

# Kenya's Regulatory Update: For The First Half of April 2024



ONG'ANYA OMBO  
ADVOCATES

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## Awards, Rankings, Publications & Shortlisting



ITR World Tax Ranked Ong'anya Ombo Advocates as one of the best tax advisory firms in Kenya: 2022 & 2023.



We contributed to Chambers & Partners Corporate Tax Guide 2024 on matters tax applying to various corporate forms in Kenya.



Leaders League ranked Ong'anya Ombo Advocates Highly Recommended Business Law, Law Firm: 2022, 2023 & 2024.



African Legal Awards considered Ong'anya Ombo Advocates as a Finalist in IP Team of the Year (2021 & 2023).



Leaders League ranked Jack Ong'anya as Highly Recommended Business Law Lawyer: 2022, 2023 & 2024.



African Legal Awards considered Ong'anya Ombo Advocates as a Finalist in Competition & Regulatory Team of the Year (2022).



Leaders League ranked Jackline Akello Highly Recommended Business Law Lawyer: 2022, 2023 & 2024.



African Legal Awards considered Ong'anya Ombo Advocates as a Finalist in CSR, Diversity, Transformation & Economic Empowerment Award (2022).



Leaders in Law awarded Ombo Malumbe as the Corporate Legal Strategist Expert of the Year Award (2022).



Contributors to ICLG 2023 & 2024 Gaming Law. Our publication focuses on Kenya's gaming laws.

## YOUR REGULATORY UPDATE OF THE WEEK WEEK 1& 2 APRIL 2024

### NATIONAL ASSEMBLY

#### Papers

The following are some of the Papers that were laid on the Table of the National Assembly for Consideration:

- Legal Notice No.47 of 2024 relating to the National Building Code 2024, and the Explanatory Memorandum from the Ministry of Lands, Public Works, Housing and Urban Development.
- Gazette Notices Nos.15492, 15493, 15494, 15495 and 15496 relating to the revised fees and charges for services provided by the State Department for Immigration and Citizen Services.
- Annual financial statements for various institutions.
- Reports of the Auditor-General and financial statements for various institutions
- Report of the Departmental Committee on Labour on its attendance of the Global Labour Market Conference in Riyadh, Kingdom of Saudi Arabia, from 10th to 17th December 2023.
- Reports of the Departmental Committee on Lands on its consideration of—
  - a) The National Land Commission (Amendment) Bill (National Assembly Bill No.43 of 2023); and
  - b) The Land Laws (Amendment) (No. 2) Bill (National Assembly Bill No.76 of 2023)
- Report of the Public Procurement Regulatory Authority on Performance of the Special Groups (Youth, Women and Persons with Disability) under the 30 per cent preference and reservation scheme for the July-December, 2023 reporting period, being the First-half of the 2023/2024 Financial Year.
- Reports of the Public Petitions Committee on its consideration of the following Petitions: (a) Public Petition No. 11 of 2022 by the Hon. Vincent Musyoka, MP, regarding the Pollution of River Athi.
- Report of the Departmental Committee on Agriculture and Livestock on its consideration of the Cotton Industry Development Bill, (Senate Bill No.5 of 2023).

#### Communication on withdrawal of the Land Laws (Amendment) Bill

The Land Laws (Amendment) Bill (National Assembly Bill No. 65 of 2023) was published vide Kenya Gazette Supplement No. 194 of 19th October 2023 to effect various amendments to

laws relating to land. Specifically, the Bill proposes to amend the Land Registration Act, 2012; the National Land Commission Act, 2012; and the Land Act, 2012. The Bill, sponsored by the Leader of the Majority Party, Hon. Kimani Ichung'wah, was read for the First Time on 14th November 2023 and committed to the Departmental Committee on Lands for consideration.

The Speaker of the House received correspondence from the Leader of the Majority Party conveying the desire to withdraw the Bill following extensive consultations among stakeholders, which led to the publication of the Land Laws (Amendment) (No. 2) Bill (National Assembly Bill No. 76 of 2023). The Bill contains more comprehensive amendments to the Land Registration Act, 2012, and the Land Act, 2012.

In addition, the National Land Commission (Amendment) Bill (National Assembly Bill No. 43 of 2023), accommodates the amendments proposed to the National Land Commission Act, 2012 as contained in the Land Laws (Amendment) Bill (National Assembly Bill No.65 of 2023). As such, the Speaker of the House considered the request and directed that the Land Laws (Amendment) Bill (National Assembly Bill No.65 of 2023) be withdrawn forthwith.

#### Bills

1. The following Bills were read for the First time and ordered to be referred to the relevant Committee.
  - **The Kenya National Council for Population and Development Bill (National Assembly Bill No.72 of 2023)** – The Bill proposes to anchor the National Council for Population and Development in law through an Act of Parliament.
  - **The Public Finance Management (Amendment) Bill (National Assembly Bill No.2 of 2024)** – The Bill proposes to reduce the time for submission of financial statements by public entities from three months after the end of a financial year to one month after the end of a financial year, in order to ensure that the Office of the Auditor General has adequate time to carry out the required audits and prepare the reports. It also proposes to establish the Public Sector Accounting Standards Board as a body corporate.
  - **The Technopolis Bill (National Assembly Bill No.6 of 2024)** – The objective of the Bill is to provide a comprehensive framework for the

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establishment of a Technopolis in Kenya and to create the Technopolis Development Authority which will be responsible for the development, governance, planning, management, improvement, and maintenance of every Technopolis established.

- **The Cooperatives Bill (National Assembly Bill No. 7 of 2024)** – The Bill seeks to provide for matters relating to the promotion, constitution, registration and regulation of Cooperatives.
  - **The Social Assistance (Amendment) Bill (National Assembly Bill No. 80 of 2023)** – The Bill seeks to amend the Social Assistance Act, to require the Social Authority to collaborate with County Governments in the provision of social assistance to the elderly persons in terms of shelter and health care services.
2. The following Bill came up for Second Reading
- **The National Disaster Risk Management Bill (National Assembly Bill No. 24 of 2023)** – The Bill seeks to provide a legal framework for the co-ordination of disaster risk management activities in both levels of government. The Bill was read a Second Time and committed to Committee of the whole House.
3. The following Bill was considered by the Committee of the Whole House.
- **The National Government Administration Laws (Amendment) Bill (National Assembly Bill No.73 of 2023)** – The Bill seeks to make various amendments to the Assumption of the Office of President Act, 2012; the National Security Council Act, 2012; the Office of the Attorney General Act, 2012, and the National Government Co-ordination Act 2013.

## THE SENATE

In the period under focus, the Senate was on a Short recess and will resume on Tuesday, 16<sup>th</sup> April 2024.

## UPDATES FROM THE KENYA GAZETTE

### Legislative Supplements

1. The Social Health Insurance (Tribunal Procedure) Rules, 2024
2. The Social Health Insurance Regulations, 2024
3. The National Electronic Single Window System (General) Regulations, 2024
4. The Public Finance Management (Kenya Millennium Development Fund) Regulations, 2024
5. The Occupational Safety and Health (First Aid in the Workplace) Regulations, 2023

6. The Statute Law (Miscellaneous Amendments) Bill, 2024

### National Assembly Bills, 2024

1. The Division of Revenue Bill, 2024.
2. The Unclaimed Financial Assets (Amendment) Bill, 2024.
3. The Universities (Amendment) Bill, 2024.
4. The Public Relations and Communication Management Bill, 2024.
5. The Kenya Roads Board (Amendment) Bill, 2024.
6. The Agricultural Professionals Registration and Licensing Bill, 2024.

### Senate Bills, 2024

1. The Statutory Instruments (Amendment) Bill, 2024.
2. The Elections (Amendment) Bill, 2024.
3. The Intergovernmental Relations (Amendment) Bill, 2024.
4. The Political Parties (Amendment) Bill, 2024.
5. The County Assemblies Pensions Scheme Bill, 2024.

### Updates from the Cabinet

The Cabinet Secretary for Water, Sanitation and Irrigation gave notice of the preparation of the following proposed statutory instruments (draft Regulations) under the Water Act, 2016 and the accompanying Regulatory impact assessment:

- (a) The Water Services Regulations 2024;
- (b) The Water Resources Regulations 2024; and
- (c) The Water Harvesting and Storage Regulations, 2024.

### From the Counties

**Kisumu & Vihiga County** – The Counties have established the Artisanal Mining Committee and appointed members to serve in the Committee. The Terms of Reference for the Committee shall be to advise the Representative of the Director of Mines in the granting, renewal, revocation of Artisanal Mining Permits.

### General Updates

1. Events



The African Development Bank Group will hold its 2024 Annual Meetings at the Kenyatta International Conference Center in Nairobi, from 27 to 31 May. Up to 3,000 delegates, including African heads of state,

ministers, central bank governors, members of the development community, the private sector, and other stakeholders will attend. This year's theme is **"Africa's Transformation, the African Development Bank Group, and the Reform of the Global Financial Architecture."**

## 2. Regulations



- A. Fringe Benefit Tax and Deemed Interest Rate
- The Market Interest Rate applicable for Fringe Benefit Tax is 16% for the three months of April, May, and June 2024. Fringe Benefit Tax is payable by every employer in respect of a loan provided to an employee, director or their relatives at an interest rate lower than the market rate.
  - The prescribed rate of interest for Deemed Interest Rate for the months of April, May, and June 2024 is 16%. A withholding tax rate of 15% on the deemed interest shall be deducted and paid to the KRA Commissioner by the 20th day of the month following the month of computation.
- B. Verification rates Q3 2023/2024
- In implementing initiatives aimed at improving both documentary and border compliance, KRA reduced the verification rate to 20%. As such, the verification rates for ICDN and CFS for the period January to March, as at 27th March are as follows:

	Quarter Two	Port	CFS	ICDN
1.	January	2.53%	9%	9.5%
2.	February	3.57%	6%	7.5%
3.	March	3.29%	6%	6.8%
	Average	3.13%	7%	7.93%
	Cumulative Average	6.02%		



- A. The Central Bank of Kenya (CBK) has released the draft **Kenya Green Finance Taxonomy (KGFT)** for public consultation. The KGFT is part of the outputs of the ongoing European Investment Bank (EIB) - Central Bank of Kenya (CBK) Greening Financial Systems Technical Assistance Programme that commenced in October 2023. The proposed KGFT is intended to serve as a tool to classify whether particular economic activities are 'green' or environmentally sustainable. It is also intended to serve as a guide for both banking sector participants and other market participants in making informed investment or financing decisions.

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