



HANSEN ADVOCATES

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“OUR TAKE”

HOW TO SET UP A CARBON PROJECT IN KENYA
A Step-by-Step Guide

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INTRODUCTION

Kenya's commitment to addressing climate change has led to the development of an enabling environment for carbon markets. With the enactment of the Climate Change (Amendment) Act, No. 9 of 2023, the country has outlined a clear framework for establishing carbon projects that contribute to reducing greenhouse gas emissions. This article will provide an in-depth guide to setting up a carbon project in Kenya, based on the provisions of the Act, and how Hansen Advocates can assist you in this process.

1. Understanding Carbon Projects

A carbon project involves interventions designed to remove, reduce, or sequester greenhouse gas emissions, typically measured in carbon dioxide equivalent (tCO₂e). According to the Climate Change (Amendment) Act, carbon projects may include afforestation, reforestation, nature-based solutions, or technology-based solutions that prevent emissions from entering the atmosphere.

Types of Carbon Credits:

- **Reduction Credits:** Projects that reduce emissions from existing sources (e.g., improving industrial efficiency).
- **Sequestration Credits:** Projects that remove carbon dioxide from the atmosphere (e.g., forest conservation or planting new trees).

2. Legislative Framework for Carbon Projects

Kenya's legislative framework for carbon projects is governed by the Climate Change (Amendment) Act, 2023.



The Act introduces provisions on how to implement, regulate, and monitor carbon projects in compliance with both national and international obligations under the Paris Agreement.

Key terms relevant to carbon projects under the Act include:

- **Carbon credits:** Certified reductions in greenhouse gas emissions, tradable in both national and international carbon markets.
- **Carbon markets:** Platforms for trading carbon credits, either through bilateral agreements or voluntary carbon markets.
- **Designated National Authority (DNA):** The body responsible for overseeing carbon projects in Kenya, ensuring compliance with carbon market standards. National Environment Management Authority (NEMA) is Kenya's DNA.

3. Steps to Setting Up a Carbon Project in Kenya

Step 1: Feasibility Assessment

The first step in setting up a carbon project is conducting a feasibility assessment to determine the environmental, economic, and social impacts of the project. This assessment should identify the potential for emission reductions or carbon sequestration and evaluate whether the project aligns with Kenya's climate change goals and the carbon budget.

Step 2: Project Registration and Approval

To proceed with the project, you must register it with the NEMA which is the DNA that oversees carbon projects in Kenya. NEMA will evaluate the project based on national priorities, compliance with international standards, and the anticipated greenhouse gas emission reductions.



The registration process includes:

1. Submitting a **Project Design Document (PDD)** outlining the project's goals, methodologies, and anticipated outcomes.
2. Undergoing an **Environmental and Social Impact Assessment (ESIA)**, especially if the project involves land-based carbon sequestration initiatives such as afforestation or reforestation.

Step 3: Validation and Verification

Once the project is registered, it must undergo validation by an accredited third-party organization to ensure it meets the required standards. After validation, the project's emission reductions will be measured and reported periodically. These reports must be verified by an independent auditor to ensure accuracy and credibility.

Step 4: Carbon Credit Issuance

Upon successful verification, the National Carbon Registry will issue certified carbon credits based on the verified emission reductions or sequestrations. The registry, established under Section 23G of the Climate Change (Amendment) Act, maintains records of carbon credits and ensures their authenticity in the carbon market.

Step 5: Participation in Carbon Markets

Once carbon credits are issued, they can be traded in national or international carbon markets.



The Act allows for carbon trading through various mechanisms:

- **Bilateral or Multilateral Agreements:** Agreements between Kenya and other State Parties to trade emission reductions.
- **Voluntary Carbon Markets:** Markets where private entities buy and sell carbon credits voluntarily.

The trade in carbon credits must comply with international climate change agreements, particularly the Paris Agreement. Projects must also adhere to the corresponding adjustment requirements to prevent double-counting of emission reductions.

4. Project Financing and Benefits

One of the critical aspects of setting up a carbon project is securing financing. Carbon projects can be funded through various means, including:

- **Private Investors:** Companies and individuals who are interested in purchasing carbon credits to offset their emissions.
- **Public-Private Partnerships:** Collaborations between the government and private sector to implement large-scale carbon projects.

Grants and Subsidies: International climate funds or development agencies that support projects aimed at reducing greenhouse gas emissions.



Carbon projects in Kenya offer significant benefits, both economically and environmentally:

- **Revenue from Carbon Credits:** Project developers can sell carbon credits in national or international markets.
- **Environmental Impact:** Projects contribute to mitigating climate change by reducing or sequestering greenhouse gas emissions.
- **Community Development:** Projects often include provisions for community engagement and benefit-sharing agreements, ensuring that local populations benefit from carbon sequestration activities.

5. Compliance and Monitoring

Setting up a carbon project in Kenya requires ongoing compliance with national and international regulations. The Climate Change (Amendment) Act stipulates that all carbon projects must undergo continuous monitoring to ensure they meet their emission reduction targets.

- **Environmental and Social Impact Assessments (ESIA)** are mandatory for projects that involve land-based interventions, ensuring that projects do not negatively affect local communities or ecosystems.
- **Annual Reporting:** Project developers must submit annual reports detailing the amount of carbon credits generated and any significant changes in the project scope or impact.

6. Challenges and Opportunities in Carbon Trading

While carbon trading presents numerous opportunities, it also comes with challenges:



1. **Regulatory Compliance:** Navigating the complex legal and regulatory framework can be daunting, especially for new entrants to the carbon market.
2. **Market Volatility:** The value of carbon credits can fluctuate, affecting the profitability of carbon projects.
3. **Verification Costs:** The process of validating and verifying carbon credits can be expensive, particularly for small-scale projects.

However, Kenya's robust legal framework and participation in international climate agreements provide a stable foundation for carbon trading. The introduction of the National Carbon Registry enhances transparency and credibility in carbon transactions, making it easier for businesses and individuals to participate in carbon markets.

7. The Role of Hansen Advocates

At Hansen Advocates, we understand the complexities of setting up carbon projects in Kenya. Our team of experienced legal professionals provides comprehensive legal support to companies and individuals interested in participating in carbon markets. We assist in:

- **Project Registration:** Guiding clients through the registration process with the Designated National Authority (DNA).
- **Compliance:** Ensuring that projects comply with national and international carbon market regulations.
- **Contracts and Agreements:** Drafting and reviewing carbon trading agreements to protect the interests of our clients.
- **Dispute Resolution:** Handling disputes arising from carbon projects, including those involving community development agreements.



CONCLUSION

Setting up a carbon project in Kenya offers tremendous opportunities for businesses, investors, and communities to contribute to global climate change mitigation while benefiting economically. The Climate Change (Amendment) Act, 2023, provides a robust legal framework for the establishment and regulation of carbon projects, ensuring transparency, accountability, and compliance with international standards.

Whether you are a private investor, a company, or a community interested in carbon trading, Hansen Advocates is here to guide you through every step of the process. We offer expert legal services to ensure your carbon project is successfully registered and compliant with all relevant laws, allowing you to participate confidently in Kenya's growing carbon market.





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This content is for informational purposes only and does not constitute legal advice. For specific legal guidance tailored to your situation, please feel free to reach out.

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