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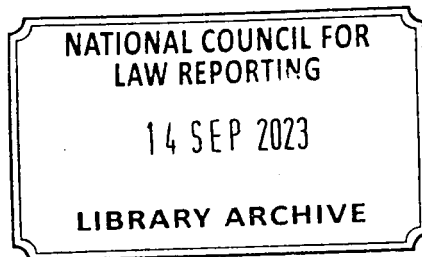
NAIROBI, 1st September, 2023

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**THE ANTI-MONEY LAUNDERING AND
COMBATING OF TERRORISM FINANCING LAWS
(AMENDMENT) ACT**

No. 10 of 2023

Date of Assent: 1st September, 2023

Date of Commencement: 15th September, 2023

AN ACT of Parliament to amend the laws relating to anti-money laundering and combating of terrorism financing and proliferation financing; and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Act, 2023.

Short title,

2. The laws specified in the first column of the Schedule are amended in the provisions specified in the second column thereof, in the manner respectively specified in the third column.

Amendment of
written laws,

SCHEDULE

(s.2)

Written law Provision

Amendment

Extradition
(Contiguous
and Foreign
Countries))
Act
(Cap. 76)

s.2

Insert the following new definition in proper alphabetical sequence—

“Central Authority” has the meaning assigned to it under section 2 of the Mutual Legal Assistance Act, 2011.

New

Insert the following new section immediately after section 10 —

Simplified
extradition.

10A. (1) A fugitive criminal being sought by a requesting State may consent to be extradited to that requesting State without conducting formal extradition proceedings.

(2) Where a fugitive criminal consents to be extradited under

subsection (1), that person shall be advised of his or her rights and the legal consequences of the simplified extradition procedure and may expressly renounce his or her entitlement to the rule of speciality.

(3) The consent and, where appropriate, the renunciation of the entitlement to the rule of speciality shall be recorded by a magistrate and may not be revoked.

(4) A copy of the consent referred to under subsection (3) shall be transmitted to the Central Authority with a view to arranging his or her surrender to the requesting State.

(5) Prior to executing a consent under this section, a fugitive criminal shall be afforded—

(a) the opportunity to seek independent legal advice; and

(b) an interpreter at no cost if the fugitive criminal is unable to understand the language used.

(6) A consent obtained under this section shall—

(a) outline the extraditable charges that it relates to; and

(b) be witnessed by an adult of sound mind.

(7) For the purposes of this section “consent” means the manifestation of express, unequivocal, free, specific and informed indication of the fugitive criminal’s wishes by a statement or by a clear affirmative

action, signifying agreement to be extradited to the requesting state.

Schedule Delete the words “Any offence that constitutes a terrorist act under the Prevention of Terrorism Act, 2012” appearing after the heading “Terrorist Offences” and substitute therefor the words “Any offence that constitutes a terrorist act or any offence under sections 4A, 4B, 5, 8, 9, 9A, and 14A under the Prevention of Terrorism Act, 2012.”

Extradition s.2 Insert the following new definition in
(Commonwealth Countries)
Act
(Cap. 77) proper alphabetical sequence—

“Central Authority” has the meaning assigned to it under section 2 of the Mutual Legal Assistance Act, 2011.

New Insert the following new section immediately after section 13—

Simplified
extradition.

13A. (1) A fugitive criminal being sought by a requesting State may consent to be extradited to that requesting State without conducting formal extradition proceedings.

(2) Where a fugitive criminal consents to be extradited under subsection (1), that person shall be advised of his or her rights and the legal consequences of the simplified extradition procedure and may expressly renounce his or her entitlement to the rule of speciality.

(3) The consent and, where appropriate, the renunciation of the entitlement to the rule of speciality shall be recorded by a magistrate and may not be revoked.

(4) A copy of the consent referred to under subsection (3) shall be transmitted to the Central Authority with a view to arranging his or her surrender to the requesting State.

(5) Prior to executing a consent under this section, a fugitive criminal shall be afforded—

(a) the opportunity to seek independent legal advice; and

(b) an interpreter at no cost if the fugitive criminal is unable to understand the language used.

(6) A consent obtained under this section shall—

(a) outline the extraditable charges that it relates to; and

(b) be witnessed by an adult of sound mind.

(7) For the purposes of this section “consent” means the manifestation of express, unequivocal, free, specific and informed indication of the fugitive criminal’s wishes by a statement or by a clear affirmative action, signifying agreement to be extradited to the requesting state.

Schedule Add the following new paragraph immediately after paragraph 34—

35. Any offence that constitutes a terrorist act or any offence under sections 4A, 4B, 5, 8, 9, 9A, 14A under the Prevention of Terrorism Act, 2012.

2023

*Anti-Money Laundering and Combating of Terrorism
Financing Laws (Amendment)*

No. 10

State
Corporations
Act
(Cap.446)

s.2 (b)

Add the following new sub-paragraph
immediately after sub-paragraph (vii) —

(viii) the Financial Reporting Centre
established under the Proceeds of Crime
and Anti-Money Laundering Act, 2009.

Capital
Markets Act
(Cap. 485A)

New

Insert the following new section immediately
after section 12A —

Powers on anti-money
laundering, combating
the financing of
terrorism and
countering proliferation
financing matters.

12B. (1) Pursuant to sections
2A, 36A, 36B and 36C of the
Proceeds of Crime and Anti-
Money Laundering Act, 2009,
the Authority shall regulate,
supervise and enforce
compliance for anti-money
laundering, combating the
financing of terrorism and
countering proliferation
financing purposes by all
reporting institutions regulated
and supervised by the Authority
and whom the provisions of the
Proceeds of crime apply.

(2) In undertaking its
mandate under subsection (1),
the Authority may —

- (a) vet proposed significant
shareholders, proposed
beneficial owners,
proposed directors and
senior officers of a
reporting institution;
- (b) conduct onsite inspection;
- (c) conduct offsite
surveillance;
- (d) undertake consolidated
supervision of a reporting
institution and its group;
- (e) compel the production of
any document or

information the Authority may require for the purpose of discharging its supervisory mandate under the Proceeds of Crime and Anti-Money Laundering Act, 2009;

- (f) impose monetary, civil or administrative sanctions for violations related to anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes;
- (g) issue regulations, guidelines, directions, rules or instructions for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes;
- (h) cooperate and share information for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes; and
- (i) take such action as is necessary to supervise and enforce compliance by reporting institutions in line with the provisions of the Proceeds of Crime and Anti-Money Laundering Act and any regulations, guidelines, rules, instruction or direction made or issued thereunder.

(3) For purposes of this section, “reporting institution” has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act, 2009.

New Insert the following new sections immediately after section 35—

Rights and
fundamental
freedoms.

35A. All persons subject to this Act shall enjoy all rights and fundamental freedoms enshrined in the Constitution unless limited to the extent specified in Article 24 of the Constitution, this Act or any other Act.

Limitation of
right to
privacy.

35B. (1) The right to privacy guaranteed under Article 31 of the Constitution is hereby limited under Article 24 of the Constitution only to the nature and extent contemplated under subsection (2).

(2) Where a person is suspected or accused of an offence under this Act—

- (a) the person’s home or property may, with a warrant, be searched;
- (b) the person’s possessions may be seized;
- (c) information relating to that person’s financial, family or private affairs where required may be revealed; or
- (d) the privacy of a person’s communications may be investigated or otherwise interfered with.

(3) A limitation of a right under subsection (1) shall apply only for the purpose of the prevention, detection, investigation and prosecution of proceeds of crime, money laundering and financing of terrorism.

Insurance
Act
(Cap. 487)

s.2

Delete the definition of “registration”.

Insert the following new definition in proper alphabetical sequence—

“licensing” means authorization under this Act to transact insurance business and includes renewal of licenses;

Part III

Delete the word “registration” in the heading appearing immediately after section 18 and substitute therefor the word “licensing”.

s.19

Delete the word “authorized” appearing in the marginal note and substitute therefor the word “licensed”.

s.19(1)

Delete the word “registered” and substitute therefor the word “licensed”.

s.20

Delete the word “registered” appearing in the marginal note and substitute therefor the word “licensed”.

s.20(1)

Delete the word “registered” and substitute therefor the word “licensed”.

s.20(2)

Delete the word “registered” wherever it appears and substitute therefor the word “licensed”.

s.22

Delete the word “registration” appearing in the marginal note and substitute therefor the word “licensing”.

Delete the word “registered” wherever it appears and substitute therefor the word “licensed”.

s.23(1)

Delete the word “registered” and substitute therefor the word “licensed”.

s.23(5)

Delete the word “registered” and substitute therefor the word “licensed”.

- s.23(6) Delete the word “registration” and substitute therefor the word “license”.
- s.25(1) Delete the word “registered” and substitute therefor the word “licensed”.
- s.25(3) Delete the word “registered” and substitute therefor the word “licensed”.
- s.26(1) Delete the word “registered” and substitute therefor the word “licensed”.
- s.26(2) Delete the word “registered” and substitute therefor the word “licensed”.
- s.27 Delete —
 - (a) the word “registered” wherever it appears and substitute therefor the word “licensed”; and
 - (b) the word “registration” and substitute therefor the word “license”.
- s.27A Delete the word “registered” wherever it appears and substitute therefor the word “licensed”.
- s.30
 - (a) Delete the word “registration” appearing in the marginal note and substitute therefor the word “license”.
 - (b) Delete the word “registration” wherever it appears and substitute therefor the word “license”.
- s.30A(1) Delete the word “registered” wherever it appears and substitute therefor the word “licensed”.
- s.31 Delete the word “registration” appearing in the marginal note and substitute therefor the word “licensing”.
- s.32(1) Delete the word “registration” and substitute therefor the word “license”.
- s.32(2) Delete the word “registered” wherever it appears and substitute therefor the word “licensed”.

- s.33 Delete the word “unregistered” appearing in the marginal note and substitute therefor the word “unlicensed”.
- s.33(1) Delete the word “registration” and substitute therefor the word “a license”.
- s.34 Delete the word “registration” and substitute therefor the word “a license”.
- s.67A(1) Delete the word “registered” and substitute therefor the word “licensed”.
- s.67A(2) Delete the word “registered” and substitute therefor the word “licensed”.
- s.67A(4) Delete the word “registered” wherever it appears and substitute therefor the word “licensed”.
- s.67B Delete the word “registered” and substitute therefor the word “licensed”.
- s. 67C(1)(d) Delete the word “registered” wherever it appears and substitute therefor the word “licensed”.
- s.67D Delete the marginal note and substitute therefor the following new marginal note—
“Part to apply to unlicensed persons.”
- s.67D(1) Delete the words “without registration, renewal of registration or authorisation” and substitute therefor the words “without a license or renewal of a license”.
- s.67D(2)(a) Delete and substitute therefor the following new subsection—
(a) transacting insurance business without a license or renewal of license, under this Act or with persons not so licensed;
- s.68(1) Delete the word “registered” wherever it appears and substitute therefor the word “licensed”.
- s.68(2) Delete the word “registered” wherever it appears and substitute therefor the word “licensed”.

s.68(3) Delete the word “registered” wherever it appears and substitute therefor the word “licensed”.

s.68(4) Delete the word “registered” wherever it appears and substitute therefor the word “licensed”.

s.68(5) Delete the word “registered” wherever it appears and substitute therefor the word “licensed”.

s.68(6) Delete the word “registered” and substitute therefor the word “licensed”.

s.69(4)(a) Delete the word “registered” wherever it appears and substitute therefor the word “licensed”.

s.69(4)(b) Delete the word “registered” wherever it appears and substitute therefor the word “licensed”.

s.113(1)(a) Delete the word “registered” and substitute therefor the word “licensed”.

s.113(1)(b) Delete the word “registered” and substitute therefor the word “licensed”.

s. 128 Add the following new subsection immediately after subsection (5)—

(6) The liquidator shall maintain information and records on the beneficial ownership of the insurer for at least seven years after the date on which the company is dissolved.

s.150 Delete the word “registered” appearing in the marginal note and substitute therefor the word “licensed”.

s.150(1) Delete the word “registered” and substitute therefor the word “licensed”.

s.150(2) Delete the word “registered” wherever it appears and substitute therefor the word “licensed”.

- s.150A Delete the word “registration” appearing in the marginal note and substitute therefor the word “licensing”.
- s.151 Delete the word “registration” appearing in the marginal note and substitute therefor the word “licensing”.
- s.151(1) Delete the word “registration” wherever it appears and substitute therefor the word “a license”.
- s.151(1A) Delete the word “registered” and substitute therefor the word “licensed”.
- s.152 In the opening statement—
- (a) delete the word “register” and substitute therefor the word “license”; and
 - (b) delete the word registration” and substitute therefor the word “license”.
- s.152(d) Delete the word “registered” and substitute therefor the word “licensed”.
- s.153 Delete the marginal note and substitute therefor the following new marginal note—
“Licensing and re-licensing”.
- s.153(1)(i) Delete the word “registered” and substitute therefor the word “licensed”.
- s.153(2) Delete the word “registered” appearing after the words “a broker shall be” and substitute therefor the word “licensed”.
- s.153(3) Delete—
- (a) the word “registered” wherever it appears and substitute therefor the word “licensed”; and
 - (b) the words “registration or renewal or registration” and substitute therefor the words “licensing or renewal of a license”.

s.155(3)(a) Delete the word “registered” and substitute therefor the word “licensed”.

s.155(3)(b) Delete the word “registered” and substitute therefor the word “licensed”.

Part XX Delete and substitute therefor the following new Part—

**PART XX— GENERAL PROVISIONS
RELATING TO LICENSING AND
LICENCES**

s.182 Delete—

(a) the word “registration” wherever it appears in the definition of “applicant” and substitute therefor the words “a license”; and

(b) the definition of “registered person” and substitute therefor the following new definition in alphabetical order—

“licensed person” means a person licensed under this Act as an insurer, reinsurer, broker, agent, insurance surveyor, risk manager, loss assessor, loss adjuster or claims settling agent;

s.183 Delete the word “authorised” appearing in the marginal note and substitute therefor the word “licensed”.

s.184 Delete—

(a) the word “registered” appearing in the marginal note and substitute therefor the word “licensed”; and

(b) the word “registered” wherever it appears and substitute therefor the word “licensed”.

s.187 Delete—

(a) the word “registration” appearing in the marginal note and substitute therefor the word “license”; and

- (b) the word “registered” appearing in the opening statement and substitute therefor the word “licensed”.
- s.187(a) Delete the word “registered” and substitute therefor the word “licensed”.
- s.187(b) Delete and substitute therefor the following new paragraph—
- (b) being an insurer, gives notice in writing to the Commissioner that he wishes to carry on insurance business of a class not previously undertaken, the Commissioner may, subject in the case of additional license to compliance with the provisions relating thereto and to such terms and conditions as he considers necessary—
- (i) cancel the licence, except that, in the case of an insurer, such cancellation shall be made only with the prior approval in writing of the Cabinet Secretary;
- (ii) alter the relevant register;
- (iii) alter the licence; or
- (iv) issue a new licence,
- (v) as the circumstances require.
- s.188 Delete the word “registration” appearing in the marginal note and substitute therefor the word “license”.
- s.188(1) Delete and substitute therefor the following new subsection—
- (1) Subject to this Act, a license issued under this Act shall expire on the 31st of December of the year of licensing:
- Provided that where an application for its renewal is made under this section, the license shall be deemed to continue in force until the application for the renewal is determined.

s.188(2) Delete the word “registration” and substitute therefor the words “a license”.

s.188(3) Delete and substitute therefor the following subsection—

(3) The Commission may extend the time for making an application for renewal of a license on payment of such a penalty, not exceeding the prescribed fee for licensing, as he may require.

s.188(4) Delete the word “registered” and substitute therefor the word “licensed”.

s.189 Delete the word “certificates” appearing in the marginal note and substitute therefor the word “licences”.

s.189(1) Delete and substitute therefor the following subsection—

(1) Upon issuance of a licence or its renewal, the Commissioner shall issue a licence which shall be prominently displayed by the licensed person at his principal place of business in Kenya in a part thereof to which the public have access, and a copy thereof shall be similarly displayed at each of the branches of the licensed person in Kenya.

s. 189(2) Delete the word “certificate” wherever it appears and substitute therefor the word “license”.

s. 189(3) Delete and substitute therefor the following new subsection—

(3) Upon the cancellation of a license, the licensed person shall forthwith return his license to the Commissioner.

s. 189(4) Delete and substitute therefor the following new subsection—

(4) A licensed person shall not display a licence after the cancellation or expiry of the licence.

- s.190 Delete the word “registered” appearing in the marginal note and substitute therefor the word “licensed”.
- s.190(1) Delete and substitute therefor the following new subsection—
- (1) If the name of a licensed person is identical to a name by which another licensed person has already been licensed, or so nearly resembles it as to be likely to deceive, the second licensed person shall, if directed in writing to do so by the Commissioner and subject to the Companies Act, 2015, change his name within a time to be specified in the direction.
- s.191(1) Delete—
- (a) the word “registered” and substitute therefor the word “licensed”; and
- (b) the word “registration” and substitute therefor the word “licensing”.
- s.191(2) Delete the word “registered” wherever it appears and substitute therefor the word “licensed”.
- s.191(3) Delete the word “registered” wherever it appears and substitute therefor the word “licensed”.
- s.192 Delete the words “registration or renewal of registration” wherever it appears and substitute therefor the words “license or renewal of a licence”.
- s.193(1) Delete—
- (a) the word “registration” and substitute therefor the word “licensing”; and
- (b) the word “registered” and substitute therefor the word “licensed”.
- s.194 Delete and substitute therefor the following new section—
- False or misleading statements.
- 194.** A person who makes a false or misleading statement in an application for a licence or renewal

of license or alteration of licence, or in any document furnished under this Act to the Commissioner with or in support of or in connection with an application for a licence or renewal of a licence, commits an offence and is liable to a fine not exceeding five thousand shillings.

- s.195 Delete and substitute therefor the following new section—

Refusal to
license.

195. Where the Board refuses to license an application or renewal or alteration of a license, the Board shall record the reasons for its decision and shall furnish copies thereof to the applicant and the Minister.

- s.196 Delete the word “registration” appearing in the marginal note and substitute therefor the words “a license”.

- s.196(1) Delete and substitute therefor the following new subsection—

(1) Where a licensed person requests, by notice in writing given to the Commissioner, that his license be cancelled either totally or in respect of any particular part of his business, the Commissioner may, subject to such terms and conditions as he considers necessary, by notice in writing, cancel the license of the person, either totally or in respect of any particular part of his business.

- s.196(2) Delete, in the opening statement—

(a) the word “registered” and substitute therefor the word “licensed”; and

(b) the word “registration” and substitute therefor the words “a licence”.

- s.196(2)(c) Delete the word “registered” and substitute therefor the word “licenced”.

- s.196(2)(d) Delete the word “registered” wherever it appears and substitute therefor the word “licenced”.
- s.196(2)(e) Delete the word “registered” wherever it appears and substitute therefor the word “licenced”.
- s.196(2)(g) Delete the word “registered” and substitute therefor the word “licenced”.
- s. 196(2)(i) Delete the word “registered” wherever it appears and substitute therefor the word “licenced”.
- s.196(3)
- s.196(4) Delete—
- (a) the word “registration” wherever it appears and substitute therefor the words “licence”; and
- (b) the word “registered” wherever it appears and substitute therefor the word “licensed”.
- s.196(5) Delete the word “registration” and substitute therefor the words “the licence”.
- s.196(5A) Delete the word “registration” and substitute
- (a) therefor the word “licence”.
- s.196(6) Delete and substitute therefor the following new subsection—
- (6) Where in any case referred to in subsection (1) the default or circumstances relates to one or more, but not all, of the parts of business carried on by the licensed person, the Commissioner may, with the prior approval of the Cabinet Secretary, upon the cancellation of the license of the person, subject to such terms and conditions as he considers necessary, license the person in respect of any part of the business and issue a new license in respect of that class of business.
- s.196A (1) Delete—
- (a) the word “registration” appearing in the marginal note, and substitute therefor the word “licence”; and

(b) the word “registration” wherever it appears and substitute therefor the word “licence”.

(2) Renumber the existing provision as subsection (1) and insert the following new subsection immediately after section (1)—

(2) The Authority shall maintain information and records on the beneficial ownership of the persons whose license is cancelled for at least five years after the date on which the license is cancelled.

New Insert the following new sections immediately after section 196A—

Powers on anti-money laundering, combating the financing of terrorism and countering proliferation financing matters.

196B. Pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, 2009, the Authority shall regulate, supervise and enforce compliance for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes by all reporting institutions regulated and supervised by the Authority and to whom the provisions of the Proceeds of Crime and Anti-Money Laundering Act, 2009 apply.

(2) In undertaking its mandate under subsection (1), the Authority may—

(a) vet proposed significant shareholders, proposed beneficial owners, proposed directors and senior officers of a reporting institution;

(b) conduct onsite inspection;

(c) conduct offsite surveillance;

- (d) undertake consolidated supervision of a reporting institution and its group;
- (e) compel the production of any document or information the Authority may require for the purpose of discharging its supervisory mandate under the Proceeds of Crime and Anti-Money Laundering Act, 2009;
- (f) impose monetary, civil or administrative sanctions for violations related to anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes;
- (g) issue regulations, guidelines, directions, rules or instructions for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes;
- (h) co-operate and share information for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes; and
- (i) take such action as is necessary to supervise and enforce compliance by reporting institutions in line with the provisions of the Proceeds of Crime and Anti-Money Laundering

Act, 2009 and any regulations, guidelines, rules, instruction or direction made or issued thereunder.

(3) For purposes of this section, "reporting institution" has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act, 2009.

Penalties for violations relating to money laundering, terrorism financing.

196C. (1) No institution, director, officer, employer, agent or any other person shall violate or fail to comply with any provision of the Proceeds of Crime and Anti-Money Laundering Act, 2009, or any regulation, guideline, rule, direction or instruction issued under the said Act or under this section.

(2) A person who violates or fails to comply with the provisions of subsection (1) shall be liable—

- (a) in case of a legal person, to a penalty not exceeding twenty million shillings;
- (b) in the case of a natural person, to a penalty not exceeding one million shillings; and
- (c) to additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such violation or non-compliance continues.

Rights and fundamental freedoms.

196D. All persons subject to this Act shall enjoy all rights and

fundamental freedoms enshrined in the Constitution unless limited to the extent specified in Article 24 of the Constitution, this Act or any other Act.

Limitation of right
to privacy.

196E. (1) The right to privacy guaranteed under Article 31 of the Constitution is hereby limited under Article 24 of the Constitution only to the nature and extent contemplated under subsection (2).

(2) Where a person is suspected or accused of an offence under this Act—

- (a) the person's home or property may, with a warrant, be searched;
- (b) the person's possessions may be seized;
- (c) information relating to that person's financial, family or private affairs where required may be revealed; or
- (d) the privacy of a person's communications may be investigated or otherwise interfered with.

(3) A limitation of a right under subsection (1) shall apply only for the purpose of the prevention, detection, investigation and prosecution of proceeds of crime, money laundering and financing of terrorism.

s.197 Delete the word “registered” appearing in the marginal note and substitute therefor the word “licensed”.

- s.197(1) Delete the word “registered” and substitute therefor the word “licensed”.
- s.197(2) Delete the word “registered” and substitute therefor the word “licensed”.
- s.197(3) Delete the word “registered” and substitute therefor the word “licensed”.
- s.197(4) Delete—
 - (a) the word “registered” and substitute therefor the word “licensed”; and
 - (b) the word “registration” and substitute therefor the word “licence”.
- s.197(5) Delete the word “registered” and substitute therefor the word “licensed”.
- s.197A(1) Delete the words “registered and authorised” and substitute therefor the word “licensed”.
- s.197A(2)(a) Delete the words “registered and authorised” and substitute therefor the word “licensed”.
- s.198 Delete the word “registered” appearing in the marginal note and substitute therefor the word “licensed”.
- s.198(1) Delete the word “registration” and substitute therefor the word “a license”.
- s.204B(3) Delete the word “registered ” appearing in the opening statement and substitute therefor the word “licensed”.
- s.205 Number the existing provision as “(1)”

Insert the following new subsection—

(2) Where a person was registered under section 19 prior to commencement of the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Act, 2023, that person shall be deemed to have been licensed under this Act.

Paragraph 1 Delete the word “registered” and substitute of the Second^{therefor} the word “licensed”.

Schedule

**Banking Act
(Cap. 488)**

s.2

Delete the definition of “significant shareholder” and substitute therefor the following new definition—

“significant shareholder” means a person including a beneficial owner, other than the Government or public entity, who holds, directly or indirectly, or otherwise has a beneficial interest amounting to five per cent or more of the share capital of an institution or a corporate entity seeking to become an institution;

New

Insert the following new definition in proper alphabetical sequence—

“beneficial owner” has the meaning assigned to it under the Companies Act, 2015

s.31(3)(a)

Delete and substitute therefor the following new paragraph—

the Central Bank may disclose any information referred to in subsection (2), including information on anti-money laundering, counter-terrorism financing and countering proliferation financing to any monetary authority, fiscal or tax agency, fraud investigations agency, domestic or foreign counter parts, or the Financial Reporting Centre, where such information is reasonably required for the proper discharge of the functions of the Central Bank under the Proceeds of Crime and Anti-Money Laundering Act, 2009.

s.31(3)(b)

Delete the *proviso*.

s.32

Insert the following new subsection immediately after subsection (5)—

(6) This section shall apply for anti-money laundering, counter-terrorism

financing and countering proliferation
financing purposes.

New Insert the following new sections
immediately after section 33C—

33D. (1) Pursuant to sections 2A,
36A, 36B and 36C of the Proceeds of
Crime and Anti-Money Laundering
Act, 2009, the Central Bank shall
regulate, supervise and enforce
compliance for anti-money
laundering, combating the financing
of terrorism and countering
proliferation financing
matters.

(2) In undertaking its mandate
under subsection (1), the Central Bank
may—

- (a) vet proposed significant
shareholders, proposed
beneficial owners, proposed
directors and senior officers of a
reporting institution;
- (b) conduct onsite inspection;
- (c) conduct offsite surveillance;
- (d) undertake consolidated
supervision of an institution and
its group;
- (e) compel the production of any
document or information the
Central Bank may require for
the purpose of discharging its
supervisory mandate under the
Proceeds of Crime and Anti-
Money Laundering Act, 2009;

- (f) impose monetary, civil or administrative sanctions for violations related to anti-money laundering, combating the financing of terrorism or countering proliferation financing purposes;
- (g) issue regulations, guidelines, directions, rules or instructions for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes;
- (h) co-operate and share information for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes; and
- (i) take such action as is necessary to supervise and enforce compliance by reporting institutions in line with the provisions of the Proceeds of Crime and Anti-Money Laundering Act, 2009 and any regulations, guidelines, rules, instruction or direction made or issued thereunder.

(3) For purposes of this section, “reporting institution” has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act, 2009.

Penalties for violations relating to money laundering, terrorism financing.

33E. (1) No institution, director, officer, employer, agent or any other person shall violate or fail to comply with any provision of the Proceeds of Crime and Anti-Money Laundering Act, 2009, or any regulation,

guideline, rule, direction or instruction issued under the said Act or under section 33D of this Act.

(2) A person who violates or fails to comply with the provisions of subsection (1) shall be liable—

- (a) in case of a legal person, to a penalty not exceeding twenty million shillings;
- (b) in the case of a natural person, to a penalty not exceeding one million shillings; and
- (c) to additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such violation or non-compliance continues.

New Insert the following new section immediately after section 54—

Rights and
fundamental
freedoms.

54A. All persons subject to this Act shall enjoy all rights and fundamental freedoms enshrined in the Constitution unless limited to the extent specified in Article 24 of the Constitution, this Act or any other Act.

Limitation
of right to
privacy.

54B. (1) The right to privacy guaranteed under Article 31 of the Constitution is hereby limited under Article 24 of the Constitution only to the nature and extent contemplated under subsection (2).

(2) Where a person is suspected or accused of an offence under this Act—

- (a) the person's home or property may, with a warrant, be searched;

(b) the person's possessions may be seized;

(c) information relating to that person's financial, family or private affairs where required may be revealed; or

(d) the privacy of a person's communications may be investigated or otherwise interfered with.

(3) A limitation of a right under subsection (1) shall apply only for the purpose of the prevention, detection, investigation and prosecution of proceeds of crime, money laundering and financing of terrorism.

Central Bank
of Kenya Act
(Cap. 491)

s.2

Insert the following definitions in their proper alphabetical sequence—

“beneficial owner” has the meaning assigned to it under the Companies Act, 2015;

“significant shareholder” has the meaning assigned to it under the Banking Act;

s. 4A(1)

Insert the following new paragraph immediately after paragraph (g)—

(h) pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, 2009, regulate and supervise, for anti-money laundering and combating the financing of terrorism and countering proliferation financing purposes, the following institutions—

(i) banks and their agents;

(ii) mortgage finance companies and their agents;

- (iii) mortgage refinance companies and their agents;
- (iv) microfinance banks and their agents;
- (v) money remittance providers and their agents;
- (vi) foreign exchange bureaus and their agents;
- (vii) digital credit providers and their agents;
- (viii) payment service providers; and
- (ix) any other entity licensed by the Central Bank under any written law.

New Insert the following new sections immediately after section 51 —

Powers on anti-money laundering, combating the financing of terrorism and countering proliferation financing matters.

51A. (1) Pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, 2009, the Central Bank shall regulate, supervise and enforce compliance for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes by all reporting institutions regulated and supervised by the Central Bank and to whom the provisions of the Proceeds of Crime and Anti-Money Laundering Act, 2009 apply.

(2) In undertaking its mandate under subsection (1), the Central Bank may —

- (a) vet proposed significant shareholders, proposed beneficial owners, proposed directors and senior officers of a reporting institution;

- (b) conduct onsite inspection;
- (c) conduct offsite surveillance;
- (d) undertake consolidated supervision of a reporting institution and its group;
- (e) compel the production of any document or information the Central Bank may require for the purpose of discharging its supervisory mandate under the Proceeds of Crime and Anti-Money Laundering Act, 2009;
- (f) impose monetary, civil or administrative sanctions for violations related to anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes;
- (g) issue regulations, guidelines, directions, rules or instructions for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes;
- (h) cooperate and share information for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes; and
- (i) take such action as is necessary to supervise and enforce compliance by reporting institutions in line

with the provisions of the Proceeds of Crime and Anti-Money Laundering Act, 2009 and any regulations, guidelines, rules, instruction or direction made or issued thereunder.

(3) For purposes of this section, “reporting institution” has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act, 2009.

Penalties for
violations
relating to
money
laundering,
terrorism
financing.

51B. (1) No money remittance, foreign exchange bureau, digital credit provider, director, officer, employer, agent or any other person shall violate or fail to comply with any provision of the Proceeds of Crime and Anti-Money Laundering Act, 2009, or any regulation, guideline, rule, direction or instruction issued under the said Act or under this section.

(2) A person who violates or fails to comply with the provisions of subsection (1) shall be liable—

- (a) in case of a legal person, to a penalty not exceeding five million shillings;
- (b) in the case of a natural person, to a penalty not exceeding one million shillings; and
- (c) to additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such violation or non-compliance continues.

Rights and
fundamental
freedoms.

51C. All persons subject to this Act shall enjoy all rights and fundamental freedoms enshrined in the Constitution unless limited to the extent specified in Article 24 of the Constitution, this Act or any other Act.

Limitation of
right to
privacy.

51D. (1) The right to privacy guaranteed under Article 31 of the Constitution is hereby limited under Article 24 of the Constitution only to the nature and extent contemplated under subsection (2).

(2) Where a person is suspected or accused of an offence under this Act—

- (a) the person's home or property may, with a warrant be searched;
- (b) the person's possessions may be seized;
- (c) information relating to that person's financial, family or private affairs where required may be revealed; or
- (d) the privacy of a person's communications may be investigated or otherwise interfered with.

(3) A limitation of a right under subsection (1) shall apply only for the purpose of the prevention, detection, investigation and prosecution of proceeds of crime, money laundering and financing of terrorism.

Microfinance
Act, 2006
(No. 19 of
2006)

s.2

Insert the following definitions in their proper alphabetical sequence—

“beneficial owner” has the meaning assigned to it under the Companies Act, 2015;

“significant shareholder” has the meaning assigned to it under the Banking Act;

New Insert the following new sections immediately after section 36A—

Powers on anti-money laundering, combating the financing of terrorism and countering proliferation financing matters.

36B. (1) Pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, 2009, the Central Bank shall regulate, supervise and enforce compliance for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes by all reporting institutions regulated and supervised by the Central Bank and to whom the provisions of the Proceeds of Crime and Anti-Money Laundering Act, 2009 apply.

(2) In undertaking its mandate under subsection (1), the Central Bank may—

- (a) vet proposed significant shareholders, proposed beneficial owners, proposed directors and senior officers of a reporting institution;
- (b) conduct onsite inspection;
- (c) conduct offsite surveillance;
- (d) undertake consolidated supervision of an institution and its group;
- (e) compel the production of any document or information the Central Bank may require for the purpose of discharging its supervisory mandate under the Proceeds of Crime and Anti-Money Laundering Act, 2009;

- (f) impose monetary, civil or administrative sanctions for violations related to anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes;
- (g) issue regulations, guidelines, directions, rules or instructions for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes;
- (h) cooperate and share information for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes; and
- (i) take such action as is necessary to supervise and enforce compliance by reporting institutions in line with the provisions of the Proceeds of Crime and Anti-Money Laundering Act, 2009 and any regulations, guidelines, rules, instruction or direction made or issued thereunder.

Penalties for
violations relating
to money
laundering,
terrorism financing.

36C. (1) No institution, director, officer, employer, agent or any other person shall violate or fail to comply with any provision of the Proceeds of Crime and Anti-Money Laundering Act, 2009, or any regulation, guideline, rule, direction or instruction issued under the said Act or under this section.

(2) A person who violates or fails to comply with the provisions of subsection (1) shall be liable—

- (a) in case of a legal person, to a penalty not exceeding five million shillings;
- (b) in the case of a natural person, to a penalty not exceeding one million shillings; and
- (c) to additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such violation or non-compliance continues.

New Insert the following new section immediately after section 47—

**Rights and
fundamental
freedoms.**

47A. All persons subject to this Act shall enjoy all rights and fundamental freedoms enshrined in the Constitution unless limited to the extent specified in Article 24 of the Constitution, this Act or any other Act.

**Limitation
of right to
privacy.**

47B. (1) The right to privacy guaranteed under Article 31 of the Constitution is hereby limited under Article 24 of the Constitution only to the nature and extent contemplated under subsection (2).

(2) Where a person is suspected or accused of an offence under this Act—

- (a) the person's home or property may, with a warrant, be searched;
- (b) the person's possessions may be seized;
- (c) information relating to that person's financial, family or private affairs where required may be revealed; or

(d) the privacy of a person's communications may be investigated or otherwise interfered with.

(3) A limitation of a right under subsection (1) shall apply only for the purpose of the prevention, detection, investigation and prosecution of proceeds of crime, money laundering and financing of terrorism.

Anti-Corruption and Economic Crimes Act (No. 3 of 2003)

s.2 In the definition of "economic crime" by inserting the following new paragraph—

(c) an offence involving the laundering of the proceeds of corruption.

The Proceeds of Crime and Anti-Money Laundering Act, 2009 (No. 9 of 2009)

s.2 Insert the following new definition in proper alphabetical sequence—

"Self-regulatory body" means the Law Society of Kenya;

Insert the words "financing of terrorism and proliferation financing" immediately after the words "money laundering" in paragraph (g) in the definition of "designated non-financial businesses or professions".

Insert the following new definition in proper alphabetical sequence—

"competent authority" means a public authority other than a self-regulatory body with designated responsibilities for combating money laundering, financing of terrorism and proliferation financing;

"financial group" means a group that consists of a parent company or of any other type of legal person exercising control and coordinating functions over the rest of the group, together with branches or subsidiaries that are subject to Anti-Money Laundering and Combating of Terrorism Financing policies and procedures at the group level;

New Insert the following new section immediately after section 2—

Scope of
application.

2A. This Act shall apply to matters relating to combating of money laundering, combating of terrorism financing and combating of the financing of proliferation of weapons of mass destruction.

s.8 Insert the following new subsection immediately after subsection (2)—

(3) For the purposes of this section, a “person” includes a financial group.

Insert the following new subsection immediately after the proposed new subsection (3)—

(4) The act of a lawyer, notary and other independent legal professional seeking to dissuade a client from engaging in an illegal activity does not constitute the offence of tipping-off under this section.

s.12(1) Insert the words “whether as a traveller or through mail or cargo” immediately after the word “Kenya”.

s.16(3) Delete and substitute therefor the following new subsection—

(3) A person who contravenes the provisions of section 12(3) is, on conviction, liable to a fine not exceeding fifty percent of the amount of the monetary instruments involved in the offence, or imprisonment for a term not exceeding five years, or to both.

s.23(1) Delete and substitute therefor the following new subsection—

(1) The principal objective of the Centre is to assist in the identification of proceeds of crime and combating of money laundering, combating terrorism financing and combating of proliferation financing.

s.23(2)(b) Insert the words “financing of terrorism and proliferation financing” immediately after the words “money laundering”.

- s.23(2)(c) Insert the words “counter financing of terrorism and counter proliferation financing” immediately after the words “anti-money laundering”.
- s.24(a) Delete and substitute therefor the following new paragraph—
- (a) shall receive, analyse and interpret—
 - (i) all reports made pursuant to section 12;
 - (ii) reports of unusual or suspicious transactions or activities made by reporting institutions pursuant to section 44;
 - (iii) reports of all cash transactions made to reporting institutions pursuant to section 44;
 - (iv) information disclosed to it pursuant to section 42 of the Prevention of Terrorism Act, 2012; and
 - (v) any additional or other information disclosed to it and obtained by it in terms of this Act, the Prevention of Terrorism Act, 2012, or any other written law;
- s.24(b) Delete and substitute therefor the following new paragraphs—
- (b) shall send analysed reports received under this Act to the appropriate law enforcement authorities, any intelligence agency, or any other appropriate supervisory body for further handling if, having considered the reports, the Director-General has reasonable grounds to suspect that a transaction or activity involves proceeds of crime, money laundering, financing of terrorism or proliferation financing;
 - (ba) shall, upon request, share information with a competent authority in so far as the information requested is pursuant to a written law related to combating proceeds of crime money-laundering terrorism financing or proliferation financing and is relevant to the execution of the mandate of the requesting competent authority;

- s.24(d) Insert the words “or proliferation financing” immediately after the words “financing of terrorism”.
- s.24(k) Delete the words “relating to the commission of an offence”.
- s.24(q) Delete the words “money laundering” and substitute therefor the words “anti-money laundering, counter financing of terrorism and counter proliferation financing”.
- s.24(r) Delete—
- (a) the words “the Centre” appearing at the opening of the sentence; and
 - (b) the words “or fraud investigations agency” and substitute therefor the words “investigative agency or any competent authority”.
- s.24B(1) Delete the words “by the Centre under section 24A” and substitute therefor the words “guidelines issued by the Centre under this Act”.
- s.24C(1) Delete the opening statement and substitute therefor the following new opening statement—
- (1) Where a reporting institution fails to comply with the provisions of this Act, the Centre may, for reasons disclosed in writing—
- s.36(1) Insert the words “or Self-regulatory body” immediately after the words “supervisory body” wherever they appear.
- s.36(2) Insert the words “or Self-regulatory body” immediately after the words “supervisory body”.
- s.36A Insert the following new subsection immediately after subsection (3)—
- (3A) A supervisory body or Self-regulatory body shall, in carrying out its mandate under this Act, apply its regulatory and supervisory powers and obligations conferred to it under any written law for purposes of supervision and enforcement of the obligations to combat money

laundering, terrorist financing and proliferation financing.

- s.36A(2) Insert the words “or Self-regulatory body” immediately after the words “supervisory body”.
- s.36A(3) Insert the words “or Self-regulatory body” immediately after the words “supervisory body” wherever they appear.
- s.36A(4) Insert the words “or Self-regulatory body” immediately after the words “supervisory body” wherever they appear.
- s.36A(5) Insert the words “or Self-regulatory body” immediately after the words “supervisory body” in the opening statement.

Insert the following new paragraph immediately after paragraph (b)—

(ba) in writing, direct any reporting institution to—

- (a) provide information, reports or statistical returns at such intervals as may be prescribed from time to time;
 - (b) cease or refrain from engaging in any act, omission or conduct in contravention of this Act;
 - (c) perform such act as may be necessary to remedy alleged non-compliance with this Act; or
 - (d) perform such act as may be necessary to meet any obligation imposed by this Act.
- s.36A(5)(c) Insert the words “or Self-regulatory body” immediately after the words “supervisory body”.
 - s.36A(5)(d) Insert the words “or Self-regulatory body” immediately after the words “supervisory body”.

s.36A(5)(e) Insert the words “terrorism financing or proliferation financing” immediately after the words “money laundering”.

s.36A(6) Insert the words “or Self-regulatory body” immediately after the words “supervisory body”.

s.36A(7) Insert the words “or Self-regulatory body” immediately after the words “supervisory body”.

New Insert in the following new sections immediately after section 36A—

Cooperation
and
collaboration
of supervisory
bodies.

36B. (1) A supervisory body may cooperate and coordinate with domestic and foreign counterparts for purposes of combating money laundering, terrorism financing or proliferation financing.

(2) In exercising the power under subsection (1), a supervisory body may—

- (a) share information and documents with a domestic or foreign counterpart;
- (b) conduct inquiries or undertake onsite inspection on behalf of a domestic or foreign counterpart;
- (c) on behalf of a domestic or foreign counterpart, appoint competent persons to investigate any matter under this Act;
- (d) authorise or facilitate foreign counterparts to undertake inquiries under this Act;

(3) Any information obtained under this section shall—

- (a) be kept confidential and may only be disclosed to a third party with the written consent of the supervisory body providing the information; and
- (b) shall be used only for the specified purpose.

Powers of
supervisory
bodies.

36C. (1) Without prejudice to the provisions of section 36A, a supervisory body shall have powers—

- (a) to supervise, monitor and ensure compliance with anti-money laundering, combating terrorism financing and countering proliferation financing requirements under this Act by reporting institutions regulated or supervised by it;
- (b) to conduct anti-money laundering, combating terrorism financing and countering proliferation financing inspections of reporting institutions regulated or supervised by it;
- (c) to compel production of any information or document relevant to monitoring compliance with the anti-money laundering, combating terrorism financing and countering proliferation financing requirements of reporting institutions regulated or supervised by it;
- (d) to issue guidelines, directions or rules for combating anti-money laundering, combating terrorism financing and countering proliferation financing purposes to

reporting institutions regulated or supervised by it;

- (e) through their respective legislation, to impose both monetary and administrative sanctions upon reporting institutions regulated or supervised by it for failure to comply with the anti-money laundering, combating terrorism financing and countering proliferation financing requirements; and
- (f) to undertake consolidated supervision for anti-money laundering, combating terrorism financing and countering proliferation financing purposes of a reporting institution and its group.

Risk-based
approach .

36D. (1) The Centre and supervisory bodies shall, in fulfilling their obligation to effectively monitor reporting institutions, use a risk-based approach.

(2) The Centre and supervisory bodies shall, in applying a risk-based approach to supervision, ensure that they—

- (a) have a clear understanding of the risks of money laundering, terrorist financing and proliferation financing at national, sectoral and institutional level;
- (b) have on-site and off-site access to all relevant information on the specific domestic and international risks associated

with customers, products and services, delivery channels, geographical location and any other risk factors of the relevant reporting institutions they supervise; and

(c) base the frequency and intensity of on-site and off-site supervision on—

(i) the money laundering, terrorist financing and proliferation financing risks, and the policies internal controls and procedures associated with the business activities of a reporting institution, as identified by the Centre or supervisory body's assessment of its risk profile;

(ii) the risks of money laundering, terrorist financing and proliferation financing in the country as identified within any information that is made available to the Centre or supervisory body; and

(iii) the characteristics of the reporting institution, in particular the diversity and number of such institutions and the degree of discretion allowed to a reporting institution under the risk-based approach.

(3) The Centre or supervisory body shall review the assessment of the money laundering, terrorist financing and proliferation financing risk profile of a reporting institution or

group, including the risks of non-compliance periodically, and when there are major events or developments in the management and operations of the reporting institution or group.

s.39(3) Delete—

- (a) the words “one million shillings” and substitute therefor the words “five million shillings”; and
- (b) the words “five million shillings” and substitute therefor the words “twenty-five million shillings”.

s. 44 Delete subsection (2) and substitute therefor the following new subsection—

(2) Upon suspicion that any of the transactions or activities described in subsection (1) or any other transaction or activity could constitute or be related to money laundering, terrorism financing, proliferation financing or to the proceeds of crime, a reporting institution shall report the suspicious or unusual transaction or activity to the Centre in the specified manner within two days after the suspicion arose.

Insert the following proviso in subsection (3)—

Provided that lawyers, notaries and other independent legal professionals may submit reports under this subsection through the Law Society of Kenya which shall establish reporting channels to the Centre.

Insert the following new subsections immediately after subsection (3)—

(3A) Lawyers, notaries and other independent legal professionals are not required to report suspicious transactions if the relevant information was obtained in circumstances where they are subject to professional secrecy or legal professional privilege.

(3B) The information referred to in subsection (3A) refers to information received from or obtained by the lawyer, notary or other independent legal professional from a client—

- (a) in the course of ascertaining the legal position of their client; or
- (b) in performing their task of defending or representing that client in, or concerning judicial, administrative, arbitration or mediation proceedings.

(3C) The Law Society of Kenya and the Centre shall establish appropriate mechanisms to cooperate for exchange of information relating to suspicious transaction reporting and supervision.

Add the following new subsection immediately after subsection (10)—

(11) For purposes of this section, the Centre shall specify the manner in which suspicious transaction, activity reports and cash transaction reports shall be filed.

s. 44A(1) Insert the words “terrorism financing, proliferation financing” immediately after the words “money laundering”.

s. 44A(1) Insert the words “proliferation financing”
(b)(ii) immediately after the words “financing of terrorism”.

s. 45(1) Delete and substitute therefor the following new subsections—

(1) A reporting institution shall identify and verify—

(a) any applicant seeking to enter into a business relationship with it or to carry out a transaction or series of transactions with it; or

(b) a customer whether permanent or occasional, by taking reasonable measures to establish the true

identity of that person by requiring the applicant or customer to produce an official record reasonably capable of establishing the true identity of the applicant or customer.

(1A) The record envisaged under subsection (1) shall include—

(a) in the case of an individual—

- (i) a certificate of birth;
- (ii) a national identity card;
- (iii) passport;
- (iv) a driver's licence; or
- (v) any other official means of identification as may be prescribed;

(b) in the case of a body corporate—

- (i) evidence of registration or incorporation;
- (ii) the Act establishing the body corporate;
- (iii) a corporate resolution authorising a person to act on behalf of the body corporate together with a copy of the latest annual return submitted in respect of the body corporate in accordance with the law under which it is established; or
- (iv) any other item as may be prescribed;

(c) in the case of a government department, a letter from the accounting officer and the relevant authorization from the National Treasury.

s.45(2) Delete and substitute therefor the following new subsection—

(2) A reporting institution shall undertake customer due diligence on the existing customers or clients on the basis of materiality and risk and taking into account whether the customer due diligence measures have previously been undertaken and the adequacy of data obtained.

s.45(3) Delete the words “take reasonable measures to establish whether the person is acting on behalf of another person” and substitute therefor the words “verify that any person purporting to act on behalf of the customer is so authorised, and identify and verify the identity of that person.”

s.45(4) Delete and substitute therefor the following new subsection—

(a) to establish the true identity of the person on whose behalf or for whose ultimate benefit the applicant may be acting in the proposed transaction, whether as trustee, nominee, agent or otherwise; and

(b) to identify and verify the identity of the beneficial owner using the relevant information or data obtained from a reliable source.

s.45(5)(i) Insert the words “terrorism financing or proliferation financing” immediately after the words “money laundering”.

s. 45A(1) (b) Insert the words “or proliferation financing” immediately after the words “terrorism financing”.

s. 45A(2) Delete and substitute therefor the following new subsection—

(2) In addition to enhanced customer due diligence measures, a reporting institution shall apply appropriate countermeasures,

proportionate to the risk presented by countries—

- (a) when called upon to do so by the Financial Action Taskforce;
- (b) independently of any call by the Financial Action Taskforce to do so; or
- (c) as advised by the Cabinet Secretary.

s. 45A(3) Insert the words “or proliferation financing” immediately after the words “terrorism financing” appearing in the opening statement.

Insert the following new subsection immediately after subsection (3) —

(4) The Centre shall disseminate to reporting institutions in such manner as it may determine—

- (a) any high-risk country identified pursuant to this section;
- (b) any countermeasures which are applicable to the country;
- (c) the concerns regarding the weaknesses in the anti-money laundering, countering of terrorism financing, countering of proliferation financing systems of that country; and
- (d) any publicly available information published by the Financial Action Task Force (FATF) on any jurisdiction which has been identified by it as having significant or strategic deficiencies in its anti-money laundering, countering of terrorism financing and countering of proliferation financing measures.

s.46(1)(a) Insert the words “both domestic and international” immediately after the words “all transactions”.

s. 47(a) Insert the words “and proliferation financing” immediately after the words “money laundering”.

s.55A(1)(a) Delete and substitute therefor the following new paragraph—

(a) the Attorney-General, who shall be the Chairperson;

s.55A(1)(b) Delete.

s.55B(1)(a) Delete the words “and overseeing”.

s.55B(1)(b) Delete the words “and overseeing”.

s.55B(1)(c) Delete the words “and overseeing”.

s. 130B (3) Insert the words “proliferation financing” immediately after the words “terrorism financing”.

Fourth Delete and substitute therefor the following
Schedule. new Schedule—

FOURTH SCHEDULE

[Section 44(6)]

REPORTING THRESHOLD

A reporting institution shall file reports on all cash transactions exceeding US\$ 15,000 or its equivalent in any other currency carried out by it.

National
Police
Service Act,
2011
(No.11A of
2011).

New

Insert the following new section immediately after section 56—

Controlled
delivery.

56A. (1) An authorised officer may, if he or she considers it necessary to do so, allow controlled delivery with a view of investigating an offence and the identification of persons involved in the commission of the offence.

(2) The Cabinet Secretary shall prescribe, in regulations, the procedure and safeguards applicable to a controlled delivery.

(3) For purposes of this section—

“authorised officer” means a Gazetted officer of the rank of inspector and above; and

“controlled delivery” means the technique of allowing illicit or suspect consignments to pass out of, through or into the territory of Kenya, with the knowledge and under the supervision of an authorised officer.

Ethics and Anti-Corruption Commission Act, 2011 (No. 22 of 2011)	s.11	Insert the following new subsection immediately after subsection (3) —
		(3A) State agencies and organs referred to in subsection (3) may grant the Commission access to relevant information in the prevention and investigation of economic crime.
Mutual Legal Assistance Act, 2011 (No. 36 of 2011)	s.2	Insert the following new definition in proper alphabetical sequence—
		“designated non-financial business or profession” has the meaning assigned to it under section 2 of Proceeds of Crime and Anti-Money Laundering Act, 2009;
	s.43	Delete the words “secrecy rules” and substitute therefor the words “or Designated Non-Financial Business or Profession secrecy or confidentiality rules.”
National Payment System Act, 2011 (No. 39 of 2011)	s.2	Insert the following new definitions in their proper alphabetical sequence—
		“beneficial owner” has the meaning assigned to it under the Companies Act, 2015;
		“significant shareholder” has the meaning assigned to it under the Banking Act;
	New	Insert the following new sections immediately after section 17—
		<div>Powers on anti-money laundering, combating the financing of terrorism and countering proliferation financing matters</div> <div>17A. (1) Pursuant to section 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act, 2009, the Central Bank shall regulate, supervise and enforce compliance for anti-money laundering, combating the financing</div>

of terrorism and countering proliferation financing purposes by all reporting institutions regulated and supervised by the Central Bank to whom the provisions of the Proceeds of Crime and Anti-Money Laundering Act, 2009 apply.

(2) In undertaking its mandate under subsection (1), the Central Bank may—

- (a) vet proposed significant shareholders, proposed beneficial owners, proposed directors and senior officers of a reporting institution;
- (b) conduct onsite inspection;
- (c) conduct offsite surveillance;
- (d) undertake consolidated supervision of an institution and its group;
- (e) compel the production of any document or information the Central Bank may require for the purpose of discharging its supervisory mandate under Proceeds of Crime and Anti-Money Laundering Act, 2009;
- (f) impose monetary, civil or administrative sanctions for violations related to anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes;
- (g) issue regulations, guidelines, directions, rules or instructions for anti-money laundering, combating the financing of terrorism or countering proliferation financing purposes;

- (h) cooperate and share information for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes; and
- (i) take such action as is necessary to supervise and enforce compliance by reporting institutions in line with the provisions of the Proceeds of Crime and Anti-Money Laundering Act, 2009 and any regulations, guidelines, rules, instruction or direction made or issued thereunder.

(3) For purposes of this section, “reporting institution” has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act, 2009.

Penalties for
violations
relating to
money
laundering,
terrorism
financing.

17B. (1) No payment service provider, director, officer, employer, agent or any other person shall violate or fail to comply with any provision of the Proceeds of Crime and Anti-Money Laundering Act, 2009, or any regulation, guideline, rule, direction or instruction issued under the said Act or under section 17A of this Act.

(2) A person who violates or fails to comply with the provisions of subsection (1) shall be liable—

- (a) in case of a legal person, to a penalty not exceeding twenty million shillings;
- (b) in the case of a natural person, to a penalty not

exceeding one million shillings; and

- (c) to additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such violation or non-compliance continues.

Rights and
fundamental
freedoms.

17C. All persons subject to this Act shall enjoy all rights and fundamental freedoms enshrined in the Constitution unless limited to the extent specified in Article 24 of the Constitution, this Act or any other Act.

Limitation of
right to privacy.

17D. (1) The right to privacy guaranteed under Article 31 of the Constitution is hereby limited under Article 24 of the Constitution only to the nature and extent contemplated under subsection (2).

(2) Where a person is suspected or accused of an offence under this Act—

- (a) the person's home or property may, with a warrant, be searched;
- (b) the person's possessions may be seized;
- (c) information relating to that person's financial, family or private affairs where required may be revealed to the relevant authorities; or
- (d) the privacy of a person's communications may be investigated or otherwise interfered with.

(3) A limitation of a right under subsection (1) shall apply only for the purpose of the prevention, detection, investigation and prosecution of proceeds of crime, money laundering and financing of terrorism.

Limited
Liability
Partnership
Act, 2011
(No. 42 of
2011)

s.2 Insert the following new definitions in proper alphabetical sequence—

“beneficial owner” has the meaning assigned to it under the Companies Act, 2015;

“Competent Authority” means the Attorney General, any criminal investigation agency established by law, law enforcement agencies including the Financial Reporting Centre and Kenya Revenue Authority;

“nominator” means an individual, group of individuals or legal person that issues instructions, directly or indirectly, to a nominee to act on their behalf in the capacity of a partner; and

“nominee partner” means an individual or legal person instructed by the nominator to act on their behalf in a certain capacity regarding a limited liability partnership;

s.17(2) Insert the following new paragraph immediately after paragraph (f)—

(fa) a copy of the register of beneficial owners;

s.29 Delete and substitute therefor the following new section—

Filing of
annual
returns.

29. (1) A limited liability partnership shall file its annual returns with the Registrar within thirty days of the anniversary of its registration under this Act or any other period as the Registrar may upon application allow.

(2) The annual returns referred to under subsection (1) shall contain the following information—

- (a) the address of the limited liability partnership's registered office and, if a post office box number is known, the physical address of that office;
- (b) the limited liability partnership's principal business activities;
- (c) a declaration of solvency or insolvency;
- (d) the particulars prescribed by the regulations of—
- (e) the manager of a limited liability partnership;
- (f) the partners; and
- (g) any person appointed by the limited liability partnership as an authorised person.

(3) If a limited liability partnership fails to comply with the requirements of subsection (1), the limited liability partnership or any officer of the limited liability partnership in default is liable to pay to the Registrar an administrative penalty of two thousand shillings.

New Insert the following new sections immediately after subsection 31—

Registers and
documents to
be kept

31A. (1) A limited liability partnership shall keep at its registered office—

- (a) a notice of registration issued under this Act;
- (b) a register of the name and address of each partner, manager and legal representative where applicable;

- (c) a copy of the most recent annual declaration of solvency or insolvency;
- (d) a copy of any statement lodged with the Registrar under this Act;
- (e) a copy of a certificate, if any, issued by the Registrar under this Act;
- (f) a copy of the limited liability partnership agreement and any amendment thereto;
- (g) a register of charges and security rights created under the Movable Property Security Rights Act, 2017; and
- (h) any other documents that the Registrar may, from time to time, require to be kept.

(2) A limited liability partnership shall lodge with the Registrar, a copy of the register of the name and address of each partner, manager and legal representative where applicable, within thirty days of its preparation.

(3) A limited liability partnership shall keep the documents in subsection (1) for a minimum period of seven years.

(4) The documents kept under subsection (1) shall be available for inspection or copying during ordinary business hours at the request of a partner.

(5) A partner who is deprived of the right to inspect the documents kept under subsection (1) may apply to the High Court to compel the limited liability partnership to provide the documents.

(6) A limited liability partnership that fails to comply with this section commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand shillings and, in the case of a continuing offence, to a further fine not exceeding fifty thousand shillings for each day that the offence continues.

(7) The provisions of this section shall apply to foreign limited liability partnerships.

Beneficial
owners.

31B. (1) Every limited liability partnership shall keep a register of its beneficial owners.

(2) A limited liability partnership shall enter in its register of beneficial owners, information relating to its beneficial owners as prescribed in the regulations.

(3) A limited liability partnership shall lodge with the Registrar a copy of its register of beneficial owners—

(a) in the case of a proposed limited liability partnership, when submitting documents as provided under section 17 of this Act; and

(b) in the case of existing limited liability partnership, within sixty days of coming into force of this section.

(4) The Registrar may, on the application of the limited liability partnership or for any other reason the Registrar thinks fit, extend the period referred to in subsection (3)(b) for a period not exceeding thirty days.

(5) A limited liability partnership shall lodge with the Registrar a copy of

any amendment to its register of beneficial owners within fourteen days after making the amendment.

(6) Every limited liability partnership shall keep records of its beneficial owner's information for at least ten years from the date, which a person ceases to be a beneficial owner.

(7) If a limited liability partnership fails to comply with the requirements of subsection (5), the limited liability partnership and each manager in default is liable to pay to the Registrar, an administrative penalty of two thousand shillings.

(8) If the limited liability partnership continues to fail to comply with the requirement of subsection (7), the limited liability partnership and each manager in default is liable to pay to the Registrar a further administrative penalty of one hundred shillings for each day of default.

(9) If the limited liability partnership does not comply with subsection (1) or subsection (6), the limited liability partnership, and each officer in default, commits an offence and on conviction are each liable to a fine not exceeding five hundred thousand shillings.

(10) If, after a limited liability partnership or any of its officers is convicted of an offence under subsection (9), the limited liability partnership continues to fail to comply with the relevant requirement, the limited liability partnership, and each officer of the company who is in default, commits a further offence on each day on which the failure continues

and on conviction are each liable to a fine not exceeding fifty thousand shillings for each such offence.

(11) Notwithstanding the provisions of subsection (9) and (10), the Registrar may give a direction to a limited liability partnership that is in breach of subsection (3)(b) specifying—

- (a) the statutory requirement of which the limited liability partnership is in breach;
- (b) the action that the limited liability partnership is required to take;
- (c) that the limited liability partnership has to comply with the direction within fourteen days; and
- (d) the consequence provided for under section 33D for failure to comply with the direction by the Registrar.

Register of
nominee
partners

31C. (1) Every limited liability partnership shall keep a register of nominee partners at its registered office.

(2) A limited liability partnership shall enter in its register of nominee partners—

- (a) the name and address of the nominee partner;
- (b) the date on which the person became a nominee partner; and
- (c) the name and address of the partner's nominator.

(3) Every limited liability partnership registered before the

coming into effect of this provision shall lodge with the Registrar, a copy of its register of nominee partners within sixty days of coming into effect of this provision.

(4) A limited liability partnership shall lodge with the Registrar, a copy of any amendment to its register of nominee partners within fourteen days after making the amendment.

(5) The register of nominee partners shall not be open to inspection by members of the public.

(6) If a limited liability partnership fails to comply with a requirement under subsection (3) or subsection (4), the limited liability partnership, and each officer in default is liable to pay to the Registrar, an administrative penalty of two thousand shillings.

(7) This section shall apply to foreign limited liability partnerships.

New Insert the following new Part immediately after section 33—

PART VIA—STRIKE OFF

New Insert the following new sections immediately after section 33—

Administrative
strike off by the
Registrar.

33A. (1) Where the Registrar determines that a limited liability partnership is not carrying on business or is not in operation, the Registrar may send to the registered address of the limited liability partnership or by other means as Regulations may prescribe, a communication inquiring whether the limited liability partnership is carrying on business or is in operation.

(2) For purposes of subsection (1), grounds upon which the Registrar may

form a reasonable belief that a limited liability partnership is not carrying on business may include—

- (a) where a limited liability partnership has failed to file annual returns for a period of five years or more; or
 - (b) where a limited liability partnership has failed to comply with the requirement to lodge a copy of the register of beneficial ownership after being issued with a directive under section 31B.
- (3) The Cabinet Secretary may provide in regulations, grounds upon which a limited liability partnership may be considered not to be carrying on business for the purpose of this section.
- (4) A limited liability partnership shall respond within one month of the date of the communication from the Registrar under subsection (1).
- (5) Where the Registrar does not receive any response as required under subsection (4), the Registrar shall notify the limited liability partnership that—
- (i) no response has been received; and
 - (ii) if no response is received within one month after the date of notification under this subsection, the limited liability partnership shall be struck off.
- (6) Where the Registrar receives a response confirming that the limited liability partnership is not carrying on business or is not in operation, the Registrar shall direct the limited liability partnership to make an application for strike off.

(7) Where the Registrar does not receive a response on application under subsection (6) within one month, the Registrar may, by notice in the *Kenya Gazette* notify the limited liability partnership that, at the end of a period of three months from the date of the notice, the name of the stated limited liability partnership shall, unless cause is shown to the contrary, be struck off from the Register and the limited liability partnership shall be dissolved.

(8) Upon expiry of the period specified in the notice sent under subsection (5), the Registrar may, unless cause to the contrary, strike off the name of the limited liability partnership from the register.

(9) After striking off under this section, the Registrar shall publish in the *Kenya Gazette* a notice indicating that the name of the limited liability partnership has been struck off from the Register.

(10) On publication of the notice under subsection (9), the limited liability partnership shall be dissolved.

(11) Despite subsection (10)—

- (a) any liability incurred by a manager or partner of the limited liability partnership continues to accrue to that manager or partner and may be enforced as if the limited liability partnership had not been dissolved; and
- (b) nothing in this section shall affect the power of the Court to liquidate a limited liability partnership which is struck off under this section.

Duty of the
Registrar on
liquidation.

33B. (1) Where a limited liability partnership is in liquidation and—

(a) the Registrar reasonably believes that—

- (i) the affairs of the limited liability partnership are fully wound up; or
- (ii) no liquidator is acting; and
- (iii) the returns required to be made by the liquidator in respect of the limited liability partnership have not been made for six consecutive months,
- (iv) the Registrar shall publish a notice in the *Kenya Gazette* and notify the limited liability partnership or the liquidator that at the end of the notice, the name of the limited liability partnership shall, unless cause is shown to the contrary, be struck off from the Register and the partnership shall be dissolved.

(2) Upon expiry of the period specified in the notice under subsection (1), the Registrar may, unless cause is shown to the contrary, strike off the name of the limited liability partnership from the register.

(3) After striking the name of the limited liability partnership off the Register under subsection (2), the Registrar shall publish a notice in the *Kenya Gazette* that the name of the limited liability partnership has been struck off from the Register.

(4) On publication of the notice under subsection (3), the limited liability

partnership shall be deemed to be dissolved.

(5) Despite subsection (4)—

(a) any liability incurred by a manager and partner of the limited liability partnership shall continue to accrue to that manager or partner and may be enforced as if the limited liability had not been dissolved; and

(b) nothing in this section shall affect the power of the Court to liquidate a limited liability partnership which is struck off under this section.

Strike off on
application.

33C. (1) The Registrar may strike off the name of a limited liability partnership from the Register on application by a limited liability partnership.

(2) An application under this section shall only be effective if—

(a) it is made on behalf of the limited liability partnership by its manager or by a majority of the partners; and

(b) it contains such information as prescribed by regulations.

(3) The Registrar may not strike off the name of a limited liability partnership from the Register under this section until after three months from the date of the publication of a notice in the *Kenya Gazette*—

(a) stating that the Registrar may exercise the power under this section in relation to the limited liability partnership; and

(b) inviting any person to show cause why the name of the limited

liability partnership should not be struck off.

(4) After striking the name of the limited liability partnership off the Register, the Registrar shall publish in the *Gazette* a notice that the limited liability partnership's name has been struck off the Register and the date of the striking off.

(5) On publication of the notice under subsection (4), the limited liability partnership shall be deemed to be dissolved.

(6) Despite subsection (5)—

- (a) any liability incurred by a manager or partner of the limited liability partnership shall continue to accrue to that manager or partner and may be enforced as if the limited liability partnership had not been dissolved; and
- (b) nothing in this section shall affect the power of the Court to liquidate a limited liability partnership which is struck off under this section.

When an application for strike off may not be made.

33D. (1) An application under section 33C shall not be made if, at any time during the preceding three months, the limited liability partnership has—

- (a) changed its name;
- (b) carried on business;
- (c) made a disposal for value of property that, immediately before ceasing to carry on business, it held for the purpose of disposal for gain in the normal course of carrying on business; or

(d) engaged in any other activity, except one that is—

- (i) necessary or expedient for the purpose of making an application under section 33C, or deciding whether to make an application;
- (ii) necessary or expedient for the purpose of closing down the affairs of the partnership;
- (iii) necessary or expedient for the purpose of complying with any statutory requirement; or
- (iv) specified by the Cabinet Secretary by order made under subsection (2); or
- (v) commenced insolvency process under the Insolvency Act, 2015, for the purposes of dissolving the limited liability partnership.

(2) The Cabinet Secretary may, by order published in the *Kenya Gazette*—

- (a) specify an activity for the purpose of subsection (1)(d)(iv); or
- (b) alter the period in relation to which the performance of an act referred to under that subsection is relevant.

(3) For the purposes of this section, a limited liability partnership shall not be treated as carrying on business only because it makes a payment in respect of a liability incurred in the course of carrying on business.

Withdrawal of
an application.

33E. (1) An applicant may, at any time before a limited liability partnership's name is struck off through a prescribed notice to the Registrar withdraw an application to strike off a limited liability partnership's name off the register.

(2) Upon receipt of the notice of withdrawal under subsection (1), the Registrar shall—

(a) send to the limited liability partnership's registered address, a notice that the application to strike off the name of the limited liability partnership from the Register has been withdrawn; and

(b) where a notice to strike off the limited liability partnership had been published, publish a notice in the Kenya Gazette indicating that the application to strike off has been withdrawn.

Objection to
striking off.

33F. (1) An applicant may, by written notice to the Registrar, object an application to strike a limited liability partnership's name off the register at any time before the limited liability partnership's name is struck off the register.

(2) An objection under this section shall be made on the ground that there is reasonable cause why the name of the limited liability partnership should not be struck off.

(3) An objection to the striking off under subsection (1) shall be submitted to the Registrar by notice in the prescribed form and manner.

(4) Upon receipt of a notice of objection, the Registrar shall—

(a) where applicable, notify the applicant in writing of the objection; and

(b) in deciding whether to allow the objection, take into account such considerations as may be prescribed by regulations.

Requirement to
keep records
after strike off.

33G. (1) A manager in a limited liability partnership shall be required to keep records specified under this Part for at least seven years after the limited liability partnership has been struck off.

(2) Any person who contravenes this section commits an offence and shall be liable, on conviction, to a fine not exceeding five hundred thousand shillings.

Restoration
where strike off
was by mistake.

33H. (1) The Registrar may restore the name of a limited liability partnership to the Register if satisfied that the striking off is a result of a mistake of the Registrar.

(2) For purposes of subsection (1), “a mistake of the Registrar” excludes a mistake that is made on the basis of wrong, false or misleading information given by the applicant in connection with the application for striking off of the name of the limited liability partnership from the Register.

(3) The Registrar may restore the name of a limited liability partnership to the Register by publishing in the *Gazette* a notice declaring the restoration takes effect on the date of publication of the notice.

Restoration by
Court.

33I. (1) An application may be made to the Court to restore to the Register a limited liability partnership that has been struck from the Register.

(2) An application under subsection (1) may be made by—

- (a) the Attorney General;
- (b) a former partner of the firm;
- (c) any person who would appear to the Court to have an interest in the limited liability partnership;
or
- (d) a former manager.

Effect of
restoration.

33J. (1) Where the name of a limited liability partnership is restored to the Register under this Act, the limited liability partnership shall be deemed to be in existence as if its name had not been struck off the register.

(2) The limited liability partnership is not liable for any liability arising from an obligation to file any document with the Registrar during the time within which it was struck off.

Registers.

33K. (1) The Registrar shall, subject to this Act, keep a register of limited liability partnerships.

(2) The Register shall comprise of—

- (a) the information relating to limited liability partnerships that is contained in documents lodged or filed with, or delivered to, the Registrar under this or any other Act;
- (b) certificates of registration issued by the Registrar; and
- (c) certificates of registration of limited liability partnership's charges and security rights created

under the Movable Property Security Rights Act, 2017.

(3) The Registrar shall keep records of a struck off limited liability partnership for at least seven years after which the Registrar may arrange for the records to be transferred to the Kenya National Archives and Documentation Service.

(4) Any person may, upon payment of the prescribed fee—

(a) inspect any public document lodged with the Registrar under this Act; or

(b) apply for a certified or uncertified copy of a document forming part of the public records held by the Registrar.

(5) The Registrar shall not disclose or permit the inspection of any personal identifiable information including—

(a) telephone numbers and emails;

(b) residential address; or

(c) any other information that may be restricted from disclosure by any other law.

(6) The Registrar may disclose the information in subsection (5)—

(a) to competent authorities; or

(b) where the Court orders such information to be disclosed.

Rectification of
register.

33L. (1) A person in respect of which an entry in a register—

(a) has been omitted;

(b) is incorrect; or

(c) has been included in error,

(d) may apply to the Registrar for rectification of the register.

(2) Upon receipt of the application under subsection (1), the Registrar may require the applicant to produce such document or furnish such information as the Registrar deems necessary in order to form an opinion whether the register is to be rectified.

(3) The Registrar shall give notice of that application to such other person as the Registrar may identify being a person who appears to the Registrar to be concerned or to have an interest in the business.

(4) The Registrar may proceed to rectify the register where no objection is received from persons notified in subsection (3) above.

(5) The Registrar may, without an application being made under subsection (1), rectify the register where, in the view of the Registrar an entry —

(a) has been omitted;

(b) is incorrect; or

(c) has been included in error:

Provided that the Registrar shall take into account fair administrative actions before rectifying the register.

(6) Notwithstanding subsection (1), the Registrar may refuse any application if the error, mistake or omission does not arise in the ordinary course of the discharge of the duties of the Registrar.

(7) Any person aggrieved by the refusal of the Registrar to rectify the particulars in the register may, within thirty days of the decision of the Registrar, appeal to the High Court for determination.

s.34 Delete section 34 and substitute therefor the following new section—

Insolvency of a
limited liability
partnership

34. (1) If a limited liability partnership becomes insolvent, the provisions of the Insolvency Act, 2015, shall apply with respect to the conduct of the receivership or management of the affairs of the partnership.

(2) If a limited liability partnership becomes liquidated, the provisions of the Insolvency Act, 2015 shall apply.

New Insert the following new Part immediately after section 34—

PART VIIA —FOREIGN LIMITED LIABILITY PARTNERSHIP

New Insert the following new sections immediately after section 34—

Foreign limited
liability
partnership

34A. (1) A foreign limited liability partnership shall not carry on business in Kenya unless it is registered as a foreign limited liability partnership under this Act.

(2) A person who contravenes subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding two hundred and fifty thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

Registration of
foreign limited
liability
partnerships

34B. (1) A person seeking to register a foreign limited liability partnership shall, in addition to the requirements under sections 17, 19 and 20 of this Act, make an application to the Registrar—

- (a) in the prescribed form; and
- (b) accompanied by a notarized copy of—

- (i) the certificate of registration from its country of origin or any other similar document;
- (ii) the partnership agreement or any other similar document;
- (iii) a list of partners and managers and their particulars; and
- (iv) a list of beneficial owners and their particulars.

(2) The name of a foreign limited liability partnership may be—

- (a) the name of the limited liability partnership under the law of the country or territory in which it is incorporated; or
- (b) an alternative name specified in accordance with this Act:

Provided that the name complies with the provisions relating to names under this Act.

(3) The Registrar shall, on being satisfied with the application and on payment of a prescribed fee—

- (a) register the foreign limited liability partnership;
- (b) allocate a registration number for the foreign limited liability partnership; and
- (c) issue a notice of registration in the prescribed form.

2023

*Anti-Money Laundering and Combating of Terrorism
Financing Laws (Amendment)*

No. 10

Appointment of a local representative by a foreign Limited liability partnership

34C. (1) A foreign limited liability partnership shall, for purposes of operating in Kenya, appoint at least one local representative who shall be—

- (a) a permanent resident in Kenya; or
- (b) a Kenyan citizen who ordinarily resides in Kenya.

(2) A foreign limited liability partnership shall lodge with the Registrar the particulars of every person who acts as a local representative of the foreign limited liability partnership and the consent of the local representative to act as such.

(3) The local representative shall issue and lodge with the Registrar a written notice of his or her intention to vacate the office to the foreign limited liability partnership.

(4) Where the local representative has lodged a notice under subsection (3), he or she shall cease to be the local representative of the foreign limited liability partnership on expiry of thirty days from the date of the lodgment of the notice.

(5) A foreign limited liability partnership and every partner of the foreign limited liability partnership who fails to comply with subsection (1) commits an offence.

Registered office.

34D. A foreign limited liability partnership shall have a registered office in Kenya to which all communications and notices may be addressed.

Annual returns.

34E. (1) A foreign limited liability partnership shall file its annual returns with the Registrar within thirty days of the anniversary of its registration under the Act or any other period as the Registrar may upon application allow.

(2) The annual returns of a foreign limited partnership shall state the date to which it is made up and shall contain the following information—

- (a) the address of the foreign limited liability partnership's registered office and, if a postal address is given, the physical address of that office;
- (b) the foreign limited liability partnership's principal business activities;
- (c) a declaration of solvency or insolvency; and
- (d) the particulars prescribed by the regulations of—
 - (i) the manager of a foreign limited liability partnership;
 - (ii) the partners; and
 - (iii) the local representative or any person appointed by the foreign limited liability partnership as an authorised person.

(3) If a foreign limited liability partnership fails to comply with the requirements of subsection (1), the limited liability partnership and any officer of the limited

liability partnership in default is liable to pay to the Registrar, an administrative penalty of two thousand shillings.

Cessation of
business in Kenya

34F. (1) A foreign limited liability partnership that ceases operations in Kenya shall within seven days of such cessation, lodge with the Registrar a notice of the cessation.

(2) The cessation of business shall take effect upon the lodging of the notice under subsection (1).

(3) The obligation of any foreign limited liability partnership to lodge any document with the Registrar, except those documents that ought to have been lodged before such date, shall cease upon lodging of the notice under subsection (1).

(4) The Registrar shall publish a notice in the *Kenya Gazette* indicating that after ninety days from the date of publication of the notice, the name of the specified foreign limited liability partnership shall, unless cause is shown to the contrary, be struck off the Register and the limited liability partnership shall be deemed to be dissolved.

(5) Upon expiry of ninety days period specified under subsection (4), the Registrar shall—

- (a) remove the name of the foreign limited liability partnership from the Register; and
- (b) publish in the *Kenya Gazette* a notice indicating

that the name of the foreign limited liability partnership has been struck off from the Register.

Notice of liquidation or dissolution.

34G. (1) A foreign limited liability partnership that is liquidated or dissolved shall, within thirty days after the liquidation or the dissolution, lodge or cause to be lodged with the Registrar a notice of such liquidation or dissolution in accordance with the Insolvency Act, 2015.

(2) The Registrar shall on receipt of the notice under subsection (1) publish the notice in the Kenya Gazette.

(3) The Registrar shall, on expiry of ninety days from the date of publication of the notice under subsection (1)—

- (a) remove the name of the foreign limited liability partnership from the Register; and
- (b) publish in the *Kenya Gazette* a notice indicating that the name of the foreign limited liability partnership has been struck off from the Register.

Requirements to keep records after strike off

34H. (1) A local representative in a foreign limited liability partnership shall be required to keep records under this Act for at least seven years after the limited liability partnership has been struck off.

(2) Any person who contravenes this section commits an offence and shall be liable, on

conviction, to a fine not exceeding five hundred thousand shillings.

Prevention of Terrorism
Act, 2012
(No. 30 of 2012)

s. 2

Delete the definition of “funds” and substitute therefor the following new definition—

“funds” means assets of every kind, whether corporeal or incorporeal, tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets;

Insert the following new definitions in proper alphabetical sequence—

“Committee” means the Counter Financing of Terrorism Inter-Ministerial Committee established under section 40D(1) of this Act;

“proliferation acts” means manufacturing, acquiring, possessing, developing, exporting, trans-shipping, brokering, transporting, transferring, stockpiling, supplying, selling or using nuclear, ballistic, chemical, radiological or biological weapons or any other weapon capable of causing mass destruction, and their means of delivery and related materials including technology, goods, software, services or expertise in contravention of this Act or any international obligations derived from relevant United Nations Security Council Resolutions;

“reporting institution” has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act, 2009;

New Insert the following new sections immediately after section 4—

Commission of
proliferation act.

4A. A person who, within or outside Kenya, directly or indirectly engages in a proliferation act commits an offence and is

liable, upon conviction, to imprisonment for a term not exceeding twenty years or to a fine not exceeding twenty million shillings, or to both such fine and such imprisonment.

Financing of
proliferation act.

4B. A person who by any means, within or outside Kenya, directly or indirectly, provides financial support or solicits or collects funds intending, knowing or having reasonable grounds to believe that such funds are to be used in whole or part, to carry out a proliferation act regardless of whether such funds or part thereof were actually used to commit the act, commits an offence and is liable, upon conviction, to imprisonment for a term of imprisonment not exceeding twenty years or to a fine not exceeding twenty million shillings or to both such fine and such imprisonment.

New Insert the following new section immediately after section 5—

Financing of
travel for
terrorism
purposes.

5A. A person who finances the travel of an individual to a State other than that individual's State of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, a terrorist act or the providing or receiving of terrorist training commits an offence.

s.9(2) Delete and substitute therefor the following new subsection—

(2) For the purposes of subsection (1), support includes the provision of forged or falsified travel documents or other documents, facilitation of travel, shelter, clothing, communication devices and systems.

s.24 Insert the words "or associates with or professes to associate with" immediately after the words "professes to be a member of".

New Insert the following new sections immediately after section 30F—

Prohibition from
making funds
available.

30G. A Kenyan national or any other person or entity within Kenya shall not make available any funds or other assets, economic resources or financial or other related services—

- (a) directly or indirectly, wholly or jointly, for the benefit of designated persons and entities;
- (b) for entities owned or controlled, directly or indirectly, by designated persons or entities; and
- (c) for persons and entities acting on behalf of, or at the direction of, designated persons or entities, unless licensed, authorised or otherwise notified in accordance with the relevant United Nations Security Council resolution.

(2) A person or entity who contravenes this section commits an offence, and is liable, on conviction—

- (a) in case of a natural person, to imprisonment for a term not exceeding twenty years; and
- (b) in case of a legal person, a fine not exceeding twenty million shillings.

Penalties for
legal persons.

30H. (1) A legal person who contravenes the provisions of sections 4, 10, 11, 12, 12B, 12C, 12D, 13, 14, 14A, 21, 24, 27; 28, 29 or 30D commits an offence and is liable, on conviction, to a fine not exceeding thirty million shillings.

(2) A legal person who contravenes any other provisions not provided under subsection (1) is liable on conviction to a fine not exceeding twenty million shillings.

s.40B Insert the following new subsection immediately after subsection (2)—

(3) The Director of the Centre shall design and formulate a framework for the de-radicalisation, disengagement and re-integration programme for returnees and at-risk individuals.

s.40C Delete subsection (1) and substitute therefor the following new subsections—

(1) All persons intending to engage in activities to prevent and counter violent extremism and radicalisation through counter messaging or public outreach, and disengagement and reintegration of radicalized individuals shall seek the written approval of the Centre prior to engaging in the activities.

(1A) In granting approval under sub-section (1), the Centre shall take into consideration all relevant information, including information from security agencies.

(1B) Persons approved by the Centre under sub-section (1) shall send periodic reports to the Centre on the activities conducted and such other information as the Centre may prescribe.

(1C) The Centre shall formulate guidelines on the criteria for approval under sub-section (1).

New Insert the following new sections immediately after section 40C—

Establishment of
Counter
Financing of
Terrorism Inter-
Ministerial
Committee.

40D. (1) There is established a committee to be known as the Counter Financing of Terrorism Inter-Ministerial Committee.

(2) The Committee shall consist of—

- (a) the Cabinet Secretary responsible for matters relating to internal security, who shall be the chairperson;
- (b) the Cabinet Secretary responsible for matters relating to finance;
- (c) the Cabinet Secretary responsible for matters relating to foreign affairs;

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No. 10

- (d) the Attorney-General;
- (e) the Director-General of the National Intelligence Service;
- (f) the Inspector-General of Police;
- (g) the Director-General of Immigration and Citizen Services;
- (h) the Director of the National Counter Terrorism Centre;
- (i) the Governor of the Central Bank of Kenya; and
- (j) the Director-General of the Financial Reporting Centre, who shall be the Secretary.

(3) The Committee may co-opt such other persons whose presence, participation, knowledge or skills are necessary for the proper functioning of the Committee.

**Functions of the
Committee.**

40E. (1) The functions of the Committee shall be to—

- (a) implement Resolution 1267, 1373, 1718 and 1988, resolutions relating to the suppression of terrorism financing and the prevention, suppression and disruption of the proliferation of, and financing of, dealings with weapons of mass destruction and such other related resolutions in accordance with this Act;
- (b) formulate and supervise the implementation of the National Strategy and Action Plan on Counter Financing of Terrorism; and
- (c) perform such other functions as may be conferred on it by any other written law.

(2) The Committee may, in carrying out its functions, co-ordinate with the relevant competent party and any other person for the purposes of –

- (a) identifying persons or entities for the purpose of designation;
- (b) examining and giving effect, upon a request by a foreign country, to an action initiated under the freezing mechanism of that foreign country, which is consistent with the public interest of Kenya;
- (c) considering requests for the de-listing of a designated entity under this Act and the regulations made thereunder; and
- (d) the performance of its functions under this Act.

(3) The Committee shall, in carrying out its obligations under Resolution 1267, 1373, 1718 and 1988, the resolutions relating to the banning of travel, granting of visas and purchase of arms and related resolutions, co-ordinate with the relevant competent party for the purposes specified under sub-section (2).

Powers of the
Committee.

40F. (1) The Committee shall have all the powers necessary for the performance of its functions under this Act.

(2) Without prejudice to the generality of paragraph (1), the Committee shall have the powers to issue such directives, guidelines, rules or instructions as it may consider necessary for the effective implementation of these Regulations.

(3) The Committee shall determine its own procedure for the conduct of its meetings and those of its sub-committees under these Regulations.

Establishment of
sub-
committees.

40G. (1) The Committee may, from time to time, establish such sub-committees as it may consider necessary for the effective discharge of its functions under this Act.

(2) The Committee may co-opt into the sub-committees established under subsection (1) such other persons whose presence, participation, knowledge or skills are necessary for the proper performance of the functions of the Committee.

(3) A person co-opted under subsection (2) may attend the meetings of the sub-committee and participate in the deliberations but shall have no right to vote at the meeting.

Law
enforcement co-
ordinating
groups.

40H. (1) The Committee shall constitute such sector specific law enforcement co-ordinating groups as it may consider necessary for the implementation of this Act and the Regulations made thereunder.

(2) The Co-ordinating groups constituted under subsection (1) shall be drawn from the list of law enforcement institutions set out in the Schedule.

(3) The Committee shall designate the chairperson of the co-ordinating group from amongst the members of the team constituted under subsection (1).

(4) Each co-ordinating group constituted under subsection (1) shall be responsible for the day-to-day implementation of this Act in relation to such sector as may be specified by the Committee.

Confidentiality.

40I. (1) A member of the Committee or any other person shall not, without the consent of the Committee in writing, publish or disclose to any person other than

in the course of his or her duties, the contents of any document, communication or information which relates to, and which has come to his or her knowledge in the course of his or her duties under this Act.

(2) A person who contravenes subsection (1) commits an offence.

New Insert the following new section immediately after section 42—

Role of the
Financial
Reporting
Centre and
supervisory
bodies.

42A (1). The Financial Reporting Centre and supervisory bodies shall have the power to supervise and enforce the application of preventative measures to combat the financing of terrorism and combat the financing of proliferation acts by reporting institutions.

(2) For the purposes of this section—

(a) “preventative measures” include measures under Part IV of the Proceeds of Crime and Anti-Money Laundering Act, 2009; and

(b) “Supervisory body” has the meaning assigned under section 2 of the Proceeds of Crime and Anti-Money Laundering Act, 2009.

s.44(1) Insert the following new paragraphs immediately after paragraph (b)—

(c) the proceeds of, or used in, or intended or allocated for use in the financing of terrorism, terrorist acts or terrorist organisations; or

(d) property of corresponding value.

New Insert the following new Schedule immediately after section 53—

SCHEDULE

(s. 40H(2))

LAW ENFORCEMENT CO-ORDINATING GROUPS

Ministry of Interior and National Administration;

Ministry of Foreign and Diaspora Affairs;

Asset Recovery Agency;
 Central Bank of Kenya;
 The National Treasury;
 Office of the Attorney- General;
 Office of the Director of Public Prosecutions;
 National Intelligence Service;
 Directorate of Criminal Investigations;
 Financial Reporting Centre;
 Immigration and Citizen Services;
 Kenya Defence Forces;
 National Police Service;
 Kenya Maritime Authority;
 Capital Markets Authority;
 Insurance Regulatory Authority;
 Kenya Revenue Authority;
 Kenya Airports Authority;
 Non-Governmental Organisations Co-ordination
 Board;
 National Counter Terrorism Center; and
 such other agency as the Cabinet Secretary may
 consider necessary.

Law
 Society of
 Kenya Act,
 2014 (No.
 21 of 2014)

New Insert the following new section immediately after
 section 4 —

Powers on anti-
 money
 laundering and
 combating the
 financing of
 terrorism.

No. 9 of 2009.

4A. (1) Pursuant to section 36A of the Proceeds of Crime and Anti-Money Laundering Act, 2009, the Society shall regulate, supervise and enforce compliance for anti-money laundering, combating the financing of terrorism and countering proliferation financing for lawyers, notaries and other legal professionals.

(2) In undertaking its mandate under

subsection (1), the Society may—

- (a) conduct onsite inspection;
- (b) compel the production of any document or information the Society may require for the purpose of discharging its supervisory mandate under the Proceeds of Crime and Anti-Money Laundering Act, 2009;

No. 9 of 2009.

- (c) impose monetary, civil or administrative sanctions for violations relating to anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes;

- (a) issue regulations, guidelines, directions, rules or instructions for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes;

- (b) cooperate and share information for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes; and

- (c) take such action as is necessary to supervise and enforce compliance by lawyers, notaries and other legal professionals with the provisions of the Proceeds of Crime and Anti-Money Laundering Act, 2009 and any regulations, guidelines, rules, instruction or direction made or issued thereunder.

No. 9 of 2009.

(3) The provisions of this section shall come into effect six months from the date of commencement of this section.

Companies Act, 2015 s.2 Insert the following new definitions in proper alphabetical sequence—

(No. 17 of

“company secretary” has the meaning assigned to it

2015)

under the Certified Public Secretaries of Kenya Act, 1988;

“nominator” means an individual, group of individuals or legal person that issues instructions directly or indirectly to a nominee to act on their behalf in the capacity of a director or a shareholder;

“nominee” means an individual or legal person instructed by the nominator to act on their behalf in a certain capacity regarding a company;

“nominee director” means an individual or legal entity that routinely exercises the functions of the director in the company on behalf of and subject to the direct or indirect instructions of the nominator; and

“nominee shareholder” means a shareholder who exercises the associated voting rights according to the instructions of the nominator or receives dividends on behalf of the nominator.

s.13(4) Insert the following new paragraph immediately after paragraph (c) —

(d) a statement of the particulars in respect of each beneficial owner of the proposed company in accordance with section 16A of this Act.

s.14(3) Insert the following new paragraph immediately after paragraph (a) —

(aa) contains information as to whether any shareholder is a nominee and the particulars of their nominator;

s.16(3) Insert the following new paragraph immediately after paragraph (c) —

(d) in the case of a nominee director, the fact that they are nominees and the particulars of their nominator.

New Insert the following new section immediately after section 16—

Statement of
particulars of
beneficial owners.

16A. (1) The applicant for registration shall ensure that the requisite statement of particulars of the company's beneficial owners complies with

subsection (2).

(2) The statement of particulars of beneficial owners shall contain—

- (a) the required particulars of anyone who is a beneficial owner; and
- (b) any other matters that, on incorporation, shall be required to be entered in the company's register of beneficial owners under this Act.

s.93(1) Delete the words “which shall include information relating to beneficial owners of the company, if any”.

s.93(2) Insert the words “including information on whether
(a) the member is a nominee shareholder” immediately after the word “members”.

s.93(2) Insert the words “or a nominee shareholder”
(b) immediately after the word “member”.

s.93(2) Delete and substitute therefor the following new
(d) paragraph—

(d) the date on which any person ceased to be a member or a nominee shareholder.

s.93A Delete and substitute therefor the following new section—

Company to
keep a register
of beneficial
owners.

93A. (1) Every company shall keep a register of its beneficial owners.

(2) A company shall enter in its register of beneficial owners, information relating to its beneficial owners as prescribed in the regulations.

(3) A company shall lodge with the Registrar a copy of its register of beneficial owners—

- (a) in the case of a proposed company, when submitting documents as provided for under section 13 of this Act; and
- (b) in the case of existing

companies, within sixty days of coming into force of this section.

(4) The Registrar may, on the application of the company or for any other reason the Registrar thinks fit, extend the period referred to in subsection (3)(b) for a period not exceeding thirty days.

(5) A company, other than a public listed company, shall lodge with the Registrar a copy of any amendment to its register of beneficial owners within fourteen days after making the amendment.

(6) Notwithstanding the provisions of subsection (5), a public listed company shall lodge with the Registrar a copy of any amendment to its register of beneficial owners within thirty days after making the amendment.

(7) Every company shall keep records of its beneficial owner's information for at least ten years from the date which a person ceases to be a beneficial owner.

(8) If a company fails to comply with the requirements of subsection (5) or subsection (6), the company, and each officer of the company in default is liable to pay to the Registrar, an administrative penalty of two thousand shillings.

(9) If the company continues to fail to comply with the requirement of subsection (8), the company, and each officer of the company in default, is liable to pay to the Registrar a further administrative penalty of one hundred shillings for each day of default.

(10) If the company does not comply with subsection (3)(b), the company, and each officer of the company who is in default, commit an offence and on conviction are each liable to a fine not

exceeding five hundred thousand shillings.

(11) If, after a company or any of its officers is convicted of an offence under subsection (10), the company continues to fail to comply with the relevant requirement, the company, and each officer of the company who is in default, commit a further offence on each day on which the failure continues and on conviction are each liable to a fine not exceeding fifty thousand shillings for each such offence.

(12) Notwithstanding the provisions of subsection (10) and (11), the Registrar may give a direction to a company that is in breach of subsection (3)(b) specifying—

- (a) the statutory requirement of which the company is in breach;
- (b) the action that the company is required to take;
- (c) that the company has to comply with the direction within fourteen days; and
- (d) the consequence provided for under section 894 for failure to comply with the direction by the Registrar.

s.104 Repeal.

New Insert the following new section immediately after section 138—

Register of nominee
directors

138A. (1) Every company shall keep a register of nominee directors at its registered office.

(2) A company shall enter in its register of nominee directors—

- (a) the name and address of the nominee director;
- (b) the date on which the person became a nominee director; and

(c) the name and address of the nominee director's nominator.

(3) Every company registered before the coming into effect of this provision shall lodge with the Registrar, a copy of its register of nominee directors within sixty days of coming into effect of this provision.

(4) A company shall lodge with the Registrar, a copy of any amendment to its register of nominee directors within fourteen days after making the amendment.

(5) The register of nominee directors shall not be open to inspection by members of the public.

(6) If a company fails to comply with a requirement under subsection (3) or subsection (4), the company, and each officer of the company in default is liable to pay to the Registrar, an administrative penalty of two thousand shillings.

(7) This section shall apply to foreign companies registered in Part XXXVII of this Act.

New Insert the following new section immediately after section 243—

Companies electing
to have a company
secretary or a
contact person. **243A.** (1) A private company with a paid-up capital of less than five million shillings or a company limited by guarantee may appoint a company secretary.

(2) A private company or company limited by guarantee not having a company secretary or a resident director shall be required to—

(a) appoint a contact person who shall be a natural person with a

permanent residence in Kenya;
and

- (b) in the case of a company registered before the coming into effect of this provision, lodge a notice with the Registrar of the said appointment, within sixty days of coming into force of this provision.

(3) The company shall lodge with the Registrar for registration a notice of the appointment of the contact person, specifying the person's name and residential address and such other particulars (if any) as are prescribed for the purposes of this section.

(4) The contact person shall—

- (a) keep a copy of the record relating to directorship, shareholding, beneficial ownership and any other information required to be kept by the company under the Act; and
- (b) make the copies available to competent authorities and the Registrar.

(5) A contact person who fails to comply with the provisions of subsection (4) commits an offence and on conviction is liable to a fine not exceeding five hundred thousand shillings.

(6) Within fourteen days after a person who is the contact person of a registered company has—

- (a) died, resigned or otherwise ceased to be the contact person, the company shall lodge with the Registrar for

registration a notice to the effect that the person has ceased to be a contact person of the company in Kenya and that a new contact person has been appointed in their place; or

- (b) changed his or her residential address in Kenya, the company shall lodge with the Registrar for registration a notice giving details of the change.

(7) If the company does not comply with subsection (2), the company, and each officer of the company who is in default, commits an offence and on conviction are each liable to a fine not exceeding five hundred thousand shillings.

(8) If, after a company or any of its officers is convicted of an offence under subsection (7), the company continues to fail to comply with the relevant requirement, the company, and each officer of the company who is in default, commit a further offence on each day on which the failure continues and on conviction are each liable to a fine not exceeding fifty thousand shillings for each such offence.

(9) Notwithstanding the provisions of subsection (7) and (8), the Registrar may give directions to a company that is in breach of subsection (2) and (6) specifying—

- (a) the statutory requirement of which the company is in breach;
- (b) the action that the company is required to take;

- (c) that the company has to comply with the direction within fourteen days; and
 - (d) the consequences of failing to comply with the direction.
- s.706(1) Insert the following new paragraph immediately) after paragraph (d)—
 - (e) statement on whether there has been change in the register of beneficial owner and the date of the change.
- s.850(1) Delete the words “three years” and substitute) therefor the words “seven years”.
- s.851 Delete the words “two years” appearing in the marginal note and substitute therefor the words “seven years”.
- s.851(1) Delete the words “two years” and substitute) therefor the words “seven years”.
- s.894 Insert the following new subsections immediately after subsection (1)—
 - (1A) For purposes of subsection (1), grounds upon which the Registrar may form a reasonable belief that a company is not carrying on business may include—
 - (a) where a company has failed to file annual returns or financial statements for a period of five years or more; or
 - (b) where a company has failed to comply with the requirement to lodge a copy of the register of beneficial ownership after being issued with a directive under section 93A.
 - (1B) The Cabinet Secretary may make regulations specifying the grounds upon which a company may be considered not to be carrying on business for the purpose of this section.
- New Insert the following new section immediately after section 904—

Record keeping
after strike-off

904A. Where a company is struck-off pursuant to sections 894 and 897 or under any other provision in this Act, it shall be the duty of the officers, administrator or liquidator to maintain all the company records required to be maintained by the company under this Act for at least seven years from the date of the strike off.

s.975 Insert the following new subsection immediately after subsection (1)—

(1A) The provisions of section 93A, with the exception of subsections (5) and (6), shall apply to foreign companies registered under this Part.

s.975(3 Insert the following new paragraph immediately) after paragraph (g)—

(h) a statement of particulars of the beneficial owners of the foreign company in accordance with section 93A of the Act.

s.986(1 Insert the following new paragraph immediately) after paragraph (b)—

(ba) its beneficial owners.

New Insert the following new section immediately after section 992 —

Record keeping after
strike-off

992A. Where a foreign company is struck-off pursuant to sections 991 and 992, it shall be the duty of the local representative of the company or the liquidator, as the case may be, to maintain all the records required to be maintained by the company under this Act for at least seven years from the date of the strike off.

New Insert the following new section immediately after section 1006—

Duty of a company
to keep records

1006A. (1) A company shall keep at its registered office, or at any other location that may be prescribed in

regulations pursuant to section 1006, all documents required to be kept under this Act in relation to the company including—

- (a) the evidence of name reservation of the company name;
- (b) the certificate of incorporation issued by the Registrar;
- (c) certificate of change of name, if any;
- (d) registered address or addresses of the company;
- (e) registration documents or documents submitted to the Registrar during the registration of the company;
- (f) articles of the company, if any;
- (g) the company's register of members;
- (h) the company's register of directors;
- (i) the company's register of contact persons;
- (j) the register of nominee directors and their nominator;
- (k) the company's records relating to its directors' service contracts;
- (l) the company's records relating to directors' indemnities;
- (m) the company's register of company secretaries;
- (n) the records of resolutions passed by the company;
- (o) in the case of a private company, the company's contracts relating to purchase of its own shares out of capital and documents relating

to redemption or purchase of own shares out of capital;

(p) the company's register of debenture holders;

(q) in the case of a public company—

(i) reports made by the company to members regarding the outcome of investigations by the company into interests in its shares; and

(ii) the company's register of interests disclosed;

(iii) beneficial ownership information; and

(iv) financial records.

(2) If a company fails to comply with a requirement of this section, the company, and each officer of the company who is in default, commit an offence and on conviction are each liable to a fine not exceeding five hundred thousand shillings.

(3) If, after a company or any of its officers has been convicted of an offence under subsection (2), the company, and each officer of the company who is in default, commit a further offence and on conviction are each liable to a fine not exceeding fifty thousand shillings for each such offence.

