THE VIRTUAL ASSET REGULATION BREAKDOWN SERIES

VOLUME I — FOUNDATIONS · ARTICLE 1

KENYA NOW REGULATES VIRTUAL ASSETS

An introduction to the Virtual Asset Service Providers Act, 2025 and the Virtual Asset Service Providers Regulations, 2026 — what the two instruments are, when each took effect, and affected parties

T.M.M & PARTNERS ADVOCATES

PRIMARY PROVISIONS

Virtual Asset Service Providers Act, No. 20 of 2025

The Virtual Asset Service Providers Regulations, 2026 (Legal Notice No. 134 of 2026)

AUGUST 2026

AT A GLANCE

- Kenya's virtual asset framework rests on **two instruments**: the Virtual Asset Service Providers Act, No. 20 of 2025, which commenced on **4 November 2025**, and the Virtual Asset Service Providers Regulations, 2026, gazetted as **Legal Notice No. 134** on **22 July 2026**.
- A person may not carry on the business of virtual asset services **in or from Kenya** without a licence. Doing so is a criminal offence under section 8 of the Act.
- Two regulators share the field. The **Capital Markets Authority** supervises trading, brokerage, advisory, management and offering activity; the **Central Bank of Kenya** supervises wallets, payment processing and stablecoin issuance.
- Ten licensable activities are listed in the First Schedule to the Act, each with its own capital, fee and conduct requirements.
- Persons already providing virtual asset services when the Act commenced must comply within one year of commencement — by **4 November 2026** — under section 47.

1. Two instruments, one framework

Until November 2025 Kenya had no law governing virtual assets. Exchanges operated, wallets held customer coins, and Kenyans bought and sold digital assets in volume — but no statute said who could offer those services, on what terms, or to whom a customer could complain. Regulators issued cautionary notices; banks were told to keep their distance. Nothing more.

That position has now changed completely, and it has changed through **two instruments that must be read together**.

The **Virtual Asset Service Providers Act, No. 20 of 2025** is the parent statute. It creates the licensing requirement, designates the regulators, sets out the general obligations of a licensee, provides for investigation and enforcement, and creates criminal offences. It runs to 49 sections across ten Parts, with two Schedules.

The Act is, however, deliberately incomplete. Section 49 empowers the Cabinet Secretary for the National Treasury, on the advice of the relevant regulatory authorities, to make regulations, and it enumerates eighteen distinct matters those regulations may prescribe — the form of application, the fees payable, capital and solvency requirements, prudential standards, insurance, stablecoin requirements, freezing and seizure conditions, and more. Until those regulations existed, the Act could not be operated. There was no application form to complete, no fee to pay and no capital figure to meet.

The **Virtual Asset Service Providers Regulations, 2026** supply that missing content. They comprise 151 regulations across fifteen Parts, with six Schedules covering fees, forms, the contents of a business plan, the fit and proper assessment, capital and liquidity requirements, and the membership of a new coordination forum. They are arguably the most detailed subsidiary instrument yet made in the Kenyan financial services sector.

Neither instrument can be read alone. The Act tells you that a licensee must maintain capital; the Fifth Schedule to the Regulations tells you how much. The Act tells you an application must be accompanied by a prescribed fee; the First Schedule to the Regulations tells you what that fee is. Throughout this series we cite both.

2. When each took effect

The dates matter, because they set the clocks that every business in this sector is now running against.

Date	Event
15 October 2025	The Virtual Asset Service Providers Bill is assented to, becoming Act No. 20 of 2025.
21 October 2025	The Act is published in the Kenya Gazette.
4 November 2025	**The Act commences.** The licensing requirement in section 8 takes effect, and the one-year transitional period in section 47 begins to run.
3 July 2026	The Regulations are made by the Cabinet Secretary for the National Treasury, on the advice of the relevant regulatory authorities.
22 July 2026	**The Regulations are gazetted** as Legal Notice No. 134, in Kenya Gazette Supplement No. 185 (Legislative Supplement No. 103).
4 November 2026	**The section 47 transitional period expires.** Persons who were providing virtual asset services at commencement must by then comply with the Act.

Sources: Act No. 20 of 2025, commencement and publication particulars; Legal Notice No. 134 of 2026.

3. The shape of the framework

3.1 The object

Section 3 of the Act states its main object: to provide the legislative framework to license and regulate the activities of virtual asset service providers in and from Kenya. **Regulation 3** states the object of the

Regulations in four limbs — licensing and regulation, the control of advertisements and promotions, financial and capital requirements, and the implementation of freezing and seizure orders.

3.2 Two regulators

Section 5 designates the **Capital Markets Authority** and the **Central Bank of Kenya** as the relevant regulatory authorities, and permits the Cabinet Secretary to designate any other public body by notice in the Gazette. Which authority regulates a given business is not a matter of choice: the First Schedule to the Act allocates each of the ten licensable activities to one authority or the other.

Broadly, the Capital Markets Authority takes the activities that resemble securities markets — exchange, trading and settlement, brokerage, investment advice, asset management, initial coin offerings, tokenisation and token issuance platforms. The Central Bank takes the activities that resemble payments and money — custodial wallets, payment processing and stablecoin issuance.

Section 6 sets out the functions of both authorities: to license, to supervise promoters of virtual asset offerings, to issue directions and take enforcement action, to publish guidance, to ensure financial soundness and stability, to advise the Cabinet Secretary, and to cooperate with supervisory bodies, competent authorities and investigating authorities.

3.3 The guiding principles

Section 7 binds both authorities, in exercising every power and performing every function under the Act, to be guided by four principles:

1. to ensure financial stability in Kenya;
2. to ensure market integrity in Kenya;
3. to foster innovation and maintain fairness, transparency and efficiency in the virtual assets sector in Kenya; and
4. to prevent, detect and restrain conduct that causes or may cause damage to the financial reputation of Kenya.

These are not preambular sentiments. They are a statutory direction, and they condition the exercise of every discretion the Act confers.

3.4 Coordination

Regulation 145 establishes the **Virtual Assets Services Coordination Forum**, chaired by the National Treasury. The Sixth Schedule names nineteen member agencies — including the Asset Recovery

Agency, the Ethics and Anti-Corruption Commission, the Financial Reporting Centre, the Directorate of Criminal Investigation, the National Intelligence Service, the Kenya Revenue Authority, the Office of the Data Protection Commissioner and the Communications Authority — and permits the Cabinet Secretary to designate others. The Forum meets at least quarterly and reports annually to the Cabinet Secretary. Regulation 148 allows the two regulators to undertake supervisory and licensing activity jointly.

4. Who it Applies to

4.1 The prohibition

> *A person shall not carry on, or purport to carry on, the business of virtual asset services, or hold itself out as carrying on that business in or from Kenya, unless that person is licensed to do so by the relevant regulatory authority under this Act.*
>
> **— SECTION 8(2) OF THE ACT**

Contravention is an offence. On conviction, an individual is liable to a fine not exceeding Kshs 10 million or imprisonment for a term not exceeding five years, or both; a company is liable to a fine not exceeding Kshs 25 million.

4.2 The ten licensable activities

The First Schedule to the Act lists the activities that constitute virtual asset services and allocates each to a regulator.

Activity	Regulator
Virtual asset wallet provider — custodial wallet services	Central Bank of Kenya
Virtual asset exchange — transfer and conversion of virtual assets	Capital Markets Authority
Trading, clearing and settlement platforms	Capital Markets Authority
Virtual asset payment processor — payment gateway	Central Bank of Kenya
Virtual asset broker — brokerage services	Capital Markets Authority
Virtual asset investment advisor — investment advisory services	Capital Markets Authority
Virtual asset manager — discretionary portfolio management	Capital Markets Authority

Activity	Regulator
Virtual asset offering provider — initial coin offering	Capital Markets Authority
Virtual asset tokenisation and token issuance platforms	Capital Markets Authority
Stablecoin issuance	Central Bank of Kenya

Source: First Schedule to the Virtual Asset Service Providers Act, No. 20 of 2025.

4.3 Who may apply

Section 8(1) confines eligibility to a **company limited by shares** registered under the Companies Act (Cap. 486), or a foreign company limited by shares and so registered. Sole proprietors, partnerships and trusts cannot hold a licence. Section 19 requires a licensee to maintain a physical office in Kenya where its business activities are carried out.

4.4 Territorial reach

Section 4(1) applies the Act to virtual asset service providers offering virtual asset services in Kenya, and section 8(2) reaches services offered "in or from" Kenya. Regulation 4(2) then supplies a deeming test: a person is treated as operating in or from Kenya where that person **actively solicits or targets local consumers, or derives an economic benefit or income from Kenya**, regardless of whether the person has a physical presence in Kenya. Article 9 in this volume examines that provision in detail.

4.5 What falls outside

Section 4(2) excludes several categories from the Act. Digital representations of value operating solely within a **closed ecosystem** are excluded where they satisfy five cumulative criteria — non-transferable outside the ecosystem, non-exchangeable for real-world goods or services outside it, non-tradeable on any secondary market outside it, usable only for purposes the issuer defines and not for payment or investment, and non-exchangeable for fiat currency or virtual assets. Digital representations of fiat currency issued by the Central Bank of Kenya or any other jurisdiction are excluded. So are non-fungible tokens which are not used for payment, investment or any other financial purpose, judged by nature and function rather than by the label the issuer applies.

Section 4(3) goes further: **virtual service tokens are not virtual assets for purposes of the Act**, and a person providing services involving only virtual service tokens does not require a licence. Articles 3 and 4 examine these carve-outs, which are narrower than they first appear.

5. What a licence involves, in outline

The detail occupies most of this series. In outline, an applicant must submit the prescribed form with twenty-one categories of supporting material, including a business plan, fit and proper assessments for directors, senior officers, significant shareholders and beneficial owners, proof of source of funds, nine board-approved operational policies, an independent information systems audit with vulnerability assessment and penetration testing, and evidence of the prescribed capital.

The capital thresholds are set by the Fifth Schedule.

Licence category	Minimum paid-up capital
Virtual asset offering provider — stablecoin issuance	KSh 300,000,000
Virtual asset wallet provider	KSh 150,000,000
Virtual asset exchange	KSh 100,000,000
Virtual asset manager	KSh 20,000,000
Virtual asset offering provider — initial coin offering	KSh 20,000,000
Virtual asset offering provider — token issuance platform	KSh 20,000,000
Virtual asset payment processor	KSh 10,000,000
Virtual asset broker	KSh 10,000,000
Virtual asset offering provider — virtual asset tokenisation	KSh 10,000,000
Virtual asset investment advisor	Nil

Source: Fifth Schedule to the Virtual Asset Service Providers Regulations, 2026. Each category also carries a liquid capital requirement, addressed in Volume IV.

A licence, once granted, is valid from the date of issue and expires on 31 December of the year in which it is issued (section 13). Renewal is annual, and an application for renewal must be lodged at least two months before expiry (regulation 11).

6. Enforcement, in outline

The framework provides a graduated ladder. Section 39 allows the regulator to issue a formal warning, direct remedial action, impose prohibitions or restrictions, require the removal of a director or senior officer, suspend or revoke a licence, or impose an administrative penalty of up to KSh 3 million on an individual and KSh 10 million on a company. Regulation 142 adds administrative fines of up to KSh 3 million and KSh 5 million respectively for contravention of specified regulations.

Above that sit criminal offences. Section 40 creates three penalty tiers under the Act, rising to KSh 10 million or five years' imprisonment for an individual and KSh 25 million for a company. Regulation 143 creates offences under the Regulations carrying up to KSh 5 million or five years for an individual and KSh 8 million for a company. Section 41 extends liability to any director, partner or senior officer who knowingly authorised, permitted or aided the contravention.

7. The transitional provision

> *Upon the commencement of this Act, any person providing virtual asset services shall, within one year of the commencement, comply with the provisions of this Act.*
>
> — SECTION 47 OF THE ACT

The Act commenced on 4 November 2025. The transitional period therefore expires on **4 November 2026**. Section 47 is addressed in full at Article 12 of this volume.

8. What this series covers

The series works through the Act and the Regulations in statutory and logical order, in sixteen volumes.

Volume	Subject
I	Foundations — the Act: definitions, exclusions, regulators, eligibility, transitional provisions
II	Licensing and authorisation — the application, its determination, renewal, transfer and revocation
III	Compliance by service provider — a complete map for each of the ten licence categories
IV	Capital, liquidity, insurance and fees — for each category
V	The nine mandatory policies, one article each
VI	Corporate governance and ongoing obligations
VII	Customer due diligence, disclosure and transactions
VIII	Offerings, tokenisation, wallets and stablecoins, including reserve assets

Volume	Subject
IX	Cybersecurity and data protection
X	Safekeeping of consumer assets
XI	Market conduct and advertising
XII	Anti-money laundering, counter-terrorism and counter-proliferation financing
XIII	Freezing, seizure, enforcement, offences and penalties
XIV	Tax — excise duty, corporation tax, VAT and related obligations

Every article is anchored in the text of the instruments and cites the section or regulation it explains.

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