

SPECIAL ISSUE

Kenya Gazette Supplement No. 223 (Acts No. 20)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

ACTS, 2024

NAIROBI, 13th December, 2024

CONTENT

Act—	PAGE
The Business Laws (Amendment) Act, 2024.....	335

THE BUSINESS LAWS (AMENDMENT) ACT, 2024**No. 20 of 2024***Date of Assent: 11th December, 2024**Date of Commencement: 27th December, 2024***AN ACT of Parliament to amend various laws and to make amendments to laws related to financial institutions; and for connected purposes****ENACTED** by the Parliament of Kenya as follows—

1. This Act may be cited as the Business Laws (Amendment) Act, 2024. Short title.

2. The Banking Act is amended—

Amendment of
section 55 of Cap.
488.

(a) in section 55 by deleting subsection (2) and substituting therefor the following new subsection—

(2) Without prejudice to the generality of subsection (1), the Central Bank may, in regulations, prescribe penalties to be paid by institutions, credit reference bureaus or any other person that fails or refuses to comply with any provision of this Act, Prudential Guidelines or any direction issued by the Central Bank under this Act or Prudential Guidelines.

(b) by inserting the following new subsections after subsection (2)—

(3) The penalties prescribed under subsection (2) shall not exceed twenty million shillings in the case of an institution or credit reference bureau, or three times the gross amount of the monetary gain made, or loss avoided by the failure or refusal to comply whichever is higher; and three million shillings in the case of a corporate entity and one million shillings in the case of a natural person.

(4) The Central Bank may, in regulations, prescribe additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such failure or refusal continues.

3. The Second Schedule to the Banking Act is amended by deleting paragraph (d) and substituting therefor the following new paragraph—

Amendment of the
Second Schedule
to Cap. 488.

- (d) a core capital of at least ten billion Kenya shillings in the case of a bank or a mortgage finance company:

Provided that the provisions of this paragraph shall apply in accordance with the following table—

Compliance Date	Minimum Core Capital, Banks and Mortgage Finance Companies (KSh. Billion)
December 31, 2024	1.0
December 31, 2025	3.0
December 31, 2026	5.0
December 31, 2027	6.0
December 31, 2028	8.0
December 31, 2029	10.0

4. Section 2 of the Central Bank of Kenya Act is amended—

Amendment of section 2 of Cap. 491.

(a) by—

- (i) deleting the definition of “digital channel”;
- (ii) deleting the definition of “digital credit”;
- (iii) deleting the definition of “digital credit business”;
- (iv) deleting the definition of “digital credit provider”;

(b) by inserting the following new definitions in proper alphabetical sequence—

“buy now pay later” means an arrangement whereby the consumer purchases goods or assets, whether or not secured on the goods or assets, and pays later in instalments with or without interest;

“credit provider” includes a non-deposit taking credit provider;

“non-deposit taking credit business” means—

- (a) granting of loans or credit facilities, whether or not digitally, to members of the public or a section of it, with or without interest, and

either secured or unsecured on the goods or assets purchased;

- (b) asset financing whether directly or through a third-party financier;
- (c) buy now pay later arrangements as determined by the Bank but does not include hire purchase agreements governed by the Hire-Purchase Act;
- (d) credit guarantees;
- (e) pay as you go arrangements as maybe determined by the Bank;
- (f) peer to peer lending under collective investment schemes regulated under the Capital Markets Act; and
- (g) any other activity as the Bank may determine to be a non-deposit taking credit business for purposes of this Act;

Provided that this does not include any credit arrangements involving the provision of credit by a person that is merely incidental to the sale of goods and provision of services by the person.

“non-deposit-taking credit provider” means a person licensed by the Bank to carry on non-deposit taking credit business using own funds and assets but does not include the national government or county government;

“peer to peer lending” means a form of crowdfunding that uses online platforms to raise unsecured loans which are paid back with interest;

“specified credit guarantee company” means a licensed credit guarantee company which is specified by the Bank under section 33W of this Act.

5. Section 4A (1) of the Central Bank of Kenya Act is amended—

- (a) in paragraph (da), by deleting the word “digital” and substituting therefor the words “non-deposit-taking”;

Amendment of
section 4A of
Cap. 491.

- (b) by inserting the following new paragraph immediately after paragraph (da)—
 - (db) license and supervise credit guarantee companies not regulated under any other written law;
- (c) in paragraph (h), by—
 - (i) deleting the word “digital” appearing before the word “credit” in subparagraph (vii) and substituting therefor the words “non-deposit taking”; and
 - (ii) inserting the following new subparagraph immediately after subparagraph (viii)—
 - (viiiia) credit guarantee companies;

6. The heading to Part VIC of the Central Bank of Kenya Act is amended by deleting the words “**DIGITAL LENDERS**” and substituting therefor the words “**NON-DEPOSIT TAKING CREDIT PROVIDERS**”.

Amendment of the heading to Part VIC of Cap. 491.

7. The Central Bank of Kenya Act is amended by deleting section 33R and substituting therefor the following new section—

Amendment of section 33R of Cap. 491.

Regulation of non-deposit taking credit providers.

33R. (1) Without prejudice to the generality of section 4A(1)(da), the Bank shall have power to—

- (a) register, license and regulate non-deposit-taking credit providers which are not regulated under any other written law;
- (b) approve channels through which non-deposit-taking credit business may be conducted;
- (c) determine parameters for pricing of credit;
- (d) supervise non-deposit taking credit providers in such manner as the Bank may prescribe; and
- (e) prescribe an enforceable Code of Conduct binding all non-deposit-taking credit providers in their conduct of business.

(2) Non-deposit-taking credit providers registered by the Bank shall be subject to such supervision, oversight or monitoring as the Bank may determine.

8. Section 33S of the Central Bank of Kenya Act is amended—

Amendment of
section 33S of
Cap. 491.

- (d) in subsection (1) by deleting the word “digital” and substituting therefor the words “non-deposit-taking”;
- (e) by deleting subsection (4) and substituting therefor the following new subsection—
 - (4) Without prejudice to subsection (3)(e), a non-deposit-taking credit provider shall provide terms and conditions applicable to the credit which shall accepted by the borrower.
- (f) in subsection (7)—
 - (i) by deleting the words “digital lending” appearing in paragraph (f) and substituting therefor the words “non-deposit-taking credit business”;
 - (ii) by inserting the following new paragraphs immediately after paragraph (f)—
 - (g) the licensee fails to conclusively address a customer’s complaint within the time and in the manner prescribed by the Bank under this Act or as the Bank may direct;
 - (h) the licensee fails to comply with a directive of the Bank; or
 - (i) the licensee imposes unreasonable or unjustifiable charges on the loan.
- (g) in subsection (9)—
 - (i) by deleting the words “digital lenders” appearing in paragraph (a) and substituting therefor the words “non-deposit-taking credit providers”;
 - (ii) by deleting the words “digital lenders” appearing in paragraph (b) and substituting therefor the words “non-deposit-taking credit providers”.

9. The Central Bank of Kenya Act is amended by inserting the following new Part immediately after section 33U—

Insertion of new Part VID in Cap. 491.

PART VID—CREDIT GUARANTEE BUSINESS

Interpretation of Part.

33V. In this Part, unless the context otherwise requires—

“credit guarantee business” means the business of providing a guarantee to a lender through absorption of all or a portion of the lender’s risk on a credit facility made to a borrower in case of default;

Cap. 486.

“credit guarantee company” means a company limited by shares incorporated or registered under the Companies Act and licensed by the Bank to carry on credit guarantee business.

Registration.

33W. (1) A person who intends to carry on credit guarantee business in Kenya shall apply to the Bank for registration.

(2) An application under subsection (1) shall be in the prescribed form and accompanied by the prescribed fee.

(3) The Bank shall prescribe, in Regulations, the requirements and procedure for registration under subsection (1).

(4) The Bank shall issue a successful applicant with a certificate of registration in the prescribed form.

(5) A person who carries on credit guarantee business without being registered by the Bank commits an offence and is liable, on conviction to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding three years, or to both.

(6) Where the offence contemplated in subsection (5) is committed by a body corporate, that body corporate shall be liable, on conviction, to a fine not exceeding ten million shillings.

Licensing.

33X. (1) A person registered under section 33W who intends to carry on credit guarantee business in Kenya shall apply to the Bank for a licence in the prescribed form and on payment of the prescribed fee.

(2) A person carrying on credit guarantee business in Kenya shall not be required to apply for a licence under subsection (1) if that person—

- (a) is a credit guarantee provider that is owned by a foreign government and has entered into an agreement with the Government for the purposes of supporting access to financial services in Kenya;
- (b) is a credit guarantee provider that is owned or supported by international financial institutions and has entered into an agreement with the Government to provide credit guarantee services to targeted groups, sectors or regions for a specified period of time;
- (c) is a credit guarantee company registered outside Kenya and has entered into a partnership with a financial institution in Kenya to provide credit guarantee services; or
- (d) is a bank providing credit guarantees as part of its regular business regulated by the Banking Act.

(3) Each licenced credit guarantee company shall pay an annual licence fee.

(4) A person who carries on credit guarantee business without a licence commits an offence and is liable, on conviction to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding three years, or to both.

(5) Where the offence contemplated in subsection (4) is committed by a body corporate, that body corporate shall be liable, on conviction, to a fine not exceeding ten million shillings.

(6) A person who provides false information for the purposes of obtaining a licence under this section commits an offence and shall, on conviction —

- (a) in the case of natural person, be liable to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding three years, or to both; and
- (b) in the case of body corporate, to a fine not exceeding ten million shillings.

Powers of the Bank.

33Y. The Bank shall have the following powers with respect to the regulation of credit guarantee companies —

- (a) to issue, suspend or revoke licenses to carry on credit guarantee business;
- (b) to determine the capital adequacy standards and related requirements for credit guarantee companies;
- (c) to prescribe the minimum liquidity requirements for credit guarantee companies;
- (d) to prescribe permissible and prohibited activities for credit guarantee companies;
- (e) to supervise credit guarantee companies, including by —
 - (i) conducting on-site and off-site supervision;
 - (ii) assessing professional and moral suitability of persons

- managing or controlling credit guarantee companies;
- (iii) approving the Board and management of the credit guarantee companies;
- (iv) approving the appointment of the external auditors;
- (v) regularly collecting data from credit guarantee companies;
- (vi) approving the annual audited accounts of credit guarantee companies before publication and presentation at annual general meetings;
- (vii) certifying significant shareholders as fit and proper persons;
- (f) to direct or require such changes as the Bank may consider necessary;
- (g) to impose administrative or monetary sanctions;
- (h) to prescribe, through Regulations, requirements relating to—
 - (i) licensing;
 - (ii) corporate governance;
 - (iii) risk management;
 - (iv) internal controls;
 - (v) shareholder obligations;
 - (vi) operational requirements;
 - (vii) supervisory reporting obligations;
 - (viii) market conduct;
 - (ix) information sharing;
 - (x) anti-money laundering, combating the financing of terrorism and

countering proliferation
financing purposes;

(xi) pricing parameters; and

(xii) reporting and oversight by
the Bank; and

(i) exercise such other powers with
respect to the regulation of credit
guarantee companies and credit
guarantee business as are consistent
with the provisions of this Part.

10. Section 43 of the Central Bank of Kenya Act is
amended in subsection (1) by deleting the word “digital”
and substituting therefor the words “non-deposit-taking”.

Amendment of
section 43 of Cap.
491.

11. Section 57 of the Central Bank of Kenya Act is
amended—

Amendment of
section 57 of Cap.
491.

(a) in subsection (3), by inserting the following
paragraph immediately after paragraph (a)—

(aa) the procedure for the registration of non-
deposit-taking credit providers;

(b) in subsection (3)—

(i) in paragraph (a) by deleting the word
“digital” and substituting therefor the
words “non-deposit-taking”;

(ii) in paragraph (g) by deleting the word
“digital” and substituting therefor the
words “non-deposit-taking”;

(iii) in paragraph (j) by deleting the word
“digital lending” and substituting therefor
the words “non-deposit-taking credit
business”;

(c) by deleting subsection (4) and substituting therefor
the following new subsection—

(4) Without prejudice to the generality of
subsection (3)(h), the Bank may, in regulations,
prescribe penalties to be paid by non-deposit-
taking credit providers who fail or refuse to
comply with the provisions of this Act, the
regulations made thereunder, guidelines, Code of

Conduct and directives issued by the Bank which penalties shall not exceed two million shillings, or three times the gross amount of the monetary gain made or loss avoided by the failure or refusal to comply, whichever is higher; and may prescribe additional penalties, not exceeding ten thousand shillings in each case for each day or part thereof during which such failure or refusal continues:

Provided that the Bank shall on a case-by-case basis assess the facts of each case and determine the reasonable penalty to impose, taking into account such factors as may be prescribed or as the Bank may consider necessary.

12. The Central Bank of Kenya Act is amended in section 59, by inserting the following new subsections immediately after subsection (2)—

Amendment of section 59 of Cap. 491.

(3) Any person who, before the coming into force of sections 33V, 33W, 33X and 33Y was carrying on credit guarantee business and is not regulated under any other law, shall apply for registration and a licence in accordance with sections 33W and 33X, within five years after the commencement of sections 33V, 33W, 33X and 33Y.

(4) Despite subsection (3), any person who, before the coming into force of sections 33V, 33W, 33X and 33Y, was carrying on credit guarantee business and wishes to apply for registration and a licence under sections 33W and 33Y, may only do so after satisfying the Bank of compliance with the provisions of sections 33V, 33W, 33X and 33Y.

13. The Microfinance Act is amended in section 2 —

Amendment of section 2 of Cap. 493C.

(a) by deleting the definition of the term “non-deposit-taking microfinance business” and substituting therefor the following new definition —

“non-deposit-taking microfinance business” means a non-microfinance bank business which involves the provision of physical credit;

(b) by deleting the definition of the term “non-microfinance bank business”;

(c) by inserting the following new definition in proper alphabetical sequence —

“physical credit” means a credit facility or arrangement where money is lent or borrowed on the basis of the lender’s acceptance of a movable or immovable security but does not include the lender’s acceptance of a cash collateral;

14. Section 3 of the Microfinance Act is amended—

Amendment to section 3 of Cap 493C.

- (a) in subsection (1) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) a non-deposit-taking microfinance business in the manner prescribed under subsection (2)(a) unless exempted under subsection (2)(b)”;

- (b) by deleting subsection (2) and substituting therefor the following new subsection—

“(2) For the purposes of subsection (1)(b), the Cabinet Secretary may make regulations—

- (a) prescribing measures for the conduct of non-deposit-taking microfinance business; and
- (b) exempting any non-deposit-taking microfinance business from application of this Act.”

- (c) by inserting the following new subsection immediately after subsection (2)—

“(2A) Despite subsection (2)(b), an exemption shall not be granted to a non-deposit-taking microfinance business whose annual revenue exceeds five hundred thousand shillings.”

15. Section 4 of the Microfinance Act is amended by inserting the following new section immediately after section 4—

Amendment to section 4 of Cap 493C.

Qualifications for carrying out non-deposit-taking microfinance business.

4A. (1) A person shall not carry out any non-deposit taking microfinance business unless such person is—

- (a) a company registered under the Companies Act whose main objective is to carry out a non-

deposit taking microfinance
business; and

(b) licensed under this Act.

(2) A person who contravenes the provisions of this section commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

16. Section 5 of the Microfinance Act is amended in subsection (1) by inserting the words “or non-deposit-taking microfinance business” immediately after the words “deposit-taking business”.

Amendment to
section 5 of Cap
493C.

17. Section 9 of the Microfinance Act is amended in subsection (1) by inserting the words “or non-deposit-taking microfinance business” immediately after the words “deposit-taking business” appearing in paragraph (a).

Amendment of
section 9 of
section 493C.

18. Section 16 of the Microfinance Act is amended in subsection (1) by inserting the words “or non-deposit-taking microfinance business” immediately after the word “institution”.

Amendment to
section 16 of Cap
493C.

19. The Microfinance Act is amended by inserting the following new sections immediately after section 52—

Insertion of new
sections 53 and 54
into Cap. 493C.

Consumer protection.

53. (1) A non-deposit-taking microfinance business shall exhibit transparency in dealing with the public and in particular shall—

- (a) furnish borrowers with accurate information on the procedure and conditions for lending and recovery;
- (b) inform borrowers, prior to the acquisition of a loan, of the financial costs associated with the procurement and servicing of that micro-loan to be met by the borrower;

- (c) maintain confidentiality of information relating to borrowers; and
- (d) inform borrowers of the rights and duties associated with the acquisition of loans.

(2) A non-deposit-taking microfinance business shall, in the course of debt collection or loan recovery —

- (a) not harass, abuse or oppress a borrower, guarantor or any person in connection with collection or recovery of a debt;
- (b) not threaten or use violence or illegal means in collection or recovery of a debt; or
- (c) not use obscene or profane language to a borrower, guarantor or any person in connection with collection or recovery of a debt.

(3) A non-deposit taking microfinance business shall comply with the requirements of Article 31 of the Constitution and the Data Protection Act in lending loans and recovery of debts.

(4) A non-deposit-taking microfinance business shall not collect interest, fees, charges, penalties, levies or expenses unless such interest, fees, charges, penalties, levies or expenses are prescribed in an agreement between the non-deposit taking microfinance business and the borrower.

Transitional provision.

54. (1) Within six months of the commencement of this Act, a person who was conducting non-deposit-taking microfinance business before the commencement of this Act shall apply for a license under this Act.

(2) An applicant under subsection (1) may continue to conduct non-deposit-taking

microfinance business pending determination of the application subject to this Act, Regulations made under this Act and any conditions issued by the Central Bank.

(3) A license issued to a non-deposit taking microfinance business prior to the commencement of this Act shall continue in force until the expiry of such license.

(4) A person who contravenes the provisions of this section commits an offence and shall be liable upon conviction to imprisonment of a term of not more than 5 years or a fine of Kenya Shillings Two million or both.

20. The Standards Act is amended by inserting the following new section immediately after section 5—

Insertion of a new section 5A in Cap. 496.

Information on manufacturers.

5A. The Bureau may liaise with relevant government agencies which register businesses to obtain information on businesses registered to undertake manufacturing.

21. The Standards Act is amended by inserting the following new section immediately after section 10C—

Insertion of a new section 10D in Cap. 496.

Standards for manufacturers.

10D. (1) A manufacturer shall ensure that every product is designed and manufactured in accordance with this Act.

(2) A manufacturer shall, in addition to any other obligations under this Act—

- (a) ensure that every product meets the requirements of the relevant Kenya standards;
- (b) carry out sample testing of each product before releasing the product into the market;
- (c) have procedures for ensuring full traceability of a product from the factory to the consumer of the product manufactured for sale; and

- (d) ensure that the labelling of each product meets the requirements of the relevant standards including —
 - (i) the details and location of the manufacturer; and
 - (ii) the ingredients or content of the product;
- (e) investigate any complaint related to any product and take appropriate action;
- (f) keep a register of complaints, non-conforming products and product recalls; and
- (g) keep distributors informed of any monitoring.

22. The Standards Act is amended by repealing section 12 and replacing it with the following new section—

Repeal and replacement of section 12 of Cap. 496.

Samples and information.

12. (1) A person who manufactures, imports, stocks, distributes, sells or exhibits a product shall—

- (a) ensure that every product complies with the Kenya standards;
- (b) ensure that every product bears a valid standardization mark issued or recognized under this Act;
- (c) maintain records that uniquely identify each product, every supplier and the immediate customers; and
- (d) ensure that the product does not exceed its declared shelf life or expiry date.

(2) A person who imports, stocks, distributes, sells or exhibits a product shall not place on the market or put into service any product that is not sold freely or conforms to applicable regulatory requirements in the country of origin.

(3) The Bureau may request from any person who manufactures, stocks, distributes, sells or exhibits a product for any documentation and information that the Bureau requires for the purpose of carrying out its functions.

(4) A manufacturer or a business operator who has reason to believe that a product which has been made available in the market is not in conformity with the requirements of this Act shall withdraw or recall the product.

(5) A business operator shall cooperate with the Bureau to eliminate or mitigate risks presented by non-compliant products made available in the market.

(6) Pursuant to subsection (5) the Bureau may issue an order to a manufacturer or business operator to—

- (a) prescribe specific conditions for the marketing of the product;
- (b) inform consumers of the risks in a clear and efficient manner;
- (c) mark the product with appropriate warning on the risks presented;
- (d) remove the product from listing in online sales platforms;
- (e) destroy the product;
- (f) stop the supply and distribution of the product; or
- (g) take any other measures consistent with this Act to eliminate risk to consumers and the public.

(7) The Cabinet Secretary may make regulations for the better carrying into effect of the provisions of this section.

23. The Standards Act is amended by inserting the following new sections immediately after section 12—

Insertion of a new section 12A in Cap. 496.

Establishment of
laboratories.

12A. (1) The Bureau may establish laboratories which shall be accredited by the Kenya Accreditation Service to—

- (a) provide testing and measurement services and issue test certificates;
- (b) produce certified reference materials;
- (c) develop test methods;
- (d) provide proficiency testing services; and
- (e) provide chemical metrology services.

Cap. 496A.

(2) The Bureau may, where necessary, designate competent bodies that are duly accredited under the Kenya Accreditation Service Act to provide testing services and issue test certificates subject to the Kenya standards for purposes of this Act.

(3) Any test carried out by a designated laboratory shall be deemed to have conformed to the requirements of the Bureau under this Act.

(4) A designated laboratory that issues incorrect or incomplete test results commits an offence.

(5) The Bureau may cancel the designation of a laboratory if the laboratory—

- (a) contravenes the conditions imposed by the Bureau;
- (b) provides false or misleading information to the Bureau;
- (c) is no longer fit to hold an accreditation granted under the Kenya Accreditation Service Act;
- (d) contravenes any provisions of this Act; or

Cap. 496A.

- (e) fails to pay any fees prescribed under this Act.

Establishment of
calibration facilities.

12B. (1) The Bureau shall be accredited by the Kenya Accreditation Service to be the competent entity to provide calibration services in Kenya, either by itself or through designated laboratories.

(2) The Bureau may establish calibration facilities which shall—

- (a) be the custodian of the national measurement standards;
- (b) realize, develop and maintain national measurement standards;
- (c) provide traceability of the national measurement standards to the International System of Units including physical, chemical, biological and medical fields of measurement; and
- (d) provide national inter-comparison measurements for calibration laboratories in the country.

(3) The Bureau may, where necessary, license and register competent bodies accredited under the relevant Act to provide calibration services and issue certificates subject to the Kenya standards.

Calibration service
providers.

12C. (1) Every calibration service provider shall have each of its measurement standards referenced to the national measurement standards maintained by the Bureau.

(2) The Cabinet Secretary may make regulations designating the specific categories of measuring instruments and equipment used for health, safety or environmental purposes that shall be calibrated.

(3) Without prejudice to the generality of subsection (2), the Regulations may

prescribe the timeframe after which it shall be unlawful to use an instrument or equipment that is not calibrated.

24. The Standards Act is amended by inserting the following new section immediately after section 14C—

Insertion of a new section 14D in Cap. 496.

Appointment of an inspection body.

14D. The Bureau may appoint an inspection body in the country of origin of goods to undertake verification of conformity to Kenya Standards or approved specifications.

25. The Kenya Accreditation Service Act is amended by inserting the following new section immediately after section 10—

Insertion of a new section 10A in Cap. 496A

Accreditation of Conformity Assessment Bodies operating in Kenya.

10A. (1) Every conformity assessment body that carries out any conformity assessment activity in Kenya shall be accredited by the Service.

(2) A conformity assessment body established in Kenya and that seeks to be accredited by a foreign accreditation body shall obtain an exemption from the Service in the prescribed manner and upon payment of a prescribed fee.

(3) A foreign conformity assessment body operating in Kenya that is accredited by a foreign accreditation body shall obtain an exemption from accreditation by the Service in the prescribed manner and upon payment of a prescribed fee.

(4) A conformity assessment body operating in Kenya that is accredited by a foreign accreditation body shall, within three months of the commencement of this Act, apply to the Service for accreditation or exemption as the case may be.

26. Section 2 of the Special Economic Zones Act is amended by deleting the definition of “business processing outsourcing” and substituting therefor the following new definition—

Amendment of section 2 of Cap. 517A.

“business process outsourcing” means the provision of outsourcing services to business for specific business

functions or processes such as back office support services in human resources, finance, accounting and procurement amongst other services, and includes the delegation of one or more information technology-intensive business processes to an external provider;

27. Section 4 of the Special Economic Zones Act is amended by inserting the following new subsection immediately after subsection 5—

Amendment of
section 4 of Cap.
517A.

(5A) The Cabinet Secretary shall, on the recommendation of the Authority, set the minimum amount to be invested in an area declared as a special economic zone.

28. The Special Economic Zones Act is amended in section 8 by inserting the following new subsection immediately after subsection (4) —

Amendment of
section 8 of Cap.
517A.

(5) Goods of any description sold to any person that remains within a customs-controlled area of a special economic zone are not deemed to have entered the customs territory and are entitled to the benefits conferred under this Act.

29. Section 11 of the Special Economic Zones Act is amended —

Amendment of
section 11 of Cap.
517A.

- (a) in paragraph (d) by inserting the words “and the minimum investment value” immediately after the word “threshold”;
- (b) by inserting the following new paragraph after paragraph (f)—
 - (fa) review applications and grant special economic zone service permits;
- (c) by deleting paragraph (h) and substituting therefor the following new paragraph—
 - (h) establish and administer a "one-stop" shop through which special economic zone enterprises can channel all their applications for permits, approvals, licences and facilities not handled directly by the Authority, coordinating with such other Government or private entities as may be necessary through agreements with the entities

or procedures defined in implementing regulations or such other prescribed procedures;

(d) by deleting paragraph (m) and substituting therefor the following new paragraph—

(m) recommend to the Cabinet Secretary to suspend or cancel the licence of a special economic zone enterprise or a special economic zone developer which is in violation of this Act, the East African Community Customs Management Act, 2004 or any other applicable law.

30. Section 28 of the Special Economic Zones Act is amended in paragraph (a) by inserting the words “or a public entity” immediately after the word “Kenya”.

Amendment of section 28 of Cap. 517A.

31. The Special Economic Zones Act is amended by inserting the following new section immediately after section 30—

Insertion of a new Section 30A in Cap. 517A.

Issuance of Special Economic Zone Business Service Permit

30A. (1) A person who intends to provide a service within a special Economic zone for which no incentive or benefit accrues under this Act, shall apply in the prescribed form to the Authority for a special economic zone business service permit or for a renewal of the permit.

(2) The Cabinet Secretary may prescribe in regulations the rights and obligations which shall apply upon the issuance of the permit issued under subsection (1).

32. Section 33 of the Special Economic Zones Act is amended—

Amendment of section 33 of Cap. 517A.

(a) in subsection (1), paragraph (b), by—

(i) deleting the word “and” immediately after the expression “special economic zone operators” and substituting therefor the expression “special economic zone service permit holders”; and

(ii) inserting the expression “and residents” immediately after the word “enterprises”

(b) in subsection (2) paragraph (b), by deleting the words “enclosures” and substituting therefor the word “measures”

(c) by deleting subsection (4), and substituting therefor the following new subsection—

(4) A special economic zone developer or a special economic zone operator who fails to maintain adequate and proper accounts and other records as required by this section commits an offence and is liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding six months, or both.

33. Section 35 of the Special Economic Zones Act is amended by inserting the following new subsection immediately after subsection (4)—

Amendment of section 35 of Cap. 517A.

(5) The incentives and tax benefits granted to a licensed special economic zone developer, operator or enterprise under this Act or any other written law shall apply for a period not exceeding ten years from the date of issuance of the licence.

34. Section 6(2) of the Kenya Industrial Research and Development Institute Act is amended by inserting the following new paragraph immediately after paragraph (h)—

Amendment of section 6 of Cap. 511A.

(ha) facilitate patents, industrial designs and utility models rights holders to commercially exploit any invention or innovation which the Institute deems fit or incidental to the achievement of its objects and performance of its functions, subjects to the terms approved by the Board;.

35. The National Electronic Single Window System Act is amended by repealing section 11 and substituting therefor with the following new section—

Repeal and replacement of section 11 of Cap. 485D.

Fees.

11. (1) The Agency may—

(a) levy nominal fees for its services as may be prescribed in Regulations; and

(b) facilitate, through the System, the collection of any other dues as agreed upon by relevant

Government ministries,
departments or agencies as
provided for under any written law.

(2) The Cabinet Secretary may make Regulations for the better carrying into effect of the provisions of this section, including provisions on—

- (a) prescribed fees payable to the Agency for its services;
- (b) reduction of fees or exemption from payment of fees; and
- (c) conditions for reduction of fees or exemption from payment of fees.

36. The Business Registration Service Act is amended by inserting the following new section immediately after section 21—

Insertion of new
section 21A into
Cap. 499B.

Information sharing.

21A. (1) The Director-General of the Business Registration Service shall immediately upon the incorporation or registration of a business whose purpose and object is to undertake manufacturing business submit particulars of the information on the business to the Kenya Bureau of Standards for purpose of section 5A of the Standards Act.

37. The Companies Act is amended by inserting the following new section immediately after section 91—

Insertion of new
section 91A into
Cap.486.

Information sharing.

91A. The Registrar of Companies shall immediately upon the incorporation or registration of a company under the Companies Act whose purpose or object is to undertake manufacturing business submit particulars of the information on the company to the Kenya Bureau of Standards for purpose of section 5A of the Standards Act.

Cap. 486.