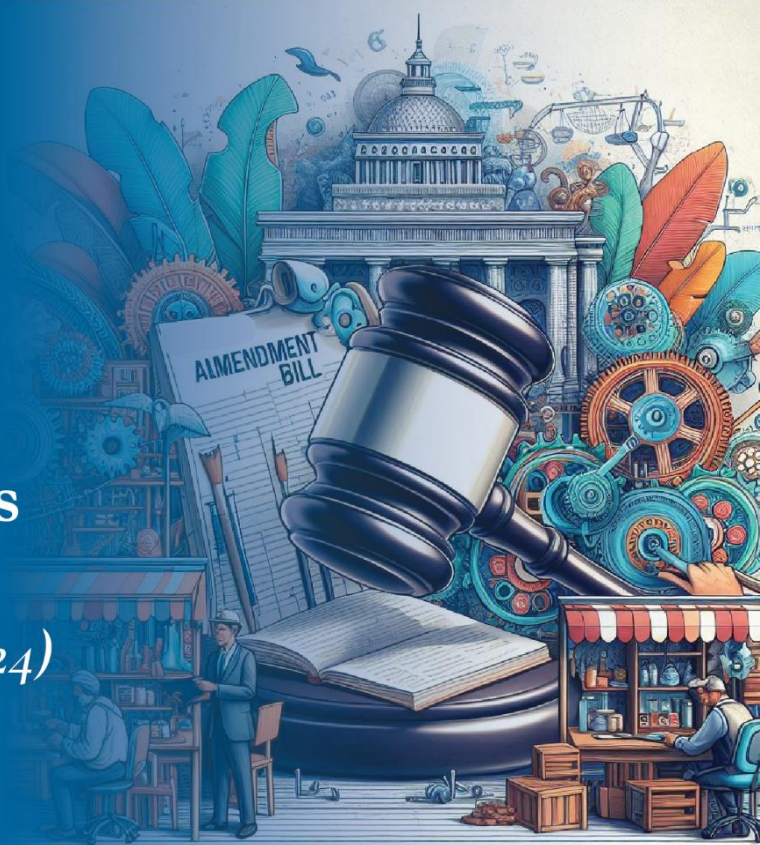


Legal shifts in the business landscape in Kenya: *Business Laws Amendment Act (2024)*

29th November 2024



Introduction

The Business Laws (Amendment) Bill, 2024 (available at https://kenyalaw.org/kl/fileadmin/pdfdownloads/bills/2024/TheBusinessLaws_Amendment_Bill_2024.pdf) introduces a raft of changes to key statutes governing business, investment, finance, manufacturing, and labour relations in Kenya. This Bill aims to position Kenya as a globally competitive economy by promoting transparency, protecting local industries, and fostering an inclusive investment climate. However, these amendments impose significant compliance requirements that stakeholders must prepare to meet. Below is an analysis of the key amendments, their implications for businesses, and the anticipated economic environment if the Bill becomes law.

Analysis of the Key Amendments

1. Investment Promotion Act

The Bill redefines the legal framework for foreign direct investments (FDIs), mandating their

registration with the Kenya Investment Authority and introducing accreditation for facilitators. A centralized facility—both physical and digital—is proposed to provide integrated government services, streamlining tax registration, immigration permits, and business licensing. While these changes improve transparency and ease regulatory compliance, they also introduce costs, including non-refundable application fees, which may deter smaller investors. Nonetheless, large-scale investors stand to benefit from the clarity and enhanced facilitation thus improving Kenya's attractiveness as a good investment destination.

2. Banking and Financial Regulations

Key amendments to the Banking Act and Central Bank Act aim to stabilize the financial sector and increase consumer protection. The progressive increase in core capital requirements for banks with Ksh1 Billion by 31st Dec 2024, Ksh. 3 Billion by 31st December, 2025 culminating to Ksh. 10 billion by 2027, seeks to attract global players and ensure

financial stability in the economy. However, the requirement may put pressure on smaller banks who will be left with an option of either consolidation or closure due to these demands. The amendment also proposes 'digital credit business' which has expanded regulation of non-deposit-taking credit providers, such as fintech companies offering "buy now, pay later" services this in essence addresses gaps in the oversight of the financial sector but may also discourage innovation due to increased compliance costs. The introduction of a Code of Conduct for such providers strengthens consumer protections and discipline for market participants.

3. Standards Act

Manufacturers are now required to register with the Kenya Bureau of Standards (KEBS) and comply with enhanced product testing, traceability, and labelling standards. The establishment of KEBS-certified laboratories and calibration facilities aligns Kenyan manufacturing with global quality standards and increasing trust in our Kenyan products. However, these measures increase operational costs, particularly for small and medium enterprises (SMEs), which may face resource constraints in meeting these requirements.

4. Anti-Counterfeit Act

The amendments bolster the fight against counterfeiting by expanding the definitions of counterfeit goods and granting inspectors the authority to seize and dispose of non-compliant products. Enhanced penalties for violations aim to protect intellectual property and legitimate businesses. While these measures create a safer market for consumers, importers and retailers must ensure verification processes to avoid penalties thus raising their operational costs.

5. Employment and Occupational Safety Laws

The Bill modernizes labour protections by recognizing remote work arrangements between players in the labour industry thanks to COVID 19. Employers are obligated to provide remote employees with the tools and resources necessary to perform their duties effectively. This ensures fair treatment for workers but increases costs for employers, particularly those in the business process outsourcing (BPO) sector, which relies heavily on remote teams.

6. Special Economic Zones (SEZs)

Amendments to the SEZ Act introduce minimum land acreage and investment thresholds for specific zones in the country, while simplifying permitting processes through a one-stop-shop facility. Investors benefit from guaranteed tax incentives for ten years after licensing thereby fostering long-term planning. However, these high thresholds for entry may hinder smaller investors and limiting the inclusivity of SEZ's benefits.

7. Trade and Taxation Policies

These amendments will see an increase in levies on imported goods such as plastics, motorcycles, and furniture with the aim to protect local industries and reduce dependency on imports. While this supports domestic manufacturing, businesses reliant on imported goods will face increased costs, which in a bid to meet their profit margin targets, could translate to higher consumer prices.

Conclusion

The Business Laws (Amendment) Bill, 2024 presents a transformative legal framework that promises to enhance transparency, improve oversight while fostering industrial competition in

Kenya. However, it also brings challenges, including increased compliance costs and stricter operational requirements. Businesses should brace for a more structured economic environment, characterized by accountability and alignment. Stakeholders must act proactively to adapt to the

new requirements, leveraging the opportunities presented while mitigating potential disruptions. As Kenya implements these changes, the country is geared to becoming a dynamic and attractive hub for investment and innovation

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