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Economy

Firms risk Sh10m fine for delayed pay to suppliers

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Summary

- Delayed payments to suppliers and contractors "without justifiable reason in breach of agreed terms of payment" will as a result constitute "abuse of buyer power", an offence whose punishment will be similar to abuse of dominance.
- A number of organisations, including Kepsa, the World Bank Group and Kenya Association of Manufacturers (KAM), had earlier in the year blamed accumulating State bills for strangling cash supply, hurting corporate profitability and jobs.

Public and private firms face a fine of up to Sh10 million for failure to pay suppliers within agreed time in proposed changes to the law.

The heads of defaulting firms could also be committed to a maximum jail term of five years if found guilty in addition to the fine, the proposed amendment to the Competition Act 2010 stipulates.

The introduction of the new section to the competition law follows a deal President Uhuru Kenyatta struck with industry captains on May 26.

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The Presidential roundtable between top government officials and the Kenya Private Sector Alliance (Kepsa), which Mr Kenyatta chairs, in May resolved to fast-track clearance of mounting pending bills to contractors and suppliers.

Although the meeting had resolved to set a 60–day cap for payments, the proposed law has left it to terms agreed in the contract.

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Kepsa said in April pending bills had compounded cash flow challenges for companies which have since September 2016 been grappling with reduced access to credit following enforcement of ceilings on loan charges.

“The reasons there are shackles on private sector and subsequently job creation is that on one hand, we have the government not paying contractors and suppliers and, on the other hand, there’s limited access to credit as a result of the rate cap,” Jibran Qureishi, the lead regional economist for Stanbic Bank, had said in April.