

**PUBLIC CONSULTATION ON BUSINESS LICENSING REFORMS**  
**THE WORKING COMMITTEE ON REGULATORY REFORMS FOR**  
**BUSINESS ACTIVITY IN KENYA**

The Working Committee established by the Government through Gazette Notice No. 7521 of 23<sup>rd</sup> September, 2005 seeks public comments on the 1,300+ licences affecting business operations in Kenya.

The growth and competitiveness of the private sector is negatively affected by the onerous business licenses. This has adversely affected economic growth and the creation of job opportunities in Kenya. Consequently, the Government decided to use the regulatory guillotine so as to rapidly delete or simplify those licenses which are illegal, unnecessary or business unfriendly.

The licenses which are necessary from a health, environment or safety perspective should be simplified if they are business unfriendly. This is also included in the anti-corruption action plan agreed by Government with the development partners during the last Consultative Group meeting with development partners held in Safari Park Hotel in April, this year.

The guillotine process is defined as an independent, neutral and objective process whereby licences are reviewed according to the following criteria: is it legal, necessary, business friendly, can it be simplified by conversion into a notification, amalgamation, reducing the target group, reducing the reporting frequency, applying silence is consent rule or by establishing time limits for responses. The recommendations of the review will be implemented through the budget.

The Working Committee is required to fast track the streamlining of business licenses in Kenya through the budgetary process. The Committee comprises of representatives of the Ministry of Finance, the Ministry of Trade & Industry, the Law Reform Commission, the Attorney-General, and is led by a private sector legal expert.

The Working Committee seeks comments from public bodies, licensing authorities, business associations, the private sector and business people on the individual licences so as to assist it in making appropriate recommendations to the Government on which licenses should be retained, abolished or simplified.

Written comments should be submitted so as to reach the Committee through the following address on or before 2<sup>nd</sup> December, 2005.

The Joint Secretaries  
Working Committee on Regulatory Reforms for Business Activity in Kenya  
Ministry of Trade and Industry  
Teleposta Towers  
P.o.Box 30430-00100  
G.P.O NAIROBI

Online comments may be submitted through [licenses@tradeandindustry.go.ke](mailto:licenses@tradeandindustry.go.ke)

**WORKING COMMITTEE ON REGULATORY REFORMS FOR  
BUSINESS ACTIVITY IN KENYA**

**Revised Terms of Reference for the Committee**

**1 The Project**

- (a) Many inefficient and costly licences, permits, and certifications of businesses hamper business growth and competitiveness in Kenya. The GoK decided to adopt a comprehensive approach to reforming the licensing regime.
- (b) The objective of the reform is to substantially reduce the number of licensing requirements in Kenya and, by doing so, to make the licensing regimes more simple and transparent, and focused on legitimate regulatory purposes.
- (c) The Working Committee has completed Phase I of the business licensing reforms under the original terms of reference (edition February, 2005). This included the review of 86 licences which impact on business. Government eliminated 35 licences and simplified 4 others excluding the double counting arising out of simplification and consolidation of licences.
- (d) The Working Committee is now required to apply the guillotine strategy to the remaining licences which impact on business activity in Kenya. The Committee is now required to review an estimated 514 licences, establish a permanent electronic registry for licences at the Attorney-General's office in Kenya and also to put in place a mechanism for quality review of licences in future in accordance with the specific terms of reference contained in these revised terms of reference.
- (e) Business licences are all Government regulations impinging on business activities (start-up, operation and termination) requiring active, official authorisation prior to or subsequent upon the commencement of business operations. They include business licences, permits, approvals, certificates, registrations, authorisations and their renewals.
- (f) The guillotine process is defined as an independent, neutral and objective process whereby licences are reviewed according to the following criteria: is it legal, necessary, business friendly, can it be simplified by conversion into a notification, amalgamation, reducing the target group, reducing the reporting frequency, applying silence is consent rule or by establishing time limits for responses. The

recommendations of the review will be implemented through the budget.

## **2 Specific Terms of Reference for the Committee**

The Working Committee will:

- (a) Design and implement a strategic plan for the implementation of Phases II, III and IV of the guillotine strategy as well as budget of the financial implications;
- (b) Review the 34 licences identified by the Committee as requiring further review following the conclusion of phase I as well as 32 licences left out during the budgetary process for 2005/6 as identified by the Committee for elimination or simplification. The Committee will then make specific recommendations by 30<sup>th</sup> September, 2005 of the licences to be eliminated, maintained or simplified and a justification of the decision based on the guillotine strategy. The Working Committee will also draft the required statutory amendments and submit them to the Minister for Finance by that date;
- (c) Monitor and evaluate the impact of Phase I and to follow up on the amendments effected by the Government through the Budgetary process 2005/2006 following the recommendations of the Working Committee in Phase I;
- (d) Send a reminder and co-ordinate with the Ministries, Public Bodies and other institutions that issue licences and which did not respond to the Circular from the Ministry of Finance by 18<sup>th</sup> March 2005. The circular is dated 24<sup>th</sup> February, 2005;
- (e) Carry out such independent study of the Laws of Kenya so as to identify individual business licences and develop a complete list of all business licences in Kenya;
- (f) Subject those licences which are not reviewed in Phases I and II (estimated at about 514) to the guillotine strategy for licensing reforms through the 2006/2007 Budget;
- (g) Review and carry out independent assessment of the continuation of the individual licences. All licences will be subjected to the following tests: is it legal, is it business friendly, is it necessary from an environmental, health and safety perspective. Can it be, converted into notification? Can the target group be reduced or licenses be amalgamated, or time limit be imposed on the regulator.

- (h) Assess the revenue implications of the proposed reforms of each of the remaining 514 licences for review in Phase II bearing in mind the budgetary implications;
- (i) Liaise and consult as time permits with the Private Sector, Government Ministries and Public Bodies to implement the guillotine strategy for the licensing reforms;
- (j) Hold consultative seminars, workshops or meetings to ensure transparency in the process of the guillotine strategy;
- (k) Make specific recommendations on the reforms as to which licences are to be retained, amended or abolished taking into account their necessity, legality, efficiency, budgetary implications and business friendliness;
- (l) Prepare the draft legislative instruments in support of recommendations and submit them to the Ministry of Finance for inclusion in the 2006/7 budgetary process by 22<sup>nd</sup> April, 2006;
- (m) Support the final discussion and appeal processes in the Ministry of Trade & Industry and Ministry of Finance;
- (n) Revise final recommendations to reflect Ministry of Trade & Industry and Ministry of Finance final decisions;
- (o) Monitor and evaluate the implementation of the recommendations
- (p) Design data base infrastructure, create a comprehensive and central electronic registry of all licences and build capacity by 31<sup>st</sup> December, 2006;
- (q) Establish a permanent unit for quality review of new licences in the future by December, 2006;
- (r) Establish a monitoring and evaluation mechanism within the context of the permanent unit for quality review of new licences in Kenya;
- (s) In consultation with the Permanent Secretary of the Ministry of Trade & Industry, co-opt such additional expertise as may be required from time to time for the better carrying out of these terms of reference;
- (t) Carry out such other work or otherwise advise Government on licensing and regulatory reforms as may arise in the course of delivery of the tasks.

## Download a list of Licenses in Kenya