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**SPECIAL ISSUE**

Kenya Gazette Supplement No. 49 (Acts. No. 3)



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REPUBLIC OF KENYA

**KENYA GAZETTE SUPPLEMENT**

**ACTS, 2002**

**NAIROBI, 5th June, 2002**

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SPECIAL ORDER

PARLIAMENTARY  
OF KENYA  
GAZETTE



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

ACTS 1962

NO. 2001

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**THE STATUTE LAW (MISCELLANEOUS  
AMENDMENTS) ACT**

(No. 2 of 2002)

*Date of Assent: 4th June, 2002*

*Date of Commencement:*

(a) *the amendments specified in the Schedule in relation to—*

(i) *the Parliamentary Pensions (Amendment) Act, 1999 (No. 9 of 1999)—1st January, 2001;*

(ii) *the Constitutional Offices (Remuneration) Act (Cap. 423)—1st July, 2001;*

(iii) *ss. 12, 13 (d) and 81 of the Advocates Act (Cap. 16); the Law of Contract Act (Cap. 23); the Bills of Exchange Act (Cap. 27) and the Cheques Act (Cap. 35)—By Notice.*

(b) *all other provisions—7th June, 2002.*

**AN ACT of Parliament to make minor amendments to  
statute law**

**ENACTED** by the Parliament of Kenya, as follows:-

- |  |  |
|--|--|
| 1. This Act may be cited as the Statute Law (Miscellaneous Amendments) Act, 2002.  | Short title.   |
| 2. The several written laws specified in the first column of the Schedule are amended, in the provisions thereof specified in the second column, in the manner respectively specified in the third column.           | Amendment of<br>of written<br>laws.                            |
| 3.(1) The amendments specified in the Schedule in relation to -  | Commencement<br>of amendments<br>to Caps.16, 23,<br>27 and 35. |
| (a) sections 12, 13(1)(d) and 81 of the<br>Cap.16. Advocates Act; and<br>Cap.23. (b) the Law of Contract Act,  |  |
| shall come into operation on such date as the Attorney-General may, by notice in the Gazette, appoint.   |  |
| (2) The amendments specified in the Schedule in relation to the Bills of Exchange Act and the Cheques Act shall come into operation on such date as the Minister for Finance may, by notice in the Gazette, appoint. | Cap.27.<br>Cap.35.   |

## SCHEDULE

(ss.2 and 3)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The National Assembly Remuneration Act (Cap.5).	First Schedule	Delete the expression "£4,860" appearing in the third column against the item "Members of the Chairmen's Panel" and substitute therefor the expression "£5,400".
The National Assembly and Presidential Elections Act (Cap 7).	s.2	Delete the definition of "register"  Delete the definition of "register of electors"  Insert the following new definitions in their proper alphabetical sequence:-  "constituency register" means the register of electors compiled in respect of each constituency by the Electoral Commission;  "principal register" means the national consolidated register of electors compiled by the Electoral Commission in accordance with section 4.
	s.4	Repeal and replace with the following new section -  Registration of electors      4.(1) The Electoral Commission shall, in such manner and at such times as may be prescribed, prepare or cause to be prepared -  (a) constituency registers in respect of all constituencies; and

(b) the principal register, which shall be a combination of the constituency register, and such other registers, for the time being in existence, as the Electoral Commission may direct.

(2) Upon the coming into operation of this section, the Electoral Commission shall cause all constituency registers to be opened for inspection by members of the public, for such period of time as the Electoral Commission may deem appropriate for the purpose of rectification of the particulars thereon.

(3) The Electoral Commission shall, upon expiry of the period of time provided for under subsection (2), compile the principal register and as soon as practicable thereafter -

(a) publish a notice in the Gazette to the effect that such compilation has been completed; and

(b) cause to be transmitted to every registration officer, a copy of the part of that register relating to the constituency for which he is

responsible to be kept  
in safe custody.

(3) The original of the  
principal register shall be kept  
at the offices of the Electoral  
Commission.

s.4A Delete and insert the following new  
section -

**Registration**

**4A.(1)** Registration of  
electors and revision of the  
register of electors under this  
Act may be carried out at all  
times except -

- (a) in the case of a  
presidential election,  
between the date of  
commencement of the  
ninety-day period pro-  
vided for by section  
6(1) of the Constitution  
and the date of such  
election; or
- (b) in the case of an  
election to the National  
Assembly, between the  
date of dissolution of  
Parliament under sec-  
tion 59 of the  
Constitution and the  
date of such election, or
- (c) in the case of an  
election of councillors  
to local authorities,  
between the date of  
dissolution of such local  
authorities and the date  
of such election, or

(d) in the case of any by-election, between the date of the declaration of the vacancy of the seat concerned and the date of such by-election.

(2) Any citizen of Kenya who has attained the age of majority as evidenced by either a national identity card or a Kenyan passport and whose name is not in the principal register shall be registered as an elector upon application in the prescribed manner to the Electoral Commission.

(3) All applicants for registration under this section shall be registered in the appropriate register and such register shall, at such times as the Electoral Commission may direct, be transmitted to the Electoral Commission for amendment

s.5(1)

Delete the and substitute therefor the following new subsection –

The Magistrates Courts Act (Cap 10).

(1) Subject to any other written law the resident magistrate's Court shall have and exercise jurisdiction and powers in proceedings of a civil nature in which the value of the subject matter in dispute does not exceed one hundred thousand shillings, or three hundred thousand shillings where the court is held by a principal or a senior resident magistrate and five hundred

thousand shillings where the court is held by a chief magistrate or a senior principal magistrate

Provided that the Chief Justice may, by notice in the Gazette, increase the limit of jurisdiction of -

- (a) a chief magistrate to a sum not exceeding three million shillings,
- (b) a senior principal magistrate to a sum not exceeding two million shillings,
- (c) a principal magistrate to a sum not exceeding one million shillings,
- (d) a senior resident magistrate to a sum not exceeding eight hundred thousand shillings, or
- (e) a resident magistrate to a sum not exceeding five hundred thousand shillings

The Advocates Act  
(Cap 16)

s 12(a)

Delete and substitute therefor the following new paragraph -

“(a) he is a citizen of Kenya, Uganda or Tanzania, and”

s 13(1)

Delete subparagraph (ii) and substitute therefor the following new subparagraph-

(ii) he has passed such examinations as the Council of Legal Education may prescribe, or

Insert the following new paragraph immediately after paragraph (c) -



(d) he is an Advocate for the time being of the High Court of Uganda or the High Court of Tanzania

s 31(2)(c) Delete all the words appearing after the word "offence"

s 33 Delete all the words appearing after the word "offence"

s 34(3) Delete all the words appearing after the word "offence"

s 42(1) Delete the words "twenty-five thousand shillings" and substitute therefor the words "fifty thousand shillings, or to imprisonment for a term not exceeding two years, or to both"

s 42(2) Delete

s 45(2) Delete the words "within six months after the date of any agreement made by virtue of this section"

Insert the following new subsection immediately after subsection (2) -

(2A) An application under subsection (2) may be made within one year after the making of the agreement, or within three months after a demand in writing by the advocate for payment under the agreement by way of rendering a fee note or otherwise, whichever is the later

s 46(d) Insert the following immediately after the words "that business" -

"or more than twenty-five percentum of the general damages recovered less the

party and party costs as taxed or agreed”

s.48 Insert the following new subsection immediately after subsection (2) –

(3) Notwithstanding any other provisions of this Act, a bill of costs between an advocate and a client may be taxed notwithstanding that no suit for recovery of costs has been filed

s.53 Insert the following new subsection immediately after subsection (3) –

(3A) Any person who, without lawful excuse, fails or refuses to assist the Commission when required to do so under subsection (3) shall be guilty of an offence

Delete the words “and of any person summoned by it to assist in accordance with subsection (3) appearing in subsection (4)”.

Insert the expression, “whether before or after investigation”, immediately after the word “Commission” appearing in paragraph (b) of subsection (4)

s 53 Delete subsection (6) and substitute therefor the following new subsection –

(6) If the Commission considers that the complainant has suffered loss or damage by reason of the advocate’s conduct, the Commission may, by order, award such complainant compensation or reimbursement not exceeding one hundred thousand shillings

Insert the following new subsections immediately after subsection (6) -

(6A) An order made under subsection (6) shall be registered with the Court and shall thereupon be enforceable in the same manner as an order of the Court to the like effect.

(6B) Where the matter before the Commission relates to surrender of funds or property by an advocate to a client, the Commission may order the surrender of all funds or property which the advocate does not dispute.

Provided that this subsection shall not apply where the complainant has filed a civil suit against the advocate in respect of the same funds or property

(6C) An advocate against whom an order is made under this section and who has not appealed against such order under section 62 may apply to the Disciplinary Committee for a review of the Order.

(6D) The Commission may, in hearing a complaint against an advocate, order such advocate to produce to the Commission a detailed fee note for purposes of taxation of the bill of costs.

Provided that where the advocate fails to produce such fee note within 14 days from the date of such order, the Commission may assess the advocate's fee in such sum as it deems fit

(6E) The Commission may investigate the accounts of an advocate against whom a complaint has been made and for that purpose may order such advocate to produce all relevant

books and documents to the Commission or to an accountant engaged by the Commission in that behalf

s 57 Delete the words "three advocates" appearing in paragraph (c) of subsection (1) and substitute therefor the words "six advocates".

Insert the following new paragraph immediately after paragraph (c) of subsection (1) -

(d) three other persons, not being advocates, appointed by the Attorney-General on the recommendation of the Society

Insert the following new subsection immediately after subsection (1) -

"(1A) The members under paragraph (c) shall be elected at different times so that the respective expiry dates of their terms of office shall fall at different times

Insert the following new subsection immediately after subsection (2) -

"(2A) The members of the Committee shall be paid such remuneration, fees or allowances for expenses as the Attorney General, in consultation with the Treasury, may authorise out of monies provided by Parliament for that purpose "

s 58 Insert the words "or any other member of the Council of the Society" immediately after the words "society or both" appearing in subsection (1)

Delete the words "Chapter VIII of" appearing in subsection (5)

Insert the following words after the word "Part" appearing in subsection (6) -

"or with respect to matters incidental to or consequential upon it's Orders"

s 60

Delete the word "fifty" appearing in paragraph (d) of subsection (4) and substitute therefor the expression "one million"

Insert the following new paragraph in subsection (4) -

(e) that such advocate pays to the aggrieved person compensation or reimbursement not exceeding five million shillings,

Insert the following new subsections immediately after subsection (5) -

(6) Where an advocate against whom the Committee is hearing a complaint relating to fees and costs has not filed a bill of costs in Court, the Committee may upon the request of the complainant, order such advocate to produce before it a detailed fee note

Provided that where the advocate fails to comply with an order of the Committee under this subsection, the Committee may determine the fee payable to the advocate in such sums as it deems fit

(7) If a bill of costs has been filed in Court by the advocate against whom a

complaint is being heard but has not been taxed, the Committee may adjourn the complaint for such period as it considers reasonable to allow such taxation:

Provided that if at the expiry of such adjournment, the bill is still not taxed, the Committee may make its own estimate of the costs due to the advocate and make orders accordingly

(8) A determination of the Committee under subsections (7) and (8) shall be deemed, for all purposes, to be a determination of the Court

(9) In any case where the complainant has not filed a civil suit against the advocate in respect of the sum in dispute, the Committee may order the advocate to pay to the complainant such sum as it finds to be due from the advocate

(10) An order made by the Committee under this section –

- (a) shall be in the name of the advocate or firm of advocates in respect of whom or which the order is made;
- (b) may be filed in the civil registry of the Court by any party thereto who shall, within twenty-one days of the filing, give a notice to all other parties in writing of the filing of the order, which shall bear the date, the cause number and the registry in which it has been filed and a return of service of the order

(11) If no memorandum of appeal is filed in accordance with subsection (1) of section 62 the party in favour of whom the order is made may apply *ex parte* by summons for leave to enforce such order as a decree, and the order may be executed in the same manner as an order of the Court to the like effect and, if it is an order for the recovery of money, may be enforced on the immovable and movable property of the advocate in accordance with the Civil

Cap 21, Sub Leg Procedure Rules

Renumber subsection (6) as subsection (12)

New Insert the following new section immediately after section 60 –

Hearing of  
complaints

**60A** (1) The powers conferred on the Committee by this section may be exercised on the hearing of –

- (a) any application or complaint made to the Committee under this Act by or on behalf of the Council,
- (b) any application made to the Committee by the Complaints Commission under this Act, or
- (c) any application or complaint made to the Committee under this Act, by or on behalf of any person

(2) Where, on the hearing of any application or complaint with respect to an advocate or firm of advocates, it appears to the Committee that the professional services provided by such advocate or firm in connection with any matter in which such advocate or firm of advocates had been instructed by a client were, in any respect, not of the quality that could reasonably have been expected of an advocate, then, subject to subsection (4), the Committee may, if it thinks fit, do one or more of the following things, namely -

- (a) determine that the costs to which the advocate or firm of advocates shall be entitled, in respect of those services shall be limited to such amount as may be specified in its determination and by order, direct the advocate to comply, or to secure compliance, with such one or more requirements falling within subsection (3) as appear to it to be necessary in order to give effect to its determination; or
- (b) by order direct the advocate or firm of advocates to secure the rectification at their own expense of any



error, omission or other deficiency arising in connection with the matter as it may specify; or

- (c) by order direct the advocate or firm of advocates to take at their own expense, such other action in the interests of the client as it may specify

(3) The requirements referred to in paragraph (a) of subsection (2) are -

- (a) a requirement to refund the whole or part of any amount already paid by or on behalf of the client in respect of the advocate's costs in respect of services rendered in connection with the matter,
- (b) a requirement to remit the whole or part of the costs, and
- (c) a requirement to waive, whether wholly or to any specified extent, the right to recover those costs

(4) The Committee shall not exercise any of its powers under this section unless it is satisfied that it would, in all circumstances, be appropriate

to do so, and in determining whether in any case it would be appropriate to exercise any of those powers, the Committee may have regard -

(a) to the existence of any remedy that could reasonably be expected to be available to the client in civil proceedings, or

(b) where proceedings seeking any such remedy have not been commenced by the client, whether it would be reasonable to expect him to commence such proceedings

(5) Where the Committee has given a direction under subsection (2)(a) in order to give effect to a determination by it under that provision, then -

(a) for the purposes of any taxation of a bill covering those costs the amount charged by the bill in respect of those costs shall be deemed to be limited to the amount specified by the Committee, and

(b) where a bill covering those costs has not been taxed in accordance with paragraph (a), the client shall, for the

purposes of the recovery of those costs (by whatever means) and notwithstanding any statutory provision or agreement, be deemed to be liable to pay costs only to the extent of the amount specified by the Committee

(6) Where a bill covering those costs has been taxed in accordance with subsection (5) (a), the Committee's direction under subsection (2) (a) shall, so far as relating to those costs, cease to have effect.

(7) For the purposes of this section, "client", in relation to any matter in which an advocate or firm of advocates has been instructed, includes any person on whose behalf the person who gave the instructions was acting.

s 69(2) Add at the end thereof the words "and the Society may publish a similar notice in at least one daily newspaper of national circulation "

s.71 Delete and substitute therefor the following new section -

Restoration  
to Roll

71. The Chief Justice shall, upon the recommendation of the Committee, order the Registrar to restore on the Roll the name of any advocate whose name has

been removed or struck off the Roll, and the Registrar shall, upon payment by the advocate of the prescribed fee, restore such name accordingly.

s 77 Insert the words "or the Complaints Commission" immediately after the word "Committee"

Delete the words "and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both"

s.81(1) Insert the following new paragraphs immediately after paragraph (e) -

(f) the establishment of a compensation fund for the benefit of clients,

(g) indemnity for clients against loss or damage arising from claims in respect of any civil liability incurred by an advocate or his employee, or from breach of trust by the advocate or his employee;

(h) continuing professional education for all advocates practising in Kenya

Renumber paragraph (f) as paragraph (i)

s.85(1) Delete the words "fifty thousand" and substitute therefor the words "one hundred thousand"

The Law of Contract Act (Cap 23) s 3(3)

Repeal and replace it with the following new subsection -

(3) No suit shall be brought upon a contract for the disposition of an interest in land unless -

- (a) the contract upon which the suit is founded –
  - (i) is in writing;
  - (ii) is signed by all the parties thereto; and
- (b) the signature of each party signing has been attested by a witness who is present when the contract was signed by such party.

Provided that this subsection shall not apply to a contract made in the course of a public auction by an auctioneer within the meaning of the Auctioneers Act, nor shall anything in it affect the creation of a resulting, implied or constructive trust.

No 5 of 1996

- s.3(6) Delete the fullstop at the end of the definition of the word “sign” and add the words -

“ and in relation to a body corporate includes -

- (a) signature by an attorney of the body corporate duly appointed by a power of attorney registered under the Registration of Documents Act;

Cap 285

- (b) the affixing of the common seal of the body corporate in accordance with the constitution or the articles of association of the body corporate, as the case may be, in which case no further attestation shall be required.

- The Bills of Exchange Act (Cap 27)
- s 80 In the first line, insert immediately after the words "crossed cheque" the words "or a cheque which either under section 81A or otherwise is not transferable"
- New Insert the following new section immediately after section 81 -
- Non-transferable cheques **81A** (1) Where a cheque is crossed and bears across its face the words "account payee" or "a/c payee", with or without the word "only" the cheque is not transferable and is valid only between the parties thereto
- (2) For the purposes of section 80, a banker is not negligent by reason only of his failure to concern himself with any purported endorsement of a cheque which either under subsection (1) or otherwise is not transferable
- The Cheques Act (Cap 35)
- s 2(1) In the definition of "prescribed instrument", delete paragraph (a) and substitute therefor the following new paragraph -
- Cap 27 "(a) a cheque, including a cheque which either under section 81A of the Bills of Exchange Act or otherwise is not transferable"
- The Extradition (Contiguous and Foreign Countries) Act (Cap 76)
- s 2(1) Delete the definition of "magistrate" and substitute therefor the following -
- "magistrate" means a chief magistrate, a senior principal magistrate, a principal magistrate, a senior resident magistrate or a resident magistrate "

s.21

Delete and substitute therefor the following new section:-

The Police Act (Cap 84).

Power to take  
photographs,  
X-rays, finger-  
prints etc.  
Cap. 75.

21.(1) Any magistrate or police officer, and any person appointed to give certificates under subsection (2) of section 142 of the Criminal Procedure Code, may take, or cause to be taken in his presence -

- (a) during the course of any investigation into any drug-related offence, such X-ray or other electromagnetic ray photographs as may be considered necessary for the purposes of such investigation; or
- (b) for the purposes of record and identification, the measurements, photographs, footprints and casts thereof, palm-prints and fingerprints of any person in lawful custody or who is subject to police supervision:

Provided that if such person is not charged with an offence punishable by imprisonment or is discharged or acquitted by a court, and has not previously been convicted of an offence so punishable,

all records of such X-ray or other electromagnetic ray photographs, measurements, photographs, footprints and casts thereof, palmprints and finger prints and any negatives and copies of such photographs or of photographs of such footprints and casts thereof, palmprints and fingerprints shall forth-with be destroyed or handed over to such person

(2) The Commissioner may specify the form upon which footprints, palmprints and fingerprints shall be taken in accordance with this section, and the magistrate, police officer or other person appointed as the case may be, shall certify on such form that the footprints, palmprints or fingerprints have been taken by him, or caused to be taken in his presence, in accordance with the directions contained on such form and that the particulars entered on such form are to the best of his knowledge and belief accurate and true

(3) Any person who refuses to permit such X-ray or other electromagnetic ray photographs, his measurements, photographs, foot-



prints and casts thereof, palm-prints or fingerprints to be taken under this section shall be guilty of an offence, and upon conviction, reasonable force may be used to enable such X-ray or other electromagnetic ray photographs as or, as the case may be, his measurements, photographs, footprints and casts thereof, palmprints and fingerprints to be taken

No 4 of 1994

(4) For the purposes of this Section the expression "drug-related offence" means any offence specified in the Narcotic Drugs and Pyschotropic Substances (Control) Act, 1994 and includes the possession, manufacture, sale, distribution, or receipt of any drug in any quantity whatsoever

- |        |   |  |
|--------|---|--|
| s 4(4) | Delete the fullstop at the end thereof and add the words "or a person deputed by him in that behalf"              | The College of Arms Act (Cap 98).          |
| s 9(3) | Delete the words "the prescribed fee" and substitute therefor the words "such fee if any, as may be prescribed"   | The Registration of Persons Act (Cap 107). |
| s 9(6) | Delete the words "the prescribed fee" and substitute therefor the words "such fee, if any, as may be prescribed". |  |
| s.13   | Delete the words "a senior registrar, a registrar or an assistant registrar" and substitute therefor the words -  |  |

“or any of the officers appointed under section 4(2)”

s 17 Delete the existing provision and substitute therefor the following -

Validity of  
identity cards  
previously  
issued

17 Every identity card issued under this Act, whether or not expressed to be valid up to any particular date, shall continue to be valid up to such time as the Minister may by notice in the Gazette declare and upon such declaration every person with an identity card so declared to be invalid shall within ninety days of the declaration present himself before a registration officer to be registered in accordance with section 6

The Books and  
Newspapers Act  
(Cap 111)

s 9 Insert the following subsection immediately after subsection (3) -

(4) A person who sells or distributes any book or newspaper the publisher of which has not complied with the requirements of sections 6, 7 or 8 shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months, or to both

s 11(1) Delete the words “ten thousand” and substitute therefor the words “one million”

Insert the words “or damages” immediately after the words “monetary penalty”

- s 14 Delete all the words appearing immediately after the expression "section 13" and substitute therefor the following words -
- "shall be guilty of an offence and liable -
- (a) in the case of a first offence, to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding three years, or to both, and
- (b) in the case of a second or subsequent offence, to imprisonment for a term not exceeding five years, and shall in addition be barred from printing any newspaper in Kenya or publishing any newspaper printed in Kenya.
- s 18(2) Delete the words "two thousand" and "three months" and substitute therefor the words "ten thousand" and "six months" respectively
- s 4(3)(b) Delete the words appearing immediately after the words "liable to" and substitute therefor the words "imprisonment for a term of not less than five, but not exceeding ten, years"
- Delete the words "two hundred" appearing in the proviso and substitute therefor the words "five hundred"
- s 6(3) Delete the fullstop at the end of paragraph (c) and insert the words "other than for commercial purposes "
- The Firearms Act  
(Cap 114)

- s.9(3) Delete all the words appearing immediately after the words "imprisonment" and substitute therefor the words "for a term of not less than ten, but not exceeding fifteen, years."
- s.10(4) Delete the words "one thousand" and substitute therefor the words "ten thousand".
- s.11(4) Delete the words "one thousand" and substitute therefor the words "ten thousand".
- New Insert the following new section immediately after section 11 -
- |                                    |   |
|------------------------------------|---|
| Concealment<br>of serial<br>number | <p><b>11A.</b> Any person who-</p> <p>(a) obliterates the serial number of any firearm in his possession; or</p> <p>(b) is found, without reasonable excuse, in possession of a firearm the serial number of which has been obliterated,</p> <p>shall be guilty of an offence and liable to imprisonment for a term of not less than five, but not exceeding ten years.</p> |
|------------------------------------|---|
- s 12(2) Delete all the words appearing immediately after the word "imprisonment" and substitute therefor the words "for a term of not less than five, but not exceeding ten years."

- s.13(5) Delete the words "six months" and "two thousand" and substitute therefor the words "one year" and "ten thousand" respectively.
- s.14(4) Delete the words "one thousand" and substitute therefor the words "ten thousand".
- s.15(4) Delete the words "six months" and "two thousand" and substitute therefor the words "one year" and "ten thousand" respectively.
- s.16(4) Delete all the words appearing immediately after the word "imprisonment" and substitute therefor the words "for a term of not less than five, but not exceeding ten years".
- s.17(4) Delete the words "six months" and "two thousand" and substitute therefor the words "one year" and "ten thousand" respectively.
- s.18 Delete the words "six months" and "five thousand" appearing in subsection (4) and substitute therefor the words "one year" and "ten thousand" respectively.

Insert the following new subsection immediately after subsection (4) -

- (5) In this section, "safe custody" means in the physical custody of the licensee or in a safe approved for that purpose by the licensing officer.

- s.20(2) Delete all the words appearing immediately after the word "imprisonment" and substitute therefor the words "for a term

of not less than three, but not exceeding five, years”

s.21(2) Delete all the words appearing immediately after the word “imprisonment” and substitute therefor the words “for a term of not less than seven, but not exceeding fifteen, years.

s.22 Delete the words “six months” and “two thousand” and substitute therefor the words “one year” and “ten thousand” respectively.

s.26(1) Insert the following new paragraph immediately after paragraph (e) -

(f) any arms or munitions of war

s.26(2) Delete the words “not exceeding ten years” appearing in paragraph (a) and substitute therefor the words “of not less than seven, but not exceeding fifteen years”

Insert the following new paragraph immediately after paragraph (a) -

(aa) if the firearm concerned falls within the category specified in paragraph (f) of subsection (1), shall be liable to imprisonment for a term not of less than fourteen years,

s 26 Delete all the words appearing immediately after the words “liable to” in subsection (2) and substitute therefor the words “imprisonment for a term of not less than seven, but not exceeding fifteen, years”

Delete the words “six months” and “two thousand” appearing in subsection (3) and

substitute therefor the words "one year" and "ten thousand" respectively

Delete the words "six months" and "two thousand" appearing in subsection (4) and substitute therefor the words "one year" and "ten thousand" respectively

- s 27(7) Delete all the words appearing immediately after the word "imprisonment" and substitute therefor the words "for a term of not less than seven, but not exceeding fifteen years"
- s 28(4) Delete all the words appearing immediately after the word "imprisonment" and substitute therefor the words "for a term not exceeding ten years".
- s.29(2) Delete the words "six months" and "two thousand" and substitute therefor the words "one year" and "ten thousand" respectively.
- s 32(2) Delete the words "six months" and "two thousand" and substitute therefor the words "one year" and "ten thousand" respectively.
- s 33 Delete the words "six months" and "two thousand" and substitute therefor the words "one year" and "ten thousand" respectively.
- s.34(1) Delete the words "not exceeding fourteen years" and substitute therefor the words "of not less than seven, but not exceeding fifteen years"
- s 36 Delete the words "one thousand" appearing in paragraph (c) of subsection (6) and substitute therefor the words "five thousand "

- Delete the words "six months" and "two thousand" appearing in subsection (7) and substitute therefor the words "two years" and "twenty thousand" respectively
- s 41 Delete the words "six months" and "two thousand" and substitute therefor the words "two years" and "twenty thousand" respectively
- The Service Commissions Act (Cap 185) s 3(1) Delete and insert the following new subsection -
- (1) A Commission may appoint a person, whether or not a public officer, to be the secretary of that Commission and may appoint other staff necessary for the discharge of the Commission's functions
- The Parliamentary Pensions Act (Cap 196) s 3(1) Delete the words "commuted mileage allowance" from the definition of "pensionable emoluments"
- s 5 Delete the words "as this Act first applied to him" appearing in subsection (2) and substitute therefor the words "as is approved by the Committee"
- Delete the expression "seven per cent" appearing in subsection (4) and substitute therefor the expression "fifteen per cent"
- s 7(1) Insert the words "two times" immediately after the word "refund"
- Delete the words "ten years " and substitute therefor the words "one term of Parliament"
- s.8(1) Delete the expression "one term of Parliament" appearing in paragraph (b)



2002

*Statute Law (Miscellaneous Amendments)*

No. 2

The Teachers Service Commission Act (Cap 212)	s.3(2)	Delete and insert the following new subsection -  (2) The Commission shall consist of a Chairman and not less than two nor more than twenty-four other members, all of whom shall be appointed by the Minister
The Antiquities and Monuments Act (Cap 215)	s 2	In the definition of "monument", delete paragraph (d) and substitute therefor the following new paragraph -  '(d) a place or immovable structure of any age which, being of historical, cultural, scientific, architectural, technological or other human interest, has been and remains declared by the Minister under section 4(1)(a) to be a monument "
The Trade Unions Act (Cap 233)	s 18	Delete the words "High Court" wherever they occur and substitute therefor therefor the words "Industrial Court"
The Workmen's Compensation Act (Cap 236)	s 2(1)(i)	Delete the expression "forty-eight" and substitute therefor the expression "four hundred"
The Industrial Training Act (Cap 237)	s 5C	Delete subsection (5) and substitute therefor the following new subsection -  (5) The accounts of a Fund shall be examined, audited and reported upon in accordance with the Exchequer and Audit Act by the Controller and Auditor-General
The Public Health Act (Cap 242)	s 28	Delete the words "three hundred" and "three months" and substitute therefor the expression therefor the words "thirty thousand" and "three years" respectively.

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- s.29 Delete the words "four hundred" and substitute therefor the words "forty thousand".
- s.30(1) Delete the words "one thousand" and substitute therefor the words "eighty thousand."
- s. 98 Delete the words "one thousand five hundred" and "six months" and substitute therefor the words "fifteen thousand" and "one year" respectively.
- s.121(1) Delete the words "eighty shillings" wherever it occurs and substitute therefor the words "one thousand five hundred".
- s.133 Delete the words "two thousand" and "six months" and substitute therefor the words "two hundred thousand" and "three years" respectively.
- s.164 Delete the words "ten thousand" and "two hundred" and substitute therefor the words "fifty thousand" and "one thousand" respectively.
- s.2 insert the following new definitions in proper alphabetical sequence –
- "enrolled pharmaceutical technologist" means a pharmaceutical technologist whose name appears on the roll;
- "Roll" means the Roll of pharmaceutical technologists kept under section 6(2).
- s.3(1) Delete the words "pharmaceutical technician" appearing in paragraph (f) and substitute therefor the words "pharmaceutical technologist."
- The Pharmacy and  
Poisons Act  
(Cap.244).

and substitute therefor the expression "two terms of Parliament".

Delete the expression "forty years" appearing in paragraph (c) and substitute therefor the expression "forty-five years"

s.9(a) Delete the word "fifty" and substitute therefor the expression "forty-five".

s.1 Delete the expression "1<sup>st</sup> July, 1994" and substitute therefor the expression "1<sup>st</sup> January, 2001.

The Parliamentary Pensions (Amendment) Act (No. 9 of 1999).

s. 7(2) Delete and substitute therefor the following new subsection -

The Armed Forces Act (Cap.199).

(2) In the application of this Act to female members of the services of the armed forces, so much of this Act as provides for active service punishment shall not apply

s.89 Delete the fullstop at the end thereof and add the words "appointed by the Chief Justice".

s 5 Insert the following paragraph immediately immediately after paragraph (b) -

The Moi University Act (Cap 210A).

"(c) establish colleges within the university consisting of such faculties, institutes or schools as may be provided by that order."

s.10(2) Delete the words "a Deputy Vice-Chancellor" and substitute therefor the words "such number of Deputy Vice-Chancellors as it may consider appropriate"

- s.6 Renumber the existing provision as subsection (1)

Insert the following new subsection -

(2) The Registrar shall keep a Roll of pharmaceutical technologists in the prescribed form

- s 7 Renumber the existing section as subsection (1) and insert the following new subsection -

(2) Every application by a person to be entered in the Roll of pharmaceutical technologists shall be made in the prescribed form and shall be addressed to the Registrar

- s 8 Renumber the existing provision as subsection (1) and insert the following new subsection

(2) Every person who satisfies the Board that he holds a diploma in pharmacy approved by the Board of any college in Kenya or any other country shall, subject to this Act, be entitled to have his name entered in the Roll

- s 9 Renumber the existing provision as subsection (1) and insert the following new subsection -

(2) The Registrar shall issue to every Pharmaceutical technologist whose name is entered in the Roll a certificate of enrolment in the prescribed form upon payment of the prescribed fee

s 18(2) Delete the words "one hundred shillings" and substitute therefor the words "ten thousand shillings, or to imprisonment for a term not exceeding one year, or to both"

s 19(2) Delete the words "one thousand" and "two months" and substitute therefor the words "thirty thousand" and "three years" respectively

s 20 Insert the following new subsection immediately after subsection (1) -

(1A) No person shall carry on the business of a pharmaceutical technologist unless the name and certificate of enrolment of the person having control of the business are conspicuously exhibited in the premises in which the business is carried on

Delete the words "two hundred shillings" appearing in subsection (2) and substitute therefor the words "twenty thousand shillings, or to imprisonment for a term not exceeding one year, or to both"

s 23(6) Delete the words "one thousand shillings" and "two months" and substitute therefor the words "thirty thousand shillings" and "three years" respectively

s 26(2) Delete the words "five thousand shillings" and "one year" and substitute therefor the words "one hundred thousand shillings" and "three years" respectively

s 28 Insert the following new subsection-

"(7) A person who sells poisons for the purposes specified in subsection (1)

contrary to any of the provisions of this section shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding two years, or to both."

s.29(5) Delete the words "five thousand shillings" and "one year" and substitute therefor the words "one hundred thousand shillings" and "ten years" respectively.

s 30 Delete the words "five thousand shillings and "one year" and substitute therefor the words "one hundred thousand" and "three years" respectively.

s.33(3) Delete and substitute therefor the following new provision -

(3) A person who sells a Part II poison except in accordance with the provisions of this section shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings, or imprisonment for a term not exceeding one year, or to both"

s 34 Insert the following new subsection -

"(3) Any person who commits an offence under this section shall be liable to a fine not exceeding twenty thousand shillings, or to imprisonment for a period not exceeding one year or to both."

s.35 Delete and substitute therefor the following new provision -

Prohibition on sale of poisons in automatic machines      **35.** A person exposing or causing to be exposed for sale any poison in or by means of an automatic machine shall be guilty of an

offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a period not exceeding one year or to both

- s 40(1) Delete the words "one thousand shillings" appearing in paragraph (a) and substitute therefor the words "twenty thousand shillings, or to imprisonment for a term not exceeding one year, or both".

Delete the words "two thousand shillings" and "three months" appearing in paragraph (b) and substitute therefor the words "thirty thousand shillings" and "two years" respectively.

- s.41(3) Delete the words "five hundred shillings" appearing in paragraph (a) and substitute therefor the words "ten thousand shillings",

Delete the words "two thousand shillings" and "three months" appearing in paragraph (b) and substitute therefor the words "twenty thousand shillings" and "one year" respectively.

- s.51 Delete the words "two thousand shillings" and "three months" and substitute therefor the words "one million shillings" and "two years" respectively.

- s 36(1) Delete the words "two" and "three months" appearing in paragraph (a) and substitute therefor the words "five hundred" and "two years" respectively

The Food Drugs and Chemical Substances Act (Cap. 254).

Delete the words "four" and "six months" appearing in paragraph (b) and substitute

therefor the words "seven hundred" and  
"five years" respectively

The Nurses Act  
(Cap 257)

s 4(1) Delete subparagraph (c) (iv).

Insert the following new subparagraphs -

(iii) one registered nurse nominated  
by the National Nurses  
Association of Kenya,

(iv) one enrolled nurse nominated by  
the Kenya Enrolled Nurses  
Association

s 8(1) Delete the word "fourteen" and substitute  
therefor the word "twelve"

s 10 Delete paragraph (b)

Insert the following new paragraphs  
immediately after paragraph (d) -

(e) an Education Standing Committee;

(f) a Nursing Standards Standing  
Committee, and

(g) a Disciplinary Standing Committee

The Registered  
Land Act  
(Cap 300)

s 109(2) Delete paragraph (b) and substitute  
therefor the following new paragraph-

"(b) by a body corporate if -

(i) being a company incorporated  
under or otherwise made  
subject to the provisions of the  
Companies Act, such instru-  
ment is sealed with the common  
seal of the body corporate  
affixed thereto in the presence  
of and attested by its clerk,

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secretary or other officer and by at least one member of the board of directors or other governing body of the body corporate, or

- (ii) being a body corporate incorporated under any other written law and not subject to the provisions of the Companies Act, such persons as are authorised in that behalf by any law or by the statute, charter or other instrument creating the body corporate, or, in the absence of any express provision, by the person appointed in writing for that purpose by the body corporate, evidence of which appointment is produced to the satisfaction of the Registrar "

s 192A

Insert the expression "Subject to subsection (1A)" at the beginning of subsection (1)

The Agriculture Act (Cap 318)

Insert the following new subsections immediately after subsection (1) -

(1A) Notwithstanding the provisions of subsection (1), eighty percent of all monies collected as cess under that subsection shall be used in maintaining roads and other services, in the local authority, related to the sectors in respect of which such monies are levied, and the remaining twenty percent shall be credited to the general account of the local authority

Provided that the eighty percent of the cess collected in respect of tea

and coffee shall be transmitted to the respective District Roads Committee.

(1B) For the purposes of this section, "District Roads Committee" has the meaning assigned to it in section 2 of the Kenya Roads Board Act, 1999.

No 7 of 1999

The Seeds and Plant Varieties Act (Cap 326).

s.20(1)(a) Delete the word "propagating" and insert "reproductive."

s.30(7) Renumber paragraph (b) as paragraph (c) and substitute therefor the following new paragraph -

(b) gives a statement under that subsection which is false in any material particular; or

Delete the fullstop at the end thereof and add the words "and liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding one year or to both".

s.33 Delete the words "three thousand" and "three months" and substitute therefor the words "twenty thousand" and "six months" respectively.

Fourth Schedule Place a fullstop immediately after the words "each cycle" appearing in paragraph 1(1) of Part II thereof and delete the rest of the paragraph.

Delete the proviso to paragraph 2(2) and substitute therefor the following new proviso -

"Provided that the restriction imposed by this subparagraph shall not apply to sales or offers for sale made outside Kenya during the period of six

years in the case of trees and vines, and four years in the case of others, ending with the date of application."

- s.2 Delete the definition of "State Corporations Advisory Committee" The Wildlife (Conservation and Management) Act (Cap.376).
- s 3B Delete subsection (10) and substitute therefor the following new subsection-
- “(10) The Board of Trustees shall determine its own procedure
- s' 3D Delete subsection (1) and insert the following new subsection -
- (1) The Board of Trustees shall establish the terms and conditions for the appointment and enlistment of the members of the Service and the secondment of any other persons to serve with the Service.”
- s.67 Delete paragraph (g) and insert the following new paragraph -
- “(g) make provision for the manner and time in which applications for the award of compensation under section 62 may be made, for prescribing the level of such compensation and for the regulation of the proceedings of District Committees established under that section and for the Appeal Tribunal established under section 65 and the manner and time within which appeals under section 65(3) may be made.
- s.6(1) Insert the word “calendar” immediately before the word “year”. The Tourist Industry Licensing Act (Cap. 381).
- s.2 Insert the following definition in its The Transport

Licensing Act  
(Cap 404).

alphabetical Act sequence:-

“Minister” means the Minister for the time being responsible for matters relating to transport;

s.8 (6) Insert the words “or being the person in charge of the vehicle in respect of which such licence is issued” immediately after the words “road service licence”.

s.10(1) Delete the words “until the 31st December in the year in which it is issued.” and insert “for one year from the date of issue;”

s.15 Renumber the existing section as subsection (1) and insert the following new subsections -

(2) The Licensing Authority shall have the power to summon any applicant to attend before it and to give evidence or to produce any paper, book, record or document in the possession or under the control of that person.

(3) A summons to attend to give evidence or to produce documents before the Licensing Authority shall be issued under the hand and the direction of the Chairman of the Licensing Authority.

(4) In every summons under subsection (3) there shall be stated the place where and the time, not being later than seven days after receipt of the summons, when the person summoned is required to attend and the particular documents which he is required to produce, and the summons shall be served on the person mentioned therein either by delivering to him a copy

thereof or by leaving a copy thereof with some adult person at his usual or last known place of abode in Kenya, and there shall be paid or tendered to the person so summoned, if he does not reside within four miles of the place of attendance specified in the summons, such sum for his expenses as may be approved by the Minister

(5) A summons under this section may be served by an officer of the Licensing Authority or by a police officer.

(6) The provisions of this section shall apply *mutatis mutandis* with respect to the Appeal Tribunal appointed under section 19(2) of this Act

- s.19(1) Delete all the words appearing immediately after the words "accompanied by" and substitute therefor the words "a non-refundable cash deposit of two thousand shillings"
- s 20(2) Delete the words "five thousand" and substitute therefor the words "fifty thousand"
- s 21 Delete the words "five thousand" and substitute therefor the words "fifty thousand".
- s.23 Delete the words "one thousand " and "two thousand" and substitute therefor the words "ten thousand" and "twenty thousand" respectively
- s 27 Renumber the existing section as subsection (1) and insert the following new subsection -

(2) Notwithstanding the provisions of subsection (1), the Licensing Authority

may retain such percentage of the monies collected under this section as may be approved by the Treasury for purposes of defraying the expenses of the Authority and the Appeal Tribunal appointed under section 19(2).

s 29(1) Insert the following paragraph immediately after paragraph (b) –

(c) as respects certain journeys of a vehicle on which passengers are carried, particulars of the passengers travelling on board such vehicle in such form as the Licensing Authority may specify

s.29(4) Delete the words “two thousand” and “five thousand” and substitute therefor the words “thirty thousand” and “fifty thousand” respectively.

The Exchequer  
and Audit Act  
(Cap. 412).

s 2 Delete the definition of “Auditor-General (Corporations)”

Insert the following new definition in its proper alphabetical sequence –

“state corporation” has the meaning assigned to it under section 2 of the State Corporations Act.

s 29 Repeal and replace with the following new section –

Accounts of  
state  
corporations

**29.(1)** Notwithstanding anything to the contrary in any other written law for the time being in force, the accounts of every state corporation shall be audited by the Controller and Auditor-General; and in the exercise of his duties under this section, the

controller and Auditor-General -

(a) shall have, in relation to such state corporation and its members, officers and employees, the same powers as are conferred on him by sections 7 and 8 with respect to public moneys, stamps, securities, stores or other Government property;

(b) may authorize any person publicly carrying on the profession of accountant or any officer to inspect, examine or audit the books and accounts of any state corporation which he may be required to examine and audit pursuant to the provisions of this section, and such person or officer shall report thereon to the Controller and Auditor-General in such manner as the Controller and Auditor-General may direct

(2) The Controller and Auditor-General shall report on his examination and audit of the accounts referred to in this section,

and shall transmit such report to the appropriate Minister for presentation to the National Assembly

Provided that -

(i) the appropriate Minister shall obtain the observations of the state corporation on any matter to which attention has been called by the Controller and Auditor-General in his report, and such observation shall be presented to the National Assembly with the reports;

(ii) if the appropriate Minister fails within a reasonable time to present such report to the National Assembly, the Controller and Auditor-General shall transmit such report to the Speaker of the National Assembly to be presented to the said Assembly.

(3) A reference in any written law to the Auditor-General (Corporations) shall, after the commencement of this section, be deemed to be a reference to the Controller and Auditor-General.



(4) The officers who, immediately before the commencement of this section, were appointed to assist the Auditor-General (Corporations) under section 29 (now repealed) shall, upon the commencement of this section, be deemed to be members of the staff appointed to assist the Controller and Auditor-General under section 9.

s 30A Delete the words "Auditor-General (Corporations)" and substitute therefor the words "Controller and Auditor-General"

s 31 Delete the words "Auditor-General (Corporations)" wherever they occur and substitute therefor the words "Controller and Auditor-General".

s 2 Delete subsection (1) and substitute therefor the following new subsection -

The Constitutional  
Offices  
(Remuneration)  
Act (Cap.423)

(1) The salaries to be paid to the holders of the offices specified in the first column of the Schedule, being the offices mentioned in section 104 of the Constitution, shall, with effect from the 1<sup>st</sup> July, 2001, be at the annual salary scales specified in relation to those offices in the second column of that Schedule

Schedule Repeal and replace with the following new Schedule -

#### SCHEDULE

**SALARY SCALES**

<i>Office</i>	<i>Salary Scale</i>
Attorney-General	Band A1
Chief Justice	Band A1
Judge of Appeal	Band A2
Puisne Judge	Band A3
Controller & Auditor- General	Band A2
Chairman, Public Service Commission	Band A2
Deputy Chairman, Public Service Commission	Band A3
Member, Public Service Commission	Band A3
Chairman, Electoral Commission	Band A2
Vice-Chairman Electoral Commission	Band A3
Member, Electoral Commission	Band A3

"Salary Scale Band A1" means a salary scale commencing at Kshs 300105 per month, increasing by Kshs 30010 per annum to Kshs 330115 per month, thereafter increasing by Kshs 33010 per annum to Kshs 363125 per month, thereafter increasing by Kshs 36310 per annum to Kshs 399435 per month, thereafter increasing by Kshs 39945 per

annum to Kshs 439380 per month; thereafter increasing by Kshs.43940 per annum to Kshs.483320 per month; thereafter increasing by Kshs.48330 per annum to Kshs 531650 per month

“Salary Scale Band A2” means a salary scale commencing at Kshs 180655 per month, increasing by Kshs 16260 per annum to Kshs 196915 per month, thereafter increasing by Kshs 17720 per annum to Kshs 214635 per month; thereafter increasing by Kshs.19320 per annum to Kshs 233955 per annum; thereafter increasing by Kshs 21055 per annum to Kshs 255Q10 per month, thereafter increasing by Kshs 22950 per annum to Kshs.277960 per month; thereafter increasing by two annual increments of Kshs 25015 each to Kshs 327990 per month; thereafter increasing by Kshs 30000 per annum to Kshs 357990 per month, thereafter increasing by two annual increments of Kshs.35000 each to Kshs 427990 per month

“Salary Scale Band A3” means a salary scale commencing at Kshs 130315 per month, increasing by Kshs 11730 per annum to Kshs 142045 per month; thereafter increasing by Kshs 12785 per annum to Kshs 154830 per month, thereafter increasing by Kshs 13930 per annum to Kshs 168760 per month, thereafter increasing by Ksh.15190 per annum to Kshs 183950 per month, thereafter increasing by Kshs 16555 per annum to Kshs 200505 per month, thereafter increasing by Kshs 2435 per annum to Kshs.217070 per month, thereafter increasing by Kshs 14130 per annum to Kshs.214635 per month,

thereafter increasing by two annual increments of Kshs 17500 each to Kshs.252070 per month, thereafter increasing by three annual increments of Kshs 18250 each to Kshs 306820 per month; thereafter increasing by Kshs.18430 per annum to Kshs 325250 per month and thereafter increasing by Kshs 18070 per annum to Kshs 343320 per month

The State  
Corporations Act  
(Cap 446)

s 2

Delete the definition of "Auditor-General (Corporations)"

Delete paragraph (b)(vii) of the definition of "State Corporation"

Delete the definition of "Inspector" and substitute therefor the following new definition -

"Inspector" means the Inspector-General (Corporations) appointed as such under section 18,

New

Insert the following new section immediately after section 5 -

Exemption **5A** (1) Subject to subsection (2), the President may, by notice in the Gazette, exempt a state corporation, not being a state corporation established under section 3, from any of the provisions of this Act

(2) Notwithstanding the provisions of subsection (1), an exemption granted under this section shall not exempt a state corporation from the provisions of sections 5, 11, 13, 14, 18,

19, 20, 21, 22, 23, 24, 25, 26,  
27, 28 or 29

(3) Any state corporation eligible for exemption under this section which, immediately before the commencement of this section, was not subject to the provisions of this Act by virtue of -

- (a) the provisions of the written law under which such state corporation is established; or
- (b) a declaration in that behalf under paragraph (b) (vii) of section 2 (now repealed),

shall, subject to subsection (2), be deemed to be exempt from the provisions of this Act

s 7(2) Delete and substitute therefor the following new subsection -

(2) Notwithstanding subsection (1), directions under this section may require that the memorandum and articles or any other documents establishing a state corporation, be amended to conform with any requirement of this Act where the same is inconsistent therewith

s.8(1)(e) Insert the following proviso -

Provided that where within half an hour after the time appointed for the meeting a quorum is not present, the meeting shall be adjourned to the same

day in the next week, at the same time and place, or at such other place and at such time as the members may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the members present shall be deemed to be a quorum.

s.10(1) Delete the words "and public officers in receipt of a salary"

s 14 Delete the words "by the Auditor-General (Corporations)"

s 15 Delete subsection (2) and substitute therefore the following new subsection -

(2) The chief executive of a state corporation may be summoned by the Public Investments Committee to answer on behalf of the Board any question arising from a report, including a special report, submitted to that Committee under Part VII of the Exchequer and Audit Act

Cap 412

s 18(1) Delete the words "Inspector of State Corporations" and substitute therefor the expression "Inspector-General (Corporations)."

s 18(1)(c) Delete the words "and the Auditor-General (Corporations)";

s.18(3) Delete the words "the Controller and Auditor-General or the Auditor-General (Corporations)" and substitute therefor the words "or the Controller and Auditor-General"

ss.18, 19, 20,21, 23, 24, 25 Delete the word "Inspector" wherever it occurs and substitute therefor the expression "Inspector-General (Corporations)"

s 24(3) and (4) Delete the words "Inspector's certificate" whenever they occur and substitute therefor the words "certificate of the Inspector-General (Corporations)

s 26(1) Delete subparagraph (d) and substitute therefor the following new subparagraph -

"(d) the Inspector-General (Corporations)."

s 2 Delete the definition of "investment company" and substitute therefor the following new definition - The Capital Markets Authority Act (Cap 485A)

Cap 486

"investment company" means a collective investment scheme organised as a limited liability company under the Companies Act in which the rights of the participants are represented by shares of the company

s 8 Insert the following new subsection immediately after subsection (4) -

(5) The chief executive shall, subject to the general direction and control of the Authority, be charged with the direction of the affairs and transactions of the Authority, the exercise, discharge and performance of its objectives, functions and duties, and the administration and control of the servants of the Authority

s 23 (1) Delete the words "securities exchange"

s 23(2) Insert the words "securities exchange" immediately before the words "registered venture capital fund"

s.26 Delete the introductory portion thereof and substitute therefor the following -

“The Authority may revoke a licence or approval if it is satisfied that the licensed or approved person.... .”

s.27(1)(a) Delete the words “during the previous year” and substitute therefor the words “or approved during the current year”,

s.29(1)(f) Delete and substitute therefor the following new paragraph -

(f) in the case of an application for a stockbroker’s licence, that the applicant shall carry on business solely on behalf of clients

s.30A(1) Delete the words “No public company” and substitute therefor the words “No person”

The Building Societies Act (Cap 489)

New Insert the following new section immediately after section 55 -

Application for transfer of business to a Company  
Cap 486

**55 A. (1)** Where a building society wishes to transfer its business including all its assets and liabilities, to a limited liability company incorporated under the Companies Act, such building society may make an application to the Registrar in the prescribed manner.

(2) An application under subsection (1) shall be supported by -



- (a) a report signed by all directors outlining the reasons for seeking to undertake such transfer;
- (b) a resolution approved by the creditors of the society sanctioning the intended transfer,
- (c) a special resolution approved by three quarters of the members of the society sanctioning the intended transfer;
- (d) audited statements of accounts confirming that the society is solvent and has carried on its business in conformity with the provisions of the Act and the society's by-laws and regulations,
- (e) a resolution approved by the annual or extraordinary general meeting of the limited company to which the transfer is intended to be made stating that the company is financially able to satisfy on demand the claims of all creditors of the society;
- (f) full disclosure of the shareholders and directors of the company including information

on their interests in the company,

(g) a copy of the company's memorandum and articles of association, and

(h) a copy of the company's latest audited statements of accounts

(3) In considering an application made by a society under subsection (1) the Registrar shall ensure that -

(a) the intended transfer is in good faith for the benefit of the members of the building society, its creditors and the general public,

(b) the company carries on or is licensed to carry on the business of a mortgage finance company under the Cap 488 Banking Act, and

(c) the company and the society are financially solvent and the company is capable of assuming the society's business without adversely affecting any member, creditor, borrower or other interested party

(4) Where the Registrar is satisfied that the intended

transfer fulfils the conditions set out in subsection (3), the Registrar shall cause the building society to publish a notice in the Gazette and in at least one national daily newspaper informing the public of the intended transfer and inviting any interested party with objections thereto to appear and make representations to the Registrar at a specified venue within a period not exceeding thirty (30) days

(5) The Registrar may upon hearing all representations under subsection (4) approve or reject the application, and any person aggrieved by the Registrar's decision may appeal to the Minister within a period of fifteen days

(6) The decision of the Minister on any appeal made shall be final

Transfer of  
business  
of a company

**55B** Where a society has been granted permission to transfer its business to a company, the following arrangements shall apply -

- (a) the existing members of the building society shall become ordinary shareholders in the company and the value of the shares allotted shall be equivalent to the value of the shares

held by them in the building society,

- (b) all debts payable by or to the building society shall with effect from the date of the transfer be paid by or to the company,
- (c) all contracts concluded by the building society shall at the time of the transfer be binding on the company,
- (d) any mortgage, charge, title deed, conveyance, discharge, reconveyance or lease held by the building society shall be deemed without any further assurance to be held by the company which shall be capable of discharging, reconveying, transferring or foreclosing in respect of any particular property as the building society would have done had there been no transfer
- (e) all accounts held by depositors in the building society shall be deemed to be accounts held with the company which shall honour all the terms and

conditions relating to such accounts.

- |                                       |         |  |
|---------------------------------------|---------|--|
| The Standards Act (Cap 496)           | s 14(1) | <p>Insert the following new paragraphs immediately after paragraph (f) -</p> <p>(g) seize and detain, for the purpose of testing, any goods in respect of which he has reasonable cause to believe that an offence has been committed;</p> <p>(h) seize and detain any goods or documents which he has reasonable cause to believe may be required as evidence in any proceedings for any offence under this Act</p> |
| The Trade Descriptions Act (Cap 505). | s.2     | <p>Delete the number "27" appearing immediately after the word "section" in the definition of "inspector" in subsection (1) and substitute therefor the number "54"</p> <p>Insert the following new paragraph immediately after paragraph (b) of subsection (2) -</p> <p>"(c) a description of goods in any customs entry shall be deemed to be a trade description".</p>  |
|                                       | s.3     | <p>Delete paragraph (b) and substitute therefor the following new paragraph -</p> <p>"(b) supplies or offers to supply or has in his possession for supply, any goods to which a false trade description is applied"</p>   |
|                                       | s.7     | <p>Repeal and replace it with the following new section -</p>  |

Prohibition  
of importation  
of goods  
bearing false  
indication of  
origin

7 (1) Subject to section 27 of this Act, no person shall import into Kenya -

- (a) any goods to which there is applied a trade description which contains a direct or indirect reference to any country, town or place other than the country, town or place in which the goods were manufactured or produced, or
- (b) any goods which bear the name of any manufacturer, dealer or trader in Kenya, unless there is added to that name in a conspicuous manner, the name of the country in which such goods were made or produced and the name of the manufacturer of the goods in that country

(2) Any person who imports goods in contravention of this section and any person or persons handling or dealing in such goods shall be guilty of an offence

s.8(1) Insert the following new paragraph immediately after paragraph (i) -

- (j) their being subject to an existing patent, trade mark licence or copyright licence”;

Renumber the existing paragraph (j) as paragraph (k)

s 9 Delete paragraph (a) and substitute therefor the following new paragraph -

- (a) any trade description which is false or misleading in a material respect as regards to the goods to which it is applied.

Insert the following new paragraph (e) -

- (e) any mark made to so nearly resemble a registered trade mark or monogram as to be likely to deceive

Renumber the existing provision as subsection (1) and insert the following new subsection -

(3) The provisions of this Act respecting the application of a false trade description to goods shall extend to the application to goods of any such figures, words, marks or colours or arrangement or combination thereof, whether including a trade mark or not, or any name or initials as are likely to lead a person to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are, and provisions relating to goods to which a false trade description

is applied shall be construed accordingly.

s 10(3) Delete and substitute therefor the following new subsection -

(3) Where goods are supplied in pursuance of a request made by reference to a trade description appearing in any sign, advertisement, invoice, business letter, business paper or other commercial communication, such goods shall for the purposes of this Act be deemed to be goods to which the trade description is applied

The Weights and Measures Act (Cap 513)

s 2 Delete the words "weights and measures officer" appearing in the definition of the word "inspector" and substitute therefor the word "person"

Insert the following new definition immediately after the definition of the word "inspection" -

"International Bureau of Weights and Measures" means the body known as *Internationale des Poids et Mesures* established under the Convention du Metre, being the body responsible for the conservation of the prototypes of the international standards of weights and measures

Insert the following new definition immediately after the definition of "weighing instrument" -

"weighing or measuring equipment" includes a weight, measure or a weighing or measuring instrument

s 12 Delete subsection (2) and substitute therefor the following new subsection -



(2) Every standard procured under subsection (1) shall, before being brought into use, be verified by the International Bureau of Weights and Measures and thereafter shall be reverified at such intervals and in such manner as may be prescribed, and the certificate of verification or reverification in respect thereof shall be kept in the custody of the Director

Delete the words "shall direct" appearing immediately after the word "Minister" in subsection (4) and substitute therefor the words "may prescribe".

s 13

Delete subsection (1) and substitute therefor the following new subsection -

- (1) The Minister shall procure and cause to be maintained copies of the Kenya primary standards and the copies shall be designated the Kenya primary reference standards

Delete subsection (2) and substitute therefor the following new subsection -

- (2) Every Kenya primary reference standard shall be verified by such authority and in such manner as may be prescribed

Delete subsection (3) and substitute therefor the following new subsection -

- (3) Before the Kenya primary standards are reverified in accordance with subsection (2) of section 12, the Director shall cause the Kenya primary reference standards to be verified against the Kenya primary standards, and such Kenya primary

reference standards shall be deemed to be the Kenya primary standards during such time as the Kenya primary standards are undergoing verification”.

Delete the words “shall direct” appearing in subsection (4) immediately after the word “Minister” and substitute therefor the words “may prescribe”

- § 14 Insert the word “be” in paragraph (1) (b) immediately before the word “either”

Delete all the words appearing immediately after the word “of” in the second line and substitute therefor the words “unit of measurement specified in the Act or have no such markings”.

Delete subsection (8)

- § 15(3)(b) Delete all the words appearing immediately after the word “of” in the second line and substitute therefor the words “a unit of measurement specified in the Act, or have no such markings”

- § 16(1)(b) Delete all the words appearing immediately after the word “of” in the second line and substitute therefor the words “a unit of measurement specified in the Act or have no such markings”

- § 18(2) Inserting the word “for” immediately before the word “the”

Delete the full stop appearing immediately after the word “duty” and substitute therefor the words “or other dues”

Insert the following new paragraph immediately after paragraph (b) -

- (a) for the assessment of any work done, wages due or services rendered.
- s 18(4)(b) Insert the word "and" immediately after the word "consumption"
- Insert the following new paragraph immediately after paragraph (b) -
- "(c) any weighing or measuring equipment used for determining whether or not any step is required to be taken to safeguard the well being of human beings or animals or to protect any commodity, vegetation or thing".
- Third Schedule Delete the words "one year" appearing in paragraph 1(1) and substitute therefor the words "three years" The Accountants Act (Cap 531)
- Fourth Schedule Delete the words "two years" appearing in paragraph 1(1) and substitute therefor the words "three years"
- s 20(1)(c) Delete the words "at the commencement of this Act" and substitute therefor the words "on the 30<sup>th</sup> June, 2002" The Certified Public Secretaries of Kenya (Cap.534)
- s.20(1)(d) Delete, the words "at the commencement of this Act" and substitute therefor the words "on the 30<sup>th</sup> June, 2002",
- s 20(1)(f) Delete and substitute therefor the following new paragraph -
- "(f) he is on the 30<sup>th</sup> June, 2002 an advocate of the High Court of Kenya"
- First Schedule Delete the word "forty" appearing in paragraph 5(2) and insert "twenty one"
- Third Delete the words "one year" appearing

	Schedule	paragraph 1(1) and insert "three years"
The Narcotic Drugs and Psychotropic Substances Act, 1994 (No 4 of 1994)	s 2	In paragraph (b) of the definition of "opium poppy" delete the word "phenanthrene" and substitute therefor the word "phenanthrene",
	New	Insert the following section immediately after section 74 -
	Procedure upon seizure of narcotic drugs	<p>"74A (1) Where any narcotic drug or psychotropic substance has been seized and is to be used in evidence, the Commissioner of Police and the Director of Medical Services or a police or a medical officer respectively authorized in writing by either of them for the purposes of this Act (herein referred to as "the authorised officers") shall, in the presence of -</p> <p>(a) the person intended to be charged in relation to the drugs (in this section referred to as "the accused person"),</p> <p>(b) a designated analyst,</p> <p>(c) the advocate (if any) representing the accused person, and</p> <p>(d) the analyst, if any, appointed by the accused person (in this section referred to as "the other analyst"),</p>

weigh the whole amount seized, and thereafter the designated analyst and the other analyst (if he so wishes) shall each take and weigh one or more samples of such narcotic drug or psychotropic substance and take away such sample or samples for the purpose of analysing and identifying the same

(2) After analysis and identification of the sample or samples taken under subsection (1), the same shall be returned to the authorized officers together with the analysts' certificates for production at the trial of the accused person

(3) Upon receipt of the certificates and the samples analysed in accordance with the foregoing subsections the authorized officers shall, where the drug is found to be narcotic drug or psychotropic substance within the meaning of this Act, arrange with a magistrate for the immediate destruction by such means as shall be deemed to be appropriate of the whole amount seized (less the sample or samples taken for analysis and production as evidence at any subsequent trial)

(4) The destruction of drugs and psychotropic

substances ordered under subsection (3) shall be carried out by the authorised officers in the presence of the magistrate and the accused person and his advocate (if any) and thereafter the magistrate shall sign a certificate in the prescribed form relating to such destruction.

(5) The production in court by either one of the authorised officers at the trial of an accused person of the sample or samples together with the analysts' certificates and the magistrate's certificate of destruction shall be conclusive proof as to the nature and quantity of the narcotic drug or psychotropic substance concerned and of the fact of its destruction in accordance with the provisions of this section

The Auctioneers  
Act (No.5  
of 1996)

s.2

Delete the definition of "Minister"

Insert the following new subsection immediately after subsection (2) -

(3) Notwithstanding subsection (2), a member of the Board may -

- (a) at any time resign from office by notice in writing to the Chief Justice,
- (b) be removed from office by the Chief Justice if the member -

- (i) has been absent from three consecutive meetings of the Board without permission of the Chairman;
- (iii) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
- (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
- (v) is incapacitated by prolonged physical or mental illness; or
- (vi) is otherwise unable or unfit to discharge his functions.

s 3 Delete the word "two" appearing in paragraph (e) of subsection (1) and substitute therefor the word "nine"

Delete paragraph (f) of subsection (1)

Delete the fullstop at the end of subsection (2) and add the words "for one further term of three years".

s 4(2) Insert the following paragraph immediately after paragraph (b) -

- (a) to carry out training programmes for licensed auctioneers.

Delete the fullstop at the end thereof and add the words "and such secretary shall hold office for a renewable term of three years"

s.7 Renumber the existing provision section as subsection (1) and insert the following new subsection –

(2) Where the person appointed under subsection (1) is for any reason unable to continue discharging his functions the Chief Justice may appoint another public officer to act in that capacity as the Secretary to the Board..

s.10 Delete paragraph (b) of subsection (2).

Renumber subsection (3) as subsection (4) and insert the following new subsection (3) –

(3) A person who is a Member of Parliament or a Councillor shall be entitled to hold a general licence enabling him to realise securities and carry out repossessions in such parts of the country as may be specified therein.

s.18(7) Delete the expression “ten years” and substitute therefor the expression “five years”

s.24(1) Delete the word “person” and the fullstop at the end thereof and add the words “aggrieved person within a period of one year after the occurrence of the event giving rise to the complaint”.

Schedule Renumber the existing paragraph 6 as subparagraph (a) and insert the following new subparagraph –

(b) Where the Secretary to the Board is unable to attend a meeting of the Board, the Board shall appoint one of the members appointed under section 3(1) (d) to serve as Secretary with respect to that meeting



- s.1 Renumber paragraphs (c) and (d) as paragraphs (d) and (e) and insert the following new paragraph (c)- Finance Act, 1998.  
(No.5 of 1998).
- (c) section 14 (b)(1), Item C, on the 6<sup>th</sup> November, 1998.
- s.2 Delete the definition of "Service" and substitute therefor the following new definition - The National Security Intelligence Service Act, 1998  
(No. 9 of 1998).
- "Service" means the National Security Intelligence Service established under section 4;
- Schedule Delete the expression "National Intelligence and Security Service" wherever it occurs and substitute therefor the expression "National Security Intelligence Service";
- s 1 Insert the words "and different dates may be appointed for different provisions" immediately after the word "appoint". The Bukura Agricultural College Act, 1999  
(No. 11 of 1999).
- s.63 Repeal and replace with the following new section - The Central Depositories Act, 2000  
(No.4 of 2000).
- Prosecution 63. The Attorney-General may on the request of the Authority appoint any officer of the Authority or advocate of the High Court to be a prosecutor in respect of any offence under this Act.
- s.58(2) Delete the fullstop at the end thereof and add the words "by the owner of the patent or with his express consent". Industrial Property Act, 2001.  
(No. 3 of 2001).



