

Local Content Bill, 2025

Ambition Meets Regulation

In this edition

Kenya's Local Content Bill, 2025, mandates foreign companies to source 60% of goods/services locally, employ 80% Kenyans, and buy all agricultural produce from local farmers across sectors like finance, logistics, and construction, aiming to boost jobs, reduce profit repatriation, and strengthen supply chains—extending beyond extractives unlike similar African laws.

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Background

- **Policy Context-** The Local Content Bill, 2025, embodies Kenya's "Buy Kenya, Build Kenya" policy, mandating foreign companies to source at least 60% of goods and services locally, employ 80% Kenyan staff, and procure all agricultural produce from Kenyan farmers. It aims to boost jobs, strengthen domestic supply chains, reduce profit repatriation, and support local industries.
- **Broader Implications-** This legislation extends beyond extractive sectors (unlike similar laws in Nigeria, Ghana, and Tanzania) to include finance, insurance, logistics, construction, and more. It reflects an African trend toward ensuring foreign investments benefit locals but raises concerns about feasibility, compliance, and potential conflicts with international trade obligations like WTO rules.
- **Mixed Outcomes from Similar Laws-** While some countries have seen industrial growth, others experienced investment deterrence due to rigid quotas and enforcement, highlighting the need for Kenya to balance ambition with practicality



Bill Analysis

i. Act Commencement

Once the Bill is assented into Law to become the Local Content Act, 2025 it is proposed to come into force one year after the Act's publication in the Gazette.

This is a pragmatic proposal that gives businesses time to adjust contracts, supply chain, and workforce planning to meet the new requirements.

ii. Definitions

The Bill proposes to define key terms as below:

Local & Foreign Companies

The Bill proposes to define a “local company” as a company incorporated and registered in Kenya under the Companies Act, with the majority of its shareholding held by Kenyan citizens.

A “foreign company” is defined as a company incorporated outside Kenya, with the majority of its shareholding held by non-Kenyan citizens and control exercised from outside Kenya.

On paper, this looks neat. However, in practice it risks conflicting with the Companies Act 2015 which already provides statutory definitions of local and foreign companies and serves as the governing framework for Companies in Kenya. By having a parallel definition, the proposal risks inconsistency.

The Bill should instead cross-reference the Companies Act and only add criteria specific to local content regulations such as ownership threshold.

Local Content

The Bill proposes to define a “local company” as a company incorporated and registered in Kenya under the Companies Act, with the majority of its shareholding held by Kenyan citizens.

iii. Objectives and Purposes

The Bill proposes a comprehensive framework to regulate local content, promote industry, boost manufacturing, support agriculture, create jobs, and reduce profit repatriation. Which are patriotic objectives that align with Kenya’s economic priorities.

iv. Local Content Requirements

The Bill outlines the core obligations that foreign companies must meet when operating in Kenya.

It applies local content requirements to sectors such as financial services, insurance, construction, transport, warehousing, logistics and security, with power given to the Cabinet Secretary for Trade and Industrialization to include additional sectors.

Foreign companies would be required to source at least 60% of goods and services locally, employ at least 80% Kenyan citizens, and procure all agricultural produce from Kenyan farmers. They must also provide technical and capacity-building support to local firms and comply with Article 41 of the Constitution on fair labour practices and fair remuneration.

Non-compliance constitutes an offence, attracting a minimum fine of KES 100,000,000 for a corporate body and a minimum one-year prison term for the chief executive officer. rage foreign participation.

The provisions would be strengthened by the introduction of phased targets, sector-specific thresholds and sanctions that are proportionate to the nature and extent of non-compliance. This would promote the objectives of the Bill while ensuring that the framework remains practical, consistent and supportive of a stable investment environment.

v. Regulations

The Bill proposes to allow the CS, Trade and Industrialization to make regulations for the effective implementation of the Act's provisions. The Cabinet Secretary is empowered to prescribe standards for goods and services, expand the categories of services to which local content requirements will apply, and to add other categories of local content requirements. The Bill further proposes to set the timeline for when necessary, Regulations is to be made as within one year from the commencement of the Act.

vi. Saving & Transitional Provision

The Bill proposes to have all rights, obligations, and contracts between foreign companies and suppliers existing before the commencement of the Act to remain in force for the unexpired period of those contracts.

In effect this proposal is aimed at protecting agreements entered prior to commencement of the Act, ensuring that businesses are not forced to breach existing obligations or disrupt supply chains immediately upon commencement. This is an important proposal as it upholds the principle of legal certainty and respects contractual rights.

Conclusion

The Local Content Bill 2025, is ambitious and patriotic. It seeks to embed Kenya's economic priorities into law by mandating procurement quotas, employment thresholds, and agricultural sourcing obligations. Its strength lies in its clarity and boldness, it guarantees markets for Kenyan producers, creates jobs, and forces foreign companies to invest in local skills. Yet, its weaknesses are equally clear, rigid quotas, parallel definitions, and disproportionate penalties risk undermining its objectives.

Its Memorandum of Objects persuasively sets out the Bill's rationale as, youth unemployment, profit repatriation, unfair business practices, and the need to support Kenyan Farmers. It positions the Bill as a corrective measure to ensure foreign investments translate into domestic value. However, the Memorandum glosses over potential risks such as WTO trade conflicts, investor flight, and supply chain limitations. A balanced memorandum would acknowledge these challenges and explain how the Bill intends to mitigate them.

The success of the Bill and the resulting Act are hinged on alignment of the proposals and provisions to address potential risks and negative impact. Done right, it could be Kenya's most assertive step toward industrial empowerment, done poorly, it risks deterring investment and creating compliance theatre.

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