



# Doing Business in Kenya 2012

COMPARING REGULATION FOR DOMESTIC FIRMS IN 13 CITIES AND WITH 183 ECONOMIES



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**COMPARING REGULATION FOR DOMESTIC FIRMS IN 13 CITIES AND WITH 183 ECONOMIES**

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*Doing Business in Kenya 2012* and other subnational and regional *Doing Business* studies can be downloaded at no charge at [www.doingbusiness.org/subnational](http://www.doingbusiness.org/subnational).

Copies of the *Doing Business* global reports: *Doing Business 2012: Doing Business in a More Transparent World*; *Doing Business 2011: Making a Difference for Entrepreneurs*; *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*; *Doing Business in 2004: Understanding Regulations* may be obtained at [www.doingbusiness.org](http://www.doingbusiness.org).

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*Doing Business in Kenya 2012* is the second subnational report of the *Doing Business* series in Kenya. In 2009, *Doing Business in Kenya 2010* analyzed quantitative indicators on business regulations for 11 cities: Eldoret, Garissa, Isiolo, Kilifi, Kisumu, Malaba, Mombasa, Nairobi, Narok, Nyeri, and Thika. This year, *Doing Business in Kenya 2012* documents improvements in the 11 cities previously measured and expands the analysis to 2 new cities: Kakamega and Nakuru. The cities can be compared against each other, and with 183 economies worldwide.

Comparisons with other economies are based on *Doing Business 2012—Doing business in a more transparent world*—the ninth in a series of annual reports published by the World Bank and International Finance Corporation. The indicators in *Doing Business in Kenya 2012* are also comparable with almost 400 cities from more than 50 economies benchmarked in other subnational *Doing Business* studies. All data and reports are available at [www.doingbusiness.org/subnational](http://www.doingbusiness.org/subnational).

*Doing Business* investigates the regulations that enhance business activity and those that constrain it. Regulations affecting 4 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 were selected because they cover areas of local jurisdiction or practice. The indicators are used to identify business reforms and the extent to which these have been effective in simplifying the procedures, saving time, and lowering the cost of doing business. The data in *Doing Business in Kenya 2012* are current as of March 2012.

This project is the result of collaboration between the Global Indicators and Analysis Department and the Investment Climate Advisory Services of the World Bank Group. It was produced with the assistance of the Office of the Prime Minister and the Office of the Deputy Prime Minister and Ministry of Local Government and with the financial support of the Department for International Development (UKaid), the European Union, and the Embassy of the Kingdom of the Netherlands in Nairobi.



# Executive summary

On August 27, 2010, tens of thousands of Kenyans gathered in the capital Nairobi to celebrate the ratification of the new constitution. This was an important milestone in Kenya's ongoing path of political and economic reforms. Adopting the constitution was also one of the guiding principles set in "Kenya Vision 2030"—the government's development blueprint which identified macroeconomic stability, good governance and infrastructure as its 3 main pillars. Despite several domestic and external shocks—such as the post-election violence in 2007/08 and the global financial crisis of 2008/09—the Kenyan economy has shown resilience and is steadily recovering with real GDP growing over 5% in 2010 and 2011 (estimated).<sup>1</sup> Investments in infrastructure include roads, airport expansions, increases in power supply and improved access to water. At the same time, the Kenyan government is keen on undertaking comprehensive structural reforms aimed at improving the investment climate.

Creating the right environment for a country to grow is not an easy task, especially in today's integrated global economy. Many external factors are beyond government control. Take rising commodity prices, for instance. Or natural disasters, like the recent East Africa drought that negatively impacted the agricultural sector in Kenya. But there are areas within the sphere of government jurisdiction that can make a country's economy more resilient. Business regulation reforms help create an investment climate conducive to starting and running a business, where complying with regulations brings more benefits than costs. They help create jobs and boost growth at a relatively low cost. They become even more relevant in times of tight budgets and high unemployment.

While the ratification of the constitution was in itself a major step towards transforming the institutional landscape of the country, specific operational measures need to be implemented—such as the creation of the 47 counties—in order to make decentralization a reality. At this time, entrepreneurs from across Kenya still need to travel to Nairobi to visit the Registrar of Companies. Nairobi is also the only city with a fully integrated department that handles construction-permit development. The land records maintained in the central land registry in Nairobi are more reliable than what is available in the local branches—which is why many people travel hundreds of miles to the capital. Besides the regulatory improvements taking place in the capital city and the legal and regulatory reforms affecting the country as a whole, this report also documents the local reform efforts that have resulted in cost and time savings for local entrepreneurs in locations

beyond Nairobi. A good example is found in the city of Isiolo: *Doing Business in Kenya 2010*<sup>2</sup> identified the local transfer tax as the reason it was one of the most expensive places in the world to transfer property. Local authorities slashed the transfer tax and today transferring property costs just one-fourth the previous rate. Elsewhere, in the cities of Mombasa and Eldoret, major institutional overhauls made construction permitting more efficient. Furthermore, Nairobi is no longer the only city with a specialized commercial court—a specialized commercial court has opened in Mombasa and plans are underway to establish one in Kisumu.

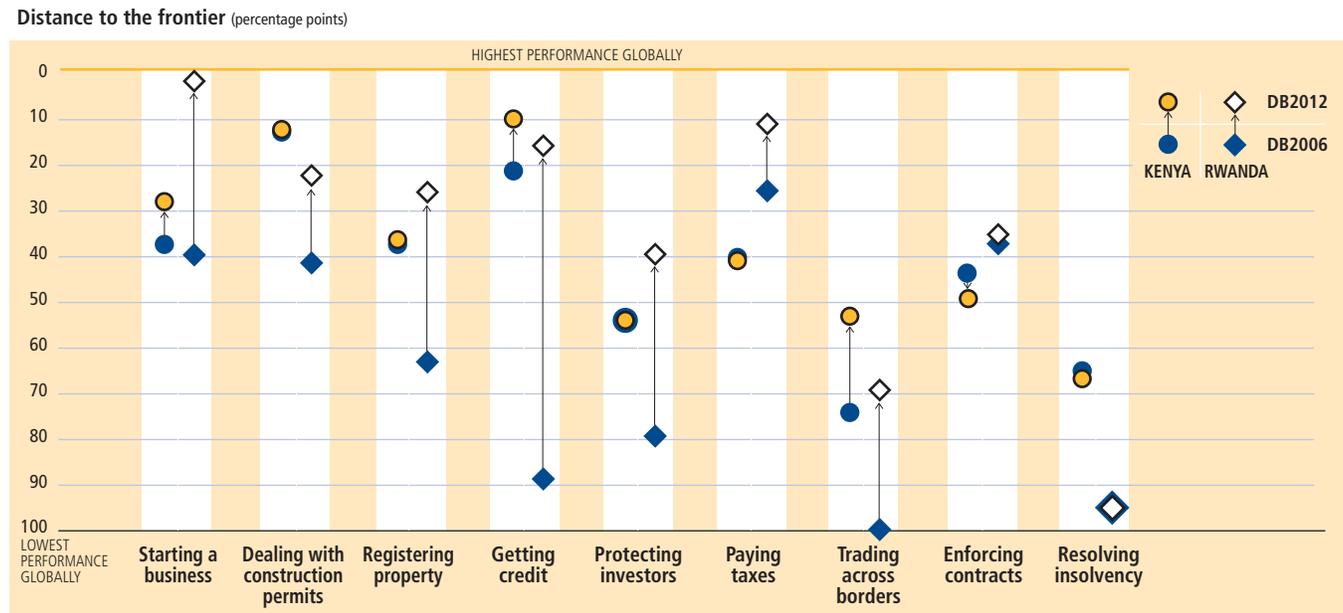
## WHAT DOES DOING BUSINESS IN KENYA 2012 MEASURE?

*Doing Business* measures and tracks changes in business regulations applying to small and medium-size domestic firms. A fundamental premise of *Doing Business* is that economic

TABLE 1.1 Doing business in Kenya—where is it easiest?

City	Aggregate rank	Ease of starting a business	Ease of dealing with construction permits	Ease of registering property	Ease of enforcing contracts
Malaba	1	6	1	4	3
Narok	2	8	5	5	2
Thika	3	1	7	3	7
Garissa	4	12	3	8	1
Eldoret	5	10	2	7	5
Mombasa	6	9	7	1	8
Isiolo	7	2	4	13	4
Kisumu	8	13	10	2	9
Kilifi	9	3	11	11	6
Nyeri	10	10	6	10	10
Kakamega	11	6	9	9	12
Nakuru	12	4	13	6	11
Nairobi	13	5	11	12	13

Note: The aggregate rank is based on the 4 indicators measured. See the data notes for details.  
Source: *Doing Business* database.

FIGURE 1.1 Tracking Kenya's\* progress over time in the areas measured by *Doing Business* 2006-2012: Distance to frontier

\*Represented by Nairobi

Note: The distance to frontier measure illustrates the distance between an economy's current performance and a measure of best practice worldwide on 9 of the *Doing Business* indicators (it does not include employing workers and getting electricity). The vertical axis represents the distance to the frontier, and the horizontal line across at the top of the chart captures the most efficient regulatory environment. The data refer to the 174 economies included in *Doing Business 2006*. Additional economies were added in subsequent years.

Source: *Doing Business* database.

activity requires good rules that are transparent and accessible to all. Such regulations should be efficient, striking a balance between safeguarding important aspects of the business environment and avoiding distortions that impose unreasonable costs on businesses. Nairobi represents Kenya in the annual *Doing Business* report, which compares regulatory practices in 183 economies around the world. Yet within Kenya, entrepreneurs face local regulations and practices that vary from location to location. *Doing Business in Kenya 2010* was the first report to go beyond the capital city to capture these differences in 10 other Kenyan cities on 4 *Doing Business* topics: starting a business, dealing with construction permits, registering property and enforcing contracts. This report updates the information presented in *Doing Business in Kenya 2010* and tracks progress in implementation of business reforms across Kenyan cities. It also expands the analysis to 2 additional cities—Kakamega and Nakuru. The summary indicator results and aggregate ranking are presented here (table 1.1).

Some trends emerge. First, consistent performers stay at the top—Malaba, Narok and Thika were already leading the list in *Doing*

*Business in Kenya 2010*.<sup>3</sup> Eldoret and Garissa climbed in the aggregate ranking due to high impact reforms. Mombasa also moved up in the ranking and was the city to introduce the highest number of business reforms. Other cities like Kisumu or Nyeri dropped relative to their peers.<sup>4</sup>

Second, there is no single city that does equally well on all indicators. Across Kenya, it is easiest to start a business in Thika, deal with construction permits in Malaba, register property in Mombasa, and enforce a contract in Garissa. It is most burdensome to start a business in Kisumu, deal with construction permits in Nakuru, register property in Isiolo, and enforce a contract in Nairobi. This shows that no Kenyan city has a blueprint of good practices across all areas benchmarked. Cities can share experiences and learn from each other.

Third, city performance is not necessarily correlated with city size. There are smaller cities that perform well in some indicators, such as Malaba (top ranked in dealing with construction permits) or Narok (ranked 2 in enforcing contracts). But there are also bigger cities leading in other indicators, such as Mombasa and Kisumu (1 and 2 in registering

property, respectively). This shows that for the most part rankings do not necessarily favor smaller cities where the demand for business services is lower. It is rather a matter of how relevant agencies, whether central or local, handle the processes in each city.

## KENYA FROM A GLOBAL PERSPECTIVE

From a global comparative perspective, Kenya, represented by Nairobi, ranks 109 out of 183 economies on the ease of doing business according to *Doing Business 2012: Doing Business in a More Transparent World*—ahead of the Arab Republic of Egypt and Ethiopia, but behind Rwanda and South Africa. Yet Kenya is reforming—just not at the same pace as some of its regional and global competitors. This is clearly illustrated by a newly introduced *Doing Business* metric which measures how much a country has improved over time and how far it has come in closing the gap with the regulatory systems in top-performing economies (figure 1.1). Since 2006, Kenya has moved closer to the economies with the most efficient practices on several of the *Doing Business* indicators. Most notably the time to start a business was reduced from 54 days in 2006 to 33 days in

TABLE 1.2 Compared to 2009, it is easier now to do business in all 13 Kenyan cities

City	Starting a business		Dealing with construction permits		Registering property		Enforcing contracts	
	National	Local	National	Local	National	Local	National	Local
Mombasa	✓	✓	✗	✓			✓	✓
Eldoret	✓	✓	✗	✓			✓	
Isiolo	✓	✓	✗			✓	✓	
Garissa	✓	✓	✗				✓	
Kakamega	✓	✓	✗				✓	
Kilifi	✓	✓	✗				✓	
Malaba	✓	✓	✗				✓	
Nakuru	✓	✓	✗				✓	
Narok	✓	✓	✗				✓	
Thika	✓	✓	✗				✓	
Kisumu	✓		✗				✓	
Nairobi	✓		✗				✓	
Nyeri	✓		✗				✓	

✓ *Doing Business* reforms making it easier to do business.

✗ *Doing Business* reforms making it more difficult to do business.

Note: The cities are ranked on the number and impact of reforms. At the top of the ranking are the cities where most reforms making it easier to do business were implemented between June 2009 and March 2012.

Source: *Doing Business* database.

2012. Significant improvements were also seen in the areas of getting credit and trading across borders. Other areas saw fewer or no improvements. In comparison, economies like Rwanda progressed more rapidly. Rwanda is 1 of 2 economies that moved the most towards the most efficient practices of the “frontier” over the last 6 years.

### AT THE SUBNATIONAL LEVEL, TANGIBLE RESULTS ARE SEEN ACROSS THE COUNTRY ON ALL 4 INDICATORS SINCE THE LAST REPORT

In the recent past, the Kenyan government has focused on comprehensive political reforms like the new constitution. At the same time, both national and local governments have kept investment climate reforms high on their agenda. *Doing Business in Kenya 2010* identified good practices, pointed out bottlenecks and provided recommendations for business reforms across 11 cities measured in Kenya. Three years later, this report tracks progress over time. The results are encouraging. All 13 cities show improvements in at least 2 of the 4 areas measured (table 1.2).

Mombasa, Eldoret and Isiolo implemented the highest number of business reforms

since 2009. These 3 cities were the only ones that saw improvements in 3 out of 4 areas measured. Mombasa saw the most *Doing Business* reforms at the local level. In addition to benefiting from national reforms in starting a business and contract enforcement, the construction-permitting process in Mombasa was revamped making it more efficient and a specialized court was introduced to deal with commercial cases. Eldoret also improved construction permitting, while Isiolo reduced the costs to register property. These improvements resulted in significant time and cost savings for local entrepreneurs in all the 3 cities.

In the area of starting a business, all 13 cities showed improvements. Reform efforts by the national and local governments have reduced the average time to start a business by 22 days and the average cost by 5%. In 2010, the Kenya Revenue Authority replaced multiple tax registrations with a single tax payer identification number, which can now be applied for online.<sup>5</sup> In January 2010, the Registrar of Companies finalized the digitization of its records. New applications are now processed based on a serial number. Previously, applications were processed manually, which resulted in delays, loss of records and

uncertainty regarding the processing order. Additionally, in 2009, a stamp duty office opened within the Registrar of Companies, making the assessment of the stamp duty more efficient. Following directives issued by the central government to encourage the use of information technology, local councils across Kenya have implemented the Local Authority Integrated Financial Operations Management System (LAIFOMS). The system, aimed at restructuring the local public sector and strengthening local accountability mechanisms, is used by councils for all financial management activities—including the billing and collection of local revenues, the payroll and all expenditure controls. Thanks to the computerization of services, including the Single Business Permit (SBP), the average time to obtain a permit across the 13 cities measured decreased from 7 to 4 days since 2009.

Efforts to improve the construction permits area have persisted and should bear fruit, especially in the capital city. The City Council of Nairobi recently launched an online system for the approval of the architectural plans. Once fully operational, it is expected to significantly cut the time to obtain the provisional building permit, which now takes 30 days. While the impact of reforms in Nairobi remains to be seen, Eldoret and Mombasa have already reformed the building approval process with tangible results. Eldoret Municipal Council reduced the time to obtain the building plan approvals from 50 to 30 days. Mombasa Municipal Council now conducts all relevant building approvals in-house and its technical committee increased the frequency of approval meetings from monthly to bi-weekly. In other cities—such as Kilifi, Kisumu and Thika—changes in the structure of the management of water companies reduced connection times. At the same time, the financial burden of dealing with construction permits has risen significantly in all cities. This is mostly due to stricter enforcement of environmental controls and the costs associated with them, which on average increased by over 100% of income per capita.

In registering property, Isiolo made the process significantly cheaper. In 2010, an entrepreneur transferring property in Isiolo

was paying 20% of property value as transfer tax, on top of the nationally mandated stamp duty of 4%. Back then, Isiolo was one of the most expensive places to register property in the world. Thanks to recent reform initiatives, its county council reduced the transfer tax from 20% to 5%, cutting the cost required to complete a property transfer by more than 60%. In other cities, the implementation of the Local Authority Integrated Financial Operations Management System (LAIFOMS) contributed positively to property transfer. The local council clerks can now simply enter the plot number in the LAIFOMS property rates module to obtain the amount of outstanding payments, speeding the issuance of rate clearance certificate by 2 days, on average. Efforts are currently underway to digitize land records. The Ministry of Lands set up a document conversion center and procured equipment, such as scanners, to transcribe the paper files to digital ones. But the process is cumbersome, because the records are often old or damaged.

In line with new constitutional provisions, Kenya's Civil Procedure Act was amended and new Civil Procedure Rules were passed into law. These legal changes did not have a direct impact on the average time, cost and number of procedure to enforce a contract across Kenya. Part of the reason is that the recently adopted legal changes need time to be implemented, particularly in light of the simultaneous overhauls in every other legal area that the adoption of the new constitution brings. In the meantime, a specialized commercial court was set up in Mombasa to exclusively handle commercial disputes in the city. Previously, the same judges were handling both civil and commercial cases. With the creation of the commercial court, there will be 2 dedicated judges to handle only commercial cases. Mombasa becomes the second city in Kenya, after Nairobi, to have a specialized commercial court.

## COMPARING BUSINESS REGULATIONS ACROSS 13 CITIES

### Starting a business

A shared national legislative framework regulates business registration across Kenya. The same 10 procedures are required in all cities. The time it takes to open a business

varies from 32 days in Nairobi to 55 days in Narok and Nyeri. The process is fastest in Nairobi, where the Registrar of Companies is located. Post-incorporation steps include dealings with the local branches of national agencies: the Kenya Revenue Authority, the National Social Security Fund and the National Hospital Insurance Fund. Additionally, entrepreneurs need to obtain a business permit from the local authority and a company seal from a private authorized dealer. Across Kenya, it takes between 2 and 8 days to get the single business permit. The process is more efficient in cities such as Mombasa, thanks to the computerization of services. The cost of starting a business varies from 39.3% of income per capita in Narok to 48.4% of income per capita in Kisumu. Half of the total cost is spent on preparing the incorporation documents and filing them with the Registrar of Companies. The business permit fee is the main source of variation among cities. The fee depends on the type of local authority<sup>6</sup> and varies by business type, size, number of employees and location. The Isiolo County Council and Malaba Town Council charge KES 3,500 and 4,000, respectively (about US\$ 50). At the other end of the scale, the City Council of Nairobi and Kisumu Municipal Council charge KES 10,000 (US\$ 130).

### Dealing with construction permits

Requirements to obtain all the necessary approvals to build a simple commercial warehouse and connect it to utilities vary significantly across Kenya. Dealing with construction permits takes 9 procedures in Kisumu, Malaba, Mombasa, Nairobi and Thika, but 13 procedures in Garissa and Nakuru. The underlying difference is whether a local authority has an integrated development department—where most approvals would be provided in-house—or if entrepreneurs need to obtain approvals separately from central government offices—such as the Physical Planning Department or the Public Health Department. Dealing with construction permits can take as little as 2 months in Garissa and Malaba—faster than in Jordan (70 days)—or as much as 140 days in Nakuru—similar to Burundi (135 days). The cost varies from 133.7% of income per capita in Malaba—which has fixed fees—to 272.0% of income per capita in Kisumu. The

cost of preparing and obtaining the approval of the environmental project report accounts for the largest portion of the cost. Cost differences stem mainly from building permit fees, which constitute the second largest portion of the total cost.

### Registering property

Registering property takes an average of 9 procedures, 61 days and costs 4.6% of property value across the 13 Kenyan cities measured. When compared to the Sub-Saharan African regional average—6 procedures, 65 days and a cost of 9.4% of property value—Kenyan cities require, on average, more procedures but are cheaper and faster. All the 13 cities measured in Kenya require 9 procedures to complete the legal transfer of a property between 2 local companies. Differing levels of efficiency within local lands offices continues to be the main reason for differing time requirements in 1 location as compared to another—from 28 days in Mombasa to 93 days in Isiolo. Despite efforts by the Ministry of Lands to homogenize performance across local lands offices, implementation and enforcement remain major challenges. High registration volumes in fast-growing cities, the lack of institutional capacity and inadequate technological support explain some of the ongoing bottlenecks. On the other hand, variation in efficiency at the city councils is smaller than it was 2 years ago, thanks to the introduction of the Local Authorities Integrated Financial Operations Management System (LAIFOMS), which have sped up property transfer procedures dealt by local authorities. In terms of cost, Isiolo remains the most expensive and the only city to charge a local transfer tax.

### Enforcing contracts

The average time to enforce a contract is 429 days—almost a year and a half—and the average cost comes to 40.7% of the claim value in the 13 cities measured in Kenya. This is 2 months faster and 10% cheaper than the average East African Community city. It is also faster than the OECD high-income economies, which average 518 days. On the other hand, enforcing contracts in Kenya is twice as expensive relative to claim value: the average cost to enforce a contract in OECD economies is just 19.7% of the claim value.

TABLE 1.3 Best practices in Kenya compared internationally

<i>Doing Business</i> indicator	Best practices within Kenya		Kenyan best practices compared internationally (global rank)	Kenya's performance in <i>Doing Business 2012*</i> (global rank)
Starting a business	Number of procedures to start a business	10 procedures (all cities)	123	132
	Days to start a business	32 days (Nairobi)		
	Cost to start a business	39.3% of income per capita (Narok)		
	Paid-in minimum capital requirement	0.0% of income per capita (all cities)		
Dealing with construction permits	Number of procedures to comply with formalities to build a warehouse	9 procedures (Kisumu, Malaba, Mombasa, Nairobi, Thika)	23	37
	Days to comply with formalities to build a warehouse	64 days (Garissa, Malaba)		
	Cost to comply with formalities to build a warehouse	133.7% of income per capita (Malaba)		
Registering property	Number of procedures to register property	9 procedures (all cities)	103	133
	Days to register property	28 days (Mombasa)		
	Cost to register property	4.1% of property value (Thika)		
Enforcing contracts	Number of procedures to enforce a contract	40 procedures (Mombasa, Nairobi)	92	127
	Days to enforce a contract	351 days (Garissa, Narok)		
	Cost to enforce a contract	38.4% of claim value (Isiolo)		
Ease of doing business (Hypothetical city of "Kenya")			95	109

\* Represented by Nairobi.  
Source: *Doing Business* database

Although the laws and regulations relating to contract enforcement in Kenya are national, the ease of enforcing contracts varies among its cities. It is easiest in Garissa, where it takes 351 days, 41 procedures and costs 38.7 % of claim value. It is most burdensome in Nairobi, where it takes 465 days, 40 procedures and costs 47.1% of claim value. On average, trial and judgment account for more than 80% of the total time spent on enforcing a contract. Litigation costs are regulated at the national level and the variation among the 13 cities stems mainly from small differences in court fees and enforcement costs. Attorney fees are the biggest component of cost. They are the same in all cities, except Nairobi where lawyers charge premiums due to higher demand. Despite guidelines at national level, court fees remain subject to arbitrary assessments by court registry officers.

## LEARNING FROM EACH OTHER

Communication and the sharing of reform experiences may not always have been a priority for local authorities when implementing a reform agenda. Take the example of the Single Business Permit (SBP), which was introduced by the central government in 1999/2000 and further reformed in 2008.

It has taken years to raise awareness that a business permit issued by one local authority should be valid across the country. Even today the rule is yet to be fully enforced.<sup>7</sup> But, gradually, local authorities are endorsing peer-to-peer learning and the dissemination of the central government's reform initiatives. Such events are also opportunities for local authorities to bring their own concerns to the table. For instance, entrepreneurs across Kenya need to travel to Nairobi because there is only 1 Registrar of Companies office in the country. In a relatively large country like Kenya, this puts entrepreneurs outside of Nairobi at a disadvantage. While it might be economically unfeasible to open registrar branches in every city, local authorities can use collaboration platforms centered on investment climate reforms to push the central government and relevant central agencies to expand the Registrar of Companies' presence beyond the capital city.

Benchmarking exercises like *Doing Business* inspire governments to reform commercial regulations. They point out potential challenges and identify where policy makers can look for good practices. Comparisons between cities within a single economy are even stronger drivers of reforms, as

governments have difficulties explaining why doing business in their city may be harder than in neighboring locations. The good news is that sharing a similar legal framework facilitates the implementation of existing good practices within a country. National governments can also use *Doing Business* data to monitor how changes in national regulations are implemented by local authorities. In a world where not only countries, but specific locations compete against one another to attract investment, subnational *Doing Business* data allow local governments to review the conditions entrepreneurs face in their cities from a comparative perspective.

Reform-minded governments can use *Doing Business* indicators to motivate and sustain business reform efforts. There is no need to reinvent the wheel: it is sufficient to start by introducing business reforms successfully implemented in other places. In fact, cities in Kenya have a lot to gain from adopting the best regulations and practices that are working elsewhere in the country. A hypothetical city, "Kenya," adopting all the good practices identified in this report would rank 95th among 183 economies globally—14 places higher than Kenya's current *Doing Business* rank (table 1.3).

If the best Kenyan practices were adopted, dealing with construction permits would take 9 procedures and 64 days, as it does in the cities of Garissa and Malaba or in New Zealand. This would allow “Kenya” to rank 23 globally on the ease of dealing with construction permits. Transferring a property title would take 9 procedures over 4 weeks, as seen in the city of Mombasa or in Italy. Meanwhile, the country’s best practices for resolving a commercial dispute would require 351 days—as seen in the cities of Garissa and Narok—much faster than the global average of 610 days. In the area of starting a business, the adoption of best practices would result in a smaller improvement. But Kenyan cities can always look at regional or global peers who have successfully reformed this indicator.

Payoffs from business reforms can be large. Saving time and money are often the immediate benefits for firms. For example, in Mexico, local one-stop shops (SARE) cut the time to start a business from 58 to 13 days. A recent study reports the payoffs: the number of registered Mexican businesses rose by 5%, employment increased by 2.6%, and prices fell by nearly 1% because of the competition from new entrants.<sup>8</sup> Such results would be important for Kenya, where population growth during the past decade has averaged 2.6%, significantly higher than the world average of 1.5%.<sup>9</sup> The formal employment sector has not been able to match the same level of growth in jobs pushing many people into seeking informal employment opportunities with notably lower incomes.<sup>10</sup>

Steady reformers make business regulation an imbedded part of their reform agenda. The world’s top-ranked economy on the ease of doing business, Singapore, undertakes business reforms every year. In other economies, dedicated agencies are created. Such is the Better Regulation Executive in the United Kingdom. Business reforms with impact cut across a range of topics. Cooperation across different parts of the bureaucracy, at both local and national level, is necessary for wide-ranging reforms. Political will and vision coming from a reform champion—whether the prime minister, minister or mayor—is central to success. More than 2 dozen economies have put in

place regulatory reform committees, often reporting directly to the president or prime minister—as in Colombia, Malaysia and Rwanda. In Kenya, this initiative has been spearheaded by the Prime Minister’s office and the Ministry of Local Government. Lastly, consistent reformers are inclusive, involving all relevant actors and institutionalizing the reform effort. They also stay focused by setting specific goals and regularly monitoring progress. In Kenya, inter-institutional collaboration for successful reforms is vital. This is especially important for areas like business entry or land transfers where competencies cut across various government institutions, both at central and local levels.

## NOTES

1. IMF Country Report No. 21/10. 2012. *Kenya: Property Strategy Paper—Progress Report*. Washington, D.C.: International Monetary Fund.
2. *Doing Business in Kenya 2010* was published in October 2009. The data of the report were as of June 2009.
3. For detailed rankings see indicator tables on page 48. For time series data see [www.doingbusiness.org/kenya](http://www.doingbusiness.org/kenya).
4. Some of the changes can be attributed to the recent change of the *Doing Business* methodology in the dealing with construction permits indicator, the addition of 2 new cities, and the improvements shown in other cities since 2010. Because getting electricity was incorporated as a separate indicator in the ease of doing business index of the *Doing Business 2012* report, procedures, time and cost related to obtaining an electricity connection were removed from the dealing with construction permits indicators. See the data notes for more details.
5. The KRA’s website is <http://www.kra.go.ke>.
6. City, municipality, town or county.
7. International Finance Corporation; The World Bank; Multilateral Investment Guarantee Agency. 2011. *Avoiding the Fiscal Pitfalls of Subnational Regulation: How to Optimize Local Regulatory Fees to Encourage Growth*. Washington, D.C.: the World Bank Group.
8. 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.: World Bank. 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.
9. The World Bank data: <http://data.worldbank.org/>.
10. Society for International Development (SID). 2010. *Kenya’s Vision 2030: An Audit from an Income and Gender Inequalities Perspective*. Nairobi, Kenya: SID Regional Office for Eastern Africa.

# About *Doing Business* and *Doing Business in Kenya* 2012

A vibrant private sector—with firms making investments, creating jobs and improving productivity—promotes growth and expands opportunities for poor people. To foster a vibrant private sector, governments around the world have implemented wide-ranging reforms, including price liberalization and macroeconomic stabilization programs. But governments committed to the economic health of their country and opportunities for its citizens focus on more than macroeconomic conditions. They also pay attention to the laws, regulations and institutional arrangements that shape daily economic activity.

Until 10 years ago, 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 perception data from expert or business surveys that capture often one-time experiences of businesses. Such surveys can be useful gauges of economic and policy conditions. But few perception surveys provide indicators with a global coverage that are updated annually.

The *Doing Business* project takes a different approach from perception surveys. It looks at domestic, primarily small and medium-size companies and measures the regulations applying to them through their life cycle. Based on standardized case studies, it presents quantitative indicators on business regulation that can be compared across 183 economies and over time. This approach complements the perception surveys in exploring the major constraints for businesses, as experienced by the businesses themselves and set out in the regulations that apply to them.

Rules and regulations are under the direct control of policy makers—and policy makers intending to change the experience and

behavior of businesses will often start by changing rules and regulations that affect them. *Doing Business* goes beyond identifying that a problem exists and points to specific regulations or regulatory procedures that may lend themselves to reform. And its quantitative measures of business regulation enable research on how specific regulations affect firm behavior and economic outcomes.

The first *Doing Business* report, published in 2003, covered 5 indicator sets and 133 economies. The latest report, *Doing Business 2012: Doing business in a more transparent world*, covers 11 indicator sets and 183 economies. Ten topics are included in the aggregate ranking on the ease of doing business. The project has benefited from feedback from governments, academics, practitioners and reviewers.<sup>1</sup> The initial goal remains: to provide an objective basis for understanding and improving the regulatory environment for business.

## WHAT DOING BUSINESS IN KENYA 2012 COVERS

*Doing Business in Kenya 2012* provides a quantitative measure of the national and local regulations for 4 *Doing Business* indicators: 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 rules that increase the predictability of economic interactions. The objective: regulations designed to be efficient in their implementation, 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 2012* encompasses 2 types of data. The first come from readings of laws and regulations. The second are time and motion indicators that measure the efficiency and complexity 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. A regulatory process such as starting a business or registering property is broken down into clearly defined steps and procedures. 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.<sup>2</sup>

## WHAT DOING BUSINESS IN KENYA 2012 DOES NOT COVER

Just as important as knowing what *Doing Business in Kenya 2012* does is to know what it does not do—to understand what limitations must be kept in mind in interpreting the data.

### Limited in scope

*Doing Business in Kenya 2012* 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 2012* does not measure all 11 indicators covered in the global *Doing Business* report. The report covers

only those 4 areas of business regulation that are either the provenance of the local governments or where local differences exist—starting a business, dealing with construction permits, registering property, and enforcing contracts.

- *Doing Business in Kenya 2012* 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 all aspects of the quality of infrastructure. Nor does it focus on regulations specific to foreign investment.
- *Doing Business in Kenya 2012* does not cover all regulations, or all regulatory goals, in any city. 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 2012* measures just 4 phases of a company's life cycle, through 4 specific 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 2012* are based on standardized case scenarios with specific assumptions, such as that the business is located in one of the 13 cities in Kenya measured by 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 2012* 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 constructing the indicators, *Doing Business in Kenya 2012* 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.<sup>3</sup> All this may be even more so for female-owned businesses, according to country-specific research.<sup>4</sup> Firms in the informal sector are also less likely to pay taxes. *Doing Business* 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* with data from other sources, such as the World Bank Enterprise Surveys.<sup>5</sup>

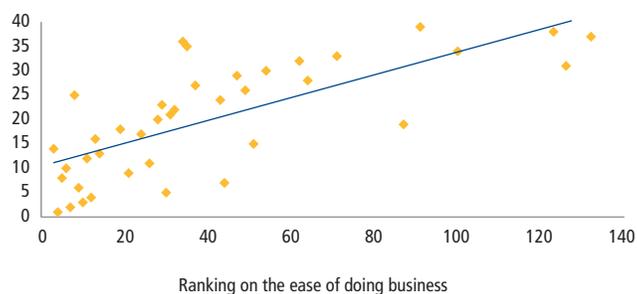
### WHY THIS FOCUS

*Doing Business* 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. Closest to *Doing Business* in what it measures is the set of indicators on product market regulation compiled by the Organization for Economic Co-operation and Development (OECD). These indicators are designed to help assess the extent to which the regulatory environment promotes or inhibits competition. They include measures of the extent of price controls, the licensing and permit system, the degree of simplicity of rules and procedures, the administrative burdens and legal and regulatory barriers, the prevalence of discriminatory procedures, and the degree of government control over business enterprises. The rankings on these indicators—for the 39 countries that are covered, several of them large emerging markets—are highly correlated with those on the ease of doing business (the correlation here is 0.72; figure 2.1).

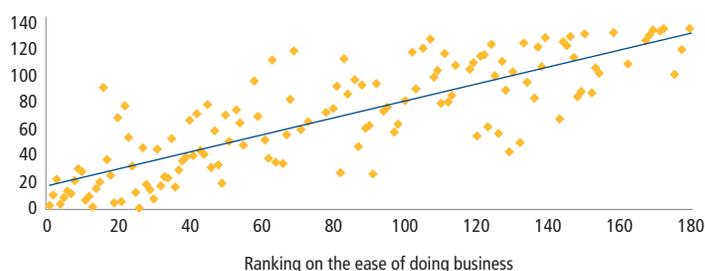
Similarly, there is a high correlation (0.82) between the rankings on the ease of doing

**FIGURE 2.1** A strong correlation between *Doing Business* rankings and OECD rankings on product market regulation  
Ranking on OECD product market regulation indicators



Note: Correlation is significant at the 5% level when controlling for income per capita.  
Source: *Doing Business* database; OECD data

**FIGURE 2.2** A similarly strong correlation between *Doing Business* rankings and World Economic Forum rankings on global competitiveness  
Ranking on Global Competitiveness Index



Note: Correlation is significant at the 5% level when controlling for income per capita.  
Source: *Doing Business* database; WEF 2010

business and those on the World Economic Forum's Global Competitiveness Index, a much broader measure capturing such factors as macroeconomic stability, aspects of human capital, the soundness of public institutions and the sophistication of the business community (figure 2.2). Economies that do well on the *Doing Business* indicators tend to do well on the OECD market regulation indicators and the Global Competitiveness Index and vice versa.<sup>6</sup>

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.<sup>7</sup> 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. Even firms operating in the formal sector might not have equal access to

transparent rules and regulations affecting their ability to compete, innovate and grow.

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 associated with perceptions of greater judicial fairness—suggesting that justice delayed is justice denied.<sup>8</sup>

### **DOING BUSINESS IN KENYA 2012 AS A BENCHMARKING EXERCISE**

*Doing Business in Kenya 2012*, 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 2012* provides 2 takes on the data it collects: it presents “absolute” indicators for each city for each of the 4 regulatory topics it addresses, and it provides rankings of cities by indicator. Judgment is required in interpreting these measures for

any city and in determining a sensible and politically feasible path for reform.

Reviewing the *Doing Business* rankings in isolation may show unexpected results. Some cities may rank unexpectedly high on some indicators. And some cities 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 local governments, how much the regulatory environment for local entrepreneurs improves matters more than their relative ranking. As cities 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 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.

### **WHAT RESEARCH SHOWS ON THE EFFECTS OF BUSINESS REGULATION**

Nine years of *Doing Business* data, together with other data sets, have enabled a growing body of research on how specific areas of business regulation—and regulatory reforms in those areas—relate to social and economic outcomes. Some 873 articles have been published in peer-reviewed academic journals, and about 2,332 working papers are available through Google Scholar.<sup>9</sup>

Much attention has been given to exploring links to microeconomic outcomes, such as firm creation and employment. Recent research focuses on how business regulations affect the behavior of firms by creating incentives (or disincentives) to register and operate formally, to create jobs, to innovate and to increase productivity.<sup>10</sup> Many studies have also looked at the role played by courts, credit bureaus, and insolvency and collateral laws in providing incentives for creditors and investors to increase access to credit. The literature has produced a range of findings.

**Lower costs for business registration encourage entrepreneurship and enhance firm productivity.** Economies with efficient business registration have a higher entry rate by new firms as well as greater business density.<sup>11</sup> Economies where registering a new business takes less time have seen more businesses register in industries where the potential for growth is greatest, such as those that have experienced expansionary shifts in global demand or technology.<sup>12</sup> Reforms making it easier to start a business tend to have a significant positive effect on investment in product market industries such as transport, communications and utilities, which are often sheltered from competition.<sup>13</sup> There is also evidence that more efficient business entry regulations improve firm productivity and macroeconomic performance.<sup>14</sup>

**Simpler business registration translates into greater employment opportunities in the formal sector.** Reducing start-up costs for new firms was found to result in higher take-up rates for education, higher rates of job creation for high-skilled labor and higher average productivity because new firms are often set up by high-skilled workers.<sup>15</sup> Lowering entry costs can boost legal certainty: businesses entering the formal sector gain access to the legal system, to the benefit of both themselves and their customers and suppliers.<sup>16</sup>

Assessing the impact of policy reforms poses challenges. While cross-country correlations can appear strong, it is difficult to isolate the effect of regulations given all the other potential factors that vary at the country level. Generally, cross-country correlations do not show whether a specific outcome is caused by a specific regulation or whether it coincides with other factors, such as a more positive economic situation. So how do we know whether things would have been different without a specific regulatory reform? Some studies have been able to test this by investigating variations within an economy over time. Other studies have investigated policy changes that affected only certain firms or groups. Several country-specific impact studies conclude that simpler entry regulations encourage the establishment of more new firms:

- In Mexico one study found that a program that simplified municipal licensing led to a 5% increase in the number of registered businesses and a 2.2% increase in wage employment, while competition from new entrants lowered prices by 0.6% and the income of incumbent businesses by 3.2%.<sup>17</sup> Other research found that the same licensing reform directly led to a 4% increase in new start-ups and that the program was more effective in municipalities with less corruption and cheaper additional registration procedures.<sup>18</sup>
- In India the progressive elimination of the “license raj” led to a 6% increase in new firm registrations, and highly productive firms entering the market saw larger increases in real output than less productive firms.<sup>19</sup> Simpler entry regulation and labor market flexibility were found to be complementary. States with more flexible employment regulations saw a 25% larger decrease in informal firms and 17.8% larger gains in real output than states with less flexible labor regulations.<sup>20</sup> The same licensing reform led to an aggregate productivity improvement of around 22% for firms affected by the reform.<sup>21</sup>
- In Colombia new firm registrations increased by 5.2% after the creation of a one-stop shop for businesses.<sup>22</sup>
- In Portugal the introduction of a one-stop shop for businesses led to a 17% increase in new firm registrations and 7 new jobs for every 100,000 inhabitants compared with economies that did not implement the reform.<sup>23</sup>

**A sound regulatory environment leads to stronger trade performance.** Efforts to streamline the institutional environment for trade (such as by increasing the efficiency of customs) have been shown to have positive effects on trade volumes.<sup>24</sup> One study found that an inefficient trade environment was among the main factors in poor trade performance in Sub-Saharan African countries.<sup>25</sup> Similarly, another study identified the government’s ability to formulate and implement sound policies and regulations that promote private sector development, customs efficiency, quality of infrastructure and access to finance as important factors in improving trade performance.<sup>26</sup> The same

study found that economies with more constrained access to foreign markets benefit more from improvements in the investment climate than those with easier access.

Research also shows that an economy’s ability to enforce contracts is an important determinant of its comparative advantage in the global economy: among comparable economies, those with good contract enforcement tend to produce and export more customized products than those with poor contract enforcement.<sup>27</sup> Another study shows that in many developing economies production of high-quality output is a precondition for firms to become exporters: institutional reforms that lower the cost of high-quality production increase the positive effect that trade facilitation can have on income.<sup>28</sup> Research shows that removing barriers to trade needs to be accompanied by other reforms, such as making labor markets more flexible, to achieve higher productivity and growth.<sup>29</sup>

**Regulations and institutions that form part of the financial market infrastructure—including courts, credit information systems, and collateral, creditor and insolvency laws—play a role in easing access to credit.** Enterprise surveys conducted by the World Bank show that access to credit is a major constraint to businesses around the world.<sup>30</sup> Good credit information systems and strong collateral laws can help alleviate financing constraints. Analysis in 12 transition economies found that reforms strengthening collateral laws increased the supply of bank loans by 13.7% on average.<sup>31</sup> Creditor rights and the existence of credit registries, whether public or private, are both associated with a higher ratio of private credit to GDP.<sup>32</sup> And greater information sharing through credit bureaus is associated with higher bank profitability and lower bank risk.<sup>33</sup>

Country-specific research assessed the effect of efficient debt recovery and exit processes in determining conditions of credit and in ensuring that less productive firms are either restructured or exit the market:

- The establishment of specialized debt recovery tribunals in India sped up the resolution of debt recovery claims and allowed lenders to seize more collateral

### BOX 1 HOW ECONOMIES HAVE USED *DOING BUSINESS* IN REGULATORY REFORM PROGRAMS

To ensure coordination of efforts across agencies, such economies as Colombia, Rwanda and Sierra Leone have formed regulatory reform committees reporting directly to the president that use the *Doing Business* indicators as one input to inform their programs for improving the business environment. More than 20 other economies have formed such committees at the interministerial level. These include India, Malaysia, Taiwan (China) and Vietnam in East and South Asia; the Arab Republic of Egypt, Morocco, Saudi Arabia, the Syrian Arab Republic, the United Arab Emirates and the Republic of Yemen in the Middle East and North Africa; Georgia, Kazakhstan, the Kyrgyz Republic, Moldova and Tajikistan in Eastern Europe and Central Asia; Kenya, Liberia, Malawi and Zambia in Sub-Saharan Africa; and Guatemala, Mexico and Peru in Latin America. Governments have reported more than 300 regulatory reforms that have been informed by *Doing Business* since 2003.

### BOX 2 HOW A REGIONAL ECONOMIC FORUM USES *DOING BUSINESS*

The Asia-Pacific Economic Cooperation (APEC) organization uses *Doing Business* to identify potential areas of regulatory reform, to champion economies that can help others improve and to set measurable targets. In 2009 APEC launched the Ease of Doing Business Action Plan with the goal of making it 25% cheaper, faster and easier to do business in the region by 2015.<sup>1</sup> The action plan sets specific targets, such as making it 25% faster to start a business by reducing the average time by 1 week.

Drawing on a firm survey, planners identified 5 priority areas: starting a business, getting credit, enforcing contracts, trading across borders and dealing with permits. APEC economies then selected 6 champion economies for the priority areas: New Zealand and the United States (starting a business), Japan (getting credit), Korea (enforcing contracts), Singapore (trading across borders) and Hong Kong SAR, China (dealing with construction permits). In 2010 and 2011 several of the champion economies organized workshops to develop programs for building capacity in their area of expertise.

1. APEC (Asia-Pacific Economic Cooperation). 2010. "APEC Ease of Doing Business Action Plan (2010-2015)." <http://aimp.apec.org/>

on defaulting loans. It also increased the probability of repayment by 28% and lowered interest rates on loans by 1–2 percentage points.<sup>34</sup>

- Following a broad bankruptcy reform in Brazil in 2005 that, among other things, improved the protection of creditors, the cost of debt fell by 22% and the aggregate level of credit rose by 39%.<sup>35</sup>
- The introduction of improved insolvency regimes that streamlined mechanisms for reorganization reduced the number of liquidations by 8.4% in Belgium and by 13.6% in Colombia as more viable firms opted for reorganization instead.<sup>36</sup> In Colombia the new law better distinguished viable from nonviable firms, making survival more likely for financially distressed but viable firms.

### HOW GOVERNMENTS USE *DOING BUSINESS*

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. For governments, 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 (boxes 2.1 and 2.2). For example, Saudi Arabia used the company law of France as a model of 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 business regulation reform. In the words of Luis Guillermo Plata, the former 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 9 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 for the business environment, 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 Group dialogue with governments on the investment climate is designed to encourage critical use of the data, sharpening judgment, avoiding a narrow focus on improving *Doing Business* rankings and encouraging broad-based reforms that enhance the investment climate. The World Bank Group uses a vast range of indicators and analytics in this policy dialogue, including its Global Poverty Monitoring Indicators, Logistics Performance Indicators and many others. With the open data initiative, all indicators are available to the public at <http://data.worldbank.org>.

### METHODOLOGY AND DATA

*Doing Business in Kenya 2012* covers 13 cities. 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 2012* 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. Eight of the background papers underlying the indicators have been published in leading economic journals.

*Doing Business* uses a simple averaging approach for weighting sub-indicators 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 provide sufficiently broad coverage across topics. Therefore, the simple averaging approach is used.

### Improvements to the methodology

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 2012*.

For starting a business, for example, 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.

This year's report removes procedures related to getting an electricity connection from dealing with construction permits indicators. This has been done to avoid double counting as the *Doing Business* report includes an 11th indicator this year - Getting Electricity.<sup>37</sup> *Doing Business in Kenya 2012* has reflected the removal of procedures related to getting an electricity connection from dealing with construction permits to allow for international comparability.

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 city 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 data verification process, they are expeditiously corrected.

### NOTES

1. This has included a review by the World Bank Independent Evaluation Group (2008) as well as ongoing input from the International Tax Dialogue.
2. De Soto, Hernando. 2000. *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*. New York: Basic Books.
3. Schneider, Friedrich. 2005. "The Informal Sector in 145 Countries." Department of Economics, University Linz.
4. Amin, Mohammad. 2011. "Labor Productivity, Firm-Size and Gender: The Case of Informal Firms in Argentina and Peru." Enterprise Note 22, Enterprise Analysis Unit, World Bank Group, Washington, DC. <http://enterprisesurveys.org/>
5. <http://www.enterprisesurveys.org>
6. The World Economic Forum's Global Competitiveness Report uses part of the *Doing Business* data sets on starting a business, employing workers, protecting investors and getting credit (legal rights).
7. Narayan, Deepa, Robert Chambers, Meer Kaul Shah and Patti Petesh. 2000. *Voices of the Poor: Crying Out for Change*. Washington, DC: World Bank Group.
8. World Bank. 2003. *Doing Business in 2004: Understanding Regulation*. Washington, DC: World Bank Group.
9. According to searches on Google Scholar (<http://scholar.google.com>) and the Social Science Citation Index.
10. Djankov, Simeon, Rafael La Porta, Florencio López-de-Silanes and Andrei Shleifer. 2002. "The Regulation of Entry." *Quarterly Journal of Economics* 117 (1): 1–37; Alesina, Alberto, Silvia Ardagna, Giuseppe Nicoletti and Fabio Schiantarelli. 2005. "Regulation and Investment." *Journal of the European Economic Association* 3 (4): 791–825; Perotti, Enrico, and Paolo Volpin. 2005. "The Political Economy of Entry: Lobbying and Financial Development." Paper presented at the American Finance Association 2005 Philadelphia Meetings; Klapper, Leora, Luc Laeven and Raghuram Rajan. 2006. "Entry Regulation as a Barrier to Entrepreneurship." *Journal of Financial Economics* 82 (3): 591–629; Fisman, Raymond, and Virginia Sarria-Allende. 2010. "Regulation of Entry and the Distortion of Industrial Organization." *Journal of Applied Economics* 13 (1): 91–120; Antunes, Antonio, and Tiago Cavalcanti. 2007. "Start Up Costs, Limited Enforcement, and the Hidden Economy." *European Economic Review* 51 (1): 203–24; Barseghyan, Levon. 2008. "Entry Costs and Cross-Country Differences in Productivity and Output." *Journal of Economic Growth* 13 (2): 145–67; Eifert, Benjamin. 2009. "Do Regulatory Reforms Stimulate Investment and Growth? Evidence from the *Doing Business* Data, 2003–07." Working Paper 159, Center for Global Development, Washington, DC; Klapper, Leora, Anat Lewin and Juan Manuel Quesada Delgado. 2009. "The Impact of the Business Environment on the Business Creation Process." Policy Research Working Paper 4937, World Bank, Washington, DC; Djankov, Simeon, Caroline Freund and Cong S. Pham. 2010. "Trading on Time." *Review of Economics and Statistics* 92 (1): 166–73; Klapper, Leora, and Inessa Love. 2011. "The Impact of Business Environment Reforms on New Firm Registration." Policy Research Working Paper 5493, World Bank, Washington, DC; Chari, Anusha. 2011. "Identifying the Aggregate Productivity Effects of Entry and Size Restrictions: An Empirical Analysis of License Reform in India." *American Economic Journal: Economic Policy* 3: 66–96; Bruhn, Miriam. 2011. "License to Sell: The Effect of Business Registration Reform on Entrepreneurial Activity in Mexico." *Review of Economics and Statistics* 93 (1): 382–86.
11. Klapper, Lewin and Quesada Delgado 2009. Entry rate refers to newly registered firms

- as a percentage of total registered firms. Business density is defined as the total number of businesses as a percentage of the working-age population (ages 18-65).
12. Ciccone, Antonio, and Elias Papaioannou. 2007. "Red Tape and Delayed Entry." *Journal of the European Economic Association* 5 (2-3):444-58.
  13. Alesina, Alberto, Silvia Ardagna, Giuseppe Nicoletti and Fabio Schiantarelli. 2005. "Regulation and Investment." *Journal of the European Economic Association* 3 (4): 791-825.
  14. Loayza, Norman, Ana Maria Oviedo and Luis Servén. 2005. "Regulation and Macroeconomic Performance." Policy Research Working Paper 3469, World Bank, Washington DC; Barseghyan, Levon. 2008. "Entry Costs and Cross-Country Differences in Productivity and Output." *Journal of Economic Growth* 13 (2): 145-67.
  15. Dulleck, Uwe, Paul Frijters and R. Winter-Ebmer. 2006. "Reducing Start-up Costs for New Firms: The Double Dividend on the Labor Market." *Scandinavian Journal of Economics* 108: 317-37; Calderon, César, Alberto Chong and Gianmarco Leon. 2007. "Institutional Enforcement, Labor-Market Rigidities, and Economic Performance." *Emerging Markets Review* 8 (1): 38-49; Micco, Alejandro, and Carmen Pagés. 2006. "The Economic Effects of Employment Protection: Evidence from International Industry-Level Data." IZA Discussion Paper 2433, Institute for the Study of Labor (IZA), Bonn, Germany.
  16. Masatlioglu, Yusufcan, and Jamele Rigolini. 2008. "Informality Traps." *B.E. Journal of Economic Analysis & Policy* 8 (1); Djankov, Simeon. 2009. "The Regulation of Entry: A Survey." *World Bank Research Observer* 24 (2): 183-203.
  17. Bruhn, Miriam. 2011. "License to Sell: The Effect of Business Registration Reform on Entrepreneurial Activity in Mexico." *Review of Economics and Statistics* 93 (1): 382-86.
  18. Kaplan, David, Eduardo Piedra and Enrique Seira. 2007. "Entry Regulation and Business Start-Ups: Evidence from Mexico." Policy Research Working Paper 4322, World Bank, Washington, DC.
  19. Aghion, Philippe, Robin Burgess, Stephen Redding and Fabrizio Zilibotti. 2008. "The Unequal Effects of Liberalization: Evidence from Dismantling the License Raj in India." *American Economic Review* 98 (4): 1397-412.
  20. Sharma, Siddharth. 2009. "Entry Regulation, Labor Laws and Informality: Evidence from India." Enterprise Survey Working Paper, Enterprise Analysis Unit, World Bank Group, Washington, DC.
  21. Chari, Anusha. 2011. "Identifying the Aggregate Productivity Effects of Entry and Size Restrictions: An Empirical Analysis of License Reform in India." *American Economic Journal: Economic Policy* 3: 66-96.
  22. Cardenas, Mauricio, and Sandra Rozo. 2009. "Firm Informality in Colombia: Problems and Solutions." *Desarrollo y Sociedad*, no. 63: 211-43.
  23. Branstetter, Lee G., Francisco Lima, Lowell J. Taylor and Ana Venâncio. 2010. "Do Entry Regulations Deter Entrepreneurship and Job Creation? Evidence from Recent Reforms in Portugal." NBER Working Paper 16473, National Bureau of Economic Research, Cambridge, MA.
  24. Djankov, Simeon, Caroline Freund and Cong S. Pham. 2010. "Trading on Time." *Review of Economics and Statistics* 92 (1): 166-73.
  25. Iwanow, Thomasz, and Colin Kirkpatrick. 2009. "Trade Facilitation and Manufacturing Exports: Is Africa Different?" *World Development* 37 (6): 1039-50.
  26. Seker, Murat. 2011. "Trade Policies, Investment Climate, and Exports." MPRA Paper 29905, University Library of Munich, Germany.
  27. Nunn, Nathan. 2007. "Relationship-Specificity, Incomplete Contracts, and the Pattern of Trade." *Quarterly Journal of Economics* 122 (2): 569-600.
  28. Rauch, James. 2010. "Development through Synergistic Reforms." *Journal of Development Economics* 93 (2): 153-61.
  29. Chang, Roberto, Linda Kaltani and Norman Loayza. 2009. "Openness Can Be Good for Growth: The Role of Policy Complementarities." *Journal of Development Economics* 90: 33-49; Cnat, Alejandro, and Marc J. Melitz. 2007. "Volatility, Labor Market Flexibility, and the Pattern of Comparative Advantage." NBER Working Paper 13062, National Bureau of Economic Research, Cambridge, MA.
  30. <http://enterprisesurveys.org>.
  31. Haselmann, Rainer, Katharina Pistor and Vikrant Vig. 2010. "How Law Affects Lending." *Review of Financial Studies* 23 (2): 549-80. The countries studied were Bulgaria, Croatia, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, the Slovak Republic, Slovenia and Ukraine.
  32. Djankov, Simeon, Caralee McLiesh and Andrei Shleifer. 2007. "Private Credit in 129 Countries." *Journal of Financial Economics* 84 (2): 299-329; Houston, Joel, Chen Lin, Ping Lin and Yue Ma. 2010. "Creditor Rights, Information Sharing, and Bank Risk Taking." *Journal of Financial Economics* 96 (3): 485-512.
  33. Ibid.
  34. Visaria, Sujata. 2009. "Legal Reform and Loan Repayment: The Microeconomic Impact of Debt Recovery Tribunals in India." *American Economic Journal: Applied Economics* 1 (3): 59-81.
  35. Funchal, Bruno. 2008. "The Effects of the 2005 Bankruptcy Reform in Brazil." *Economics Letters* 101: 84-86.
  36. Dewaelheyns, Nico, and Cynthia Van Hulle. 2008. "Legal Reform and Aggregate Small and Micro Business Bankruptcy Rates: Evidence from the 1997 Belgian Bankruptcy Code." *Small Business Economics* 31 (4): 409-24; Giné, Xavier, and Inessa Love. 2010. "Do Reorganization Costs Matter for Efficiency? Evidence from a Bankruptcy Reform in Colombia." *Journal of Law and Economics* 53 (4): 833-64.
  37. Previous years' data on dealing with construction permits are adjusted to reflect this change. They are made available on *Doing Business* website under "historical data" (<http://www.doingbusiness.org>).



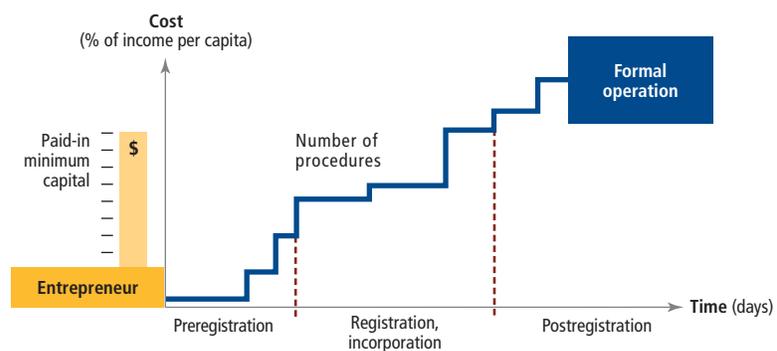
# Starting a business

Hadija loves baking. She always made cakes for her family and friends in Mombasa. Eventually, Hadija turned her baking passion into an informal business and brought in her son Feisal, who delivered the goods. Hadija had not thought of formalizing her activity because registering a business in Mombasa used to be a lengthy affair. Back in 2009, it took more than 2 and a half months to open a new business. This has changed. Thanks to several reforms, Hadija only needed 1 month to register her business in March 2012. A rare new addition to the Old Town scene, her bakery cooks up delicious cakes and muffins. It pays taxes and employs 3 people who were previously part of the informal economy.

## WHY DOES FORMAL BUSINESS REGISTRATION MATTER?

Formal incorporation has many benefits. Legal entities outlive their founders. Resources can be pooled as several shareholders join together. Limited liability companies limit the financial liability of company owners to their investments, so personal assets are not put at risk. And companies have access to services and institutions—from courts to banks—as well as to new customers and markets. Reforms that reduce informality greatly benefit women, such as Hadija, because they make up a larger share of the informal sector.<sup>1</sup> Consider Uganda. Complex start-up regulations there required frequent contact between entrepreneurs and public officials—and more chances for bribery. Women were seen as easy targets: 43% of female entrepreneurs reported harassment from government officials, while only 25% of all entrepreneurs did. When reformers simplified business start-up, business registrations shot up. The increase in first-time business owners was 33% higher for women than men.<sup>2</sup> Rich or poor, men and women around the world seek to run and profit from

**FIGURE 3.1** What are the time, cost, paid-in minimum capital and number of procedures to get a local limited liability company up and running?



their own business. A recent study using data collected from company registries in 100 countries over 8 years found that simple business start-up is critical for fostering formal entrepreneurship. Countries with smart business registration have a higher entry rate as well as greater business density.<sup>3</sup>

## WHAT DOES STARTING A BUSINESS MEASURE?

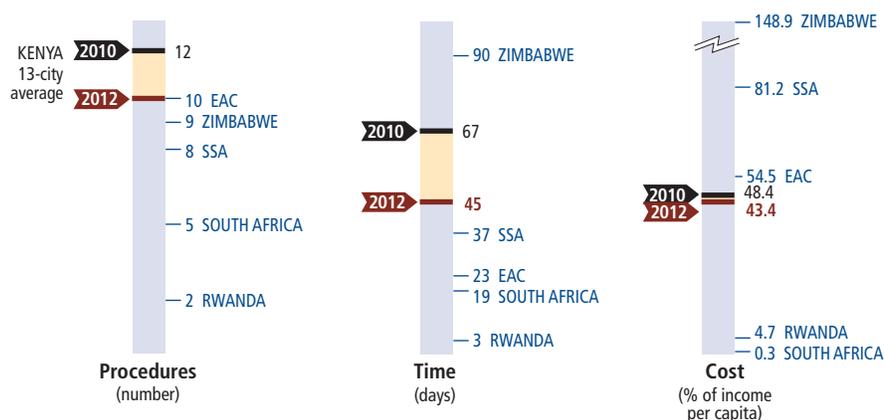
*Doing Business* measures the procedures, time, cost and paid-in minimum capital for a small to medium-size company to start up and operate formally (figure 3.1). These procedures include obtaining all necessary licenses and permits and completing any required notifications, verifications or inscriptions for the company and employees with relevant authorities. To make the data comparable across 183 economies, *Doing Business* uses a standardized business that is 100% domestically owned, has a start-up capital equivalent to 10 times income per capita, engages in general industrial or commercial activities and employs between 10 and 50 people.

## HOW DOES STARTING A BUSINESS WORK IN KENYA?

Among the 13 Kenyan cities studied, starting a business takes, on average, 10 procedures, 45 days and costs 43.4% of income per capita. It is 22 days faster and 5% cheaper than what was measured 3 years ago.<sup>4</sup> But starting a business in Kenya is still a relatively burdensome process compared to other countries. In Rwanda, it takes 2 procedures, 3 days and 4.7% of income per capita, while in Mauritius and Senegal, opening a business can be accomplished in 6 and 5 days, respectively. A South African entrepreneur needs to pay only 0.3% of income per capita to start a business (figure 3.2).

A shared national legislative framework regulates business start-up across Kenya. The same 10 procedures are required in all cities. The Registrar of Companies has only one office in the entire country. Entrepreneurs from out-of-town must travel to Nairobi to register their companies. Since applicants have to make the trip to Nairobi anyways, they tend to also take care of the prerequisites of incorporation there—obtaining approval of the company name, stamping the company incorporation documents, paying the stamp duty at an authorized bank

FIGURE 3.2 Some African countries have more efficient business registration processes



Note: EAC indicates the average for economies in the East African Community; SSA indicates the average for the Sub-Saharan Africa region. Source: *Doing Business* database.

and signing the declaration of compliance before a Commissioner for Oath—even though some of these procedures could also be done at home. Post-incorporation steps include dealings with the local branches of national agencies: the Kenya Revenue Authority, the National Social Security Fund, and the National Hospital Insurance Fund. Additionally, entrepreneurs need to obtain a business permit from the local authority and a company seal from a private authorized dealer. Within the country, starting a business is easiest in Thika and most burdensome in Kisumu (table 3.1).

The time it takes to open a business varies from 32 days in Nairobi to 55 days in Narok and Nyeri. The process is fastest in Nairobi, where the Registrar of Companies is located. Across Kenya, it takes between 2 and 35 days to get the Single Business Permit (SBP) from the local authorities. The process is faster in

cities, such as Garissa and Thika, where a site inspection, to confirm the details given by the applicant, is not a pre-requisite for issuing the business permit. Instead, an inspection is subsequently made to confirm compliance with the permit. In Mombasa, the permit can also be obtained in 2 days only. The use of modern information technology enables council clerks there to calculate the permit fee—which varies by type of business, number of employees, size and location of company's premises—on the spot and print the permit immediately after the payment is made. Obtaining a company seal can take from 2 to 7 days. In half of the cities measured, there are no authorized private dealers for company seals. Entrepreneurs order seals in Nairobi and have them delivered by courier. In the past 3 years, it became possible to purchase seals locally in a few more cities, such as Eldoret and Kilifi.

The cost of starting a business varies from 39.3% of income per capita in Narok to 48.4% of income per capita in Kisumu. Half of the total cost is spent on preparing the incorporation documents and filing them with the Registrar of Companies. For cities outside of Nairobi, entrepreneurs also need to add transportation costs for incorporating the company. The business permit fee is the main source of variation among cities. The Local Government Act from November 2008<sup>5</sup> specifies the range of fee schedules applicable to each type of local authority: towns, counties, municipalities and cities. The Isiolo County Council and Malaba Town

Council charge KES 3,500 and 4,000, respectively (about US\$ 50). At the other end of the scale, the City Council of Nairobi and Kisumu Municipal Council charge KES 10,000 (US\$ 130). Another component of the business start-up cost is the company seal, which costs approximately KES 3,000 to KES 4,000. In some cities, where there are no authorized dealers of company seals, entrepreneurs also need to pay for courier services to deliver the seal. Registration for health and social security insurance is free of charge. However, entrepreneurs from Malaba, where there are no local branches of the Hospital Insurance Fund and the Social Security Fund, still need to travel to neighboring Bungoma to register. When a satellite office of the Hospital Insurance Fund opened in Isiolo in 2009, it eliminated the need to travel to Meru or Naniuki. But entrepreneurs from Isiolo still need to travel out of town to register for social security. The same is true for Kilifi, where there is a local branch of the Hospital Insurance Fund but not of the Social Security Fund. Travel adds to the total cost of starting a business in these cities.

## WHAT HAS IMPROVED SINCE 2009?

*Doing Business in Kenya 2010* identified good practices, pointed out bottlenecks and provided recommendations for business startup reforms beyond Nairobi. Three years later, this report tracks progress over time. The results are impressive. All cities improved business entry (table 3.2).

Cities benefited from reforms implemented at the national level by the Kenya Revenue Authority and at the Registrar of Companies. In 2010, Kenya Revenue Authority adopted the Personal Identification Number (PIN) as the single tax payer identification number and phased out the Value Added Tax. Applying for the tax payer number and pay-as-you-earn (PAYE)—a withholding tax on income payments to employees—can now be done simultaneously on the tax authority website.<sup>6</sup> As a result, 2 procedures and 2 days were eliminated. This has also eliminated the need to travel to other cities for tax registration for entrepreneurs from Isiolo, Kilifi and Malaba, where there are no tax authority offices.

TABLE 3.1 Where is it easy to start a business—and where not?

RANK	City	RANK	City
1	Thika	8	Narok
2	Isiolo	9	Mombasa
3	Kilifi	10	Eldoret
4	Nakuru	10	Nyeri
5	Nairobi	12	Garissa
6	Kakamega	13	Kisumu
6	Malaba		

Note: Rankings are based on the average city percentile rankings on the procedures, time, cost and paid-in minimum capital to start a business. See the data notes for details.

Source: *Doing Business* database.

TABLE 3.2 It is easier to start a business now in all Kenyan cities benchmarked since 2009

	Digitization of records at the Registrar of Companies	Online registration at the Revenue Authority	Better communication between the Ministry of Lands and the Revenue Authority	Local branch of the Hospital Insurance Fund opened in town	Use of information technology by Local Authorities	Reduction of business permit fees
Eldoret		▲	▲		✓	✓
Garissa		▲	▲		✓	✓
Isiolo		▲	▲	▲	✓	✓
Kakamega		▲	▲		✓	
Kilifi		▲	▲			✓
Kisumu		▲	▲			
Malaba		▲	▲		✓	✓
Mombasa		▲	▲		✓	
Nairobi	▲	▲	▲			
Nakuru		▲	▲		✓	
Narok		▲	▲			✓
Nyeri		▲	▲			
Thika		▲	▲		✓	

▲ National level    ✓ Local level

Note: This table records all *Doing Business* reforms that occurred between June 2009 and March 2012.

Source: *Doing Business* database.

In January 2010, the Registrar of Companies finalized the digitization of its records. New applications are now processed based on a serial number, regardless of how many times the entrepreneur follows up with staff at the Registrar to check on his application. Previously, applications were processed manually, which resulted in delays, loss of records and uncertainty regarding the processing order. The electronic tracking of applications has thus reduced the time for filing the company deed and details with the Registrar of Companies by more than 6 days on average. Also, in 2009, a stamp duty office opened within the Registrar of Companies, making the assessment of the stamp duty more efficient.

A few years ago, the central government issued directives aimed at encouraging the use of information technology at the local level. The initiative, now known as the “Local Authority Integrated Financial Operations Management System” (LAIFOMS), aims at restructuring the local public sector and strengthening local accountability mechanisms. It is used by councils for all financial management activities—including the billing and collection of local revenues, the payroll and all expenditure controls. Thanks to the computerization of services, including the

Single Business Permit (SBP), the average time to obtain a permit across the 13 cities measured decreased from 7 to 4 days since 2009. In Nairobi, the city council is taking additional steps to improve service delivery by introducing e-payment for all city council charges, including business permits. It also plans to open public information kiosks at several spots in the city in order to facilitate access to information.

These national and local efforts have paid off by reducing the time and cost burdens on small and medium-size businesses across Kenya (figure 3.3).

Other reform initiatives are underway. A bill to replace the current Companies Act was introduced in parliament in December 2010. The bill, pending parliament approval, includes proposals to allow for electronic submission of documents, to make company seals optional, and to replace the multiple documents required in the registration process with a single application form. The State Law Office<sup>7</sup> is working towards a fully automated system for business incorporation; an online name search and reservation system is currently being piloted at the Registrar of Companies. The government has established an electronic searchable database of laws and regulations,<sup>8</sup> which will constitute

the main source of information for business licensing requirements and will improve coordination and collaboration between various regulators and the public.

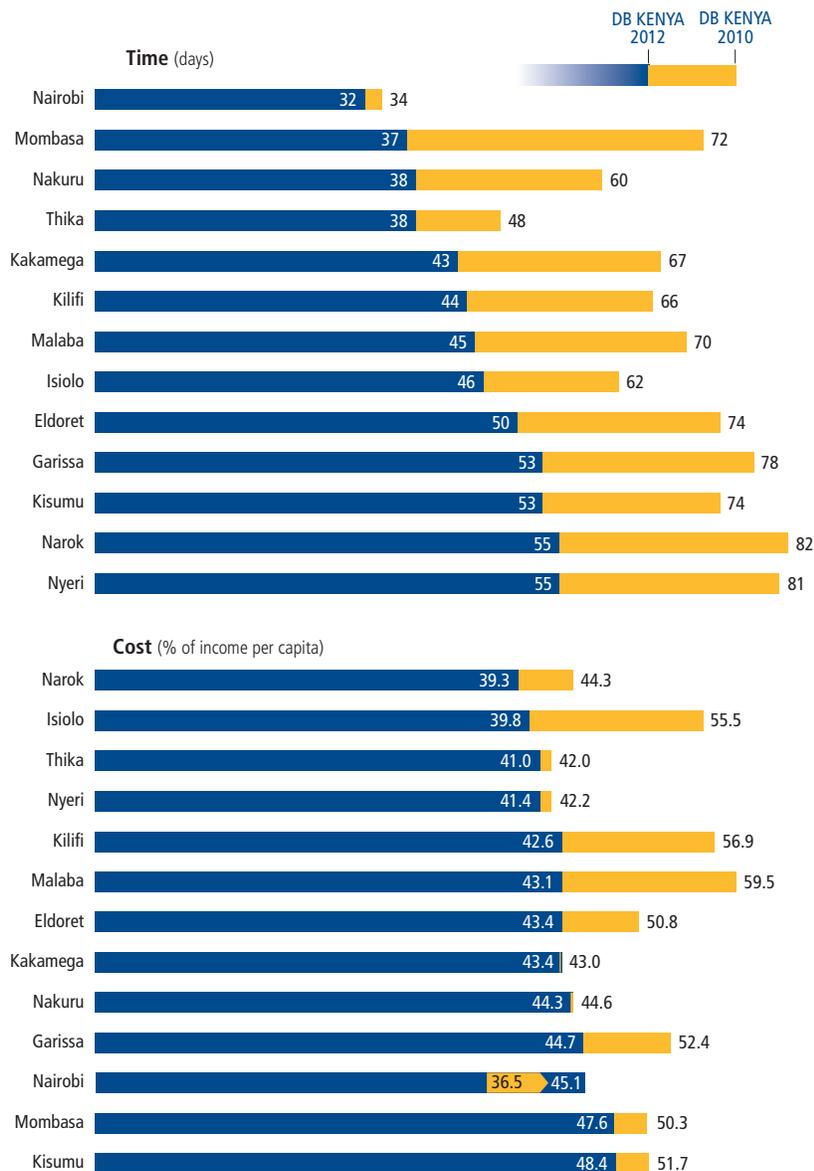
## WHAT TO REFORM?

### Eliminate unnecessary steps

Presumably, businesses that are formally registering plan to operate in compliance with laws and regulations. Filling the proper registration documents should be evidence itself that the entrepreneur is working to comply with the requirements of the law. Therefore, a separate step to sign a Declaration of Compliance before a Commissioner of Oath is duplicative and places an unnecessary burden on entrepreneurs. This step could be eliminated, shortening the overall registration process.

The registration process could also be shortened by combining the name search with the actual company registration. As a result, the Registrar of Companies would instantly register an applicant after the availability of the name is confirmed. This would reduce the hassle for entrepreneurs, who would no longer need to go back and forth to the Registrar—which is especially burdensome for out-of-towners.

FIGURE 3.3 Across Kenya, significant cuts in the time and cost to start a business since 2009



Source: *Doing Business* database.

Another step is already on its way out. The new Companies Bill, which is pending parliament approval, abolishes the requirement to obtain a company seal. Making the creation of a company seal optional rather than mandatory is a positive step. In the past, a company seal symbolized the legal identity of a business and authenticated all its contracts. Now most documents are sent electronically. Kenya has regulation allowing electronic signatures. These cost nothing and are more difficult to forge.

### Ensure transparency

Improving public access to information can greatly reduce the burden on entrepreneurs and even the agencies that deal with them. Easy access not only saves businesses time, it also increases predictability in the application of regulations and fee schedules. In Kenya, the fees payable to the Registrar of Companies for incorporation and to local authorities for the business permit should be posted prominently in the offices and on websites and made available in leaflets for

pick-up. Some countries also print the fee schedules directly on the application forms.

New Zealand, the world's top performer for starting a business, publishes a 10-page guidebook covering all issues regarding business registration and the steps needed to complete the process.<sup>9</sup> Easier access to fee schedules and lower fees tend to go hand in hand. Regardless of income levels, incorporation fees tend to be lower in economies where information on fee schedules is easily accessible (figure 3.4). The cost to start a business averages 18% of income per capita in economies where fee schedules are easily accessible, 66% in economies where they are not.<sup>10</sup>

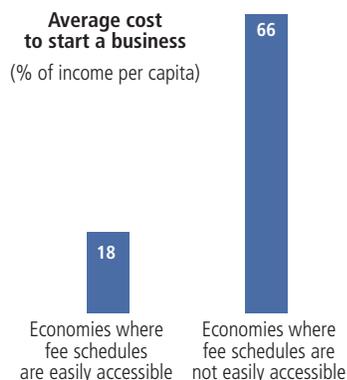
### Open branches of the Registrar of Companies outside Nairobi

Company registration is now possible only in the capital. Entrepreneurs across Kenya currently have to travel to Nairobi to start their companies, increasing the time and cost to start a business. The government of Kenya could open regional offices in cities, such as Mombasa or Kisumu, to cut travel times for entrepreneurs outside of the capital. This could also reduce the backlog at the headquarters in Nairobi. In the longer term, online registration could replace the need to visit the Registrar of Companies altogether.

### Use technology to boost efficiency

Kenya is increasingly employing information technology to make starting a business more efficient. The country has established an effective legal framework for the legal recognition of electronic documents and full automation of business incorporation. The records of the Registrar of Companies were digitized in 2010. But not all necessary infrastructural and administrative arrangements are yet in place to ensure full automation of the Registrar of Companies' operations. An online name-search system is still being piloted. The next steps would be to ensure online approvals and make standardized, electronic articles of incorporation available for download. On the issue of automation, the tax authorities are ahead of the Registrar of Companies: Kenya Revenue Authority has put in place the necessary infrastructure for the online acquisition of the various tax certificates required to start a business. At

**FIGURE 3.4** The cost to start a business is lower where information on the fees is easily accessible



Note: Relationships are significant at the 5% level after controlling for income per capita. Fee schedules are considered easily accessible if they can be obtained through the website of a government agency or through public notices, without a need for an appointment with an official. The data sample includes 174 economies.

Source: Doing Business database.

the local level, information technology is mainly used as a financial management tool to facilitate billing and payment. Its use could be expanded to allow online applications and renewal of business permits.

Around the world, e-government initiatives range from data centers and shared networks to government-wide information infrastructure and unified service centers for the public. When Mauritius introduced a computerized system for all types of business registrations in 2006, total registration time fell by 80%.<sup>11</sup> To encourage use, some economies set lower fees for online registration. In Belgium, online registration costs

EUR 140 and paper registration EUR 2,004. In Estonia, documents filed electronically no longer have to be notarized.

### Implement one-stop shops for business start-up

Currently, entrepreneurs must interact with 5 different national government agencies when starting their businesses: the Registrar of Companies, the Ministry of Lands, the Kenya Revenue Authority, the National Hospital Insurance Fund and the National Social Security Fund. Kenya could explore the possibility of establishing one-stop shops for business start-up that would incorporate all services under a single roof: business registration, registration for taxes, social security and health insurance.

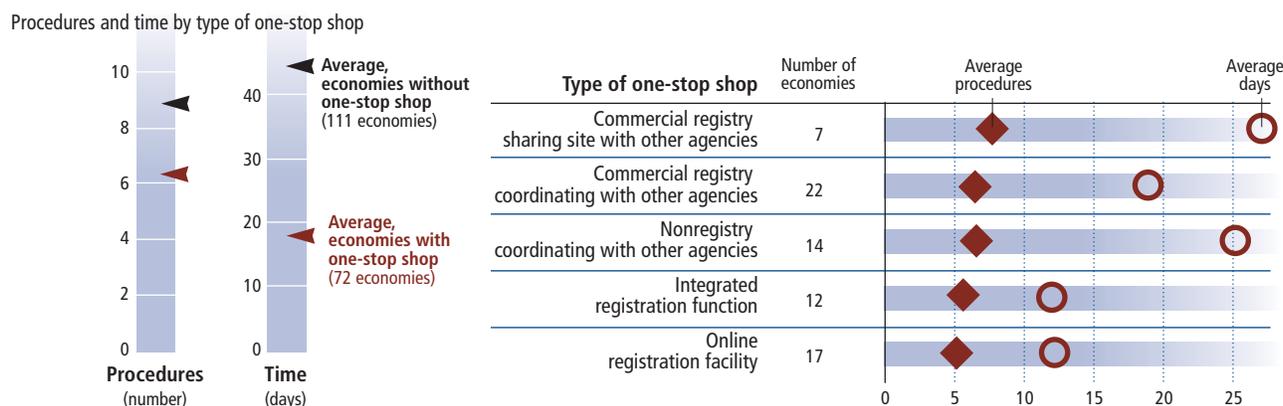
To set up a one-stop shop, representatives from all of the agencies involved would be placed under a single roof where they would receive and process applications. The applications should consist of 1 consolidated form that fulfills the requirements of all agencies involved. There should also be a single window, which would serve as a contact point for all of the agencies. This would allow an entrepreneur to complete company formation in 1 trip, significantly reducing the hassle and time involved. An alternative is to identify 1 key agency to accept and process applications on behalf of other agencies: this agency could be given access to the registration database for the type of information needed.<sup>12</sup> The key to a successful reform is giving officials at the one-stop shop decision-making power for their

respective agencies. Without it, delays will continue as the documents travel to agency headquarters and back. In addition, duplicate processes at the other agencies must be eliminated. Countries that fail to do this see their one-stop shop become “one more stop” in the company registration process.

The example of Rwanda is telling. In 2009, Rwanda consolidated the name-checking procedure at the main desk of its Commercial Registration Department. It also combined services into a single point of interaction in 2 stages. First, the Rwanda Development Board, Rwanda Revenue Authority and Caisse Sociale du Rwanda agreed in November 2008 to have representatives within the one-stop shop (at the Commercial Registration Department) receive and process applications. At this stage, the applicant was still required to interact separately with representatives of the Revenue Authority and Caisse Sociale. Second, in May 2009, the Commercial Registration Department reorganized its procedures so that applicants were no longer required to deal with representatives from the Revenue Authority and Caisse Sociale separately. By empowering the Registrar to process the applications on the premises, as opposed to send the applications to the separate agencies for processing, the one-stop shop became fully functional.

More than 70 economies around the world have some kind of one-stop shop for business start-up. While some one-stop shops are solely for business registration, others carry out many integrated functions, such

**FIGURE 3.5** Economies with a one-stop shop make starting a business easier



Source: Doing Business 2011 database.

as postregistration formalities. Some of these are virtual; others are physical, with 1 or more windows. In the 72 economies that have one-stop shops offering at least 1 service besides business registration, start-up is more than twice as fast as in those without such services (figure 3.5).<sup>13</sup>

Any reforms that Kenya undertakes should be adequately communicated and monitored. Monitoring changes highlights the successes and the areas where further effort is needed. Publicity surrounding reforms ensures that changes are accepted and implemented by all the stakeholders involved. An effective communication strategy will increase the positive perceptions of domestic and foreigner investors about the business environment in Kenya, encourage investment and job creation, and contribute to increase the standards of living of its citizens.

Washington, DC: The World Bank Group.

11. World Bank. 2010. *Doing Business 2011: Making a Difference for Entrepreneurs*. Washington, DC: The World Bank Group.
12. Investment Climate Advisory Services, 2010. *How Many Stops in a One-Stop Shop? A Review of Recent Developments in Business Registration*. Washington, DC: The World Bank Group.
13. World Bank. 2010. *Doing Business in the East African Community 2011*. Washington, DC: The World Bank Group.

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## NOTES

1. United Nations Research Institute for Social Development. UNRISD. 2010. "Gender Inequalities at Home and in the Market." Assignment: Chapter 4 (pages 5-33).
2. World Bank. *Doing Business: Women in Africa*. Washington, D.C.: World Bank Group.
3. Klapper, Leora, Anat Lewin and Juan Manuel Quesada Delgado. 2009. "The Impact of Business Environment on the Business Creation Process." Policy Research Working Paper 4937, World Bank, Washington, DC. *Entry rate* refers to newly registered firms as a percentage of total registered firms. *Business density* is defined as the number of businesses as a percentage of the working-age population (pages 18-65).
4. *Doing Business in Kenya 2010* data is as of June 2009.
5. The Local Government Act no. 147. Kenya Gazette Supplement No.79, November 14, 2008.
6. KRA's website is <http://www.kra.go.ke>.
7. The State Law Office is responsible for the provision of registration services with respect to the incorporation of companies and business names. These functions are carried out by the Registrar of Companies.
8. The website is <http://www.businesslicense.go.ke>.
9. *Companies: A Guide for New Zealand Businesses*. Ministry of Economic Development, The Companies Office, June 2010.
10. World Bank. 2011. *Doing Business 2012: Doing Business in a More Transparent World*.

# Dealing with construction permits

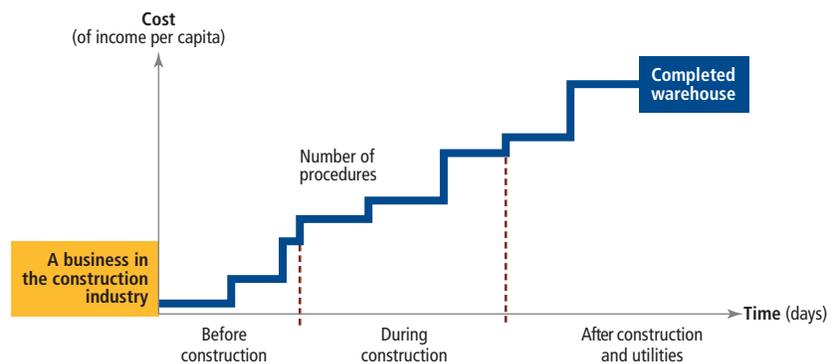
Doreen wants to expand her bookstore in Eldoret. She thought of building a warehouse to increase her stock capacity. She was pleasantly surprised to learn that she could obtain the necessary approvals to build a commercial warehouse and connect it to utilities in two and a half months and that the permit was cheaper than she had anticipated. In fact, Kenya is among the fastest and cheapest economies in Sub-Saharan Africa for dealing with construction permits.

## WHY DOES DEALING WITH CONSTRUCTION PERMITS MATTER?

The construction industry is important for the Kenyan economy: during the second quarter of 2011 it accounted for 4% of Kenya's GDP, growing by 5.8% from the previous quarter.<sup>1</sup> Kenya's urban population is expected to grow at a 4.3% yearly rate the next decade, and 70% of it lives in informal settlements.<sup>2</sup> Striking the right balance between overly rigid regulations and efficient permit issuing is a challenge for many governments. Good regulations ensure the safety standards that protect the public while making the permitting process efficient, transparent and affordable. If procedures are overly complicated or costly, builders tend to proceed without a permit.<sup>3</sup> According to the Architectural Association of Kenya, 6 out of 10 buildings in Nairobi do not have the necessary approvals.<sup>4</sup> The collapse of several buildings in Nairobi in recent years has raised concerns about safety standards and supervision mechanisms.<sup>5</sup>

Economies that score well on *Doing Business* on the ease of dealing with construction permits tend to have rigorous yet expeditious and transparent permitting processes. Speed matters. A recent study in the United States shows that accelerating permit approvals

FIGURE 4.1 What are the time, cost and number of procedures to comply with formalities to build a warehouse?



by 3 months in a 22-month project cycle could increase construction spending by 5.7% and property tax revenue by 16%.<sup>6</sup> In a survey of 218 companies in 19 Asia-Pacific Economic Cooperation member economies in 2009, respondents identified the time and procedures in construction permitting as the biggest “regulatory impediment” to doing business.<sup>7</sup>

## WHAT DOES DEALING WITH CONSTRUCTION PERMITS MEASURE?

*Doing Business* records the procedures, time and cost required for a construction business to obtain all the necessary approvals to build a simple commercial warehouse and connect it water, sewerage and a fixed telephone line (figure 4.1). The case study includes inspections and certificates needed before, during and after construction of the warehouse. To make the data comparable across 183 economies, the case study assumes that the warehouse is located in the periurban area of the cities measured, is not in a special economic or industrial zone and will be used for general storage activities.

## HOW DOES DEALING WITH CONSTRUCTION PERMITS WORK IN KENYA?

Among the 13 Kenyan cities measured, dealing with construction permits takes, on average, 11 procedures, 95 days and costs 192.6% of income per capita—much easier and cheaper than the Sub-Saharan Africa regional average of 15 procedures, 211 days and 823.7% of income per capita (figure 4.2). The average Kenyan city would rank 41, ahead of Mauritius (53) but behind South

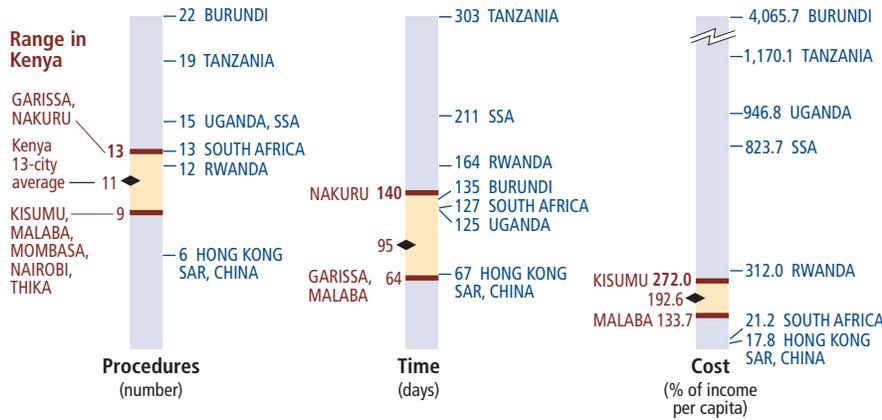
TABLE 4.1 Where is it easy to deal with construction permits—and where not?

RANK	City	RANK	City
1	Malaba	7	Thika
2	Eldoret	9	Kakamega
3	Garissa	10	Kisumu
4	Isiolo	11	Kilifi
5	Narok	11	Nairobi
6	Nyeri	13	Nakuru
7	Mombasa		

Note: The methodology for dealing with construction permits changed in 2011. Rankings are based on the average city percentile rankings on the procedures, time, and cost to deal with construction permits. See the data notes for details.

Source: *Doing Business* database.

FIGURE 4.2 Dealing with construction permits in Kenya compared globally



Note: SSA indicates the average for the Sub-Saharan Africa region. Source: Doing Business database.

Africa (31). Hong Kong SAR, China, is the top performer in dealing with construction permits among the 183 economies ranked by *Doing Business* globally. It takes only 6 procedures, 67 days and a cost of 17.8% of income per capita to deal with construction permits in Hong Kong.

The basic legal framework for permitting is common to all Kenyan cities, but differing institutional arrangements, implementation and fees result in significant variations among the 13 cities. Complying with formalities to build a warehouse and connect to utilities is easiest in Malaba—where it takes 9 procedures, 64 days, and 133.7% of income per capita (KES 81,045). Compared globally, this city would rank 23 out of 183 economies, as measured by *Doing Business*. Dealing with construction permits is most difficult in Nakuru, where it takes 13 procedures, 140 days and 208.8% of income per capita (KES 126,545) (table 4.1).

Most procedures related to construction permits in Kenya are managed locally. The Local Government Act (Cap 265) mandates local authorities to process developmental proposals and applications within their areas of jurisdiction.<sup>8</sup> The institutional framework varies from one city to another, depending on the type of local authority. Only Nairobi has a city council, which has more technical staff and higher competencies for development approvals. The rest of the cities have municipal, county or town councils, depending

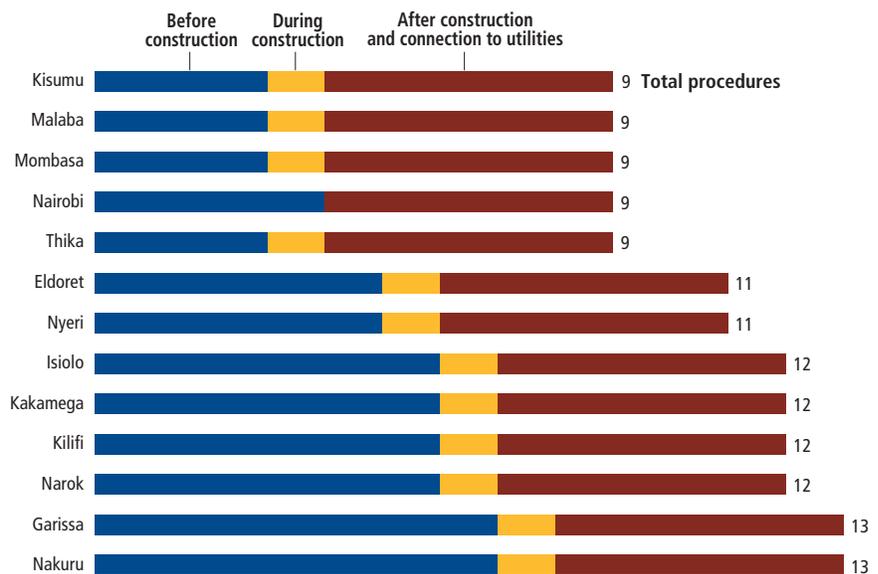
on the size of the population. Generally, the smaller the local authority, the more it relies on central government agencies. Other agencies involved in construction licensing and connection to utilities are the National Environment Management Authority (NEMA), with local branches in all districts, and local water and sanitation companies. The telephone sector has seen some privatization in the past years, but landlines are still publicly

controlled under the Orange Kenya Telkom partnership with France Telecom.

The procedures to obtain the necessary approvals to build a warehouse and connect it to utilities vary considerably across Kenya. The main reason is that not all local authorities have in-house technical staff to approve construction permit applications. In Kisumu, Malaba, Mombasa, Nairobi and Thika it only takes 9 procedures (figure 4.3)—the same number required in the United Kingdom—because entrepreneurs can obtain all approvals from the same place.<sup>9</sup> But in Garissa and Nakuru it takes 13 procedures—4 more—in part because an entrepreneur also needs to visit both the local branches of the Ministry of Lands and the Ministry of Health to obtain clearances and pay the relevant fees. In Kilifi, the town council forwards applications to these external offices on behalf of the applicants. However, entrepreneurs still need to pay them separate visits in order to pay the fees.

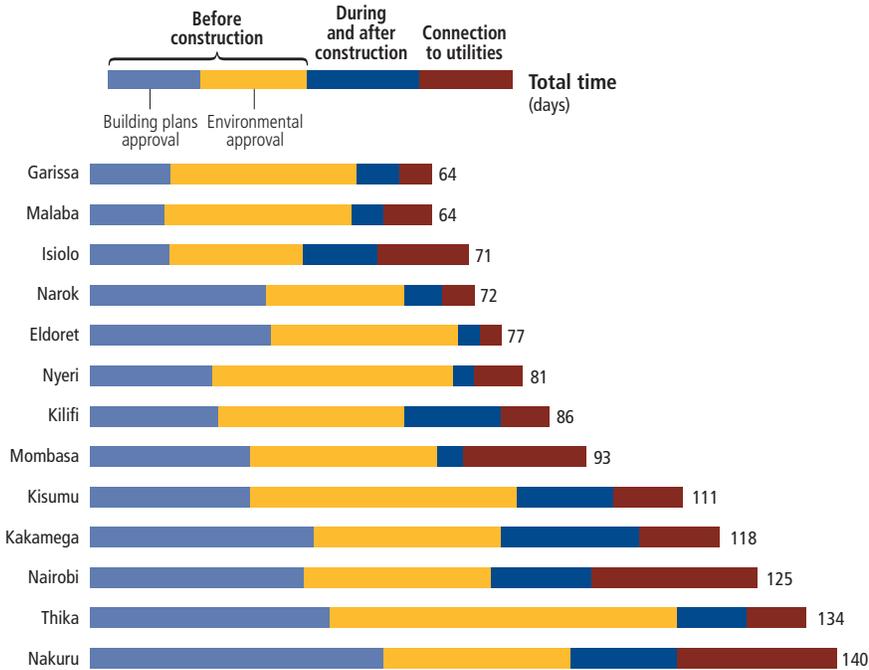
The next step is to obtain an environmental approval. Kenya's Environmental Management and Coordination Act, in place since 1999, mandated all construction development proposals to prepare and obtain approval of an environmental project report.<sup>10</sup> But these provisions

FIGURE 4.3 Procedures to deal with construction permits in Kenya



Source: Doing Business database.

FIGURE 4.4 The time to obtain approval of the building plans varies widely across Kenyan cities



Source: Doing Business database.

were not always enforced. New environmental regulations were enacted in 2003 and later amended in 2009. NEMA has made an effort to raise awareness among local authorities and the public in general in order to increase compliance. While in 2009 enforcement varied across cities—only 7 of the 13 cities measured applied it—today it is standard procedure everywhere for all commercial construction proposals. As a result, certified environmental experts prepare an environmental project report and have it approved by NEMA.

After construction, the entrepreneur needs to request a final inspection. This last inspection is usually conducted by the head of section or a higher level officer. Once the inspection card is filled in, the entrepreneur can request the occupancy certificate and connect to utilities.

Dealing with construction permits can be as fast as 2 months in Garissa and Malaba—faster than in Jordan (70 days). But it can take as long as 140 days in Nakuru—similar to Burundi (135 days) (figure 4.4). Longer times reflect the larger number of agencies involved, but also how efficiently they operate. The main source of variation is the time to approve the building plans. It is fastest to

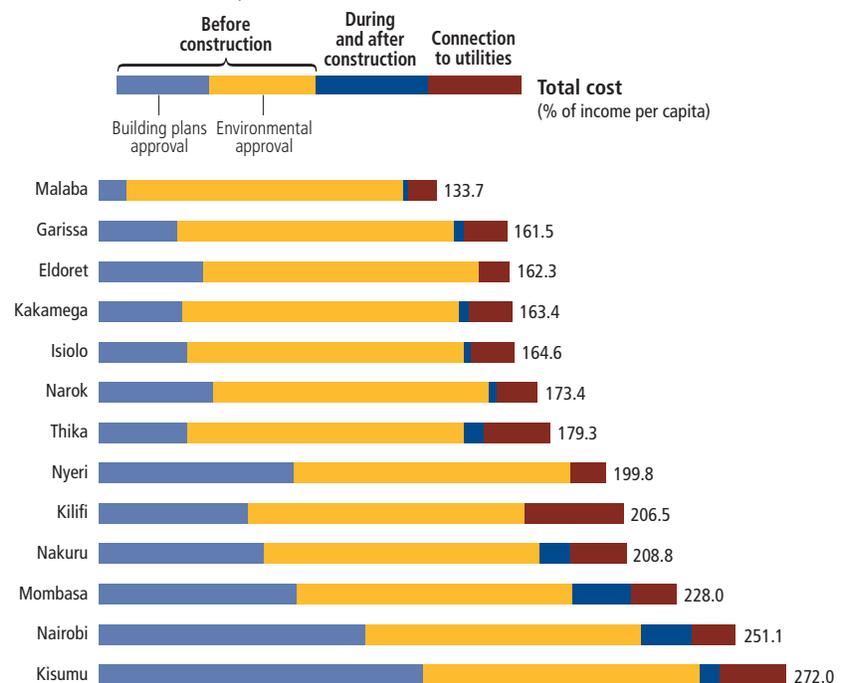
obtain approvals in Malaba, where it takes 14 days, and slowest in Nakuru, where it takes 55 days. There are 2 main reasons why the process is faster in Malaba. The town council has a Physical Planning Department and a

Public Health Department, so approvals are completed in-house. Also, the entrepreneur does not need to wait for ratification from the Town Planning Committee. Once the town clerk notifies the entrepreneur that the plans are approved, construction can start.

Obtaining environmental approvals adds 25 to 65 days. Although NEMA is a national agency, the capacity of its local branches varies from city to city. Garissa's branch is not fully operational, so either the branch sends applications to Nairobi, or Garissa's entrepreneurs must travel to submit them in the capital personally. NEMA's approval takes the longest in Thika, 65 days—this is more than twice the time it took in 2009. Applications have increased substantially with stricter enforcement, while the capacity of the local branch has not.

The cost varies from 133.7% of income per capita (KES 81,045) in Malaba to 272.0% of income per capita (KES 164,813) in Kisumu (figure 4.5). Compared to the Sub-Saharan Africa regional average—823.7% of income per capita—Kenya fares well. Still, the average cost in Kenya is more than 4 times the OECD average of 45.7% of income

FIGURE 4.5 Building and environmental approvals account for the bulk of the cost to deal with construction permits



Source: Doing Business database.

**TABLE 4.2** Business reforms improving the ease of dealing with construction permits over the last 3 years

	Improved administrative efficiency (through better coordination, use of technology, and staff training)	Streamlined procedures	Increased fees	Improved connections to water and sewerage
Eldoret	✓		✗	
Garissa			✗	
Isiolo			✗	
Kakamega			✗	
Kilifi			✗	✓
Kisumu			✗	✓
Malaba			✗	
Mombasa	✓	✓	✗	
Nairobi			✗	
Nakuru			✗	
Narok			✗	
Nyeri			✗	
Thika			✗	✓

✓ *Doing Business* reforms making it easier to deal with construction permits

✗ *Doing Business* reforms making it more difficult to deal with construction permits

Note: This table records all *Doing Business* reforms that occurred between June 2009 and March 2012.

Source: *Doing Business* database.

per capita. Complying with environmental requirements accounts for the largest portion of the cost—109% of income per capita (KES 66,250).<sup>11</sup> The reason is that the environmental requirements include having an expert assessment, which costs approximately KES 50,000. The variations in cost across cities stem mainly from building permit fees, which constitute the second largest portion of the total cost. Each local authority establishes its own rates for the approval of building plans. In Malaba entrepreneurs pay only 11% of income per capita (KES 6,400), given that fees are set at a fix rate—an international good practice. In Kisumu entrepreneurs must pay more than 10 times this amount, because fees are calculated based on the total surface constructed, adding up to 128% of income per capita (KES 77,668), on average.

### WHAT HAS IMPROVED SINCE 2009?

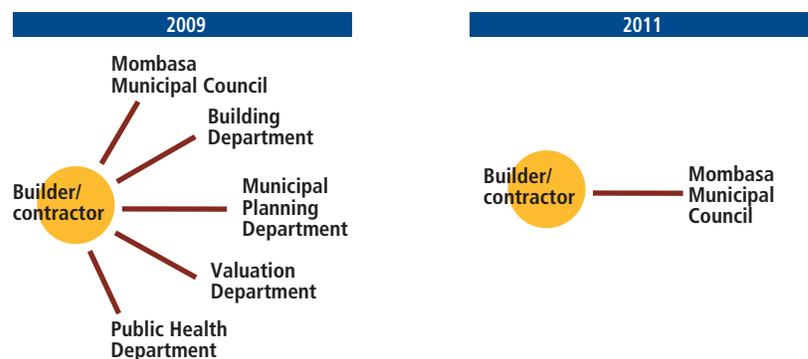
Since the publication of *Doing Business in Kenya 2010* efforts to improve the construction permitting process have persisted (table 4.2). Eldoret and Mombasa have implemented reforms of their building

approval processes with tangible results. The Mombasa Municipal Council overhauled its approval process by merging 5 separate requirements into 1, thus cutting the time required by 30 days. In 2009, a local entrepreneur had to submit the building plans for approval at the Mombasa Municipal Council, the Building Department, the Municipal Planning Department, the Valuation Department and the Public Health Department. This municipal council now conducts all relevant approvals in-house (figure 4.6). Also, the municipal technical committee increased the frequency

of its meetings from monthly to bi-weekly to approve development applications.

Eldoret reduced the time needed to obtain the building plan approvals from 50 to 30 days. Before the reform, each department at this municipal council approved the plans separately, after which the application was submitted to the Town Planning Committee for final approval. In 2010, Eldoret Municipal Council delegated approval to the town clerk.<sup>12</sup> Today a technical committee with members from the relevant departments approves the applications, which have to be signed off previously by registered professionals. Once the town clerk signs the plans, the entrepreneur is notified and can start construction.

In other cities—such as Kilifi, Kisumu and Thika—water companies have improved efficiency and reduced connection delays. Kenya's 2002 Water Act recognized the role of independent water service providers. Until then, water and sanitation were managed directly by local authorities.<sup>13</sup> Local authorities established water companies, which are publicly owned but gradually moving towards more independent management. Improvements vary from city to city. Kisumu improved the most: water and sewerage connection time was cut from 23 to 13 days. Kisumu Water and Sewerage Company (KIWASCO) restructured its management, employed more technical staff on 3-year performance contracts, increased distribution capacity and expanded coverage from around 40% to 60% of the municipality.<sup>14</sup>

**FIGURE 4.6** Mombasa overhauled the building plans approval process

Source: *Doing Business* database.

Meanwhile, in Kilifi and Thika connection times dropped by 31%, on average.

The City Council of Nairobi is currently piloting a major reform. On September 29, 2011, it launched an online system for the approval of architectural plans. Through the online system, the evaluation and preliminary approval of architectural plans by 5 departments are consolidated. Approving officers from different departments can work simultaneously on the applications, receiving automatic alerts if they have not approved their sections after 3 days. Although the City Council of Nairobi is digitizing its registry, entrepreneurs still must submit a hard copy of their plans for final approval, since electronic documents are not legally binding. Also, many entrepreneurs still prefer to submit plans in person. The City Council of Nairobi plans to start an awareness-raising campaign and is already offering assistance—in person or by phone—on how to use the new platform.

Kenya's parliament recently enacted the National Construction Authority Act to regulate the construction industry.<sup>15</sup> There is an ongoing effort to approve a new building code. Before going to parliament, the draft bill is being discussed among key stakeholders. The Ministry of Housing organized a national forum and the draft was submitted to relevant professional bodies. The current code dates back to 1968, and is a replica of the British Building Regulations of 1948.<sup>16</sup> The new bill is to regulate the use of materials and establish the National Planning and Building Authority as the only regulatory body.

Displaying information publicly makes it more transparent for builders and gives them confidence in the construction permit process. Since 2009, many local authorities have made an effort to improve public information about the approval process and fees. The City Council of Nairobi has a detailed description of the steps and required documents for users. The Thika Municipal Council and Kilifi County Council now publish local regulations and fee schedules through their websites. Narok publicly displays the information on notice boards. These are positive

steps that contribute to the transparency of local authorities.

## WHAT TO REFORM?

### Introduce a risk-based system for environmental approvals

In Kenya, all commercial constructions are subject to the same approvals and environmental project reports. This increases the burden on smaller businesses significantly. But not all buildings have the same environmental impacts. A hospital or skyscraper cannot be compared with a 2-story commercial warehouse. Efficient governments have rigorous yet differentiated construction permitting processes to treat buildings according to their risk level and location.

An international good practice is to categorize buildings depending on their environmental impact and, according to these characteristics, adjust environmental requirements. Simple low-risk buildings should have less rigorous requirements. Today 86 economies around the world have risk-differentiated systems in place, and 13 of those were established in the past 7 years.<sup>17</sup> For example, in 2010 Armenia introduced a risk-based system. As a result of this reform, builders are no longer required to obtain an ecological expertise approval for smaller projects with total area of less than 1,500 square meters, up from 1,000 square meters a year before. This change resulted in time savings of 30 days for entrepreneurs with projects that were previously above the size threshold. Colombia introduced a risk-based system in 2009. Now, “low to medium risk” structures undergo a fast-track approval process. Builders no longer have to hire special consultants for environmental, fire safety and traffic studies—saving both money and time. At the same time, building authorities can allocate resources based on project complexity.<sup>18</sup> Similar risk-based systems could be used in Kenya.

### Delegate approval of building plans to technical committees

In some cities, like Nakuru, applications must be endorsed by a political body which meets in a plenary session. This can result in long delays considering that these meetings take place infrequently—as seldom as once every

3 months in some cities. Kenya's Ministry of Local Government allows councils to delegate approvals to technical officers. Eldoret and Malaba take advantage of this prerogative to save entrepreneurs time. Construction applications are eventually endorsed by the council, but the constructor can start working as soon as the technical officers approve the plans. Another measure to speed up the approval could be to increase the frequency of the meetings of the reviewing committees, like in the city of Mombasa.

### Consolidate preconstruction approvals

Entrepreneurs usually need to obtain preconstruction approvals from the works department, physical planning department or health department. In Kisumu, all required departmental approvals are obtained at the same place because its council has the technical staff in-house needed for these approvals. But in other cities separate visits to various agencies may be required. Having approvals issued from a centralized location—a one-stop shop—would simplify the process moving forward. One possibility is to work out a part-time system, whereby representatives from various agencies work at the one-stop shop regularly several 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 local authority premises to review and approve building plans.

### Issue the completion certificate with the final inspection

After construction is finished, an entrepreneur in Kenya needs to request a final inspection to ensure that the building conforms to regulations, in accordance with the permit issued. Following the final inspection, builders must go back to the municipal, town or county council to request the certificate of occupancy. The whole process takes 2 procedures and up to 24 days in the city of Kakamega, for example.

In several other countries, a certificate of occupancy is issued on the spot along with the final inspection. Canada is one such example: If all required inspections have been carried out and the building or structure is deemed

substantially complete and fit for occupancy, the completion certificate is issued—avoiding any additional interactions for the builder. Singapore has an integrated online system through which builders can request the final inspection and the occupancy permit without delay. In Portugal the municipality of Lisbon has developed a tracking system that is automatically updated once the final inspection takes place, so the occupancy permit can be obtained from the municipality on the same day.

### Introduce a modern building code

Building codes establish common standards for public health and safety, fire protection, structural efficiency and environmental integrity. Building codes are important for ensuring a level playing field and legal certainty for building practitioners and developers. When regulations are not organized and applied coherently, builders and authorities may become confused about how to proceed. This often leads to delays, uncertainty, and disputes. However, if provisions are too precise, it is more difficult to keep regulations up-to-date. In transitional economies, updates may be a particular challenge.

Kenya's building code of 1968 was an adaptation of British legislation. There have been repeated initiatives to redraft the building code, but the process has yet to see results. The experience of best-practice countries—such as the United Kingdom, Canada, New Zealand, Singapore and Australia—suggest that it takes 10 to 15 years to carry out a significant overhaul of construction-permitting systems and develop new building codes. Globally, 43 economies have adopted uniform construction rules.<sup>19</sup> The best-practice codes encourage innovation and speed up the process of design reviews by the relevant authorities. These were important drivers in Australia and New Zealand's building permit reforms, which developed "performance" and "objective-based" codes. The new codes' requirements specify the desired technical outcome rather than the specific way this outcome should be achieved. Kenya can learn from these experiences as it modernizes its building code.

### NOTES

1. Kenya National Bureau of Statistics. Gross Domestic Product Second Quarter 2011. Statistical Release.
2. UN-HABITAT. Enhancing Urban Safety and Security — Global Report on Human Settlements 2007. <http://www.unhabitat.org/downloads/docs/GRHS.2007.7.pdf>; United Nations Department of Economic and Social Affairs. Population division, population estimates and projections section. <http://esa.un.org/unpd/wup/unup/p2k0data.asp>.
3. Moullier, Thomas. 2009. "Reforming Building Permits: Why Is It Important and What Can IFC Really Do?" International Finance Corporation, Washington, DC.
4. *Architecture Kenya*. October 4, 2011. "Six out of ten buildings in Nairobi don't have the necessary approvals." <http://architecturekenya.com/2011/10/04/six-out-of-ten-buildings-in-nairobi-dont-have-the-necessary-approvals/>.
5. *Architecture Kenya*. August 2, 2011. "Kenya loses Sh1.4 billion on collapsed buildings." <http://architecturekenya.com/2011/08/02/kenya-loses-sh1-4-billion-on-collapsed-buildings/>.
6. PricewaterhouseCoopers. 2005. "Economic Impact of Accelerating Permit Processes on Local Development and Government Revenues." Report prepared for the American Institute of Architects, Washington, DC.
7. Singapore Business Federation. 2009. "Key Findings from ABAC 'Ease of Doing Business' (EoDB) Survey." Presentation at Singapore Business Federation "Removing Barriers for Business Growth in APEC" dialogue session, Singapore, July 9.
8. See: "Assessment of the Development Permissions Process in the City Council of Nairobi, Kenya". January 2011. Investment Climate Advisory Services. Washington, D.C.: World Bank Group. The building permitting process is bound by the national legal and regulatory framework comprising of (a) *Building Code, the Local Government (Adoptive By-Laws) (Building) Order 1968, The Local Government (Adoptive By-Laws) (Grade II Building) Order 1968*, which provides basic standards and norms for construction; (b) *The Physical Planning Act, Chapter 286, Revised Edition 1996*, establishes general principles for territorial development of the country, (c) *The Public Health Act, Chapter 242, Revised Edition 1986 (1972)* for sanitation; (d) *The Environmental Management and Coordination Act, 2009*, guides use of urban space from the environmental perspective, *inter alia*, in construction.
9. Only Nairobi City Council has a fully fledged planning department, staffed with all the relevant technical experts for constructions or urban developments of any kind. In the other 4 cities building permits as described in the *Doing Business* case study can be approved in-house.
10. The main pieces of legislation that regulate Environmental Impact Assessments (EIAs) are the Environmental Management and Coordination Act (EMCA), and the Environmental Impact Assessment and Audit Regulations of 2003 (amended in 2009). Art.58 of EMCA mandates that a Project Report has to be submitted for all construction development proposals. The Project Report has to be prepared by a certified environment expert, stating the likely environmental effects of the construction. NEMA will assess if a full EIA is required. Schedule 2 of the EMCA establishes which projects are subject to an EIA. It is an extensive list related to special industries and areas of particular environmental interest. In practice there is little difference between the Project Report and the EIA: all construction development proposals need to present a report prepared by a certified expert and they need to pay the same fees to NEMA.
11. NEMA fees are established by law at 0.05% of the total project cost, which applies in all cities equally. The 2009 amendment lowered the applicable fee for EIA approvals from 0.1% to 0.05% of the total cost.
12. In 2002, the Ministry of Local Government issued a circular allowing local authorities to delegate the approvals to technical officers, instead of waiting for the endorsement of the relevant committees, which are usually political bodies that meet less often.
13. Sammy, Wambua. Global Issue Papers, No. 8: Water Privatization in Kenya. Heinrich Böll Foundation 2004.
14. Kisumu Water and Sewerage Company Technical Manager.
15. Law Number 41 of 2011.
16. Kimani, Mary and Titus Musungu. 2010. "Reforming and Restructuring the Planning and Building Laws and Regulations in Kenya for Sustainable Development." 46th ISOCARP Congress.
17. World Bank. 2011. *Doing Business in 2012: Doing Business in a More Transparent World*. 2011. Washington, D.C.: The World Bank Group.
18. World Bank. 2010. *Doing Business in the Philippines 2011*. Washington, D.C.: The World Bank Group.
19. World Bank. 2010. *Doing Business in 2011: Making a Difference for Entrepreneurs*. Washington, D.C.: World Bank Group.

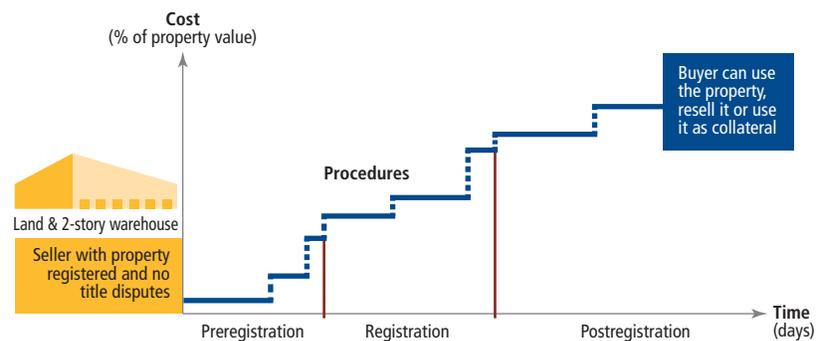
# Registering property

Winley from Isiolo has been manufacturing *kanga* and *kikoi*, a traditional East African sarong, for 12 years. When her business started in 2000, Winley was just selling the sarong, but a year later she also started designing and making garments and accessories from the fabrics, which are sold both locally and abroad. She now has dozens of employees. Winley needed more space to accommodate her growing business, so she decided to purchase a place on the outskirts of the city, taking advantage of the recent cut in the local property transfer tax—from 20% of property value to just 5%. But to her surprise, Winley just discovered that in Nyeri, only 135 kilometers away, no local tax at all is levied on property transfers. Winley wished she were living in Nyeri.

## WHY DOES PROPERTY REGISTRATION MATTER?

Registered property rights are necessary to support investment, productivity and growth.<sup>1</sup> With land and buildings accounting for between half and three-quarters of the wealth in most economies, having an up-to-date land information system clearly matters.<sup>2</sup> Entrepreneurs with formal land titles have a better chance of getting credit when using their property as collateral. In Zambia 95% of commercial bank loans to businesses are secured by land; in Indonesia 80%, and in Uganda 75%.<sup>3</sup> In addition, efficient property registration systems benefit governments through higher tax revenues. Up-to-date land information also allows governments to map out the different needs in their cities and to strategically plan the provision of services and infrastructure in the areas where they are most needed.<sup>4</sup> Land information is vital in planning the expansion of urban areas. This is especially important in territories prone to natural disasters. Tools,

**FIGURE 5.1** What are the time, cost and number of procedures required to transfer property between 2 local companies?



such as cadastres and survey maps, can be used in city planning, to avoid or mitigate the effects of environmental or climate-related risks on urban populations.

## WHAT DOES REGISTERING PROPERTY MEASURE?

*Doing Business* records the procedures necessary for a business to purchase a property from another business and to transfer the property title to the buyer's name (figure 5.1). The process starts with obtaining the necessary documents, such as a copy of the seller's title, 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 as collateral for a bank loan or resell it.

## HOW DOES REGISTERING PROPERTY WORK IN KENYA?

The ease of registering property varies greatly among economies around the world. It is easiest to register property in Saudi Arabia, where the entire process can be completed with just 2 procedures, in 2 days, at no cost. Some economies in the Sub-Saharan Africa region are not far behind. In Benin, Burkina Faso, Comoros,

Mauritania, Mauritius, Niger and Seychelles, it takes only 4 procedures; in Sudan, it takes 9 days; in Ghana, it costs just 0.7% of the property value to transfer the property from one domestic private company to another.

Registering property in Kenya takes an average of 9 procedures, 61 days and costs 4.6% of property value across the 13 cities measured. When compared to the Sub-Saharan Africa regional average—6 procedures, 65 days and 9.4% of property value—Kenyan cities require, on average, more procedures but at a lower cost and over fewer days. The cost to register property in the average

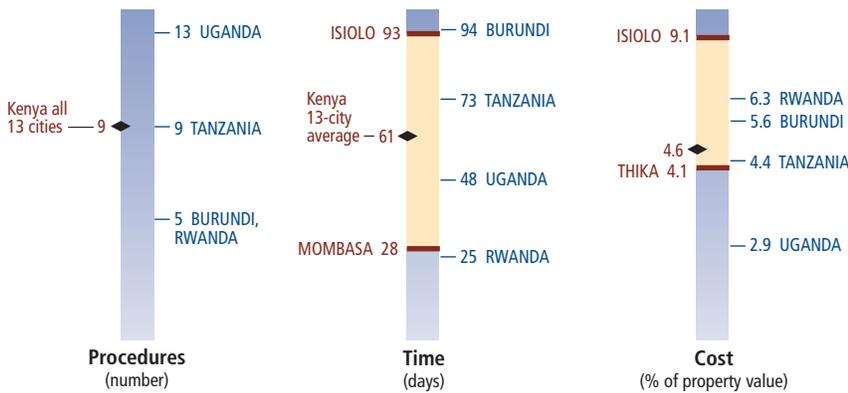
**TABLE 5.1** Where is it easy to register property—and where not?

RANK	City	RANK	City
1	Mombasa	8	Garissa
2	Kisumu	9	Kakamega
3	Thika	10	Nyeri
4	Malaba	11	Kilifi
5	Narok	12	Nairobi
6	Nakuru	13	Isiolo
7	Eldoret		

*Note:* Rankings are based on the average city percentile rankings on the procedures, time and cost to register property. See the data notes for details.

*Source:* *Doing Business* database.

FIGURE 5.2 Registering property in Kenya compared regionally



Source: Doing Business database.

Kenyan city is close to the East African Community (EAC) economies' average (figure 5.2). The Kenyan city average is negatively affected by Isiolo's local transfer tax—currently at 5% of property value—for property transfer transactions. Without this outlier, the average cost to transfer property in Kenyan cities would be 4.2%—above Uganda, but cheaper than fellow EAC economies Burundi, Rwanda and Tanzania.

Comparing *Doing Business in Kenya 2010* to the current report, Mombasa and Isiolo remain the easiest and most difficult places to transfer property, respectively (table 5.1). Meanwhile, the 2 newly added cities—Kakamega and Nakuru—rank 9 and 6 on the ease of property transfer, respectively, out of 13. A comparison with Kenya averages in

2010 shows that cost has been reduced by 1.1% of property value and time by 1 day.

In all the 13 cities, there are 9 requirements to complete the legal transfer of a property between 2 companies, involving the lands office, the local authorities and the Kenya Revenue Authority, as well as 1 of the payment-designated commercial banks (National Bank of Kenya, Kenya Commercial Bank or Co-operative Bank of Kenya).

According to the Ministry of Lands, the registry should be accessible from the provincial and district lands offices across Kenya. Nevertheless, businesses maintain that they sometimes have to travel to Nairobi to obtain reliable information. The service charter of the Ministry of Lands sets a maximum time ceiling for lands offices to

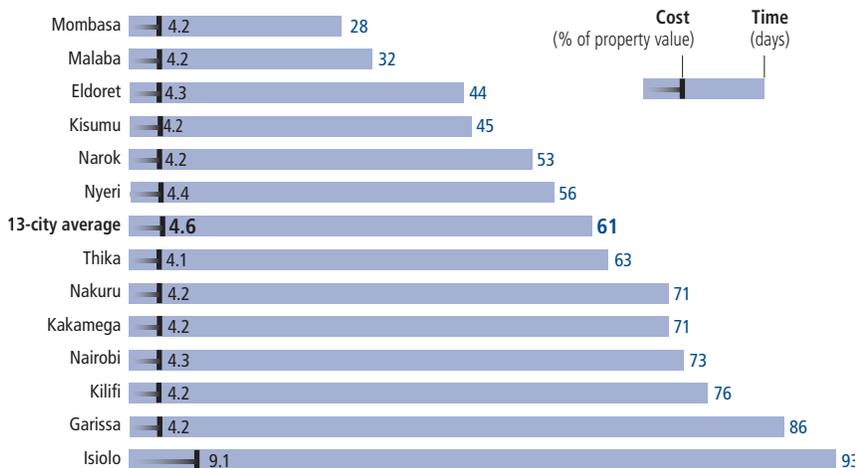
deliver key services such as the registration of documents (4 days), land valuation (21 days) and assessment of stamp duty (15 minutes).<sup>5</sup> The difference in efficiency across local lands offices continues to be the main reason for variations in time among cities to complete property transfer transactions—from 28 days in Mombasa to 93 days in Isiolo (figure 5.3). For example, obtaining a land rent clearance certificate takes 3 days in Malaba and 5 days in Mombasa, but as long as 21 days in Kilifi and 23 days in Nyeri. A high volume of registrations in fast-growing cities, the lack of institutional capacity and inadequate technological support explain some of these bottlenecks.

The Local Authorities Integrated Financial Operations Management System (LAIFOMS) has been extended to more than 90 local councils. The council clerks can now simply enter the plot number in the LAIFOMS property rates module to obtain the amount of outstanding payments, speeding the issuance of the rate clearance certificate by 2 days, on average—from 5 days in 2009 to 3 days now. It only takes 1 day to obtain a rate clearance certificate in Garissa, Mombasa and Nyeri, while the same activity can take 5 days in Nairobi.

Registering property continues to be expensive in Kenya compared to other Sub-Saharan Africa economies—with an average cost amounting to 4.6% of the property value (figure 5.2). In Ethiopia, Ghana, Sudan and Uganda property transfers cost between 0.7% and 3.0% of the property value. In Kenya, the main component of the cost is the stamp duty (4% of property value), which is paid to the national government. Thika is the least expensive Kenyan city at 4.1% of the property value, while Isiolo is the most expensive at 9.1% (figure 5.3).

Other minor cost variations stem from different fee schedules. Obtaining a land rent clearance certificate is free of charge in Kakamega, Kilifi, Kisumu, Nairobi, Nakuru and Thika. In Eldoret and Nyeri, it costs as much as KES 3,800 (US\$ 49). The Municipal Council of Garissa charges only KES 250 (US\$ 3) for a rate clearance certificate whereas the rest of the cities charge more than KES 1,000 (US\$ 13).

FIGURE 5.3 Registering property is fastest in Mombasa and least expensive in Thika



Source: Doing Business database.

## WHAT HAS IMPROVED SINCE 2009?

In the past 7 years *Doing Business* recorded 169 reforms in 107 economies increasing the efficiency of transferring property (figure 5.4). Fifty-six economies lowered transfer taxes and government fees, reducing the cost by 4% of the property value, on average. Burundi cut the transfer cost by 10% of property value over 3 years, by first abolishing the 7% registration fee and then reducing the transfer tax rate from 6% of property value to 3%. Burkina Faso reduced its transfer tax rate by 7% over 4 years—first cutting the rate from 15% to 10% and then to 8%. Others made big cuts all at once. Mozambique reduced its transfer tax rate from 10% to 2.4% in 2005/06. In 2010/11 Angola cut its transfer tax rate by 8% of property value, and the Central African Republic by 7.5%. In 2010/11, 20 economies made it easier for local businesses to register property by reducing the time, cost or number of procedures required. Serbia improved the most in the ranking on the ease of registering property by introducing a fast-track option for registrations. The most common measures were introducing time

limits or expedited procedures, reducing taxes or fees, streamlining procedures and computerizing cadastres and registries.

*Doing Business in Kenya 2010* identified Isiolo as one of the most expensive places to register property in the world. Since then, thanks to recent reform initiatives, the County Council of Isiolo has cut out three-quarters of its onerous transfer tax—moving it from 20% to 5% of property value. The reduced transfer tax on top of a 4% of property value paid for stamp duty, however, still makes Isiolo the most expensive place in Kenya. If compared to the 183 economies measured in *Doing Business*, Isiolo would rank 142 out of 183 economies on the cost component indicator, and in Sub-Saharan Africa, 26 out of 46 economies. Compared with 3 years ago, the widely applied LAIFOMS has expedited the issuance of the rate clearance certificate by 2 days, on average.

## WHAT TO REFORM?

### Comply with time limits

Time limits give entrepreneurs a reference for how long they may need to wait. If a requirement is not completed within a specified

time ceiling, entrepreneurs know they need to follow up. Even though the service charter of the Ministry of Lands sets a maximum time for lands offices to deliver key services, they are routinely ignored. Entrepreneurs state that sometimes they cannot get a service unless they do more than what is on the books—such as following up with acquaintances within lands offices or even paying a bribe.

Time ceilings work only when an agency has the tools necessary to comply with them. Fifty-four economies worldwide set legal time limits for property registration. Globally, 3 of 4 economies with statutory time limits comply with them.<sup>6</sup> Eastern Europe and Central Asia, OECD high-income economies and Latin America and the Caribbean are the regional groups that stand out for the highest compliance with their time limits. In Sub-Saharan Africa only 5 of 46 economies have statutory time limits. These range from 7 days in Botswana to 30 in Cape Verde and Seychelles and are widely respected.

The Kenyan government needs to strengthen institutional capacity and provide adequate human capital and technological support in order to ensure compliance. Entrepreneurs need to have incentives for self-compliance. When it comes to finding inspiration to encourage compliance with time limits, good practices can be found internationally. Spain, for example, has an innovative way to ensure compliance: the registry's fees are cut by 30% if registration takes more than 15 days and there is no objective reason for the delay. The Kenyan Ministry of Lands may also consider adopting ethical standards and codes of conduct for public officials and professionals in the real estate industry.

### Set low fixed fees

The Kenyan local governance system is composed of 4 tiers of local authorities, namely: cities, municipalities, towns and county councils. Local authorities face a number of governance challenges, one of which is to service important responsibilities—including to establish and maintain schools and educational institutions, provide housing services, maintain roads and streets, carry out public health schemes and provide social welfare. One important source of revenue for Isiolo

**FIGURE 5.4** Sub-Saharan Africa keeps up its fast pace in property registration reforms

Number of *Doing Business* reforms making it easier to register property by *Doing Business* report year

Region Name	DB2006	DB2007	DB2008	DB2009	DB2010	DB2011	DB2012	Total Number of Reforms
Sub-Saharan Africa (46 economies)	1-5	6-10	11-15	16-20	16-20	16-20	16-20	49
Eastern Europe & Central Asia (24 economies)	1-5	1-5	1-5	1-5	1-5	1-5	1-5	34
OECD high income (31 economies)	1-5	1-5	1-5	1-5	1-5	1-5	1-5	30
Latin America & Caribbean (32 economies)	1-5	1-5	1-5	1-5	1-5	1-5	1-5	24
Middle East & North Africa (18 economies)	1-5	1-5	1-5	1-5	1-5	1-5	1-5	12
East Asia & Pacific (24 economies)	1-5	1-5	1-5	1-5	1-5	1-5	1-5	11
South Asia (8 economies)	1-5	1-5	1-5	1-5	1-5	1-5	1-5	9

1-5 reforms per DB year   6-10 reforms per DB year   11-15 reforms per DB year   16-20 reforms per DB year

*Note:* An economy can be considered to have only 1 *Doing Business* reform per topic and year. The data sample for DB2006 (2005) includes 174 economies. The sample for DB2012 (2011) also includes The Bahamas, Bahrain, Brunei Darussalam, Cyprus, Kosovo, Liberia, Luxembourg, Montenegro and Qatar, for a total of 183 economies.

*Source:* *Doing Business* database.

Municipal Council is a transfer tax of 5% of property value. This is on top of a stamp duty levied nationwide on land transfer transactions—currently at 4% of property value.

But when transfer fees and taxes are too burdensome, even registered property might quickly become informal if subsequent transactions are not registered. This not only weakens the protection of property rights, it also reduces potential revenue from property taxes.

Over the past 7 years, 56 economies lowered transfer taxes. Twenty-three of them are in Sub-Saharan Africa, where costs have been the highest. The Democratic Republic of Congo cut its transfer tax rate from 6% of the property value to 3%, Mali from 15% to 7%, and São Tomé and Príncipe from 10% to 8%. In Benin and Guinea-Bissau, reducing the registration or transfer tax was in part motivated by the desire of these countries to pass the Millennium Challenge Corporation (MCC) eligibility threshold.

Businesses in Kenya view the stamp duty and transfer tax as a major hindrance to the efficient transfer of land titles. Respondents suggested that it should be made more affordable. These expenses need to be reduced further to encourage registration and accurate price reporting. The introduction of flat rates instead of fees expressed as a percentage of property value has proven beneficial for both entrepreneurs and the government in many countries, as it reduces the incentive for property owners to either undervalue their plots or not register their property altogether. Flat fees can translate into more revenue for the government. In 2007, the Arab Republic of Egypt introduced a low fixed stamp duty fee, replacing the 3% registration fee. This led to a boom of property registrations that increased government revenues by 39% 6 months after the reform.<sup>7</sup>

### Streamline procedures

To transfer a leasehold property in Kenya, the head lessor must apply for consent to transfer from the Commissioner of Lands for the ease of government's record. This can be a useful short-term measure, but the question is: What is the added value or necessity of this procedure? Normally the property transfer process is an administrative process, not

tied to political or judicial decisions. Kenya requires approval for every leasehold transaction, in addition to registration, and this step adds 1 procedure and 5 to 9 days to the process.

The Ministry of Lands could examine the roles in the property transfer process, identify the added value of each one, and eliminate or combine redundant checks and approvals. For example, it is possible that the procedure for obtaining the Commissioner of Land's approval could be either eliminated or combined with the registration at the lands office.

Worldwide 32 economies streamlined procedures and linked or improved agencies' systems to simplify property registration in the past 7 years. These measures reduced interactions between entrepreneurs and agencies—saving between 1 and 2 procedures, on average—while maintaining security and controls.

In the medium term, Kenya may also consider setting up a one-stop shop to minimize interactions between agencies and entrepreneurs. Ghana did this under the roof of its Lands Commission. But not all economies can afford to bring all agencies involved in property transfer under one roof. Even so, many have been able to coordinate the functions or records of at least 2 institutions involved in the property transfer process. In most cases this coordination has linked a land registry to the tax agency or valuation agency. One way to do this is to have a representative of one of the institutions present at the other—as in Burundi and Ethiopia. Another is to link agencies electronically—as in Denmark, Latvia, Lithuania, Peru and Portugal.

### Digitize land records

The lack of reliable title registries is a major hindrance for Kenyan businesses. The application fee for a title search is KES 500 (US\$ 6). But when people do not trust the validity of records in local registries and travel to Nairobi to verify records in the central registry, transportation can require much more time and cost. Digitization of property records and automation of title searches is much needed to strengthen property rights protection and restore such trust.

Efforts are currently underway in Kenya but are proceeding with delays. The Ministry of Lands has set up a document conversion center and procured equipment, such as heavy-duty scanners, to convert the paper files into digital ones. The process is slow, because the records are often old or damaged. Methods for restoring old or damaged records must be improved and the process expedited.

Fully implementing computerization and electronic filing can take decades and cost millions of dollars, depending on the amount of surveying and cadastre work involved. At the local level, some local officials are reluctant to give up manual searches, especially those that use such searches as opportunities for personal financial gains. What is more, a recent report found that digitization itself creates opportunities for corruption. There are cases where officials claim that a particular record cannot be accessed because it is being digitized but they can help find it for an additional fee.<sup>8</sup> The government must address these counterproductive incentives while implementing the digitization and automation process. The records should be in order before consolidating or computerizing them. Once an old record is entered into the new system, the record should be clear and free of disputes.

### Make land and building valuations more transparent

Some municipalities request on-site inspections for assessing the value of the land and building. Instead of time-consuming and costly physical inspections, district lands offices may consider introducing standardized schedules of property values, based on the location, size, and/or level of development of properties. Furthermore, some Kenyan lawyers that deal with property transfers state that in some cases different property valuation methodologies lead to conflicting valuation reports—especially between government and private sector valuers. Entrepreneurs who rely on government valuers often must facilitate the process by providing private transportation and maintaining good personal relationship to avoid overvaluation. It is important, therefore, to enforce a common methodology to ensure uniformity and consistency in the valuation practice.

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## NOTES

1. Deininger, Klaus. 2003. *Land Policies for Growth and Poverty Reduction*. World Bank Policy Research Report. New York: Oxford University Press.
2. World Bank. 1989. *World Development Report 1989*. New York: Oxford University Press.
3. Data are from World Bank Enterprise Surveys conducted in 2006/07 (<http://www.enterprisesurveys.org>).
4. Property information held in cadastres and land registries is part of the land information available to governments. Land information also includes other geographic, environmental and socioeconomic data related to land that are useful for urban planning and development.
5. Republic of Kenya. Ministry of Lands Service Charter.
6. *Doing Business* database.
7. World Bank. 2007. *Doing Business in Egypt 2008*. Washington, DC: World Bank Group.
8. Center for International Private Enterprise and Institute of Economic Affairs. 2011. Kenya Property Markets Scorecard: Conditions for Small Businesses.

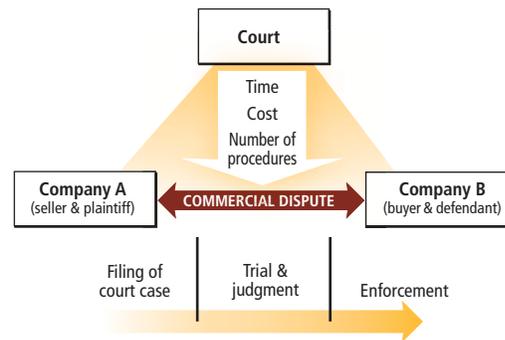
# Enforcing contracts

Wanjiku is a litigation lawyer from Isiolo who mainly handles commercial cases. He spends considerable amounts of time in court proceedings, as hearings are frequently cancelled and rescheduled. As a result, many of Wanjiku's clients end up wondering whether it is really worth going to court. They may turn to Wanjiku to ask him why a case involving a simple breach of contract can take a whole year in trial before a judgment is reached. Wanjiku explains that the hearings are delayed by seemingly endless notices of preliminary objections. Furthermore, the judges must write all the evidence down as the hearings proceed. The backlog increases and subsequent cases have to wait longer. He finds it frustrating, too. Wanjiku and his clients' sentiments are shared by attorneys and clients in other Kenyan cities. Many people in Kenya turn to informal institutions or traditional dispute resolution methods—such as the elders or community leaders—to settle disputed contracts and seek justice.<sup>1</sup>

## WHY DOES COMMERCIAL DISPUTE RESOLUTION MATTER?

An effective dispute resolution system and a well-functioning judiciary are essential for sustaining a healthy and stable economy. In their absence firms undertake fewer investments and business transactions. Weak judicial and dispute resolution systems can undermine commercial trust, because firms and people tend to prefer to interact only with those whose trust they have gained through past interactions, thus reducing the scope of commercial activity. A recent study found that efficient contract enforcement is associated with greater access to credit for firms.<sup>2</sup> Another study of 27 judicial districts in Italy found that, all other things being equal, where the backlog of pending trials is

FIGURE 6.1 What are the time, cost and number of procedures to resolve a commercial dispute through the courts?



relatively large, credit is less widely available, the average interest rate is higher, and the default rate is higher.<sup>3</sup> In other research, an analysis of 98 developing economies suggests that foreign direct investment tends to be greater where the cost of contract enforcement in debt collection and property eviction cases is lower, particularly when the host economy is more indebted.<sup>4</sup>

## WHAT DOES ENFORCING CONTRACTS MEASURE?

*Doing Business* measures the time, cost and procedural complexity of resolving a commercial lawsuit between 2 domestic businesses. The dispute involves the breach of a sales contract worth twice the income per capita of the economy. The case study assumes that the court hears arguments on the merits and that an expert provides an opinion on the quality of the goods in dispute. This distinguishes the case from simple debt enforcement. The time, cost and procedures are measured from the perspective of an entrepreneur (the plaintiff) pursuing the standardized case through local courts (figure 6.1).

## HOW DOES COMMERCIAL DISPUTE RESOLUTION WORK IN KENYA?

Although the laws and regulations relating to contract enforcement are the same across the country,<sup>5</sup> the ease of enforcing contracts varies from city to city. It is easiest in Garissa, where it takes 351 days and costs 38.7% of the claim value. It is most burdensome in Nairobi, where it takes 465 days and costs 47.1% of the claim value (table 6.1). The average time to enforce a contract in Kenya is

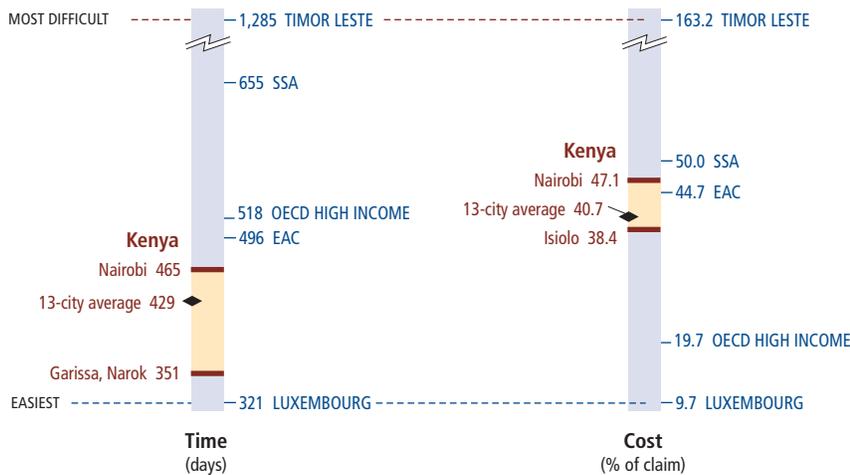
TABLE 6.1 Where is it easy to enforce a contract—and where not?

RANK	City	RANK	City
1	Garissa	8	Mombasa
2	Narok	9	Kisumu
3	Malaba	10	Nyeri
4	Isiolo	11	Nakuru
5	Eldoret	12	Kakamega
6	Kilifi	13	Nairobi
7	Thika		

Note: Rankings are based on the average of city percentile rankings on the procedures, time, and cost to resolve a commercial dispute through the courts. See the data notes for details.

Source: *Doing Business* database.

FIGURE 6.2 How do Kenyan cities compare globally?



Note: EAC indicates the average for economies in the East African Community; SSA indicates the average for the Sub-Saharan Africa region. Source: Doing Business database.

429 days—about 14 months—and the cost comes to 40.7% of the claim value.

With the increase of cross-border trade among the East African Community (EAC) member countries, an efficient and speedy contract enforcement mechanism through the courts is becoming an important pillar of regional integration. On average, courts in Kenyan cities are more than 2 months faster and 4% cheaper than the average EAC city. Kenya’s average is also faster than the OECD high-income economies’ average of 518 days, but much more costly: the average cost to enforce a contract in OECD economies is less than half of that in Kenya (figure 6.2).

There are 3 stages of litigation in the *Doing Business* case study: filing and service of the claim, trial and judgment, and finally enforcement of judgment. The filing and service period starts from the moment the plaintiff decides to file a claim up to the point when the defendant is officially notified. In Kenya, the upper time limits for filing and service are set at 30 days by the 2010 Civil Procedure Rules.<sup>6</sup> Most of the cities are barely meeting these limits because the parties are always served at the last moment. In Nairobi this stage takes 40 days, due to court case backlog. In Garissa and Narok, on the other hand, filing and service is faster (21 days) because their courts’ caseload is lighter with many people using traditional dispute resolution methods (figure 6.3). Still, outside of Kenya

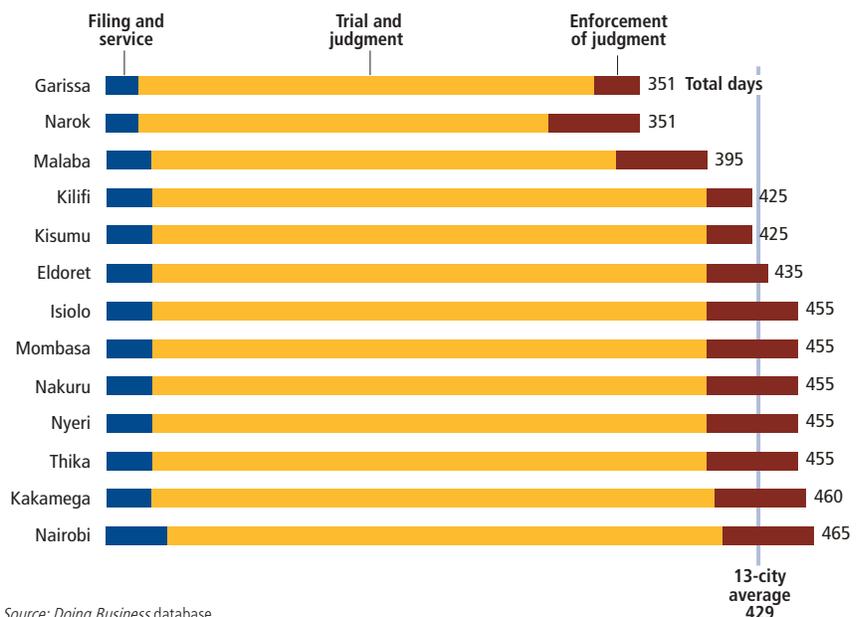
there are places like Ghana, where the same process takes only 1 week.<sup>7</sup>

After the process is served, the lawyers review and exchange all relevant court documents—such as statements of evidence or statements of claims—before getting a hearing date. Fixing the hearing date requires the consent of both parties and depends upon the relevant court’s diary, caseload and the number of magistrates staffed in that court. The process is most burdensome in Kakamega due to a heavy caseload, which

is not matched by an appropriate number of magistrates; at the moment, there are only 3 magistrates handling cases instead of the allocated 6. In Nairobi, Nakuru and Thika the court diary for the entire year is full by the end of the first quarter. If parties are ready to apply for a hearing date in July, the earliest date they will typically obtain is January of the following year. In Garissa, parties can typically get a date within 2 to 3 months after all relevant documents have been exchanged between the opposing parties. Courts in Mombasa have a unique closed-diary system, in which the court diary is open quarterly. When the diary is open, cases can be scheduled for the following 3 months. For cities with high caseload, this can make the fixing of hearing dates faster.

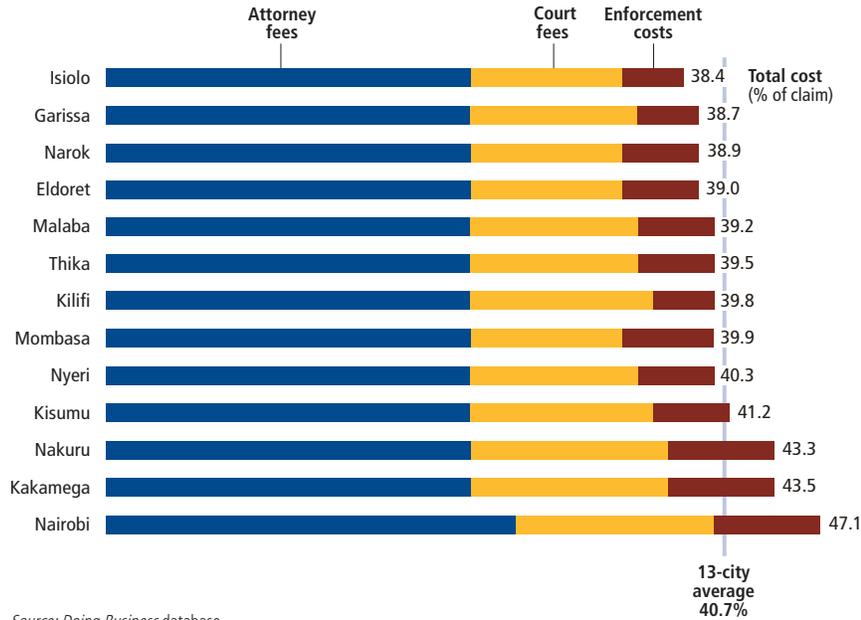
Adjournments can slow the trial significantly. Many times judges are overburdened by their own trial schedule and grant adjournments rather easily. Lawyers may take advantage of this latitude to delay the trial by raising preliminary objections and seeking injunctions. Currently, the number of interlocutory objections or injunctions that a party may be given is not limited. This is because the Civil Procedure Act and the Civil Procedure Rules enacted in 2010 have not been fully implemented. Once implemented, they are expected to restrict adjournments through eliminating adjournments without hearing

FIGURE 6.3 Time to enforce a contract across cities in Kenya



Source: Doing Business database.

FIGURE 6.4 Cost of enforcing a contract across cities in Kenya



Source: *Doing Business* database.

dates. Further, an injunction should lapse after 12 months if the claim is not prosecuted.

The trial and judgment phase accounts, on average, for over 80% of the time to enforce a contract in Kenya. In Garissa—the city where enforcing a contract is the easiest in Kenya—the trial and judgment period takes 300 days, which is 6 months longer than in Rwanda. In most other cities, the trial and judgment period takes about a year. This is about 2 months longer than the EAC average and 9 months longer than in the Republic of Korea—one of the fastest economies in the world for enforcing contracts.

The final phase is the enforcement of the judgment—including the sale of the attached goods by public auction. Enforcement procedures are regulated by the Auctioneers' Act and the Civil Procedure Rules of 2010. Enforcing a judgment is most efficient in Garissa, Kisumu and Kilifi, where it takes 1 month from the time the plaintiff initiates enforcement to the time of public sale. In most of the remaining cities in Kenya—Eldoret being the exception with 40 days—it takes twice as long (2 months). Delays in enforcement frequently result from having to go through several 'mention' proceedings, which are required to obtain confirmation of the judgment before an auction can proceed.

Litigation costs are regulated at the national level by court rules and the reported variations among the 13 cities are not significant. Differences stem mostly from the court fees and the enforcement cost. Isiolo is the cheapest city to enforce a contract with 38.4% of the claim value, while Nairobi stands out as the most expensive with 47.1%, which is three times the cost in Tanzania (14.3%) (figure 6.4). As in most other economies in the world, attorney fees constitute the largest portion of costs—on average almost 60%.

Attorney fees are uniformly regulated under the Advocates Act (Chapter 16) and specific guidelines set in the Advocates (Remuneration) Order of 2009. These regulations set minimum fees chargeable in order to prevent undercutting by attorneys.<sup>8</sup> The regulations also allow a winning party to recover the costs of the trial—including attorney's fees, court costs and enforcement costs. The average estimates for attorney fees are the same in 12 of the 13 Kenyan cities (23.7% of the claim value). The exception is Nairobi, where lawyers charge a premium due to higher demand.

Court fees include case filing fees and other administrative costs. The filing fees are regulated by the Judicature Act (Chapter 8). Lawyers submit the claim papers to the court

registry to get an assessment of the fees by officers at the court registry. Although regulated nationally, case filings and administrative costs are subject to arbitrary assessment by court registry officers. For example, a consent order, which parties may enter into in the course of proceedings, is assessed at KES 150 (US\$ 2) in Eldoret (the mandated amount by national regulation<sup>9</sup>), while the same costs KES 300 (US\$ 5) in Kakamega.

Enforcement costs include the cost of extracting a decree, organizing the public sale of goods, and other incidental costs, such as storage costs. The cost of extracting a decree (KES 150) is regulated and standardized under the law (Guide to Assessment Court Fees). However, auctioneers have a high degree of discretion regarding what to charge as enforcement fees, hence the variation among cities. The enforcement costs are highest in Nairobi and Nakuru—amounting to 6.7 % of the claim value—and lowest in Isiolo—amounting to 4.2% of the claim value. The average enforcement cost among the cities measured comes to 5.3% of the claim value—much higher than in Tanzania where no fees are charged or Botswana where enforcement costs only 1.5% of the claim value.

## WHAT HAS IMPROVED SINCE 2009?

Improving the court system is not an easy task both from legal and institutional perspectives; reforms pose a continuous challenge to even the most industrialized countries. Since the publication of *Doing Business in Kenya 2010*, there have been 2 major judicial reforms spearheaded by the new constitution, which was enacted in August 2010 (box 6.1). In line with new constitutional provisions, the Civil Procedure Act was amended and new Civil Procedure Rules were passed into law in 2010.

The Civil Procedure Rules institute a pretrial conference procedure in order to expedite the disposal of cases. At the case conference, parties are mandated to come up with a timetable of proceedings. The introduction of case management in courts requires that pre-trial case conferencing be administered by case managers.<sup>12</sup> Case managers are also required to ensure that parties frame

**BOX 6.1 THE NEW CONSTITUTION OF KENYA: A STRONG FOUNDATION FOR JUDICIAL REFORMS**

The new constitution of Kenya, along with subsequent legislations, is expected to affect the structure of the court systems and the course of dispute resolution. The constitution expressly encourages alternative dispute resolution<sup>10</sup>—including arbitration, reconciliation, mediation and traditional dispute resolution mechanisms. In addition, specific guidelines are set for courts regarding timely justice and exercising justice without undue regard to procedural technicalities. The constitution also decentralizes judicial authority, with a supreme court and court of appeals having their own presidents and each high court having a principal judge as its head. Besides the establishment of a supreme court, the new constitution mandates an increase in the number of court of appeal judges. Subsequently, the Kenyan parliament enacted the Judicial Service Act increasing the number of court of appeal judges from 14 to 30.

The constitution mandates that the sitting judges and magistrates re-apply for their jobs and that a vetting process take place. A legislation known as the Vetting of Judges and Magistrates Act was passed for this sole purpose. The various divisions of the high court under the new constitution have been reorganized and reconstituted to divisions of Commercial and Admiralty, Judicial Review, Constitution and Human Rights, and Land and Environment. The creation of a Commercial and Admiralty division within the high court was followed by the establishment of new high courts in 2 cities (Machakos and Garissa) and the specialized commercial court within the high court in Mombasa. The judiciary plans to establish a high court station in each of the 47 newly created counties of Kenya. Each high court is envisioned to have a specialized commercial court. Plans are underway to open such a court in Kisumu and other cities are to follow.

Following the enactment of the constitution, the office of the Ombudsman has been created and mandated to receive complaints both from the staff within the judiciary and the public relating to issues arising from the administration of justice. In the last 3 months, the office has received over 700 complaints of various categories, out of which 229 have been settled and 275 are presently being processed.<sup>11</sup>

and agree on the issues in dispute. This is intended to reduce prolonged preliminary objections and applications that may delay the trial process.

While all cities will benefit from the legal reforms at the national level—including the introduction of case management—1 city where administrative reforms have shown results locally is Mombasa (table 6.2). In October 2011, a new specialized commercial court was established to handle all commercial disputes. Prior to the establishment of this court, all cases and claims, whether commercial or non-commercial in nature, were adjudicated on by the same judge. Now, there are 2 dedicated judges—1 newly appointed and 1 transferred from the civil court—only for commercial cases.

Across the country, the judiciary has embarked on recruiting new judges and magistrates in order to reduce case backlog. Twenty eight additional high court judges were hired, bringing the total number to 80 nationally. An additional 7 court of appeal judges and another 160 magistrates have also been hired. The Judicature Act (Cap 8) has been amended in order to ensure the number of high court judges is not below

120 and the court of appeal judges are 30 at any time. In addition, in order to expedite the delivery of judgments, the Judicial Service Commission has advertised for 129 researchers—each judge is to be allocated a researcher to assist him in legal research and writing. This is aimed at freeing some time from the judges' schedule so that they are able to deliver judgments faster.

**WHAT TO REFORM?****Operationalize small claims court**

The Civil Procedure Act and the Civil Procedure Rules of 2010 envisage the existence of small claims courts. Such courts could be regulated under simplified procedural rules so that parties can file and handle claims without the requirement of lawyers, as this would reduce time and cost associated with enforcing such claims. This new legislation classifies a claim as small if the claim value does not exceed KES 49,999 (around US\$ 650) and has either undisputed facts or involves relatively few parties. If a claim fulfills these conditions, it is allowed to go through a fast track option in a small claims court. While mandated by law, there have not yet been any small claim courts established in Kenya. Elsewhere in the world,

**TABLE 6.2** Kenyan cities are benefiting from national legal reforms

	Introduction of case management systems	Introduction of specialized commercial courts
Eldoret	✓	
Garissa	✓	
Isiolo	✓	
Kakamega	✓	
Kilifi	✓	
Kisumu	✓	
Malaba	✓	
Mombasa	✓	✓
Nairobi	✓	
Nakuru	✓	
Narok	✓	
Nyeri	✓	
Thika	✓	

Note: This table records all *Doing Business* reforms that occurred between June 2009 and March 2012.

Source: *Doing Business* database.

Denmark introduced special rules for cases below US\$ 8,600 in 2006. That reduced the number of cases before the general courts in Copenhagen by 38%.<sup>13</sup> Similar reforms have been undertaken in South Africa, Zambia, Botswana and Mauritius as an additional layer to the magistrates' courts.

**Relieve judges from administrative duties and regulate transfers from one location to the other**

The workload of the judges and magistrates is increased by the administrative functions they perform. These administrative functions take time away from other important court tasks, resulting in delays in the disposal of cases. In order to free judges to do what they are primarily mandated to do—hearing and deciding cases—the judicial function of judges and magistrates must be separated from the administrative function. Currently some of the administrative functions include sitting on procurement and tender committees and acting as registrars and deputy registrars in administrative taxation matters. Relieving judges from the above functions would free time for judges and magistrates and expedite the hearing process as a result. Transfer of judges and magistrates from one city to another also results in delays, especially for

incomplete trials. The judiciary should adopt a transfer policy that ensures judges and magistrates are in stations for specific periods of time leaving no gaps in between.

### Introduce a fully-fledged electronic case management system

In the long run, introducing a fully-fledged electronic case management system and automated court process can further improve contract enforcement. If the courts are computerized, support functions like electronic filing, case tracking, document management, deadline reminders and scheduling of hearings are performed automatically. Electronic case management can also help with court statistics that measure the efficiency of the performance of the court. These statistics would track the time it takes for cases to move through the court process and assess what needs to be reformed.

Ethiopian courts now use a computerized case management system that allows them not only to measure delays, but also to compare performances between judges, chambers and courts. Reports are available in real time and oversight by the court administration ensures continuous performance evaluations. These reports, together with a backlog reduction program providing additional court sessions during vacation, have been successful in reducing the time needed to enforce a contract by 10%.<sup>14</sup>

### Continue introducing specialized commercial courts or divisions in other cities

Specialized commercial courts have been established in Nairobi and most recently in Mombasa. Like in Nairobi, the specialized commercial court in Mombasa, introduced in August 2011, will have dedicated judges that will only handle commercial cases. In other cities, specific days are allocated to civil or criminal matters. This considerably slows down adjudication of commercial disputes. The introduction of specialized commercial courts or divisions at the magistrate level would increase efficiency for commercial cases. This recommendation is valid for cities with an important commercial caseload. Each judiciary should analyze its caseload to determine whether the cost of setting

up a specialized court or a court division is justified.

Specialized commercial courts allow resources, both in terms of personnel and infrastructure, to be targeted for specific backlog reduction programs. Setting up specialized courts may also result in improved efficiency in general courts, as they find themselves relieved of a substantial caseload. Finally, allowing judges to focus their expertise on commercial matters may speed up commercial contract enforcement—as they grow accustomed to the specific issues and terminology of commercial cases, case management and decision-making become swifter.

In the past 8 years, 23 economies globally made it easier to enforce contracts by introducing or expanding specialized courts to deal with commercial cases. These include countries like Malaysia, Nepal and Sierra Leone. Seven African economies that introduced commercial courts or commercial sections within courts—Burkina Faso, the Democratic Republic of Congo, Ghana, Mauritania, Mozambique, Nigeria and Rwanda—saw their average time to resolve a commercial dispute decrease from 600 days in 2004 to 476 in 2011.<sup>15</sup>

### Make court fee schedules readily available in public domains

Many lawyers in Kenya complain that they do not have access to court fees schedules. As a result, the process of assessing court fees is highly discretionary. If the schedules are published in either hard copies or online, lawyers would have access to the fees schedules and this would save both money and time. In addition, having the fee schedules publicly available would make it harder for court registry officers to give arbitrary fee assessments. Having the fees posted in each court building is a good first step. They should be displayed in prominent places where the payments are made. In the long run, publishing all these fees online should be the way forward. This would be cheaper for the courts and provide easier access to the public.

## NOTES

1. Wojkowska, Ewa. 2006. "Doing Justice: How Informal Justice Systems Can Contribute." Oslo, Norway: Oslo Governance Centre, United Nations Development Program.
2. Bae, Kee-Hong, and Vidhan K. Goyal. 2009. "Creditor Rights, Enforcement, and Bank Loans." *Journal of Finance* 64 (2): 823-60.
3. Jappelli, Tullio, Marco Pagano and Magda Bianco. 2005. "Courts and Banks: Effects of Judicial Enforcement on Credit Markets." *Journal of Money, Credit, and Banking* 37 (2): 223-44.
4. Ahlquist, John S., and Aseem Prakash. 2010. "FDI and the Costs of Contract Enforcement in Developing Countries." *Policy Sciences* 43 (2): 181-200.
5. The process of resolving commercial disputes in Kenya is regulated by the Civil Procedure Act, together with the Civil Procedure Rules 2010, the Advocates Act (Chapter 16) and the Advocates Remuneration Order, and the Judicature Act (Chapter 8). The Civil Procedure Act and the Civil Procedure Rules are new legislations that were promulgated in 2010, whose aim is to simplify the old Civil Procedure Act (Chapter 21). There are a number of other rules and regulations, which play a part in resolving commercial dispute in Kenya. These include the Evidence Act (Chapter 80), the Law of Contract Act (Chapter 23) and the Auctioneers' Act, Act No. 5 of 1996.
6. Civil Procedure Rules, Order 5, Issue and Service of Summons, Rule 1, Sub-rule 6.
7. *Doing Business* database.
8. Undercutting by advocates is considered an offence under the Advocates Act (Part 8, Section 36), while the minimum fees chargeable are set by the Advocates (Remuneration) Order.
9. High Court of Kenya. 1995. *Guide to Assessment of Court fees (Revised Edition)*. Nairobi: Kenya Judiciary.
10. The Constitution of Kenya, Article 159(2) (C).
11. Dr. Mutunga, Willy, Chief Justice/President Supreme Court of Kenya. *Progress Report on the Transformation of the Judiciary*. October, 2011. Nairobi, Kenya.
12. Order 11 of the Civil Procedure Rules.
13. World Bank. 2008. *Doing Business 2009*. Washington, DC: The World Bank Group.
14. World Bank. 2009. *Doing Business 2010: Reforming through Difficult Times*. Washington, DC: World Bank Group.
15. World Bank. 2011. *Doing Business in 2012: Doing Business in a More Transparent World*. Washington, DC: The World Bank Group.

## Data notes

The indicators presented and analyzed in *Doing Business in Kenya 2012* measure business regulation and the protection of property rights—and their effect on businesses, especially small and medium-size domestic firms. The indicators document the degree of regulation, such as the number of procedures to start a business or to register and transfer commercial property. They also gauge the time and cost of achieving a regulatory goal or complying with regulation, such as the time and cost to enforce a contract.

In this report, *Doing Business* indicators have been created for 13 cities in Kenya, 11 of which were benchmarked in *Doing Business in Kenya 2010*. The data for all sets of indicators in *Doing Business in Kenya 2012* are current as of March 2012. The data for all sets of indicators taken from *Doing Business 2012* are current as of June 2011.

### METHODOLOGY

The *Doing Business in Kenya 2012* data are collected in a standardized way. To start, the *Doing Business* team, with academic advisers, designs a questionnaire. The questionnaire uses a simple business case to ensure comparability across countries and over time—with assumptions about the legal form of the business, its size, its location and the nature of its operations. Then the questionnaire is customized to the particular case of Indonesia.

Questionnaires are administered through more than 240 local experts, including lawyers, construction firms, engineers, local and national-level government officials and other professionals routinely administering or advising on legal and regulatory requirements. These experts have several rounds of interaction with the *Doing Business in Kenya 2012* team, through face-to-face interviews, conference calls and written correspondence. The data from questionnaires are subjected to numerous

tests for robustness, which lead to revisions or expansions of the information collected. For example, the preliminary findings are presented to the local governments through consultations with administrators and other local government officials.

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: *Doing Business* is not a statistical survey, and the texts of 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 has 4 limitations that should be considered when interpreting the data. First, the data often focus on a specific business form—a limited liability company 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 study 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

### ECONOMY CHARACTERISTICS

#### Gross national income (GNI) per capita

*Doing Business in Kenya 2012* reports 2010 income per capita as published in the World Bank's World Development Indicators 2011. Income is calculated using the Atlas method (current US\$). For cost indicators expressed as a percentage of income per capita, 2010 GNI in U.S. dollars is used as the denominator. Kenya's GNI per capita in 2010 = US\$ 780.

#### Exchange rate

The exchange rate used in this report is: 1 US\$ = 77.69 KES (Kenyan Shillings).

#### Region and income group

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

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 2012* would differ from the perceptions of entrepreneurs reported in the World Bank Enterprise Surveys or other perception surveys.

## CHANGES IN WHAT IS MEASURED

The methodology for the dealing with construction permits indicator was updated this year. The global *Doing Business* report now includes getting electricity indicators in its overall analysis of the ease of doing business. For this reason, the procedures, time and cost related to obtaining an electricity connection were removed from the dealing with construction permits indicator. In line with *Doing Business* methodology and to allow for international and subnational comparability, *Doing Business in Kenya 2012* has also removed procedures, time, and cost related to getting an electricity connection from the dealing with construction permits indicator.

## STARTING A BUSINESS

*Doing Business in Kenya 2012* records all procedures that are officially required for an entrepreneur to start up and formally operate a 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. The ranking on the ease of starting a business is the simple average of the percentile rankings on its component indicators (figure 7.1).

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 if applicable. Subsequently, local incorporation

lawyers, notaries 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 countries, 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 country, 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 commercial district of the selected city.
- 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 2010, paid in cash.
- Performs general commercial activities, such as the production or sale of products or services to the public. 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.

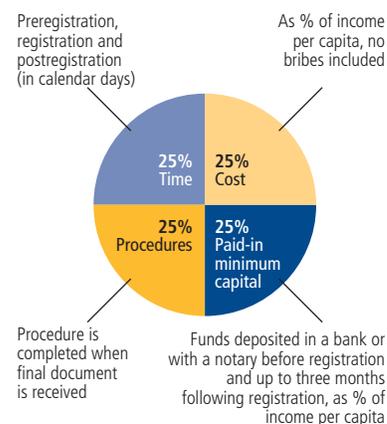
### Procedures

A procedure is defined as any interaction of the company founder 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 (table 7.1).

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.

**FIGURE 7.1** Starting a business: getting a local limited liability company up and running  
Rankings are based on 4 indicators



**TABLE 7.1** What do the starting a business indicators measure?

<b>Procedures to legally start and operate a company (number)</b>
Preregistration (for example, name verification or reservation, notarization)
Registration in the city measured
Postregistration (for example, social security registration, company seal)
<b>Time required to complete each procedure (calendar days)</b>
Does not include time spent gathering information
Each procedure starts on a separate day
Procedure completed once final document is received
No prior contact with officials
<b>Cost required to complete each procedure (% of income per capita)</b>
Official costs only, no bribes
No professional fees unless services required by law
<b>Paid-in minimum capital (% of income per capita)</b>
Funds deposited in a bank or with a notary before registration (or within 3 months)

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. If a procedure can be accelerated for an additional cost, the fastest procedure is chosen. 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 countries 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.

*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, Simeon, Rafael la Porta, Florencio López-de-Silanes and Andrei Schleifer. 2002. "The Regulation of Entry." *Quarterly Journal of Economics* 117(1):1-37, and is adopted here with minor changes.*

## DEALING WITH CONSTRUCTION PERMITS

*Doing Business in Kenya 2012* 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 2012 also records procedures for obtaining connections for water, sewerage, and a fixed telephone landline. 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. The ranking on the ease of dealing with construction permits is the simple average of the percentile rankings on its component indicators (figure 7.2).

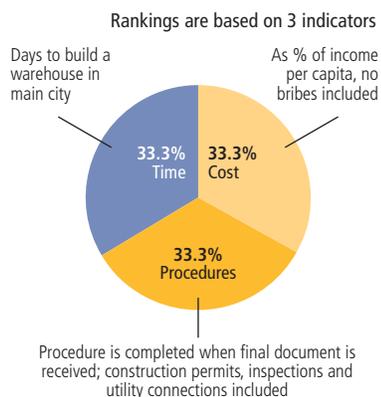
Information is collected from experts in construction licensing, including architects, construction lawyers, construction firms, utility service providers and public officials who deal with building regulations, including approvals and inspections. To make the data comparable across economies, several 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 selected city.
- 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.

**FIGURE 7.2** Dealing with construction permits: complying with formalities to build a warehouse



### 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 14,000 square feet (1,300.6 square meters). Each floor is 9 feet, 10 inches (3 meters) high.
- Has road access and is located in the peri-urban area of the selected city (that is, on the fringes of the city but still within its 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 10,000 square feet (929 square meters) that is 100% owned by BuildCo and is 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.
- Will take 30 weeks to construct (excluding all delays due to administrative and regulatory requirements).

### Assumptions about the utility connections

The water and sewerage connection:

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

### 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 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 (table 7.2).

### Time

Time is recorded in calendar days. The measure captures the median duration that local experts indicate is necessary to complete the 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 procedure 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 procedures to legally build a warehouse are recorded, including those associated with obtaining land use approvals and preconstruction design clearances; receiving inspection before, during and after construction; getting utility connections; and registering the warehouse property. Nonrecurring taxes required for the completion of the warehouse project are also 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 2012* 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

**TABLE 7.2** What do the dealing with construction permits indicators measure?

#### Procedures to legally build a warehouse (number)

Submitting all relevant documents and obtaining all necessary clearances, licenses, permits and certificates

Completing all required notifications and receiving all necessary inspections

Obtaining utility connections for water, sewerage and a fixed telephone landline

Registering the warehouse after its completion (if required for use as collateral or for transfer of the warehouse)

#### Time required to complete each procedure (calendar days)

Does not include time spent gathering information

Each procedure starts on a separate day

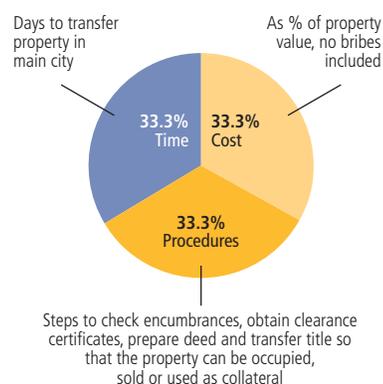
Procedure completed once final document is received

No prior contact with officials

#### Cost required to complete each procedure (% of income per capita)

Official costs only, no bribes

**FIGURE 7.3** Registering property: transfer of property between 2 local companies  
Rankings are based on 3 indicators



buyer can use the property for expanding its business, as collateral in taking new loans or, if necessary, sell 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. The ranking on the ease of registering property is the simple average of the percentile rankings on its component indicators (figure 7.3).

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 selected city.
- 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 6,000 square feet (557.4 square meters). A 2-story warehouse of 10,000 square feet (929 square meters) 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 (table 7.3).

**TABLE 7.3** What do the registering property indicators measure?

<b>Procedures to legally transfer title on immovable property (number)</b>
Preregistration procedures (for example, checking for liens, notarizing sales agreement, paying property transfer taxes)
Registration procedures in the economy's selected city
Postregistration procedures (for example, filing title with municipality)
<b>Time required to complete each procedure (calendar days)</b>
Does not include time spent gathering information
Each procedure starts on a separate day
Procedure completed once final document is received
No prior contact with officials
<b>Cost required to complete each procedure (% of property value)</b>
Official costs only, no bribes
No value added or capital gains taxes included

### 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 (that is, simultaneous procedures start on consecutive days). 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 and by judges. The ranking on the ease of enforcing contracts is the simple average of the percentile rankings on its component indicators (figure 7.4).

The name of the relevant court in each economy—the court in the selected city with jurisdiction over commercial cases worth 200% of income per capita—is published at <http://www.doingbusiness.org/ExploreTopics/EnforcingContracts/>.

#### 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 selected city. 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. The court cannot decide the case on the basis of documentary evidence or legal title alone.
- A court in the economy’s selected 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 and vehicles) before obtaining a judgment because Seller fears that Buyer may become insolvent.
- An expert opinion is 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. Seller decides to start enforcing the judgment as soon as the time allocated by law for appeal expires.
- 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 and 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, required by law or commonly used in practice, between the parties or between them and the judge or court officer. This includes steps to file and serve the case, steps for trial and judgment and steps necessary to enforce the judgment (table 7.4).

The survey allows respondents to record procedures that exist in civil law but not common law jurisdictions and vice versa. For

**TABLE 7.4** What do the enforcing contracts indicators measure?

<b>Procedures to enforce a contract through the courts (number)</b>
Any interaction between the parties in a commercial dispute, or between them and the judge or court officer
Steps to file and serve the case
Steps for trial and judgment
Steps to enforce the judgment
<b>Time required to complete procedures (calendar days)</b>
Time to file and serve the case
Time for trial and obtaining judgment
Time to enforce the judgment
<b>Cost required to complete procedures (% of claim)</b>
No bribes
Average attorney fees
Court costs, including expert fees
Enforcement costs

example, in civil law jurisdictions the judge can appoint an independent expert, while in common law jurisdictions 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 the initial complaint in 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

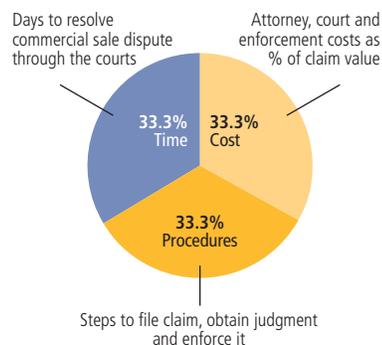
Time is recorded in calendar days, counted from the moment the plaintiff decides to file the lawsuit in court until payment. This includes both the days when actions take place and the waiting periods between. The average duration of different stages of dispute resolution is recorded: the completion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

**FIGURE 7.4** Enforcing contracts: resolving a commercial dispute through the courts  
Rankings are based on 3 indicators



of the final cost to Seller. Expert fees, if required by law or commonly used in practice, are included in court costs. Enforcement costs are all costs that 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 attorney fees are the fees that 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.*

## RANKINGS

The aggregate rank index ranks cities from 1 to 13. The index is calculated as the ranking on the simple average of city percentile rankings on each of the 4 topics covered in *Doing Business in Kenya 2012*. The ranking on each topic is the simple average of the percentile rankings on its component indicators. The ease of starting a business is a simple average of the city rankings on the number of procedures, and the associated time and cost (% of income per capita) required to start a business. The ease of dealing with construction permits is a simple average of the city rankings on the number of procedures, and the associated time and cost (% of income per capita) required to deal with formalities to build a warehouse. The ease of registering property is a simple average of the city rankings on the number of procedures, associated time and cost (% of the property value) required for a business to purchase a property from another business, and to transfer the property title to the buyer's name. The ease of enforcing contracts is a simple average of the city percentile rankings on the procedures, time and cost (% of claim value) to resolve a commercial dispute through the courts.

The rankings are limited in scope. They do not account for an economy's proximity to large markets, the quality of its infrastructure services (other than services related to 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.

## Distance to frontier measure

This year's report, *Doing Business 2012—Doing business in a more transparent world*, introduces a new measure to illustrate how the regulatory environment for local businesses in each economy has changed over time. The distance to frontier measure illustrates the distance of an economy to the "frontier" and shows the extent to which the economy has closed this gap over time. The frontier is a score derived from the most efficient practice or highest score achieved on each of the component indicators in 9 *Doing Business* indicator sets (excluding the employing workers and getting electricity indicators) by any economy since 2005. In starting a business, for example, New Zealand has achieved the highest performance on the time (1 day), Canada and New Zealand on the number of procedures required (1), Denmark and Slovenia on the cost (0% of income per capita) and Australia on the paid-in minimum capital requirement (0% of income per capita).

Calculating the distance to frontier for each economy involves 2 main steps. First, individual indicator scores are normalized to a common unit. To do so, each of the 32 component indicators  $y$  is rescaled to  $(y - \min) / (\max - \min)$ , with the minimum value (min) representing the frontier—the highest performance on that indicator across all economies since 2005. Second, for each economy the scores obtained for individual indicators are aggregated through simple averaging into one distance to frontier score. An economy's distance to the frontier is indicated on a scale from 0 to 100, where 0 represents the frontier and 100 the lowest performance.

The difference between an economy's distance to frontier score in 2005 and its score in 2011 illustrates the extent to which the economy has closed the gap to the frontier over time. The maximum (max) and minimum (min) observed values are computed for the 174 economies included in the *Doing Business* sample since 2005 and for all years (from 2005 to 2011). The year 2005 was chosen as the baseline for the economy sample because it was the

first year in which data were available for the majority of economies (a total of 174) and for all 9 indicator sets included in the measure. To mitigate the effects of extreme outliers in the distributions of the rescaled data (very few economies need 694 days to complete the procedures to start a business, but many need 9 days), the maximum (max) is defined as the 95th percentile of the pooled data for all economies and all years for each indicator.



# City tables

<b>Eldoret</b>				<b>Doing Business in Kenya 2012 (rank)</b>	
<b>Starting a business (rank)</b>	10	<b>Dealing with construction permits (rank)</b>	2	<b>Enforcing contracts (rank)</b>	5
Procedures (number)	10	Procedures (number)	11	Procedures (number)	41
Time (days)	50	Time (days)	77	Time (days)	435
Cost (% of income per capita)	43.4	Cost (% of income per capita)	162.3	Cost (% of claim value)	39.0
Paid-in min. capital (% of income per capita)	0.0				
		<b>Registering property (rank)</b>	7		
		Procedures (number)	9		
		Time (days)	44		
		Cost (% of the property value)	4.3		

<b>Garissa</b>				<b>Doing Business in Kenya 2012 (rank)</b>	
<b>Starting a business (rank)</b>	12	<b>Dealing with construction permits (rank)</b>	3	<b>Enforcing contracts (rank)</b>	1
Procedures (number)	10	Procedures (number)	13	Procedures (number)	41
Time (days)	53	Time (days)	64	Time (days)	351
Cost (% of income per capita)	44.7	Cost (% of income per capita)	161.5	Cost (% of claim value)	38.7
Paid-in min. capital (% of income per capita)	0.0				
		<b>Registering property (rank)</b>	8		
		Procedures (number)	9		
		Time (days)	86		
		Cost (% of the property value)	4.2		

<b>Isiolo</b>				<b>Doing Business in Kenya 2012 (rank)</b>	
<b>Starting a business (rank)</b>	2	<b>Dealing with construction permits (rank)</b>	4	<b>Enforcing contracts (rank)</b>	4
Procedures (number)	10	Procedures (number)	12	Procedures (number)	41
Time (days)	46	Time (days)	71	Time (days)	455
Cost (% of income per capita)	39.8	Cost (% of income per capita)	164.6	Cost (% of claim value)	38.4
Paid-in min. capital (% of income per capita)	0.0				
		<b>Registering property (rank)</b>	13		
		Procedures (number)	9		
		Time (days)	93		
		Cost (% of the property value)	9.1		

<b>Kakamega</b>				<b>Doing Business in Kenya 2012 (rank)</b>	
<b>Starting a business (rank)</b>	6	<b>Dealing with construction permits (rank)</b>	9	<b>Enforcing contracts (rank)</b>	12
Procedures (number)	10	Procedures (number)	12	Procedures (number)	41
Time (days)	43	Time (days)	118	Time (days)	460
Cost (% of income per capita)	43.4	Cost (% of income per capita)	163.4	Cost (% of claim value)	43.5
Paid-in min. capital (% of income per capita)	0.0				
		<b>Registering property (rank)</b>	9		
		Procedures (number)	9		
		Time (days)	71		
		Cost (% of the property value)	4.2		

<b>Kilifi</b>			<b>Doing Business in Kenya 2012 (rank)</b>		
<b>Starting a business (rank)</b>	3	<b>Dealing with construction permits (rank)</b>	11	<b>Enforcing contracts (rank)</b>	6
Procedures (number)	10	Procedures (number)	12	Procedures (number)	41
Time (days)	44	Time (days)	86	Time (days)	425
Cost (% of income per capita)	42.6	Cost (% of income per capita)	206.5	Cost (% of claim value)	39.8
Paid-in min. capital (% of income per capita)	0.0				
		<b>Registering property (rank)</b>	11		
		Procedures (number)	9		
		Time (days)	76		
		Cost (% of the property value)	4.2		
<b>Kisumu</b>			<b>Doing Business in Kenya 2012 (rank)</b>		
<b>Starting a business (rank)</b>	13	<b>Dealing with construction permits (rank)</b>	10	<b>Enforcing contracts (rank)</b>	9
Procedures (number)	10	Procedures (number)	9	Procedures (number)	41
Time (days)	53	Time (days)	111	Time (days)	425
Cost (% of income per capita)	48.4	Cost (% of income per capita)	272.0	Cost (% of claim value)	41.2
Paid-in min. capital (% of income per capita)	0.0				
		<b>Registering property (rank)</b>	2		
		Procedures (number)	9		
		Time (days)	45		
		Cost (% of the property value)	4.2		
<b>Malaba</b>			<b>Doing Business in Kenya 2012 (rank)</b>		
<b>Starting a business (rank)</b>	6	<b>Dealing with construction permits (rank)</b>	1	<b>Enforcing contracts (rank)</b>	3
Procedures (number)	10	Procedures (number)	9	Procedures (number)	41
Time (days)	45	Time (days)	64	Time (days)	395
Cost (% of income per capita)	43.1	Cost (% of income per capita)	133.7	Cost (% of claim value)	39.2
Paid-in min. capital (% of income per capita)	0.0				
		<b>Registering property (rank)</b>	4		
		Procedures (number)	9		
		Time (days)	32		
		Cost (% of the property value)	4.2		
<b>Mombasa</b>			<b>Doing Business in Kenya 2012 (rank)</b>		
<b>Starting a business (rank)</b>	9	<b>Dealing with construction permits (rank)</b>	7	<b>Enforcing contracts (rank)</b>	8
Procedures (number)	10	Procedures (number)	9	Procedures (number)	40
Time (days)	37	Time (days)	93	Time (days)	455
Cost (% of income per capita)	47.6	Cost (% of income per capita)	228.0	Cost (% of claim value)	39.9
Paid-in min. capital (% of income per capita)	0.0				
		<b>Registering property (rank)</b>	1		
		Procedures (number)	9		
		Time (days)	28		
		Cost (% of the property value)	4.2		
<b>Nairobi</b>			<b>Doing Business in Kenya 2012 (rank)</b>		
<b>Starting a business (rank)</b>	5	<b>Dealing with construction permits (rank)</b>	11	<b>Enforcing contracts (rank)</b>	13
Procedures (number)	10	Procedures (number)	9	Procedures (number)	40
Time (days)	32	Time (days)	125	Time (days)	465
Cost (% of income per capita)	45.1	Cost (% of income per capita)	251.1	Cost (% of claim value)	47.1
Paid-in min. capital (% of income per capita)	0.0				
		<b>Registering property (rank)</b>	12		
		Procedures (number)	9		
		Time (days)	73		
		Cost (% of the property value)	4.3		

<b>Nakuru</b>		<b>Doing Business in Kenya 2012 (rank)</b>		<b>12</b>	
<b>Starting a business (rank)</b>	4	<b>Dealing with construction permits (rank)</b>	13	<b>Enforcing contracts (rank)</b>	11
Procedures (number)	10	Procedures (number)	13	Procedures (number)	41
Time (days)	38	Time (days)	140	Time (days)	455
Cost (% of income per capita)	44.3	Cost (% of income per capita)	208.8	Cost (% of claim value)	43.3
Paid-in min. capital (% of income per capita)	0.0				
		<b>Registering property (rank)</b>	6		
		Procedures (number)	9		
		Time (days)	71		
		Cost (% of the property value)	4.2		
<b>Narok</b>		<b>Doing Business in Kenya 2012 (rank)</b>		<b>2</b>	
<b>Starting a business (rank)</b>	8	<b>Dealing with construction permits (rank)</b>	5	<b>Enforcing contracts (rank)</b>	2
Procedures (number)	10	Procedures (number)	12	Procedures (number)	41
Time (days)	55	Time (days)	72	Time (days)	351
Cost (% of income per capita)	39.3	Cost (% of income per capita)	173.4	Cost (% of claim value)	38.9
Paid-in min. capital (% of income per capita)	0.0				
		<b>Registering property (rank)</b>	5		
		Procedures (number)	9		
		Time (days)	53		
		Cost (% of the property value)	4.2		
<b>Nyeri</b>		<b>Doing Business in Kenya 2012 (rank)</b>		<b>10</b>	
<b>Starting a business (rank)</b>	10	<b>Dealing with construction permits (rank)</b>	6	<b>Enforcing contracts (rank)</b>	10
Procedures (number)	10	Procedures (number)	11	Procedures (number)	41
Time (days)	55	Time (days)	81	Time (days)	455
Cost (% of income per capita)	41.4	Cost (% of income per capita)	199.8	Cost (% of claim value)	40.3
Paid-in min. capital (% of income per capita)	0.0				
		<b>Registering property (rank)</b>	10		
		Procedures (number)	9		
		Time (days)	56		
		Cost (% of the property value)	4.4		
<b>Thika</b>		<b>Doing Business in Kenya 2012 (rank)</b>		<b>3</b>	
<b>Starting a business (rank)</b>	1	<b>Dealing with construction permits (rank)</b>	7	<b>Enforcing contracts (rank)</b>	7
Procedures (number)	10	Procedures (number)	9	Procedures (number)	41
Time (days)	38	Time (days)	134	Time (days)	455
Cost (% of income per capita)	41.0	Cost (% of income per capita)	179.3	Cost (% of claim value)	39.5
Paid-in min. capital (% of income per capita)	0.0				
		<b>Registering property (rank)</b>	3		
		Procedures (number)	9		
		Time (days)	63		
		Cost (% of the property value)	4.1		

# Indicator tables

	Doing Business in Kenya 2012 (aggregate rank)	Starting a business					Dealing with construction permits			
		Procedures (number)	Time (days)	Cost (% of income per capita)	Paid-in minimum capital (% of income per capita)	Ease of starting a business (rank)	Procedures (number)	Time (days)	Cost (% of income per capita)	Ease of dealing with construction permits (rank)
Eldoret	5	10	50	43.4	0.0	10	11	77	162.3	2
Garissa	4	10	53	44.7	0.0	12	13	64	161.5	3
Isiolo	7	10	46	39.8	0.0	2	12	71	164.6	4
Kakamega	11	10	43	43.4	0.0	6	12	118	163.4	9
Kilifi	9	10	44	42.6	0.0	3	12	86	206.5	11
Kisumu	8	10	53	48.4	0.0	13	9	111	272.0	10
Malaba	1	10	45	43.1	0.0	6	9	64	133.7	1
Mombasa	6	10	37	47.6	0.0	9	9	93	228.0	7
Nairobi	13	10	32	45.1	0.0	5	9	125	251.1	11
Nakuru	12	10	38	44.3	0.0	4	13	140	208.8	13
Narok	2	10	55	39.3	0.0	8	12	72	173.4	5
Nyeri	10	10	55	41.4	0.0	10	11	81	199.8	6
Thika	3	10	38	41.0	0.0	1	9	134	179.3	7

## Registering property

	Procedures (number)	Time (days)	Cost (% of property value)	Ease of registering property (rank)
Eldoret	9	44	4.3	7
Garissa	9	86	4.2	8
Isiolo	9	93	9.1	13
Kakamega	9	71	4.2	9
Kilifi	9	76	4.2	11
Kisumu	9	45	4.2	2
Malaba	9	32	4.2	4
Mombasa	9	28	4.2	1
Nairobi	9	73	4.3	12
Nakuru	9	71	4.2	6
Narok	9	53	4.2	5
Nyeri	9	56	4.4	10
Thika	9	63	4.1	3

## Enforcing contracts

	Procedures (number)	Time (days)	Cost (% claim value)	Ease of enforcing contracts (rank)
	41	435	39.0	5
	41	351	38.7	1
	41	455	38.4	4
	41	460	43.5	12
	41	425	39.8	6
	41	425	41.2	9
	41	395	39.2	3
	40	455	39.9	8
	40	465	47.1	13
	41	455	43.3	11
	41	351	38.9	2
	41	455	40.3	10
	41	455	39.5	7



## LIST OF PROCEDURES

## STARTING A BUSINESS

**Eldoret**

Standard company legal form: Limited Liability Company (LLC)

Paid-in minimum capital requirement: none

Data as of: March 2012

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

**Time:** 4 days (3 days name approval + 1 day travel)

**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. Most applicants complete procedures 1 to 5 in Nairobi given that the applicant, or the company's agent, is already in town. Given that the use of lawyers is not mandatory for company incorporation in Kenya, lawyer fees are not taken into consideration.

An online name search and reservation system is currently being piloted. Until the system is fully implemented, one must still submit a letter to the Registrar of Companies accompanied by the prescribed search fees when seeking to reserve a name.

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

**Time:** 11 days

**Cost:** KES 8,080 (1% of nominal capital + KES 2,020 stamp duty on the 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. Documents must be first assessed by the Stamp Duty Office before payment can be processed by KRA-designated banks. In 2009, a Stamp Duty Office opened at the Attorney General's Chamber, making the assessment of the stamp duty more efficient.

This procedure is usually done in Nairobi since the applicant is already in town.

### Procedure 3. Pay stamp duty at bank

**Time:** 1 day

**Cost:** KES 100 (bank commission)

**Comments:** This procedure can be done either locally or in Nairobi. Payment of stamp duty is done by Banker's check or cash at an accredited bank.

### Procedure 4. Sign declaration of compliance (Form 208) before a Commissioner for Oaths

**Time:** 1 day

**Cost:** KES 200

**Comments:** A company founder must sign Form 208, the Declaration of Compliance with the Companies Act, which accompanies the registration documents to be submitted to the Registrar of Companies.

### 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 5,836

**Comments:** The founder must file the incorporation deed and the required documents and forms (listed below) with the Registrar of Companies:

- Stamped memorandum and articles of association;
- Statement of capital;
- Form 201, Notice of Situation of Registered Office;
- Form 203, Particulars of Directors and Secretary;
- Form 208, Declaration of Compliance with the Companies Act;
- Copy of the company name approval.

The fees to be paid for the registration of a company in Kenya are currently regulated by Legal Notice No. 80 of 2003 and are payable as follows:

- For the first KES 100,000 of nominal capital, there is a fixed fee of KES 2,200;
- For every additional KES 20,000 of nominal capital after the first KES 100,000, there is a fee of KES 120, subject to a maximum of KES 60,000;
- Filing fee for 3 forms: KES 600.

### Procedure 6. Register with the Tax Department for the single taxpayer identification number online

**Time:** 1 day

**Cost:** No cost

**Comments:** Registration for a personal and a company identification number (PIN) is required for the local service tax and the pay-as-you-earn (PAYE) tax. KRA has adopted the PIN as the single taxpayer identification and discontinued the VAT number.

The registration for PIN can be done online.

### Procedure 7. Apply for a business permit

**Time:** 2 days

**Cost:** KES 7,000

**Comments:** The applicant fills out the application form with details about the scope, size and location of intended business. The municipal regulation requires that an officer from the Eldoret Municipal Council visits the intended business site before issuing a new single business permit. Thereafter, the applicant is given a generated bill (amount payable for acquiring a permit). The fee varies by type of business, number of employees, size and location of company's premises. The fee is payable to the Eldoret Municipal Council. For a medium-size trader, shop or retail service from 5 to 20 employees and/or premises from 50 to 300 square meters, the fee is KES 7,000. Upon payment, all forms are taken for signature and the permit is ready for collection latest by the following day. The business permit is usually issued in 2 days for new businesses and in 1 day for renewals.

### Procedure 8. Register with the National Social Security Fund (NSSF)

**Time:** 1 day

**Cost:** No cost

**Comments:** The National Social Security Fund (NSSF) provides the employee with a lump-sum retirement benefit. Participation is mandatory. The employer pays a standard contribution of about 5% 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 done at the local NSSF office in Eldoret.

### Procedure 9. 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. This procedure is done at the Eldoret NHIF office.

### Procedure 10. Make a company seal after a certificate of incorporation has been issued

**Time:** 7 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. There are now seal shops in Eldoret.

The Companies Bill 2010, which is pending parliament approval, proposes to make common seals optional.

## STARTING A BUSINESS

**Garissa**

Standard company legal form: Limited Liability Company (LLC)

Paid-in minimum capital requirement: none

Data as of: March 2012

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

**Time:** 4 days (3 days name approval + 1 day travel)

**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. Most applicants complete procedures 1 to 5 in Nairobi given that the applicant, or the company's agent, is already in town. Given that the use of lawyers is not mandatory for company incorporation in Kenya, lawyer fees are not taken into consideration.

An online name search and reservation system is currently being piloted. Until the system is fully implemented, one must still submit a letter to the Registrar of Companies accompanied by the prescribed search fees when seeking to reserve a name.

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

**Time:** 14 days

**Cost:** KES 8,080 (1% of nominal capital + KES 2,020 stamp duty on the 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. Documents must be first assessed by the Stamp Duty Office before payment can be processed by KRA-designated banks. In 2009, a Stamp Duty Office opened at the Attorney General's Chamber, making the assessment of the stamp duty more efficient.

This procedure is usually done in Nairobi since the applicant is already in town.

### Procedure 3. Pay stamp duty at bank

**Time:** 1 day

**Cost:** KES 100 (bank commission)

**Comments:** This procedure can be done either locally or in Nairobi. Payment of stamp duty is done by Banker's check or cash at accredited bank.

### Procedure 4. Sign declaration of compliance (Form 208) before a Commissioner for Oaths

**Time:** 1 day

**Cost:** KES 200

**Comments:** A company founder must sign Form 208, the Declaration of Compliance with the Companies Act, which accompanies the registration documents to be submitted to the Registrar of Companies.

### 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 5,836

**Comments:** The founder must file the incorporation deed and the required documents and forms (listed below) with the Registrar of Companies:

- Stamped memorandum and articles of association;
- Statement of capital;
- Form 201, Notice of Situation of Registered Office;
- Form 203, Particulars of Directors and Secretary;
- Form 208, Declaration of Compliance with the Companies Act;
- Copy of the company name approval.

The fees to be paid for the registration of a company in Kenya are currently regulated by Legal Notice No. 80 of 2003 and are payable as follows:

- For the first KES 100,000 of nominal capital, there is a fixed fee of KES 2,200;
- For every additional KES 20,000 of nominal capital after the first KES 100,000, there is a fee of KES 120, subject to a maximum of KES 60,000;
- Filing fee for 3 forms: KES 600.

### Procedure 6. Register with the Tax Department for the single taxpayer identification number online

**Time:** 1 day

**Cost:** No cost

**Comments:** Registration for a personal and a company identification number (PIN) is required for the local service tax and the pay-as-you-earn (PAYE) tax. KRA has adopted the PIN as the single taxpayer identification and discontinued the VAT number.

The registration for PIN can be done online.

### Procedure 7. Apply for a business permit

**Time:** 2 days

**Cost:** KES 7,000

**Comments:** The applicant fills out the application form with details about the scope, size and location of intended business. The applicant is given a generated bill (amount payable for acquiring a permit). The fee varies by type of business, number of employees, size and location of company's premises. The fee is payable to the Garissa Municipal Council. The fee for a medium trader, shop, or retail service from 5 to 20 employees and/or premises from 50 to 300 square

meters is KES 7,000. Upon payment, all forms are taken for signature and the permit is ready for collection latest by the following day.

It is not a prerequisite for an officer from the Municipal Council to visit the site before the permit is issued. Periodic visits by officers from the Municipality are subsequently made to businesses within the municipality to confirm compliance with the permit.

### Procedure 8. Register with the National Social Security Fund (NSSF)

**Time:** 1 day

**Cost:** No cost

**Comments:** The National Social Security Fund (NSSF) provides the employee with a lump-sum retirement benefit. 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 done at the local NSSF office in Garissa.

### Procedure 9. 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. This procedure is done at the Garissa NHIF office.

### Procedure 10. Make a company seal after a certificate of incorporation has been issued

**Time:** 7 days

**Cost:** KES 3,800 (company seal: KES 3,000 + courier: KES 800)

**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. The common practice is for applicants to obtain the company seal in Nairobi. Once the company seal is ready, private providers will send the seal by courier. The average cost of mailing the seal is KES 800.

The Companies Bill 2010, which is pending parliament approval, proposes to make common seals optional.

#### STARTING A BUSINESS

##### Isiolo

*Standard company legal form: Limited Liability Company (LLC)*

*Paid-in minimum capital requirement: none*

*Data as of: March 2012*

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

**Time:** 4 days (3 days name approval + 1 day travel)

**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. Most applicants complete procedures 1 to 5 in Nairobi given that the applicant, or the company's agent, is already in town.

Given that the use of lawyers is not mandatory for company incorporation in Kenya, lawyer fees are not taken into consideration.

An online name search and reservation system is currently being piloted. Until the system is fully implemented, one must still submit a letter to the Registrar of Companies accompanied by the prescribed search fees when seeking to reserve a name.

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

**Time:** 14 days

**Cost:** KES 8,080 (1% of nominal capital + KES 2,020 stamp duty on the 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. Documents must be first assessed by the Stamp Duty Office before payment can be processed by KRA-designated banks. In 2009, a Stamp Duty Office opened at the Attorney General's Chamber, making the assessment of the stamp duty more efficient.

This procedure is usually done in Nairobi since the applicant is already in town.

### Procedure 3. Pay stamp duty at bank

**Time:** 1 day

**Cost:** KES 100 (bank commission)

**Comments:** This procedure can be done either locally or in Nairobi. Payment of stamp duty is done by Banker's check or cash at accredited bank.

### Procedure 4. Sign declaration of compliance (Form 208) before a Commissioner for Oaths

**Time:** 1 day

**Cost:** KES 200

**Comments:** A company founder must sign Form 208, the Declaration of Compliance with the Companies Act, which accompanies the registration documents to be submitted to the Registrar of Companies.

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

**Time:** 14 days

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**Comments:** The founder must file the incorporation deed and the required documents and forms (listed below) with the Registrar of Companies:

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- Form 203, Particulars of Directors and Secretary;
- Form 208, Declaration of Compliance with the Companies Act;
- Copy of the company name approval.

The fees to be paid for the registration of a company in Kenya are currently regulated by Legal Notice No. 80 of 2003 and are payable as follows:

- For the first KES 100,000 of nominal capital, there is a fixed fee of KES 2,200;
- For every additional KES 20,000 of nominal capital after the first KES 100,000, there is a fee of KES 120, subject to a maximum of KES 60,000;
- Filing fee for 3 forms: KES 600.

### Procedure 6. Register with the Tax Department for the single taxpayer identification number online

**Time:** 1 day

**Cost:** No cost

**Comments:** Registration for a personal and a company identification number (PIN) is required for the local service tax and the pay-as-you-earn (PAYE) tax. KRA has adopted the PIN as the single taxpayer identification and discontinued the VAT number.

The registration for PIN can be done online.

### Procedure 7. Apply for a business permit

**Time:** 2 days

**Cost:** KES 3,500

**Comments:** The applicant fills out the application form with details about the scope, size and location of intended business. The applicant is given a generated bill (amount payable for acquiring a permit). The fee varies by type of business, number of employees, size and location of company's premises. The fee is payable to the Isiolo County Council. The fee for a medium trader, shop, or retail service from 5 to 20 employees and/or premises from 50 to 300 square meters is KES 3,500.

It is not a prerequisite for an officer from the Isiolo County Council to visit the site before the permit is issued.

### Procedure 8. Register with the National Social Security Fund (NSSF)

**Time:** 1 day

**Cost:** KES 400 (transportation)

**Comments:** The National Social Security Fund (NSSF) provides the employee with a lump-sum retirement benefit. 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. A NSSF mobile office comes to Isiolo twice a month. There is no permanent office here. Most people go to Meru for registration.

### Procedure 9. 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. A NHIF satellite office opened in Isiolo in 2009. Applicants can travel to Meru or Naniuki to register at the local NHIF branch offices there.

### Procedure 10. Make a company seal after a certificate of incorporation has been issued

**Time:** 7 days

**Cost:** KES 3,900 (company seal: KES 3,000 + courier: KES 900)

**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. The common practice is for applicants to obtain the company seal in Nairobi. Once the company seal is ready, private providers will send the seal by courier. The average cost of mailing the seal is KES 900.

The Companies Bill 2010, which is pending parliament approval, proposes to make common seals optional.

## STARTING A BUSINESS

### Kakamega

*Standard company legal form: Limited Liability Company (LLC)*

*Paid-in minimum capital requirement: none*

*Data as of: March 2012*

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

**Time:** 4 days (3 days name approval + 1 day travel)

**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. Most applicants complete procedures 1 to 5 in Nairobi given that the applicant, or the company's agent, is already in town. Given that the use of lawyers is not mandatory for company incorporation in Kenya, lawyer fees are not taken into consideration.

An online name search and reservation system is currently being piloted. Until the system is fully implemented, one must still submit a letter to the Registrar of Companies accompanied by the prescribed search fees when seeking to reserve a name.

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

**Time:** 10 days

**Cost:** KES 8,080 (1% of nominal capital + KES 2,020 stamp duty on the 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. Documents must be first assessed by the Stamp Duty Office before payment can be processed by KRA-designated banks. In 2009, a Stamp Duty Office opened at the Attorney General's Chamber, making the assessment of the stamp duty more efficient.

This procedure is usually done in Nairobi since the applicant is already in town.

### Procedure 3. Pay stamp duty at bank

**Time:** 1 day

**Cost:** KES 100 (bank commission)

**Comments:** This procedure can be done either locally or in Nairobi. Payment of stamp duty is done by Banker's check or cash at accredited bank.

### Procedure 4. Sign declaration of compliance (Form 208) before a Commissioner for Oaths

**Time:** 1 day

**Cost:** KES 200

**Comments:** A company founder must sign Form 208, the Declaration of Compliance with the Companies Act, which accompanies the registration documents to be submitted to the Registrar of Companies.

### 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 5,836

**Comments:** The founder must file the incorporation deed and the required documents and forms (listed below) with the Registrar of Companies:

a. Stamped memorandum and articles of association;

- b. Statement of capital;
- c. Form 201, Notice of Situation of Registered Office;
- d. Form 203, Particulars of Directors and Secretary;
- e. Form 208, Declaration of Compliance with the Companies Act;
- f. Copy of the company name approval.

The fees to be paid for the registration of a company in Kenya are currently regulated by Legal Notice No. 80 of 2003 and are payable as follows:

- a. For the first KES 100,000 of nominal capital, there is a fixed fee of KES 2,200;
- b. For every additional KES 20,000 of nominal capital after the first KES 100,000, there is a fee of KES 120, subject to a maximum of KES 60,000;
- c. Filing fee for 3 forms: KES 600.

### Procedure 6. Register with the Tax Department for the single taxpayer identification number online

**Time:** 1 day

**Cost:** No cost

**Comments:** Registration for a personal and a company identification number (PIN) is required for the local service tax and the pay-as-you-earn (PAYE) tax. KRA has adopted the PIN as the single taxpayer identification and discontinued the VAT number.

The registration for PIN can be done online.

### Procedure 7. Apply for a business permit

**Time:** 5 days

**Cost:** KES 7,000

**Comments:** The applicant fills out the application form with details about the scope, size and location of intended business. An officer from the Kakamega Municipal Council might visit the intended business site to confirm the details given by the applicant. Thereafter, the applicant is given a generated bill (amount payable for acquiring a permit). The fee varies by type of business, number of employees, size and location of company's premises. The fee is payable to the Kakamega Municipal Council. The fee for a medium trader, shop, or retail service from 5 to 20 employees and/or premises from 50 to 300 square meters is KES 7,000. Upon payment, all forms are taken for signature and the permit is ready for collection by the following day.

### Procedure 8. Register with the National Social Security Fund (NSSF)

**Time:** 1 day

**Cost:** No cost

**Comments:** The National Social Security Fund (NSSF) provides the employee with a lump-sum retirement benefit. 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 done at the local NSSF office in Kakamega.

### Procedure 9. 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. This procedure is done at the Kakamega NHIF office.

### Procedure 10. Make a company seal after a certificate of incorporation has been issued

**Time:** 5 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.

The Companies Bill 2010, which is pending parliament approval, proposes to make common seals optional.

#### STARTING A BUSINESS

##### Kilifi

*Standard company legal form: Limited Liability Company (LLC)*

*Paid-in minimum capital requirement: none*

*Data as of: March 2012*

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

**Time:** 4 days (3 days name approval + 1 day travel)

**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. Most applicants complete procedures 1 to 5 in Nairobi given that the applicant, or the company's agent, is already in town. Given that the use of lawyers is not mandatory for company incorporation in Kenya, lawyer fees are not taken into consideration.

An online name search and reservation system is currently being piloted. Until the system is fully implemented, one must still submit a letter to the Registrar of Companies accompanied by the prescribed search fees when seeking to reserve a name.

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

**Time:** 11 days

**Cost:** KES 8,080 (1% of nominal capital + KES 2,020 stamp duty on the 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. Documents must be first assessed by the Stamp Duty Office before payment can be processed by KRA-designated banks. In 2009, a Stamp Duty Office opened at the Attorney General's Chamber, making the assessment of the stamp duty more efficient.

This procedure can be done either in Nairobi, since the applicant is already in town, or at the Lands Office in Mombasa. The Lands Office has acquired franking machines and it liaises with the local banks accredited to collect the stamp duty.

### Procedure 3. Pay stamp duty at bank

**Time:** 1 day

**Cost:** KES 100 (bank commission)

**Comments:** This procedure can be done either locally or in Nairobi. Payment of stamp duty is done by Banker's check or cash at accredited bank.

### Procedure 4. Sign declaration of compliance (Form 208) before a Commissioner for Oaths

**Time:** 1 day

**Cost:** KES 200

**Comments:** A company founder must sign Form 208, the Declaration of Compliance with the Companies Act, which accompanies the registration documents to be submitted to the Registrar of Companies.

### 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 5,836

**Comments:** The founder must file the incorporation deed and the required documents and forms (listed below) with the Registrar of Companies:

- Stamped memorandum and articles of association;
- Statement of capital;
- Form 201, Notice of Situation of Registered Office;
- Form 203, Particulars of Directors and Secretary;
- Form 208, Declaration of Compliance with the Companies Act;
- Copy of the company name approval.

The fees to be paid for the registration of a company in Kenya are currently regulated by Legal Notice No. 80 of 2003 and are payable as follows:

- For the first KES 100,000 of nominal capital, there is a fixed fee of KES 2,200;
- For every additional KES 20,000 of nominal capital after the first KES 100,000, there is a fee of KES 120, subject to a maximum of KES 60,000;
- Filing fee for 3 forms: KES 600.

### Procedure 6. Register with the Tax Department for the single taxpayer identification number online

**Time:** 1 day

**Cost:** No cost

**Comments:** Registration for a personal and a company identification number (PIN) is required for the local service tax and the pay-as-you-earn (PAYE) tax. KRA has adopted the PIN as the single taxpayer identification and discontinued the VAT number.

The registration for PIN can be done online.

### Procedure 7. Apply for a business permit

**Time:** 7 days

**Cost:** KES 5,000

**Comments:** The applicant fills out the application form with details about the scope, size and location of intended business. An officer from the Kilifi County Council visits the intended business site to confirm the details given by the applicant. Thereafter, the applicant is given a generated bill (amount payable for acquiring a permit). The fee varies by type of business, number of employees, size and location of company's premises. The fee is payable to the Kilifi County Council. The fee for a medium trader, shop, or retail service from 5 to 20 employees and/or premises from 50 to 300 square meters is KES 5,000. Upon payment, all forms are taken for signature and the permit is ready for collection by the following day.

### Procedure 8. Register with the National Social Security Fund (NSSF)

**Time:** 1 day

**Cost:** KES 500 (transportation)

**Comments:** The National Social Security Fund (NSSF) provides the employee with a lump-sum retirement benefit. 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. Since there is no NSSF office in Kilifi, this procedure is commonly done in Malindi or Mombasa.

### Procedure 9. 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. A satellite NHIF office opened in Kilifi. This procedure can also be done at the Mombasa NHIF branch office.

### Procedure 10. Make a company seal after a certificate of incorporation has been issued

**Time:** 3 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. There are now seal shops in Kilifi.

The Companies Bill 2010, which is pending parliament approval, proposes to make common seals optional.

#### STARTING A BUSINESS

##### Kisumu

*Standard company legal form: Limited Liability Company (LLC)*

*Paid-in minimum capital requirement: none*

*Data as of: March 2012*

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

**Time:** 4 days (3 days name approval + 1 day travel)

**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. Most applicants complete procedures 1 to 5 in Nairobi given that the applicant, or the company's agent, is already in town. Given that the use of lawyers is not mandatory for company incorporation in Kenya, lawyer fees are not taken into consideration.

An online name search and reservation system is currently being piloted. Until the system is fully implemented, one must still submit a letter to the Registrar of Companies accompanied by the prescribed search fees when seeking to reserve a name.

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

**Time:** 14 days

**Cost:** KES 8,080 (1% of nominal capital + KES 2,020 stamp duty on the 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. Documents must be first assessed by the Stamp Duty Office before payment can be processed by KRA-designated

banks. In 2009, a Stamp Duty Office opened at the Attorney General's Chamber, making the assessment of the stamp duty more efficient.

This procedure is usually done in Nairobi since the applicant is already in town.

### Procedure 3. Pay stamp duty at bank

**Time:** 1 day

**Cost:** KES 100 (bank commission)

**Comments:** This procedure can be done either locally or in Nairobi. Payment of stamp duty is done by Banker's check or cash at accredited bank.

### Procedure 4. Sign declaration of compliance (Form 208) before a Commissioner for Oaths

**Time:** 1 day

**Cost:** KES 200

**Comments:** A company founder must sign Form 208, the Declaration of Compliance with the Companies Act, which accompanies the registration documents to be submitted to the Registrar of Companies.

### 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 5,836

**Comments:** The founder must file the incorporation deed and the required documents and forms (listed below) with the Registrar of Companies:

- Stamped memorandum and articles of association;
- Statement of capital;
- Form 201, Notice of Situation of Registered Office;
- Form 203, Particulars of Directors and Secretary;
- Form 208, Declaration of Compliance with the Companies Act;
- Copy of the company name approval.

The fees to be paid for the registration of a company in Kenya are currently regulated by Legal Notice No. 80 of 2003 and are payable as follows:

- For the first KES 100,000 of nominal capital, there is a fixed fee of KES 2,200;
- For every additional KES 20,000 of nominal capital after the first KES 100,000, there is a fee of KES 120, subject to a maximum of KES 60,000;
- Filing fee for 3 forms: KES 600.

### Procedure 6. Register with the Tax Department for the single taxpayer identification number online

**Time:** 1 day

**Cost:** No cost

**Comments:** Registration for a personal and a company identification number (PIN) is required for the local service tax and the pay-as-you-earn (PAYE) tax. KRA has adopted the PIN as the single taxpayer identification and discontinued the VAT number.

The registration for PIN can be done online.

### Procedure 7. Apply for a business permit

**Time:** 5 days

**Cost:** KES 10,000

**Comments:** The applicant fills out the application form with details about the scope, size and location of intended business. An officer from the Kisumu Municipal Council visits the intended business site to confirm that all safety requirements are in place and

to confirm the size of the business premises, based on which the payable fee is assessed. Thereafter, the applicant is given a generated bill (amount payable for acquiring a permit). The fee varies by type of business, number of employees, size and location of company's premises. The fee is payable to the Kisumu Municipal Council. The fee for a medium trader, shop, or retail service from 5 to 20 employees and/or premises from 50 to 300 square meters is KES 10,000. Upon payment, all forms are taken for signature and the permit is ready for collection by the following day.

### Procedure 8. Register with the National Social Security Fund (NSSF)

**Time:** 1 day

**Cost:** No cost

**Comments:** The National Social Security Fund (NSSF) provides the employee with a lump-sum retirement benefit. 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 done at the local NSSF office in Kisumu.

### Procedure 9. 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. This procedure is done at the Kisumu NHIF office.

### Procedure 10. Make a company seal after a certificate of incorporation has been issued

**Time:** 4 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. Since 2009, seal shops, such as SealHoney and National Printing Press, opened in Kisumu.

The Companies Bill 2010, which is pending parliament approval, proposes to make common seals optional.

## STARTING A BUSINESS

### Malaba

*Standard company legal form: Limited Liability Company (LLC)*

*Paid-in minimum capital requirement: none*

*Data as of: March 2012*

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

**Time:** 4 days (3 days name approval + 1 day travel)

**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. Most applicants complete procedures 1 to 5 in Nairobi given that the applicant, or the company's agent, is already in town.

Given that the use of lawyers is not mandatory for company incorporation in Kenya, lawyer fees are not taken into consideration.

An online name search and reservation system is currently being piloted. Until the system is fully implemented, one must still submit a letter to the Registrar of Companies accompanied by the prescribed search fees when seeking to reserve a name.

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

**Time:** 14 days

**Cost:** KES 8,080 (1% of nominal capital + KES 2,020 stamp duty on the 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. Documents must be first assessed by the Stamp Duty Office before payment can be processed by KRA-designated banks. In 2009, a Stamp Duty Office opened at the Attorney General's Chamber, making the assessment of the stamp duty more efficient.

This procedure is usually done in Nairobi since the applicant is already in town.

### Procedure 3. Pay stamp duty at bank

**Time:** 1 day

**Cost:** KES 100 (bank commission)

**Comments:** This procedure can be done either locally or in Nairobi. Payment of stamp duty is done by Banker's check or cash at accredited bank.

### Procedure 4. Sign declaration of compliance (Form 208) before a Commissioner for Oaths

**Time:** 1 day

**Cost:** KES 200

**Comments:** A company founder must sign Form 208, the Declaration of Compliance with the Companies Act, which accompanies the registration documents to be submitted to the Registrar of Companies.

### 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 5,836

**Comments:** The founder must file the incorporation deed and the required documents and forms (listed below) with the Registrar of Companies:

- Stamped memorandum and articles of association;
- Statement of capital;
- Form 201, Notice of Situation of Registered Office;
- Form 203, Particulars of Directors and Secretary;
- Form 208, Declaration of Compliance with the Companies Act;
- Copy of the company name approval.

The fees to be paid for the registration of a company in Kenya are currently regulated by Legal Notice No. 80 of 2003 and are payable as follows:

- For the first KES 100,000 of nominal capital, there is a fixed fee of KES 2,200;
- For every additional KES 20,000 of nominal capital after the first KES 100,000, there is a fee of KES 120, subject to a maximum of KES 60,000;
- Filing fee for 3 forms: KES 600.

### Procedure 6. Register with the Tax Department for the single taxpayer identification number online

**Time:** 1 day

**Cost:** No cost

**Comments:** Registration for a personal and a company identification number (PIN) is required for the local service tax and the pay-as-you-earn (PAYE) tax. KRA has adopted the PIN as the single taxpayer identification and discontinued the VAT number.

The registration for PIN can be done online.

### Procedure 7. Apply for a business permit

**Time:** 3 days

**Cost:** KES 4,000

**Comments:** The applicant fills out the application form with details about the scope, size and location of intended business. An officer from the Malaba Town Council visits the intended business site to confirm the details given by the applicant. Thereafter, the applicant is given a generated bill (amount payable for acquiring a permit). The fee is payable to the Malaba Town Council. The town council will issue a business permit, which is signed by the officer on duty on behalf of the Treasurer. The fee for a medium trader, shop, or retail service from 5 to 20 employees and/or premises from 50 to 300 square meters is KES 4,000. Upon payment, all forms are taken for signature and the permit is ready for collection latest by the following day.

### Procedure 8. Register with the National Social Security Fund (NSSF)

**Time:** 1 day

**Cost:** KES 400 (transportation)

**Comments:** The National Social Security Fund (NSSF) provides the employee with a lump-sum retirement benefit. 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. Since there is no local NSSF in Malaba, this procedure is commonly done in Bungoma.

### Procedure 9. Register with the National Hospital Insurance Fund (NHIF)

**Time:** 1 day

**Cost:** KES 400 (transportation)

**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. This procedure is done at the Bungoma NHIF office since there is no local office in Malaba.

### Procedure 10. Make a company seal after a certificate of incorporation has been issued

**Time:** 5 days

**Cost:** KES 4,000 (company seal: KES 3,000 + courier: KES 1,000)

**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. The common practice is for applicants to obtain the company seal in Nairobi. 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.

The Companies Bill 2010, which is pending parliament approval, proposes to make common seals optional.

## STARTING A BUSINESS

### Mombasa

*Standard company legal form: Limited Liability Company (LLC)*

*Paid-in minimum capital requirement: none*

*Data as of: March 2012*

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

**Time:** 4 days (3 days name approval + 1 day travel)

**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. Most applicants complete procedures 1 to 5 in Nairobi given that the applicant, or the company's agent, is already in town. Given that the use of lawyers is not mandatory for company incorporation in Kenya, lawyer fees are not taken into consideration.

An online name search and reservation system is currently being piloted. Until the system is fully implemented, one must still submit a letter to the Registrar of Companies accompanied by the prescribed search fees when seeking to reserve a name.

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

**Time:** 10 days

**Cost:** KES 8,080 (1% of nominal capital + KES 2,020 stamp duty on the 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. Documents must be first assessed by the Stamp Duty Office before payment can be processed by KRA-designated banks. In 2009, a Stamp Duty Office opened at the Attorney General's Chamber, making the assessment of the stamp duty more efficient.

This procedure can be done either in Nairobi, since the applicant is already in town, or at the Lands Office in Mombasa. The Lands Office has acquired franking machines and it liaises with the local banks accredited to collect the stamp duty.

### Procedure 3. Pay stamp duty at bank

**Time:** 1 day

**Cost:** KES 100 (bank commission)

**Comments:** This procedure can be done either locally or in Nairobi. Payment of stamp duty is done by Banker's check or cash at accredited bank.

### Procedure 4. Sign declaration of compliance (Form 208) before a Commissioner for Oaths

**Time:** 1 day

**Cost:** KES 200

**Comments:** A company founder must sign Form 208, the Declaration of Compliance with the Companies Act, which accompanies the registration documents to be submitted to the Registrar of Companies.

### 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 5,836

**Comments:** The founder must file the incorporation deed and the required documents and forms (listed below) with the Registrar of Companies:

- Stamped memorandum and articles of association;
- Statement of capital;
- Form 201, Notice of Situation of Registered Office;
- Form 203, Particulars of Directors and Secretary;
- Form 208, Declaration of Compliance with the Companies Act;
- Copy of the company name approval.

The fees to be paid for the registration of a company in Kenya are currently regulated by Legal Notice No. 80 of 2003 and are payable as follows:

- For the first KES 100,000 of nominal capital, there is a fixed fee of KES 2,200;
- For every additional KES 20,000 of nominal capital after the first KES 100,000, there is a fee of KES 120, subject to a maximum of KES 60,000;
- Filing fee for 3 forms: KES 600.

### Procedure 6. Register with the Tax Department for the single taxpayer identification number online

**Time:** 1 day

**Cost:** No cost

**Comments:** Registration for a personal and a company identification number (PIN) is required for the local service tax and the pay-as-you-earn (PAYE) tax. KRA has adopted the PIN as the single taxpayer identification and discontinued the VAT number.

The registration for PIN can be done online.

### Procedure 7. Apply for a business permit

**Time:** 2 days

**Cost:** KES 8,500

**Comments:** The applicant fills out the application form with details about the scope, size and location of intended business. The applicant is given a generated bill (amount payable for acquiring a permit). The fee varies by type of business, number of employees, size and location of company's premises. The fee is payable to the Mombasa Municipal Council. The fee for a medium trader, shop, or retail service from 5 to 20 employees and/or premises from 50 to 300 square meters is KES 8,500. Upon payment, all forms are taken for signature and the permit is ready for collection latest by the following day.

### Procedure 8. Register with the National Social Security Fund (NSSF)

**Time:** 1 day

**Cost:** No cost

**Comments:** The National Social Security Fund (NSSF) provides the employee with a lump-sum retirement benefit. 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 done at the local NSSF office in Mombasa.

### Procedure 9. 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. This procedure is done at the Mombasa NHIF office.

#### Procedure 10. 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. There are seal shops in Mombasa.

The Companies Bill 2010, which is pending parliament approval, proposes to make common seals optional.

#### STARTING A BUSINESS

##### Nairobi

Standard company legal form: Limited Liability Company (LLC)

Paid-in minimum capital requirement: none

Data as of: March 2012

#### Procedure 1. State registration of legal entity, statistical, and tax registration with the Center for Public Registration

**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:** 5 days

**Cost:** KES 8,080 (1% of nominal capital + KES 2,020 stamp duty on the 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 has 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 has 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 (bank commission)

#### Procedure 4. Sign declaration of compliance (Form 208) 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 with the Companies Act, which accompanies the registration documents to be submitted to the Registrar of Companies.

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

**Time:** 12 days

**Cost:** KES 5,836

**Comments:** The founder must file the incorporation deed and the required documents and forms (listed below) with the Registrar of Companies:

- Stamped memorandum and articles of association;
- Statement of capital;
- Form 201, Notice of Situation of Registered Office;
- Form 203, Particulars of Directors and Secretary;
- Form 208, Declaration of Compliance with the Companies Act;
- Copy of the company name approval.

The fees to be paid for the registration of a company in Kenya are currently regulated by Legal Notice No. 80 of 2003 and are payable as follows:

- For the first KES 100,000 of nominal capital, there is a fixed fee of KES 2,200;
- For every additional KES 20,000 of nominal capital after the first KES 100,000, there is a fee of KES 120, subject to a maximum of KES 60,000;
- Filing fee for 3 forms: KES 600.

#### Procedure 6. Register with the Tax Department for the single taxpayer identification number online

**Time:** 1 day

**Cost:** No cost

**Comments:** Registration for a personal and a company identification number (PIN) is required for the local service tax and the pay-as-you-earn (PAYE) tax. KRA has adopted the PIN as the single taxpayer identification and discontinued the VAT number.

The registration for PIN can be done online.

#### Procedure 7. 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 Nairobi City Council, Licensing Department. The City Council will issue a business permit. The fee for a medium trader, shop, or retail service from 5 to 20 employees and/or premises from 50 to 300 square meters is KES 10,000.

#### Procedure 8. Register with the National Social Security Fund (NSSF)

**Time:** 1 day

**Cost:** No cost

**Comments:** The National Social Security Fund (NSSF) 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.

#### Procedure 9. 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 10. Make a company seal after a certificate of incorporation has been issued

**Time:** 2 days

**Cost:** KES 3,000 (between KES 2,500 and KES 3,500)

**Comments:** Seals are made by private entities that require sight of a copy of the certificate of incorporation.

#### STARTING A BUSINESS

##### Nakuru

Standard company legal form: Limited Liability Company (LLC)

Paid-in minimum capital requirement: none

Data as of: March 2012

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

**Time:** 3 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. This procedure can only be done in Nairobi. Most applicants complete procedures 1 to 5 in Nairobi given that the applicant, or the company's agent, is already in town. Given that the use of lawyers is not mandatory for company incorporation in Kenya, lawyer fees are not taken into consideration.

An online name search and reservation system is currently being piloted. Until the system is fully implemented, one must still submit a letter to the Registrar of Companies accompanied by the prescribed search fees when seeking to reserve a name.

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

**Time:** 10 days

**Cost:** KES 8,080 (1% of nominal capital + KES 2,020 stamp duty on the 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. Documents must be first assessed by the Stamp Duty Office before payment can be processed by KRA-designated banks. In 2009, a Stamp Duty Office opened at the Attorney General's Chamber, making the assessment of the stamp duty more efficient.

This procedure can be done either in Nairobi, since the applicant is already in town, or at the Lands Office in Nakuru. The Lands Office has acquired franking machines and it liaises with the local banks accredited to collect the stamp duty.

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

**Comments:** This procedure can be done either locally or in Nairobi. Payment of stamp duty is done by Banker's check or cash at accredited bank.

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

**Comments:** A company founder must sign Form 208, the Declaration of Compliance with the Companies Act, which accompanies the registration documents to be submitted to the Registrar of Companies.

**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 5,836

**Comments:** The founder must file the incorporation deed and the required documents and forms (listed below) with the Registrar of Companies:

- Stamped memorandum and articles of association;
- Statement of capital;
- Form 201, Notice of Situation of Registered Office;
- Form 203, Particulars of Directors and Secretary;
- Form 208, Declaration of Compliance with the Companies Act;
- Copy of the company name approval.

The fees to be paid for the registration of a company in Kenya are currently regulated by Legal Notice No. 80 of 2003 and are payable as follows:

- For the first KES 100,000 of nominal capital, there is a fixed fee of KES 2,200;
- For every additional KES 20,000 of nominal capital after the first KES 100,000, there is a fee of KES 120, subject to a maximum of KES 60,000;
- Filing fee for 3 forms: KES 600.

**Procedure 6. Register with the Tax Department for the single taxpayer identification number online****Time:** 1 day**Cost:** No cost

**Comments:** Registration for a personal and a company identification number (PIN) is required for the local service tax and the pay-as-you-earn (PAYE) tax. KRA has adopted the PIN as the single taxpayer identification and discontinued the VAT number.

The registration for PIN can be done online.

**Procedure 7. Apply for a business permit****Time:** 4 days**Cost:** KES 8,500

**Comments:** The applicant fills out the application form with details about the scope, size and location of intended business. An officer from the Nakuru Municipal Council visits the intended business site to confirm the details given by the applicant. Thereafter, the applicant is given a generated bill (amount payable for acquiring a permit). The fee is payable to the Nakuru Municipal Council. The fee for a medium trader, shop, or retail service from 5 to 20 employees and/or premises from 50 to 300 square meters is KES 8,500. Upon payment, all forms are taken for signature and the permit is ready for collection by the following day.

**Procedure 8. Register with the National Social Security Fund (NSSF)****Time:** 1 day**Cost:** No cost

**Comments:** The National Social Security Fund (NSSF) provides the employee with a lump-sum retirement benefit. 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 done at the local NSSF office in Nakuru.

**Procedure 9. 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. This procedure is done at the Nakuru NHIF office.

**Procedure 10. 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. There are seal shops opened in Nakuru.

The Companies Bill 2010, which is pending parliament approval, proposes to make common seals optional.

**STARTING A BUSINESS****Narok**

*Standard company legal form: Limited Liability Company (LLC)*

*Paid-in minimum capital requirement: none*

*Data as of: March 2012*

**Procedure 1. Obtain approval for the company name from the Registrar of Companies****Time:** 3 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. This procedure can only be done in Nairobi. Most applicants complete procedures 1 to 5 in Nairobi given that the applicant, or the company's agent, is already in town. Given that the use of lawyers is not mandatory for company incorporation in Kenya, lawyer fees are not taken into consideration.

An online name search and reservation system is currently being piloted. Until the system is fully implemented, one must still submit a letter to the Registrar of Companies accompanied by the prescribed search fees when seeking to reserve a name.

**Procedure 2. Stamp the memorandum and articles and a statement of the nominal capital****Time:** 14 days

**Cost:** KES 8,080 (1% of nominal capital + KES 2,020 stamp duty on the 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. Documents must be first assessed by the Stamp Duty Office before payment can be processed by KRA-designated banks. In 2009, a Stamp Duty Office opened at the Attorney General's Chamber, making the assessment of the stamp duty more efficient.

This procedure is usually done in Nairobi since the applicant is already in town.

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

**Comments:** This procedure can be done either locally or in Nairobi. Payment of stamp duty is done by Banker's check or cash at accredited bank.

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

**Comments:** A company founder must sign Form 208, the Declaration of Compliance with the Companies Act, which accompanies the registration documents to be submitted to the Registrar of Companies.

**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 5,836

**Comments:** The founder must file the incorporation deed and the required documents and forms (listed below) with the Registrar of Companies:

- Stamped memorandum and articles of association;
- Statement of capital;
- Form 201, Notice of Situation of Registered Office;
- Form 203, Particulars of Directors and Secretary;
- Form 208, Declaration of Compliance with the Companies Act;
- Copy of the company name approval.

The fees to be paid for the registration of a company in Kenya are currently regulated by Legal Notice No. 80 of 2003 and are payable as follows:

- For the first KES 100,000 of nominal capital, there is a fixed fee of KES 2,200;
- For every additional KES 20,000 of nominal capital after the first KES 100,000, there is a fee of KES 120, subject to a maximum of KES 60,000;
- Filing fee for 3 forms: KES 600.

**Procedure 6. Register with the Tax Department for the single taxpayer identification number online****Time:** 1 day**Cost:** No cost

**Comments:** Registration for a personal and a company identification number (PIN) is required for the local service tax and the pay-as-you-earn (PAYE) tax. KRA has adopted the PIN as the single taxpayer identification and discontinued the VAT number.

The registration for PIN can be done online.

**Procedure 7. Apply for a business permit****Time:** 8 days**Cost:** KES 5,000

**Comments:** The applicant fills out the application form with details about the scope, size and location of intended business. An officer from the Narok Town Council visits the intended business site to confirm the details given by the applicant. Thereafter, the applicant is given a generated bill (amount payable for acquiring a permit). The fee is payable to the Narok Town Council. The fee for a medium trader, shop, or retail service from 5 to 20 employees and/or premises from 50 to 300 square meters is KES 5,000. Upon payment, all forms are taken for signature and the permit is ready for collection by the following day.

**Procedure 8. Register with the National Social Security Fund (NSSF)****Time:** 1 day**Cost:** No cost

**Comments:** The National Social Security Fund (NSSF) provides the employee with a lump-sum retirement benefit. 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 done at the local NSSF office in Narok.

**Procedure 9. 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. This procedure is done at the Narok NHIF office.

**Procedure 10. Make a company seal after a certificate of incorporation has been issued****Time:** 4 days**Cost:** KES 3,500 (company seal: KES 3,000 + courier: KES 500)

**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. The common practice is for applicants to obtain the company seal in Nairobi. Once the company seal is ready, private providers will send the seal by courier. The average cost of mailing the seal is KES 500. The Companies Bill 2010, which is pending parliament approval, proposes to make common seals optional.

**STARTING A BUSINESS****Nyeri**

Standard company legal form: Limited Liability Company (LLC)

Paid-in minimum capital requirement: none

Data as of: March 2012

**Procedure 1. Obtain approval for the company name from the Registrar of Companies****Time:** 3 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. This procedure can only be done in Nairobi. Most applicants complete procedures 1 to 5 in Nairobi given that the applicant, or the company's agent, is already in town. Given that the use of lawyers is not mandatory for company incorporation in Kenya, lawyer fees are not taken into consideration.

An online name search and reservation system is currently being piloted. Until the system is fully implemented, one must still submit a letter to the Registrar of Companies accompanied by the prescribed search fees when seeking to reserve a name.

**Procedure 2. Stamp the memorandum and articles and a statement of the nominal capital****Time:** 14 days**Cost:** KES 8,080 (1% of nominal capital + KES 2,020 stamp duty on the 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. Documents must be first assessed by the Stamp Duty Office before payment can be processed by KRA-designated banks. In 2009, a Stamp Duty Office opened at the Attorney General's Chamber, making the assessment of the stamp duty more efficient.

This procedure is usually done in Nairobi since the applicant is already in town.

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

**Comments:** This procedure can be done either locally or in Nairobi. Payment of stamp duty is done by Banker's check or cash at accredited bank.

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

**Comments:** A company founder must sign Form 208, the Declaration of Compliance with the Companies Act, which accompanies the registration documents to be submitted to the Registrar of Companies.

**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 5,836

**Comments:** The founder must file the incorporation deed and the required documents and forms (listed below) with the Registrar of Companies:

- Stamped memorandum and articles of association;
- Statement of capital;
- Form 201, Notice of Situation of Registered Office;
- Form 203, Particulars of Directors and Secretary;
- Form 208, Declaration of Compliance with the Companies Act;
- Copy of the company name approval.

The fees to be paid for the registration of a company in Kenya are currently regulated by Legal Notice No. 80 of 2003 and are payable as follows:

- For the first KES 100,000 of nominal capital, there is a fixed fee of KES 2,200;
- For every additional KES 20,000 of nominal capital after the first KES 100,000, there is a fee of KES 120, subject to a maximum of KES 60,000;
- Filing fee for 3 forms: KES 600.

**Procedure 6. Register with the Tax Department for the single taxpayer identification number online****Time:** 1 day**Cost:** No cost

**Comments:** Registration for a personal and a company identification number (PIN) is required for the local service tax and the pay-as-you-earn (PAYE) tax. KRA has adopted the PIN as the single taxpayer identification and discontinued the VAT number.

The registration for PIN can be done online.

**Procedure 7. Apply for a business permit****Time:** 6 days**Cost:** KES 6,000

**Comments:** The applicant fills out the application form with details about the scope, size and location of intended business. An officer from the Nyeri Municipal Council might visit the intended business site to confirm the details given by the applicant. Thereafter, the applicant is given a generated bill (amount payable for acquiring a permit). The fee is payable to the Nyeri Municipal Council. The fee for a medium trader, shop, or retail service from 5 to 20 employees and/or premises from 50 to 300 square meters is KES 6,000. Upon payment, all forms are taken for signature and the permit is ready for collection by the following day.

**Procedure 8. Register with the National Social Security Fund (NSSF)****Time:** 1 day**Cost:** No cost

**Comments:** The National Social Security Fund (NSSF) provides the employee with a lump-sum retirement benefit. 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 done at the local NSSF office in Nyeri.

**Procedure 9. 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. This procedure is done at the Nyeri NHIF office.

**Procedure 10. Make a company seal after a certificate of incorporation has been issued****Time:** 6 days**Cost:** KES 3,800 (company seal: KES 3,000 + courier: KES 800)

**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. The common practice is for applicants to obtain the company seal in Nairobi. Once the company seal is ready, private providers will send the seal by courier. The average cost of mailing the seal is KES 800.

The Companies Bill 2010, which is pending parliament approval, proposes to make common seals optional.

## STARTING A BUSINESS

**Thika**

Standard company legal form: Limited Liability Company (LLC)

Paid-in minimum capital requirement: none

Data as of: March 2012

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

**Time:** 3 days

**Cost:** KES 400 (filing fee: KES 100 + transportation: KES 300)

**Comments:** The company name reservation lasts 30 days but can be renewed for a similar period. This procedure can only be done in Nairobi. Most applicants complete procedures 1 to 5 in Nairobi given that the applicant, or the company's agent, is already in town. Given that the use of lawyers is not mandatory for company incorporation in Kenya, lawyer fees are not taken into consideration.

An online name search and reservation system is currently being piloted. Until the system is fully implemented, one must still submit a letter to the Registrar of Companies accompanied by the prescribed search fees when seeking to reserve a name.

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

**Time:** 10 days

**Cost:** KES 8,080 (1% of nominal capital + KES 2,020 stamp duty on the 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. Documents must be first assessed by the Stamp Duty Office before payment can be processed by KRA-designated banks. In 2009, a Stamp Duty Office opened at the Attorney General's Chamber, making the assessment of the stamp duty more efficient.

This procedure is usually done in Nairobi since the applicant is already in town.

### Procedure 3. Pay stamp duty at bank

**Time:** 1 day

**Cost:** KES 100 (bank commission)

**Comments:** This procedure can be done either locally or in Nairobi. Payment of stamp duty is done by Banker's check or cash at accredited bank.

### Procedure 4. Sign declaration of compliance (Form 208) before a Commissioner for Oaths

**Time:** 1 day

**Cost:** KES 200

**Comments:** A company founder must sign Form 208, the Declaration of Compliance with the Companies Act, which accompanies the registration documents to be submitted to the Registrar of Companies.

### 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 5,836

**Comments:** The founder must file the incorporation deed and the required documents and forms (listed below) with the Registrar of Companies:

- Stamped memorandum and articles of association;
- Statement of capital;
- Form 201, Notice of Situation of Registered Office;
- Form 203, Particulars of Directors and Secretary;
- Form 208, Declaration of Compliance with the Companies Act;
- Copy of the company name approval.

The fees to be paid for the registration of a company in Kenya are currently regulated by Legal Notice No. 80 of 2003 and are payable as follows:

- For the first KES 100,000 of nominal capital, there is a fixed fee of KES 2,200;
- For every additional KES 20,000 of nominal capital after the first KES 100,000, there is a fee of KES 120, subject to a maximum of KES 60,000;
- Filing fee for 3 forms: KES 600.

### Procedure 6. Register with the Tax Department for the single taxpayer identification number online

**Time:** 1 day

**Cost:** No cost

**Comments:** Registration for a personal and a company identification number (PIN) is required for the local service tax and the pay-as-you-earn (PAYE) tax. KRA has adopted the PIN as the single taxpayer identification and discontinued the VAT number.

The registration for PIN can be done online.

### Procedure 7. Apply for a business permit

**Time:** 2 days

**Cost:** KES 7,000

**Comments:** The applicant fills out the application form with details about the scope, size and location of intended business. The applicant is given a generated bill (amount payable for acquiring a permit). The fee varies by type of business, number of employees, size and location of company's premises. The fee is payable to the Thika Municipal Council. The fee for a medium trader, shop, or retail service from 5 to 20 employees and/or premises from 50 to 300 square meters is KES 7,000. Upon payment, all forms are taken for signature and the permit is ready for collection latest by the following day.

After licensing, an officer from the Municipal Council will visit the site to confirm that the business is operational.

### Procedure 8. Register with the National Social Security Fund (NSSF)

**Time:** 1 day

**Cost:** No cost

**Comments:** The National Social Security Fund (NSSF) provides the employee with a lump-sum retirement benefit. 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 done at the local NSSF office in Thika.

### Procedure 9. 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. This procedure is done at the Thika NHIF office.

### Procedure 10. Make a company seal after a certificate of incorporation has been issued

**Time:** 4 days

**Cost:** KES 3,250 (company seal: KES 3,000 + courier: KES 250)

**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. The common practice is for applicants to obtain the company seal in Nairobi. Once the company seal is ready, private providers will send the seal by courier. The average cost of mailing the seal is KES 250.

The Companies Bill 2010, which is pending parliament approval, proposes to make common seals optional.

## LIST OF PROCEDURES

## DEALING WITH CONSTRUCTION PERMITS

**Eldoret**

Warehouse value: KES 32,500,000 (US\$ 418,341)

Data as of: March 2012

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

**Time:** 1 day

**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 (PPA1) form + KES 5,000 for public health fees]

**Comments:** BuildCo submits an approval request together with building plans. The officer in charge of verification checks the rates clearance and the zoning requirements. If it complies with the regulation, BuildCo is then charged a scrutiny fee and a circulation fee. The municipality makes information available at its website ([www.eldoretmunicipal.go.ke](http://www.eldoretmunicipal.go.ke)).

### Procedure 2. Submit project plans and get approval from the Physical Planning Department (Ministry of Lands)

**Time:** 3 days

**Cost:** KES 3,400 (KES 1,700 per floor)

**Comments:** The application has to be approved by the Physical Planning Department and the Lands Office of the Ministry of Lands.

### Procedure 3. Obtain final approval from the municipal council

**Time:** 30 days

**Cost:** No cost (Paid in procedure 1)

**Comments:** Architectural and structural plans are presented to a technical committee for verification. The technical committee is made up of an engineer, a public health officer and an environmental expert—all within the municipality. The technical committee meets every Friday and, if everything is in order, approves plans as a team. This technical committee was formed in 2010 (appointment letter ref: EMC/

ADM.2/1/IV/53 dated 14th October, 2010) replacing the need for separate approvals, as required previously. Also, approvals no longer require ratification by the Town Planning Committee before being communicated to the applicant. The council established this policy in 2010 based on the guidelines set by the Ministry of Local Government (see circular number 5/2002 dated 13th June 2002). Currently, approved development plans are reported to the planning committee on monthly basis.

#### **Procedure 4. Obtain project report from an environmental expert**

**Time:** 5 days

**Cost:** KES 50,000

**Comments:** A licensed environmental expert must be hired to prepare a project report to be submitted to the National Environment Management Authority (NEMA).

#### **Procedure 5. Obtain approval from the National Environment Management Authority (NEMA)**

**Time:** 30 days

**Cost:** KES 16,250 (0.05% of total project cost)

**Comments:** Projects of all risk categories are subject to the NEMA approval, including BuildCo's warehouse. In 2009, the cost was lowered from 0.1% to 0.05% of warehouse value (KES 32,500,000).

The regulation regarding environmental approvals for Kenya has been in place since 1999. However, in recent years NEMA has started enforcing the rules more vigorously. The legislation is not clear on which categories of buildings this regulation would apply to, but most townships and municipalities require it for all commercial constructions.

NEMA conducts periodic inspections during the construction. If new projects at the moment of inspection do not have an environmental approval, 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. BuildCo would usually hire an environmental expert to prepare the environmental report and to deal with approval from NEMA.

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

**Time:** 1 day

**Cost:** No cost (paid in procedure 1)

**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. The Municipal Council Engineer's Department provides BuildCo with an inspection card upon approval of the plans. The inspectors are required by law to sign the inspection card on site and also note any changes in layout for purposes of preparing as-built drawings.

#### **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 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 8. Obtain an occupancy certificate**

**Time:** 1 day

**Cost:** No cost (paid in procedure 1)

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

#### **Procedure 9. Apply for water and sewerage connection at Eldoret Water & Sewerage Company (ELDOWAS)**

**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. Application forms for water and sewerage connection can be downloaded from ELDOWAS website ([www.eldowas.or.ke](http://www.eldowas.or.ke)).

#### **Procedure 10. Pay water and sewerage installation costs and obtain connection**

**Time:** 3 days

**Cost:** KES 3,660

#### **Procedure 11\*. Apply and pay for telephone connection**

**Time:** 1 day

**Cost:** KES 3,395 (Pre-paid connection cost)

**Comments:** BuildCo applies for telephone connection at the local Orange 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, proof of ownership of the business and an 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

#### **Garissa**

*Warehouse value: KES 32,500,000 (US\$ 418,341)*

*Data as of: March 2012*

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

**Time:** 1 day

**Cost:** KES 5,300 (KES 300 Physical Planning Act 1 [PPA1] form + KES 5,000 building plans approval fee)

**Comments:** BuildCo obtains the PPA1 form at the municipality, which allows the process to start and go to the relevant offices to obtain the approval of the plans. The municipality's fees and charges were approved together with the by-laws in 2008.

#### **Procedure 2. Submit project plans and get approval from the Physical Planning Department (Ministry of Lands)**

**Time:** 3 days

**Cost:** KES 3,400 (KES 1,700 per floor)

**Comments:** BuildCo submits the project plans for approval to the Physical Planning Department (PPD), which is under the central Ministry of Lands. Larger cities have Health and Physical Planning offices included in the municipal council so approvals are managed within the municipality, but in Garissa these central government offices are separate. 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 (Ministry of Health)**

**Time:** 3 days

**Cost:** KES 3,000

**Comments:** BuildCo submits the structural 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 get approval from Garissa Water & Sewerage Company (GAWASCO)**

**Time:** 1 day

**Cost:** No cost

**Comments:** GAWASCO needs to approve the connection to water and sewerage. It sends the inspectors to check the site after which they return to the office, sign and stamp the plans.

#### **Procedure 5. Submit project plans and signed PPA1 form to the Municipal Council Engineer's Department and obtain approval**

**Time:** 7 days

**Cost:** KES 7,000 (Fixed fee: Building plans approval fee)

**Comments:** The municipal council engineer reviews the building plans and checks if all approvals have been obtained in the PPA1 form. The surveyor at the municipality confirms the plot location, ownership titles, stamp duty and tax payments clearance. Construction can commence only after the municipal council engineer has given approval of the plans.

### Procedure 6. Obtain project report from an environmental expert

**Time:** 5 days

**Cost:** KES 50,000

**Comments:** A licensed environmental expert must be hired to prepare a project report to be submitted to the National Environment Management Authority (NEMA).

### Procedure 7. Obtain approval from the National Environment Management Authority (NEMA)

**Time:** 30 days

**Cost:** KES 16,250 (0.05% of total project cost)

**Comments:** Projects of all risk categories are subject to the NEMA approvals, including BuildCo's warehouse. In 2009, the cost was lowered from 0.1% to 0.05% of warehouse value (KES 32,500,000).

The regulation regarding environmental approvals for Kenya has been in place since 1999. However, in recent years NEMA has started enforcing the rules more vigorously. The legislation is not clear on which categories of buildings this regulation would apply to, but most townships and municipalities require it for all commercial constructions.

NEMA conducts periodic inspections during the construction. If new projects at the moment of inspection do not have an environmental approval, 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. BuildCo would usually hire an environmental expert to prepare the environmental report and to deal with approval from NEMA.

### Procedure 8. 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. In Garissa, the inspections conducted at the different critical stages of construction are carried out by the engineer who travels from Nairobi. 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 and sign the inspection card accordingly.

### Procedure 9. Request occupancy certificate and receive a final on-site inspection by the municipal authority

**Time:** 2 days

**Cost:** KES 2,500

**Comments:** BuildCo informs the Garissa Municipal Council once construction is completed. The inspection is conducted by the fire section before the occupancy certificate can be issued. The fire section was established in July 2009 within the Municipal Council Engineer's Department.

### Procedure 10. Obtain an occupancy certificate from the municipal council

**Time:** 5 days

**Cost:** No cost (paid in procedure 1)

**Comments:** An officer from the Municipal Council Engineer's Department issues an occupancy certificate, after having inspected the building (procedure 7).

### Procedure 11. Apply for water and sewerage connection Garissa Water & Sewerage Company (GAWASCO)

**Time:** 1 day

**Cost:** KES 2,000

**Comments:** After submitting the application form to the Garissa Water and Sewerage Company (GAWASCO), a plumber comes on-site 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 GAWASCO for approval and issuance of the meter.

### Procedure 12. 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. Only a quarter of the municipality has connection to sewerage, therefore the majority use septic tanks, which are emptied out by GAWASCO.

### Procedure 13\*. Apply and pay for telephone connection

**Time:** 3 days

**Cost:** KES 3,395 (pre-paid connection cost)

**Comments:** BuildCo applies for telephone connection at the local Orange 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, proof of ownership of the business and an 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

##### Isiolo

Warehouse value: KES 32,500,000 (US\$ 418,341)

Data as of: March 2012

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

**Time:** 1 day

**Cost:** KES 12,700 (KES 10,700 for the first 10,000 square feet + KES 500 KES for every additional 1,000 square feet)

### Procedure 2. Submit project plans and get approval from the Physical Planning Department (Ministry of Lands)

**Time:** 2 days

**Cost:** KES 3,400 (KES 1,700 per floor)

**Comments:** BuildCo submits the PPA1 form together with the PPA1 project plans for approval to the Physical Planning Department (PPD), which is under the central Ministry of Lands. A PPD officer approves the plans and signs the applicable section of the PPA1 form. Larger cities have Health and Physical Planning offices included in the municipal council so approvals are managed within the municipality, but in Isiolo these central government offices are separate.

### Procedure 3. Submit project plans and get approval from the Public Health Department (Ministry of Health)

**Time:** 2 days

**Cost:** KES 5,000 (For commercial buildings)

**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 County Council Engineer's Department and obtain approval

**Time:** 10 days

**Cost:** No cost (Paid in procedure 1)

**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. Obtain project report from an environmental expert

**Time:** 5 days

**Cost:** KES 50,000

**Comments:** A licensed environmental expert must be hired to prepare a project report to be submitted to the National Environmental Management Authority (NEMA).

### Procedure 6. Obtain approval from the National Environment Management Authority (NEMA)

**Time:** 20 days

**Cost:** KES 16,250 (0.05% of total project cost)

**Comments:** Projects of all risk categories are subject to the NEMA approvals, including BuildCo's warehouse. In 2009, the cost was lowered from 0.1% to 0.05% of warehouse value (KES 32,500,000).

The regulation regarding environmental approvals for Kenya has been in place since 1999. However, in recent years NEMA has started enforcing the rules more vigorously. The legislation is not clear on which categories of buildings this regulation would apply to, but most townships and municipalities require it for all commercial constructions.

NEMA conducts periodic inspections during the construction. If new projects at the moment of inspection do not have an environmental approval, 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. BuildCo would usually hire an environmental expert to prepare the environmental report and to deal with approval from NEMA.

### Procedure 7. Notify the Isiolo County Council of the commencement of building work and receive a routine on-site inspection

**Time:** 1 day

**Cost:** KES 2,000

**Comments:** BuildCo and the inspector agree on the stages of inspection and each keep a copy of the sitebook. Inspections should take place:

- Before commencement;
- To check the structural liability of the building up to the ground floor;
- After completion of the first floor;
- Once the construction is finished, as a final inspection.

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### Procedure 8. Request an occupancy certificate and receive a final on-site inspection by the county council

**Time:** 3 days

**Cost:** No cost (paid in procedure 1)

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

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### Procedure 9. Obtain an occupancy certificate from the county council

**Time:** 10 days

**Cost:** No cost

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### Procedure 10. Apply for water and sewerage connection at Isiolo Water & Sewerage Company

**Time:** 2 days

**Cost:** No cost

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### Procedure 11. Pay water and sewerage installation costs and obtain connection

**Time:** 5 days

**Cost:** KES 7,000 (includes connection fees and a deposit)

**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.

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### Procedure 12\*. Apply and pay for telephone connection

**Time:** 14 days

**Cost:** KES 3,395 (pre-paid connection cost)

**Comments:** BuildCo applies for telephone connection at the local Orange 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 proof of ownership of the business and an identification card. The same tariff and connection fee apply across the country.

\* This procedure can be completed simultaneously with previous procedures.

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#### DEALING WITH CONSTRUCTION PERMITS

### Kakamega

Warehouse value: KES 32,500,000 (US\$ 418,341)

Data as of: March 2012

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

**Time:** 1 day

**Cost:** KES 1,500

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### Procedure 2. Submit project plans and get approval from the Physical Planning Department (Ministry of Lands)

**Time:** 14 days

**Cost:** KES 3,400 (KES 1,700 per floor)

**Comments:** BuildCo submits the project plans for approval to the Physical Planning Department (PPD), which is under the central Ministry of Lands. A PPD officer approves the plans and signs the applicable section of the PPA1 form. Larger cities have Health and Physical Planning offices included in the municipal council so approvals are managed within the municipality. The Municipal Council of Kakamega has a physical planner in-house, but it has not yet gone through the approvals necessary so BuildCo still needs to go to the Ministry of Lands.

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### Procedure 3. Submit project plans and get approval from the Public Health Department (Ministry of Health)

**Time:** 7 days

**Cost:** KES 5,000

**Comments:** BuildCo submits the architectural plans and the PPA1 filled in, providing the information required by the Public Health Department (PHD). A PHD officer approves the plans and signs the applicable section of the PPA1 form. The PHD officer looks at the development's impact for occupiers and surrounding. If there is anything wrong it is communicated to the Lands Department. The municipality has recently filled in the position of PHD officer, which reports to the town clerk, so it expects that this procedure will not need to go to the external office in the future.

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### Procedure 4. Submit project plans and get final approval and a Physical Planning Act 2 (PPA2) form from the Municipal Council of Kakamega

**Time:** 20 days

**Cost:** KES 9,970 (KES 5,320 for the architectural plans + KES 2,300 for the structural plans + KES 2,350 for inspections. All fees calculated for a plinth area between 837 and 930 square meters)

**Comments:** The building plans need to be approved by 2 municipal bodies—the technical committee and the political committee. The political committee meets once in 3 months. However, the construction can start once the technical committee has given approval and issued the Physical Planning Act 2 (PPA2) form.

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### Procedure 5. Obtain project report from an environmental expert

**Time:** 5 days

**Cost:** KES 50,000

**Comments:** A licensed environmental expert must be hired to prepare a project report to be submitted to the National Environmental Management Authority (NEMA).

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### Procedure 6. Obtain approval from the National Environment Management Authority (NEMA)

**Time:** 30 days

**Cost:** KES 16,250 (0.05% of total project cost)

**Comments:** Projects of all risk categories are subject to the NEMA approvals, including BuildCo's warehouse. In 2009, the cost was lowered from 0.1% to 0.05% of warehouse value (KES 32,500,000).

The regulation regarding environmental approvals for Kenya has been in place since 1999. However, in recent years NEMA has started enforcing the rules more vigorously. The legislation is not clear on which categories of buildings this regulation would apply to, but most townships and municipalities require it for all commercial constructions.

NEMA conducts periodic inspections during the construction. If new projects at the moment of inspection do not have an environmental approval, 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. BuildCo would usually hire an environmental expert to prepare the environmental report and to deal with approval from NEMA.

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### Procedure 7. Notify the Kakamega 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.

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### Procedure 8. Request occupancy certificate and receive on-site inspection by the municipal authority after construction

**Time:** 10 days

**Cost:** No cost (paid in procedure 4)

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

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### Procedure 9. Obtain an occupancy certificate from the municipal council

**Time:** 14 days

**Cost:** KES 2,500

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### Procedure 10. Apply for water and sewerage connection at Amatsi Water Services Company

**Time:** 1 day

**Cost:** No cost

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### Procedure 11. Pay water and sewerage installation costs and obtain connection

**Time:** 14 days

**Cost:** KES 7,000 (KES 4,500 application + KES 2,500 meter)

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### Procedure 12\*. Apply and pay for telephone connection

**Time:** 5 days

**Cost:** KES 3,395 (pre-paid connection cost)

**Comments:** BuildCo applies for telephone connection at the local Orange 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, proof of ownership of the business and an 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

**Kilifi**

Warehouse value: KES 32,500,000 (US\$ 418,341)  
Data as of: March 2012

### Procedure 1. Request approval of architectural plans and obtain a Physical Planning Act 1 (PPA1) form from the Kilifi Town Council

**Time:** 1 day

**Cost:** KES 20,100 [KES 100 form D application fee + KES 500 PPA1 form + KES 1,500 building permit + KES 14,000 for building approval fee as KES 1 per square foot + KES 1,000 inspections + 3000 occupancy certificate for commercial buildings]

**Comments:** BuildCo needs to submit the following documents at the town council:

- Proof of land ownership (title deed/ sale agreement/ certificate of official search);
- Indemnity form duly filled and signed by owner/ developer and the concerned consultants (obtained from the county council office);
- Development proposals duly signed by the consultants involved (registered architect and registered structural engineer);
- Rates clearance certificate.

Application forms are available at the cashier's office of the county council, and cost just KES 100 each. The PPA1 form costs KES 500 and is completed by applicant for submission of development proposals. The technical experts within the town council assess the plan and the District Public Works Department checks that the drawings have been prepared by a registered professional. Subsequently, the documents are circulated externally.

BuildCo will then need to pay the different fees to the Kilifi Town Council, which cover the inspections and occupancy certificate costs (per fees and charges published in the Kenya Gazette on March 12, 2010). The town council displays all the information related to approval of building plans, including fee schedules and application forms, in its website ([www.kilifitown.org](http://www.kilifitown.org)). The same information is also displayed in publicly available boards. There is an ongoing reform to allow online application for building plan approvals.

### Procedure 2. Submit project plans and get approval from the Physical Planning Department and Lands Department (Ministry of Lands)

**Time:** 1 day

**Cost:** KES 10,400 [KES 3,400 for the Physical Planning Department (KES 1,700 per floor) + KES 7,000 for the Lands Department (KES 1,500 for the first 200 square meters and KES 500 for every additional 100 square meters)]

**Comments:** The Physical Planner ascertains the land use, while the Lands Department officer ascertains ownership.

### Procedure 3. Submit project plans and get approval from the Health Department (Ministry of Health)

**Time:** 1 day

**Cost:** KES 5,000 (for commercial buildings)

### Procedure 4. Submit project plans and get final approval from the Town Planning Department at Kilifi Town Council

**Time:** 21 days

**Cost:** No cost (paid in procedure 1)

**Comments:** Once the external approvals are obtained, the council meets for approval.

### Procedure 5. Obtain project report from an environmental expert

**Time:** 5 days

**Cost:** KES 50,000

**Comments:** A licensed environmental expert must be hired to prepare a project report to be submitted to the National Environmental Management Authority (NEMA).

### Procedure 6. Obtain approval from the National Environment Management Authority (NEMA)

**Time:** 30 days

**Cost:** KES 16,250 (0.05% of total project cost)

**Comments:** Projects of all risk categories are subject to the NEMA approvals, including BuildCo's warehouse. In 2009, the cost was lowered from 0.1% to 0.05% of warehouse value (KES 32,500,000).

The regulation regarding environmental approvals for Kenya has been in place since 1999. However, in recent years NEMA has started enforcing the rules more vigorously. The legislation is not clear on which categories of buildings this regulation would apply to, but most townships and municipalities require it for all commercial constructions.

NEMA conducts periodic inspections during the construction. If new projects at the moment of inspection do not have an environmental approval, 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. BuildCo would usually hire an environmental expert to prepare the environmental report and to deal with approval from NEMA.

### Procedure 7. Notify the Kilifi Town Council of the commencement of building work and receive a routine on-site inspection

**Time:** 2 days

**Cost:** No cost (paid in procedure 1)

**Comments:** BuildCo has to notify the County Council 30 hours before the inspection. Inspections are carried out by the staff of the County Council, which will fill in the inspection card.

### Procedure 8. Request an occupancy certificate and receive a final on-site inspection by the Building Works Department

**Time:** 2 days

**Cost:** No cost

**Comments:** The company has to file an inspection request and an officer from the Building Works Department performs an on-site inspection the next day.

### Procedure 9. Obtain an occupancy certificate from the town council

**Time:** 14 days

**Cost:** No cost (Paid at procedure 1)

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

### Procedure 10. Apply for water and sewerage connection at Mariakani Water & Sewerage Company (KIMAWASCO)

**Time:** 2 days

**Cost:** No cost

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

- Sketch map of the building site;
- Copy of certificate of incorporation;
- PIN number;
- Copy of ID or passport;
- Copy of state of deed or lease agreement or sale agreement;
- Two passport-size photos;
- The meter together with the copy of the receipt.

### Procedure 11. Pay water and sewerage installation costs and obtain connection

**Time:** 7 days

**Cost:** KES 20,000 (includes a KES 15,000 deposit)

**Comments:** Once the survey is conducted by the meter reader, KIMAWASCO will give the specific cost and will carry out the installation after payment. The existing sewerage is limited and therefore BuildCo will need to install a septic tank.

### Procedure 12\*. Apply and pay for telephone connection

**Time:** 3 days

**Cost:** KES 3,395 (pre-paid connection cost)

**Comments:** BuildCo applies for telephone connection at the local Orange 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, proof of ownership of the business and an 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

**Kisumu**

Warehouse value: KES 32,500,000 (US\$ 418,341)  
Data as of: March 2012

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

**Time:** 30 days

**Cost:** KES 77,668 (KES 39,925 architectural fee + KES 26,743 structural submission fee + KES 6,000 building inspection fee + KES 5,000 Public Health Department fee)

**Comments:** The building permit is issued by 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 1 (PPA1) form, which is then submitted to the Municipal Planner's Department for approval.

The Kisumu Municipal Council has a 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 technical approval committee now meets every 2 weeks, and it is composed of a town planner, a town engineer, a public health officer, a value officer, a director of housing and an environmental expert. The building approval is valid for a period of 2 years within which BuildCo must commence the construction.

### Procedure 2. Obtain project report from an environmental expert

**Time:** 5 days

**Cost:** KES 50,000

**Comments:** A licensed environmental expert must be hired to prepare a project report to be submitted to the National Environmental Management Authority (NEMA).

### Procedure 3. Obtain approval from the National Environment Management Authority (NEMA)

**Time:** 45 days

**Cost:** KES 16,250 (0.05% of total project cost)

**Comments:** Projects of all risk categories are subject to the NEMA approvals, including BuildCo's warehouse. In 2009, the cost was lowered from 0.1% to 0.05% of warehouse value (KES 32,500,000).

The regulation regarding environmental approvals for Kenya has been in place since 1999. However, in recent years NEMA has started enforcing the rules more vigorously. The legislation is not clear on which categories of buildings this regulation would apply to, but most townships and municipalities require it for all commercial constructions.

NEMA conducts periodic inspections during the construction. If new projects at the moment of inspection do not have an environmental approval, 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. BuildCo would usually hire an environmental expert to prepare the environmental report and to deal with approval from NEMA.

### Procedure 4. Receive a routine on-site inspection

**Time:** 1 day

**Cost:** No cost

**Comments:** The building company receives an inspection form that has to be filled throughout the stages of construction. Construction must start within 2 years of obtaining the building permit. 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 5. Notify the municipality of the completion of construction and receive a final on-site inspection by the municipal authority

**Time:** 10 days

**Cost:** No cost

### Procedure 6. Apply and obtain an occupancy certificate

**Time:** 7 days

**Cost:** KES 5,000 (for commercial buildings)

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

### Procedure 7. Apply for water and sewerage connection at Kisumu Water & Sewerage Company (KIWASCO)

**Time:** 3 days

**Cost:** KES 2,500 (for commercial use)

**Comments:** BuildCo needs to submit the following:

- Copy of ID/Registration Certificate for the Company;
- Copy of PIN card;
- Site plan from the Ministry of Lands;
- Land Rent (LR)/Plot Number.

Water connection can be requested online through KIWASCO's website: [www.kiwasco.co.ke](http://www.kiwasco.co.ke).

### Procedure 8. Pay water and sewerage installation costs and obtain connection

**Time:** 10 days

**Cost:** KES 10,000 (KES 4,000 for 1-inch pipe water connection + KES 6,000 for sewer connection)

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

### Procedure 9\*. Apply and pay for telephone connection

**Time:** 6 days

**Cost:** KES 3,395 (pre-paid connection cost)

**Comments:** BuildCo applies for telephone connection at the local Orange 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, proof of ownership of the business and an 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

#### Malaba

Warehouse value: KES 32,500,000 (US\$ 418,341)

Data as of: March 2012

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

**Time:** 14 days

**Cost:** KES 6,400 (KES 2,500 application fees for the approval of the building plans of a commercial building + KES 2,500 plan inspection fee + KES 1,400 setting out)

**Comments:** BuildCo submits to the Malaba Town 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. The plans will be circulated among the Physical Planning Department and the Public Health Department, which are within the town council. BuildCo does not need to go to the respective departments at the Ministry of Lands and the Ministry of Health. Afterwards, the plans are forwarded to the Town Planning Committee for formalization, which meets twice a month. Once the town clerk signs, his office communicates to BuildCo that it has approved the plans, subject to approval by the National Environmental Management Authority (NEMA).

### Procedure 2. Obtain project report from an environmental expert

**Time:** 5 days

**Cost:** KES 50,000

**Comments:** A licensed environmental expert must be hired to prepare a project report to be submitted to NEMA.

### Procedure 3. Obtain approval from the National Environment Management Authority (NEMA)

**Time:** 30 days

**Cost:** KES 16,250 (0.05% of total project cost)

**Comments:** Projects of all risk categories are subject to the NEMA approvals, including BuildCo's warehouse. In 2009, the cost was lowered from 0.1% to 0.05% of warehouse value (KES 32,500,000).

The regulation regarding environmental approvals for Kenya has been in place since 1999. However, in recent years NEMA has started enforcing the rules more vigorously. The legislation is not clear on which categories of buildings this regulation would apply to, but most townships and municipalities require it for all commercial constructions.

NEMA conducts periodic inspections during the construction. If new projects at the moment of inspection do not have an environmental approval, 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. BuildCo would usually hire an environmental expert to prepare the environmental report and to deal with approval from NEMA.

### Procedure 4. Notify the Malaba Town Council of the commencement of building work and receive a routine on-site inspection

**Time:** 2 days

**Cost:** No cost (paid in procedure 1)

**Comments:** BuildCo has to notify the Town Engineer's Department of the commencement of the construction works. A joint inspection is conducted by the Town Inspector's Department, the Physical Planner, the Public Health officer and, occasionally, a NEMA officer. There are 4 critical stages of construction: substructure, superstructure, roofing and finishes. 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. An inspection card is used to keep track of the inspections.

### Procedure 5. Request completion and occupancy certificates from the town council

**Time:** 1 day

**Cost:** No cost (Paid in procedure 1)

**Comments:** A final inspection is conducted by a team from the Town Engineer's Department, the Physical Planner Department, a building inspector and an electrician.

### Procedure 6. Obtain completion and occupancy certificates

**Time:** 3 days

**Cost:** KES 1,500

**Comments:** Both certificates are obtained concurrently at the Engineers Department. One states that the construction has been finished and the other one that it is ready for use.

### Procedure 7. Apply for water and sewerage connection at Nzoia Water Services Co Ltd

**Time:** 1 day

**Cost:** KES 1,500

### Procedure 8. Pay water and sewerage installation costs and obtain connection

**Time:** 7 days

**Cost:** KES 2,000

### Procedure 9\*. Apply and pay for telephone connection

**Time:** 7 days

**Cost:** KES 3,395 (pre-paid connection cost)

**Comments:** BuildCo applies for telephone connection at the local Orange 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, proof of ownership of the business and an 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

##### Mombasa

Warehouse value: KES 32,500,000 (US\$ 418,341)

Data as of: March 2012

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

**Time:** 30 days

**Cost:** KES 47,000 [KES 35,500 to the Town Planning and Architecture Department (KES 1,000 for PPA1 form + KES 23,000 Submission of architectural plans for a commercial building + KES 11,500 Submission of structural plans) + KES 11,500 for the submission of the structural plans of a commercial construction to the Engineer's Department]

**Comments:** BuildCo is required to submit the following documents:

- Copy of the title deed;
- Clearance certificate;
- Architectural drawings;
- Structural drawings.

After submitting these documents, the file is circulated among the Building Department, the Municipal Planning Department, the Valuation Department and the Public Health Department.

The plans do not need to be approved by the Physical Planning Department of the Ministry of Lands given that the Physical Planning Act establishes that if the council has a fully-fledged city planning department, they can clear it in-house. The Mombasa Municipal Council has most of the experts in-house (a survey department, a full planning section and development control section which monitors the enforcement and is supported by an engineer). It is still not fully fledged since they only have 1 planner (only Nairobi is fully fledged). But Mombasa can do all the clearance in-house unless it is for a big project that needs to be checked by the control department.

### Procedure 2. Obtain project report from an environmental expert

**Time:** 5 days

**Cost:** KES 50,000

**Comments:** A licensed environmental expert must be hired to prepare a project report to be submitted to the National Environmental Management Authority (NEMA).

### Procedure 3. Obtain approval from the National Environment Management Authority (NEMA)

**Time:** 30 days

**Cost:** KES 16,250 (0.05% of total project cost)

**Comments:** Projects of all risk categories are subject to the NEMA approvals, including BuildCo's warehouse. In 2009, the cost was lowered from 0.1% to 0.05% of warehouse value (KES 32,500,000).

The regulation regarding environmental approvals for Kenya has been in place since 1999. However, in recent years NEMA has started enforcing the rules more vigorously. The legislation is not clear on which categories of buildings this regulation would apply to, but most townships and municipalities require it for all commercial constructions.

NEMA conducts periodic inspections during the construction. If new projects at the moment of inspection do not have an environmental approval, 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. BuildCo would usually hire an environmental expert to prepare the environmental report and to deal with approval from NEMA.

### Procedure 4. 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:** The developer is given a pink inspection card together with the approval which specifies all the stages of inspection for the officer to sign. After the notification, an inspector conducts the first inspection and schedules subsequent inspections. 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 5. Request an occupancy certificate and receive a final on-site inspection by the municipal authority

**Time:** 1 day

**Cost:** No cost

**Comments:** BuildCo submits to the council 3 forms filled in by the architect, the civil engineer and the plumber and a form for the Central Bureau of Statistics. The council sends the engineer to carry out the final inspection.

### Procedure 6. Obtain an occupancy certificate from the municipal council

**Time:** 2 days

**Cost:** KES 14,000

### Procedure 7. Apply for water and sewerage connection at Mombasa Water & Sewerage Company

**Time:** 2 days

**Cost:** KES 1,000

### Procedure 8. Pay water and sewerage installation costs and obtain connection

**Time:** 20 days

**Cost:** KES 6,500

**Comments:** Mombasa Water Supply and Sanitation Company was incorporated on March 18, 2011 under the Companies Act chapter 486 laws of Kenya and started operations on July 1, 2011.

### Procedure 9\*. Apply and pay for telephone connection

**Time:** 20 days

**Cost:** KES 3,395 (pre-paid connection cost)

**Comments:** BuildCo applies for telephone connection at the local Orange 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, proof of ownership of the business and an 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

##### Nairobi

Warehouse value: KES 32,500,000 (US\$ 418,341)

Data as of: March 2012

### Procedure 1. Submit architectural plan for approval and obtain provisional building permit

**Time:** 30 days

**Cost:** KES 54,484 [Building plan approval fee (first 930 square meters cost KES 12,850 + KES 1,500 for every 93 square meters above original 930 square meters) + construction sign board fee KES 17,000 + Application fee KES 2,000 + Infrastructure development levy fee (0.05% of estimated development cost of building). According to the methodology of the City Council of Nairobi (CCN), current building cost for warehouses in the Central Region (Nairobi) is KES 21,000 per square meter (excluding VAT) + inspection of building file KES 1,000 + occupancy certificate KES 1,000 + commencement and completion certificate / preliminary submission of building plans and proposals KES 1,000]

**Comments:** BuildCo would approach the City Development Department at the City Council of Nairobi (CCN) to get its architectural plans approved first. Before submitting the application, BuildCo pays 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 main architect's license. The application then gets forwarded to various departments: Physical Planning, Road Department, Public Health, Fire Department, Water Authority and Electricity Authority. Each department takes at least 1 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 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 that the building permit is obtained BuildCo needs to submit its structural project separately.

Since 2006, CCN has been reforming under Rapid Results Initiative (RRI), trying to reduce the number of days and eliminate the bottlenecks. Since 2008 the architectural project approvals are issued by the technical committee that convenes twice a week. 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 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.

The last changes to the fees and charges took place in 2011.

### Procedure 2. Submit and obtain structural plan approval and final building permit

**Time:** 10 days

**Cost:** KES 8,936 structural plan approval fee (KES 6,425 for the first 930 square meters + KES 630 for every additional 93 square meters or part thereof over 930 square meters)

**Comments:** Once the architectural plans and drawings are approved and comments and changes were made, BuildCo has to incorporate them into the structural plans and re-submit the application to CCN for approval. This is the common practice because submitting both plans together is impossible. One other reason why these 2 steps happen separately is because the architectural drawings and plans are checked by Structural Department at stage when structural plans are approved. Construction works begin only after this approval.

Since beginning this year, due to the RRI program and the internal process of simplification in the CCN, it now takes 10 days to obtain the structural approval compared to previous 25 days.

The company must have the following items approved: project plans, architectural drawings, location survey of property documents and more.

The last changes to the fees and charges took place in 2011.

### Procedure 3. Obtain a project report from an environmental expert

**Time:** 5 days

**Cost:** KES 50,000

**Comments:** A licensed environmental expert must be hired to prepare a project report to be submitted to the National Environmental Management Authority (NEMA).

### Procedure 4. Obtain approval from the National Environment Management Authority (NEMA)

**Time:** 30 days

**Cost:** KES 16,250 (0.05% of total project cost)

**Comments:** Projects of all risk categories are subject to the NEMA approvals, including BuildCo's warehouse. In 2009, the cost was lowered from 0.1% to 0.05% of warehouse value (KES 32,500,000).

The regulation regarding environmental approvals for Kenya has been in place since 1999. However, in recent years NEMA has started enforcing the rules more vigorously. The legislation is not clear on which categories of buildings this regulation would apply to, but most townships and municipalities require it for all commercial constructions.

NEMA conducts periodic inspections during the construction. If new projects at the moment of inspection do not have an environmental approval, 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. BuildCo would usually hire an environmental expert to prepare the environmental report and to deal with approval from NEMA.

### Procedure 5. Request and receive on-site inspection by the municipal authority after construction

**Time:** 5 days

**Cost:** KES 1,000

### Procedure 6. Obtain occupancy certificate

**Time:** 14 days

**Cost:** KES 10,992 [KES 900 for the first 930 square meters + KES 500 for every additional 93 square meters or part thereof over 930 square meters]

**Comments:** Once the construction is completed alongside statutory inspections, BuildCo lodges an application for an occupancy certificate. The occupancy certificate is given when the city council deems the building is in compliance with the approved architectural drawings.

The application is then forwarded to the Assistant Director of Enforcement so that an inspector is assigned for the final inspection of the construction. Normally it should be a combined visit from several other departments.

### Procedure 7. Apply for water and sewerage connection

**Time:** 1 day

**Cost:** KES 1,100

### Procedure 8. 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 9\*. Apply and pay for telephone connection

**Time:** 5 days

**Cost:** KES 3,395

**Comments:** BuildCo applies for telephone connection at the local Orange 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, proof of ownership of the business and an 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

### Nakuru

Warehouse value: KES 32,500,000 (US\$ 418,341)

Data as of: March 2012

### Procedure 1. Request approval of architectural plans and obtain a Physical Planning Act 1 (PPA1) form from the Director of Town Planning Nakuru Municipal Council

**Time:** 4 days

**Cost:** KES 18,100 [KES 2,000 application + KES 2,000 surveyor office + KES 14,100 approval by Town Planning Department]

**Comments:** BuildCo needs to submit the following:

- Six blueprint copies of the plans;
- Proof of plot ownership (title deed, certified copies of sales/lease agreements, lease certificates);
- PIN and ID card copies;
- Survey plan;
- Copy of an up-to-date practicing certificate of the submitting architect/engineer;
- Rate clearance certificate/receipts;
- Septic tank details.

BuildCo submits the plans to the Town Planning Department. The Town Planning Department gets the approval from the municipal architect and checks the rates clearance and that the application complies with the Building Code. Once the fees are paid at the treasury office, the Town Planning Department authorizes BuildCo to circulate the plans among the relevant departments.

### Procedure 2. Submit project plans and get approval from the Physical Planning Department and Lands Department (Ministry of Lands)

**Time:** 14 days

**Cost:** KES 20,150 [KES 3,400 (KES 1,700 per floor) + KES 16,750]

**Comments:** BuildCo submits the architectural plans for approval to the Physical Planning Department (PPD) and the Lands Department, which are under the central Ministry of Lands. Larger cities have health and physical planning offices included in the municipal council so approvals are managed within the municipality, but in Nakuru these central government offices are separate.

### Procedure 3. Submit project plans and get approval from the Health Department at the municipality

**Time:** 6 days

**Cost:** KES 1,000

**Comments:** BuildCo submits the structural plans for approval to the Public Health Department (PHD). Nakuru's municipality has its own health department, so the plans do not need to go to the offices of the Ministry of Health.

### Procedure 4. Submit project plans and get approval from the Survey Department

**Time:** 1 day

**Cost:** No cost (paid at procedure 1)

**Comments:** The municipal surveyor verifies the boundaries of the plot.

### Procedure 5. Submit project plans and get final approval from the Town Planning Department at Nakuru Municipal Council

**Time:** 30 days

**Cost:** No cost (paid at procedure 1)

**Comments:** The town planner and the municipal engineer give their approvals and issue a preliminary letter of commencement, so BuildCo can start the works. The town planner recommends the plans for final approval by the Town Planning Committee.

### Procedure 6. Obtain project report from an environmental expert

**Time:** 5 days

**Cost:** KES 50,000

**Comments:** A licensed environmental expert must be hired to prepare a project report to be submitted to the National Environmental Management Authority (NEMA).

### Procedure 7. Obtain approval from the National Environment Management Authority (NEMA)

**Time:** 30 days

**Cost:** KES 16,250 (0.05% of total project cost)

**Comments:** Projects of all risk categories are subject to the NEMA approvals, including BuildCo's warehouse. In 2009, the cost was lowered from 0.1% to 0.05% of warehouse value (KES 32,500,000).

The regulation regarding environmental approvals for Kenya has been in place since 1999. However, in recent years NEMA has started enforcing the rules more vigorously. The legislation is not clear on which categories of buildings this regulation would apply to, but most townships and municipalities require it for all commercial constructions.

NEMA conducts periodic inspections during the construction. If new projects at the moment of inspection do not have an environmental approval, 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. BuildCo would usually hire an environmental expert to prepare the environmental report and to deal with approval from NEMA.

### Procedure 8. Notify about commencement of works and receive 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.

### Procedure 9. Request an occupancy certificate and receive a final on-site inspection by the municipal authority

**Time:** 3 days

**Cost:** KES 2,500 (Public Health Department fee)

**Comments:** BuildCo informs the Nakuru Municipal Council once construction is completed. The registered architect submits a formal application attaching the certificate as to workmanship signed by the architect and the engineer. The town council sends 2 inspectors to the construction site: a public health inspector and the senior building inspector who checks the work done by the other inspectors.

### Procedure 10. Obtain an occupancy certificate from the municipal council

**Time:** 15 days

**Cost:** KES 5,000

### Procedure 11. Apply for water and sewerage connection at Nakuru Water & Sanitation Services Company

**Time:** 4 days

**Cost:** No cost

### Procedure 12. Pay water and sewerage installation costs and obtain connection

**Time:** 26 days

**Cost:** KES 10,150

**Comments:** The majority of establishments use septic tanks due to the limited coverage of the sewerage network.

### Procedure 13\*. Apply and pay for telephone connection

**Time:** 8 days

**Cost:** KES 3,395 (pre-paid connection cost)

**Comments:** BuildCo applies for telephone connection at the local Orange 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, proof of ownership of the business and an 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

*Warehouse value: KES 32,500,000 (US\$ 418,341)*

*Data as of: March 2012*

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

**Time:** 1 day

**Cost:** KES 19,000 [KES 18,000 to the Town Council + KES 1,000 for the Physical Planning Act 1 (PPA1) form]

**Comments:** The Narok Town Council will circulate the plans for approval to various departments that are either in the same premises or in the vicinity of the Town 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. Submit project plans and get approval from the Physical Planning Department (Ministry of Lands)

**Time:** 1 day

**Cost:** KES 3,400 (KES 1,700 per floor)

### Procedure 4. Request approval of the architectural plans and final approval from the Narok Municipal Council

**Time:** 30 days

**Cost:** No cost (paid in procedure 1)

**Comments:** After the works department checks the application, the town clerk signs it.

### Procedure 5. Obtain project report from an environmental expert

**Time:** 5 days

**Cost:** KES 50,000

**Comments:** A licensed environmental expert must be hired to prepare a project report to be submitted to the National Environmental Management Authority (NEMA).

### Procedure 6. Obtain approval from the National Environment Management Authority (NEMA)

**Time:** 21 days

**Cost:** KES 16,250 (0.05% of total project cost)

**Comments:** Projects of all risk categories are subject to the NEMA approvals, including BuildCo's warehouse. In 2009, the cost was lowered from 0.1% to 0.05% of warehouse value (KES 32,500,000).

The regulation regarding environmental approvals for Kenya has been in place since 1999. However, in recent years NEMA has started enforcing the rules more vigorously. The legislation is not clear on which categories of buildings this regulation would apply to, but most townships and municipalities require it for all commercial constructions.

NEMA conducts periodic inspections during the construction. If new projects at the moment of inspection do not have an environmental approval, 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. BuildCo would usually hire an environmental expert to prepare the environmental report and to deal with approval from NEMA.

### Procedure 7. 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 town 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 8. Request an occupancy certificate and receive a final on-site inspection by the Public Health Department

**Time:** 1 day

**Cost:** No cost

### Procedure 9. Obtain an occupancy certificate from the municipal council

**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 10. Apply for water and sewerage connection at Narok Water & Sewerage Company**

**Time:** 1 day

**Cost:** KES 1,000

#### **Procedure 11. 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 Narok Town Council. It is required that all buildings provide a conservancy tank for sewerage and foul water disposal.

#### **Procedure 12\*. Apply and pay for telephone connection**

**Time:** 3 days

**Cost:** KES 3,395 (pre-paid connection cost)

**Comments:** BuildCo applies for telephone connection at the local Orange 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, proof of ownership of the business and an 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**

##### **Nyeri**

Warehouse value: KES 32,500,000 (US\$ 418,341)

Data as of: March 2012

#### **Procedure 1. Submit project plans and get approval from the Physical Planning Department (Ministry of Lands)**

**Time:** 8 days

**Cost:** KES 3,400 (KES 1,700 per floor)

**Comments:** BuildCo submits the project plans for approval to the Physical Planning Department (PPD), which is under the central Ministry of Lands. A PPD officer approves the plans and signs the plans, writing any comments directly on the plans. Larger cities have Health and Physical Planning offices included in the municipal council so approvals are managed within the municipality, but in Nyeri these central government offices are separate.

#### **Procedure 2. Submit project plans and get approval from the Public Health Department**

**Time:** 1 day

**Cost:** KES 3,000

**Comments:** The Public Health officer approves the plans and signs the plans, writing any comments directly on the plans.

#### **Procedure 3. Request approval of the architectural plans and final approval from the Nyeri Municipal Council**

**Time:** 14 days

**Cost:** KES 40,000 [KES 11,500 for architectural plans (KES 6,500 for 9,000 square feet + KES 1,000 for every additional 1,000) + KES 10,000 for structural plans (KES 6,000 for 10,000 square feet + KES 1,000 for every additional 1,000) + KES 1,000 inspection card + KES 5,000 inspection fee for buildings over 6,001 square feet + KES 5,000 occupancy certificate for buildings larger than 5,000 square feet + KES 4,000 fire service fee + KES 1,500 mayor's office fee (so-called x-mas fee) + KES 1,000 application fee + KES 1,000 PPA 1 form]

**Comments:** BuildCo pays the fees and obtains the PPA1 form to circulate the plans among the municipal departments. The plans are approved by the Urban Planning Department, the Engineering Department and the Development Department.

#### **Procedure 4. Obtain project report from an environmental expert**

**Time:** 5 days

**Cost:** KES 50,000

**Comments:** A licensed environmental expert must be hired to prepare a project report to be submitted to the National Environmental Management Authority (NEMA).

#### **Procedure 5. Obtain approval from the National Environment Management Authority (NEMA)**

**Time:** 40 days

**Cost:** KES 16,250 (0.05% of total project cost)

**Comments:** Projects of all risk categories are subject to the NEMA approvals, including BuildCo's warehouse. In 2009, the cost was lowered from 0.1% to 0.05% of warehouse value (KES 32,500,000).

The regulation regarding environmental approvals for Kenya has been in place since 1999. However, in recent years NEMA has started enforcing the rules more vigorously. The legislation is not clear on which categories of buildings this regulation would apply to, but most townships and municipalities require it for all commercial constructions.

NEMA conducts periodic inspections during the construction. If new projects at the moment of inspection do not have an environmental approval, 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. BuildCo would usually hire an environmental expert to prepare the environmental report and to deal with approval from NEMA.

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

**Time:** 2 days

**Cost:** No cost (paid in procedure 3)

**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.

Nyeri introduced a system by which the inspector is assigned at the moment of the approval of the plans, including the contact details in the inspection card. This facilitates the direct interaction between BuildCo and inspectors through the construction process.

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

**Time:** 1 day

**Cost:** No cost

**Comments:** BuildCo informs the relevant departments at the Nyeri Municipal Council that the warehouse is completed. The council sends officers from the engineer's office, as well as the public health officer and the municipal planner for the final inspection. They visit the site to inspect the building and check that it conforms to the architectural and structural design that the company had submitted for approval.

#### **Procedure 8. Obtain an occupancy certificate from the municipal council**

**Time:** 1 day

**Cost:** No cost (paid in procedure 3)

**Comments:** The occupancy certificate is issued only after the inspection is finished and the inspectors determine that the necessary requirements are fulfilled.

#### **Procedure 9. Apply for water and sewerage connection at Nyeri Water & Sewerage Company**

**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 10. Pay water and sewerage installation costs and obtain connection**

**Time:** 7 days

**Cost:** KES 5,000 (KES 2,500 deposit + KES 2,500 application fee)

**Comments:** BuildCo is required to pay the connection fee before installation begins.

#### **Procedure 11\*. Apply and pay for telephone connection**

**Time:** 3 days

**Cost:** KES 3,395 (pre-paid connection cost)

**Comments:** BuildCo applies for telephone connection at the local Orange 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, proof of ownership of the business and an 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

**Thika**

Warehouse value: KES 32,500,000 (US\$ 418,341)

Data as of: March 2012

**Procedure 1. Request approval of the architectural plans from the Thika Municipal Council****Time:** 45 days

**Cost:** KES 21,500 [KES 300 application fee + KES 10,000 for the approval of the architectural plans to the Town Planning Department (KES 7,000 for 901-1,000 square meters + KES 1,000 for every additional 100 square meters) + KES 5,000 for the structural plans to the Town Engineer Department (KES 3,500 for 901-1,000 square meters + KES 500 for every additional 100 square meters) + KES 5,000 inspection fee + KES 1,200 Physical Planning Act 1 (PPA1) form and printing. No cost for the physical planning or public health approvals]

**Comments:** BuildCo's registered architect submits the drawings to the Town Planning Department at the municipality, where a first assessment is made to confirm that the application complies with the requirements (ownership, zoning, rates clearance). The plans are then circulated to the following approving departments:

- Engineering Department;
- The Water Company;
- Public Health Department;
- Physical Planner Department;
- The Town Planning Department (again), where the application is then listed for the Town Planning and Works Committee meeting.

The plans are approved by the technical officers and then submitted to the committee which is the political body. The Town Planning and Works Committee meets once a month. The plans do not need to be approved by the Ministry of Lands since they have their own physical planner.

**Procedure 2. Obtain project report from an environmental expert****Time:** 5 days**Cost:** KES 50,000

**Comments:** A licensed environmental expert must be hired to prepare a project report to be submitted to the National Environmental Management Authority (NEMA).

**Procedure 3. Obtain approval from the National Environment Management Authority (NEMA)****Time:** 60 days**Cost:** KES 16,250 (0.05% of total project cost)

**Comments:** Projects of all risk categories are subject to the NEMA approvals, including BuildCo's warehouse. In 2009, the cost was lowered from 0.1% to 0.05% of warehouse value (KES 32,500,000).

The regulation regarding environmental approvals for Kenya has been in place since 1999. However, in recent years NEMA has started enforcing the rules more vigorously. The legislation is not clear on which categories of buildings this regulation would apply to, but most townships and municipalities require it for all commercial constructions.

NEMA conducts periodic inspections during the construction. If new projects at the moment of inspection do not have an environmental approval, 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. BuildCo would usually hire an environmental expert to prepare the environmental report and to deal with approval from NEMA.

**Procedure 4. Notify the Thika Municipal Council of the commencement of building work and receive a routine on-site inspection****Time:** 2 days**Cost:** No cost (Paid in procedure 1)

**Comments:** Once BuildCo is ready to start, it has to notify the municipality with 48 hours of advance. The building inspector, from the Town Planning Department, will come to the site. There is no additional cost, unless something was done incorrectly and the inspection needs to be repeated after the problem has been solved.

**Procedure 5. Request an occupancy certificate and receive a final on-site inspection by the municipal authority****Time:** 4 days**Cost:** No cost

**Comments:** Inspectors from the Public Health and the Town Planning Departments come together to conduct the final inspection.

**Procedure 6. Obtain an occupancy certificate from the municipal council****Time:** 7 days**Cost:** KES 5,000

**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 7. Apply for water and sewerage connection at Thika Water & Sewerage Services****Time:** 1 day**Cost:** KES 300**Procedure 8. Pay water and sewerage installation costs and obtain connection****Time:** 10 days

**Cost:** KES 12,200 [KES 200 application fee + KES 6,000 water connection (KES 2,000 meter fee + KES 2,000 connection fee + KES 2,000 customer deposit) + KES 6,000 sewerage connection]

**Procedure 9\*. Apply and pay for telephone connection****Time:** 3 days**Cost:** KES 3,395 (Pre-paid connection cost)

**Comments:** BuildCo applies for telephone connection at the local Orange 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, proof of ownership of the business and an identification card. The same tariff and connection fee apply across the country.

\* This procedure can be completed simultaneously with previous procedures.

## LIST OF PROCEDURES

## REGISTERING PROPERTY

**Eldoret**

Property value: KES 3,029,823 (US\$ 39,000)

Data as of: March 2012

**Procedure 1. Apply for a search on the title at the Lands Office****Time:** 3 days**Cost:** KES 500

**Comments:** Regarding searches on property registered under the Registration of Titles Act, a copy of the title deed 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 500.

**Procedure 2\*. Apply, pay and obtain Rates Clearance Certificate from the Municipal Council of Eldoret****Time:** 2 days**Cost:** KES 2,600

**Comments:** The applicant gets a demand notice, pays and waits for the document from the clerk of Municipal Council of Eldoret.

**Procedure 3\*. Apply and obtain Land Rent Clearance Certificate from the Commissioner of Lands****Time:** 15 days**Cost:** KES 3,800**Procedure 4. Apply and obtain the Consent to Transfer from the Commissioner of Lands****Time:** 9 days**Cost:** KES 1,000

**Comments:** Upon obtaining the Land Rent and Rates Clearance Certificates, the parties should submit the certificates and apply for Consent to Transfer from the Commissioner of Lands.

**Procedure 5. File the transfer instrument at the Lands Office and obtain appointment for valuation****Time:** 5 days**Cost:** No cost

**Comments:** This procedure is carried out at the Lands Office of Eldoret in Uasin Gishu District. The draft transfer is prepared by the buyer's lawyers and needs to be approved by the seller's counterpart.

**Procedure 6. Receive site inspection by a government valuer and obtain valuation report****Time:** 4 days**Cost:** No cost

**Comments:** While the draft transfer is being processed at the Lands Office, a government valuer visits the site to assess the value of the property (i.e. land and building). Due to lack of transport, in practice, the valuer often has to be picked up in person and driven to the site.

### Procedure 7. Endorsement of value for stamp duty purposes and assessment of stamp duty by Kenya Revenue Authority

**Time:** 3 days

**Cost:** No cost

**Comments:** The Stamp Duty Assessment Form is completed, including the purchase price. The stamp duty assessment officer will then assess the stamp duty payable and indicate the amount on the forms. Stamping of the document takes on average 3 days.

### Procedure 8. Pay stamp duty at a commercial bank and receive confirmation of payment from Kenya Revenue Authority

**Time:** 2 days

**Cost:** KES 121,393 (4% of property value + KES 200 bank charge)

### Procedure 9. Lodge stamped transfer document for registration and receive duly registered documents from Lands Office

**Time:** 4 days

**Cost:** KES 500

**Comments:** The applicant submits to the Lands Office of Eldoret the following documents:

- Application for Registration of Transfer;
- Personal Identification Number (PIN) Certificate;
- Certificate of Incorporation;
- Certificate of Title;
- Rates Clearance Certificate;
- Land Rent Clearance Certificate;
- Consent to Transfer;
- Valuation of property.

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: KES 3,029,823 (US\$ 39,000)

Data as of: March 2012

### Procedure 1. Apply for a search on the title at the Lands Office

**Time:** 3 days

**Cost:** KES 500

**Comments:** Regarding searches on property registered under the Registration of Titles 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 500.

### Procedure 2\*. Apply, pay and obtain Rates Clearance Certificate from the Municipal Council of Garissa

**Time:** 1 day

**Cost:** KES 250

**Comments:** An application for the Rates Clearance Certificate is submitted along with the latest payment receipt.

### Procedure 3\*. Apply and obtain Land Rent Clearance Certificate from the Commissioner of Lands

**Time:** 19 days

**Cost:** KES 2,500

**Comments:** An application for Land Rent Certificate is submitted along with the latest payment receipt.

### Procedure 4. Apply and obtain the Consent to Transfer from the Commissioner of Lands

**Time:** 6 days

**Cost:** KES 1,000

**Comments:** Upon obtaining the Land Rent and Rates Clearance Certificates, the parties should submit the certificates and apply for Consent to Transfer from the Commissioner of Lands.

### Procedure 5. File the transfer instrument at the Lands Office and obtain appointment for valuation

**Time:** 6 days

**Cost:** No cost

**Comments:** The draft transfer is prepared by the buyer's lawyers and needs to be approved by the seller's counterpart.

### Procedure 6. Receive site inspection by a government valuer and obtain valuation report

**Time:** 22 days

**Cost:** No cost

**Comments:** While the draft transfer is being processed at the Lands Office, a government valuer visits the site to assess the value of the property (i.e., land and building). Due to lack of transport, in practice, the valuer often has to be picked up in person and driven to the site.

### Procedure 7. Endorsement of value for stamp duty purposes and assessment of stamp duty by Kenya Revenue Authority

**Time:** 4 days

**Cost:** No cost

**Comments:** The Stamp Duty Assessment Form is completed, including the purchase price. The stamp duty assessment officer will then assess the stamp duty payable and indicate the amount on the forms. Stamping of the document takes on average 4 days.

### Procedure 8. Pay stamp duty at a commercial bank and receive confirmation of payment from Kenya Revenue Authority

**Time:** 2 days

**Cost:** KES 121,393 (4% of property value + KES 200 bank charge)

### Procedure 9. Lodge stamped transfer document for registration and receive duly registered documents from Lands Office

**Time:** 25 days

**Cost:** KES 500

**Comments:** The applicant submits to the Lands Office the following documents:

- Application for Registration of Transfer;
- Personal Identification Number (PIN) Certificate
- Certificate of Incorporation;
- Certificate of Title;

- Rates Clearance Certificate;
- Land Rent Clearance Certificate;
- Consent to Transfer;
- Valuation of property.

\* This procedure can be completed simultaneously with previous procedures.

#### REGISTERING PROPERTY

### Isiolo

Property value: KES 3,029,823 (US\$ 39,000)

Data as of: March 2012

### Procedure 1. Apply for a search on the title at the Lands Office

**Time:** 5 days (4 days to carry out search + 1 day transportation to and from Nairobi)

**Cost:** KES 2,500 (KES 500 search fee + KES 2,000 transportation to and from Nairobi)

**Comments:** This procedure is carried out in Nairobi as these services are not available in Isiolo. The time and cost to travel between Isiolo and Nairobi is considered in this procedure. Regarding searches on property registered under the Registration of Titles Act, a copy of the title document is required to be submitted at the time of application. 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 500.

### Procedure 2\*. Apply, pay and obtain Rates Clearance Certificate from the County Council of Isiolo

**Time:** 2 days

**Cost:** KES 151,491 (5% of property value)

### Procedure 3\*. Apply and obtain Land Rent Clearance Certificate from the Commissioner of Lands

**Time:** 19 days

**Cost:** KES 250

### Procedure 4. Apply and obtain the Consent to Transfer from the Commissioner of Lands

**Time:** 7 days

**Cost:** KES 1,000

**Comments:** Upon obtaining the Land Rent and Rates Clearance Certificates, the parties should submit the certificates and apply for Consent to Transfer from the Commissioner of Lands. An Application for Consent is filled by both the buyer and the seller and submitted with an application fee of KES 1,000.

### Procedure 5. File the transfer instrument at the Lands Office and obtain appointment for valuation

**Time:** 6 days

**Cost:** No cost

**Comments:** The draft transfer is prepared by the buyer's lawyers and needs to be approved by the seller's counterpart.

### Procedure 6. Receive site inspection by a government valuer and obtain valuation report

**Time:** 21 days

**Cost:** No cost

**Comments:** While the draft transfer is being processed at the Lands Office, a government valuer visits the site to assess the value of the property (i.e. land and building). Isiolo has no land valuer of its own, and the Land Registrar has to request a valuer in Meru to do the valuation in Isiolo and then forward it to Nairobi. Due to lack of transport, in practice, the valuer often has to be picked up in person and driven to the site.

#### **Procedure 7. Endorsement of value for stamp duty purposes and assessment of stamp duty by Kenya Revenue Authority**

**Time:** 4 days

**Cost:** No cost

**Comments:** The Stamp Duty Assessment Form is completed, including the purchase price. The stamp duty assessment officer will then assess the stamp duty payable and indicate the amount on the forms. Stamping of the document takes on average 4 days.

#### **Procedure 8. Pay stamp duty at a commercial bank and receive confirmation of payment from Kenya Revenue Authority**

**Time:** 4 days

**Cost:** KES 121,293 (4% of property value + KES 100 bank charge)

**Comments:** The payment of stamp duty can be done at the designated banks—i.e., Kenya Commercial Bank or the National Bank of Kenya.

#### **Procedure 9. Lodge stamped transfer document for registration and receive duly registered documents from Lands Office**

**Time:** 30 days

**Cost:** KES 500

**Comments:** The applicant submits to the Lands Office in Nairobi the following documents:

- Application for Registration of Transfer;
- Personal Identification Number (PIN) Certificate
- Certificate of Incorporation;
- Certificate of Title;
- Rates Clearance Certificate;
- Land Rent Clearance Certificate;
- Consent to Transfer;
- Valuation of property.

\* This procedure can be completed simultaneously with previous procedures.

#### REGISTERING PROPERTY

##### **Kakamega**

Property value: KES 3,029,823 (US\$ 39,000)

Data as of: March 2012

#### **Procedure 1. Apply for a search on the title at the Lands Office**

**Time:** 2 days

**Cost:** KES 500

**Comments:** Regarding searches on property registered under the Registration of Titles 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 out an official search form indicating Land Rent Number (LR No.), submits it with a copy of the Company Certificate of Incorporation and Personal Identification Number (PIN) and collects the official search after 2 days.

#### **Procedure 2\*. Apply, pay and obtain Rates Clearance Certificate from the Municipal Council of Kakamega**

**Time:** 2 days

**Cost:** KES 4,000

**Comments:** Seller's lawyer obtains the Rates Clearance Certificate from the Municipal Council of Kakamega. This certificate is important proof that there are no outstanding fees to be paid to the municipality.

#### **Procedure 3\*. Apply and 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 4. Apply and obtain the Consent to Transfer from the Commissioner of Lands**

**Time:** 7 days

**Cost:** KES 1,000

**Comments:** Upon obtaining the Land Rent and Rates Clearance Certificates, the parties should submit the certificates and apply for Consent to Transfer from the Commissioner of Lands.

#### **Procedure 5. File the transfer instrument at the Lands Office and obtain appointment for valuation**

**Time:** 5 days

**Cost:** No cost

**Comments:** The draft transfer is prepared by the buyer's lawyers and needs to be approved by the seller's counterpart.

#### **Procedure 6. Receive site inspection by a government valuer and obtain valuation report**

**Time:** 27 days

**Cost:** No cost

**Comments:** While the draft transfer is being processed at the Lands Office, a government valuer visits the site to assess the value of the property (i.e. land and building). Due to lack of transport, in practice, the valuer often has to be picked up in person and driven to the site.

#### **Procedure 7. Endorsement of value for stamp duty purposes and assessment of stamp duty by Kenya Revenue Authority**

**Time:** 3 days

**Cost:** No cost

**Comments:** The Stamp Duty Assessment Form is completed, including the purchase price. The stamp duty assessment officer will then assess the stamp duty payable and indicate the amount on the forms. Stamping of the document takes on average 3 days.

#### **Procedure 8. Pay stamp duty at a commercial bank and receive confirmation of payment from Kenya Revenue Authority**

**Time:** 2 days

**Cost:** KES 121,793 (4% of property value + KES 600 bank charge)

**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 9. Lodge stamped transfer document for registration and receive duly registered documents from Lands Office**

**Time:** 6 days

**Cost:** KES 500

**Comments:** The applicant submits to the Lands Office the following documents:

- Application for Registration of Transfer;
- Personal Identification Number (PIN) Certificate
- Certificate of Incorporation;
- Certificate of Title;
- Rates Clearance Certificate;
- Land Rent Clearance Certificate;
- Consent to Transfer;
- Valuation of property.

The Certificate of the Registered Transfer is collected at the Lands Office.

\* This procedure can be completed simultaneously with previous procedures.

#### REGISTERING PROPERTY

##### **Kilifi**

Property value: KES 3,029,823 (US\$ 39,000)

Data as of: March 2012

#### **Procedure 1. Apply for a search on the title at the Lands Office**

**Time:** 2 days

**Cost:** KES 500

**Comments:** After an application form is submitted, along with a copy of Personal Identification Number (PIN) Certificate and Certificate of Incorporation, a Search Certificate is issued confirming the registered owner of the property. Search for land registered under the Government Lands Act, Cap. 280, is carried out at Lands Office of Kilifi.

#### **Procedure 2\*. Apply, pay and obtain Rates Clearance Certificate from the County Council of Kilifi**

**Time:** 2 days

**Cost:** KES 4,500

**Comments:** Rates Clearance Certificate is obtained at the County Council of Kilifi.

#### **Procedure 3\*. Apply and obtain Land Rent Clearance Certificate from the Commissioner of Lands**

**Time:** 21 days

**Cost:** No cost

#### **Procedure 4. Apply and obtain the Consent to Transfer from the Commissioner of Lands**

**Time:** 5 days

**Cost:** KES 1,000

**Comments:** Upon obtaining the Land Rent and Rates Clearance Certificates, the parties should submit the certificates and apply for Consent to Transfer from the Commissioner of Lands. An Application for Consent is filled by both the buyer and the seller and submitted with an application fee of KES 1,000.

#### Procedure 5. File the transfer instrument at the Lands Office and obtain appointment for valuation

**Time:** 5 days

**Cost:** No cost

**Comments:** The draft transfer is prepared by the buyer's lawyers and needs to be approved by the seller's counterpart.

#### Procedure 6. Receive site inspection by a government valuer and obtain valuation report

**Time:** 33 days

**Cost:** No cost

**Comments:** While the draft transfer is being processed at the Lands Office, a government valuer visits the site to assess the value of the property (i.e. land and building). Due to lack of transport, in practice, the valuer often has to be picked up in person and driven to the site.

#### Procedure 7. Endorsement of value for stamp duty purposes and assessment of stamp duty by Kenya Revenue Authority

**Time:** 3 days

**Cost:** No cost

**Comments:** The Stamp Duty Assessment Form is completed, including the purchase price. The stamp duty assessment officer will then assess the stamp duty payable and indicate the amount on the forms. Stamping of the document takes on average 3 days.

#### Procedure 8. Pay stamp duty at a commercial bank and receive confirmation of payment from Kenya Revenue Authority

**Time:** 3 days

**Cost:** KES 121,293 (4% of property value + KES 100 bank charge)

#### Procedure 9. Lodge stamped transfer document for registration and receive duly registered documents from Lands Office

**Time:** 4 days

**Cost:** KES 500

\* This procedure can be completed simultaneously with previous procedures.

#### REGISTERING PROPERTY

##### Kisumu

Property value: KES 3,029,823 (US\$ 39,000)

Data as of: March 2012

#### Procedure 1. Apply for a search on the title at the Lands Office

**Time:** 1 day

**Cost:** KES 500

**Comments:** After the Form R.L. 26 Application for Official Search is submitted, the Lands Office issues a certificate confirming the registered owner of the land.

#### Procedure 2\*. Apply, pay and obtain Rates Clearance Certificate from the Municipal Council of Kisumu

**Time:** 2 days

**Cost:** KES 3,000

#### Procedure 3\*. Apply and obtain Land Rent Clearance Certificate from the Commissioner of Lands

**Time:** 14 days

**Cost:** No cost

#### Procedure 4. Apply and obtain the Consent to Transfer from the Commissioner of Lands

**Time:** 7 days

**Cost:** KES 1,000

**Comments:** Upon obtaining the Land Rent and Rates Clearance Certificates, the parties should submit the certificates and apply for Consent to Transfer from the Commissioner of Lands. An Application for Consent is filled by both the buyer and the seller and submitted with an application fee of KES 1,000.

#### Procedure 5. File the transfer instrument at the Lands Office and obtain appointment for valuation

**Time:** 1 day

**Cost:** No cost

**Comments:** The draft transfer is prepared by the buyer's lawyers and needs to be approved by the seller's counterpart.

#### Procedure 6. Receive site inspection by a government valuer and obtain valuation report

**Time:** 2 days

**Cost:** No cost

**Comments:** While the draft transfer is being processed at the Lands Office, a government valuer visits the site to assess the value of the property (i.e. land and building). Due to lack of transport, in practice, the valuer often has to be picked up in person and driven to the site.

#### Procedure 7. Endorsement of value for stamp duty purposes and assessment of stamp duty by Kenya Revenue Authority

**Time:** 1 day

**Cost:** No cost

**Comments:** The Stamp Duty Assessment Form is completed, including the purchase price. The stamp duty assessment officer will then assess the stamp duty payable and indicate the amount on the forms. Stamping of the document takes on average 1 day.

#### Procedure 8. Pay stamp duty at a commercial bank and receive confirmation of payment from Kenya Revenue Authority

**Time:** 4 days

**Cost:** KES 121,393 (4% of property value + KES 200 bank charge)

**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 9. Lodge stamped transfer document for registration and receive duly registered documents from Lands Office

**Time:** 14 days

**Cost:** KES 500

**Comments:** The applicant submits to the Lands Office the following documents:

- Application for Registration of Transfer;
- Personal Identification Number (PIN) Certificate;
- Certificate of Incorporation;
- Certificate of Title;
- Rates Clearance Certificate;
- Land Rent Clearance Certificate;
- Consent to Transfer;
- Valuation of property.

\* This procedure can be completed simultaneously with previous procedures.

#### REGISTERING PROPERTY

##### Malaba

Property value: KES 3,029,823 (US\$ 39,000)

Data as of: March 2012

#### Procedure 1. Apply for a search on the title at the Lands Office

**Time:** 2 days

**Cost:** KES 800 (KES 500 search fee + KES 300 transportation to and from Busia)

**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\*. Apply, pay and obtain Rates Clearance Certificate from the Town Council of Malaba

**Time:** 2 days

**Cost:** KES 1,500

#### Procedure 3\*. Apply and obtain Land Rent Clearance Certificate from the Commissioner of Lands

**Time:** 3 days

**Cost:** KES 2,500

#### Procedure 4. Apply and obtain the Consent to Transfer from the Commissioner of Lands

**Time:** 5 days

**Cost:** KES 1,000

**Comments:** Upon obtaining the Land Rent and Rates Clearance Certificates, the parties should submit the certificates and apply for a Consent to Transfer from the Commissioner of Lands. An Application for Consent is filled by both the buyer and the seller and submitted with an application fee of KES 1,000.

#### Procedure 5. File the transfer instrument at the Lands Office and obtain appointment for valuation

**Time:** 4 days

**Cost:** No cost

**Comments:** The draft transfer is prepared by the buyer's lawyers and needs to be approved by the seller's counterpart.

### Procedure 6. Receive site inspection by a government valuer and obtain valuation report

**Time:** 9 days

**Cost:** No cost

**Comments:** While the draft transfer is being processed at the Lands Office, a government valuer visits the site to assess the value of the property (i.e. land and building). Due to lack of transport, in practice, the valuer often has to be picked up in person and driven to the site.

### Procedure 7. Endorsement of value for stamp duty purposes and assessment of stamp duty by Kenya Revenue Authority

**Time:** 2 days

**Cost:** No cost

**Comments:** The Stamp Duty Assessment Form is completed, including the purchase price. The stamp duty assessment officer will then assess the stamp duty payable and indicate the amount on the forms.

### Procedure 8. Pay stamp duty at a commercial bank and receive confirmation of payment from Kenya Revenue Authority

**Time:** 2 days

**Cost:** KES 121,393 (4% of property value + KES 200 bank charge)

### Procedure 9. Lodge stamped transfer document for registration and receive duly registered documents from Lands Office

**Time:** 5 days

**Cost:** KES 500

**Comments:** The applicant submits to the Lands Office the following documents:

- Application for Registration of Transfer;
- Personal Identification Number (PIN) Certificate;
- Certificate of Incorporation;
- Certificate of Title;
- Rates Clearance Certificate;
- Land Rent Clearance Certificate
- Consent to Transfer;
- Valuation of property.

\* This procedure can be completed simultaneously with previous procedures.

#### REGISTERING PROPERTY

### Mombasa

Property value: KES 3,029,823 (US\$ 39,000)

Data as of: March 2012

### Procedure 1. Apply for a search on the title at the Lands Office

**Time:** 3 days

**Cost:** KES 500

**Comments:** In order to collect the official search results, the applicant has to submit the Application Form and pay the prescribed fee at the Lands Office of Mombasa.

### Procedure 2\*. Apply, pay and obtain Rates Clearance Certificate from the Municipal Council of Mombasa

**Time:** 1 day

**Cost:** KES 3,250

**Comments:** This Rates Clearance Certificate is obtained at the Municipal Council of Mombasa.

### Procedure 3\*. Apply and obtain Land Rent Clearance Certificate from the Commissioner of Lands

**Time:** 5 days

**Cost:** KES 500

**Comments:** The Land Rent Certificate is obtained at the Lands Office.

### Procedure 4. Apply and obtain the Consent to Transfer from the Commissioner of Lands

**Time:** 5 days

**Cost:** KES 1,000

**Comments:** Upon obtaining the Land Rent and Rates Clearance Certificates, the parties should submit the certificates and apply for Consent to Transfer from the Commissioner of Lands. An Application for Consent is filled by both the buyer and the seller and submitted with an application fee of KES 1,000.

### Procedure 5. File the transfer instrument at the Lands Office and obtain appointment for valuation

**Time:** 5 days

**Cost:** No cost

### Procedure 6. Receive site inspection by a government valuer and obtain valuation report

**Time:** 4 days

**Cost:** No cost

**Comments:** While the draft transfer is being processed at the Lands Office, a government valuer visits the site to assess the value of the property (i.e. land and building). Due to lack of transport, in practice, the valuer often has to be picked up in person and driven to the site.

### Procedure 7. Endorsement of value for stamp duty purposes and assessment of stamp duty by Kenya Revenue Authority

**Time:** 3 days

**Cost:** No cost

**Comments:** The Stamp Duty Assessment Form is completed, including the purchase price. The stamp duty assessment officer will then assess the stamp duty payable and indicate the amount on the forms. Stamping of the document takes on average 3 days.

### Procedure 8. Pay stamp duty at a commercial bank and receive confirmation of payment from Kenya Revenue Authority

**Time:** 3 days

**Cost:** KES 121,293 (4% of property value + KES 100 bank charge)

**Comments:** After assessment has taken place, the stamp duty is paid at the designated banks—i.e., National Bank of Kenya and Co-operative Bank of Kenya.

### Procedure 9. Lodge stamped transfer document for registration and receive duly registered documents from Lands Office

**Time:** 1 day

**Cost:** KES 500

**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: KES 3,029,823 (US\$ 39,000)

Data as of: March 2012

### Procedure 1. Apply for a search on the title at the Lands Office

**Time:** 3 days

**Cost:** KES 500

**Comments:** Regarding 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\*. Apply and 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\*. Apply, pay and obtain Rates Clearance Certificate from the City Council of Nairobi

**Time:** 5 days

**Cost:** KES 7,500

**Comments:** Seller's lawyer obtains 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 city. 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. Apply and obtain the Consent to Transfer from the Commissioner of Lands

**Time:** 9 days

**Cost:** KES 1,000

### Procedure 5. File the transfer instrument at the Lands Office and obtain appointment for valuation

**Time:** 4 days

**Cost:** No cost

**Comments:** The draft transfer is prepared by the buyer's lawyers and needs to be approved by the seller's counterpart. The transfer instrument is filed at the Lands Office to be assessed for stamp duty.

### Procedure 6. Receive site inspection by a government valuer and obtain valuation report

**Time:** 20 days

**Cost:** No cost

**Comments:** Once the draft transfer has been filed at the Lands Office, a valuer visits the site to verify the development and state of the property. Due to lack of transport, in practice, the valuer often has to be picked up in person and driven to the site. 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 take less than 1 day or over a month. Once the valuer has inspected the

property to assess its value, a report is compiled after which the value is endorsed on the transfer and then it is submitted for assessment of the stamp duty.

#### **Procedure 7. Endorsement of value for stamp duty purposes and assessment of stamp duty by Kenya Revenue Authority**

**Time:** 4 days

**Cost:** No cost

**Comments:** The Stamp Duty Assessment Form is completed, including the purchase price (in quadruplet). The stamp duty assessment officer stationed at the Ministry of Lands banking hall will then assess the stamp duty payable and indicate the amount on the forms. Stamping of the document takes on average 4 days.

#### **Procedure 8. Pay stamp duty at a commercial bank and receive confirmation of payment from Kenya Revenue Authority**

**Time:** 4 days

**Cost:** KES 121,793 (4% of property value + KES 600 bank charge)

**Comments:** Payment of stamp duty is made at a commercial bank designated by the Ministry of Land. If the amount exceeds KES 1,000,000, payment is made by a real time gross settlement (RTGS) bank transfer. It takes about 4 days for the Kenya Revenue Authority to confirm receipt of payment after which the transfer agreement can be franked or embossed evidencing payment of stamp duty.

#### **Procedure 9. Lodge stamped transfer document for registration and receive duly registered documents from Lands Office**

**Time:** 12 days

**Cost:** KES 500

**Comments:** The stamped transfer documents are lodged for registration at the Lands Office. These documents are generally obtained from seller's lawyers, these being:

- Original Certificate of Title;
- Rates Clearance Certificate;
- Land Rent Clearance Certificate;
- Consent to Transfer.

The buyer informs seller's lawyers of registration and pays 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

##### **Nakuru**

Property value: KES 3,029,823 (US\$ 39,000)

Data as of: March 2012

#### **Procedure 1. Apply for a search on the title at the Lands Office**

**Time:** 2 days

**Cost:** KES 500

**Comments:** Regarding searches on property registered under the Registration of Titles 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. Search is processed at the Lands Office while the payment is processed at the District

Treasury - Nakuru District Commissioner's Office. Advocate signs and stamps the Application for Search Form and must bring a copy of:

- Title Certificate;
- Advocate's ID;
- Personal Identification Number (PIN) Certificate.

#### **Procedure 2\*. Apply, pay and obtain Rates Clearance Certificate from the Municipal Council of Nakuru**

**Time:** 3 days

**Cost:** KES 3,000

**Comments:** Seller's lawyer obtain the Rates Clearance Certificate from the Municipal Council of Nakuru. This certificate is important proof that there are no outstanding fees to be paid to the municipality.

#### **Procedure 3\*. Apply and obtain Land Rent Clearance Certificate from the Commissioner of Lands**

**Time:** 14 days

**Cost:** No cost

**Comments:** Seller's lawyer obtains the Land Rent Clearance Certificate from the Commissioner of Lands at no cost.

#### **Procedure 4. Apply and obtain the Consent to Transfer from the Commissioner of Lands**

**Time:** 7 days

**Cost:** KES 1,000

**Comments:** Upon obtaining the Land Rent and Rates Clearance Certificates, the parties should submit the certificates and apply for Consent to Transfer from the Commissioner of Lands.

#### **Procedure 5. File the transfer instrument at the Lands Office and obtain appointment for valuation**

**Time:** 5 days

**Cost:** No cost

**Comments:** The draft transfer is prepared by the buyer's lawyers and needs to be approved by the seller's counterpart.

#### **Procedure 6. Receive site inspection by a government valuer and obtain valuation report**

**Time:** 29 days

**Cost:** No cost

**Comments:** While the draft transfer is being processed at the Lands Office, a government valuer visits the site to assess the value of the property (i.e. land and building). Due to lack of transport, in practice, the valuer often has to be picked up in person and driven to the site.

#### **Procedure 7. Endorsement of value for stamp duty purposes and assessment of stamp duty by Kenya Revenue Authority**

**Time:** 2 days

**Cost:** No cost

**Comments:** The Stamp Duty Assessment Form is completed, including the purchase price. The stamp duty assessment officer will then assess the stamp duty payable and indicate the amount on the forms. Stamping of the document takes on average 2 days.

#### **Procedure 8. Pay stamp duty at a commercial bank and receive confirmation of payment from Kenya Revenue Authority**

**Time:** 2 days

**Cost:** KES 121,793 (4% of property value + KES 500 banker's check + KES 100 bank charge)

**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. In Nakuru, the parties are allowed to carry all copies of the stamp duty to the Lands Office.

#### **Procedure 9. Lodge stamped transfer document for registration and receive duly registered documents from Lands Office**

**Time:** 10 days

**Cost:** KES 500

**Comments:** The applicant submits to the Lands Office the following documents:

- Application for Registration of Transfer;
- Personal Identification Number (PIN) Certificate;
- Certificate of Incorporation;
- Certificate of Title;
- Rates Clearance Certificate;
- Land Rent Clearance Certificate;
- Consent to Transfer;
- Valuation of property.

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: KES 3,029,823 (US\$ 39,000)

Data as of: March 2012

#### **Procedure 1. Apply for a search on the title at the Lands Office**

**Time:** 1 day

**Cost:** KES 500

**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\*. Apply, pay and obtain Rates Clearance Certificate from the Town Council of Narok**

**Time:** 2 days

**Cost:** KES 2,500

**Comments:** The Rates Clearance Certificate is obtained at the Town Council of Narok.

#### **Procedure 3\*. Apply and obtain Land Rent Clearance Certificate from the Commissioner of Lands**

**Time:** 15 days

**Cost:** KES 1,500

**Comments:** The Land Rent Clearance Certificate is obtained at the Lands Office of Narok.

#### Procedure 4. Apply and obtain the Consent to Transfer from the Commissioner of Lands

**Time:** 7 days

**Cost:** KES 1,000

**Comments:** Upon obtaining the Land Rent and Rates Clearance Certificates, the parties should submit the certificates and apply for Consent to Transfer from the Commissioner of Lands.

#### Procedure 5. File the transfer instrument at the Lands Office and obtain appointment for valuation

**Time:** 2 days

**Cost:** No cost

**Comments:** The draft transfer is prepared by the buyer's lawyers and needs to be approved by the seller's counterpart.

#### Procedure 6. Receive site inspection by a government valuer and obtain valuation report

**Time:** 19 days

**Cost:** No cost

**Comments:** While the draft transfer is being processed at the Lands Office, a government valuer visits the site to assess the value of the property (i.e. land and building). Due to lack of transport, in practice, the valuer often has to be picked up in person and driven to the site.

#### Procedure 7. Endorsement of value for stamp duty purposes and assessment of stamp duty by Kenya Revenue Authority

**Time:** 1 day

**Cost:** No cost

**Comments:** The Stamp Duty Assessment Form is completed, including the purchase price. The stamp duty assessment officer will then assess the stamp duty payable and indicate the amount on the forms. Stamping of the document takes on average 1 day.

#### Procedure 8. Pay stamp duty at a commercial bank and receive confirmation of payment from Kenya Revenue Authority

**Time:** 4 days

**Cost:** KES 121,293 (4% of property value + KES 100 bank charge)

#### Procedure 9. Lodge stamped transfer document for registration and receive duly registered documents from Lands Office

**Time:** 3 days

**Cost:** KES 500

**Comments:** The applicant submits to the Lands Office the following documents:

- Application for Registration of Transfer;
- Personal Identification Number (PIN) Certificate;
- Certificate of Incorporation;
- Certificate of Title;
- Rates Clearance Certificate;
- Land Rent Clearance Certificate;
- Consent to Transfer;
- Valuation of property.

\* This procedure can be completed simultaneously with previous procedures.

#### REGISTERING PROPERTY

##### Nyeri

Property value: KES 3,029,823 (US\$ 39,000)

Data as of: March 2012

#### Procedure 1. Apply for a search on the title at the Lands Office

**Time:** 3 days

**Cost:** KES 500

**Comments:** The companies requesting the search are also required to provide a copy of the title, Personal Identification Number (PIN) Certificate and Certificate of Incorporation. Once the application and the receipt of payment are submitted, the applicant obtains a Search Certificate signed and sealed by the District Lands Office of Nyeri.

#### Procedure 2\*. Apply, pay and obtain Rates Clearance Certificate from the Municipal Council of Nyeri

**Time:** 1 day

**Cost:** KES 5,000

#### Procedure 3\*. Apply and obtain Land Rent Clearance Certificate from the Commissioner of Lands

**Time:** 23 days

**Cost:** KES 3,800

#### Procedure 4. Apply and obtain the Consent to Transfer from the Commissioner of Lands

**Time:** 5 days

**Cost:** KES 1,000

**Comments:** Upon obtaining the Land Rent and Rates Clearance Certificates, the parties should submit the certificates and apply for Consent to Transfer from the Commissioner of Lands.

#### Procedure 5. File the transfer instrument at the Lands Office and obtain appointment for valuation

**Time:** 5 days

**Cost:** No cost

**Comments:** The draft transfer is prepared by the buyer's lawyers and needs to be approved by the seller's counterpart.

#### Procedure 6. Receive site inspection by a government valuer and obtain valuation report

**Time:** 8 days

**Cost:** No cost

**Comments:** While the draft transfer is being processed at the Lands Office, a government valuer visits the site to assess the value of the property (i.e. land and building). Due to lack of transport, in practice, the valuer often has to be picked up in person and driven to the site.

#### Procedure 7. Endorsement of value for stamp duty purposes and assessment of stamp duty by Kenya Revenue Authority

**Time:** 3 days

**Cost:** No cost

**Comments:** The Stamp Duty Assessment Form is completed, including the purchase price. The stamp duty assessment officer will then assess the stamp duty payable and indicate the amount on the forms. Stamping of the document takes on average 3 days.

#### Procedure 8. Pay stamp duty at a commercial bank and receive confirmation of payment from Kenya Revenue Authority

**Time:** 2 days

**Cost:** KES 121,293 (4% of property value + KES 100 bank charge)

#### Procedure 9. Lodge stamped transfer document for registration and receive duly registered documents from Lands Office

**Time:** 8 days

**Cost:** KES 500

**Comments:** The applicant submits to the Lands Office the following documents:

- Application for Registration of Transfer;
- Personal Identification Number (PIN) Certificate;
- Certificate of Incorporation;
- Certificate of Title;
- Rates Clearance Certificate;
- Land Rent Clearance Certificate;
- Consent to Transfer;
- Valuation of property.

\* This procedure can be completed simultaneously with previous procedures.

#### REGISTERING PROPERTY

##### Thika

Property value: KES 3,029,823 (US\$ 39,000)

Data as of: March 2012

#### Procedure 1. Apply for a search on the title at the Lands Office

**Time:** 2 days

**Cost:** KES 500

**Comments:** The applicant fills and submits the prescribed form and pays KES 500.

#### Procedure 2\*. Apply, pay and obtain Rates Clearance Certificate from the Municipal Council of Thika

**Time:** 3 days

**Cost:** KES 2,300 (KES 300 application form + KES 2,000 clearance certificate)

**Comments:** The Rates Clearance Certificate is obtained at the Municipal Council of Thika.

#### Procedure 3\*. Apply and obtain Land Rent Clearance Certificate from the Commissioner of Lands

**Time:** 7 days

**Cost:** No cost

#### Procedure 4. Apply and obtain the Consent to Transfer from the Commissioner of Lands

**Time:** 5 days

**Cost:** KES 1,000

**Comments:** Upon obtaining the Land Rent and Rates Clearance Certificates, the parties should submit the certificates and apply for Consent to Transfer from the Commissioner of Lands.

#### Procedure 5. File the transfer instrument at the Lands Office and obtain appointment for valuation

**Time:** 9 days

**Cost:** No cost

**Comments:** The draft transfer is prepared by the buyer's lawyers and needs to be approved by the seller's counterpart.

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**Procedure 6. Receive site inspection by a government valuer and obtain valuation report**

**Time:** 18 days

**Cost:** No cost

**Comments:** While the draft transfer is being processed at the Lands Office, a government valuer visits the site to assess the value of the property (i.e. land and building). Due to lack of transport, in practice, the valuer often has to be picked up in person and driven to the site.

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**Procedure 7. Endorsement of value for stamp duty purposes and assessment of stamp duty by Kenya Revenue Authority**

**Time:** 5 days

**Cost:** No cost

**Comments:** The Stamp Duty Assessment Form is completed, including the purchase price. The stamp duty assessment officer will then assess the stamp duty payable and indicate the amount on the forms. Stamping of the document takes on average 5 days.

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**Procedure 8. Pay stamp duty at a commercial bank and receive confirmation of payment from Kenya Revenue Authority**

**Time:** 2 days

**Cost:** KES 121,393 (4% of property value + KES 200 bank charge)

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**Procedure 9. Lodge stamped transfer document for registration and receive duly registered documents from Lands Office**

**Time:** 15 days

**Cost:** KES 500

**Comments:** The applicant submits to the Lands Office the following documents:

- a. Application for Registration of Transfer;
- b. Personal Identification Number (PIN) Certificate;
- c. Certificate of Incorporation;
- d. Certificate of Title;
- e. Rates Clearance Certificate;
- f. Land Rent Clearance Certificate;
- g. Consent to Transfer;
- h. Valuation of property.

\* This procedure can be completed simultaneously with previous procedures.



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