

UK–Kenya Compliance Guide 2026

A practical guide for UK businesses outsourcing to Kenya: cross-border data transfers, Permanent Establishment risk, the Employment Act 2007, and statutory payroll.

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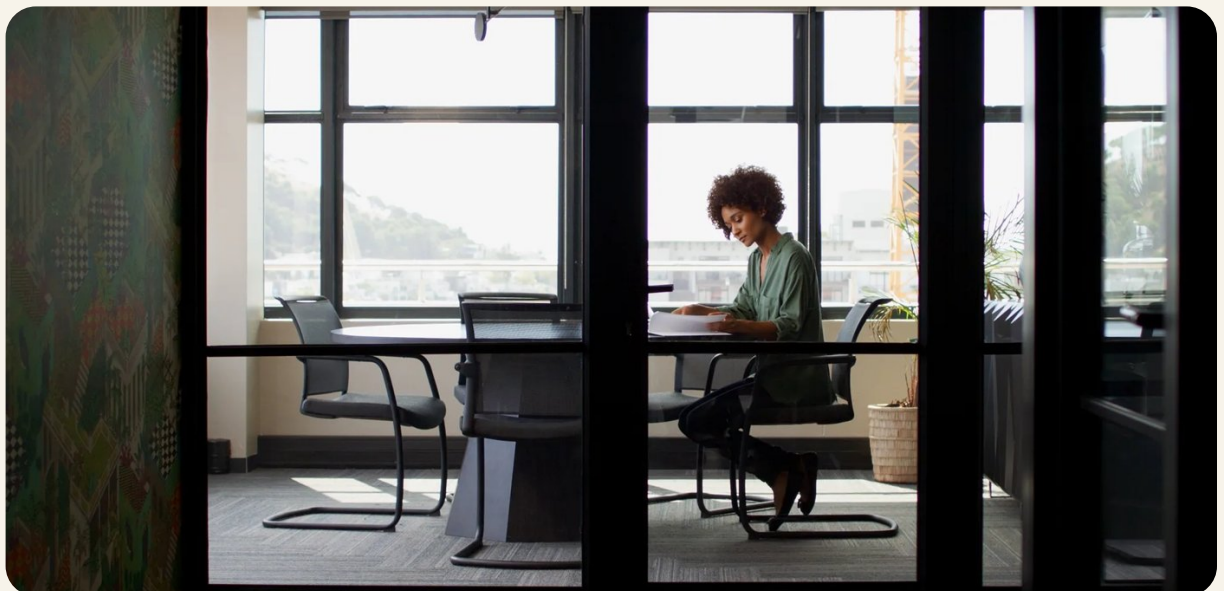
Executive summary

Kenya has become one of the most attractive destinations for UK businesses building offshore teams — a common-law legal system derived from English law, English as an official language of business and the courts, a GMT+3 time zone with five to six hours of daily overlap with the UK, and fully loaded employment costs typically 55–65% below their UK equivalents.

Those advantages come with compliance obligations on both sides of the corridor. A UK company sending personal data to a Kenyan team remains the data controller under UK GDPR and must put approved safeguards in place, because Kenya does not hold a UK adequacy decision. The same company must structure its arrangements to avoid creating a taxable Permanent Establishment in Kenya. And whoever legally employs the Kenyan staff must meet the standards of the Employment Act 2007 and operate the four statutory payroll deductions — PAYE, NSSF, SHIF and the Affordable Housing Levy — to the correct rates and deadlines.

This guide walks through each of those areas in turn, sets out the practical steps and current 2025/26 figures, and explains how an Employer of Record (EOR) structure addresses several of these obligations at once.

Important: This guide is for general information and does not constitute legal or tax advice. Statutory rates and thresholds change with each Finance Act and regulatory update. Confirm current figures against the Kenya Revenue Authority (KRA), the Social Health Authority (SHA) and the NSSF, and take professional advice on material or complex arrangements before acting.



SECTION ONE

Cross-border data transfers

UK GDPR, the IDTA, and Transfer Risk Assessments for sending personal data to Kenya.

Cross-border data transfers

Kenya has no UK adequacy decision

The starting point for any UK business is that **Kenya does not hold a UK adequacy decision**. As a result, a UK organisation cannot transfer personal data to a Kenyan service provider on the basis of adequacy alone — it must put an **appropriate safeguard** in place first.

UK GDPR — the retained UK version of the GDPR, given effect through the Data Protection Act 2018 — applies wherever a UK organisation processes personal data, regardless of where the processing happens. The UK company remains the **data controller** with ongoing accountability. Even **remote access** to UK-held data from Kenya generally counts as a “transfer”.

The IDTA is the approved mechanism

Since Brexit, the UK’s approved contractual safeguard is the **International Data Transfer Agreement (IDTA)**, issued by the Information Commissioner’s Office (ICO). It replaced the EU Standard Contractual Clauses (SCCs) for UK-originated transfers. A UK exporter has two compliant options: the UK IDTA (recommended), or the EU SCCs *plus* the UK International Data Transfer Addendum. Standalone EU SCCs are not approved for UK-regulated transfers.

IDTA modules — choosing the right transfer scenario

Module	Scenario
Module One	Controller to controller
Module Two	Controller to processor — the typical outsourcing case
Module Three	Processor to processor
Module Four	Processor to controller

Complete a Transfer Risk Assessment first

Before signing an IDTA, complete a **Transfer Risk Assessment (TRA)** — an evaluation of whether law and practice in Kenya would undermine the protection the IDTA provides. The ICO publishes template TRA documentation. A TRA for Kenya should weigh the legal framework (Kenya’s Data Protection Act 2019, public-authority access, and redress) and practical risk factors (the nature and sensitivity of the data, the purposes and duration of processing, and the recipient’s security). Where residual risk remains, layer on **supplementary measures**: enhanced encryption in transit and at rest, pseudonymisation, technical access controls, contractual restrictions, and staff training.

Don’t forget the Data Processing Agreement

The IDTA governs the international *transfer*; UK GDPR separately requires a **Data Processing Agreement (DPA)** governing the processing *relationship*. Both are normally needed. Under UK GDPR, a controller must notify the ICO **within 72 hours** of becoming aware of a breach, and a processor must notify the controller without undue delay.

☑ Data-transfer compliance checklist

- Map every UK→Kenya personal data flow, including remote access ✓
- Complete and document the Transfer Risk Assessment ✓
- Execute the appropriate IDTA module (usually Module Two) ✓
- Implement supplementary measures where risk remains ✓
- Put a DPA in place alongside the IDTA ✓
- Maintain records and review annually ✓

Kenya runs its own GDPR-aligned regime: the **Data Protection Act 2019**, enforced by the Office of the Data Protection Commissioner (ODPC), with familiar principles, data-subject rights, registration requirements, and breach-notification duties. Its jurisdiction can reach UK companies processing Kenyan residents' data, and non-compliance can attract compliance notices, administrative fines and, for serious breaches, criminal liability.



SECTION TWO

Permanent Establishment risk

What creates a taxable presence in Kenya — and how to structure around it.

Permanent Establishment risk

Permanent Establishment (PE) is a tax concept found in double-taxation treaties. A PE exists when a business has a **fixed place of business** in a country through which it operates — and once one exists, the business becomes subject to **local corporate tax on the profits attributable to it**.

What can trigger a PE

The UK–Kenya Double Taxation Treaty follows OECD Model Convention principles. A PE typically arises through a **fixed place of business** (a place of management, branch or office — including dedicated Kenyan office space the UK company controls); a **dependent agent** who habitually concludes contracts on the UK company's behalf; or construction/installation projects exceeding set durations. For outsourcing, the risk concentrates around the degree of UK management control and whether there is a direct employment relationship managed from the UK. A single direct hire is unlikely on its own to create a PE, but the totality of the arrangement matters.

How an Employer of Record mitigates PE risk

The most common mitigation is an **Employer of Record (EOR)**, which works on three fronts: **legal employment separation** (the EOR is the legal employer; the UK company buys services, not labour — addressing the dependent-agent test); **infrastructure provision** (the EOR supplies premises and equipment, so the UK company maintains no fixed place of business); and **compliance management** (the EOR runs PAYE, NSSF, SHIF and the Housing Levy).

Caveat: An EOR *mitigates* but does not *automatically eliminate* PE risk. Whether it works depends on the specific contracts, the activities actually performed, and the treaty. Take professional tax advice for complex or high-value arrangements — the Kenya Revenue Authority actively monitors international business arrangements.

PE risk-management checklist

- Keep clear contractual separation between UK and Kenyan operations 
- Use an EOR or a carefully structured entity 
- Document the basis for the PE assessment 
- Ensure service agreements reflect a genuine commercial relationship 
- Take professional tax advice on material arrangements 

SECTION THREE

The Employment Act 2007

The standards every Kenyan employment relationship must meet.

The Employment Act 2007

The **Employment Act 2007** is Kenya's primary employment legislation. It applies to **all employees working in Kenya, regardless of where the employer is based**, and sets minimum standards that cannot be contracted away.

Employment contracts

A **written contract is mandatory for any employment lasting longer than three months**, specifying job description, remuneration, working hours and leave. Contracts must be **in English** (Constitution, Article 7). **Probation** is permitted, typically up to **six months**, with shorter notice during the period.

Working hours and overtime

Item	Standard
Maximum hours (daytime workers)	52 hours/week
Maximum hours (night workers)	60 hours/week
Overtime — weekdays	1.5× normal hourly rate
Overtime — rest days & public holidays	2× normal hourly rate

Statutory leave entitlements

Leave type	Entitlement
Annual leave	21 working days' paid leave per year of continuous service
Sick leave	14 days/year — full pay for the first 7 days, half pay for the next 7
Maternity leave	3 months on full pay
Paternity leave	2 weeks

Notice periods on termination

Length of service	Notice required
Less than 1 month	None (payment in lieu acceptable)
1 month to 5 years	1 month's notice
Over 5 years	2 months' notice

Termination must be justified on grounds of misconduct, poor performance or redundancy; **summary dismissal is permitted only for gross misconduct**. Disputes are heard by the Employment and Labour Relations Court. **Redundancy** must follow consultation and provide severance of **not less than 15 days' pay for each completed year of service**.

SECTION FOUR

Statutory payroll 2025/26

PAYE, NSSF, SHIF and the Affordable Housing Levy — rates, caps and deadlines.

Statutory payroll (2025/26)

Kenyan payroll involves four statutory items. With one timing exception noted below, **all are due by the 9th of the following month.**

PAYE (Pay As You Earn)

Monthly PAYE bands (in force since the Finance Act 2023)

Monthly taxable pay (KES)	Rate
First 24,000	10%
Next 8,333 (24,001–32,333)	25%
Next 467,667 (32,334–500,000)	30%
Next 300,000 (500,001–800,000)	32.5%
Above 800,000	35%

A **personal relief of KES 2,400 per month (KES 28,800/year)** is deducted from tax due. Since the Tax Laws (Amendment) Act 2024, employee NSSF, SHIF and Housing Levy contributions are allowable deductions from gross pay before PAYE is calculated.

NSSF (pension)

From the third phase (February 2025): **6% employer + 6% employee**

Tier	Earnings band	Contribution (each side)
Tier I	First KES 8,000	KES 480
Tier II	Next KES 64,000 (8,001–72,000)	KES 3,840
Maximum	At/above KES 72,000	KES 4,320 each

SHIF and the Affordable Housing Levy

SHIF replaced NHIF on 1 October 2024: **2.75% of gross salary**, minimum KES 300, no upper cap, remitted to the SHA. The **Affordable Housing Levy** (effective 19 March 2024) is **1.5% employee + 1.5% employer = 3% of gross**; late payment attracts a 3% per month penalty.

£ **Worked example — employee on KES 150,000/month**

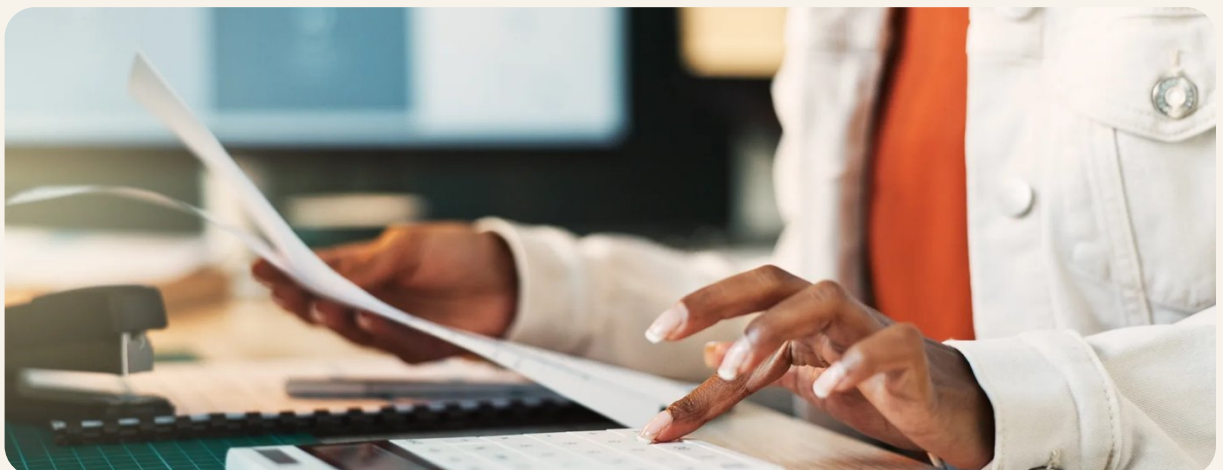
NSSF (employee, capped) — 6% of 72,000	KES 4,320
SHIF (employee) — 2.75% of 150,000	KES 4,125
Housing Levy (employee) — 1.5% of 150,000	KES 2,250
Taxable pay (150,000 - 10,695)	KES 139,305
PAYE payable (after KES 2,400 relief)	KES 34,175

The employer’s additional statutory cost here — NSSF 4,320 plus Housing Levy 2,250 — is about **KES 6,570, roughly 4.4% on top of gross**. For comparison, UK employer National Insurance runs at 13.8%.

Compliance calendar

Obligation	Frequency	Deadline	Authority
PAYE remittance & return	Monthly	9th of following month	KRA (iTax)
NSSF contributions	Monthly	9th of following month	NSSF
SHIF contributions	Monthly	9th of following month	SHA
Affordable Housing Levy	Monthly	9th of following month	KRA
P9 certificates to staff	Annual	End of January	Employer

Note on NSSF timing: Older guidance cites the 15th of the following month for NSSF. The most current 2025/26 source aligns NSSF with the other items on the 9th. Confirm the live deadline with NSSF before scheduling payments.



SECTION FIVE

The legal system

A common-law foundation closely aligned with the UK.



The legal system: a common-law foundation

Kenya operates a **common-law legal system derived from English law**. The Judicature Act applies English common law, the doctrines of equity, and statutes of general application in force in England as of 1897, subject to modification by Kenyan legislation. Kenya retained these foundations after independence in 1963.

The **court hierarchy parallels the UK's**: Supreme Court, Court of Appeal, High Court, Magistrates' Courts and specialised tribunals. The ranked sources of law are the Constitution of Kenya (2010), then legislation, then English common law and equity where no Kenyan statute governs, then customary and Islamic law in limited domains.

English is an official language (Constitution, Article 7) and the primary language of business and the law — eliminating translation requirements for contracts, policies and compliance documentation. Contract-law principles align closely with the UK: offer and acceptance, consideration, remedies for breach and implied terms; commercial concepts of agency, tortious liability and corporate governance map across.

The alignment is **structural, not identical**. Kenya has developed distinct statutes and jurisprudence since independence — the Employment Act 2007, the Companies Act 2015 and the Data Protection Act 2019 all reflect local policy choices. For outsourcing contracts, UK businesses can specify English governing law (Kenyan courts apply conflict-of-laws principles to recognise such choices) or choose Kenyan law for local enforceability; arbitration clauses are common, and UK and Kenyan judgments are mutually recognisable under established common-law principles.



SECTION SIX

Delivery models & checklist

Own entity vs Employer of Record — and a master compliance checklist.

Two delivery models, and how they map to these obligations

Obligation	Own Kenyan entity	Employer of Record (EOR)
Setup	Register a branch/subsidiary with KRA, SHA and NSSF	None — provider is already established
Legal employer	Your entity	The EOR
Payroll (all four items)	You operate and file	EOR operates and files
PE risk	Higher — requires careful structuring	Reduced through legal separation
Best suited to	Larger, long-term headcount	Faster entry; smaller or growing teams


A common pattern is to **start with an EOR and move to a direct entity** once headcount grows beyond roughly 15–20 employees, at which point the transition requires new entity registration, tax clearance and the transfer of employment contracts.

✓ Master compliance checklist

- Data** · Map flows, complete a TRA, execute the IDTA, add a DPA, review annually ✓
- PE** · Keep contractual separation, use an EOR or structured entity, document the basis ✓
- Employment** · Issue written English contracts; apply hours, leave, notice and redundancy rules ✓
- Payroll** · Apply current PAYE/NSSF/SHIF/Housing Levy rates; meet monthly deadlines; issue P9s ✓

Build your Kenya team with confidence

Outsourcing.ke maps the market, the talent and the compliance corridor between the UK and Kenya. Explore the full set of guides and data at outsourcing.ke.

 [Learn more at outsourcing.ke](https://outsourcing.ke)

Reflects rates and regulations current for 2025/26. For general information only; not legal or tax advice. Verify figures with the relevant Kenyan authorities and take professional advice before acting.

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Kenya outsourcing market intelligence — data, guides and compliance for UK businesses building offshore teams.