Introduction

Since the outbreak of the severe acute respiratory syndrome coronavirus 2 (COVID-19) and recording of the first case in Kenya on the 13 March 2020, the Kenyan government has and continues to take a number of decisive steps to limit the human and economic impact of the pandemic. These decisions range from monetary measures, fiscal stimulus proposals, individual relief and official actions by governmental agencies and regulators.

Recognizing that the government has and continues to develop different measures to tackle the pandemic, we have developed this TRACKER as a one-stop-shop of all responses and measures undertaken across the arms and branches of the government.

This will be an ongoing collation of the government responses.

Timeline of Events

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>28th February 2020</td>
<td>President Uhuru Kenyatta establishes the National Emergency Response Committee via an Executive Order, to be chaired by the Cabinet Secretary of Health, Hon. Mutahi Kagwe.</td>
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<tr>
<td>3rd March 2020</td>
<td>Government suspends direct flights from Northern Italy.</td>
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<td>6th March 2020</td>
<td>• Official launch of the COVID-19 treatment and isolation facility at Mbagathi Hospital.</td>
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<td>• Ban on all meetings, events and conferences of International nature in Kenya.</td>
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<td>• Issuance of a travel advisory to all Kenyans to avoid non-essential travel to high risk countries for conferences/meetings or events where more than 15 people would be gathering.</td>
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<td>• Introduction of mandatory Screening at all points of entry.</td>
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<td>• Temporarily lifting ban on Italian flights to Kenya but only to board Italian citizens stranded in Malindi.</td>
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<tr>
<td>13th March 2020</td>
<td>Kenya confirms the first COVID-19 positive case.</td>
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<td>14th March 2020</td>
<td>Full Activation of the Public Health Emergency Operation Center.</td>
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<tr>
<td>15th March 2020</td>
<td>• Self-quarantine requirement for persons that had travelled within 14 days.</td>
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<td>• Direction that only Kenyans will be allowed back into the country, subject to the requirement to self-quarantine or admission to a government designated facility.</td>
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<td>17 April 2020</td>
<td>The Cabinet Secretary for Health announces new rules for the operations of ferries in Mombasa</td>
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<td>Date</td>
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<tr>
<td>22 March 2020</td>
<td>Ban on all international passenger flights effective 25\textsuperscript{th} March 2020.</td>
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<tr>
<td>23 March 2020</td>
<td>President Uhuru Kenyatta announces the approval of Google Loon Services in Kenya to enable universal 4G data coverage in the country.</td>
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<td>25 March 2020</td>
<td>Kenya confirms the first recovery.</td>
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<td>President Uhuru Kenyatta announces a relief package (discussed below).</td>
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<td>President Uhuru Kenyatta announces daily nationwide curfew between 19h00 – 05h00.</td>
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<tr>
<td>28 March 2020</td>
<td>Government imposes mandatory quarantine for positive patients and their contacts.</td>
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<tr>
<td>1 April 2020</td>
<td>Government asks Nairobi City County and Kenya Power not to disconnect water and electricity over unpaid bills.</td>
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<tr>
<td>3 April 2020</td>
<td>Government extends the mandatory quarantine period beyond 14 days.</td>
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<td>4 April 2020</td>
<td>The Bureau of the African Union Heads of State and Government announce a united effort to push for loan waivers</td>
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<td>5 April 2020</td>
<td>Extension of the ban on international flights for a period of 30 days except for flights evacuating foreign nationals and cargo flights.</td>
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<td>Suspension of prison visits for another 30 days.</td>
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<td>6 April 2020</td>
<td>President Uhuru Kenyatta announces containment measures across 4 counties (Nairobi Metropolitan Area, Kilifi, Kwale and Mombasa), restricting travel in and out of the counties.</td>
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<td>7 April 2020</td>
<td>Government announces closure of golf clubs, open sporting clubs and walking fields, and mass testing of all health workers and medical staff.</td>
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<td>8 April 2020</td>
<td>Government announces partnership with Safaricom to use its 175,000 agent network to distribute masks and hand sanitizers.</td>
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<td>15 April 2020</td>
<td>The Ministry of Lands and Physical Planning announces an extension to the closure of all land offices and registries for a further 14 days.</td>
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<td>The National Council on the Administration of Justice announce a raft of measures regarding the operation of the judiciary and delivery of justice.</td>
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<td>16 April 2020</td>
<td>President Uhuru Kenyatta announces:</td>
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<td>- A 3 month waiver from KEMSA on purchases of masks and PPEs by county governments;</td>
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<td>- KES 5 billion to be disbursed to counties for COVID-19 support;</td>
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- KES 8.5 billion already disbursed to the elderly and vulnerable under the Cash Transfer Program;
- A post COVID-19 economic recovery plan is currently being formulated;
- Development of a welfare package for frontline officers including medical insurance.

19 April 2020
Government announced that those who break the curfew rules will be assumed to have been in contact & will hence be subject to mandatory quarantine for 14 days.

20 April 2020
The Cabinet Secretary for National Treasury and Planning announces a waiver on court fees in respect of commercial disputes where the value of the suit does not exceed KES 1 million for a period of two years.

21 April 2020
Announcement from the National Council on the Administration of Justice regarding upscaling the delivery of justice through increased use of technology.

22 April 2020
The Ministry of Lands and Physical Planning announce the waiver of payment of the KES 500 registration fee for a period of two (2) years with effect from 26 March 2020.

25 April 2020
President Uhuru Kenyatta announces:
- Extension of cessation of movement into and out of Nairobi Metropolitan Area, Mombasa, Kilifi and Kwale counties for 21 days;
- Extension of the national curfew for 21 days.
- A National Hygiene Programme which will create jobs while making our environment healthier.
- Restaurants and eateries to be allowed to open subject to specific health regulation compliance.
- President assents the Tax Laws (Amendment) Bill, 2020 that contains various tax reliefs for Kenyan citizens and resident companies.

28 April 2020
The Ministry of Lands and Physical Planning announces an extension to the closure of all land offices and registries for a further 14 days.

29 April 2020
The High Court issues an order (Misc. Application No. E680 of 2020) allowing listed companies to convene and hold virtual Annual General Meeting.

16 May 2020
President Uhuru Kenyatta announces:
- Cessation of movement of persons and any passenger ferrying automobiles and vehicles into and out of the territory of Kenya through the Kenya-Somali and the Kenya-Tanzania borders, except for cargo vehicles, with effect from mid-night 16 May 2020;
- All drivers of cargo vehicles shall be subjected to mandatory COVID-19 testing and will be granted entry into Kenya if they test negative;
<table>
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<tr>
<th>Date</th>
<th>Announcement</th>
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<tr>
<td>6 July 2020</td>
<td>President Kenyatta announces the:</td>
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<td>- Extension of cessation of movement into and out of Nairobi Metropolitan</td>
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<td>Area, Mombasa, Kilifi and Kwale counties for 21 days;</td>
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<td>- Extension of national curfew for 21 days.</td>
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<td>26 August 2020</td>
<td>The President:</td>
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<td>- Extends the nationwide curfew and the closure of bars and nightclubs by</td>
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<td>a further 30 days.</td>
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<td>- Varies the closing time for restaurants and eateries from 19h00 to 20h00.</td>
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<td>- Increases the number of people allowed to attend funerals and weddings to 100.</td>
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<tr>
<td>28 September 2020</td>
<td>President Kenyatta announces:</td>
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<td>- Nationwide curfew in force throughout the territory of Kenya for a further</td>
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<td>60 days between 21h00 to 23h00;</td>
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<td>- Prohibition against bars and sale of alcoholic drinks by ordinary</td>
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<td>restaurants and eateries shall stand vacated from 29 September.</td>
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<td>- Closing time for all bars and restaurants shall be 10pm every day.</td>
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<td>- The permitted maximum size of religious gatherings is increased to one</td>
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<td>third of its normal sitting capacity.</td>
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<td>- The permitted maximum number of persons attending funerals and weddings is reviewed upwards from 100 to 200.</td>
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<td>12 October 2020</td>
<td>The schools in Kenya reopen from 12 October 2020 starting with examination</td>
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<td>classes, i.e. Grade 4, Class 8 and Form 4 students.</td>
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<td>4 November 2020</td>
<td>The President announces:</td>
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<td>- The continuation of the resumed examination classes under heightened</td>
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<td>health safety measures with all other basic learning classes resuming in</td>
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<td>person learning in January 2021.</td>
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- All political gatherings and rallies are suspended for a period of 60 days. Anyone wishing to hold such meetings to do so in town halls and limit the attendees to one-third seating capacity of the hall.

- The nationwide curfew is extended to 3 January 2021 and to be enforced between 10h00 and 04h00.

- All bars, restaurants and other establishments open to the public must close by 21h00.

- Any indoor religious gathering other than for a wedding or funeral shall have no more than one third of its normal seating capacity.

Legislation Tracker

**COVID-19 Orders/Rules**

1. Value Added Tax (Amendment of the Rate of Tax) Order, 2020
2. Public Order (State Curfew) Order, 2020
3. Public Order (State Curfew) Variation Order, 2020
4. Public order (State Curfew) Variation Order, 2020
6. Public Health Act (Declaration of Notifiable Disease), Order, 2020
7. Public Health (Declaration of Formidable Disease) Order, 2020
12. Public Health (Covid-19 Restriction of movement of persons and related measures) (Kilifi County) Order, 2020
13. Public Health (Covid-19 Restriction of movement of persons and related measures) (Kwale County) Order, 2020
15. The Civil Procedure Act (Cap. 21) (Practice Directions On Electronic Case Management)
16. Public Finance Management Act (Waive of Court Fees), 2020

**Bills in Parliament**

1. Pandemic Response and Management Bill, 2020
2. Prompt Payment Bill, 2020
3. County Resources Management Bill, 2020
4. Finance Bill, 2020

**Ministerial Directives/Guidelines Tracker**

**Ministry of Health**

2. Guidance for Infection Prevention and Control for Corona Virus Disease (Covid-19) In Homes and Residential Communities. [Link](#).
4. Public Mental Health Education during COVID-19 Pandemic. [Link](#).

**Ministry of Labour and Social Protection**

1. COVID-19: Guidance and advice for older people. [Link](#).
2. Protecting older people during the (Covid-19) pandemic. [Link](#).
4. Occupational Safety and Health Advisory on Coronavirus (COVID-19). [Link](#).

**County Governments**

2. Nandi County Government on Guidelines to observed in the Nandi County. [Link](#).
3. Kakamega County on measures to mitigate COVID-19. [Link](#).

**Cases**

**(i) LSK v Hillary Mutyambai, Inspector General of Police & 4 others, 2020**

- Court rules that the IG’s unreasonable use of force in enforcing the Public Order (State Curfew) Order, 2020 is unconstitutional
- Court ordered compelling Cabinet Secretary for Interior and Coordination of National Government to amend, within 5 days from date of judgement (16 April 2020), the schedule to the Public Order (State Curfew) Order, 2020 to include IPOA and LSK members in the list of ‘services, personnel or workers’ exempted from the provisions of the Public Order (State Curfew) Order, 2020

**(ii) In the Matter of WPP Scangroup PLC for an application for an order allowing the convening of an extraordinary general meeting under section 280 of the Companies Act, 2005 (Misc. Application No. E680 of 2020).**

- Court rules that any company listed on the Nairobi Securities Exchange that finds it impracticable to conduct its general meeting in the manner required by the articles of association on account of the COVID-19 pandemic and related government measures, to convene and hold a virtual general meeting, in accordance with the directions provided for in the order.
Government Responses

The following is an aggregate of the responses taken by the different branches of government, regulators and governmental agencies:

1. **Loan Relief and Credit Availability**

1.1 **Loan Relief**

On 18 March 2020, the Central Bank of Kenya ([CBK](#)) announced the following emergency measures reached through consultation with commercial banks, applicable to borrowers whose loan repayments were up to date as at 2 March 2020.

- Banks to provide relief to borrowers on their personal loans based on their individual circumstances arising from the pandemic.
- To provide relief on personal loans, banks will review requests from borrowers for extension of their loan for a period of up to one year and borrowers should contact their respective banks.
- Medium-sized enterprises (SMEs) and corporate borrowers to contact their banks for assessment and restructuring of their loans based on their respective circumstances arising from the pandemic.
- Banks to meet all the costs related to the extension and restructuring of loans.
- To facilitate increased use of mobile digital platforms, banks to waive all charges for balance inquiry.

In addition, the CBK had earlier announced that all charges for transfers between mobile money wallets and bank accounts would be eliminated.

Lastly, the first returns required to be submitted to the CBK on the loan restructures by Banks was due on Friday, 10 April 2020.

1.2 **Credit Availability**

On 24 March 2020, the CBK announced the following additional measures to facilitate lending by banks to borrowers adversely affected by the COVID-19 pandemic.

- The lowering of the Central Bank Rate (CBR) to 7.25 percent.
- The lowering of the Cash Reserve Ratio (CRR) to 4.25 percent to provide additional liquidity of KES 35.2 billion to commercial banks. CBK to avail this liquidity to banks based on their demonstrated requirement to directly support borrowers that are distressed as a result of COVID-19.
- To provide flexibility on liquidity management facilities provided to banks by CBK, the maximum tenor of Repurchase Agreements (REPOs) was extended from 28 to 91 days.
- CBK to provide flexibility to banks with regard to requirements for loan classification and provisioning for loans that were performing on 2 March 2020 and whose repayment period was extended or were restructured due to the pandemic.

**Note:** We note that several banks have already announced loan repayment holidays for qualified borrowers.

2. **Individual and Business Relief Package**
On 25 March 2020, the President announced the following individual and business relief measures to be undertaken by the government:

- Reduction of Personal Income Tax top rate (PAYE) from 30% to 25% of the gross amount.
- 100 % Tax Relief for persons earning up to KES 24,000 per month.
- Reduction of the Resident Corporate Income Tax rate from 30% to 25% of profits.
- Reduction of the Turnover Tax rate for SMEs from 3% to 1% of the gross revenue.
- Immediate reduction of VAT rate from 16% to 14%.
- Temporary Suspension of all listing for all persons including companies, whose loan account fall overdue or is in arrears, by the Credit Reference Bureau (CRB) - effective 1 April 2020.
- Ministries and Departments to cause the payment of at least KES 13 billion of the verified pending Bills, within three weeks from the announcement.
- Appropriation of KES 1 billion from the Universal Health Coverage towards the recruitment of additional health workers to support the management of the spread of the COVID-19.
- KRA to expedite payment of VAT Refunds by allocating an additional KES 10 billion within 3 weeks or in the alternative, to allow for offsetting of withholding VAT.
- Appropriation of KES 10 billion to the elderly, orphans and other vulnerable members of our society through cash-transfers by the Ministry of Labour and Social protection, to cushion them from the adverse economic effects of the COVID-19 pandemic.
- Government to set up a fund to which players in the Public and Private Sector will contribute in support of Government efforts.

In addition, on the 6 April 2020, the President announced the appropriation of KES 100 million from the Sports Fund to be paid to artists, actors and musicians by the Ministry of Sports, Culture and Heritage.

**Note:** We note that tax reliefs are now in effect following the assent of the Tax Laws (Amendment) Act, 2020 by the President on 25 April 2020. We further note that the government has begun releasing the direct cash payments and paying VAT Refunds.

In light of the government’s economic stimulus package, we have written a short article on the impact these measures may have on companies, which can be accessed [here](#). Additionally, we have also reviewed the provisions of the Tax Laws (Amendment) Act, 2020 [here](#).

### 3. Restrictions on Movement

- **International Passenger Flights**
  
  As from 25 March 2020, all passenger flights in and out of Kenya have been banned with the exception of approved fights evacuating foreign nationals from Kenya.

- **International Transport**
  
  Although international passenger flights have been banned, cargo flights can still fly in and out of Kenya.

- **Curfew and Containment Measures**
There is daily nationwide curfew from 19h00 to 17h00 restricting the movement of all persons except those in essential and critical services such as medical professionals, health workers, persons working in pharmaceutical companies, drug stores, security firms and banks. The curfew was legally effected vide Public Order (State Curfew) Order, 2020 under the Public Order Act. The nation-wide curfew is in effect until the 6 of June 2020 and is subject to review by the National Emergency Response Committee.

The curfew was further varied vide the Public Order (State Curfew) Variation Order, 2020 to require all employers to ensure that their staff who are not designated as critical or essential service providers leave the workplace no longer than 16h00.

As from 6 March 2020, there is a 21-day ban on all movement by road, rail or air in and out of the Nairobi Metropolitan, Mombasa, Kwale and Kilifi counties. However, the restriction does not extend to the movement of cargo and food supplies. In addition, cargo carrying vehicles or vessels to be charged to a single driver and designated assistants; all of whom shall be designated as such in writing by the owner or operator of the said vehicle or vessel with reference to that vehicle or vessel. The ban on all movement by road, rail or air in and out of the Nairobi Metropolitan, Mombasa, Kwale and Kilifi counties was extended for further periods of 21 days on 25 April 2020 and 16 May 2020.

Through Legal Notice No. 50, the Public Health (COVID-19 Restrictions of Movement of Persons and Related Measures) Rules, 2020, dated 6 April 2020, a raft of measures were introduced which among others gave the Cabinet Secretary the power to declare an area an infected area. Once an area has been declared an infected area movement in and out of it either by rail, road or air shall be restricted, save for emergency services and transportation of cargo. Further during any restriction period, all passenger rail, matatu, bus, taxicab and all vehicles shall not carry more than 50% of the licensed capacity. The legal notice also made it compulsory for every person in a public area to wear a face mask. All public gatherings were also prohibited.

The above restrictions were extended for a further 21 days effective 26 April 2020. On the 16 of May 2020, the President announced a further 21 day extension on the above restrictions.

- **Transportation by Ferries**
  
  With effect from 17 April 2020, the transportation of passengers by ferries shall takes place between 05h30 and 06h30. During this time, ferries shall not permit the transportation of cargo.

- **Movement of People Across Kenya- Tanzania and Kenya- Somali Borders**
  
  With effect from midnight 16 April 2020, there has been imposed a cessation of all movement of persons and any passenger ferrying automobiles and vehicles into and out of the territory of Kenya through the Kenya- Somali and the Kenya- Tanzania borders, except for cargo vehicles.

4. **Utilities**

The Government asked Nairobi City County and Kenya Power & Lighting Company (KPLC) not to disconnect water and electricity over unpaid bills. In his speech on 6th April 2020, the President announced that the Nairobi Metropolitan Service will expand the provision of free water to all informal settlements.


The Cabinet Secretary of Health published the Public Health (Prevention, Control and Suppression of COVID-19) Rules, 2020 (the rules) vide Legal Notice No. 46 dated 3 April 2020 under the Public Health Act (Cap 242).
Briefly, the rules provide for:

- The responsibility of employers, household heads, occupiers of premises to notify a medical officer or public health official or medical practitioner if they suspect that any person within their premises or household is suffering from COVID-19.

- The power of medical officers and public health officials to search any premises for any case of COVID-19, to direct the use of buildings in the event of contamination or suspected contamination, and to disinfect premises.

- The power of the Cabinet Secretary of Health to declare any place to be an infected area and thereupon regulate and/or prescribe such activities and conduct necessary for preventing the spread and eradicating COVID-19.

- The power of the Cabinet Secretary of Health to declare any place as a designated facility for purposes of the handling and treatment of COVID-19 patients.

- The power of medical and public health officers to visit and inspect the residential premises of a COVID-19 patient and order all persons who have attended to or been in contact with the patient to remain on the premises where the person was at the time of infection; or cause those persons to be removed to a health facility or other suitable place provided for the reception of persons suffering from COVID-19 or for quarantine.

- Guidelines on the removal and disposal of bodies of all persons who die from COVID-19.

- The offence of escaping from isolation and quarantine, as well as for aiding and facilitating the escape.

We have discussed the rules at great length in an article that can be accessed here.

6. Business Registration Service

The BRS issued a notice dated 26 March 2020 on the business continuity plan for service delivery following the government directives on control of the spread of COVID-19, stating as follows:

- Online services will be available with a minimal interruption in the turnaround time of service delivery taking into account that there’s only a skeleton staff working in rotation to support operations during the period.

- Staff members will be at the registry to support the following services: Registration of businesses; Support to facilitate investigative agencies; Registration of Debentures and Charges, Certified Copies.

- The BRS has designated a drop off for documents at Sheria House BRS Back Office. Clients are advised to do the following:
  - Put all the documents in a sealed envelope
  - Undertake self-assessment and effect payment on BRS PAYBILL NUMBER, 655650 for account name: write the type of service you are paying for. Where there is a discrepancy in the assessment, the same shall be communicated for reconciliation.
  - Attach in a piece of paper the message confirming payment and indicate a contact number and email address.
  - Drop the documents at the drop off point.
• The documents that are received will be processed within two (2) working days and a notification message will be send once the documents are ready for collection. The documents shall be collected at a designated point at the Registry of Companies.

• The Official Receiver in Insolvency has skeleton staff in chambers to assist with enquiries relating to insolvency matters.

7. Land Registry

The Ministry of Lands and Physical Planning declared that all lands offices and registries will be closed for 28 days effective 17 March 2020. An article prepared by the General Finance and Real Estate team can be accessed here.

The Ministry of Lands and Physical Planning on 15 April 2020 extended the closure of all land offices and registries for a further 14 days. Nonetheless, during the closure of the registries, all bank charges or discharges and registration of court orders will be handled at the customer care center of the registries.

The Ministry of Lands and Physical Planning on 28 April 2020 extended the closure of all land offices and registries for a further 14 days. Nonetheless, during the closure of the registries, all bank charges or discharges and registration of court orders will be handled at the customer care center of the registries.

The Ministry of Lands and Physical Planning announce the waiver of payment of the KES 500 registration fee for a period of two (2) years with effect from 26 March 2020

8. Operations at the Kenya Industrial Property Institute (KIPI)

The Acting Managing Director of KIPI, Mr. John Onyango issued a notice on the disruption of services at the institute dated 23 March 2020 stating the following:

• KIPI notified all stakeholders that the receipt and processing of applications; and the issuance of requisite certificates are essential services.

• Applicants to file applications and other documents via email on info@kipi.go.ke and payments to be made via M-Pesa or bank transfers.

• Where not possible to file original documents (e.g. powers of attorney, KIPI to accept copies of the documents but applicants to submit originals at the end of the crisis to enable KIPI to maintain proper records.

• In case of any enquiries, stakeholders can contact KIPI at info@kipi.go.ke

NOTE: The registry is currently operating with minimal staff and clients are not allowed to access the premises. All documents are dropped and picked in a designated place.

9. Kenya Revenue Authority (KRA)

 o Payment of Taxes

KRA notified tax payers that it will continue supporting individuals and businesses in accessing tax services to ensure all taxes are paid in a timely manner at this critical time. KRA will decisively handle any matter that pertains to deliberate non-payment of taxes and that in the event that a taxpayer is not able to honour the agreed payment plan, it’s mandatory that the same is reviewed and agreed with the KRA debt team.

 o Transaction Documents
KRA notified taxpayers that it recognizes that they are required to provide proof of transaction in response to VAT inconsistency reports that they are supposed to submit the transaction documents and in some instances appear in person at the KRA premises. Due to the current restrictions, KRA has deferred the physical submission of documents and appearances in person. Taxpayers will be duly notified when they can appear in person. In the interim, taxpayers are advised to submit evidence of transactions through callcentre@kra.go.ke.

KRA is also encouraging taxpayers to access tax services on the online platforms.

10. Judiciary

10.1 Scale Down Measures

On 15 March 2020, the National Council of Administrative Justice (NCAJ), which comprises all the State and non-State actors in the Justice sector, convened and resolved to scale down all the Judiciary public-facing operations in compliance with the recommendations of the National Emergency Response Committee on Coronavirus.

10.2 Revision of Scale Down Measures

On 1 April 2020, after consideration of the issues raised and challenges experienced in the two-week period as well as a review of the measures taken by the different agencies, the NCAJ issued a notice on the agreed measures:

CRIMINAL MATTERS

- **Police Bond**

  Petty and traffic offenders should never be held at Police Stations for more than 24 hours; they should be released on either cash bail or free Police bond. Officers in charge of Police Stations are therefore under strict instructions to implement these directions.

  To enhance transparency and accountability, the Police will establish centralized records showing the number of people arrested and handled in all police stations and the terms of their release on bail or bond. This will be regularly monitored by the Office of the Director of Public Prosecutions (ODPP) and periodic reports submitted to the NCAJ members.

- **Plea Taking and Urgent Criminal Hearings**

  The ODPP remains open with one officer in charge of every regional office to process files for plea-taking and other urgent matters. In consultation with Regional ODPP officers, Heads of Court Stations have been facilitating plea-taking for serious offences that are not subject to Police bond. Magistrates across the country continue to review and revise bail and bond terms for petty offenders to facilitate their release from Prisons as they await trial. Serious crimes, including defiance of national orders regarding the control of Covid-19, will continue to be presented to court for plea taking. In consultation with the Police and the DPP, courts will be convened at short notice to handle such cases.

- **Sexual Offences**

  There has been a significant spike in Sexual Offences in many parts of the country in the last two weeks. These offences constitute 35.8 per cent of the criminal matters reported during that period. In some cases, the perpetrators of such offences are close relatives, guardians and/or persons living with the victims. Depending on the individual facts of each case, upon application by the DPP, the courts will consider giving directions on early hearing dates in such cases.
**Decongestion of Prisons**

In the last two weeks, files of inmates who are petty offenders jailed for less than six months and others who have less than six months to complete their jail terms have been presented to the High Court for review of their sentences. This has led to the release of 4,800 inmates, significantly helping to decongest the prisons. The exercise is continuing.

New inmates are being isolated to reduce the risk of infection and movement of inmates has been highly restricted. Prison visits have been suspended, including visits to the staff quarters. Prison labour has also been reduced to a bare minimum. The Justice Sector actors will embrace technology and plans are underway to enable inmates to participate in virtual trials as the prisoners are no longer being produced in open court.

**CIVIL MATTERS**

**Filing of Urgent Matters and Pleadings**

On 20 March 2020, the Chief Justice gazetted Practice Directions on Electronic Case Management to guide the integration of ICT in judicial proceedings. The Practice directions are being used by various courts across the country to facilitate use of technology in the delivery of justice.

The courts have provided contact lists including email addresses and telephone numbers of court stations and specific contact persons. Stakeholders are given directions as to the filing of matters under Certificate of Urgency and also the filing of time-bound pleadings. A duty Judge in each of the Superior Courts and a Magistrate in every station is available every day to deal with urgent matters. Urgent applications are forwarded to the Judges and Magistrates who give directions as to hearing or issue orders as necessary. As of 1 April 2020, 1779 matters were handled at various High Court stations under this system. Tribunals, on the other hand, have handled 244 Applications under Certificates of Urgency in the period between 15 March and 1 April 2020, the bulk of them being from the Business Premises Tribunal and the Rent Restriction Tribunal.

**Judgement and Rulings**

In line with safety guidelines issued by the National Emergency Response Committee on Coronavirus, Judges and Magistrates are executing their duties albeit from home. Video conferencing technology has been adopted to deliver some judgments as is evident in Mombasa, Malindi and Eldoret. More courts will deliver judgments in this manner in the days ahead. Details of Judgments and Rulings that are ready for delivery shall be published weekly in the Judiciary, KLR and LSK websites.

**Execution**

Execution of warrants of arrest, court decrees and orders made prior to 15 March 2020 have been suspended until further notice. The Police, Court Bailiffs and Auctioneers are, in the circumstances, instructed not to carry out execution of warrants, orders or decree issued before 15 March 2020. Orders and directives of a conservatory nature and mandatory injunctions issued during the scaling-down period starting 15 March 2020 will, however, be executed.

**Safety of Litigants**

For the safety of the public attending court proceedings, some proceedings may be held in open places within the court premises in order to maintain the required social distance.
10.3 Up-Scaling of Judiciary Operations

In a press statement dated 15 April 2020, Justice Maraga announced that the NCAJ had met and agreed on the following measures with respect to the operations of the Judiciary:

- All suspects, irrespective of the nature of the offence, will be arraigned in court within 24 hours of arrest unless otherwise released on bond or bail by the police stations where they are held.
- Operations and services in all registries to be scaled up effective 21 April 2020.
- Hearing of civil matters to be scaled up with effect from 22 April 2020.
- Hearing of criminal appeals by the High Court and Court of Appeal to be scaled up.
- All pending judgments and rulings to be delivered in open court upon notice to litigants and/or their advocates.
- Orders to be extracted by registries and released to litigants and/or their advocates within 24 hours of their making.
- Suspension of execution of civil orders and decrees and eviction orders made before 16 March 2020 to remain in force until 22 April 2020.

10.4 Statement on Up Scaling of Operations

In a press statement dated 21 April 2020, J. Maraga announced the following agreed measures by the NCAJ:

- NCAJ rules out open court sessions.
- Up scaling of operations to be done through the use of technology.

Additional Developments

On 20 April 2020, the Cabinet Secretary for the National Treasury gazetted the waiver of court fees in respect of commercial disputes for suits whose value does not exceed one million shillings, for a period of two years. [Link].

Other Notices:

Supreme Court

1. Supreme Court Judges to take pay cut to mitigate the effects of the COVID-19. [Link].

Court of Appeal


High Court

1. Regulatory Operations at Milimani. [Link].


5. Electronic delivery of Judgements and Rulings, Family Division, Milimani. Link.


Tribunals


Our Guidance

We have provided a response to the initial measures enacted to close and/ or scale down certain court operations, which can be accessed here.

1. Capital Markets

   o Capital Markets Authority (CMA)

      In a guidance dated 24 March 2020, the CMA stated that the deadline for all the licensed intermediaries, issuers of securities to the public, Collective Investment Schemes and other approved persons with timelines for the submission and publication of audited financial statements in March and April 2020, was extended by one month respectively. However, firms that can complete and file their statements and publish the same within the regulatory timelines, have been encouraged to do so to ensure investors obtain information in a timely manner.

      CMA further stated that it had relaxed the disclosure requirements in relation to the publication of audited financial statements until 30 June 2020. In addition, CMA directed that all required disclosures be published on the following platforms; own websites and social media platforms; Nairobi Securities Exchange website for all issuers and trading participants; and the CMA website by all entities affected by the guidance. However, firms that don’t have challenges publishing the same in the newspapers are encouraged to do so.

      In a second guidance dated 3 April 2020, the CMA has allowed the boards of issuers of securities, without convening an AGM, to declare and pay the dividends to shareholders subject to the companies’ dividend policies, the procuring of all other relevant internal approvals, and making available the audited financial statements to the CMA, Nairobi Securities Exchange (NSE) and the public in the prescribed channels. In addition, the CMA has also allowed the boards of issuers of securities to progress with the appointment and remuneration of auditors. However, the Board decisions on these matters will need to be tabled at the AGMs, once convened, for ratification.

      Additionally pursuant to an order from the High Court [in the Matter of WPP Scangroup PLC for an application for an order allowing the convening of an extra-ordinary general meeting under section 280 of the Companies Act, 2015 - Misc. Application No. E680 of 2020], companies listed on the NSE will be allowed to convene and hold virtual general meetings, where the articles of the listed company do not allow for such a meeting to be conducted. Further, any resolution passed at such a meeting, would be valid. However, the High Court qualified the authority of a listed company to hold a virtual meeting or a meeting outside the provisions of the articles, by requiring the listed
company to obtain a written notice of no objection from the CMA, at least fourteen (14) days prior to the issuance of a statutory notice of the intended general meeting. The notice provided to the CMA must demonstrate that the members of the listed company are given the required statutory notice to hold a general meeting under the Companies Act, sufficient information to make informed decisions, be given an opportunity to seek clarifications and vote on resolutions and indicate the procedure of voting.

- **Nairobi Securities Exchange (NSE)**

In a joint guidance, the NSE Chief Executive, Mr. Geoffrey Odundo stated that the business continuity plan of the Exchange has been operationalized to support online and mobile trading with a URL available on NSE’s website. In addition, the URL leads investors directly to the trading participants’ online or mobile portals for ease of trading from the comfort of their home. Mr. Odundo further stated that market players have successfully been working remotely with trading systems accessed via Virtual Private Networks.

- **Central Depository and Settlement Corporation (CDSC)**

In a joint guidance, the Chief Executive of the CDSC, Mr. Nkoregamba Mwebesa, stated that through its Business Continuity Plan, CDSC has ensured settlement continues through secure remote links with all settlement participants. He added that investors are also able to check their portfolios using the CDSC Mobile Application, and their various queries are being addressed through the social media platforms.

In addition, CDSC is still offering all other depository services to Central Depository Agents and other stakeholders.

- **Capital Markets COVID-19 Fund**

In the joint guidance, the CMA Acting CEO stated that the capital markets industry has established a ‘Capital Markets COVID-19 Fund’ to mobilize funds from industry players to support efforts at the national level through the Covid-19 Emergency Response Fund. The fund will consist of contributions from CMA, NSE, CDSC, entities licensed/approved by CMA and listed companies and other issuers of securities.

2. **Central Bank of Kenya**

The CBK has published the following circulars on the COVID-19 Pandemic

- **Banking Circular No. 2 of 2020** – Precautionary Measures to Ensure Business Continuity and Mitigate Pandemic Risk

- **Banking Circular No. 3 of 2020** – Implementation of Emergency Measures

- **Banking Circular No. 4 of 2020** – Review of Cash Reserve Ratio

- **Banking Circular No. 5 of 2020** – Issuance of a Guidance Note on Pandemic Planning for the Banking Sector

- **Guidance Note** to the Banking Sector:

The CBK issued the guidance note pursuant to the Banking Act and Microfinance Act to provide guidelines on pandemic planning for all licensed institutions. The following are the salient features of the guidance:

- Board of Directors of licensed institutions are expected to formulate pandemic preparedness planning strategies, policies, procedures, guidelines and set minimum standards for an institution.
All these must be documented and made available for review by internal audit, external auditors and CBK.

- Board members should understand the nature of their institution’s business and the pandemic threats they may be exposed to.

- Institutions are required to consider a range of scenarios on how pandemics could impact their clients' financials and their own operations. Institutions should deploy a phased approach and varied actions to navigate through pandemics.

- Institutions are encouraged to utilize conference calls, video conferencing, teleconferencing and webinars for meetings and events.

- Institutions should strive to protect the health of staff and other persons within their premises.

- Institutions are advised to align their Annual General Meetings (AGMs) with World Health Organization (WHO) guidance. Institutions are advised to either defer AGMs to a time when the pandemic is brought under control or where their Articles of Associations allow, consider holding virtual AGM meeting. In addition, and where technology permits, institutions should make appropriate arrangements for their shareholders to conduct online voting for critical AGM resolutions including dividends payments, changes in external auditors and directorships, approval of audited accounts and bonus issues in an effort to curb the spread of the pandemic.

3. **Competition Authority of Kenya**

   o **Continuity of Operations**

     Officials of the Competition Authority of Kenya (CAK) are working off site and are limiting face-to-face external meetings but are expected to enable these to take place remotely via video or telephone conference where necessary/possible.

     Merging parties are encouraged to submit filings electronically.

   o **Cautionary Notice On Illegal Price Increases and Hoarding**

     In a press release dated 13 March 2020, the CAK issued a cautionary notice against manufacturers and retailers contemplating collusive increases of prices and/or hoarding with the intention of subsequently increasing prices of various consumer goods.

   o **CAK Remedial Order to Clean shelf Supermarkets**

     In a press release dated 16 March 2020, CAK announced that it had issued a remedial order to Cleanshelf supermarkets after investigations determined that the retailer unconscionably adjusted prices of Tropikal brand hand sanitizers (500ml) in contravention of the Competition Act No.12 of 2010. The Authority subsequently ordered Cleanshelf to contact and refund ALL the consumers who purchased the 960 pieces of the Tropikal brand hand sanitizers above the usual selling price and submit evidence to support the same by 26 March 2020.

4. **Sacco Societies Regulatory Authority (SASRA)**

   SASRA directed all savings and credit cooperative societies (SACCOs) to suspend AGMs for the next 30 days in line with the State directive that prohibits mass gatherings such as meetings, weddings and funerals to contain the spread of the coronavirus.

   SASRA stated that the suspension shall be reviewed based on further developments.
5. Insurance Regulatory Authority

- **Filing of Returns by Insurers**

Despite the outbreak of the COVID-19, the IRA in a published notice stated that every insurer is required to submit audited accounts and the prescribed statements within 3 months after the end of the period to which they relate. The IRA stated that the deadline for submission of the 2019 accounts and statements is 31 March, 2020.

However, the IRA has asked insurers who face challenges in meeting the above deadline due to the outbreak, to request for an extension.

- **Submission of Audited Accounts, Statements and Returns**

IRA stated in a published notice that all registered corporates under the Insurance Act (Cap 487) should submit to the Commissioner audited accounts, statements and returns relating to its business together with the audit management letter by 30 April 2020.

Taking cognizance of the outbreak of COVID-19, IRA has asked the corporate entities to submit the returns online through the ERS portal for brokers and medical insurance providers. For all registered persons not on the ERS portal, they should be submitted through email return@ira.go.ke.

In addition, IRA has asked any person facing challenges or is unlikely to meet the deadline to notify the Authority before the deadline, to avoid penalties that would become due under the Insurance Act.

6. Status of Operations at Other Offices

<table>
<thead>
<tr>
<th>Institution</th>
<th>Status of Operations</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Construction Authority (NCA)</td>
<td>NCA issued a public notice stating that they have taken the following steps:</td>
</tr>
<tr>
<td></td>
<td>i. Authority shall continue to offer services to the members of the public through its online platforms available on <a href="http://www.nca.go.ke">www.nca.go.ke</a> forthwith until further advised</td>
</tr>
<tr>
<td></td>
<td>ii. Authority has suspended all planned contractor training programs until further notice</td>
</tr>
<tr>
<td></td>
<td>iii. All training and upskilling programs for skilled construction works and construction site supervisors are suspended until further notice</td>
</tr>
<tr>
<td></td>
<td>iv. Authority will continue to execute its mandate with regards to quality assurance and in line with the directives issued by the MoH.</td>
</tr>
<tr>
<td>NGO Board</td>
<td>Operations ongoing with skeleton staff</td>
</tr>
</tbody>
</table>

**New Instructions for Submission of Documents**

- Annual returns, Bank letters, Work Permit Applications, Change of officials requests etc. should be submitted in sealed envelopes with details written on the envelop i.e. whether its annual return or Bank letter
Where Mpesa Paybill is used, provide transaction reference number and the cellphone number used on the develop. Where other forms of payment have been used, attach a copy of the banking document.

- Register the submission in the registration book and provide all required details
- Collect receipts for payment at later date

**Water Resources Authority (WARMA)**

WARMA issued a public notice stating that it provides critical services and as such, offices will remain open albeit with minimum staff.

**KEBS**

KEBS has reviewed its business hours to: Monday – Friday from 08h30 to 15h00.

KEBS has also encouraged to use the online platform for the following services:

- Purchase of Standards from our webstore
- PVoC Exemption Application
- KEBS Standards Online Catalogue
- Smark Application

**National Environment Management Authority (NEMA)**

- Operations ongoing with skeleton staff
- Certain Applications can be done via the online portal at [http://www.nema.go.ke/](http://www.nema.go.ke/)

**National Industrial Training Authority (NITA)**

- Operations are ongoing
- Registrations are still done physically

**Communications Authority of Kenya (CAK)**

- Operations ongoing.
- Working hours reviewed to between 21h00 – 16h00
- Applications and submissions of annual returns done online

**Nairobi City County**

- Operations ongoing normally
- In most cases, the services are provided online e.g. rent, development permits. Where not provided, customer care personnel are on standby to assist.

7. **Statement by the Ministry of Labour and Social Protection dated 23 March 2020**

The Cabinet Secretary of the Ministry of Labour and Social Protection issued a statement directed to employers on the implementation of mitigation measures.

Notably, the CS stated that the Ministry would undertake the following measures:
• Suspension of negotiation of all new CBAs including those that are currently under negotiation for a period of 12 months. This covers CBAs that are coming to an end during this period of the pandemic.

• Freezing wage increments in the next 12 months.

8. Notice by the National Employment Authority

The National Employment Authority (NEA) has directed that any employer wishing to terminate employment relationships, lay off or make employees redundant, should notify NEA within two weeks of any such termination, lay off or redundancy. This is required to be filed on the National Employment Authority Integrated Management System.

Note: we have assessed the legal obligations of an employer to ensure safety, health and welfare of their employees at the work place, which can be accessed here.


To foster the national response to the COVID-19 pandemic, the President directed the National Treasury to set up the COVID-19 Emergency Response Fund. The principal object of the fund is to mobilize resources for emergency response towards containing the spread, effects and impact of the COVID-19 pandemic.

The seed capital of the Fund is to be drawn from the Exchequer, including the voluntary salary cuts undertaken by the senior ranks of the Executive, Judiciary, Legislature and County Governments. The Exchequer contributions are to be supplemented by donations from Kenyan individuals and corporate entities, grants from development partners and multinational institutions, and such other gifts, subscriptions and contributions as the Fund may receive from time to time.

The fund will be chaired by East Africa Breweries Limited (EABL), Managing Director, Jane Karuku.


Although the Act is not a COVID-response legislation, the timing of its enactment is largely essential for business continuity in Kenya as the provisions relate to the use of electronic means to conduct various operations and transactions.

The salient features are as follows:

• The Act amends the Law of Contract Act to provide for use of advanced electronic signatures.

• The Register in the Registry of Documents may now be kept in electronic form. The Registries, located in Nairobi and Mombasa, may now be digitised. The Act also amends the RDA to permit (a) use of electronic signatures and advanced electronic signatures in execution of documents, and (b) electronic filing of documents at the Registry of Documents.

• Documents may now be stamped by marks embossed or impressed by electronic means. As such, the entire stamp duty process could be a fully online process.

• The Survey Act has been amended to enable: the use of electronic signatures and advanced electronic signatures; electronic processing of the seal of Survey of Kenya; electronic processing of documents including plans; surveyors to submit documents to the Director of Survey electronically; and electronic authentication of documents by the Director of Survey.

• The LRA has also been amended to provide for use of electronic signatures and advanced electronic signatures. Moreover, the LRA permits electronic processing of instruments relating to
land. As such, instruments relating to land may be processed electronically and executed electronically.

- The Act has amended the KICA to permit the use of electronic signatures in executing title documents. Pursuant to the terms of the KICA, the Communication Authority of Kenya (the CA) will have a crucial role to play in the new space of electronic signatures. The CA is mandated with the licensing of electronic certification service providers whose role will be to generally support electronic signatures and to adhere to procedures that ensure that the secrecy and privacy of the electronic signatures. The Cabinet Secretary for Information and Communication is also required by the KICA to enact regulations prescribing the manner in which advanced electronic signatures may be used.

- Companies no longer require a company seal.
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