supported with application form, copies of the certificate of incorporation, the PIN certificate for the company and 2 of its directors and memorandum and articles of association. The VAT department is under the KRA. This procedure can be done at the KRA offices in Nyeri.

Procedure: 8. Apply for a business permit

Time: 6 days

Cost: KES 6,000

Comments: The fee to apply for a business permit varies by type of business, number of employees, and size of the company's premises. The fee is payable to the Nyeri Municipal Council. The Municipal Council will issue a business permit.

Fee schedule for business permit is the following:

- Medium trader, shop, or retail service from 5 to 20 employees and/or premises 50–300 square meters. (fair location): KES 6,000 on average;
- Mid-size business of 50 employees and premises 300 square meters: about KES 20,000 to KES 50,000 depending on the nature of the business.

The Licensing Laws (Repeals and Amendments) Act, 2006 (was enacted in December of 2006 and came into effect on May 1, 2007), amends the Local Government Act (Cap. 265) by reducing the number of business permits required for a distributor of goods or provider of services to carry on its business activities. Applicants having obtained a business permit to operate from one local authority will not be required to obtain another business permit in another local authority. In addition, business permit applicants will have an opportunity to elect whether to apply for a 1- or 2-year permit. The 2006 law also eliminated the requirement to obtain a trading license in addition to the permit. For a first time business permit, the process takes, on average 6 days.

Procedure: 9. Register with the National Social Security Fund (NSSF)

Time: 1 day

Cost: No cost

Comments: The National Social Security Fund provides the employee with a lump-sum retirement benefit. Historically, the rate of return paid by the state is considerably less than that achieved by private schemes, but participation is mandatory. The employer pays a standard contribution of about 1% of salary, subject to a maximum of KES 400 per month. Half of the contribution is deductible from the employee's salary. The precise amount of the contribution (where less than the maximum) is determined by reference to salary bands. This procedure is commonly done in Nyeri.

Procedure: 10. Register with the National Hospital Insurance Fund (NHIF)

Time: 1 day

Cost: No cost

Comments: The employee contributes a fixed sum to the National Hospital Insurance Fund (NHIF), which must be deducted by the employer from the employees' salary. The maximum contribution is KES 320 per month. The contributions are used to offset the costs of medical treatment, but they only cover a fraction of actual costs. Hence, most companies provide employees with medical insurance. This procedure is done at the Nyeri NHIF office.

Procedure: 11. Register for PAYE

Time: 1 day

Cost: No cost

Comments: This procedure is commonly done in Nyeri.

Procedure: 12. Make a company seal after a certificate of incorporation has been issued**Time:** 6 days**Cost:** KES 4,800 (company's seal: KES 4,000 + courier: KES 800)

Comments: Seals are made by private entities who require sight of a copy of the certificate of incorporation. The average price of the company seal is KES 4,000. The common practice is for applicants to obtain the company seal in Nairobi. Applicants order this seal after filing the incorporation deed and before returning to Nyeri. Once the company seal is ready, private providers will send the seal by courier. The average cost of mailing the seal is KES 800.

*This procedure can be completed simultaneously with previous procedures

STARTING A BUSINESS

Thika

Standard company legal form: Private Corporation

Paid-in-minimum capital requirement: none

Data as of: June 2009

Procedure: 1. Obtain approval for the company name from the Registrar of Companies**Time:** 2 days (time to obtain approval: 2 days + roundtrip: 1 hour)**Cost:** KES 300 (filing fee: KES 100 + transportation: KES 200)

Comments: The company name reservation lasts 30 days but can be renewed for a similar period. This procedure can only be done in Nairobi. Usually, the company's promoters will hire a Thika lawyer whose agent will travel to Nairobi to undertake the necessary procedures. The common practice is that procedures one to five are performed in Nairobi given that the applicant, or the company's agent, is already in town. The time to do this procedure is 2 days, once the applicant is in Nairobi. However, it takes 30 minutes to travel from Thika to Nairobi and 30 minutes to go back. Given the proximity between these localities, travel time is not considered within this procedure. The cost of this procedure is KES 100. The bus fare from Thika to Nairobi is KES 200 and is also considered within this procedure.

Given that the use of lawyers is not mandatory for company incorporation around all the localities in Kenya, lawyer fees are not considered in the present report.

Procedure: 2. Stamp the memorandum and articles and a statement of the nominal capital**Time:** 14 days**Cost:** KES 7,317 (1% of nominal capital + KES 2,005 stamp duty on memorandum and articles of association)

Comments: Effective January 1, 2005, the Kenya Revenue Authority (KRA) took over stamp duty collection from the Ministry of Lands and Housing. As an administrative requirement, the KRA now requires the personal identification numbers (PINs) of all parties on whose behalf duty-stamped documents are submitted. Documents must be first assessed by the Stamp Duty Office before payment can be processed by the KRA-designated banks. The process was lengthened initially to about 2 weeks because the Stamp Duty Office waited to receive confirmation of bank payment after clearance of funds. However, the time was reduced in 2008 as a result of better communication between the Ministry of Lands and Housing and Kenya Revenue Authority (KRA) to 5-10 days. Bank handling charges of KES 100 for each transaction are also due.

This procedure is usually done in Nairobi since the applicant is already in town. However, this procedure can also be undertaken in Thika since there are KRA offices in Thika.

Procedure: 3. Pay stamp duty at bank**Time:** 1 day**Cost:** KES 100

Comments: This procedure can be done either in Thika or in Nairobi. The common practice is for applicants to stay in Nairobi since the applicant is already in the city to perform the previous procedures. KES 100 relates to the cost of the banker's check which is the mode of payment of the stamp duty.

Procedure: 4. Declaration of compliance (Form 208) is signed before a Commissioner for Oaths**Time:** 1 day**Cost:** KES 200

Comments: According to the Companies Act (Cap. 486), an advocate engaged in the formation of the company or a director or company secretary named in the Articles must sign Form 208, the declaration of compliance, which accompanies the registration documents to be submitted to the Registrar of Companies. The common practice is for this procedure to be done by a private lawyer with the power to commission documents immediately after procedures 2 and 3, since the person incorporating the company is already in town. The minimum cost provided by the Advocates Remuneration Order is KES 200. However, advocates charge on average KES 400 to perform this procedure. Lawyer fees are not considered since the use of lawyers is not mandatory.

Procedure: 5. File deed and details with the Registrar of Companies at the Attorney General's Chamber in Nairobi (Sheria House)**Time:** 14 days**Cost:** KES 5,387

Comments: The applicant must file with the Registrar of Companies the incorporation deed and the required documents and forms, which include:

- Stamped memorandum and articles of association;
- Statement of capital;
- Form 201, Particulars of directors and secretary;
- Form 203, Notice of proposed registered office;
- Form 208, Declaration of compliance and the prescribed registration fees;
- Copy of the company name approval.

Fee schedule for registration is the following:

- For the first KES 100,000 of nominal capital: KES 2,200;
- For every KES 20,000 of nominal capital after the first KES 100,000: KES 120, subject to a maximum of KES 60,000;
- Filing fee for three forms: KES 600.

The common practice is for the company's founder to hire a lawyer to undertake the administrative incorporation procedures in Nairobi. Given that the use of lawyers for such purposes is not mandatory in Thika, lawyer fees are not accounted on the overall incorporation costs. On average, a lawyer will charge KES 15,000 for the entire incorporation process.

Procedure: 6. Register with the Tax Department for a PIN**Time:** 1 day**Cost:** No cost

Comments: Registration for a personal and a company identification number (PIN) is required to register for the VAT (PIN certificates of at least two directors or 2 shareholders or a director and the secretary are required), the local service tax, and the pay-as-you-earn (PAYE) tax. The applicant must file the certificate of registration and a copy of the memorandum and articles of association. This procedure is done in Thika.

Procedure: 7. Register with the VAT office**Time:** 1 day**Cost:** No cost

Comments: The application for a VAT certificate must be supported with application form, copies of the certificate of incorporation, the PIN certificate for the company and 2 of its directors and memorandum and articles of association. The VAT department is under the KRA. This procedure can be done at the KRA offices in Thika.

Procedure: 8. Apply for a business permit**Time:** 6 days**Cost:** KES 6,500

Comments: The fee to apply for a business permit varies by type of business, number of employees, and size of the company's premises. The fee is payable to the Thika Municipal Council. The Municipal Council will issue a business permit.

Fee schedule for business permit is the following:

- Medium trader, shop, or retail service from 5 to 20 employees and/or premises 50-300 square meters (fair location): KES 6,500 on average;
- Mid-size business of 50 employees and premises 300 square meters: about KES 20,000 to KES 50,000 depending on the nature of the business.

The Licensing Laws (Repeals and Amendments) Act, 2006 (was enacted in December of 2006 and came into effect on May 1, 2007), amends the Local Government Act (Cap. 265) by reducing the number of business permits required for a distributor of goods or provider of services to carry on its business activities. Applicants having obtained a business permit to operate from one local authority will not be required to obtain another business permit in another local authority. In addition, business

permit applicants will have an opportunity to elect whether to apply for a 1- or 2-year permit. The 2006 law also eliminated the requirement to obtain a trading license in addition to the permit. For a first time business permit, the process takes, on average 6 days.

Procedure: 9. Register with the National Social Security Fund (NSSF)

Time: 1 day

Cost: No cost

Comments: The National Social Security Fund provides the employee with a lump-sum retirement benefit. Historically, the rate of return paid by the state is considerably less than that achieved by private schemes, but participation is mandatory. The employer pays a standard contribution of about 1% of salary, subject to a maximum of KES 400 per month. Half the contribution is deductible from the employee's salary. The precise amount of the contribution (where less than the maximum) is determined by reference to salary bands. This procedure is commonly done in Thika.

Procedure: 10. Register with the National Hospital Insurance Fund (NHIF)

Time: 1 day

Cost: No cost

Comments: The employee contributes a fixed sum to the National Hospital Insurance Fund (NHIF), which must be deducted by the employer from the employees' salary. The maximum contribution is KES 320 per month. The contributions are used to offset the costs of medical treatment, but they only cover a fraction of actual costs. Hence, most companies provide employees with medical insurance. This procedure is done at the Thika NHIF office.

Procedure: 11. Register for PAYE

Time: 1 day

Cost: No cost

Comments: This procedure is commonly done in Thika.

Procedure: 12. Make a company seal after a certificate of incorporation has been issued

Time: 4 days

Cost: KES 4,250 (company's seal: KES 4,000 + courier: KES 250)

Comments: Seals are made by private entities who require sight of a copy of the certificate of incorporation. The average price of the company seal is KES 4,000. The common practice is for applicants to obtain the company seal in Nairobi. Applicants order this seal after filing the incorporation deed and before returning to Thika. Once the company seal is ready, private providers will send the seal by courier. The average cost of mailing the seal is KES 250.

* This procedure can be completed simultaneously with previous procedures

LIST OF PROCEDURES

Dealing with construction permits

Eldoret

Procedures to build a warehouse

Warehouse value: US\$ 404,783 = KES 32,500,000

Data as of: June 2009

Procedure 1. Request approval of the architectural plans from the Eldoret Municipal Council

Time: 50 days

Cost: KES 21,626 (KES 2,000 for the building occupancy certificate, KES 10,486 for scrutiny fees, KES 200 for submission forms, KES 3,640 for structural fees, KES 300 for the Physical Planning Act 1 form (PPA1), and KES 5,000 for public health fees)

Comments: BuildCo submits the approval request together with the building plans. The building plans are circulated for approval to the following departments:

- The Physical Planning Department;
- The Municipal Engineer's Department;
- The Public Health Department;
- The Finance Department;
- The Municipal Planning Committee.

Finally, the building plans are endorsed by the full Council.

Procedure 2. Obtain approval from the National Environment Management Authority (NEMA)

Time: 30 days

Cost: KES 16,250

Comments: Following the enactment of a new Environmental Management and Co-ordination Act on February 27, 2009, companies now have to obtain approval of the project from the National Environment Management Authority. Projects of all risk categories are subject to approval and environmental impact assessment (EIA), including BuildCo's warehouse. The cost is set at 0.05% of warehouse value (KES 32,500,000). Prior to February 11, 2009, the fee rate was 0.1% of warehouse value.

The regulation regarding environmental impact assessment approval for Kenya has been in place since 1999. However, in recent years NEMA has started enforcing the rules more vigorously. NEMA conducts periodic inspections during the construction. If new projects at the moment of inspection do not have an environmental impact assessment they may order the project be closed and erected objects demolished. Therefore, construction companies are now obtaining the environmental approval before the building is completed. Nevertheless, the legislation is not clear on which categories of buildings this regulation would apply to.

Procedure 3. Notify the Eldoret Municipal Council of the commencement of building work and receive a routine on-site inspection

Time: 1 day

Cost: No cost

Comments: Inspectors from the Eldoret Municipal Council are available during business hours every day. There are several inspections required by the municipal by-laws. However, the common practice is that inspectors only come for routine checks during the construction phase. They stop by the construction site while the construction continues and check if everything is being built in accordance with the architectural plans submitted initially. The cost for this inspection is included in the scrutiny fees paid in procedure 1.

Procedure 4. Request an occupancy certificate and receive a final on-site inspection by the municipal authority

Time: 2 days

Cost: No cost

Comments: BuildCo informs the Municipal Council Engineer's Department that the warehouse is completed. The municipal engineer or other officers inspect the warehouse and confirm whether the structure conforms to all the relevant building plans.

Procedure 5. Obtain an occupancy certificate from the municipal authority

Time: 1 day

Cost: No cost

Comments: The inspection card (PPA1) is fully filled and an occupancy certificate is issued by the Municipal Engineer's Department. The cost for the occupancy certificate is paid in procedure 1.

Procedure 6. Apply for water and sewerage connection

Time: 1 day

Cost: No cost

Comments: To apply for water and sewerage connection, BuildCo has to submit the following:

- Application form;
- Identification card;
- Personal identification number (PIN);
- Sketch map of the warehouse site.

At this stage no costs are absorbed since BuildCo has to wait for the Eldoret Water and Sewerage Company (ELDOWAS) officers to visit the site and ascertain whether there is an existing water line near the building site and whether there will be sufficient supply in the future.

Procedure 7. Pay water and sewerage installation costs and obtain connection

Time: 3 days

Cost: KES 3,660 (KES 1,250 for water, KES 810 for sewerage, KES 1,000 for meter deposit, and KES 600 for supervision costs during meter installation)

Comments: There are plans to adjust the tariffs upwards and a notice to introducing the new tariffs was gazetted on January 1, 2009.

Procedure 8*. Request electricity connection from the local electricity provider

Time: 1 day

Cost: No cost

Comments: According to the Kenya Power & Lighting Co. Ltd (KPLC), BuildCo needs to fill an Enquiry for Supply of Electricity form and submit it to the KPLC local office with the following documents:

- Copy of the national identity card of the person who is applying on BuildCo's behalf (non-Kenyans will be required to provide a copy of a valid passport);
- Copy of the lease agreement or a title deed of the premises to be supplied with electricity or a signed letter of tenancy from the responsible landlord with a copy of his/her identify card;
- Detailed route sketch of the premises (this should include roads and other salient features). Corporate customers are required to also provide a copy of their personal identification number (PIN) certificate and certificate of incorporation.

Procedure 9*. Apply and pay for telephone connection

Time: 1 day

Cost: KES 2,300

Comments: BuildCo applies for telephone connection at the local Telkom Kenya office where readily available forms can be immediately filled out and submitted. To obtain a commercial connection, the applicant needs to submit, along with the application, the following:

- Proof of ownership of the business;
- Identification card.

The same tariff and connection fee apply across the country.

Procedure 10*. Receive an on-site inspection by the local electricity provider

Time: 1 day

Cost: No cost

Comments: KPLC will conduct a survey on the construction site and send a letter to BuildCo quoting the amount of capital contribution and deposit to be paid.

Procedure 11. Obtain electricity connection

Time: 28 days

Cost: KES 60,000 (inclusive of 16% VAT)

Comments: For new connections, if the warehouse site is within six hundred meters from the power transformer, it costs KES 36,980 to get a one-phase connection (includes VAT and account deposit). Beyond six hundred meters, the cost is determined by KPLC designers and surveyors. A three-phase connection cost varies with the user requirements. The minimum cost for a three-phase connection is KES 60,000.

*This procedure can be completed simultaneously with previous procedures

DEALING WITH CONSTRUCTION PERMITS

Garissa

Procedures to build a warehouse

Warehouse value: US\$ 404,783 = KES 32,500,000

Data as of: June 2009

Procedure 1. Request approval of the architectural plans and get a Physical Planning Act 1 form (PPA1) from the Garissa Municipal Council

Time: 1 day

Cost: KES 2,000 (PPA1 form)

Procedure 2. Submit project plans and get approval from the Physical Planning Department

Time: 3 days

Cost: No cost

Comments: BuildCo submits the project plans for approval to the Physical Planning Department (PPD). A PPD officer approves the plans and signs the applicable section of the PPA1 form.

Procedure 3. Submit project plans and get approval from the Public Health Department

Time: 3 days

Cost: KES 3,000 (public health fee)

Comments: BuildCo submits the project plans for approval to the Public Health Department (PHD). A PHD officer approves the plans and signs the applicable section of the PPA1 form.

Procedure 4. Submit project plans and signed PPA1 form to the Municipal Council Engineer's Department and obtain approval

Time: 7 days

Cost: KES 12,000

Comments: The municipal council engineer reviews the building plans and checks if all approvals have been obtained in the PPA1 form. Construction can commence only after the municipal council engineer has given approval of the plans.

Procedure 5. Obtain approval from the National Environment Management Authority

Time: 30 days

Cost: KES 16,250

Comments: Following the enactment of a new Environmental Management and Co-ordination Act on February 27, 2009, companies now have to obtain approval of the project from the National Environment Management Authority. Projects of all risk categories are subject to approval and environmental impact assessment (EIA), including BuildCo's warehouse. The cost is set at 0.05% of warehouse value (KES 32,500,000). Prior to February 11, 2009, the fee rate was 0.1% of warehouse value.

The regulation regarding environmental impact assessment approval for Kenya has been in place since 1999. However, in recent years NEMA has started enforcing the rules more vigorously. NEMA conducts periodic inspections during the construction. If new projects at the moment of inspection do not have an environmental impact assessment they may order the project be closed and erected objects demolished. Therefore, construction companies are now obtaining the environmental approval before the building is completed. Nevertheless, the legislation is not clear on which categories of buildings this regulation would apply to.

Procedure 6. Notify the Garissa Municipal Council of the commencement of building work and receive a routine on-site inspection

Time: 1 day

Cost: No cost

Comments: There are several inspections required by the municipal by-laws. However, the common practice is that the inspectors only come for routine checks during the construction phase. They stop by the construction site while the construction continues and check if everything is being built in accordance with the architectural plans submitted initially.

Procedure 7. Request an occupancy certificate and receive a final on-site inspection by the municipal authority

Time: 2 days

Cost: No cost

Comments: BuildCo informs the Garissa Municipal Council once construction is completed.

Procedure 8. Obtain an occupancy certificate

Time: 5 days

Cost: No cost

Comments: An officer from the Municipal Engineer's Department issues an occupancy certificate, after having inspected the building (procedure 7). The cost for the occupancy certificate is included in procedure 4.

Procedure 9. Apply for water and sewerage connection

Time: 1 day

Cost: KES 2,000 (application fee)

Comments: After submitting the application form to the Garissa Water and Sewerage Company (GAWASCO), a plumber comes onsite to assess the requirements and costs of connection and advises BuildCo on the same. If BuildCo agrees on the cost, then the information is forwarded to a technical manager of the GAWASCO for approval and issuance of the meter.

Procedure 10*. Pay water and sewerage installation costs and obtain connection**Time:** 5 days**Cost:** KES 5,000

Comments: BuildCo submits a supply agreement form obtained from GAWASCO detailing the property location, postal address and an attached receipt for water deposit.

Procedure 11*. Request electricity connection from the local electricity provider**Time:** 1 day**Cost:** No cost

Comments: According to KPLC, BuildCo needs to fill an Enquiry for Supply of Electricity form and submit it to the KPLC local office with the following documents:

- Copy of the national identity card of the person who is applying on BuildCo's behalf (non-Kenyans will be required to provide a copy of a valid passport);
- Copy of the lease agreement or a title deed of the premises to be supplied with electricity or a signed letter of tenancy from the responsible landlord with a copy of his/her identify card;
- Detailed route sketch of the premises (this should include roads and other salient features). Corporate customers are required to also provide a copy of their personal identification number (PIN) certificate and certificate of incorporation.

Procedure 12*. Apply and pay for telephone connection**Time:** 3 days**Cost:** KES 2,300

Comments: BuildCo applies for telephone connection at the local Telkom Kenya office where readily available forms can be immediately filled out and submitted. To obtain a commercial connection, the applicant needs to submit, along with the application, the following:

- Proof of ownership of the business;
- Identification card.

The same tariff and connection fee apply across the country.

Procedure 13. Receive an on-site inspection by the local electricity provider**Time:** 1 day**Cost:** No cost

Comments: KPLC will conduct a survey on the construction site and send a letter to BuildCo quoting the amount of capital contribution and deposit to be paid.

Procedure 14. Obtain electricity connection**Time:** 21 days**Cost:** KES 54,000 (inclusive of 16% VAT)

Comments: The minimum cost for a three-phase connection is KES 54,000. The cost includes connection fee, meter fee, and VAT.

*This procedure can be completed simultaneously with previous procedures

DEALING WITH CONSTRUCTION PERMITS

Isiolo

Procedures to build a warehouse

Warehouse value: US\$ 404,783 = KES 32,500,000

Data as of: June 2009

Procedure 1. Request approval of architectural plans and get a Physical Planning Act 1 form (PPA1) from the Isiolo Municipal Council**Time:** 1 day**Cost:** No cost**Procedure 2. Submit project plans and get approval from the Physical Planning Department****Time:** 2 days**Cost:** No cost

Comments: BuildCo submits the project plans for approval to the Physical Planning Department (PPD). A PPD officer approves the plans and signs the PPA1 form.

Procedure 3. Submit project plans and get approval from the Public Health Department**Time:** 2 days**Cost:** KES 1,500

Comments: BuildCo submits the project plans for approval to the Public Health Department (PHD). A PHD officer approves the plans and signs the PPA1 form.

Procedure 4. Submit project plans and signed PPA1 form to the Municipal Council Engineer's Department and get project approval**Time:** 10 days**Cost:** KES 12,200

Comments: The municipal council engineer reviews the building plans, checks if all approvals have been obtained in the PPA1 form and then issues the building permit.

Procedure 5. Notify the Isiolo Municipal Council of the commencement of building work and receive a routine on-site inspection**Time:** 1 day**Cost:** KES 2,000

Comments: There are several inspections required by the municipal by-laws. However, the common practice is that the inspectors only come for routine checks during the construction phase. They stop by the construction site while the construction continues and check if everything is being built in accordance with the architectural plans submitted initially.

Procedure 6. Request an occupancy certificate and receive a final on-site inspection by the municipal authority**Time:** 3 days**Cost:** KES 2,000

Comments: BuildCo informs the Isiolo Municipal Council once construction is completed. The Municipal Council sends inspectors to the construction site before the occupancy certificate is issued.

Procedure 7. Obtain an occupancy certificate**Time:** 10 days**Cost:** KES 2,000**Procedure 8. Apply for water and sewerage connection****Time:** 2 days**Cost:** No cost**Procedure 9*. Pay water and sewerage installation costs and obtain connection****Time:** 5 days

Cost: KES 7,000 (deposit fee of KES 5,000, sewerage processing fee of KES 1,500 and water processing fee of KES 500)

Comments: BuildCo presents an approved PPA1 form. A representative from the Isiolo Water and Sewerage Company visits and inspects the site to determine material requirements and water pressure available. The process takes 5 days on average because there are only specific days of the week on which the Isiolo Water and Sewerage Company crew can come for installation. The deposit fee is refundable in case BuildCo decides to discontinue the water and sewerage service.

Procedure 10*. Request electricity connection from the local electricity provider**Time:** 1 day**Cost:** No cost

Comments: According to KPLC, BuildCo needs to fill an Enquiry for Supply of Electricity form and submit it to the KPLC local office with the following documents:

- Copy of the national identity card of the person who is applying on BuildCo's behalf (non-Kenyans will be required to provide a copy of a valid passport);
- Copy of the lease agreement or a title deed of the premises to be supplied with electricity or a signed letter of tenancy from the responsible landlord with a copy of his/her identify card;
- Detailed route sketch of the premises (this should include roads and other salient features). Corporate customers are required to also provide a copy of their personal identification number (PIN) certificate and certificate of incorporation.

Procedure 11*. Apply and pay for telephone connection**Time:** 14 days**Cost:** KES 2,300

Comments: BuildCo applies for telephone connection at the local Telkom Kenya office where readily available forms can be immediately filled out and submitted. To obtain a commercial connection, the applicant needs to submit, along with the application, the following:

- a. Proof of ownership of the business;
- b. Identification card.

The same tariff and connection fee apply across the country.

Procedure 12. Receive an on-site inspection by the local electricity provider**Time:** 21 days**Cost:** No cost

Comments: KPLC has no inspection office in Isiolo. In order to perform the inspection, KPLC representatives have to come from Meru or Nyeri. This adds significantly to the time required to complete this procedure.

Procedure 13. Obtain electricity connection**Time:** 60 days**Cost:** KES 54,000 (inclusive of 16% VAT)

Comments: The connection fees to obtain electricity within the radius of the already existing power transformer in Isiolo are KES 54,000. To obtain electricity outside of the area covered by the transformer, the cost can go up to KES 1,400,000.

* This procedure can be completed simultaneously with previous procedures

DEALING WITH CONSTRUCTION PERMITS

Kilifi

Procedures to build a warehouse

Warehouse value: US\$ 404,783 = KES 32,500,000

Data as of: June 2009

Procedure 1. Request and get approval of the architectural plans from the Kilifi Municipal Council**Time:** 21 days

Cost: KES 25,001 (KES 12,751 for the Kilifi Municipal Council, KES 5,000 for the Public Health Department, KES 3,500 for the Physical Planning Department, and KES 3,750 for the Land Department)

Comments: The company submits the architectural and structural drawings and proof of ownership to the Kilifi Municipal Council. The Municipal Council circulates the documents to the following departments:

- a. The District Public Health department;
- b. The District Land Department;
- c. The District Physical Planner;
- d. The District Public Works Department.

The fees paid to the Kilifi Municipal Council cover the cost for inspections and the cost for the occupancy certificate.

Procedure 2. Obtain approval from National Environment Management Authority**Time:** 30 days**Cost:** KES 16,250

Comments: Following the enactment of a new Environmental Management and Co-ordination Act on February 27, 2009, companies now have to obtain approval of the project from the National Environment Management Authority. Projects of all risk categories are subject to approval and environmental impact assessment (EIA), including BuildCo's warehouse. The cost is set at 0.05% of warehouse value (KES 32,500,000). Prior to February 11, 2009, the fee rate was 0.1% of warehouse value.

The regulation regarding environmental impact assessment approval for Kenya has been in place since 1999. However, in recent years NEMA has started enforcing the rules more vigorously. NEMA conducts periodic inspections during the construction. If new projects at the moment of inspection do not have an environmental impact assessment they may order the project be closed and erected objects demolished. Therefore, construction companies are now obtaining the environmental approval before the building is completed. Nevertheless, the legislation is not clear on which categories of buildings this regulation would apply to.

Procedure 3. Notify the Kilifi Municipal Council of the commencement of building work and receive a routine on-site inspection**Time:** 2 days**Cost:** No cost**Procedure 4. Request an occupancy certificate and receive a final on-site inspection by the municipal authority****Time:** 2 days**Cost:** No cost

Comments: The company has to file an inspection request and an officer from the Municipal Engineer's Department performs an on-site inspection the next day.

Procedure 5. Obtain an occupancy certificate**Time:** 14 days**Cost:** No cost

Comments: If the warehouse is found to be in compliance with the inspection requirements, an occupancy certificate is issued by the Kilifi Municipal Council.

Procedure 6. Apply for water and sewerage connection**Time:** 2 days**Cost:** No cost

Comments: Along with the application form, BuildCo needs to submit the following:

- a. Sketch map of the building site;
- b. Copy of certificate of incorporation;
- c. PIN number.

Procedure 7*. Pay water and sewerage installation costs and obtain connection**Time:** 13 days**Cost:** KES 10,000**Procedure 8*. Request electricity connection from the local electricity provider****Time:** 1 day**Cost:** No cost

Comments: According to KPLC, BuildCo needs to fill an Enquiry for Supply of Electricity form and submit it to the KPLC local office with the following documents:

- a. Copy of the national identity card of the person who is applying on BuildCo's behalf (non-Kenyans will be required to provide a copy of a valid passport);
- b. Copy of the lease agreement or a title deed of the premises to be supplied with electricity or a signed letter of tenancy from the responsible landlord with a copy of his/her identify card;
- c. Detailed route sketch of the premises (this should include roads and other salient features). Corporate customers are required to also provide a copy of their personal identification number (PIN) certificate and certificate of incorporation.

Procedure 9*. Apply and pay for telephone connection**Time:** 3 days**Cost:** KES 2,300

Comments: BuildCo applies for telephone connection at the local Telkom Kenya office where readily available forms can be immediately filled out and submitted. To obtain a commercial connection, the applicant needs to submit, along with the application, the following:

- a. Proof of ownership of the business;
- b. Identification card.

The same tariff and connection fee apply across the country.

Procedure 10. Receive an on-site inspection by the local electricity provider**Time:** 3 days**Cost:** No cost**Procedure 11. Obtain electricity connection****Time:** 17 days**Cost:** KES 121,000 (inclusive of 16% VAT)

Comments: Connection is obtained only after the on-site inspector has indicated that the building fulfills all requirements for electricity installation. The cost ranges from KES 35,000 for a single-phase connection to KES 121,000 for a three-phase connection.

*This procedure can be completed simultaneously with previous procedures

DEALING WITH CONSTRUCTION PERMITS

Kisumu

Procedures to build a warehouse

Warehouse value: US\$ 404,783 = KES 32,500,000

Data as of: June 2009

Procedure 1. Request and get approval of the architectural plans the Kisumu Municipal Council

Time: 30 days

Cost: KES 76,668 (KES 39,925 architectural fee, KES 26,743 structural submission fee, KES 5,000 building inspection fee, and KES 5,000 Public Health Department fee)

Comments: The building permit is sought and obtained from the Kisumu Municipal Council. BuildCo must submit, along with a site plan, the following:

- Proof of ownership of the plot;
- Receipt evidencing the purchase of land;
- Physical Planning Act form (PPA1), which is then submitted to the Municipal Planner's Department for approval.

The Kisumu Municipal Council has a fully fledged Municipal planner's Department that includes the Physical Planning Department and the Public Health Department. Everything is done in house, including approval of signatures for the PPA1 form. The building approval is valid for a period of one year within which BuildCo must commence the construction. The permit may be extended for the same period of time at a nominal cost.

Procedure 2. Notify the Kisumu Municipal Council of the commencement of building work and receive a routine on-site inspection

Time: 1 day

Cost: No cost

Comments: There are several inspections required by the municipal by-laws. However, the common practice is that the inspectors only come for routine checks during the construction phase. They stop by the construction site while the construction continues and check if everything is being built in accordance with the architectural plans initially submitted.

Procedure 3. Request an occupancy certificate and receive a final on-site inspection by the municipal authority

Time: 10 days

Cost: No cost

Procedure 4. Obtain an occupancy certificate

Time: 7 days

Cost: KES 2,000

Comments: Once the building has been inspected and found to be in compliance with inspection requirements, an occupancy certificate is issued.

Procedure 5. Apply for water and sewerage connection

Time: 3 days

Cost: KES 2,500

Procedure 6. Pay water and sewerage installation costs and obtain connection

Time: 20 days

Cost: KES 8,500 (KES 2,500 for meter and KES 6,000 for deposit)

Comments: The periurban areas of Kisumu do not have sewerage and water networks. The developer has to build a septic tank.

Procedure 7*. Request electricity connection from the local electricity provider

Time: 1 day

Cost: No cost

Comments: According to KPLC, BuildCo needs to fill an Enquiry for Supply of Electricity form and submit it to the KPLC local office with the following documents:

- Copy of the national identity card of the person who is applying on BuildCo's behalf (non-Kenyans will be required to provide a copy of a valid passport);
- Copy of the lease agreement or a title deed of the premises to be supplied with electricity or a signed letter of tenancy from the responsible landlord with a copy of his/her identify card;
- Detailed route sketch of the premises (this should include roads and other salient features). Corporate customers are required to also provide a copy of their personal identification number (PIN) certificate and certificate of incorporation.

Procedure 8*. Apply and pay for telephone connection

Time: 6 days

Cost: KES 2,300

Comments: BuildCo applies for telephone connection at the local Telkom Kenya office where readily available forms can be immediately filled out and submitted. To obtain a commercial connection, the applicant needs to submit, along with the application, the following:

- Proof of ownership of the business;
- Identification card.

The same tariff and connection fee apply across the country.

Procedure 9*. Receive an on-site inspection by the local electricity provider

Time: 1 day

Cost: No cost

Comments: Connection is obtained only after the on-site inspector has indicated that the building fulfills all requirements for electricity installation.

Procedure 10. Obtain electricity connection

Time: 28 days

Cost: KES 54,000 (inclusive of 16% VAT)

*This procedure can be completed simultaneously with previous procedures

DEALING WITH CONSTRUCTION PERMITS

Malaba

Procedures to build a warehouse

Warehouse value: US\$ 404,783 = KES 32,500,000

Data as of: June 2009

Procedure 1. Request approval of the architectural plans from the Malaba Municipal Council

Time: 14 days

Cost: KES 6,400

Comments: BuildCo submits to the Malaba Municipal Council the following:

- Building plans;
- Title deed;
- Proof of land ownership.

An officer from the Public Works Department will look at the plans and make recommendations. If the plans are in order, the company will pay the required fees for the permit. Afterwards, the plans are forwarded to the Municipal Planning Committee for formalization.

Procedure 2. Obtain approval from National Environment Management Authority

Time: 30 days

Cost: KES 16,250

Comments: Following the enactment of a new Environmental Management and Co-ordination Act on February 27, 2009, companies now have to obtain approval of the project from the National Environment Management Authority. Projects of all risk categories are subject to approval and environmental impact assessment (EIA), including BuildCo's warehouse. The cost is set at 0.05% of warehouse value (KES 32,500,000). Prior to February 11, 2009, the fee rate was 0.1% of warehouse value.

The regulation regarding environmental impact assessment approval for Kenya has been in place since 1999. However, in recent years NEMA has started enforcing the rules more vigorously. NEMA conducts periodic inspections during the construction. If new projects at the moment of inspection do not have an environmental impact assessment they may order the project be closed and erected objects demolished. Therefore, construction companies are now obtaining the environmental approval before the building is completed. Nevertheless, the legislation is not clear on which categories of buildings this regulation would apply to.

Procedure 3. Notify the Malaba Municipal Council of the commencement of building work and receive a routine on-site inspection

Time: 2 days

Cost: No cost

Comments: There are several inspections required by the municipal by-laws. However, the common practice is that the inspectors only come for routine checks during the construction phase. They stop by the construction site while the construction continues and check if everything is being built in accordance with the architectural plans submitted initially. The inspector sent by the Malaba Municipal Council could check, among other things, the building boundaries, accessibility to the power line, sewerage, water, and telephone line, cement mixture, reinforcements, roofing, and site consolidation.

Procedure 4. Request an occupancy certificate and receive a final on-site inspection by the municipal authority

Time: 1 day

Cost: No cost

Comments: The Malaba Municipal Council conducts an inspection to ensure that the structure built complies with the building plans submitted and approved by the Municipal Council before issuing any occupancy certificate.

Procedure 5. Obtain an occupancy certificate

Time: 3 days

Cost: KES 1,500

Comments: Once the building has been inspected, the occupancy certificate is issued by the Public Health Department.

Procedure 6. Apply for water and sewerage connection

Time: 1 day

Cost: KES 1,500 (application fee)

Procedure 7. Pay water and sewerage installation costs and obtain connection

Time: 7 days

Cost: KES 2,000 (connection fee)

Comments: There are two water supply systems in Malaba, one provided by the Municipal Council of Malaba and another provided by the Malaba Water and Sewerage Company.

Procedure 8*. Request electricity connection from the local electricity provider

Time: 2 days

Cost: KES 400 (transportation cost)

Comments: There is no KPLC office in Malaba. Electricity connection requests can be done either in Kisumu, Busia or in Bungoma town. The round-trip transportation cost is KES 400.

According to KPLC, BuildCo needs to fill an Enquiry for Supply of Electricity form and submit it to the KPLC local office with the following documents:

- Copy of the national identity card of the person who is applying on BuildCo's behalf (non-Kenyans will be required to provide a copy of a valid passport);
- Copy of the lease agreement or a title deed of the premises to be supplied with electricity or a signed letter of tenancy from the responsible landlord with a copy of his/her identify card;
- Detailed route sketch to the premises (this should include roads and other salient features). Corporate customers are required to also provide a copy of their personal identification number (PIN) certificate and certificate of incorporation.

Procedure 9*. Receive an on-site inspection by the local electricity provider

Time: 7 days

Cost: No cost

Comments: The inspection is done by KPLC personnel sent from Kisumu.

Procedure 10*. Apply and pay for telephone connection

Time: 7 days

Cost: KES 2,300

Comments: BuildCo applies for telephone connection at the local Telkom Kenya office where readily available forms can be immediately filled out and submitted. To obtain a commercial connection, the applicant needs to submit, along with the application, the following:

- Proof of ownership of the business;
- Identification card.

The same tariff and connection fee apply across the country.

Procedure 11. Obtain electricity connection

Time: 50 days

Cost: KES 54,000 (inclusive of 16% VAT)

Comments: Malaba relies on KPLC personnel from neighboring towns of Kisumu, Busia and Bungoma town to do the electricity connection. This is the reason why the average time to obtain electricity connection is quite longer than in other towns across Kenya.

*This procedure can be completed simultaneously with previous procedures

DEALING WITH CONSTRUCTION PERMITS

Mombasa

Procedures to build a warehouse

Warehouse value: US\$ 404,783 = KES 32,500,000

Data as of: June 2009

Procedure 1. Request approval of the architectural plans and get the Physical Planning Act 1 form (PPA1) from the Mombasa Municipal Council

Time: 60 days

Cost: KES 21,500

Comments: BuildCo is required to submit the following documents:

- Copy of the title deed;
- Clearance certificate;
- Architectural drawings;
- Structural drawings.

Procedure 2*. Submit project plans and get approval from the Building Department

Time: 1 day

Cost: No cost

Comments: BuildCo has to send a representative to get approval signature on the PPA1 form from the Building Department since the Mombasa Municipal Council lacks personnel to circulate the project plans to this department.

Procedure 3*. Submit project plans and get approval from the Municipal Planning Department

Time: 1 day

Cost: No cost

Comments: BuildCo has to send a representative to get approval signature on the PPA1 form from the Municipal Planning Department since Mombasa Municipal Council lacks personnel to circulate the project plans to this department.

Procedure 4*. Submit project plans and get approval from the Valuation Department

Time: 1 day

Cost: No cost

Comments: BuildCo has to send a representative to get approval signature on the PPA1 form from the Valuation Department since the Mombasa Municipal Council lacks personnel to circulate the project plans to this department.

Procedure 5*. Submit project plans and get approval from the Public Health Department**Time:** 3 days**Cost:** No cost

Comments: BuildCo has to send a representative to get approval signature on the PPA1 form from the Public Health Department since the Mombasa Municipal Council lacks personnel to circulate the project plans to this department.

Procedure 6. Notify the Mombasa Municipal Council of the commencement of building work and receive a routine on-site inspection**Time:** 2 days**Cost:** No cost

Comments: There are several inspections required by the municipal by-laws. However, the common practice is that the inspectors only come for routine checks during the construction phase. They stop by the construction site while the construction continues and check if everything is being built in accordance with the architectural plans initially submitted. The inspector sent by the Municipal Council could check, among other things, the building boundaries, accessibility to the power line, sewerage, water, and telephone line, cement mixture, reinforcements, roofing, and site consolidation.

Procedure 7. Request an occupancy certificate and receive a final on-site inspection by the municipal authority**Time:** 1 day**Cost:** No cost**Procedure 8. Obtain an occupancy certificate****Time:** 2 days**Cost:** KES 19,000

Comments: Once the construction is completed and inspected, BuildCo submits an application for an occupancy certificate, which is issued the next day. The Mombasa Municipal Council conducts inspection to ensure that the structure built complies with the building plans submitted and approved by the Council.

Procedure 9. Apply for water and sewerage connection**Time:** 2 days**Cost:** KES 1,000

Comments: BuildCo needs to submit the following:

- Filled application form;
- Title deed;
- Certificate of registration;
- PIN number.

Procedure 10. Pay water and sewerage installation costs and obtain connection**Time:** 20 days**Cost:** KES 6,500 (fixed fee)**Procedure 11*. Request electricity connection from the local electricity provider****Time:** 1 day**Cost:** No cost

Comments: According to KPLC, BuildCo needs to fill an Enquiry for Supply of Electricity form and submit it to the KPLC local office with the following documents:

- Copy of the national identity card of the person who is applying on BuildCo's behalf (non-Kenyans will be required to provide a copy of a valid passport);
- Copy of the lease agreement or a title deed of the premises to be supplied with electricity or a signed letter of tenancy from the responsible landlord with a copy of his/her identify card;
- Detailed route sketch of the premises (this should include roads and other salient features). Corporate customers are required to also provide a copy of their personal identification number (PIN) certificate and certificate of incorporation.

Procedure 12*. Apply and pay for telephone connection**Time:** 20 days**Cost:** KES 2,300

Comments: BuildCo applies for telephone connection at the local Telkom Kenya office where readily available forms can be immediately filled out and submitted. To obtain a commercial connection, the applicant needs to submit, along with the application, the following:

- Proof of ownership of the business;
- Identification card.

The same tariff and connection fee apply across the country.

Procedure 13*. Receive an on-site inspection by the local electricity provider**Time:** 3 days**Cost:** No cost**Procedure 14. Obtain electricity connection****Time:** 7 days**Cost:** KES 49,940 (inclusive of 16% VAT)

Comments: There are standard fees for a three-phase connection.

* This procedure can be completed simultaneously with previous procedures

DEALING WITH CONSTRUCTION PERMITS

Nairobi

Procedures to build a warehouse

Warehouse value: US\$ 404,783 = KES 32,500,000

Data as of: June 2009

Procedure 1. Submit architectural plan for approval and obtain provisional building permit**Time:** 30 days**Cost:** KES 64,303

Comments: BuildCo would approach the City Development Department, of the City Council of Nairobi (CCN) to get its architectural plans approved first. Before submitting the application, BuildCo needs to make payment of relevant fees. Once payment is made, BuildCo submits the receipt to the City Development Department. The application must contain the architectural drawings and plans, land title, and a copy of the main architect's license. The application then gets forwarded to various departments: the Physical Planning Department, the Road Department, the Public Health Department, the Fire Department, the Water Authority, and the Electricity Authority. Each department takes at least one week to clear the respective section of the plans, and grants separate permits for the plumbing, sewerage, and electrical activities that BuildCo will be involved in during the construction of the warehouse. Thereafter, the application is forwarded for approval to the Technical Committee that convenes twice a week and issues the approvals. As a result of the approval of architectural drawings, BuildCo will receive the building permit. Building permit is granted only provisionally, until the structural segment is approved.

After the provisional building permit is obtained, BuildCo needs to submit its structural project separately.

Since 2006, CCN has been reforming under the Rapid Results Initiative (RRI), trying to reduce the number of days and eliminate bottlenecks. Since 2008 the architectural project approval is done by the Technical Committee that convenes twice a week and issues the approvals. Previously, the approving body was the City Council itself. However, due to its busy schedule and backlog, it was decided to transfer the responsibility from the City Council to the Technical Committee. Because of various reforms, now it takes on average 30 days to obtain this part of approval as opposed to 50 days before. However, approval time varies because it depends on the diligence of the architect.

As of November 2008, occupancy certificate fee must be paid at this stage.

According to the updated fee schedule of the City Council of Nairobi, as of October 31, 2009 in the Kenya Gazette, the following changes are introduced:

- Design inspection fee for the first 930 square meters is KES 12,850;
- For every 93 square meters above the original 930 square meters the design inspection fee increases by KES 1,500;
- The total design inspection fee for BuildCo is KES 18,850 for 1300.6 square meters;
- construction sign board fee is KES 15,000;
- Application fee is KES 2,000;
- Infrastructure development levy fee is 0.5% of the estimated development cost of the building, which comes down to KES 13,656.3;

- g. Occupancy fee for a warehouse of 930 square meters is KES 14,000 and for every additional 93 square meters an additional KES 200 (for BuildCo's warehouse this comes down to KES 14,796.9).

Procedure 2. Submit and obtain structural plan approval and final building permit

Time: 10 days

Cost: KES 7,476

Comments: Once the architectural plans and drawings are approved and comments and changes are made, BuildCo has to incorporate them into the structural plans and re-submit the application to the CCN for approval. This is done as common practice for submitting both plans together is impossible. One other reason why these two steps happen separately is because the architectural drawings and plans are checked by the Structural Department at a stage when structural plans are approved. Construction works begin only after this approval.

Due to RRI program and internal processes of simplification in the CCN it takes now 10 days to obtain the structural approval compared to previous 25 days.

BuildCo must have the following items approved: project plans, architectural drawings, location survey of property documents and others.

Procedure 3. Obtain approval from the National Environment Management Authority

Time: 30 days

Cost: KES 16,250

Comments: Following the enactment of a new Environmental Management and Co-ordination Act on February 27, 2009, companies now have to obtain approval of the project from the National Environment Management Authority. Projects of all risk categories are subject to approval and environmental impact assessment (EIA), including BuildCo's warehouse. The cost is set at 0.05% of warehouse value (KES 32,500,000). Prior to February 11, 2009, the fee rate was 0.1% of warehouse value.

The regulation regarding environmental impact assessment approval for Kenya has been in place since 1999. However, in recent years NEMA has started enforcing the rules more vigorously. NEMA conducts periodic inspections during the construction. If new projects at the moment of inspection do not have an environmental impact assessment they may order the project be closed and erected objects demolished. Therefore, construction companies are now obtaining the environmental approval before the building is completed. Nevertheless, the legislation is not clear on which categories of buildings this regulation would apply to.

Procedure 4. Receive on-site inspection by the municipal authority after construction

Time: 5 days

Cost: KES 100

Comments: BuildCo must inform the municipality that the building has been completed in order to start the inspections.

Procedure 5. Obtain an occupancy certificate

Time: 14 days

Cost: No cost

Comments: Cost for this procedure is included in Procedure 1.

Procedure 6. Apply for water and sewerage connection

Time: 1 day

Cost: KES 1,100

Procedure 7. Pay water and sewerage installation costs and obtain connection

Time: 30 days

Cost: KES 6,000

Comments: The applicant is required to submit an "application for water and sewerage supply form" obtained from the Nairobi City Water and Sewerage Company. Thereafter, the applicant is required to pay KES 1,100 for a survey and estimates fees and attach the receipt of payment to the application form. The applicant is also required to attach the company's certificate of registration and its PIN number. The Nairobi Water Company may approve the application after all these documents have been submitted. After approval, applicant is required to pay KES 6,000. The applicant is responsible for payment of all water, meter rent, sewer, conservancy, and refuse collection charges. The process usually takes a month.

Procedure 8*. Request electricity connection from local electricity provider

Time: 1 day

Cost: KES 2,000

Comments: This procedure involves making an application to the electricity provider attaching a copy of the certificate of incorporation, a clear map showing the physical location of the warehouse, and a site plan of where the meter board (if using the meter system) will be installed.

The steps to follow to apply for electricity are:

- a. Complete the Enquiry For Supply of Electricity form;
- b. Attach a copy of PIN, certificate of incorporation of the company, title deed of the premises and a detailed sketch of the premises indicating roads and other salient features.

Kenya Power & Lighting Company (KPLC) is the body responsible for transmission and distribution of electricity in Kenya and not KENGEN. KENGEN only generates the electrical power and sells it to KPLC for transmission and distribution to consumers.

Procedure 9*. Receive an on-site inspection by the local electricity provider

Time: 1 day

Cost: No cost

Procedure 10*. Obtain electricity connection

Time: 14 days

Cost: No cost

Comments: After the inspection, KPLC will send a quotation to BuildCo on the amount of capital contribution plus the deposit to be paid. The capital contribution includes the cost of labor, materials and the transport involved. This quotation is valid for only 90 days. When the applicant pays the amount of the quotation, power connection will be effected.

Procedure 11*. Apply and pay for telephone connection

Time: 5 days

Cost: KES 2,300

Comments: BuildCo applies for telephone connection at the local Telkom Kenya office where readily available forms can be immediately filled out and submitted. To obtain a commercial connection, the applicant needs to submit, along with the application, the following:

- a. Proof of ownership of the business;
- b. Identification card.

The same tariff and connection fee apply across the country.

* This procedure can be completed simultaneously with previous procedures

DEALING WITH CONSTRUCTION PERMITS

Narok

Procedures to build a warehouse

Warehouse value: US\$ 404,783 = KES 32,500,000

Data as of: June 2009

Procedure 1. Request approval of architectural plans and get a Physical Planning Act 1 form (PPA1) from the Narok Municipal Council

Time: 30 days

Cost: KES 20,000 (KES 16,000 to the Municipal Council, KES 1,000 for the Physical Planning Act 1 form (PPA1), and KES 3,000 for the District Planning Office)

Comments: The Narok Municipal Council will circulate the plans for approval to various departments that are either in the same premises or in the vicinity of the Municipal Council building.

Procedure 2. Submit project plans and get approval from the District Public Health Office

Time: 1 day

Cost: KES 5,000

Procedure 3. Notify the Narok Municipal Council of the commencement of building work and receive a routine on-site inspection

Time: 1 day

Cost: No cost

Comments: There are several inspections required by the municipal by-laws. However, the common practice is that the inspectors only come for routine checks during the construction phase. They stop by the construction site while the construction continues and check if everything is being built in accordance with the architectural plans initially submitted. The inspector sent by the Municipal Council could check, among other things, the building boundaries, accessibility to the power line, sewerage, water, and telephone line, cement mixture, reinforcements, roofing, and site consolidation.

Procedure 4. Request an occupancy certificate and receive a final on-site inspection by the municipal authority

Time: 1 day

Cost: No cost

Procedure 5. Obtain an occupancy certificate

Time: 5 days

Cost: KES 2,000

Comments: The occupancy certificate is issued only after the inspector has determined that the building is in full compliance with the architectural plans submitted initially.

Procedure 6. Apply for water and sewerage connection

Time: 1 day

Cost: KES 1,000

Procedure 7. Pay water and sewerage installation costs and obtain connection

Time: 5 days

Cost: KES 5,000

Comments: The Narok Water and Sewerage Company is a subsidiary of the Rift Valley Water and Sewerage Company and is co-owned by the Municipal Council of Narok. It is required that all buildings provide a conservancy tank for sewerage and foul water disposal.

Procedure 8*. Request electricity connection from the local electricity provider

Time: 1 day

Cost: No cost

Comments: According to KPLC, BuildCo needs to fill an Enquiry for Supply of Electricity form and submit it to the KPLC local office with the following documents:

- Copy of the national identity card of the person who is applying on BuildCo's behalf (non-Kenyans will be required to provide a copy of a valid passport);
- Copy of the lease agreement or a title deed of the premises to be supplied with electricity or a signed letter of tenancy from the responsible landlord with a copy of his/her identify card;
- Detailed route sketch of the premises (this should include roads and other salient features). Corporate customers are required to also provide a copy of their personal identification number (PIN) certificate and certificate of incorporation.

Procedure 9*. Apply and pay for telephone connection

Time: 3 days

Cost: KES 2,300

Comments: BuildCo applies for telephone connection at the local Telkom Kenya office where readily available forms can be immediately filled out and submitted. To obtain a commercial connection, the applicant needs to submit, along with the application, the following:

- Proof of ownership of the business;
- Identification card.

The same tariff and connection fee apply across the country.

Procedure 10*. Receive an on-site inspection by the local electricity provider

Time: 1 day

Cost: No cost

Procedure 11. Obtain electricity connection

Time: 25 days

Cost: KES 48,720 (inclusive of 16% VAT)

Comments: KES 42,000 plus VAT is the schedule for a three-phase connection.

* This procedure can be completed simultaneously with previous procedures

DEALING WITH CONSTRUCTION PERMITS

Nyeri

Procedures to build a warehouse

Warehouse value: US\$ 404,783 = KES 32,500,000

Data as of: June 2009

Procedure 1. Request approval of the architectural plans from the Nyeri Municipal Council

Time: 40 days

Cost: KES 12,000

Comments: BuildCo submits the application for approval to Nyeri Municipal Council and the Municipal Council then forwards the clearances to its various departments, which include:

- The Urban Planning Department;
- The Engineering Department;
- The Development Department.

Procedure 2. Submit project plans and get approval from the Public Health Department

Time: 2 days

Cost: No cost

Procedure 3. Notify the Nyeri Municipal Council of the commencement of building work and receive a routine on-site inspection

Time: 2 days

Cost: KES 100

Comments: There are several inspections required by the municipal by-laws. However, the common practice is that the inspectors only come for routine checks during the construction phase. They stop by the construction site while the construction continues and check if everything is being built in accordance with the architectural plans initially submitted. The inspector sent by the Municipal Council could check, among other things, the building boundaries, accessibility to the power line, sewerage, water, and telephone line, cement mixture, reinforcements, roofing, and site consolidation.

Procedure 4. Request an occupancy certificate and receive a final on-site inspection by the municipal authority

Time: 1 day

Cost: KES 100

Comments: BuildCo informs the relevant departments at the Nyeri Municipal Council that the warehouse is completed. The Council sends its officers to inspect the building to find out if it conforms to the project plans, architectural plans and structural design that the company had submitted for approval.

Procedure 5. Obtain an occupancy certificate

Time: 1 day

Cost: KES 500

Comments: The occupancy certificate is issued only after the inspection is finished and the inspectors determine that the necessary requirements are fulfilled.

Procedure 6. Apply for water and sewerage connection

Time: 2 days

Cost: No cost

Comments: BuildCo is required to submit to the Nyeri Water and Sewerage Company the following:

- Copy of the certificate of incorporation;
- Plot number;
- PIN number.

Procedure 7. Pay water and sewerage installation costs and obtain connection**Time:** 7 days**Cost:** KES 5,000**Comments:** BuildCo is required to pay the connection fee before installation begins.**Procedure 8*. Request electricity connection from the local electricity provider****Time:** 1 day**Cost:** KES 3,500 (application fee)**Comments:** According to KPLC, BuildCo needs to fill an Enquiry for Supply of Electricity form and submit it to the KPLC local office with the following documents:

- Copy of the national identity card of the person who is applying on BuildCo's behalf (non-Kenyans will be required to provide a copy of a valid passport);
- Copy of the lease agreement or a title deed of the premises to be supplied with electricity or a signed letter of tenancy from the responsible landlord with a copy of his/her identify card;
- Detailed route sketch of the premises (this should include roads and other salient features). Corporate customers are required to also provide a copy of their personal identification number (PIN) certificate and certificate of incorporation.

Procedure 9*. Apply and pay for telephone connection**Time:** 3 days**Cost:** KES 2,300**Comments:** BuildCo applies for telephone connection at the local Telkom Kenya office where readily available forms can be immediately filled out and submitted. To obtain a commercial connection, the applicant needs to submit, along with the application, the following:

- Proof of ownership of the business;
- Identification card.

The same tariff and connection fee apply across the country.

Procedure 10*. Receive an on-site inspection by the local electricity provider**Time:** 28 days**Cost:** No cost**Procedure 11. Obtain electricity connection****Time:** 21 days**Cost:** KES 58,000 (inclusive of 16% VAT)**Comments:** KPLC sends their installation crew to the site so long as all dues have been paid.

*This procedure can be completed simultaneously with previous procedures

DEALING WITH CONSTRUCTION PERMITS

Thika*Procedures to build a warehouse**Warehouse value: US\$ 404,783 = KES 32,500,000**Data as of: June 2009***Procedure 1. Request approval of the architectural plans from the Thika Municipal Council****Time:** 45 days**Cost:** KES 10,000**Comments:** There is a schedule of charges that depends on the size of the building in square meters. The schedule of charges, published in the Daily Nation of December 29, 2008, is as follows:

- For a building from 901 square meters to 1000 square meters – KES 7,000;
- For every 100 square meters above 1,000, the cost increases by KES 1,000.

Since BuildCo's warehouse is 1,300 square meters the total cost is KES 10,000. The cost covers inspections and the occupancy certificate.

Procedure 2. Obtain approval from National Environment Management Authority**Time:** 30 days**Cost:** KES 16,250**Comments:** Following the enactment of a new Environmental Management and Co-ordination Act on February 27, 2009, companies now have to obtain approval of the project from the National Environment Management Authority. Projects of all risk categories are subject to approval and environmental impact assessment (EIA), including BuildCo's warehouse. The cost is set at 0.05% of warehouse value (KES 32,500,000). Prior to February 11, 2009, the fee rate was 0.1% of warehouse value.

The regulation regarding environmental impact assessment approval for Kenya has been in place since 1999. However, in recent years NEMA has started enforcing the rules more vigorously. NEMA conducts periodic inspections during the construction. If new projects at the moment of inspection do not have an environmental impact assessment they may order the project be closed and erected objects demolished. Therefore, construction companies are now obtaining the environmental approval before the building is completed. Nevertheless, the legislation is not clear on which categories of buildings this regulation would apply to.

Procedure 3. Notify the Thika Municipal Council of the commencement of building work and receive a routine on-site inspection**Time:** 2 days**Cost:** No cost**Comments:** There are several inspections required by the municipal by-laws. However, the common practice is that the inspectors only come for routine checks during the construction phase. They stop by the construction site while the construction continues and check if everything is being built in accordance with the architectural plans initially submitted. The cost for this inspection is paid when the request for approval of plans is made in procedure 1.**Procedure 4. Request an occupancy certificate and receive a final on-site inspection by the municipal authority****Time:** 4 days**Cost:** No cost**Comments:** The cost for the final on-site inspection is included in procedure 1.**Procedure 5. Obtain an occupancy certificate****Time:** 7 days**Cost:** KES 10,000**Comments:** The occupancy certificate is issued once BuildCo has fulfilled all relevant requirements issued in the PPA1 Form, as determined by the final inspection.**Procedure 6. Apply for water and sewerage connection****Time:** 1 day**Cost:** KES 200**Procedure 7. Pay water and sewerage installation costs and obtain connection****Time:** 13 days**Cost:** KES 7,500**Comments:** The connection fee changed at the end of year 2008, from KES 6,000 to KES 7,500.**Procedure 8*. Request electricity connection from the local electricity provider****Time:** 1 day**Cost:** KES 2,000 (application fee)**Comments:** According to KPLC, BuildCo needs to fill an Enquiry for Supply of Electricity form and submit it to the KPLC local office with the following documents:

- Copy of the national identity card of the person who is applying on BuildCo's behalf (non-Kenyans will be required to provide a copy of a valid passport);
- Copy of the lease agreement or a title deed of the premises to be supplied with electricity or a signed letter of tenancy from the responsible landlord with a copy of his/her identify card;
- Detailed route sketch of the premises (this should include roads and other salient features). Corporate customers are required to also provide a copy of their personal identification number (PIN) certificate and certificate of incorporation.

Procedure 9*. Apply and pay for telephone connection**Time:** 3 days**Cost:** KES 2,300

Comments: BuildCo applies for telephone connection at the local Telkom Kenya office where readily available forms can be immediately filled out and submitted. To obtain a commercial connection, the applicant needs to submit, along with the application, the following:

- Proof of ownership of the business;
- Identification card.

The same tariff and connection fee apply across the country.

Procedure 10*. Receive an on-site inspection by the local electricity provider**Time:** 1 day**Cost:** No cost**Procedure 11. Obtain electricity connection****Time:** 21 days**Cost:** KES 80,000 (inclusive of 16% VAT)

Comments: KPLC sends their installation crew to the site as long as all dues have been paid.

* This procedure can be completed simultaneously with previous procedures

LIST OF PROCEDURES

Registering property**Eldoret**

Property value: US\$ 38,331 = KES 3,077,674

Data as of: June 2009

Procedure 1. Carry out search of title at the Lands Office**Time:** 3 days**Cost:** KES 250

Comments: In respect of searches on property registered under the Registered Land Act, a copy of the title document is required to be submitted at the time of applying for the search. Also, one cannot carry out a personal search but must instead apply for an official search. The applicant fills and submits the prescribed form and pays KES 250.

Procedure 2*. Obtain Rates Clearance Certificate**Time:** 5 days**Cost:** KES 2,500

Comments: The applicant gets a demand notice, pays and waits for the document from the Eldoret municipal clerk.

Procedure 3*. Obtain Land Rent Clearance Certificate**Time:** 19 days**Cost:** KES 3,800**Procedure 4. File the transfer instrument at the Lands Office for assessment of stamp duty payable on the transfer****Time:** 8 days**Cost:** KES 123,107 (4% of the property value)

Comments: This procedure is carried out at the Lands Office of Eldoret (Uasin Gishu District). The draft transfer is prepared by the buyer's lawyers and needs to be approved by the seller's counterpart.

Procedure 5*. Receive inspection by land officer**Time:** 1 day**Cost:** No cost

Comments: While the draft transfer is being processed at the Lands Office, an inspector visits the site to verify the development and state of the property. Due to lack of transport, in practice, the inspector often has to be picked up in person and driven to the site. There are no prior appointments made and the actual inspection may happen within one day or, in the worst case, one month.

Procedure 6*. Obtain valuation of the property**Time:** 3 days**Cost:** KES 2,000

Comments: An application must be submitted to the Lands Office of the district. The valuer assesses the property and provides the estimate value or market rate on the valuation form.

Procedure 7. Pay stamp duty at a commercial bank**Time:** 4 days**Cost:** KES 200

Comments: The applicant has to submit a copy of the sales agreement. Once the stamp duty is paid, a copy of the deposit slip has to be presented at the Lands Office.

Procedure 8. Lodge the completion documents with the Lands Office for registration of the transfer**Time:** 4 days**Cost:** KES 250

Comments: Completion documents are lodged at the Lands Office of Eldoret. The applicant fills the application forms, pays the fees and lodges the documents for registration of the transfer.

* This procedure can be completed simultaneously with previous procedures

REGISTERING PROPERTY

Garissa

Property value: US\$ 38,331 = KES 3,077,674

Data as of: June 2009

Procedure 1. Carry out search of title at the Lands Office**Time:** 5 days (time to carry out search: 3 days + roundtrip: 2 days)**Cost:** KES 1,250 (search fee: KES 250 + transportation: KES 1,000)

Comments: This procedure is carried out in Nairobi as these services are not available in Garissa. The time to travel from Garissa to Nairobi is considered in this procedure. In respect of searches on property registered under the Registered Land Act, a copy of the title document is required to be submitted at the time of applying for the search. Also, one cannot carry out a personal search but must instead apply for an official search. The applicant fills and submits the prescribed form and pays KES 250.

Procedure 2*. Obtain Rates Clearance Certificate**Time:** 1 day**Cost:** KES 250

Comments: An application for the Rates Clearance Certificate is submitted along with the latest payment receipt.

Procedure 3*. Obtain Land Rent Clearance Certificate**Time:** 19 days**Cost:** KES 2,500

Comments: An application for Land Rent Certificate along with the latest payment receipt.

Procedure 4. File the transfer instrument at the Lands Office for assessment of stamp duty payable on the transfer**Time:** 10 days**Cost:** KES 123,107 (4% of the property value)

Comments: The draft transfer is prepared by the buyer's lawyers and needs to be approved by the seller's counterpart.

Procedure 5*. Receive inspection by land officer**Time:** 1 day**Cost:** No cost

Comments: While the draft transfer is being processed at the Lands Office, an inspector visits the site to verify the development and state of the property. Due to lack of transport, in practice, the inspector often has to be picked up in person and driven to the site. There are no prior appointments made and the actual inspection may happen within one day or, in the worst case, one month.

Procedure 6*. Obtain valuation of the property**Time:** 30 days**Cost:** No cost

Comments: The inspector visits the site to evaluate and verify the indicated purchase price of the property in order to ensure accurate tax payment. If the assessed value differs from the one indicated by the parties, an additional payment is requested.

Previously, such inspections were conducted on a random basis, but now every transaction requires such an inspection. The issues involved are similar to the inspections by the land officer and, therefore, may happen within one day to over one month. The evaluation report itself is completed within a few days of the inspection. Both inspections are required before the completion documents can be lodged with the Lands Office.

Procedure 7. Pay stamp duty at a commercial bank**Time:** 4 days**Cost:** KES 200

Comments: The applicant obtains a banker's check after making the relevant payment.

Procedure 8. Lodge the completion documents with the Lands Office for registration of the transfer**Time:** 30 days**Cost:** KES 250

Comments: The transfer form duly filled and the original title document are lodged at the Lands Office by the buyer.

* This procedure can be completed simultaneously with previous procedures

REGISTERING PROPERTY

Isiolo

Property value: US\$ 38,331 = KES 3,077,674

Data as of: June 2009

Procedure 1. Carry out search of title at the Lands Office**Time:** 5 days (time to carry out search: 3 days + roundtrip: 2 days)**Cost:** KES 2,250 (search fee: KES 250 + transportation: KES 2,000)

Comments: This procedure is carried out in Nairobi as these services are not available in Isiolo. The time to travel from Isiolo to Nairobi is considered in this procedure. In respect of searches on property registered under the Registered Land Act, a copy of the title document is required to be submitted at the time of applying for the search. Also, one cannot carry out a personal search but must instead apply for an official search. The applicant fills and submits the prescribed form and pays KES 250.

Procedure 2*. Obtain Rates Clearance Certificate**Time:** 2 days**Cost:** KES 617,135**Procedure 3*. Obtain Land Rent Clearance Certificate****Time:** 19 days**Cost:** KES 250**Procedure 4. File the transfer instrument at the Lands Office for assessment of stamp duty payable on the transfer****Time:** 10 days**Cost:** KES 123,107 (4% of the property value)

Comments: The draft transfer is prepared by the buyer's lawyers and needs to be approved by the seller's counterpart.

Procedure 5*. Receive inspection by land officer**Time:** 1 day**Cost:** No cost

Comments: While the draft transfer is being processed at the Lands Office, an inspector visits the site to verify the development and state of the property. Due to lack of transport, in practice, the inspector often has to be picked up in person and driven to the site. There are no prior appointments made and the actual inspection may happen within one day or, in the worst case, one month. However, note that this time is not limited and in some cases entrepreneurs may wait months for a valuation.

Procedure 6*. Obtain valuation of the property**Time:** 20 days (time to obtain valuation: 20 days + roundtrip: 2 hours)**Cost:** KES 400 (transportation)

Comments: There are no land valuers in Isiolo, thus the main registry has to request a valuer in Meru to do the valuation in Isiolo and then forward it to Nairobi.

Procedure 7. Pay stamp duty at a commercial bank**Time:** 4 days**Cost:** KES 200

Comments: The original transfer is taken for assessment of the stamp duty payable in the Lands Office. After the assessment has taken place, the payment can be done at the designated banks (i.e. Kenya Commercial Bank or National Bank of Kenya).

Procedure 8. Lodge the completion documents with the Lands Office for registration of the transfer**Time:** 30 days**Cost:** KES 250

Comments: Completion documents are lodged at the Lands Office in Nairobi.

* This procedure can be completed simultaneously with previous procedures

REGISTERING PROPERTY

Kilifi

Property value: US\$ 38,331 = KES 3,077,674

Data as of: June 2009

Procedure 1. Carry out search of title at the Lands Office**Time:** 2 days**Cost:** KES 750

Comments: After an application form is submitted along with a copy of PIN number and certificate of incorporation, a search certificate is issued confirming the registered owner of the property. For land registered under Cap 300, the search is carried out at Kilifi Lands Office. For land registered under Cap 280, the search done at Mombasa Lands Office.

Procedure 2*. Obtain Rates Clearance Certificate**Time:** 5 days**Cost:** KES 3,000

Comments: Rates Clearance Certificate is obtained at the Lands Office in Kilifi.

Procedure 3*. Obtain Land Rent Clearance Certificate**Time:** 30 days**Cost:** No cost

Comments: An application is submitted along with a copy of PIN number of the applicant, receipts of payment for the rates payable, and receipt for payment of the Clearance Certificate.

Procedure 4. File the transfer instrument at the Lands Office for assessment of stamp duty payable on the transfer**Time:** 8 days**Cost:** KES 123,107 (4% of the property value)

Comments: The draft transfer is prepared by the buyer's lawyers and needs to be approved by the seller's counterpart.

Procedure 5*. Receive inspection by land officer**Time:** 30 days**Cost:** No cost

Comments: While the draft transfer is being processed at the Lands Office, an inspector visits the site to verify the development and state of the property. Due to lack of transport, in practice, the inspector often has to be picked up in person and driven to the site. There are no prior appointments made and the actual inspection may happen within one day or, in the worst case, one month. However, note that this time is not limited and in some cases entrepreneurs may wait months for a valuation.

Procedure 6*. Obtain valuation of the property

Time: 30 days

Cost: No cost

Comments: The inspector visits the site to evaluate and verify the indicated purchase price of the property in order to ensure accurate tax payment. If the assessed value differs from the one indicated by the parties, an additional payment is requested.

Previously, such inspections were conducted on a random basis, but now every transaction requires such an inspection. The issues involved are similar to the inspections by the land officer and, therefore, may happen within one day to over one month. The evaluation report itself is completed within a few days of the inspection. Both inspections are required before the completion documents can be lodged with the Lands Office.

Procedure 7. Pay stamp duty at a commercial bank

Time: 7 days

Cost: KES 200

Procedure 8. Lodge the completion documents with the Lands Office for registration of the transfer

Time: 4 days

Cost: KES 375

Comments: The completion documents are lodged for registration at the Lands Office in Kilifi.

These documents include:

- a. Original certificate of title;
- b. Rates Clearance Certificate;
- c. Land Rent Clearance Certificate;
- d. Consent to transfer;
- e. Valuation for stamp duty form.

If the land is registered under Cap 300, the certificate of the registered transfer is obtained at the Kilifi Lands Office.

If the land is registered under Cap 280, the certificate of the registered transfer is obtained at the Mombasa Lands Office.

The Lands Office in Kilifi registers land in the districts of Kilifi, Kaloleni and Malindi.

*This procedure can be completed simultaneously with previous procedures

REGISTERING PROPERTY

Kisumu

Property value: US\$ 38,331 = KES 3,077,674

Data as of: June 2009

Procedure 1. Carry out search of title at the Lands Office

Time: 1 day

Cost: KES 250

Comments: After the form RL 26 is submitted, the Lands Office issues a certificate confirming the registered owner of the land.

Procedure 2*. Obtain Rates Clearance Certificate

Time: 3 days

Cost: KES 3,000

Procedure 3*. Obtain Land Rent Clearance Certificate

Time: 7 days

Cost: No cost

Comments: The Land Rent Clearance Certificate is obtained at the Municipal Council of Kisumu.

Procedure 4. File the transfer instrument at the Lands Office for assessment of stamp duty payable on the transfer

Time: 1 day

Cost: KES 123,107 (4% of the property value)

Comments: The draft transfer is prepared by the buyer's lawyers and needs to be approved by the seller's counterpart.

Procedure 5*. Receive inspection by land officer

Time: 1 day

Cost: No cost

Comments: While the draft transfer is being processed at the Lands Office, an inspector visits the site to verify the development and state of the property. Due to lack of transport, in practice, the inspector often has to be picked up in person and driven to the site. There are no prior appointments made and the actual inspection may happen within one day or, in the worst case, one month. However, note that this time is not limited and in some cases entrepreneurs may wait months for a valuation.

Procedure 6*. Obtain valuation of the property

Time: 1 day

Cost: No cost

Comments: The inspector visits the site to evaluate and verify the indicated purchase price of the property in order to ensure accurate tax payment. If the assessed value differs from the one indicated by the parties, an additional payment is requested.

Previously, such inspections were conducted on a random basis, but now every transaction requires such an inspection. The issues involved are similar to the inspections by the land officer and, therefore, may happen within one day to over one month. The evaluation report itself is completed within a few days of the inspection. Both inspections are required before the completion documents can be lodged with the Lands Office.

Procedure 7. Pay stamp duty at a commercial bank

Time: 4 days

Cost: KES 200

Comments: The applicant has to visit the authorized bank and make the relevant payment. Once the banker's check has been obtained, it is submitted to the Lands Office.

Procedure 8. Lodge the completion documents with Lands Office for registration of the transfer

Time: 14 days

Cost: No cost

Comments: The applicant submits to the Lands Office the following documents:

- a. Original certificate of title;
- b. Rates Clearance Certificate;
- c. Land Rent Clearance Certificate;
- d. Consent to transfer;
- e. Valuation of property;
- f. Application for registration of transfer.

*This procedure can be completed simultaneously with previous procedures

REGISTERING PROPERTY

Malaba

Property value: US\$ 38,331 = KES 3,077,674

Data as of: June 2009

Procedure 1. Carry out search of title at the Lands Office

Time: 5 days

Cost: KES 750

Comments: In order to collect the official search results, the applicant has to submit the application form and pay the prescribed fee to the Busia District Lands Office.

Procedure 2*. Obtain Rates Clearance Certificate

Time: 2 days

Cost: KES 1,500

Procedure 3*. Obtain Land Rent Clearance Certificate**Time:** 5 days**Cost:** KES 2,500**Comments:** The seller obtains the Clearance Certificate himself upon payment of clearance fees to the Municipal Council.**Procedure 4. File the transfer instrument at the Lands Office for assessment of stamp duty payable on the transfer****Time:** 8 days**Cost:** KES 123,107 (4% of the property value)**Comments:** The draft transfer is prepared by the buyer's lawyers and needs to be approved by the seller's counterpart.**Procedure 5*. Receive inspection by lands officer****Time:** 8 days**Cost:** No cost**Comments:** While the draft transfer is being processed at the Lands Office, an inspector visits the site to verify the development and state of the property. Due to lack of transport, in practice, the inspector often has to be picked up in person and driven to the site. There are no prior appointments made and the actual inspection may happen within one day or, in the worst case, one month. However, note that this time is not limited and in some cases entrepreneurs may wait months for a valuation.**Procedure 6*. Obtain valuation of the property****Time:** 3 days**Cost:** No cost**Comments:** The government valuer assesses the value of the land using the Zonal Values available at the District Registry. When such operation is not possible, the valuer inspects the property physically.**Procedure 7. Pay stamp duty at a commercial bank****Time:** 5 days**Cost:** KES 200**Procedure 8. Lodge the completion documents with the Lands Office for registration of the transfer****Time:** 8 days**Cost:** KES 250**Comments:** The applicant submits to the Lands Office the following documents:

- a. Original certificate of title;
- b. Rates Clearance Certificate;
- c. Land Rent Clearance Certificate;
- d. Consent to transfer;
- e. Valuation of property;
- f. Application for registration of transfer.

* This procedure can be completed simultaneously with previous procedures

REGISTERING PROPERTY

Mombasa*Property value: US\$ 38,331 = KES 3,077,674**Data as of: June 2009***Procedure 1. Carry out search of title at the Lands Office****Time:** 3 days**Cost:** KES 250**Comments:** In order to collect the official search results, the applicant has to submit the application form and pay the prescribed fee at the Mombasa Lands Office.**Procedure 2*. Obtain Rates Clearance Certificate****Time:** 4 days**Cost:** KES 3,450**Comments:** This Rates Clearance Certificate is obtained at the Lands Office of Mombasa.**Procedure 3*. Obtain Land Rent Clearance Certificate****Time:** 8 days**Cost:** KES 250**Comments:** The Land Rent Certificate is obtained at the Municipal Council.**Procedure 4. File the transfer instrument at the Lands Office for assessment of stamp duty payable on the transfer****Time:** 8 days**Cost:** KES 123,107 (4% of the property value)**Comments:** The draft transfer is submitted for approval and assessment at the Lands Office. After the assessment has taken place, the stamp duty is paid at the designated banks (i.e. National Bank of Kenya and Cooperative Bank).**Procedure 5*. Receive inspection by land officer****Time:** 1 day**Cost:** No cost**Comments:** While the draft transfer is being processed at the Lands Office, an inspector visits the site to verify the development and state of the property. Due to lack of transport, in practice, the inspector often has to be picked up in person and driven to the site. There are no prior appointments made and the actual inspection may happen within one day or, in the worst case, one month. However, note that this time is not limited and in some cases entrepreneurs may wait months for a valuation.**Procedure 6*. Obtain valuation of the property****Time:** 7 days**Cost:** No cost**Comments:** The valuer visits the land to carry out the valuation in order to assess the true value of the property and prepares a report.**Procedure 7. Pay stamp duty at a commercial bank****Time:** 3 days**Cost:** KES 100**Procedure 8. Lodge the completion documents with the Lands Office for registration of the transfer****Time:** 1 day**Cost:** KES 250**Comments:** The applicant lodges all the documents including the transfer and original title at the Lands Office in Mombasa.

* This procedure can be completed simultaneously with previous procedures

REGISTERING PROPERTY

Nairobi*Property value: US\$ 38,331 = KES 3,077,674**Data as of: June 2009***Procedure 1. Carry out search of title at the Lands Office****Time:** 3 days**Cost:** KES 250**Comments:** In respect of searches on property registered under the Registered Land Act, a copy of the title document is required to be submitted at the time of applying for the search. Also, one cannot carry out a personal search but must instead apply for an official search.**Procedure 2*. Obtain Land Rent Clearance Certificate from the Commissioner of Lands****Time:** 19 days**Cost:** No cost**Comments:** Seller's lawyer obtains the Land Rent Clearance Certificate from the Commissioner of Lands at no cost.**Procedure 3*. Obtain Rates Clearance Certificate from the Nairobi City Council****Time:** 5 days**Cost:** KES 5,000

Comments: Seller's lawyer obtain the Rates Clearance Certificate from the Nairobi City Council. This certificate is important proof that there are no outstanding fees to be paid to the municipality. Lawyers are not required to be involved in the registration process. Lawyers' fees are calculated based on a fixed scale depending on the value of the property.

Procedure 4. File the transfer instrument at the Lands Office for assessment of stamp duty payable on the transfer

Time: 8 days

Cost: KES 123,107 (4% of the property value)

Comments: The draft transfer is prepared by the buyer's lawyers and needs to be approved by the seller's counterpart.

Procedure 5*. Pick up banker's check to pay stamp duty

Time: 2 days

Cost: KES 600

Comments: It is mandatory to pay the above-mentioned stamp duty with a banker's check. The payment is made through commercial banks and the approved banks include the Kenya Commercial Bank and The National Bank of Kenya. Payment is made to the Commissioner of Domestic Taxes on behalf of the Commissioner of Lands.

Procedure 6. Receive inspection by land officer

Time: 30 days

Cost: No cost

Comments: Once the draft transfer has been filed at the Lands Office, an inspector visits the site to assess the state of the property. Due to lack of transport, in practice, the inspector often has to be picked up in person and driven to the site. There are no prior appointments made and the actual inspection may happen within one day or, in the worst case, one month. However, note that this time is not limited and in some cases entrepreneurs may wait months for a valuation.

Procedure 7*. Obtain valuation of the property

Time: 7 days

Cost: No cost

Comments: The inspector visits the site to evaluate and verify the indicated purchase price of the property in order to ensure accurate tax payment. If the assessed value differs from the one indicated by the parties, an additional payment is requested.

Previously, such inspections were conducted on a random basis, but now every transaction requires such an inspection. The issues involved are similar to the inspections by the land officer and, therefore, may happen within one day to up to over one month. The evaluation report itself is completed within a few days of the inspection. Both inspections are required before the completion documents can be lodged with the Lands Office.

Procedure 8. Lodge the completion documents with Lands Office for registration of the transfer

Time: 6 days

Cost: KES 250

Comments: The completion documents are lodged for registration at the Lands Office.

The following documents are generally obtained from the seller's lawyers:

- a. Original certificate of title;
- b. Rates Clearance Certificate;
- c. Land Rent Clearance Certificate;
- d. Consent to transfer.

The seller's lawyers need to be informed of the registration and pay balance of the purchase price.

The certificate of the registered transfer is collected at the Lands Office.

* This procedure can be completed simultaneously with previous procedures

REGISTERING PROPERTY

Narok

Property value: US\$ 38,331 = KES 3,077,674

Data as of: June 2009

Procedure 1. Carry out search of title at the Lands Office

Time: 1 day

Cost: KES 100

Comments: Once the application and the receipt of payment are submitted, the applicant obtains a search certificate signed and sealed by the District Land Registrar.

Procedure 2*. Obtain Rates Clearance Certificate

Time: 2 days

Cost: KES 1,000

Comments: The Rates Clearance Certificate is obtained at the County Council of Narok.

Procedure 3*. Obtain Land Rent Clearance Certificate

Time: 15 days

Cost: KES 1,500

Comments: The Land Rent Clearance Certificate is obtained at the Regional Lands Office.

Procedure 4. File the transfer instrument at the Lands Office for assessment of stamp duty payable on the transfer

Time: 3 days

Cost: KES 123,107 (4% of the property value)

Comments: The draft transfer is prepared by the buyer's lawyers and needs to be approved by the seller's counterpart.

Procedure 5*. Receive inspection by land officer

Time: 21 days

Cost: No cost

Procedure 6*. Obtain valuation of the property

Time: 3 days

Cost: No cost

Comments: The inspector visits the site to evaluate and verify the indicated purchase price of the property in order to ensure accurate tax payment. If the assessed value differs from the one indicated by the parties, an additional payment is requested.

Previously, such inspections were conducted on a random basis, but now every transaction requires such an inspection. The issues involved are similar to the inspections by the land officer and, therefore, may happen within one day to over one month. The evaluation report itself is completed within a few days of the inspection. Both inspections are required before the completion documents can be lodged with the Lands Office.

Procedure 7. Pay stamp duty at a commercial bank

Time: 4 days

Cost: KES 200

Procedure 8. Lodge the completion documents with the Lands Office for registration of the transfer

Time: 3 days

Cost: KES 625

Comments: The applicant submits to the Lands Office the following documents:

- a. Original certificate of title;
- b. Rates Clearance Certificate;
- c. Land Rent Clearance Certificate;
- d. Consent to transfer;
- e. Valuation of property;
- f. Application for registration of transfer.

* This procedure can be completed simultaneously with previous procedures

REGISTERING PROPERTY

Nyeri

Property value: US\$ 38,331 = KES 3,077,674

Data as of: June 2009

Procedure 1. Carry out search of title at the Lands Office

Time: 3 days

Cost: KES 250

Comments: Once the application and the receipt of payment are submitted, the applicant obtains a search certificate signed and sealed by the Nyeri District Lands Office.

Procedure 2*. Obtain Rates Clearance Certificate

Time: 2 days (time to obtain rates: 1 day + roundtrip: 1 day)

Cost: KES 2,000 (transportation)

Comments: The Rates Clearance Certificate has to be obtained in Nairobi.

Procedure 3*. Obtain Land Rent Clearance Certificate

Time: 30 days

Cost: KES 3,800

Comments: The Land Rent Clearance Certificate is obtained at the Nyeri Municipal Council.

Procedure 4. File the transfer instrument at the Lands Office for assessment of stamp duty payable on the transfer

Time: 8 days

Cost: KES 123,107 (4% of the property value)

Comments: The draft transfer is prepared by the buyer's lawyers and needs to be approved by the seller's counterpart.

Procedure 5*. Receive inspection by land officer

Time: 1 day

Cost: No cost

Comments: While the draft transfer is being processed at the Lands Office, an inspector visits the site to verify the development and state of the property. Due to lack of transport, in practice, the inspector often has to be picked up in person and driven to the site. There are no prior appointments made and the actual inspection may happen within one day or, in the worst case, one month. However, note that this time is not limited and in some cases entrepreneurs may wait months for a valuation.

Procedure 6*. Obtain valuation of the property

Time: 7 days

Cost: No cost

Procedure 7. Pay stamp duty at a commercial bank

Time: 4 days

Cost: KES 100

Comments: The applicant presents the duly filled in Stamp Duty Declaration as well as the assessment and payment form, usually in triplicate, to the designated bank and pays the amounts indicated thereon. The bank stamps the form and issues a deposit slip. The applicant keeps one copy and leaves two copies at the bank. Within the next 3 to 5 days, the bank submits one copy to the Lands Office.

Procedure 8. Lodge the completion documents with the Lands Office for registration of the transfer

Time: 8 days

Cost: KES 375

Comments: The applicant submits to the Lands Office the following documents:

- a. Original certificate of title;
- b. Rates Clearance Certificate;
- c. Land Rent Clearance Certificate;
- d. Consent to transfer;
- e. Valuation of property;
- f. Application for registration of transfer.

*This procedure can be completed simultaneously with previous procedures

REGISTERING PROPERTY

Thika

Property value: US\$ 38,331 = KES 3,077,674

Data as of: June 2009

Procedure 1. Carry out search of title at the Lands Office

Time: 2 days

Cost: KES 105

Comments: The applicant fills and submits the prescribed form and pays KES 105.

Procedure 2*. Obtain Rates Clearance Certificate

Time: 7 days

Cost: KES 2,500

Comments: The Rates Clearance Certificate is obtained at the Thika Municipal Council.

Procedure 3*. Obtain Land Rent Clearance Certificate

Time: 7 days

Cost: No cost

Procedure 4. File the transfer instrument at the Lands Office for assessment of stamp duty payable on the transfer

Time: 14 days

Cost: KES 123,107 (4% of the property value)

Comments: The draft transfer is prepared by the buyer's lawyers and needs to be approved by the seller's counterpart.

Procedure 5*. Receive inspection by land officer

Time: 1 day

Cost: No cost

Comments: While the draft transfer is being processed at the Lands Office, an inspector visits the site to verify the development and state of the property. Due to lack of transport, in practice, the inspector often has to be picked up in person and driven to the site. There are no prior appointments made and the actual inspection may happen within one day or, in the worst case, one month. However, note that this time is not limited and in some cases entrepreneurs may wait months for a valuation.

Procedure 6*. Obtain valuation of the property

Time: 30 days

Cost: No cost

Comments: The inspector visits the site to evaluate and verify the indicated purchase price of the property in order to ensure accurate tax payment. If the assessed value differs from the one indicated by the parties, an additional payment is requested.

Previously, such inspections were conducted on a random basis, but now every transaction requires such an inspection. The issues involved are similar to the inspections by the land officer and, therefore, may happen within one day to over one month. The evaluation report itself is completed within a few days of the inspection. Both inspections are required before the completion documents can be lodged with the Lands Office.

Procedure 7. Pay stamp duty at a commercial bank

Time: 4 days

Cost: KES 200

Procedure 8. Lodge the completion documents with Lands Office for registration of the transfer

Time: 15 days

Cost: No cost

Comments: The applicant submits to the Lands Office the following documents:

- a. Original certificate of title;
- b. Rates Clearance Certificate;
- c. Land Rent Clearance Certificate;
- d. Consent to transfer;
- e. Valuation of the property;
- f. Application for the registration of the transfer.

*This procedure can be completed simultaneously with previous procedures

Contact details for local partners are available on the subnational Doing Business website at <http://subnational.doingbusiness.org>

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