

# KIOI NEWS

EDITION NO.02024



## This Month's Newsletter

As we embark on another dynamic month, we are excited to bring you a diverse range of articles and updates designed to inform, engage and empower.

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# New Membership!

The First in Africa.

**INBLF**

INTERNATIONAL NETWORK OF  
BOUTIQUE AND INDEPENDENT  
LAW FIRMS

We are proud to announce our recent membership in the esteemed International Network of Boutique and Independent Law Firms (INBLF). This milestone further underscores our commitment to providing unparalleled legal expertise and global reach to our valued clients.

With a network of over 200 law firms around the world, KIOI is the first African member in INBLF and we are excited to provide leadership in the continent.

We believe that this membership shall not only equip our advocates to serve our clients better but it shall also afford our clients opportunities to work with law firms from across the globe in different jurisdictions as their businesses grow. We are excited to walk this journey with INBLF and look forward to charting a path for other African law firms to join..

**First in Africa | Credibility**  
**Highest level of legal services internationally**

Read more on INBLF <https://www.inblf.com/about-us/>

# We are Growing

## Welcoming new team members

Join us in extending a warm welcome to our latest addition to the Kioi & Co. family.

**Joseph Ngigi**, our Finance Officer, who is in charge of all billing, collections and payments in the firm. This move is to help KIOI to streamline its business processes and ensure our clients are served efficiently and professionally.

His expertise and dedication will undoubtedly contribute to our continued success in delivering exceptional legal services.



**Joseph Ngigi**  
our Finance Officer

# Legal Alerts & Insights

Stay ahead of the curve with our comprehensive analysis of the recent amendments to the Limited Liability Partnership (LLP) Act. Our expert insights will ensure that you are well-informed and equipped to navigate the evolving regulatory landscape effectively.

# Legal Alerts & Insights

## Changes in the LLP Act:

The signing of the Anti-Money Laundering and Combating of Terrorism Financing Bill into law instituted recent amendments in the Limited Liability Partnership Act (201). By virtue of an LLP having company traits, the amendments aimed to align LLPs in the fights against money Laundering. Some of the amendments which are key to your business include:

1. File an annual return with the Registrar within 30 days of the anniversary of their registration. If an LLP fails to file its annual returns for a period of five years or more or fails to comply with the requirements to lodge a copy of the register of beneficial ownership, the Registrar is authorized to have the LLP struck off the Register of LLPs.
2. LLPs will be required to keep a register of their beneficial owners. In case of any changes in the beneficial ownership of an LLP, the LLP will further be required to update the register of beneficial owners.
3. Where an LLP has nominee partners, (individual or legal person instructed by the partner(s) to act on their behalf), the said LLP is required to maintain a register containing names and addresses for both the partner and the nominee, the date on which the person became a nominee partner and lodge a copy of the same with the Registrar. Similar to the beneficial ownership information, an LLP is required to update any changes in the register of nominee partners within 14 days of the change happening.
4. LLPs are now required to appoint an authorized person to fulfill the continuing Registrar compliance obligations.
5. Ability to register Foreign Limited Liability Partnerships as a new category of LLPs. The Act requires that any LLP registered outside Kenya but carrying on business in Kenya must be registered under the Act. They are also required to appoint at least one local representative for purposes of operating in Kenya.
6. LLPs are now required to maintain registration certificates; registers, declarations of solvency; any filings made at the Registry; Partnership Agreements and any other documents that the Registrar may require at their registered office for a minimum period of 7 years.
7. An LLP may be wound up through a voluntary application made to the Registrar requesting the LLP to be struck off. The application may be made by its manager or a majority of the partners to be struck off.

# Understanding Your Business

## A Habit of Compliance

**Explore the importance of cultivating a culture of compliance within your organization. Our article delves into practical strategies for fostering a compliance mindset that aligns with regulatory requirements and promotes sustainable business practices.**



Statutory Compliance is the act of adhering to a law, rule, policy, or guideline pertaining to business procedures in a particular jurisdiction. Following the president's approval of the Companies Act, 2015 on September 11, 2015, and its full implementation in June 2016, Kenyan companies were given a variety of files that they must submit to the Registrar of Companies. These filings include:

### **1. Filing of Annual Returns**

As per regulations, companies must prepare and submit annual returns to the Registrar before their return date. This date is either the anniversary of the company's incorporation or the date of the last filed return, whichever is later. For example, if a company was incorporated on January 18, 2022, its next annual return would be due on January 18, 2023. However, if there is a delay and the return is filed on January 20, 2023, the next return would be due on January 20, 2024.

### **2. Filing of Financial Statements**

Financial statements for each financial year must be filed with the Registrar by a company's directors. The deadline for submitting financial statements for public companies and companies limited by guarantee is six months after the financial year's conclusion. While Private Companies must file their financial accounts nine months after the end of the financial year all year, the statements and related reports must be filed jointly. These are the reports from the auditors and directors.

# Understanding Your Business

### 3. Filing of Financial Statements

A company may undergo various changes such as the appointment or resignation of directors, changes in shareholding, and amendments to the company's articles of association or registered office. These changes can also include alterations to the financial year-end. According to the Companies Act of 2015, companies are required to notify the Registrar of Companies about these changes. Failure to comply with this requirement can result in financial penalties for the company officials who violate the regulations.

### 4. Filing of Ultimate Beneficial Ownership

As of 2020, companies must comply with the Beneficial Ownership regulations by disclosing their Ultimate Beneficial Owners (UBO), creating a Register of Beneficial Owners, and submitting it to the Registrar of Companies. The Companies Registry has confirmed that the Beneficial Ownership Information is confidential and assured companies that their data will be kept private.

### 5. Employee deduction

Employees' salaries or wages are a very important subject especially when it comes to managing monthly deductions in Kenya. These statutory deduction figures and the other organization's monthly deductions continue changing due to the country's law amendments. The Employment Act of Kenya, Section 19(1), permits the employer to deduct any amount from an employee's wage as a contribution to a fund or program that the employee has consented to support and that has been approved by the commissioner for labour. Among the fundamental statutory deductions are:

1. PAYE (Pay As You Earn) under the Income Tax Act Cap 470.
2. NHIF (National Hospital Insurance Fund) under NHIF Act Cap 255 and NHIF Act No. 9 of 1998.
3. NSSF (National Social Security Fund) under NSSF Act No. 45 of 2013.
4. NITA (National Industrial Training Authority) under the Industrial Training (Amendment) Act, 2022."
5. Housing levy under the Finance Act 2023.

Companies are urged to comply and file the necessary filings to avoid the above complications. As it has been repeatedly proven it is easier and more cost-effective to comply than to deal with the repercussions of non-compliance.

## CONCLUSION

Failure to comply with the set regulations not only results in hefty penalties and fines to the Company and each of its officers deemed to be liable, but can also lead to censures, reputational damage, and jail time.



# Employment Law Corner

## Background Checks

Unlike the past when organizations would hire employees based on their Curriculum Vitae, times have changed and most organizations have now introduced pre-employment screening, including conducting background checks on preferred applicants. Employee background checks are essential because they help Employers make informed decisions on who they hire. In most cases, pre-employment background checks cover the following areas:

### **Identity verification**

To confirm that the applicant is who he/she says they are. Employers may request:

- An Employee's copies of their National
- ID and KRA Pin
- Certificate

### **Criminal history**

This helps to inform the employer of the character of the applicant.

In Kenya, Employers may verify an applicant's criminal history through the applicant's Certificate of Good Conduct. The Certificate of Good Conduct is issued to verify that the particular individual has been searched in the criminal records of Kenya, and no criminal record has been traced.

### **Employment history**

This is done to help Employers assess an applicant's work experience. A record of the employment history will be derived from the applicant's CV and the Employer is able to

determine the applicant's previous employers, what position they held in their previous workplaces, and how long the applicant worked.

### **Education background**

This can be done in order to verify the accuracy and authenticity of an applicant's education certificates.

### **Certification of Professional Licenses**

This ensures that an applicant is qualified and possesses the licenses or certifications required in their particular industry. e.g. All advocates are required to have a valid practicing certificate issued by the Law Society of Kenya in order to practice in Kenya. On the other hand, Doctors must have a retention license issued by the Kenya Medical Practitioners and Dentists Council to practice medicine in Kenya.

### Credit check

Employers may conduct a credit background check to assess an applicant's financial responsibility, integrity, and trustworthiness, particularly for roles that involve handling sensitive financial information, accessing company funds, or working in positions of high financial responsibility. In Kenya, employers verify such information by requesting an applicant's CRB Clearance Certificate.

“...Employee background checks are essential...”

### Are background checks legal in Kenya?

Recently, the Employment (Amendment) Act No. 15 of 2022 amended Section 9 of the Employment Act. Section 9 of the Employment Act now provides that an employer may request a job applicant to submit any clearance or compliance certificate only where they make a job offer and intend to enter into a written employment contract. In addition, an employer is at liberty to withdraw the employment offer where the job applicant does not satisfy the provisions of Chapter Six of the constitution or fails to provide the requested clearance and compliance certificates.

## Announcements



You're invited to participate in our special event commemorating International Women's Day, as we honor the progress made and advocate for gender equality.

**Date:** 15th March 2024

**Time:** 8:00 am to 4:00 pm

**Venue:** Nairobi Street Kitchen

**Cost:** 5500 Standard ticket

**Dress code:** A touch of African

**Pay Bill:** 510800 WOSNDBX



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Half acre property in Kerarapon, on tarmac. Price: Kshs. 33,000,000 o.b.o.

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Thika Town Plot 1/8 acre  
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We invite you to dive into this month's newsletter and explore the wealth of knowledge and expertise that Kioi & Co. Advocates has to offer. Thank you for your continued support and we look forward to serving your legal needs with excellence and dedication.





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