



Kenya Investment Authority

INVESTORS HANDBOOK

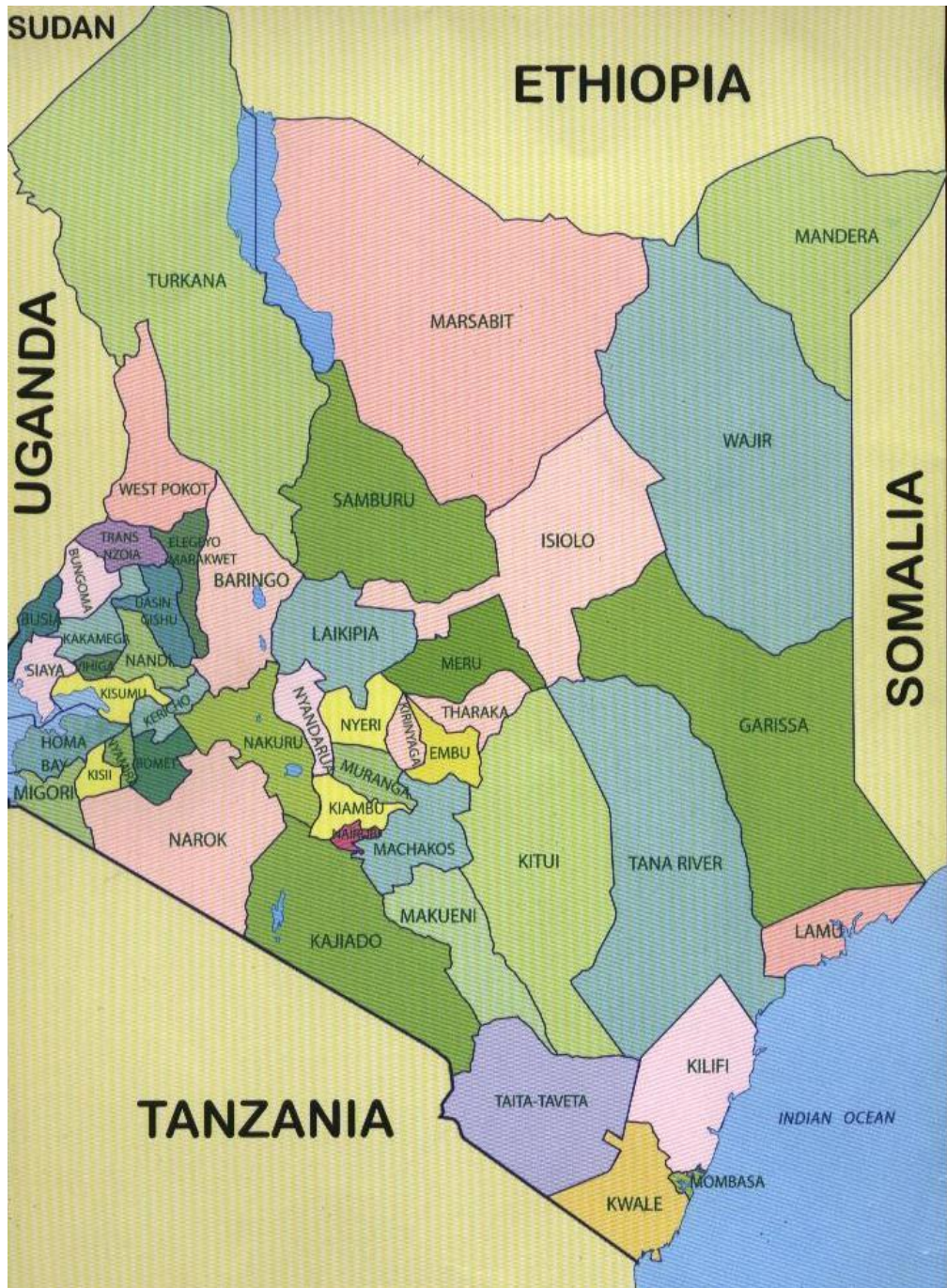


TABLE OF CONTENTS

WHY INVEST IN KENYA	4
PROFILE OF KENYA INVESTMENT AUTHORITY.....	7
PROCEDURES FOR INVESTING IN KENYA	9
COMPANY REGISTRATION PROCEDURES	10
INCENTIVES FOR INVESTMENT	13
REQUIREMENTS FOR FOREIGNERS TO OWN A BUSINESS IN KENYA	14
<i>OTHER RELEVANT INSTITUTIONS.....</i>	<i>19</i>
<i>KENYA INVESTMENT AUTHORITY INVESTMENT APPLICATION FORM.....</i>	<i>22</i>
<i>WORK PERMIT/ENTRY PERMIT APPLICATION FORM (FORM 3).....</i>	<i>26</i>
<i>FREQUENTLY ASKED QUESTIONS</i>	<i>30</i>
<i>IMPORTANT CONTACT ADDRESSES.....</i>	<i>35</i>

Part 1

WHY INVEST IN KENYA

Kenya is the gateway to Africa and there are many reasons why investors choose to invest in Kenya - *"..... We chose Kenya because of its current and future economic growth potential. It has human capital strength. The communication infrastructure is continually improving."* Nathan Kalumbu, president of Coke's operation in East and Central Africa.

Reasons to Invest in Kenya;

- Good range of Tax Treaties and Investment Promotion and Protection Agreements- e.g. Bilateral Trade Agreements, Investment Protection Guarantee and African Growth and Opportunity Act (AGOA) etc
- A Stable Pro-Investment Government
- Strategic Location as a Regional Financial, Communication and Transportation Hub
- Well Developed Social and Physical Infrastructure
- Fully Liberalized Economy
- Preferential Market Access within the Region the E.U., Americas and Asia
- Well Established Private Sector
- Business Friendly Regulatory Reforms- 2008 World Bank Doing Business ranks Kenya among the Top Ten Reformers in the World for improving the regulatory framework
- Large pool of educated, skilled, enterprising and English speaking labor force

Investment Policy

The Government has outlined the nation's economic strategy in various Sessional Papers and National Development Plans, which have placed emphasis on the private sector as the engine of economic growth.

Vision 2030 is the country's new development blue print which aims to transform Kenya into a newly industrialized, middle-income country providing a high quality life to all its citizens. The Vision is anchored on three pillars:

- **Economic** – Sustained economic growth of 10% per annum from 2012.
- **Social** – A just and cohesive society enjoying equitable social development in a clean and secure environment
- **Political** – Issue based, people centered, results oriented and accountable democratic political system.

Market Access

- East African Community (EAC) – Population of 120 million comprising 5 member states, backed by a Customs Union Protocol.
- Common Market for Eastern and Southern Africa (COMESA) comprises 20 member States with a population of over 400 million.
- African Growth and Opportunity Act (AGOA) - Duty-free access to the US market under AGOA.
- Generalized System of Preferences (GSP) - Access to various markets in the developed world through the Generalized System of Preferences (GSP), which offers preferential treatment to a wide range of products.
- ACP/COTONOU Agreement - Membership in the African, Caribbean and Pacific States (ACP) enables Kenyan products to qualify for preferential tariffs on exports to member countries.

Tax Treaties and Investment Promotion and Protection Agreements

Kenya is a signatory to a large and growing number of tax treaties and investment promotion and protection Agreements such as the Multilateral Trade System (MTS) ACP Cotonou Agreement, and the Africa Growth and Opportunities Act. This allows exports from Kenya to enjoy preferential access to world markets under a number of special access and duty reduction programmes.

Stability

Since independence, Kenya has maintained remarkable stability despite changes in its political system since the re-emergence of multiparty democracy and promulgation of a new constitution in 2011; Kenyans have enjoyed an increased degree of freedom.

Regulatory Reforms

Kenya is making efforts to lower the cost of doing business by conducting extensive business regulatory reforms intended to substantially reduce the number of licensing requirements and to make the licensing regimes more simple and transparent and focused on legitimate regulatory purposes.

Access to Large pool of Highly Educated and Skilled Work Force

Kenya prides itself in its large pool of highly educated, skilled and sought after work force in Africa, trained from within the country and in institutions in around the world.

Strategic Location

As the leading economy in East Africa, Kenya's' strategic location and its well developed business infrastructure make it a natural choice for investors and many international firms have made it their regional hub. This grants investors' access to the larger East African Community and regional markets with access to over 385 million consumers. Nairobi is also a major transport Hub in East Africa with Connections from Jomo Kenyatta International Airport to Major Destinations around the world. All these are coupled with a convenient Time zone of (GMT +3)

Highly Developed Social and Physical Infrastructure

Kenya affords a pleasant and quality standard of living with its spectacular and diverse natural resources ranging from wildlife; beautiful sceneries and the famous 8th World wonder wildebeest migration in Maasai Mara. The country also boasts of high quality social amenities such as restaurants, hospitals and entertainment spots. This is a good reason as to why the country has the highest number of expatriates living and working in Kenya.

Fully Liberalized Economy

Kenya fully liberalized its economy by removing all obstacles that previously hampered the free flow of trade and private investment. These includes: exchange controls, import and export licensing, as well as restrictions on remittances of profits and dividends.

Preferential Market Access

Kenya is signatory to a number of multilateral and bilateral trade agreements as part of its trade policy. Kenya is a member of the World Trade Organization (WTO) making her products access more than 90% of world markets at Most Favored Nation (MFN) treatment. In addition, Kenya is member to several trade arrangements and beneficiary to trade-enhancing schemes that include the Africa Growth and opportunity act (AGOA); ACP-EU Trade Agreement and Common Market of Eastern and Southern Africa (COMESA).

Well Established Private Sector

Kenya has a very substantial private sector, including a significant number of foreign investors and is touted as one of the most resilient in the world. Key players in voicing private-sector concerns include: The Kenya Private Sector Alliance (KEPSA), Federation of Kenya Employers (FKE) and The Kenya Association of Manufacturers (KAM). Furthermore, the government frequently conducts regular policy dialogue with private sector players through regional investment Round Tables.

PROFILE OF KENYA INVESTMENT AUTHORITY

Mandate

Kenya Investment Authority (KenInvest) is a government agency with the mandate of promoting and facilitating investments in Kenya for both domestic and foreign investors. The facilitation of investments are in all sectors, but with particular focus on flagship sectors identified under the Kenya Vision 2030.

Vision

To Make Kenya a Country of Choice for Investments.

Mission

To Attract, Facilitate, Retain and Expand both Domestic and International Investments in Kenya through Provision of Quality Services.

The Core functions of KenInvest include;

Policy Advocacy

- Review the Investment environment and make recommendations to Government and others, with respect to changes that would promote and facilitate investment, including changes in licensing requirements.

Investment Promotion

- Providing Information, on Investing opportunities or sources of capital.
- Promote the opportunities for investment available in Kenya through organizing forums, workshops and other marketing initiatives.

Investment Facilitation

i) Pre-investment Services

- Issuance of Investment Certificate, that facilitates immediate start of a business
- Assistance in obtaining any necessary licenses and permits.
- Assisting in obtaining incentives or exemptions under the Income Tax Act, the Customs and Excise Act, the Value Added Tax Act or other legislation,

- Providing information to investors on the business climate, operating rules, investment opportunities, sources of capital, etc;
- Liaison with other government agencies for the issuance of additional licenses and approvals not directly handled by the Authority.

ii) Post – Investment Services

- Provision of After Care services.
- Continuous liaison with other stakeholders who interface with investors in their day-to-day operations with an ultimate aim of improving the investment environment and to make it easier to do business.

KenInvest functions flow chart



PROCEDURES FOR INVESTING IN KENYA

1. Company Registration

The initial step in forming a company is to register the proposed company name with the Registrar of Companies at the Attorney General's (AG's) Chambers. At the AG's Chambers, a name search is carried out to ensure that no other company exists with the same name.

After that, the applicant fills in a prescribed registration form and presents it at the registration counters at Sheria House Nairobi. Next, the Memorandum and Articles of Association should be filed with the Registrar of Companies who, upon satisfaction, issues the Certificate of Incorporation.

Types of Companies

The principal types of business enterprises in Kenya are:

1. Registered Companies (Private and Public);
2. Branch offices of companies registered outside Kenya;
3. Partnerships;
4. Sole Proprietorships;
5. Co-operatives.

Most large businesses are normally registered as limited liability companies (1 and 2), regulated by the Companies Act (Cap 486). Kenya's legal system is based on English law and practice. A wide range of legal service is locally available.

Opening a Branch Office of an overseas company

An overseas company wishing to open a branch office in Kenya should, within 30 days of opening, deliver the following to the Registrar of Companies:

- A certified copy of the Charter, Statutes or Memorandum and Articles of the Company, or other instruments defining the constitution of the company;
- A list of the directors and secretary of the company, giving full names, nationality and other directorships of companies in Kenya;
- A statement of all existing charges entered into by the company affecting properties in Kenya;
- Names and postal addresses of one or more persons resident in Kenya authorized to accept, on behalf of the company, service of notices required to be served on the company;
- Full address of the registered or principal office of the company in its home country; and,
- Full address of place of business in Kenya.

Both private and public companies may allot shares for considerations other than cash. Companies

should inform the Registrar of Companies of such allotments and submit a written contract constituting the title of the allottee.

Company Registration Procedures

Procedure 1	Obtain approval for the company name from the Registrar of Companies
Time to Complete	3 days
Cost to complete	KShs. 200 per name reservation
Comment	The 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 to Complete	14 days
Cost	1% of nominal capital + KShs.2005, stamp duty on Memorandum and Articles of Association
Comment	KRA requires the Personal Identification Numbers of the parties on whose behalf documents to be stamped with duty are submitted. Documents have to be first assessed by the stamp duty office before payment can be processed by the KRA's specified banks. Bank handling charges of KShs. 100 per transaction are also payable.
Procedure 3	Pay stamp duty at bank
Time to Complete	1 day (included in the previous procedure)
Cost	KShs. 100 bank commission
Procedure 4	Declaration of Compliance (Form 208) is signed before a Commissioner of Oaths / notary public
Time to Complete	1 day
Cost	KShs. 200
Comment	The Advocate incorporating is required to sign a Company Form 208 which accompanies the documents to be submitted to the Registrar of Companies. This form is a Declaration of Compliance with the requirements of the Companies Act. NB: The Law society of Kenya is the premier bar agency and legal development agency for Kenyan advocates.
Procedure 5	File deed and details with the Registrar of Companies at the Attorney General's Chambers in Nairobi
Time to Complete	21 days
Cost	see comments
Comment	Submit stamped Memorandum and Articles of Association, particulars of directors and secretary (Form 201), statement of capital, notice of proposed registered office (Form 203), declaration of compliance (Form 208) and the prescribed registration fees. Registration fees are: KShs.2, 200 for the first KShs.100, 000 and KShs.120 for every KShs.20,000 after the first KShs.100,000 subject to a maximum of KShs.60,000. Filing fee for 3 forms is KShs.600. It takes 20-25 days to get the approval.
Procedure 6	Register with the Kenya Revenue Authority Tax Department for a PIN
Time to Complete	1 day
Cost	no charge
Comment	The PIN is valid also for VAT, PAYE, and local service tax. File certificate of registration and a copy of the Memorandum and Articles of Association. NB: PIN applications are only accessed online on the KRA website www.kra.go.ke
Procedure 7	Register with the VAT office
Time to Complete	1 day
Cost	no charge
Comment	VAT office is at the Times Tower building, Nairobi or its regional offices.

Procedure 8	Apply for a business permit
Time to Complete	1 day
Cost	see comments
Comment	The fee varies by type of business, number of employees and size of business premise. Fee is payable to the local authority's, Licensing Department. The Authority will issue business permit. Cost: KShs. 5,000 (medium trader, shop or retail service from 5-20 employees and/or premises from 50-300 sqm fair location) NB: The Local authority for Nairobi is the Nairobi City Council
Procedure 9	Register with the National Social Security Fund (NSSF)
Time to Complete	1 day
Cost	No charge
Comment	The employer pays a standard contribution of approximately 1% of salary subject to a maximum of KShs.400* per month. One half of the contribution is deductible from the employee's salary. The precise amount of the contribution (where less than the maximum) is determined by reference to salary bands.
Procedure 10	Register with the <u>National Hospital Insurance Fund (NHIF)</u>
Time to Complete	1 day
Cost	No charge
Comment	The employee contributes a fixed sum to the NHIF, which must be deducted by the employer from the employees' salary. The maximum contribution is KShs.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 put in place medical insurance cover for employees.
Procedure 11	Make a company seal after a certificate of incorporation has been issued
Time to Complete	2 days
Cost	KShs 2500*
Comment	The client may liaise with the advocate in the production of the company seal

Note:* The costs indicated may change

2. Investment Application Form

Complete Investment Application Form from Kenya Investment Authority for the issuance of an Investment Certificate to permit immediate implementation and start of operation subject to conforming to Health, Environment and Security requirements. The application will be submitted with copies of either, Certificate of Incorporation, Registration or Certificate of Compliance and Memorandum & Articles of Association.

3. Project Location

Identify location or project site and undertake an Environmental Impact Assessment for approval by the National Environmental Management Authority (NEMA) as a pre-condition to the issuance of an Investment Certificate. Other requirements (applied for and obtained within 12 months).

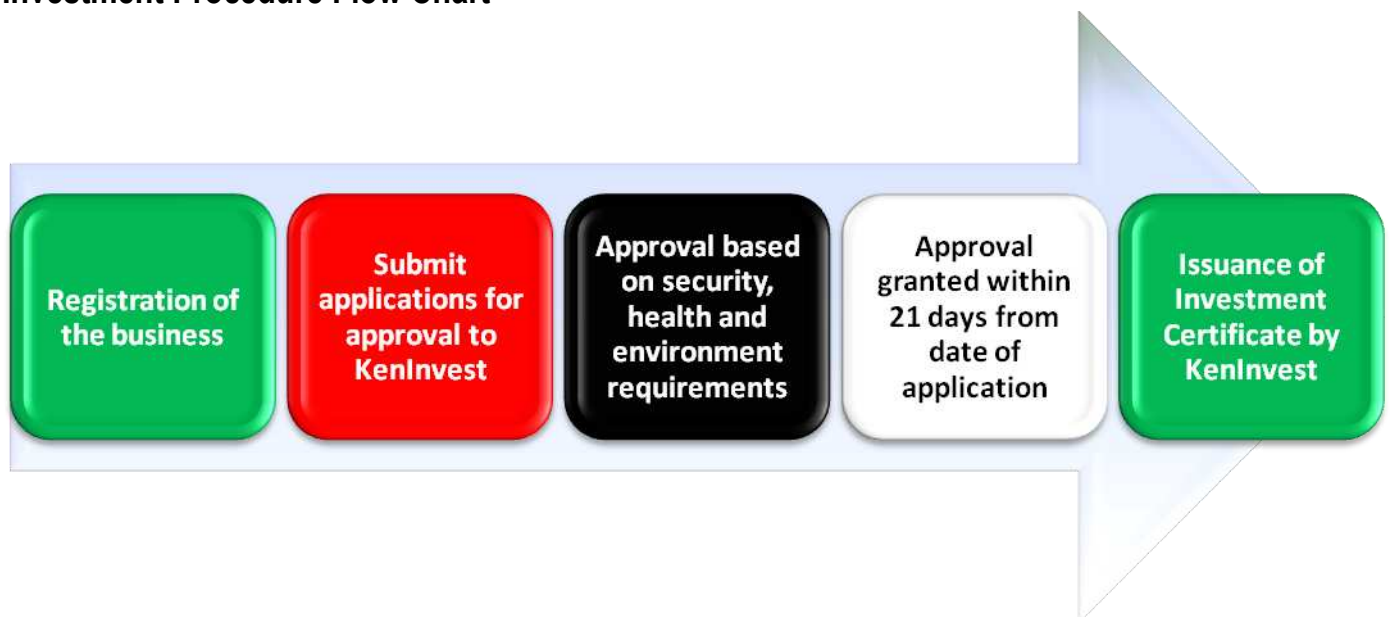
4. Land Acquisition

Land in Kenya is either public or privately owned. An investor can acquire land by leasing and obtaining a lease grant or by purchasing and obtaining a title of ownership. It will be necessary to contact the ministry of lands to ascertain the ownership of the land. This will be registered in the Ministry of lands upon payment of stamp duty which is at a rate of 2-4% depending on the value.

5. Statutory Requirements

- Tax Pin /VAT Registration – done online at www.kra.go.ke;
- Registration with the National Social Security Fund (NSSF);
- Registration with the National Hospital Insurance Fund (NHIF);
- Single Business Permit from relevant local Authority.

Investment Procedure Flow Chart



INCENTIVES FOR INVESTMENT

- 1) Capital goods are zero-rated;
- 2) Plant, Machinery and equipments are duty exempt;
- 3) Waiver of VAT on plant, machinery and equipment is extended to the company on application to the Cabinet Secretary in-charge of Finance;
- 4) Investments in urban areas enjoy 100% investment allowance and 150% investment allowance in non-urban areas if the investment is above KShs.200million;
- 5) After value addition of products, they can be sold across the COMESA and EAC markets with no taxes; and
- 6) Exports Processing Zones (EPZ) scheme.
 - 10 year tax holiday
 - Duty & VAT exemption
 - Single license
 - Exemption from stamp duty
 - Exemption for withholding tax
 - 25% corporate tax for 10 years after the first 10 years expire
 - 100% investment allowance.

Guarantees to Investors

- 1) The constitution of Kenya guarantees safety of life and property;
- 2) Kenya is a signatory to the Multilateral Investment Guarantee Agency (MIGA) that insures private investment against non-political risks;
- 3) Kenya is also a member of the International Centre for Settlement of Investment Disputes (ICSID) that guarantees arbitration of disputes between government and investors in a third party country;
- 4) The Foreign Investment Protection Act (FIPA) guarantees against expropriation of private property by government and if this happens it will be for public good and compensation will be prompt and at market value.

Requirements For The Application Of Fiscal Incentives by Investors

(To be submitted in Duplicate)

1. Brief Project Proposal Explaining the Impact of the Project on the Economy Detailing the following:-
 - i. Physical Location of the Investment with Land Reference Number
 - ii. Total Cost and Value of the Investment

- iii. Specific Time Frame within which the Project is to be implemented
- iv. An Indication of any Financial Obligation or Commitment

- 2. Pro-Forma Invoice;
- 3. A List of all Capital Goods/Equipment, Plant and Machinery to be imported/purchased;
- 4. The Pin/VAT Certificate;
- 5. Tax Compliance Certificate;
- 6. A letter addressed to the Economic Secretary requesting for any waiver.

REQUIREMENTS FOR FOREIGNERS TO OWN A BUSINESS IN KENYA

Foreigners, who want to own or run a business in Kenya, need to have a work permit from the Department of Immigration or risk deportation. There are different types of permits that foreigners would apply for depending on the nature of business they will be engaged in. these are classes A, B, C, D, G, and F permit. The type of permit applied for depends on whether the foreigner will be an owner of the business or simply an employee. This article outlines the procedure and requirements for application for the different classes of permits.

Legal Provisions for Work Permits

It is illegal for any non Kenyan to enter or work in Kenya without a valid work permit. The exact provisions of the **Immigration Act (Cap 172, Laws of Kenya)** are as follows:

Section 4 (1) “Subject to this Section, no person who is not a citizen of Kenya shall enter Kenya unless he is in possession of a valid entry permit or a valid pass.”

(2) “...the presence in Kenya of any person who is not a citizen of Kenya shall, unless otherwise authorized under this Act, be unlawful unless that person is in possession of a valid entry permit or a valid pass.”

Section 13(2) (f): “A person who, not being a citizen of Kenya, engages in any employment, occupation, trade, business or profession, whether or not for profit or reward, without being authorized to do so by an entry permit....shall be guilty of an offence and be liable to a fine not exceeding twenty thousand shillings or imprisonment for a term not exceeding one year or to both.”

Section 13(2) (g) provides for a similar penalty for:

“Any person who employs any person (whether or not for reward) whom he knows or has reasonable cause to believe is committing an offence under paragraph (f) by engaging in that employment.”

If convicted of either of these two offences, deportation will invariably follow. The fact that an application for a work permit has been lodged does not entitle someone to work in Kenya, and cannot therefore be a defense in the event of a criminal prosecution.

1. CLASS 'A' WORK PERMIT (Prospecting and Mining)

Class 'A' permit is applied for by foreigners who wish to engage in prospecting and mining business.

Procedure for Application for work permit

The requirements for applying for a Class 'A' Work Permit are:

- Duly filled and signed application Form 3.
- Applicant's copies of passport (bio-data page and current visa page)
- 2 passport size photographs of the applicant
- Application letter detailing nature of company's activities.
- Documentary proof of capital to be invested/already invested minimum of **100,000 US dollars** or equivalent in any other currency. This proof is either:
 - Own bank statement from a local bank account.
 - Company bank statement, shareholding certificate and Financial Audited Accounts in case you are joining an existing business.
- Copy of license held for prospecting
- Fee of **KShs. 250, 000** per year (fee payable after approval of permit) and processing fee – non refundable of **KShs.10,000 (Payments done through a Bankers Cheque addressed to: The Director of Immigration Services)**
- Duration: **2 months**

2. CLASS B WORK PERMIT (Agriculture & Husbandry)

This class of permit is applied by foreigners who wish to engage in agriculture and husbandry business.

Procedure for Application for work permit

The requirements for applying for a Class 'B' Work Permit are:

- Duly filled and signed application Form 3;
- Applicant's copies of passport (bio-data page and current visa page);
- 2 passport size photographs of the applicant;
- Application letter detailing nature of company's activities;
- Documentary proof of capital to be invested/already invested minimum of **100,000 US dollars** or equivalent in any other currency. This proof is either:
 - Own bank statement from a local bank account.
 - Company bank statement, shareholding certificate and Financial Audited Accounts in case you are joining an existing business;
- Proof of land acquired legally for the purpose;

- Fee of **KShs.100, 000** per year (fee payable after approval of permit) and processing fee – non refundable of **KShs.10, 000 (Payments done through a Bankers Cheque addressed to: The Director of Immigration Services);**
- Duration: **2 months.**

3. CLASS 'C' WORK PERMIT (Prescribed Profession)

This class of permit is applied foreigners who belong to a prescribed profession and one must show proof of membership to such profession.

Procedure for Application for work permit

The requirements for applying for a Class 'C' Work Permit are:

- Duly filled and signed application Form 3;
- Applicant's copies of passport (bio-data page and current visa page);
- 2 passport size photographs of the applicant;
- Application letter from the applicant;
 - Documentary proof of capital to be invested/already invested minimum of **100,000 US dollars** or equivalent in any other currency.
- Proof of membership to a prescribed profession;
- Copies of Personal & Company Personal Identification Number (PIN) if business is running;
- Fee of **KShs.100, 000** per year (fee payable after approval of permit) and processing fee – non refundable of **KShs.10,000 (Payments done through a Bankers Cheque addressed to: The Director of Immigration Services);**
- Duration: **2 months.**

4. CLASS D WORK PERMIT (Employment)

A foreigner may choose to apply for a Class D Work Permit where he expects to be employed by the company. This is a relatively more difficult permit to get especially if the work for which the applicant is employed is something that local expertise can meet. This stems from ministerial policy to prevent companies from giving foreigners work which Kenyans can do.

Procedure for Application

An applicant is required to have the following before applying for this class of work permit

- Duly filled and signed application Form 3. This Form is issued by the Department of Immigration and it must be completed and signed by the employer.
- Applicant's copies of passport (bio-data page and current visa page)
- 2 passport size photographs of the applicant.

- Covering letter by the employer detailing nature of company's activities and justify the need of expatriate and why the applicant was offered the job as opposed to a Kenyan citizen.
- Copies of academic/professional certificates along with detailed Curriculum Vitae.
- Identify a Kenyan understudy and attach his/her academic/professional qualifications.
- Fee of **KShs.200, 000** per year (fee payable after approval of permit) and processing fee – non refundable of **KShs.10,000 (Payments done through a Bankers Cheque addressed to: The Director of Immigration Services)**
- Duration: **2 months.**

5. CLASS F WORK PERMIT (Specific manufacturing)

Class F work permit is applied by foreigners who are engaged with specific manufacturing business. To apply for Class 'F' work permit, it is necessary that the company first be registered.

Procedure for Application

The requirements for applying for a Class 'F' Work Permit are:

- Duly filled and signed application Form 3;
- Applicant's copies of passport (bio-data page and current visa page);
- 2 passport size photographs of the applicant;
- Application letter detailing nature of company's activities;
- Documentary proof of capital to be invested/already invested minimum of **100,000 US dollars** or equivalent in any other currency. This proof is either:
 - Own bank statement from a local bank account;
 - Company bank statement, shareholding certificate and Financial Audited Accounts in case you are joining an existing business;
- Copy of license held;
- Registration certificate of the company OR Certificate of Incorporation;
- Copy of company's Memorandum and Articles of Association;
- Copies of Personal & Company Personal Identification Number (PIN) if business is running.
- Fee of **KShs.100, 000** per year (fee payable after approval of permit) and processing fee – non refundable of **KShs.10,000 (Payments done through a Bankers Cheque addressed to: The Director of Immigration Services);**
- Duration: **2 months.**

6. CLASS G WORK PERMIT (Specific Trade/Business)

Class G Work Permit is applied for by foreigners who are shareholders in the business. To apply for a Class G Work Permit, it is necessary that the company first be registered.

One does not require a work permit before registering the company, it is not a pre-requisite. In fact when applying for a class G work permits, it is a prerequisite that the company first be in existence.

Procedure for Application for work permit

The requirements for applying for a Class G Work Permit are:

- Duly filled and signed application Form 3.
- Applicant's copies of passport (bio-data page and current visa page)
- 2 passport size photographs of the applicant
- Application letter detailing nature of company's activities.
- Documentary proof of capital to be invested/already invested minimum of **100,000 US dollars** or equivalent in any other currency. This proof is either:
 - Own bank statement from a local bank account.
 - Company bank statement, shareholding certificate and Financial Audited Accounts in case you are joining an existing business.
- Registration certificate of the company OR Certificate of Incorporation.
- Copy of company's Memorandum and Articles of Association;
- Copies of Personal & Company Personal Identification Number (PIN) if business is running.
- Fee of **KShs.100, 000** per year (fee payable after approval of permit) and processing fee – non refundable of **KShs.10,000 (Payments done through a Bankers Cheque addressed to: The Director of Immigration Services);**
- Duration: **2 months.**

Notification of Approval/Refusal of Work Permit Application

Once the application is submitted at the Department of Immigration, it shall be presented to the Entry Permit Steering Committee for deliberation and this may take between one to two months.

For both types of work permit applications, where the application is approved, a Notification of Approval will be issued which is valid for thirty days pending payment of the prescribed fee. If it is rejected, a Notification of Refusal will be issued and the applicant is required to regularize his/her immigration status before leaving the country.

If the application is approved, the applicant is required to pay the prescribed fee and a Security Bond of **KShs.100, 000** from either a bank or an insurance company. The work permit is then endorsed on the applicant's passport.

Application for Registration as an Alien

All foreigners who remain in Kenya for more than three months (90 days) must register as an alien and get an alien registration card. The requirements for this application are:

1. Duly and signed Alien Form A1;
2. Two passport-size photographs of applicant;
3. Copy of work permit or dependant pass of the applicant;
4. Passport copies of the applicant;
5. Application to be presented to the Immigration Department by the applicant in person;
6. Application fee of **KShs.2, 000**.

OTHER RELEVANT INSTITUTIONS

1. Export Processing Zones Authority (EPZA)

The Export Processing Zones Authority was established in 1990, by the EPZ Act CAP 517, Laws of Kenya. The Authority's mandate is to promote and facilitate export oriented investments and to develop an enabling environment for such investments.

For more information visit: www.epzakenya.com

2. Export Promotion Council (EPC)

The Export Promotion Council (EPC) is Kenya's premier institution in the development and promotion of export trade. Established in 1992, EPC's primary objective was to address bottlenecks that were facing exporters and producers of export goods and services with a view to increasing the performance of the export sector. The Council was therefore established for the purpose of giving an outward orientation to an economy that was hitherto inward looking. Over time, the EPC has fully embraced the mandate of co-coordinating and harmonizing export development and promotion activities in the country, providing leadership to all national export programmes. Today, EPC is the focal point for export development and promotion activities in the country.

For more information visit: www.epckkenya.org

3. Registrar of Companies

The department oversees and reviews legal matters pertaining to the Registrar-General's activities. These include undertaking duties of registration of business names, chattels transfers, adoptions, books and newspapers, building societies, business companies, deed of arrangements, hire purchase agreements, legitimized persons, limited partnership, marriages, societies, trade unions and college of arms.

For more information visit: www.attorney-general.go.ke

4. Kenya Revenue Authority

The Kenya Revenue Authority (KRA) was established by an Act of Parliament, Chapter 469 of the laws of Kenya, which became effective on 1st July 1995. The Authority is charged with the responsibility of collecting revenue on behalf of the Government of Kenya.

For more information visit: www.kra.go.ke

5. The National Environmental Management Authority (NEMA)

The National Environment Management Authority (NEMA) is a government parastatal established to exercise general supervision and co-ordination over all matters relating to the environment. The Authority is the principal instrument of Government in the implementation of all policies relating to the environment.

Environmental Impact Assessment

Environmental Impact Assessment project and study reports are adjudicated within 45 days and 90 days respectively after which NEMA is supposed to make a decision. Ten hard copies and one soft copy are submitted to the EIA Section and the review process starts with acknowledgement of receipt followed by the steps outlined below.

Decision Making Process

a) Project Reports

Within 7 days of receipt copies are sent to lead agencies, where comments should be received within 21 days. The report should be determined by the end of 30 days and a decision communicated within 45 days.

b) Study Reports

The process for EIA study reports differ in that 14 days are allowed for sending copies to lead agencies and 30 days to receive comments.

In addition, the proponent should advertise the project in the press and the Kenya Gazette for 2 consecutive weeks. After 14 days of receiving the study report, the Authority invites the public to make comments.

The decision on the report is made within 3 months excluding time taken for proponent to submit additional information the Authority may require.

The above requirements are summarized below

Process	Provision Project Report	Study Report
Acknowledgment of EIA reports	-	-
Submission of reports to lead agencies	Within 7 days upon receipt of the report	Within 14 days upon receipt of the study report
Receive comments from lead agencies	Within 21 days,	Within 30 days or an extended period prescribed by the Authority
Preparation for the invitation of public comments	-	Within 14 days upon receipt of study reports
Duration within which the authority shall receive comments	-	A period not exceeding 60 days
Public hearing	-	Optional (The Authority <u>may</u> hold a public hearing)
Decision of the Authority	Within 45 days i. Issues to be addressed: EIA processing time stops running until the issues are addressed ii. Pend the approval until the adverse comments are addressed iii. Conditional approval letter issued (Director C&E signs). iv. recommend for EIA Study	Within 3 months i. Issues to be addressed: EIA processing time stops running until the issues are addressed ii. Pend the approval until the adverse comments are addressed iii. Conditional approval letter issued (Director C&E signs). iv. reject an application with reasons and advise on suitable and friendly alternatives
Issuance of the EIA license	After acceptance of conditions of approval. (DG signs license)	After acceptance of conditions of approval. (DG signs license)
Appeal process	Within a period of 3months from the date of final decision of Authority	Within a period of 3months from the date of final decision of Authority

EIA EXPERTS

EIA must be carried out by qualified persons /firms who will either be a Firm of experts who must be registered in Kenya, a Lead Expert who must be registered by the National Environment Management Authority and must have a current practicing license or associate experts working under Lead experts and whose registration must be up to date. For more information visit: www.nema.go.ke

KENYA INVESTMENT AUTHORITY INVESTMENT APPLICATION FORM

(Full and accurate completion of this form will speed up the project approval process)

PART I

A. DETAILS OF THE APPLICANT

(i) Name of Company / Business _____

(ii) Contact Person _____

(iii) Address of Contact Person _____

Tel _____ Fax _____

E-mail: _____

(iv) Type of business Entity _____
(Limited Company, Partnership, Etc.)

(v) Country of Incorporation _____

(vi) Date of Incorporation _____

(vii) Indicate whether the Company is:-

(a) New []

(b) Operating []

(viii) Indicate whether to Manufacture under Bond (MUB is manufacturing for export only)

Yes _____ No _____

B. PROPOSED LOCATION OF BUSINESS

(i) Land Registration Number (L.R.No.) _____

(ii) Street/ Road _____ Town _____

(iii) District _____

C. COMPANY DIRECTORS

Name of Director Nationality Address

PART II

(i) Nature of activity _____
Describe the nature of activity (Project Description)

(ii) MARKET (Domestic & Export)

i. Indicate expected domestic and export annual market share % of Total

Domestic market _____

Export market _____

(ii) Give 5 years projected sales figures (USD. 000)

Domestic sales Export Sales

Year Quantity Value (USD)

Quantity Value (USD)

1. YR 1

2. YR 2

3. YR 3

4. YR 4

5. YR 5

PART III

(A) EMPLOYMENT DETAILS

Kenyan Employees	Number
Management	_____
Technical/ Professional	_____
Skilled	_____
Others	_____
Total	

Expatriate Employees	Number
Management	_____
Technical/Professional	_____
Total	

Explain need for expatriate employee(s)

**PART IV:
INVESTMENT AND FINANCING PROGRAMME
A. CAPITAL COSTS (ESTIMATED IN USD)**

FIXED COSTS	AMOUNT
Land & Land Development	
Plant and Machinery	
Working Capital	
Others	
TOTAL	

B. FINANCING PLAN

Type of Financing	Foreign	Local
Equity		
Loan		
TOTAL		

PART V: DECLARATION

I hereby certify that the foregoing particulars are correct to the best of my knowledge.

Name _____

Signature _____

Date _____

Indicate Enclosures:

1. Certificate of Incorporation in Kenya.
2. Memorandum and Articles of Association
3. Others _____

To be submitted to:

MANAGING DIRECTOR

KENYA INVESTMENT AUTHORITY

P.O. Box 55704-00200

NAIROBI

Tel: + (254) 20 2221401-4, Mobile: + (254) 722-205424 | 733-601184

Fax: + (254) 20 2243862

Website: www.investmentkenya.com

FOR OFFICIAL USE ONLY

1. REF NO. -----

2. DATE RECEIVED -----

3. RECEIVING OFFICER -----

WORK PERMIT/ENTRY PERMIT APPLICATION FORM (FORM 3)

Immigration Dept. File R _____

Kenyanization of Personnel Bureau File KPB _____

REPUBLIC OF KENYA

IMMIGRATION ACT, 1967

APPLICATION FOR OR RENEWAL OF AN ENTRY PERMIT

(Delete words not applicable)

(r. 6)

(To be submitted in duplicate)

To: The Principal Immigration Officer,
P. O. BOX 30191,
NAIROBI, KENYA

FOR OFFICIAL USE ONLY

Entry Permit Class _____

Approved for _____ Years

Months

Security _____

Date _____ Signature _____

Immigration Officer

NOTE: - Personal particulars are required for all Entry Permits. For classes A to E (inclusive) Part I should be completed and for classes F to L (inclusive)

Part II should be completed.

Photograph of person for whom an Entry permit is required. (Not required in case of renewal)

Personal particulars of the person requiring an Entry Permit

1. Full names Mr / Mrs / Miss

2. (a) Residential Address

(b) Postal Address

3. Place of birth _____ Date of birth _____

4. Nationality _____ No. of Passport _____

Date and place of issue of passport

5. Full names of husband / wife / father

(Names of husband or wife in the case of married persons or father if unmarried)

6. Particulars of children, full names, sex, date and place of birth:-

- (a)
- (b)
- (c)
- (d)

PART I (To be completed in respect of Entry Permits classes

A to E inclusive)

I / We (name of employer)

Of (postal address)

Being engaged in (state profession or business)

Wish to employ the above named.

7. Place of employment (give full details)

8. Job title _____ Job Category _____

(as in Form 22, Part

9. Job description _____

(Not required if already described in Form 22, Part III)

10. Employees qualifications (give full details)

(a) General education

(b) Technical or professional _____

(c) Previous experience (in full)

Name of employer Nature of employment Period so employed

- (a)
- (b)
- (c)
- (d)
- (e)
- (f)

(If more space required give details separately)

11. Period of employment offered _____

12. Annual salary offered _____

13. Value of accommodation provided

14. Any other emoluments offered

(a) Bonus _____ (b) Paid leave _____

(c) Free medical treatment _____ (d) Free passage _____
(e) Assisted school fees _____ (f) Any other emoluments _____

15. (A) what steps have you taken to employ a Kenya citizen to fill this vacancy (give full details):

(B) If you have a Kenya citizen training for this post, please indicate the following:

(a) His name

(b) Date training began

(c) Date training will end

(d) His educational or technical qualifications

Or (C) If you do not have a Kenya citizen training for this post, fill in below:

(a) Minimum entry requirements for trainee:

(b) Steps taken to engage a trainee

16. This post is newly created / was previously occupied by a non-citizen / was previously occupied by a citizen (delete as appropriate)

17. If this application is approved will the proposed employee be instrumental in training Kenya citizens? Is so, give details.

I hereby certify that the foregoing particulars are correct in every detail.

Date: _____ Signature: _____

Designation: _____

Explanatory Notes

1. It is the Government policy that the economy of Kenya should be manned by trained and competent citizens. Entry Permits are issued to non-citizens will skills not available as present on the Kenya labour market, only on the understanding that effective training programmes are undertaken to produce trained citizens within a specified period.
2. Item (8) - Insert the designation by which the job is known within the form.
3. Item (9) – Job description. Describe what the individual holding this post is required to do. What staff does he supervise directly and what supervision does he himself receive? Estimate value of materials, equipment or money for which he is responsible.
4. Item (10) – State the educational technical or professional qualifications of the applicant and his / her previous experience.

PART II (To be completed in respect of Entry Permits Classes F to L inclusive)

I hereby apply for an Entry Permit under class

18. Proposed place of residence / business

19. Details of profession, trade, business or manufacture in which you wish to engage

20. Qualifications to support application

21. Previous experience

22. Details of capital and income available, sources of income and present locality of capital

23. Details of any license and / or registration required to qualify for the class of Entry Permit for which you have applied and proof that you have obtained or will be able to obtain such license and / or registration.

I hereby certify the foregoing particulars are correct in every detail.

Date _____ Signature _____

Undertaking to be given in respect of applicants for permits under classes K and L

I _____

Hereby undertake that if I am issued with an Entry Permit, not to engage in any kind of employment whether paid or unpaid without the prior written authority of an Immigration Officer.

Date _____ Signature _____

SCHEDULE (S. 5)

FREQUENTLY ASKED QUESTIONS

1. What services does Kenya Investment Authority provide?

Kenya Investment Authority provides support to foreign and domestic companies looking to set up or expand in Kenya. We do this by providing a fully integrated advisory service, assistance in acquiring licenses and requisite entry permits in addition to aftercare support.

Specific services include:

- Key information on regulatory factors
- Issuance of the Investment Certificate that facilitates immediate start of business
- Key information on location factors and business opportunities
- Sector information and introduction to key sector networks
- Support to build collaborative partnerships with Kenyan businesses.
- Continued support to companies once they have established.

For more information about our services please visit our website www.investmentkenya.com

2. How do I register and establish my company?

To register a company, certain mandatory documents such as the 'Memorandum of Association' and 'Articles of Association' must be filed with the Registrar of Companies within the Kenya State Law Office. The procedures, cost of registering a company and the duration taken for registration can be found at; <http://www.attorneygeneral.go.ke/>

3. What type of company should I set up?

- There are four different types of Kenyan registered companies:
- Private company limited by shares (Ltd). The members' liability is limited to the amount unpaid on shares they hold
- Private company limited by guarantee – the members' liability is limited to the amount they have agreed to contribute to the company's assets if it is wound up
- Private unlimited company – there is no limit to the members' liability
- Public company limited by shares (Plc) – the company's shares are offered for sale to the general public through a stock exchange and the members' liability is limited to the amount unpaid on shares held by them.

Other business entities include;

- Partnerships – overseas investors can establish a partnership in Kenya. The partners have 'joint and several' liability for all debts.
- Limited Partnerships – consists of one or more persons called 'general partners' who are liable for all debts and one or more persons called 'limited partners' who contribute a sum or

sums of money as capital, or property valued at a stated amount. Limited Partners are not liable for debts/obligations beyond the amount contributed .

- Limited Liability Partnership – this structure provides the benefit of limited liability but allows its members the flexibility of organizing its internal structure and tax arrangements as a traditional partnership.
- You are strongly advised to seek legal advice before deciding on the best entity that suits your kind of business.

4. What is Kenya’s government policy on overseas companies doing business in Kenya?

Kenya has long recognized the benefits of inward investments and has welcomed overseas-owned companies looking to do business in and with Kenya. Kenya Investment Authority is funded by the Kenya government and demonstrates Kenya’s commitment to attracting inward investments by providing free, confidential services to prospective investors.

5. Are there any fees or charges required to obtain the Investment Certificate?

The application for and issuance of the Investment Certificate is free of charge.

6. How long does it take to evaluate and approve the Investment Certificate?

Depending on the speed with which a prospective investor presents the requisite documents on application for the certificate, it takes 1-3 working days.

7. Can I get government protection if I was to relocate my business to Kenya?

The Constitution of Kenya guarantees protection of the investment. Additionally, if the investment is from a country that has signed an Investment Promotion and Protection Agreement with Kenya, then there will be additional protection guarantees in the Agreement.

Furthermore;

- The Foreign Investment Protection Act guarantees against expropriation of private property by government.
- Kenya is a signatory to and Member of the Multilateral Investment Guarantee Agency (MIGA) an affiliate of the World Bank which guarantees investors against loss of investment to political problems in host countries.
- Kenya is also a signatory to International Centre for Settlement of Investment Disputes (ICSID) which is a channel for settling disputes between foreign investors and host governments.

8. Do I need a local partner to operate any business in Kenya?

An investor is free to choose to operate their business with either 100% ownership or in partnership with local investors except in the Insurance, ICT, Air services and investments in the stock market.

9. Are there any government projects/companies available that an investor can buy or invest in?

These will mainly be infrastructure projects that are promoted by the government on the basis of Private Public Partnership (PPP). Information on specific projects can be provided by KenInvest. *(Refer to document 1 on investment opportunities)*

10. What type of land is available in Kenya?

Kenya has government, trust and privately owned land available. The land is available for lease of up to 99 years.

11. Does the Kenya Investment Authority have an 'Investment Fund' from which approved investments can benefit?

Kenya Investment Authority does not provide funding to investors, but can advise on sources of financing.

12. Is it easy to transfer money out of Kenya by companies set up by foreign investors who need to make overseas payments?

Foreign companies may freely transfer profits after complying with tax obligations.

13. What are the general living conditions in Kenya?

Kenya has a modern and vibrant social and economic fabric, with a good range of schools, both public and private, affordable housing, world class entertainment and hospitality facilities, excellent communication links, as well as adequate healthcare and vibrant education sector. We have a warm and welcoming people, and English is widely spoken both in formal and informal set ups.

14. What are the immigration and visa requirements?

Information on immigration, visa and permits requirements can be accessed at www.immigration.go.ke

15. Does the Government grant incentives to investors?

There are a number of tax based incentives available in Kenya, mainly covering exemptions from duty and VAT on capital equipment and machinery to be used in the investment project. Other incentives include capital deductions and investment allowances, details of which may be accessed at: <http://www.kra.go.ke>

The incentives are granted on a case by case basis and are approved by the Ministry of Finance. KenInvest will assist in applying for the incentives upon request from the investor.

16. What taxes are levied by the government?

Taxes levied in Kenya are administered by the Kenya Revenue Authority (KRA), and information on these may be accessed at: <http://www.kra.go.ke>

17. Do Kenyan produced products have access to other markets?

- Kenya has unrestricted entry into the United States of America market under African Growth and Opportunity Act (AGOA) for specified Kenyan products.
- Market access to the Common Market for East and Southern Africa (COMESA) market of 400 million people.
- Market access to the East African Community (EAC) of 150 million people and the Republic of Southern Sudan
- Market access to the European Union under the GSP arrangement
- Many Kenyan products have access to other markets in Europe, USA and Japan.

18. Are there Avoidance of Double Taxations Agreements (DTA) and Investment Promotion and Protection Agreements (IPPA) between Kenya and other countries?

- Kenya has concluded Avoidance of Double Taxation Agreements with; United Arab Emirates, United Kingdom, Germany, India, Canada, Norway, Sweden, Denmark, Zambia, France, South Africa, and is currently negotiating a number of others with various countries.
- Kenya has concluded Investment Promotion and Protection Agreements with France, Finland, Germany, Italy, Netherlands, Switzerland, China, Libya, The Islamic Republic of Iran, Burundi and the United Kingdom, and is currently negotiating a number of others with various countries.

19. What customs procedures are applied when goods are being imported?

Information on customs procedures may be found at: <http://www.kra.go.ke/index.php>

20. Do you have labour laws in Kenya? What are the important provisions these laws?

Information on labour laws in Kenya may be accessed at: <http://www.labour.go.ke/>

21. Do you have regional offices?

KenInvest's headquarter is in Nairobi. We also operate a liaison office at Jomo Kenyatta International Airport (JKIA), and regional offices in Eldoret, Mombasa and Kisumu.

IMPORTANT CONTACT ADDRESSES

Department of Immigration

Headquarters, Nyayo House, 9th Floor
P.O. Box 30395-00100
Tel: + (254) 020222022
Fax: + (254) 0202220731
Website: www.mirp.go.ke

Kenya Revenue Authority

Times Tower Haile Selassie Avenue
P.O. Box 48240 - 00100 GPO Nairobi
Tel: + (254) 020-310900, 020-2810000
Fax + (254) 020 341342
Website: www.kra.go.ke

National Environment Management Authority

P.O. Box 67839-00200, Nairobi
Tel :+(254)-020-6005523/6/7,
Fax :+(254)-020-6008997
Mobile: + (254) 724253 398 | 723363010
Wireless: + (254) 020-2101370
Website: www.nema.go.ke

Export Promotion Council

1st and 16th Floor Anniversary Towers, University Way
P.O. Box 40247- 00100 GPO, Nairobi, Kenya
Tel. + (254) 20 222 8534-8
Mobile: + (254) 722 205 875 | 734 228 534
Fax: + (254) 20 222 8539 | 221 8013
Website: www.epckkenya.org

Export Processing Zones Authority

Administration Building, Viwanda Road,
off Nairobi-Namanga Highway, Athi River,
P.O. Box 50563-00200, Nairobi
Tel + (254) 0456626421/2-6
Fax + (254) 0456626427
Website: www.epzakenya.com

The Office of the Attorney General

Harambee Avenue
P.O. Box 40112 – 00100, Nairobi
Tel: + (254) 20 222 7461/2/3/4/5/9/2251355

Fax: + (254) 20 315105

Mobile: + (254) 711944555 | 732529995 |700072929

Website: www.attorney-general.go.ke

