Kenya

1. Government requirements

Registration requirements

Personal Identification Number (PIN)

When a business enters Kenya and employs people, it must register with the Kenya Revenue Authority (KRA) for a PIN. Once the business has obtained a PIN, it can register for Pay-As-You-Earn (PAYE) by activating its PAYE obligation on the online KRA iTax system. The activation of the PAYE obligation will enable the business to settle its tax liabilities. Upon registration with the KRA, the business will be required to account for employment taxes withheld and remitted for all its employees (whether Kenyan nationals or expatriates). All employees in the company will also be required to obtain a PIN.

National Hospital Insurance Fund (NHIF)

The NHIF fund is a Kenya Government state corporation with a mandate to provide health insurance to Kenyans over the age of 18. The core mandate for NHIF is to provide accessible, affordable, sustainable and quality health insurance for all Kenyan citizens who have reached the age of 18 years and have a monthly income of KES1,000. An employer is required to register with the NHIF and make monthly contributions toward the fund for all its employees as per the NHIF Act.

National Industrial Training Authority (NITA)

NITA is an agency established under the Industrial Training (Amendment) Act of 2011.

The mandate of the authority is to promote the highest standards in the quality and efficiency of industrial training in Kenya and ensure an adequate supply of properly trained manpower at all levels in the industry. All employers must register with the NITA and pay a training levy of KES50 on a monthly basis for each employee.

This should be submitted at the end of the company's financial year end, together with the PAYE filing for that month.

Ongoing compliance requirements

Remittance of PAYE

Employers must remit to KRA monthly PAYE taxes for all its employees and file the returns online on the KRA iTax platform by the 9th of the following month.

KRA imposes penalties at 25% of tax payable and interest of 1% per month for late payment and non-payment of PAYE tax. A penalty of KES10,000 is also imposed for late submission or non-submission of the PAYE returns.

PAYE rates effective January 2021		
PAYE tax band	Rate of tax	Cumulative tax - Kshs per month, less relief
On the first Kshs 24,000 per month or Kshs 288,000 per annum; 1 - 24,000	10%	2,400.00
On the next Kshs 8,333 per month or Kshs 100,000 per annum; 24,001 - 32,333	25%	4,483.25
On all income amounts in excess of KShs 32,333 per month or KShs 388,000 per annum	30%	Above KShs 32,333
The applicable monthly personal relief is Kshs 2,400 per month or Kshs 28,800 annually.		

Annual reporting of PAYE and payment summaries

The employer should prepare and distribute Tax Deduction Cards (P9s forms) for employees immediately after 31 December

Remittance of NHIF contributions

NHIF contributions are payable by the first day of the month following the month of deduction. However, in practice, the fund accepts payments made by the 9th of following month. Employers are mandated to remit this contribution for all employees as per the provisions of the NHIF Act applying the graduated rates, up to a maximum of KES1,700, however, individuals under self-employment are required to pay KES500 every month.

Remittance of NHIF contributions

The graduated NHIF scale is as follows:

Gross income (KES)	Proposed premiums (KES)
0–5,999	150
6,000–7,999	300
8,000–11,999	400
12,000–14,999	500
15,000–19,999	600
20,000–24,999	750
25,000–29,999	850
30,000–34,999	900
35,000–39,999	950
40,000–44,999	1,000
45,000–49,999	1,100
50,000–59,999	1,200
60,000–69,999	1,300
70,000–79,999	1,400
80,000–89,999	1,500
90,000–99,999	1,600
100,000 and over	1,700
*Self-employed (Special)	500

A penalty equal to twice the amount of the contribution shall be payable by that person for each month or part thereof during which the contribution remains unpaid, and any such penalty shall be recoverable as a sum due to the fund, and when recovered, shall be paid into the fund.

2. Pension requirements

Registration requirements

The National Social Security Fund (NSSF) is a government agency responsible for the collection, safekeeping, responsible investment and distribution of retirement funds of employees in both the formal and informal sectors of the Kenyan economy. An employer (and all its employees) is required to register with the NSSF and make monthly contributions (employer and employee) as per the NSSF Act.

Ongoing compliance requirements

NSSF contributions are made at 5% of an employee's salary to a maximum of KES200 per month. The employer is required to contribute an equivalent amount for each employee. The employer is required to file the NSSF return with the authority by the 15th of the following month. In filing the return, the employer should indicate the employee's NSSF number. Foreigners who are members of social security in their home country and are in Kenya for less than three years are exempt from making contributions toward the NSSF.

Any amount paid after the due date attracts a penalty of 5% per month on the contribution due, or part thereof, for the period the tax remains unpaid.

Pension withdrawal tax rates

Tax Laws (Amendment) Act, 2020 (the Act) has reduced the highest tax rates on pension withdrawals from registered retirement funds after 15 years to 25%, for amounts exceeding KES1,200,000 per annum.

In addition, the Act has widened the tax bands on income withdrawals from retirement funds before the expiration of 15 years in line with the individual tax rates highlighted above.

These changes will go a long way in increasing the disposable income available to retirees and are a welcome measure in combating the financial hardships occasioned by the COVID-19 pandemic.

NITA levy

This is levy charged at KSH50 per employee payable by employer at the end of financial year period. Any payment received after the due date is subject to imposition of a penalty at rate of 5% per month that remains unpaid.

National Employment Authority (NEA)

All employers are required to register with the National Employment Authority. NEA requires all employers in Kenya with 25 or more employees to submit returns in relation to their employees for each calendar year ending 31 December.

An employer is required to notify the Director of Employment of any vacancies and/or terminations as well as when vacant posts are filled.

An employer who fails to file a return of employees' details with the National Employment Authority is liable for a fine of up to KES100k and/or a six months jail term.

3. Employment obligations

Annual leave

An employee shall be entitled to annual leave after every 12 consecutive months of service with their employer of not less than 21 working days leave with full pay

Maternity leave

A female employee shall be entitled to three months of maternity leave with full pay.

A male employee shall be entitled to two weeks of paternity leave

Sick leave

After two consecutive months of service with his employer, an employee shall be entitled to sick leave of not less than 7 days with full pay, and thereafter to sick leave of 7 days with half pay in each period of 12 consecutive months of service. Maternity and paternity leaves are provided with full pay.

Study leave

There are no specific provisions for study leave. The common practice is for the employer and employee to reach an agreement.

Study leave is also normally deducted from the annual leave entitlement.

4. Payroll requirements

Payslips

As common practice, employers are required to provide monthly payslips to their employees in either hard or soft copy, unless it is stipulated otherwise in their contacts. However, this is not mandated under the Kenyan Employment Act.

An employer is required to keep a written record of all employees with whom they have entered into a contract. The records can be kept in paper form or electronically (as long as the information can be accessed easily and converted into written form).

5. Banking requirements related to payroll

There is no standard method for making payments to employees. Employers can make payments to their employees by either cash, electronic transfers, check or a combination of these.

Payment to employees does not need to be in local currency however tax must be paid in local currency

If paying wages by cash, the employer and employee should sign a record to confirm the amount of money that has been paid each pay period.

Foreign exchange control considerations

There are currently no exchange control regulations in Kenya. Therefore, payments or remittances to foreign countries can be freely made by the Kenyan entity. However, as part of the Central Bank of Kenya's anti-money laundering regulations, local commercial banks will require documentary evidence for any remittances out of Kenya in excess of USD10,000 (or its equivalent in euro or sterling).