

SPECIAL ISSUE

Kenya Gazette Supplement No. 161 (Acts No. 18)



REPUBLIC OF KENYA

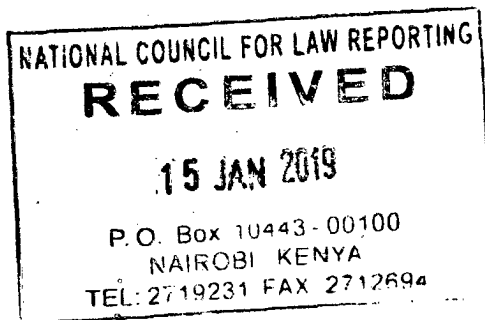
KENYA GAZETTE SUPPLEMENT

ACTS, 2018

NAIROBI, 4th January, 2019

CONTENT

Act—	PAGE
The Statute Law (Miscellaneous Amendments) Act, 2018	315



**THE STATUTE LAW (MISCELLANEOUS
AMENDMENTS) ACT, 2018**

No. 18 of 2018

Date of Assent: 31st December, 2018

Date of Commencement: 18th January, 2019

AN ACT of Parliament to make various 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, 2018.

Short title.

2. The several laws specified in the first column of the Schedule are amended in the provisions specified in the second column thereof, in the manner respectively specified in the third column.

Amendment of written laws.

SCHEDULE

<i>Written law</i>	<i>Provision</i>	<i>Amendment</i>
The Judicature Act, (Cap.8).	s.2.	Delete the definition of the word "judge" and substitute therefor the following new definition- "Judge" means the Chief Justice or any other judge appointed under Article 166 of the Constitution.
	No. 20 of 2011.	Insert the following new definitions in proper alphabetical sequence – "Employment and Labour Relations Court" means the Employment and Labour Relations Court established by the Employment and Labour Relations Court Act, 2011.
	No. 19 of 2011.	"Environment and Land Court" means the Environment and Land Court established by the Environment and Land Court Act, 2011.
	s.3(1)	Delete the words "the High Court, the Court of Appeal" and substitute therefor the words "the Supreme Court, the Court of Appeal, the High Court, the Environment and Land Court, the employment and Labour Relations Court"

- (2) Delete the words “the High court, the Court of Appeal” and substitute therefor the words “the Supreme Court, the Court of Appeal, the High Court, the Environment and Land Court, the Employment and Labour Relations Court”

The Oaths and Statutory Declarations Act (Cap.15).

s. 12

Delete the words “a deputy registrar and district registrar” and substitute therefor the expression “a Deputy Registrar, a Deputy Registrar of the Environment and Land Court and a Deputy Registrar of the Employment and Labour Relations Court”.

s.13

Delete.

The Public Archives and Documentation Service Act (Cap.19).

s.2

Insert the following new definition in proper alphabetical sequence-

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to culture and national heritage.

The Civil Procedure Act (Cap.21)

s.11

Delete the word “district” wherever it appears and substitute therefor the word “county”.

s.21

Delete the word “district” wherever it appears and substitute therefor the word “county”.

s.40

Delete the word “district” wherever it appears and substitute therefor the word “county”.

s.65(1)(b)

Delete the words “other than a magistrate’s court of the third class”

s.81(1)

Delete and substitute therefor the following new subsection-

“(1) There shall be a Rules Committee which shall consist of—

(a) the following members appointed by the Chief Justice—

(i) one judge of the Court of Appeal;

- (ii) one judge of the High Court;
 - (iii) a judge of the Environment and Land Court;
 - (iv) one judge of the Employment and Labour Relations Court who is a member of the Employment and Labour Relations Court Rules Committee;
 - (v) two Magistrates, one of whom shall be the Secretary to the Committee;
 - (vi) eight advocates nominated by the Law Society of Kenya to represent each of the branches of the Society established under section 24 of the Law Society Act, 2014; and
 - (vii) one representative from the Kenya Law Reform Commission; and
- (b) the Attorney-General or a designated representative.”

(1A) Delete and substitute therefor the following new subsection—

“(1A) A person shall be qualified to be nominated to the Committee by the Law Society of Kenya if that person-

- (a) has been a member in good standing of the Law Society of Kenya for at least ten years; and
- (b) holds a current practising certificate at the time of his or her nomination.”

New Insert the following new subsections immediately after subsection (1A)—

“(1B) A person nominated by the Law Society of Kenya under subsection (1) may be nominated more than once to serve on the Committee.

(1C) The Chief Justice may elect to be a member of the Committee, in which case he or she shall be the Chairperson, but where he elects not to be a member, the Chief Justice shall appoint one of the other members to be the Chairperson.

(1D) The Committee may co-opt other persons whose knowledge and experience may assist the Committee in the discharge of its functions.

(1E) The function of the Committee shall be to—

- (a) propose rules not inconsistent with this Act or any other written law to provide for any matters relating to the procedure before courts and tribunals; and
- (b) advise the Chief Justice on such rules as may be necessary under this section.”

The Foreign
Judgment
(Reciprocal
Enforcement)
Act (Cap.43)

s.2

Delete the definition of the words “superior courts in Kenya” and substitute therefor the following new definition—

“superior courts in Kenya” means Supreme Court, the Court of Appeal, the High Court, the Employment and Labour Relations Court and the Environment and Land Court.

The Probation
of Offenders
Act. (Cap.64).

s. 2

Insert the following new definitions in their proper alphabetical sequence—

“Director” means the Director of Probation whose office is within the Public Service;

“pre-sentence inquiry reports” means the reports on accused persons or offenders prepared by probation officers under this Act or any other law in force for purposes of criminal justice administration.

s. 4 (1) Delete the word “youth” and substitute therefor the word “age”

(2) Delete the word “youth” and substitute therefor the word “age”

New Insert the following new subsections immediately after subsection (4)—

“(5) Before making a probation order under subsection (1) or (2), the court may consider the view of the victim as contained in the pre-sentence report prepared pursuant to subsection (6).

(6) Where a subordinate court or a superior court considers making a probation order, it shall, before making such order, direct a probation officer to conduct a social inquiry into the circumstances of the case and the accused and make a pre-sentence report of the findings to the court.

(7) A probation officer shall, while acting on the authority of the court, have the right to access records and any other necessary information from any person or authority having such records or information for the purpose of preparing a social inquiry report.

(8) A pre-sentence report shall include a recommendation as to the suitable period of supervision, rehabilitation programmes and any measures necessary to reduce the risk of re-offending.”

s.5 Insert the following new subsections immediately after subsection (3)-

“(4) The Court may extend the period of residence specified in the probation order for a further period not exceeding twelve

months in exceptional circumstances and with compelling reasons provided by a probation officer.

(5) The Court may make further orders providing for an offender to attend non-residential programmes at a probation institution or any other such facility established under this Act, or at any other facility suitable for the fulfilment of the supervision order."

s.8(3) Delete the expression "two hundred" appearing in paragraph (a) and substitute therefor the expression "twenty thousand".

s.11(1) Delete the words "principal probation officer" and substitute therefor the word "Director"

s. 12 (1) Delete the words "principal probation officer" and substitute therefor the word "Director"

s.13 Delete the words "principal probation officer" and substitute therefor the word "Director"

s.14 Delete the words "principal probation officer" and substitute therefor the word "Director"

s.16(a) Delete the words "principal probation officer" and substitute therefor the word "Director"

s. 17 (a) Delete the words "principal probation officer" and substitute therefor the word "Director"

s.18 Delete the words "principal probation officer" and substitute therefor the word "Director"

The Criminal
Procedure
Code
(Cap.75).

s.2 Delete the expression "Attorney-General" appearing in the definition of the expression "officer in charge of a police station" and substitute therefor the expression "Inspector-General of the National Police Service".

Delete the expression “Commissioner of Police” wherever it appears and substitute therefor the expression “Inspector-General of the National Police Service”.

No.11A of 2011. Delete the definition of the expression “police station” and substitute therefor the following new definition-

“police station” means a place designated by the Inspector-General as a police station under section 40 of the National Police Service Act, 2011.

s.26(1) Delete the words “Commissioner of Police” and substitute therefor the word “Inspector-General of National Police”

s.386(1) Delete the words “Commissioner of Police” and substitute therefor the word “Inspector-General of National Police”

Extradition
(Contiguous
and Foreign
Countries)
Act. (Cap.76).

s.3(3) Delete the expression “House of Representatives” and substitute therefor the words “National Assembly”.

s.11(2) Delete the expression “House of Representatives” and substitute therefor the expression “National Assembly”.

s.15(1)(b) Delete the words “Commissioner of Police or chief officer of the police of the district, city, town or area where the prisoner is in custody” and substitute therefor the words “Inspector-General of Police or the Officer Commanding the respective Police Division or Police Station”.

The
Registration of
Persons Act
(Cap 107)

s.3 Insert the following new definitions in proper alphabetical sequence-

“Biometric” means unique identifiers or attributes including fingerprints, hand geometry, earlobe geometry, retina and iris patterns, voice waves and Deoxyribonucleic Acid in digital form;

“Global Positioning System coordinates” means the unique identifier of precise geographic location on the earth,

expressed in alphanumeric character being a combination of latitude and longitude;

“physical form” means existing in a form that one can see and touch; and

“Principal Secretary” means the Principal Secretary in the ministry responsible for matters relating to registration of persons.

- s.5(1)(d) Delete the and substitute therefor -
- (i) county of birth; or
 - (ii) county of residence.
- (1)(g) Delete paragraph (g) and substitute therefor the following new paragraph -
- (g) place of residence and postal address, Global Positioning Systems coordinates, Land Reference Number, Plot Number or House Number, if any;
- (1)(h) Insert the words “in physical form” immediately after the words “toe impressions”.
- Insert the following new paragraph immediately after paragraph (h) -
- (ha) biometric data.
- New. Insert the following new section immediately after section 9 -

Establishment of the
National Integrated
Identity
Management
System

9A. (1) There is established a National Integrated Identity Management System.

(2) The functions of the system are -

- (a) to create, manage, maintain and operate a national population register as a single source of personal information of all Kenyan citizens and registered foreigners resident in Kenya;

- (b) to assign a unique national identification number to every person registered in the register;
- (c) to harmonise, incorporate and collate into the register, information from other databases in Government agencies relating to registration of persons;
- (d) to support the printing and distribution for collection all national identification cards, refugee cards, foreigner certificates, birth and death certificates, driving licenses, work permits, passport and foreign travel documentation, student identification cards issued under the Births and Deaths Registration Act, Basic Education Act, Registration of Persons Act, Refugees Act, Traffic Act and the Kenya Citizenship and Immigration Act and all other forms of government issued identification

- documentation as may be specified by gazette notice by the Cabinet Secretary;
- (e) to prescribe, in consultation with the various relevant issuing authorities, a format of identification document to capture the various forms of information contained in the identification documents in paragraph (d) for purposes of issuance of a single document where applicable;
 - (f) to verify and authenticate information relating to the registration and identification of persons;
 - (g) to collate information obtained under this Act and reproduce it as may be required, from time to time;
 - (h) to ensure the preservation, protection and security of any information or data collected, obtained, maintained or stored in the register;
 - (i) to correct errors in registration details, if so required by a

person or on its own initiative to ensure that the information is accurate, complete, up to date and not misleading; and

- (j) to perform such other duties which are necessary or expedient for the discharge of functions under this Act.

(3) The Principal Secretary shall be responsible for the administration, coordination and management of the system.

The Public Holidays Act (Cap. 110). Schedule Part I Delete the words “Kenyatta Day” and substitute therefor the words “Mashujaa Day”.

Delete the words “Independence Day” and substitute therefor the words “Jamhuri Day”.

The Housing Act, (Cap 117). s.3(2) Delete and substitute therefor the following new subsection—

“(2) The Corporation shall consist of—

- (a) a chairperson appointed by the President;
- (b) the Principal Secretary responsible for housing in the Ministry;
- (c) a person appointed by the Cabinet Secretary for the time being responsible for finance; and
- (d) six persons appointed by the Cabinet Secretary for the time being responsible for housing, being persons who in his or her

opinion possess knowledge of housing development or housing finance.”

(2A) In appointing the persons under subsection 2(d), the Cabinet Secretary shall ensure that the marginalised groups are represented.

The Law of Succession Act (Cap.160).

New

Insert the following new section immediately after section 49 -

Power to clear Court.

49A. (1). In any proceedings for an application or dispute relating to the administration of a deceased person’s estate, the Court hearing the application or dispute may on its own motion or upon an application by any of the parties, direct that any persons, not being members of the Court or parties to the case or their advocates, be excluded from the Court.

(2) The Court may prohibit the publication of the proceedings on the matter in respect of which a direction is given under subsection (1).

The Kenya Ports Authority Act (Cap.391).

s.62(1)

No. 26 of 2013.

Delete the expression “Chief Justice” and substitute therefor the words “Registrar of the Nairobi Centre for International Arbitration established under the Nairobi Centre for International Arbitration Act, 2013”.

The Kenya Airports Authority Act (Cap.395).

s.33(1)

No. 26 of 2013.

Delete the expression “Chief Justice” and substitute therefor the words “Registrar of the Nairobi Centre for International Arbitration established under the Nairobi Centre for International Arbitration Act, 2013”.

The Traffic Act

(Cap. 403)

- s.2 Insert the following new definition in proper alphabetical sequence -
 “authorised officer” means a person appointed as such under section 3(4).
 Delete the definition of the term “driving test examiner”
- s.3 Insert the following new subsections immediately after subsection (2)-
 (3) The Authority may appoint such number of suitably qualified persons to be inspectors of motor vehicles as it may deem necessary for purposes of this Act.
 (4) The Authority may designate any of its officer to be authorised officers for purposes of this Act.
- s.39(1) Delete the words “driving test examiners” and substitute therefor the words “the Authority”.
- s.45(1) Insert the words “or a commercial vehicle” immediately after the words “public service vehicle”.
- s.56(1) Insert at the end thereof the words “or as provided for under the East African Community Vehicle Load Control Act, 2013.
- s.57 Insert the following new subsection immediately after subsection (2)-
 “(3) An authorised officer may detain a vehicle carrying any of the loads requiring a permit as prescribed under this Act or the East African Community Load Control Act, 2013, and which is found to be without a permit, or direct such vehicle to proceed to such place as may be necessary, taking into account safety, health or security, and the transporter owning such vehicle shall be liable to such fine or imprisonment as may be prescribed.”

s.58 Delete the expression “section 55 or section 56” wherever it appears and substitute therefor the expression “section 55, 56 or 57”.

Insert at the end thereof the words “or in accordance with the East African Community Vehicle Load Control Act, 2013.

Insert the words “or in accordance with the East African community Vehicle Load Control Act, 2013 immediately before the words “shall be guilty” appearing in subsection (1).

s.91(1) Insert the following new paragraph immediately after paragraph (h) -

(i) causes any damage to the road.

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

(3) Any person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

s.94 Delete and substitute therefor the following new section-

Penalties
under this
Part.

94. Any person who contravenes or fails to comply with any of the provisions of this Part commits an offence and is liable on conviction, where no other penalty is specifically provided, to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both.

s.104 Delete and substitute therefor the following new section -

Penalties
under this
Part.

104. Any person who contravenes or fails to comply with any provisions of this Part commits an offence and is liable on conviction, where no penalty is specifically provided, to a fine not exceeding twenty thousand shillings or imprisonment for a term not exceeding six months.

s.106(1) Insert the words “or the East African Community Vehicle Load Control Act, 2016” immediately after the words “this Act”.

s.106(8) Delete and substitute therefor the following new subsection-

(8) Any person who fails to comply with this section or order given thereunder commits an offence and is liable on conviction, where no penalty is specifically provided, to a fine not exceeding twenty thousand shillings or imprisonment for a term not exceeding six months.

The Kenya
Post Office
Savings Bank
Act (Cap.493).

s.14

Delete the word “Minister” and substitute therefor the word “Registrar in consultation with the Cabinet Secretary”.

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

No.26 of
2013.

(2) For purposes of this section “Registrar” means the Registrar of the Nairobi Centre for International Arbitration established under the Nairobi Centre for International Arbitration Act, 2013.

The Export
Processing
Zones Act,
1990, (Cap
517)

s.2

Insert the following definition in proper alphabetical sequence -

“eligible activities” includes activities to enable agricultural activities preceding processing and value addition directly related to value addition conducted in Kenya within a gazetted export processing zone in

aquaculture, horticulture, tea, coffee, floriculture, diary and ranching, and silviculture.

s.15(1) Insert the following words “land or building or part thereof” immediately after the word “area”.

s.21(c) Delete the words “for a minimum period of thirty years within the export processing zone” and substitute therefor the words “or buildings or part thereof for a minimum period of ten years for land and buildings or part thereof”.

s.26(3B) Delete.

The Kenya
Information
and
Communications
Act, 1998
(No. 2 of
1998)

s.6(1)(a) Delete the expression “in accordance with section 6B”.

(1) (e) Delete the expression “in accordance with section 6B”

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

(2) In appointing the members of the Board under subsection (1) (e) , the Cabinet Secretary shall ensure –

(a) that the appointees to the Board reflect the interests of all sections of society;

(b) equal opportunities for persons with disabilities and other marginalised groups; and

(c) that not more than two-thirds of the members are of the same gender.

s.6B Delete .

New Insert the following new section immediately after section 25—

Payment of
licence fees.

25A. (1) The Authority may prescribe fees payable for a licence issued under this Part.

(2) Subject to subsection (3), an applicant shall pay the prescribed fees in full before the grant of a licence.

(3) The Authority may permit the payment of spectrum license fees in equal instalments over a period not exceeding ten years if—

- (a) the fees exceed one billion shillings;
- (b) the applicant is a Kenyan citizen or an entity in which Kenyan citizens own at least fifty-one per cent shares; and
- (c) the applicant undertakes to construct at least five hundred base transceiver stations across the country within three years of the grant of the licence.

(4) A person granted a licence subject to the conditions under subsection (3) shall be liable to pay the prescribed licence fee in full if they—

- (a) cease to be a Kenyan citizen or an entity in which Kenyan citizens own at least fifty-one per cent shares; or
- (b) propose a transfer or assignment of the licence to a non-citizen or an entity in which Kenyan citizens do not own at least fifty-one per cent shares.

(5) The Authority shall revoke a licence granted subject

to the conditions under subsection (3) if the licensee fails to meet the requirement under paragraph (3)(c).

The
Community
Service Orders
Act 1998 (No.
10 of 1998).

s.2 Delete the definitions of the expressions “Minister” and “Permanent Secretary”.

Insert the following new definitions in proper alphabetical sequence-

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to correctional services; and

“Principal Secretary” means the Principal Secretary in the Ministry for the time being responsible for matters relating to correctional services.

s.3(3) Delete the words “it may” and substitute therefor the words “it shall”.

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

(9) Where a person is convicted of an offence, and is placed under a Community Service Order, such conviction shall be disregarded for the purpose of any enactment by or under which any disqualification or disability is imposed upon convicted persons or by or under which provision is made for a different penalty in respect of an offence committed after a previous conviction:

Provided that if the original order is set aside and the offender is sentenced for the original offence, this section shall cease to apply in respect of that offence, and the offender shall be deemed for purposes of any enactment imposing a disqualification to have been convicted on the date of sentence.

New Insert the following new subsection immediately after subsection 9-

(10) Subsection (1) of this Act shall not apply to a person who is convicted under the following legislation-

- (a) the Anti-Corruption and Economic Crimes Act, 2003;
- (b) the Sexual Offences Act, 2006;
- (c) the Prohibition of Female Genital Mutilation Act, 2011;
- (d) the Prevention of Terrorism Act, 2012;
- (e) the Proceeds of Crime and Anti-Money Laundering Act, 2009; or
- (f) the Bribery Act, 2016

s.7(1)(c) Delete and substitute therefor the following new paragraph -

“(c) the Principal Secretary in the Ministry for the time being responsible for matters relating to the interior and co-ordination of national government.”

Delete paragraph (g).

(3) Delete.

s.8(1) Delete paragraph (a) and substitute therefor the following new paragraph -

(a) advise the Cabinet Secretary and the Chief Justice generally on the proper administration of this Act or on any other matters relating to community services.

s.17 Delete the word “Minister” and substitute therefor the expression “Cabinet Secretary”.

The
Environmental
Management
and Co-

s.2 Delete the definition of the word “Public Department”;

Insert the following new definition in the proper alphabetical sequence –

ordination
Act, 1999 (No.
8 of 1999).

“Complaints Committee” means the National Environmental Complaints Committee established under section 31;

- s.29(4) Delete the expression “(c) to (g)” and substitute therefor the expression “(d) to (f)”.
- s. 31 Delete the word “Department” appearing on the marginal note and substitute therefor the words “Complaints Committee”
- (1) Delete the expression “National Environmental Department (hereinafter referred to as “the Department”) and substitute therefor the words “Complaints Committee”
- (1) (d) Delete the word “Department” and substitute therefor the words “Complaints Committee”
- (2) Delete the word “Department” and substitute therefor the words “Complaints Committee”.
- (3) Delete the word “Department” appearing in the opening statement and substitute therefor the words “Complaints Committee”.
- (4) Delete the word “Department” and substitute therefor the words “Complaints Committee”.
- (5) Delete the word “Department” and substitute therefor the words “Complaints Committee”.
- (6) Delete the word “Department” and substitute therefor the words “Complaints Committee”.
- s.32 Delete the word “Council” wherever it appears in paragraphs (a), (b) and (c) and substitute therefor the expression “Cabinet Secretary”.

Delete the words “National Environmental Department” appearing in the marginal note and substitute therefor the words “Complaints Committee”.

Delete the expression “National Environmental Department (hereinafter referred to as “the Department”) and substitute therefor the words “Complaints Committee”.

s.33 Delete the words “National Environmental Department” appearing in the marginal note and substitute therefor the words “Complaints Committee”.

(1) Delete the expression “National Environment Department (hereinafter referred to as “the Department) appearing in the opening statement and substitute therefor the words “Complaints Committee”.

(1a) Delete the word “Department” and substitute therefor the words “Complaints Committee”.

(1b) Delete the word “Department” and substitute therefor the words “Complaints Committee”.

(2a) Delete the word “Department” and substitute therefor the words “Complaints Committee”.

(2c) Delete the word “Department” and substitute therefor the words “Complaints Committee”.

(2d) Delete the word “Department” and substitute therefor the words “Complaints Committee”.

s.34 Delete the words “National Environment Department” appearing in the marginal note and substitute therefor the words “Complaints Committee”

Delete the word “Department” and substitute therefor the words “Complaints Committee”.

s.35 (1) Delete the word “Department” wherever it appears and substitute therefor the words “Complaints Committee”

36 Delete the words “National Environmental Department” appearing in the marginal note and substitute therefor the words “Complaints Committee”.

s.36(1) Delete the word “Council” and substitute therefor the expression “Cabinet Secretary”.

Delete the words “Department” and substitute therefor the words “Complaints Committee”.

s. 36(2) Delete the words “Department” and substitute therefor the words “Complaints Committee”.

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

“(2) A person shall be qualified for appointment as the Executive Director if that person—

(a) holds a degree in finance, accounting, law or engineering from a university recognised in Kenya;

(b) has knowledge and at least ten years’ experience in a relevant field;

(c) has served in a senior management position for a period of at least five years; and

(d) satisfies the requirements of Chapter Six of the Constitution.”

The Kenya Roads Board Act, 1999 (No.7 of 1999).

The Industrial Property Act, 2001 (No. 3 of 2001)

- s.2 Delete the definition of the expressions “ARIPO protocol”, “National Commission for Science, Technology and Innovation” and “Minister”.
- Insert the following new definitions in proper alphabetical sequence -
- “Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to the Institute;
- “Harare Protocol” means the protocol on patents and industrial designs adopted at Harare on 10th December 1982;
- “international-type search” means a search similar to an international search provided under Article 15 of the Patent Cooperation Treaty;
- “National Commission for Science, Technology and Innovation” has the meaning assigned to it under the Science, Technology and Innovation Act, 2013:
- s.6 Delete the word “Minister” and substitute therefor the word “Cabinet Secretary”.
- s.9 Delete the word “Minister” wherever it occurs and substitute therefor the word “Cabinet Secretary”.
- s.16 Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.
- s. 18 Delete the word “Minister” wherever it occurs and substitute therefor the words “Cabinet Secretary”.
- s. 21 Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.
- s. 27 Delete the word “Minister” wherever it occurs and substitute therefor the words “Cabinet Secretary”.
- s.29(1)(a) Delete and substitute therefor the following new paragraph—

(a) a culture of the micro-organism has been deposited with a depository institution as prescribed by the regulations.

s.29(1) (b) Delete

s.29(1)(c) Delete

s.34(4) Delete and substitute therefor the following new subsection—

(4) The appointment of an agent shall be indicated by furnishing a power of attorney signed by the applicant.

s.34(5) Delete and substitute therefor the following new subsection—

(5) The description shall disclose the invention and the best mode for carrying out the invention, in full, clear, concise and exact terms as to enable a person skilled in the art to make, use or evaluate the invention and that description shall include any drawing and relevant deposits as in the case of microorganisms and self-replicable material which are essential for the understanding of the invention.

s.53(2)(a) Delete and substitute therefor the following new paragraph—

“(a) to disclose the invention in accordance with this Act.”

s.59 Delete and substitute therefor the following new section—

Regional applications, grants and registrations under the Harare Protocol.

59. (1) For the purposes of this section—

“regional application” means an application for a patent, utility model or industrial design filed in accordance with the Harare Protocol and the regulations made thereunder;

“receiving office” has the meaning assigned to it by the Harare Protocol;

“designated office” has the meaning assigned to it by the Harare Protocol;

“designate” has the meaning assigned to it by the Harare Protocol;

(2) The Institute shall act as a receiving office where Kenya is designated in a regional application.

(3) The Institute shall act as a designated office where Kenya is designated in a regional application.

(4) The functions of the Institute under this section shall be performed in accordance with the provisions of this Act and the Harare Protocol;

Provided that in case of conflict, the provisions of this Act shall apply.

(5) A patent, utility model or industrial design granted or registered under the Harare Protocol and in which Kenya is designated shall be treated as if it were granted or registered under this Act.

(6) For purposes of subsection (5)–

(a) the owner of the patent, utility model or industrial design shall have the same rights and remedies and be subject to the

same conditions as the owner of a patent, utility model or industrial design granted or registered under this Act; and

(b) the provisions of this Act relating to surrender, revocation, infringement and rectification of registers shall apply, with necessary modifications, to the patent, utility model or industrial design.

(7) The requirements and procedures under this section shall be prescribed in regulations:

s.62 Delete the word “court” and substitute therefor the word “Tribunal”.

s.63 Delete and substitute therefor the following new section—

Joint
ownership of
applications
and patents.

63. In the absence of any agreement to the contrary between the parties, joint owners of an application or a patent may, separately, transfer their rights in the application or patent, exploit the protected patent and preclude any person from exploiting the patent but may only jointly grant permission to any third person to do any of the acts referred to in section 54.

s.77 Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.

s.80 Delete the word “minister” wherever it occurs and substitute therefor the word “Cabinet Secretary”.

s. 84(1) Delete and substitute therefor the following new subsection—

“(1) For the purposes of this Part —

“industrial design” means the overall appearance of a product resulting from one or more visual features of the shape, configuration, pattern or ornamentation of a product; and

“product” means anything that is made by hand, tool or machine.

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

(2) The protection under this Act shall not extend to anything in an industrial design which serves solely to obtain a technical result or to methods or principles of manufacture or construction.

s.86(2) Delete and substitute therefor the following new subsection—

(2) An industrial design is new unless it is identical or substantially similar in overall impression to an industrial design that has been disclosed to the public anywhere in the world by publication or use prior to the filing date or, where applicable, the priority date of the application for registration.

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

“(3) Section 23(4) shall apply, with necessary modifications, with respect to industrial designs.”

(4) Delete and substitute therefor the following new subsection—

“(4) The following shall not be registered as industrial designs —

(a) industrial designs that are contrary to public order and morality;

- (b) works of sculpture, architecture, painting, photography and any other creations that are purely of artistic nature.”

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

“(5) The details of the requirements and the procedure under this section shall be prescribed in regulations.”

- s.87 Delete the marginal note and substitute therefor with the following new marginal note–

“Application, examination, opposition and registration.”

- (2) Delete.

- (4) Delete and substitute therefor the following new subsection–

(4) Section 36 shall apply, with necessary modifications, in respect of amendment and division of applications for registration of industrial designs.

- (6) Delete the expression “or a specimen thereof” in the proviso.

- (8) Delete and substitute therefor the following new subsection–

(8) The managing director shall, if satisfied that an application meets the requirements of this section and of sections 84 and 86, accept the application and publish it in the prescribed manner.

- (9) Delete and substitute therefor the following new subsection–

(9) Any interested person may, within the prescribed time and in the prescribed manner, give notice of opposition to the Managing Director.

Insert the following new subsections after subsection (9)—

(10) Where the managing Director establishes that a design application does not meet the requirements for registration, the Managing Director shall send the applicant a report setting out the objections to registration and if the applicant does not reply to the objections within the prescribed period, the application shall be deemed abandoned.

(11) Where an application for registration of an industrial design is accepted and published in error, the Managing Director may publish in the journal an indication to that effect and direct that the application be re-examined.

(12) The details of the requirements and procedure under this section shall be prescribed in regulations.

(13) The Managing Director shall, if satisfied that an application meets the requirements of this Act, register the industrial design and issue a certificate of registration to the applicant.

s.90 Delete the expression “specimens, etc” in the marginal note.

s.90(1) Delete and substitute therefor the following new subsection—

(1) An application for registration of an industrial design together with any drawing, photograph, graphic representation or specimen shall be kept confidential until the application is published in accordance with section 87.

s.90(2) Delete the expression “and specimens” in paragraph (d).

s.90(3) Delete and substitute therefor the following new subsection—

(3) After publication, any person may obtain the official copy of the application.

s.90(4)

Delete.

s.91

Delete and substitute therefor the following new section—

Publication of reference to registration of industrial designs.

91. The Managing Director shall, in relation to each industrial design registered under section 87, publish the details prescribed in the regulations.

New.

Insert the following new section after section 91—

Publication of reference to registration of industrial designs.

91A. Section 46 shall apply, with necessary modifications, with respect to the maintaining of the register of industrial designs.

s. 92(4)

Delete and substitute therefor the following new subsection—

(4) Section 59 shall apply, with necessary modifications, with respect to industrial design applications or industrial designs registered under the Harare Protocol.

s.93(2)

Delete and substitute therefor the following new subsection—

(2) The provisions of sections 62, 63, 64, 65, 66, 67, 68, 69, 70 and 71 shall apply, with necessary modifications, to this Part.

s.113

Delete the word “minister” wherever it occurs and substitute therefor the word “Cabinet Secretary”.

s.113(6)

Delete and substitute therefor the following new subsection—

(6) The Cabinet Secretary shall through a competitive process, appoint a person who has experience of not less than seven years in matters relating to industrial property being qualified and

entitled to practice as an advocate in Kenya to be Secretary to the Tribunal.

s.117 Delete the word “minister” and substitute therefor the word “Cabinet Secretary”.

s. 119 Delete the word “minister” and substitute therefor the word “Cabinet Secretary”.

s. 120 Delete the word “minister” wherever it occurs and substitute therefor the word “Cabinet Secretary”.

Second Schedule Delete the word “minister” wherever it occurs and substitute therefor the word “Cabinet Secretary”.

The Children Act, 2001 (No. 8 of 2001)

s.2 Insert the words “an officer of the national adoption society” immediately after the words “labour officer” appearing in the definition of the expression “authorised officer”.

Insert the following new definition in proper alphabetical sequence -

“national adoption society” means the Child Welfare Society of Kenya established by the Child Welfare Society of Kenya Order, 2014.

New Insert the following new section immediately after section 20—

Application of No.8 of 2010.

20A. (1) The provisions of section 4 of the Counter – Trafficking in Persons Act, 2010 shall apply with regards to offences involving trafficking in children.

(2) Any person convicted of an offence of trafficking in children shall be liable for punishment in accordance with the penalties imposed under section 4 of the Counter – Trafficking in Persons Act, 2010.

s.59 Insert the following new paragraph immediately after paragraph (e) -

“(f) a temporary place of safety established under regulations made under this Act.

New. Insert the following new sections immediately after section 72 -

Powers of Cabinet Secretary over charitable children institutions.

72A. (1) Notwithstanding any other provision of this Part, the Cabinet Secretary may direct the Council to cancel the registration of, or to close down, a charitable children institution where-

- (a) the lives of children in such institution are in danger or where their continued stay therein is likely to endanger their wellbeing;
- (b) the institution or a person involved in the management of such institution is unfit to provide care or protection to the children;
- (c) it has been established that the institution does not serve the best interest of the children therein; or
- (d) such institution is in contravention of the Constitution, the Convention on Rights of the Child, the African Charter on the Rights and Welfare of the Child or any other law or international treaties or conventions to

which Kenya is a party.

(2) The Cabinet Secretary may pursuant to subsection (1) order the suspension of the registration of new charitable children institutions.

Caretaker
Committee.

72B. Where the Cabinet Secretary makes a directive under section 72A (1), the Cabinet Secretary shall appoint a Committee of suitably qualified persons to oversee the process of closure and the relocation of the children in the concerned institution.

s.147 Insert the following new subsection immediately after subsection (4) -

“(5) Notwithstanding any other provision of this Act, the national adoption society may place any child it finds to be in need of care and protection in foster care under this Act.”

s.155 Insert the following subsection immediately after subsection (1) -

“(1A) The Committee may, with the approval of the Cabinet Secretary, co-opt into its membership not more than two persons whose knowledge and experience it considers necessary for the better performance of its functions under this Act.”

s.156 (1) Delete the words “a registered adoption society” and substitute therefor the words “the national adoption society or any other registered adoption society”.

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

(4a) Notwithstanding any other provision of this Part, the moratorium issued before the enactment of subsection (4) shall be deemed to have been issued under this section.

s.157 (1) Delete the words “a registered adoption society” appearing in the provision and substitute therefor the words “the national adoption society or any other registered adoption society”.

s.163 (1)(f) Delete the words “a registered adoption society in Kenya” and substitute therefor the words “an adoption society”.

s.177(1) Delete and substitute therefor the following new subsection-

(1) No body of persons shall make any arrangements for the adoption of a child under the provisions of this Act unless such body is the national adoption society or any other body registered as an adoption society under this Part.

s. 179(1) (b) Delete the words “commits an offence and is liable on conviction to imprisonment for a term not exceeding three years, or a fine not exceeding one hundred thousand shillings, or to both” and substitute therefor the following words “commits an offence and is liable on conviction to imprisonment for a term not exceeding twenty years or to a fine not exceeding twenty million shilling or to both”.

s.179(2) Delete paragraphs (b), (c), (d) and (e).

New. Insert the following new section immediately after section 183 -

The powers of
Cabinet
Secretary over
adoption
societies.

183A. The Cabinet Secretary may, in writing, direct the Adoption Committee to decline registration or cancel the registration of an adoption

society where it is established that -

- (a) the operations of such adoption society are against the best interests of the child;
- (b) such adoption society is no longer necessary; or
- (c) the operations of such adoption society are in contravention of the Constitution or any other law or any international treaty or convention to which Kenya is a party.

New.

Insert the following new section immediately after section 197 -

Committees.

197A. The Cabinet Secretary may, from time to time by notice in the Gazette, establish and assign functions to such committees or working groups as may be necessary for the better performance of any function required to be performed under this Act.

The Copyright Act, 2001 (No. 12 of 2001).

s.6

Delete and substitute therefor the following new section -

Composition of Board.

6. (1) The Board shall consist of—

- (a) a Chairperson appointed by the President;
- (b) the Principal Secretary in the National Treasury or a designated representative;
- (c) the Principal Secretary in-charge of matters relating to culture and heritage or a representative;

- (d) the principal secretary in the Ministry responsible for matters relating to information and communications technology or a designated representative;
- (e) the Attorney-General or a representative;
- (f) three persons each nominated by associations recognised by the Government as representing stakeholders in music, film and publishing respectively; and
- (g) the Executive Director appointed under section 11.

(2) Any person who, immediately before the commencement of this section was a member of the Board shall be deemed to be a member of the reconstituted Board for the unexpired period of his or her term.

(3) Appointments under paragraph (1) (f) shall be by the Attorney-General.

Insert the following new subsections immediately after subsection (4)—

(5) The Cabinet Secretary shall compile and submit to the National Assembly, not later than four months after the end of each financial year, a consolidated report summarizing the status of implementation of

each proposal approved under subsection (2) in that year.

(6) Upon laying before the National Assembly, the report under sub section (5) shall be referred to the relevant committee.

The Witness
Protection
Act, 2006

(No. 16 of
2006)

s.2

Delete the definition of the word “Minister”.

s.3E

Insert the following new subsection immediately after subsection (7A)-

(7B) Notwithstanding subsection (7A), the Board shall afford the Director an appropriate opportunity to defend himself against any allegation made against him before taking any action under that subsection.

s.3E(12)

Delete

s.3F(1)

Delete the word “Minister” and substitute therefor the words “the Attorney-General”.

(6)

Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.

s.3G(2)

Delete the word “Minister” and substitute therefor the expression “Attorney-General”.

s.3I(2)(c)

Delete the word “Minister” and substitute therefor the expression “Attorney-General”.

s.3I(6)

Delete the word “Minister” and substitute therefor the words “Cabinet Secretary responsible for finance”

s.3J(5)

Delete the word “Minister” and substitute therefor the words “Cabinet Secretary responsible for finance”.

s.3K

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

(3) The legislative and regulatory provisions on the auditing of national security organs shall apply *mutatis mutandis* to the Agency.

s.3L(2) Delete the word “Minister” and substitute therefor the expression “Attorney-General”.

(3) Delete the word “Minister” and substitute therefor the expression “Attorney-General”.

s.3P Insert the following new subsection immediately after subsection (3)-

(4) A member of the Board may in writing designate an officer not below the level of Director or equivalent to represent him on the Board.

s.5(4) Delete the word “Minister” and substitute therefor the expression “Attorney-General”.

s.30D Delete the word “Minister” and substitute therefor the expression “Cabinet Secretary”.

The Labour Institutions Act, 2007 (No. 12 of 2007) s.43(1) Insert the following paragraph immediately after paragraph (b) –
(c) an Export Processing Zones Wages Council.

The Labour Relations Act, 2007, (No. 14 of 2007) s.50 (8) Delete the words “into the account designated in the notice issued by the minister” and substitute therefor the expression “to a trade union”.

The Anti-Counterfeit Act, 2008, (No. 13 of 2008) Long title. Delete the word “agency and substitute therefor the word “Authority”.

s.2 Delete the definition of the term “Agency” and substitute therefor the following definition -

“Authority” means the Anti-Counterfeit Authority established under section 3.

Insert the words “any item that bears an intellectual property right” immediately after the word “counterfeiting” in the definition of “counterfeit goods”.

Insert the words “or outside Kenya” immediately after the words “subsisting in Kenya” appearing in the definition of the word “counterfeiting”

Insert the following definitions in proper alphabetical order-

“consumer” includes any member of the public or person who purchases or likely to purchase goods as an end user other than the owner of intellectual property right; and

“counterfeit mark” means a spurious mark-

- (a) that is used in connection with any goods, labels, patches, stickers, wrappers, budes, emblems, medallions, charms, boxes, containers, cans, hand tags, documentation or packaging of any type or nature;
- (b) that is identical with, or substantially indistinguishable from, a mark registered in the trade mark register and in use, whether or not a person knows such a mark was registered;
- (c) that is applied to or used in connection with the goods for which the mark is registered, or is applied to or consists of a label, patch, sticker, wrapper, badges, emblems, medallion, charms, boxes, containers, cans, hand tags, documentation or packaging of any type or nature, that is designed, marked or otherwise intended to be

used on or in connection with the goods for which the mark is registered; and

- (d) the use of which is likely to cause confusion, to cause mistake, or to deceive.

Part II. Delete the word “Agency” appearing in the title and substitute therefor the word “Authority”.

s.3 Delete the word “Agency” appearing in the marginal note and substitute therefor the word “Authority”.

(1) Delete the word “Agency” wherever it appears and substitute therefor the word “Authority”.

(2) Delete the word “Agency” and substitute therefor the word “Authority”.

s.4 Delete the word “Agency” and substitute therefor the word “Authority”.

s.5 Delete the word “Agency” appearing in the marginal note and substitute therefor the word “Authority”.

Delete the word “Agency” appearing in opening statement and substitute therefor the word “Authority”.

Insert the following paragraphs immediately paragraph (d) –

(da) advise the government through the Cabinet Secretary on policies and measures concerning the necessary support, promotion and protection of intellectual property rights as well as the extent of counterfeiting;

(db) to carry out inquiries, studies and research into matters relating to counterfeiting and the protection of intellectual property rights.

s.6 Delete the word “Agency” appearing in the marginal note and substitute therefor the word “Authority”.

Delete the word “Agency” appearing in the opening statement and substitute therefor the word “Authority”.

s.7(a) Delete the word “Agency” and substitute therefor the word “Authority”.

(b) Delete the word “Agency” and substitute therefor the word “Authority”.

(c) Delete the word “Agency” and substitute therefor the word “Authority”.

(d) Delete the word “Agency” and substitute therefor the word “Authority”.

(e) Delete the word “Agency” and substitute therefor the word “Authority”.

(f) Delete the word “Agency” and substitute therefor the word “Authority”.

(g) Delete the word “Agency” and substitute therefor the word “Authority”.

s.10(1) Delete the word “Agency” and substitute therefor the word “Authority”.

(2)(c) Delete the word “Agency” and substitute therefor the word “Authority”.

s.11 Delete the word “Agency” appearing in the marginal note and substitute therefor the word “Authority”.

Delete the word “Agency” and substitute therefor the word “Authority”.

s.12(1) Delete the word “Agency” and substitute therefor the word “Authority”.

(2) Delete the word “Agency” and substitute therefor the word “Authority”.

(3) Delete the word “Agency” wherever it appears and substitute therefor the word “Authority”.

s.14(1) Delete the word “Agency” wherever appears and substitute therefor the word “Authority”.

(2) Delete the word “Agency” wherever it appears and substitute therefor the word “Authority”.

- s.15 Delete the word “Agency” and substitute therefor the word “Authority”.
- s.16(2) Delete the word “Agency” and substitute therefor the word “Authority”.
- Insert the following subsections immediately after subsection (3) –
- (3A) Notwithstanding the provisions of any other written law for the time being in force, no claim under this Act shall be brought against the Authority for any alleged damage to or loss of any goods after the expiry of a period of twelve months from the date of the seizure, removal or detention of the goods, as the case may be.
- (3B) The provisions of Part IV of the Government Proceedings Act shall apply mutatis mutandis to the Agency in relation to any execution of any judgment, decree or order against the Authority issued by any Court or tribunal or any other competent authority.
- s.17 Delete the word “Agency” appearing in the marginal note and substitute therefor the word “Authority”.
- Delete the word “Agency” appearing in the opening statement and substitute therefor the word “Authority”.
- (a) Delete the word “Agency” and substitute therefor the word “Authority”.
- (b) Delete the word “Agency” and substitute therefor the word “Authority”.
- (c) Delete the word “Agency” and substitute therefor the word “Authority”.
- (d) Delete the word “Agency” and substitute therefor the word “Authority”.
- (e) Delete the word “Agency” and substitute therefor the word “Authority”.
- s.18 Delete the word “Agency” and substitute therefor the word “Authority”.

- s.19(1) Delete the word “Agency” and substitute therefor the word “Authority”.
- (2) Delete the word “Agency” appearing in the opening words and substitute therefor the word “Authority”.
- (a) Delete the word “Agency” and substitute therefor the word “Authority”.
- (b) Delete the word “Agency” and substitute therefor the word “Authority”.
- (c) Delete the word “Agency” and substitute therefor the word “Authority”.
- (d) Delete the word “Agency” and substitute therefor the word “Authority”.
- (4) Delete the word “Agency” and substitute therefor the word “Authority”.
- s.20(1) Delete the word “Agency” and substitute therefor the word “Authority”.
- (2) Delete the word “Agency” appearing in the opening statement and substitute therefor the word “Authority”.
- (a) Delete the word “Agency” and substitute therefor the word “Authority”.
- (b) Delete the word “Agency” and substitute therefor the word “Authority”.
- (3) Delete the word “Agency” and substitute therefor the word “Authority”.
- s.21(1) Delete the word “Agency” and substitute therefor the word “Authority”.
- (2) Delete the word “Agency” and substitute therefor the word “Authority”.
- s.23 Insert the following subsections immediately after subsection (3) –
- (4) An inspector shall have the power to investigate any offence related or connected to counterfeiting notwithstanding that such an offence is not expressed as such under the provisions of this Act.

(5) An inspector shall have the same powers as are exercised by a customs officer with regard to importation of counterfeit goods under the East African Community Customs Management Act, 2005.

(6) If a magistrate, on sworn information in writing-

(a) is satisfied that there is reasonable ground to believe either-

(i) that any goods, books or documents which an inspector has power under this section to inspect are on any premises and that their inspection is likely to disclose evidence of commission of an offence under this Act; or

(ii) that any offence under this Act has been, is being, or is about to be committed on any premises; and

(b) is also satisfied either-

(i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this section has been given to the occupier; or

(ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the premises are

unoccupied, or that the occupier is temporarily absent and it might defeat the object of the entry to await his return,

the magistrate may by warrant under his hand, which shall continue in force for a period of one month, authorize an inspector to enter the premises, if need be by force.

(7) An inspector entering any premises by virtue of this section may take with him such other persons and such equipment as may appear to him to be necessary; and on leaving any premises which he has so entered by virtue of a warrant he shall, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured against trespassers as he found them.

s.26

Insert the following subsection immediately after subsection (8) –

(9) In any criminal or civil proceedings concerning an act of dealing in counterfeit goods, the evidence of any person in the employment of the intellectual property rights holder or its agent with demonstrable training offered by such intellectual property rights holder or experience in the identification of the intellectual property rights holder's products shall be admissible as expert evidence.

s.32

Insert the following paragraphs immediately after paragraph (g) –

(h) have in his possession or control in the course of trade any labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans,

cases, hand tags, documentations, or packaging of any type or nature, with a counterfeit mark applied thereto, the use of which is likely to cause confusion, to cause mistake, or to deceive;

- (i) aids or abets or conspires in the commission of any offence under this Act;
- (j) import into Kenya, any goods or items bearing a trade mark, trade name or copyright that has not been recorded with the Agency;
- (k) import into Kenya, in the course of trade, any goods or items except raw materials that is unbranded;
- (l) fail to declare the quantity or the intellectual property right subsisting in any goods being imported into the Kenya;
- (m) falsely declare the quantity or the intellectual property rights subsisting in any goods being imported into Kenya; or
- (n) import into or transit through Kenya any labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hand tags, documentations, or packaging of any type or nature, with a counterfeit mark applied thereto, the use of which is likely to cause confusion, to cause mistake, or to deceive.

s.33(4) Insert the following words “including receiving and acting on consumer complaints” immediately after the word “initiative”.

Insert the following subsection immediately after subsection (5) -

(6) Notwithstanding the provision of subsections (1) and (2) of this section, a consumer or purchaser of goods may, where he has reasonable cause to suspect that an offence under this Act has been committed, is being committed or is likely to be committed by any person, lay a complaint with the Executive Director who shall cause appropriate steps to be taken in accordance with the provisions of this Act.

s.34 Insert the words “or Executive Director” immediately after the word “Commissioner” appearing in the marginal note.

(1) Insert the words “or Executive Director” immediately after the word “Commissioner”.

(2) Insert the words “or Executive Director” immediately after the word “Commissioner”.

(3) Insert the words “or Executive Director” immediately after the word “Commissioner”.

(4) Insert the words “or Executive Director” immediately after the word “Commissioner”.

(5) Insert the words “or Executive Director” immediately after the word “Commissioner”.

(6)(a) Insert the words “or Inspector” immediately after the words “customs officer”.

(b) Insert the words “or Inspector” immediately after the word “customs officer” wherever it appears and the words “or Executive Director” immediately after the word “Commissioner” respectively.

- (7) Insert the words “or Executive Director” immediately after the word “Commissioner”.
- (9) Insert the words “or the Authority” immediately after the word “Act”.
- New. Insert the following new section immediately after section 34A -

Trademark.

34B. (1) Trademarks relating to goods to be imported into Kenya, irrespective of the place of registration, shall be recorded with the Agency in the prescribed manner if the registration is current.

(2) Applicants for recordation of trademarks shall be notified of the approval or denial of an application filed under this section in a prescribed manner by notice in the Anti-Counterfeit newsletter published by the Agency.

(3) An application to record one or more trademarks shall be in writing in the prescribed manner and addressed to the Agency and shall include the following information -

- (a) the name, complete business address, and citizenship of the trademark owner or owners (if a partnership, the citizenship of each partner; if an association or corporation the State, country, or other political jurisdiction

within which it was organized, incorporated, or created);

(b) the places of manufacture of goods bearing the recorded trademark;

(c) sample of the trademarked goods or a sufficient digital photographic representation of the trademarked goods with appropriate details for identification and differentiation from any counterfeits;

(d) the name and principal business address of each foreign person or business entity authorized or licensed to use the trademark and a statement as to the use authorized; and

(e) the identity of any parent or subsidiary company or other foreign company under common ownership or control which uses the trademark abroad.

(4) The application shall be accompanied by -

(a) a status copy of the certificate of

registration certified by the registering authority showing title to be presently in the name of the Applicant;

- (b) the application shall be accompanied by a fee set out in the Second Schedule to the Act.

Provided that if the trademark is registered for more than one class of goods, the fee for recordation shall be for each class.

- (5) The recordation of the trademark and protection thereunder shall be effective on the date an application for recordation is approved.

- (6) The recordation of a trademark shall remain in force for a period of one year from the date of approval of the application for recordation or the current registration period of the trademark, whichever is shorter.

- (7) Recordation of a trademark shall be cancelled if the trademark registration is finally cancelled or revoked.

- (8) If there is change in ownership of a recorded trademark and the new owner wishes to continue the recordation with the Agency, the new owner shall apply immediately by -

- (a) complying with subsection (4) hereinabove;

- (b) describing any time limit on the rights of ownership transferred;
- (c) submitting a status copy of the certificate of registration certified by the registering authority showing title to be presently in the name of the new owner; and
- (d) paying a fee as prescribed in the Second Schedule to the Act.

(9) If there is a change in the name of the owner of a recorded trademark, but no change in ownership, written notice thereof shall be given to the Agency accompanied by -

- (a) a status copy of the certificate of registration certified by the registering authority showing title to be presently in the name as changed; and
- (b) a fee as prescribed in the Second Schedule to the Act.

(10) The owner of a recorded trademark shall submit a written application in the prescribed manner to the Agency not later than 30 days to the expiration of the current recordation.

(11) An application for renewal of recordation shall be accompanied by:

- (a) a status copy of the certificate of registration certified by the registering authority showing the title to be in the name of the applicant; and
- (b) a statement describing any change of ownership or in the name of the owner and any change of addresses of the owners and places of manufacture;
- (c) a fee as prescribed in the second schedule to the Act.

(12) The provisions of this Section shall apply to the recordation of copyrights, trade names or any other form of intellectual property rights mutatis mutandis.

(13) The Agency shall after satisfying itself that imported goods have complied with the provisions of this section issue to the importer of goods a certification mark in the form of an anti-counterfeit security device at a fee to be set out in the Second Schedule to the Act;

(14) The Agency shall have the power to seize and destroy any goods originally imported into Kenya but found within Kenya that do not bear the anti-counterfeit security device

s.35

Insert the following subsection immediately after sub-section (4) –

(5) Where a Court has concluded the hearing of a matter in any criminal proceedings whether the suspect is convicted or acquitted and the goods in the opinion of Court are counterfeit and it appears that the suspect has benefited or obtained some monetary advantage from dealing in counterfeit goods the subject matter of the criminal proceedings, the Court shall on application of the prosecutor order the suspect to forfeit that benefit or monetary advantage to the Agency within a period of three months and in default the Agency may trace and recover that benefit or advantage from the suspect.

s.36

Delete the word "Agency" wherever it appears and substitute therefor the word "Authority".

The Biosafety
Act, 2009 (No.
2 of 2009)

s.6(1).

Delete and substitute therefor the following subsection -

(1) The Authority shall be managed by a Board comprising of nine members as follows -

- (a) a Chairperson who shall be an eminent scientist, appointed by the Cabinet Secretary;
- (b) the Principal Secretary in the Ministry for the time being responsible for Science and Technology or a representative;
- (c) the Principal Secretary in the Ministry for the time being responsible for finance or a representative;
- (d) the Principal Secretary in the Ministry for the time being responsible for agriculture or a representative;

- (e) the Principal Secretary in the Ministry for the time being responsible for health or a representative;
- (f) two experts in the biological, environmental and social sciences respectively, appointed by the Cabinet Secretary;
- (g) one member with financial expertise, appointed by the Cabinet Secretary; and
- (h) the Chief Executive Officer who shall be an ex-officio member.

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

(1A) Any person who, immediately before the commencement of this section was a member of the Board shall be deemed to be a member of the reconstituted Board for the unexpired period of his or her term of service.

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

(2) The Chief Executive Officer shall hold office for a period of four years, which period may be renewed once subject to satisfactory performance, as evaluated by the Board of the Authority.

s.14. Delete and substitute therefor the following new section -

Staff of the
Authority

14. The Authority may employ a Corporation Secretary and such other officers, agents and staff as may be necessary for the performance of the functions of the Authority under this Act.

The Proceeds
of Crime and
Anti-Money
Laundering
Act, 2009
(No.9 of 2009)

s.2

Delete paragraph (e) of the definition of the expression “designated non-financial businesses or professionals” and substitute therefor the following new paragraph-

(e) accountants who are sole practitioners, partners or employees within professional firms;

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

(fa) trust and company service providers.

s.48

Delete and substitute therefor the following new section -

Application of
reporting
obligations.

8. The reporting obligations under this Part shall apply to-

(a) accountants when preparing or carrying out transactions for their clients in the following situations -

(i) buying and selling of real estate;

(ii) managing of client money, securities or other assets;

(iii) management of bank, savings or securities accounts;

(iv) organisation of contributions for the creation, operation or management of companies; or

(v) creation, operation or management of buying and selling of business entities or legal arrangements; or

- (b) a trust or company service provider not otherwise covered elsewhere in this Act, which as a business, provides any of the following services to third parties—
- (i) acting as a formation agent of legal persons;
 - (ii) acting as, or arranging for another person to act as, a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
 - (iii) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
 - (iv) acting as, or arranging for another person to act as, trustee of an express trust;
 - (v) acting as or arranging for another person to act as, a nominee shareholder for another person.

- The Alcoholic Drinks Control Act (No. 4 of 2010) s.2 Delete the definition of the word “magistrate” and substitute therefor the following new definition—
“magistrate” shall have the meaning assigned to it under the Magistrate Courts Act, 2015.
- The Competition Act, 2010 (No. 12 of 2010) s.10(1)(a) Delete and substitute therefor the following new paragraph—
“(a) a chairperson appointed by the President.”
- The Tourism Act, 2011 (No. 28 of 2011) s.7(1)(a) Delete paragraph (a) and substitute therefor the following new paragraph –
“formulate guidelines and prescribe measures for sustainable establishments and operations to realize sustainable tourism development throughout the country”
(g) Delete.
(h) Delete.
- s.31(a) Delete and substitute therefor the following new paragraph—
(a) implement and coordinate a national tourism marketing strategy developed in conjunction with the Ministry.
- s.42(b) Delete the words “Develop and”.
Insert the words “developed in conjunction with the Ministry immediately after the word “strategy”.
- The National Construction Authority Act, 2011 (No. 41 of 2011). s.18(5) Delete the expression “section 14 and 16” and substitute therefor the expression “section 16”.
- s.30(c) Delete the expression “section 29” and substitute therefor the expression “section 31”.
- s.27(3) Insert the words “under section 26(4)” at the end thereof.

No. 18	<i>Statute Law (Miscellaneous Amendments)</i>	2018
	s.30	Delete the expression "Section 29" appearing in paragraph (a) and substitute therefor the expression "Section 31".
	s.42(2)	Delete the expression "section 29" appearing in paragraph (a) and substitute therefor the expression "section 31".
The Engineers Act 2011 (No. 43 of 2011).	s.23(6).	Delete the full stop at the end thereof and add the words "and may approve the extension of the renewal of such registration for the purpose of completing the works referred to in subsection (4)".
The Land Act, 2012 (No. 6 of 2012).	s.2	Insert the following definition in its proper alphabetical sequence – "Alienation of public land" means alienation of land by either the National Government or the County Government as the case may be, by way of issuance of a letter of allotment by the National Land Commission to any person to hold the land either under leasehold or freehold tenure.
	Heading of Part II	Delete the heading of Part II and substitute therefor the words "General Conditions Relating to Leases, Licences and Agreements for Leasehold Land."
	s.23	Delete sub-section (2) and substitute therefor the following subsection – (2) A lease or licence for private land within the meaning of Article 64(b) of the Constitution shall be issued by the Cabinet secretary and registered by the Chief Land Registrar.
	s.25	Delete the word "leased" appearing in the marginal note.
	s.28(1)	Delete and substitute therefor the following new subsection- (1) The rent, royalties and payments reserved under any lease or licence shall be a debt owed to the national or county government, as the case may be,

and shall be paid by the lessee or licensee at the office of the respective government or at such place as such government may prescribe.

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

(3) The records of the payments made under subsection (2) shall be submitted to the Commission by the respective government.

s.29 Delete the word "Commission" wherever it appears and substitute therefor the words "national government or county government, as the case may be".

s.29 (4) Delete the word "Commission" wherever it occurs and substitute therefor the words "respective governments"

s.29(5) Delete the word "Commission" wherever it occurs and substitute therefor the words "respective governments"

s.30 Delete the words "Commission's right to recover a debt in any other way, the Commission may sue" and substitute therefor the words "the right of the respective government to recover a debt in any other way,, such government may sue"

s.31 Delete the word "Commission" wherever it appears and substitute therefor the words "national government or county government, as the case maybe"

s.32 Delete the word "Commission" wherever it appears and substitute therefor the words "national government or county government, as the case maybe"

s.33 Delete the word "Commission" wherever it appears and substitute therefor the words "national government or county government, as the case maybe"

s.34 Delete the words "Public Land" appearing in the marginal note and substitute therefor the words "leasehold land"

Delete the word “Commission” wherever it appears and substitute therefor the words “national government or county government as the case maybe”

Delete the words “leasehold public land” wherever they appear and substitute therefor the words “land held under leasehold tenure”

s.35 Delete the word “Commission” wherever it appears and substitute therefor the words “national government or county government as the case maybe”

The National Authority for the Campaign Against Alcohol and Drug Abuse, 2012 (No. 14 of 2012)

s.6(1)(a) Delete the expression “with the approval of the National Assembly”.

The Kenya Defence Forces Act, 2012 (No. 25 of 2012).

s.61(2) Insert the words “or any other lesser punishment provided for in this Act” at the end of paragraph (a).

s.133(1) Insert the words “or any other lesser punishment provided for in this Act” immediately after the word “death appearing in paragraph (a).

s.245(11) Insert the words “or arrangements” immediately after the word “agreements”

s.249(5)(a) Delete and substitute therefor the following paragraph -

(a) take oath and declare allegiance to the President as the Commander-in-Chief of the Kenya Defence Forces, the Republic of Kenya and the Constitution.

s.252 Renumber the existing provision as subsection (1) and insert the following new subsection-

(2) A person who enlists into the Defence Forces as a service member or a member of the constabulary shall make and

subscribe to the oath of allegiance set out in the Fourth Schedule.

s.304(1) Insert the following new paragraph immediately after paragraph (a)-

(aa) the establishment of a pensions assessment committee and a pensions appeals committee, including their composition and functions.

Fourth Schedule. Delete subparagraph (i) and substitute therefor the following paragraph -

(i) I will be faithful and bear true allegiance to the President as the Commander-in-Chief of the Kenya Defence Forces, the Republic of Kenya and the Constitution.

The Universities Act, 2012, (No. 42 of 2012).

s.2 Delete the words “ to which a Charter has been granted under this Act” appearing in the definition of “University” and substitute therefor the words “established in accordance with section 13 of this Act”;

Delete the words “established” appearing in the definition of “foreign university” and substitute therefor the words “legally established in a country”

s.6(2) Delete

s.6(3) Delete

s.6 (4) Delete

s.6(5) Delete

s.6(6) Delete

s. 6(7) Delete.

s.6(8) Delete.

s. 6(9) Delete

s.6(10) Delete.

s.15(2) Insert the following new paragraph immediately after paragraph (e) –

(ee) exercise any of the functions specified in section 20 (1) (e).

s.35(1)(a) Delete and substitute therefor the following new subparagraph -
(v).

(v) in the case of public universities, appoint Vice Chancellor, Deputy Vice Chancellors and Principals and Deputy Principals of Constituent Colleges, in consultation with the Cabinet Secretary, after a competitive process conducted by the Public Service Commission.

Second Schedule. Delete and substitute therefor with the following new Schedule—

SECOND SCHEDULE

(Section 38(1))

(1) Where a vacancy occurs in the office of the Chancellor of a public university, the senate of that university shall, in consultation with key stake holders, identify suitable persons for appointment.

(2) Five names shall be proposed to the Senate and submitted to the Public Service Commission for shortlisting and identification of three suitable candidates, ranked in order of merit.

(3) The Public Service Commission shall forward the names of the top three candidates to the Cabinet Secretary for onward transmission to the President, who shall pick one of the persons for appointment as the Chancellor.

(4) The appointment of the Chancellor by the President shall be by notice published in the Gazette.

The Treaty
Making and
Ratification Act,
2012

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

(3) A treaty relating to the adjustment, alteration or variation of

(No. 45 of 2012)

the present position of Kenya on matters of sovereignty, independence and territorial integrity shall be approved in a referendum in accordance with Article 255 of the Constitution:

Provided that the process of ensuring that the boundaries are correctly marked on the ground in accordance with the instruments establishing them shall not be deemed to amount to adjustment, variation or alteration under this section.

The Kenya
Institute of
Curriculum
Development
Act, 2013 (No. 4
of 2013).

s.5(2)

Delete and substitute therefor the following new subsection—

“(2) The Council shall consist of—

- (a) a chairperson who shall be appointed by the President;
- (b) the Principal Secretary in the ministry responsible for matters relating to education and training or a representative designated by the Principal Secretary;
- (c) the Principal Secretary responsible for Treasury or a representative designated by the Principal Secretary;
- (d) one person to represent the Kenya National Examinations Council;
- (e) one person to represent the Teachers Service Commission;
- (f) the following members appointed by the Cabinet Secretary—
 - (i) one person to represent public universities;

(ii) one person from the private sector;

(iii) one person nominated by the Kenya Primary Schools Head Teachers Association;

(iv) one person nominated by Kenya Secondary Schools Head Teachers Association;

(g) the Director who shall be an *ex-officio* member.”

New Insert the following new sub-section immediately after sub-section (2)-

(2A) Any person who, immediately before the commencement of this section was a member of the Council shall be deemed to be a member of the reconstituted Council for the unexpired period of his or her term of service.

(3) Delete.

s.7(1) Insert the words “if the chairperson or the member” immediately after the word “vacant.

Delete the words “if the member” appearing immediately before the word “resigns” in paragraph (a).

(2) Delete.

s.8 Delete.

First Schedule Delete.

The Kenya Agricultural and Livestock Research Act, 2013 (No.17 of 2013). Second Schedule Delete paragraph (f).

Third Schedule Delete paragraph (i).

Fourth
Schedule

Delete paragraph (d).

The Kenya Law
Reform
Commission Act
(No.19 of 2013).

s.6(1)(a)

Delete subparagraph (v) and substitute
therefor the new subparagraph -(v) that the public is informed of
review or proposed reviews of any
laws;Delete subparagraph (vi) and substitute
therefor the following new subparagraph-(vi) that it keeps an updated database
of all laws passed by Parliament
and all laws under review.

s.8(1)(c)

Delete paragraph (c) and substitute
therefor the following new paragraph-(c) two persons appointed by the
Attorney General, of whom one shall
be an advocate of the High Court of
Kenya nominated by the Law Society
of Kenya, and the other an officer in
the Office of the Attorney General.

New

Insert the following new paragraphs
immediately after paragraph (e) -(f) a person of the rank professor and
who teaches law in a public
university, appointed by the
Attorney General;(g) a person nominated by the Council
of Governors and appointed by the
Attorney General.

s. 8 (2)

Insert the words "specified under
paragraph (1) (b)" immediately after the
word "Commission"

s.8(4)

Delete and substitute therefor the
following new subsection-(4) The members referred to in
paragraphs (1)(b) and (c) shall be

officers from the Office of the Attorney-General or the respective State Department, as the case may be, and a representative from the Law Society of Kenya.

s.11(5) Delete the expression “(3) (g)” and substitute therefor the expression “(4) (g).”

s.11(8) Delete.

s.12(3) Delete and substitute therefor the following new subsection-

(3) The Chairperson and the Members appointed under subsection 8(1) (b) shall serve on a full-time basis while the Members appointed under subsections 8(1) (c), (d), (e), (f) and (g) shall serve on a part-time basis.

Second Schedule Paragraph 5. Delete the word “three” and substitute therefor the word “five”.

The Nairobi Centre for International Arbitration Act, 2013 (No. 26 of 2013)

s.6(1) Delete the word “justice” appearing in paragraph (c) and substitute therefor the word “finance”.

Delete the word “five” appearing in paragraph (e) and substitute therefor the word “three”

Delete paragraph (f) and substitute therefor the following new paragraph-

(f) one person each nominated by the following bodies respectively-

(i) the Kenya National Chamber of Commerce and Industry;

(ii) the Law Society of Kenya;

(iii) the Kenya Association of manufacturers, and

Insert the words “Kenya Branch” immediately after the word “Arbitrators” appearing in subparagraph (iv) of paragraph (f).

s.9(1) Delete the word “Board” and substitute therefor the word “Centre”.

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

(3) The Registrar shall be the chief executive officer of the Centre and responsible for the day-to-day management of the Centre and shall be the Secretary to the Board.

Insert the following new subsection immediately after subsection (3)-

(4) The Registrar shall hold office for four years and shall be eligible for reappointment for one further term of four years.

s.21(2)(b) Delete and substitute therefor the following new paragraph -

(b) a Deputy President.

(2)(c) Insert the words “not more than” immediately before the word “fifteen”.

(4) Delete subsection (4) and substitute therefor the following -

(4) The President and his deputy shall be appointed by the Board and shall -

(a) hold office for a term five years;

(b) be eligible for re-appointment for one further term of five years;

(c) serve on a part-time basis.

Insert the following new subsection immediately after subsection (5) —

(6) The Second Schedule shall apply in respect of the conduct of the affairs of the Arbitral Court.

s.22(1) Delete and substitute therefor the following new subsection-

(1) The Court shall hear and determine all disputes referred to it in accordance with this Act, the rules or any other written law.

s.23 Delete

s.24 Delete and substitute therefor the following new section -

Alternative
Dispute
Resolution. 24. Nothing in this Act shall be construed as precluding the Court from adopting and implementing, on its own motion or at the request of the parties, any other appropriate means of dispute resolution.

s.25 Delete and substitute therefor the following new section -

Rules. 25. The Board may make rules for —

- (a) the dispute resolution techniques and processes to be administered by the Court;
- (b) the matters reserved for the Court in the Act or any other law;
- (c) the general procedure of the Court; and
- (d) any other matter to give effect to this Act.

Schedule Paragraph 1 Insert the following new subparagraph immediately after paragraph (2) -

(3) The chairperson shall hold office for the period of his appointment as a member of the Board or for the term specified in the instrument of

appointment as such, and shall be eligible for reappointment for one further term.

New Renumber the existing Schedule as the First Schedule and insert the following new Schedule -

SECOND SCHEDULE (s.21(6))

CONDUCT OF THE AFFAIRS OF THE
ARBITRAL COURT

1. The President of the Court shall co-ordinate and supervise the management of the affairs of the Court.

2. The President shall constitute panels consisting of an odd number of members and allocate matters to such panels for the better performance of the functions of the Court.

3. A matter referred to the Court may be heard and determined by one member or a panel of not less than three members in accordance with the court rules of procedure made under section 25 of this Act.

4. The President of the Court shall submit quarterly progress reports to the Board setting out the activities of the Court during the period covered by the report.

5. The President of the Court may delegate any of his duties to the Deputy President.

The Wildlife
Conservation
and Management
Act (No. 47 of
2013).

s.3. Delete the definition of the words “dealer” and “trophy” and substitute therefor the following new definitions-

“deal” means—

(a) to sell, purchase, distribute, barter, give, receive, administer, supply, or otherwise in any manner deal with a trophy or live species;

(b) to cut, carve, polish, preserve, clean, mount or otherwise prepare a trophy or live species;

- (c) to transport or convey a trophy or live species;
- (d) to be in possession of any trophy or live species with intent to supply to another; or
- (e) to do or offer to do any act preparatory to, in furtherance of, or for the purpose of, an act specified above; and

“trophy” includes any bone, claw, egg, feather, hair, hoof, skin, tooth or tusk of an animal, and for any species of plant, any bark, branch, leaf, log, sip or extract and includes any other durable portion whatsoever of that animal or plant whether processed, added to or changed by the work of man or not, which is recognizable as such.

Insert the following new definition in proper alphabetical sequence -

“Community Wildlife Compensation Committee” means the committee established under section 18;

“subsistence hunting” means hunting for the purposes of daily consumption by an individual or their direct dependents.

- s.6(1) Insert the words “a uniformed and disciplined” immediately after the words “established a”.
- s.7(e). Insert the word “levies” immediately after the word “revenue”.
- s.8(2)(f). Delete and substitute therefor the following new paragraph -
 - “(f) five other persons with both local and international technical experience in either fundraising, law, wildlife, finance, business or investment matters appointed by the Cabinet Secretary, one

of whom shall be from local community wildlife areas.”

s.11(4). Delete and substitute therefor the following new subsection-

(4) A person shall qualify for appointment of the Director General if the person-

- (a) is a citizen of Kenya;
- (b) satisfies the requirements of Chapter Six of the Constitution;
- (c) possess a degree in natural resources management, finance, business, or strategic management from a university recognized in Kenya; and

has at least fifteen years' professional experience in related field at management level.

s.18. Delete and substitute therefor the following new section-

Community
Wildlife
Conservation
Committees.

18. Each County shall have Wildlife Conservation Committ of-

- (a) a chairperson appointed by the Cabinet Secretary being the County Commissioner;
- (b) an officer of the Service for the county who shall be the Secretary;
- (c) an agricultural officer based in the respective administrative Conservation Area established by the Service;
- (d) a medical officer based in the respective administrative Conservation Area

established by the Service;

(e) a livestock officer based in the respective administrative Conservation Area established by the Service and nominated by the Director;

(f) four persons not being public officers knowledgeable in wildlife matters nominated by the community wildlife associations within the administrative Conservation Area established by the Service and appointed by the Cabinet Secretary.

(2) The Community Wildlife Conservation Committees may hold a maximum of four meetings every financial year.

(3) Despite subsection (2), additional meetings may be held with the prior consent of the Cabinet Secretary.

s.19. Delete and substitute therefor the following new section-

Functions on
Community
Wildlife
Conservation
Committees.

19. (1) The functions of the Community Wildlife Conservation Committees shall be to—

(a) review and recommend payment of compensation on claims resulting from loss or damage caused by wildlife;

(b) develop and implement, in collaboration with the Service and Community

Wildlife Associations, mechanisms for mitigation of human wildlife conflict;

- (c) bring together relevant stakeholders to harness participation in conservation and management programmes of wildlife; and
- (d) perform such other functions as the Service may require or delegate to it.

s.23. Delete and substitute therefor the following new section-

The Wildlife
Endowment
Fund.

23. (1) There is established a Wildlife Conservation Trust Fund that shall be vested in a governing body established in accordance with subsection (2)-

(2) The governing body referred to in subsection (1) shall serve as a public-private partnership and comprise –

- (a) a Chairperson being appointed the Cabinet Secretary;
- (b) the Principal Secretary in the State Department for the time being responsible for matters relating to wildlife who shall be the Chairperson;
- (c) the Principal Secretary in the State Department for the time being responsible for matters relating to finance;
- (d) the Director General of the Service who shall be the Secretary;

- (e) four representatives from the private sector, who shall have technical experience in either philanthropy, law, natural resources, finance, business and investment matters; and
 - (f) a representative from the office of the Attorney General
- (3) There shall be paid into the Wildlife Conservation Trust Fund –
- (a) moneys appropriated by Parliament;
 - (b) a proportion of such moneys as may be levied for payment of environmental services by beneficiaries in productive and service sectors, and for biodiversity offset schemes that compensate for conservation impacts as a contribution towards the Wildlife Conservation Trust Fund as the Cabinet Secretary may, upon the recommendation of the governing board, determine;
 - (c) moneys for payment of environmental services and biodiversity offset schemes in which entities make payments directly to the Wildlife Conservation Trust Fund;
 - (d) moneys from debt-for-nature transactions;

- (e) income from investments made by the governing board;
- (f) such grants, donations, bequests or other gifts as may be made to the Fund.

(4) The purpose shall be to provide funds in order to-

- (a) develop wildlife conservation initiatives;
- (b) manage and restore protected areas and conservancies;
- (c) protect endangered species, habitats and ecosystems;
- (d) support wildlife security operations;
- (e) facilitate community based wildlife initiatives;
- (f) award wildlife conservation grants based on criteria to be established by the governing board; and
- (g) such other purposes as may be provided by the governing board.

(5) The Cabinet Secretary may, on recommendation of the Service, by notice in the Gazette, issue regulations and guidelines necessary and appropriate for the carrying out of the purposes of this section.

s.92. Delete and substitute therefor the following new section-

Offences
relating to
endangered
and threatened

92. (1) A person who kills or injures, tortures or molests, or attempts to kill or injure, a

species.

critically endangered, or endangered species as specified in the Sixth Schedule or listed under CITES Appendix 1 commits an offence and shall be liable upon conviction to a term of imprisonment of not less than five years.

(2) A person who, without permit or exemption issued under this Act, deals in a wildlife trophy, of any critically endangered or endangered species as specified in the Sixth Schedule or listed under CITES Appendix I, commits an offence and shall be liable upon conviction to a term of imprisonment of not less than seven years.

(3) Any person who, without permit or exemption issued under this Act, deals in a live wildlife species of any of critically endangered or endangered species as specified in the Sixth Schedule or listed in the Sixth Schedule or listed under CITES Appendix 1, commits an offence and shall be liable upon conviction to a term of imprisonment of not less than three years.

(4) Any person without permit or exemption issued under this Act is in possession of any live wildlife species or trophy of any critically endangered or endangered species as specified in the Sixth Schedule or listed under CITES Appendix 1, commits an offence and shall be liable upon conviction to a fine

of not less than three million shillings or a term of imprisonment of not less than five years or both such fine and imprisonment.

(5) Any person who without permit or exemption issued under this Act, manufactures an item from a trophy of a critically endangered or endangered species specified under the Sixth Schedule or listed under CITES Appendix I without a permit or exemption issued under this Act, commits an offence and shall on conviction, be liable to a fine of not less than ten million shillings or up to life imprisonment or both such fine and imprisonment.

s.95. Delete and substitute therefor the following new section-

Offences
relating to
trophies and
trophy dealing.

95. Any person who, without a permit or exemption granted under this Act in relation to a species not specified under section 92 -

- (a) kills or injures, tortures or molests, or attempts to kill or injure, any wildlife species;
 - (b) deals in a wildlife trophy;
 - (c) deals in a live wildlife species;
 - (d) is in possession of a wildlife trophy or live wildlife species; or
 - (e) manufactures an item from a wildlife trophy,
- commits an offence and shall be liable on conviction to a fine of not less than one

million shillings or a term of imprisonment of not less than twelve months or to both such fine and imprisonment.

New. Insert the following new section immediately after Section 95-

Poisoning of wildlife. **95A.** Any person who knowingly or recklessly uses any substance whose effect is to poison any wildlife species commits an offence and shall be liable to a fine of not less than five million shillings or a term of imprisonment of not less than five years or both.

s.97. Insert the expression "of a species other than a critically endangered or endangered species listed under Schedule 6 or CITES Appendix I" immediately after the word "hunting".

s.98. Delete and substitute therefor the following new section -

Offences relating to hunting for bush-meat trade. **98.** (1) Any person who, without permit or exemption issued under this Act, deals in the carcass or meat of any wildlife species commits an offence and shall be liable on conviction, to imprisonment for a term of not less than three years.

(2) No person shall purchase from another person any meat or eggs of any wildlife species.

(3) Any person who contravenes the subsection(2) commits an offence and is liable on conviction to a fine of up to one million shillings or a term of imprisonment of twelve months or to both such fine and imprisonment.

s.99(1). Insert the words “or product” immediately after the word “specimen”.

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

(3) A person who contravenes the provisions of this section commits an offence and shall be liable, upon conviction,-

(a) in relation to a critically endangered or endangered species, as specified in the Sixth Schedule or listed under CITES Appendix I , to a fine of not less than one hundred million shillings or to imprisonment of not less than twenty years or both such fine and imprisonment; or

(b) in relation to any other wildlife species or wildlife trophy, to a fine not less than twenty million shillings or a term of imprisonment not less than ten years, or to both such fine and imprisonment.

(4). Insert the following new Sub-Section immediately after subsection (3) -

(4) A person, agent or corporate entity that, knowingly or recklessly, aids or abets, in the commission of an offence under this section shall be liable to the penalties specified in subsection (3).

s.102(1). Insert the words “without a licence or permit of the Service in respect of any national park, national reserve, wildlife sanctuary or marine reserve, or, without authorization from the authority responsible

for any other protected area as the case may be” immediately after the word “who”.

s.102(1)(a). Delete and substitute therefor the following new paragraph -

“(a) enters or resides in a protected area otherwise than in the course of his duty as an authorized officer or a person lawfully employed in the protected area, as the case may be.”

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

(da) burns charcoal in any protected area;

s.102(1)(g). Delete and substitute therefor the following new paragraph-

“(g) undertakes any extractive activity in a protected area.”

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

“(2A) A person shall not enter any protected area with livestock without a permit or written permission from the authority responsible as the case may be.”

s.103 Insert the following new subsection immediately after subsection (4) -

“(5) A person convicted of an offence under this section shall, in the absence of any penalty prescribed under any other provision of this Act, be liable on conviction, to a fine not exceeding ten million shillings or imprisonment for a term not exceeding five years or to both.”

Third Delete the words “poisonous snake,
schedule shark, stone fish, whale, sting ray, wild pig”.

Part A

2018

Statute Law (Miscellaneous Amendments)

No. 18

The Retirement
Benefits
(Deputy-
President and
Designated State
Officers) Act,
2015 (No. 8 of
2015)

First Schedule Insert the following new paragraph immediately after paragraph (k)—

“(1) office and office equipment.”

The Companies
Act, 2015 (No.
17 of 2015)

s. 151(3) Insert the words “external and independent” immediately after the words “certified by the company’s”.

s. 258 Insert the following new subsections immediately after subsection (4)—

“(5) If the number of votes for and against a proposal are equal, the Members shall refer to the Memorandum and Articles of Association or the Shareholders’ Agreement.

(6) Where neither the Memorandum and Articles of Association nor the Shareholders’ Agreement have provisions relating to equality of votes, the person presiding at the meeting shall have a casting vote.”

s. 281(2) Delete the word “general” appearing in paragraph (b).

s. 721(3) Delete and substitute therefor the following new subsection—

(3) The directors of a public company may appoint an auditor or auditors of the company—

(a) at any time before the general meeting at which the company’s first financial statement is presented;

(b) following a period during which the company, being exempt from audit, did not have any auditor, at any time before the

next general meeting at which the company's annual financial statement is to be presented; or

- (c) to fill a casual vacancy in the office of the auditor, but while any such vacancy continues, the surviving or continuing auditor or auditors, if any, may act:

Provided that the company shall, at the general meeting, remove any such auditor and appoint in their place an auditor or auditors as provided for under subsection (4).

- s. 721(4) Delete the word "may" and substitute therefor the word "shall".

Delete paragraph (c).

The National
Drought
Management
Authority Act,
2016 (No. 4 of
2016)

- s.8(1)(a) Delete and substitute therefor the following new paragraph -

- (a) a Chairperson appointed by the President.

- s.8(1)(d) Delete and substitute therefor the following new paragraph-

- (d) four persons appointed by the Cabinet Secretary.

- s.13 Delete and substitute therefor the following new section -

Appointment
of staff.

13. (1) The Authority may appoint such professional, technical and administrative officers and support staff as may be necessary for the proper discharge of its functions under this Act on such terms and conditions as the Board may determine.

(2) The Board may whenever it deems it necessary for the

better performance of the functions of the Authority, request the Public Service Commission to second to the Authority such number of public officers as it may consider adequate for its purposes.

(3) The Board shall ensure that in the appointment of its staff –

- (a) not more than two-thirds of the staff shall be of the same gender;
- (b) the regional and other diversity of the people of Kenya is taken into account; and
- (c) persons with disabilities are afforded adequate and equal opportunities.

The Protection of
Traditional
Knowledge and
Cultural
Expressions Act,
2016 (No. 33 of
2016).

s.2

Delete the definition of “Cabinet Secretary” and substitute therefor the following new definition-

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to culture.

The Forest
Conservation
and Management
Act, 2016 (No.
34 of 2016).

s.9(3)

Delete the expression “(1) (e)” and substitute therefor the expression “(1) (g)”.

Delete the expression “(1) (e)” and substitute therefor the expression “(1) (g)”.

(5)

s.34(1)

Delete the words “or the Senate,” appearing immediately after the words “National Assembly”

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

(2A) A petition under subsection (1) shall only be forwarded to the National Assembly on the recommendation of the Service.

- (3) Delete the words "relevant House" appearing immediately after the words "Standing Orders of" and substituting therefor the words "National Assembly"
- (5)(b) Delete the words "or the Senate," appearing immediately after the words "National Assembly"
- (6) Delete the words "or the Senate," appearing immediately after the words "National Assembly"
- s.35(2) Delete the expression "Director-General" and substitute therefor the expression "Chief Conservator of Forests".
- s.40 Insert the following new subsection immediately after subsection (4) -
- (5) Any person who fells, cuts, damages or removes, trades in or exports or attempts to export any protected tree, species or family of trees or regeneration thereof, or abets the commission of such act, commits an offence.
- s.50(1) Delete the expression "Director-General" and substitute therefor the expression "Chief Conservator of Forests."
- s.57(1) Delete the expression "section 59" and substitute therefor the expression "section 56".
- New. Insert the following new section immediately after section 63 -
- Applicant of
public of
prosecutors. 63A. The Director of Public Prosecutions may, pursuant to the Criminal Procedure Code, by notice in the Gazette, appoint a forest officer to be a public prosecutor for the purposes of this Act.
- s.64(3) Delete the expression "Section 61" and substitute therefor the expression "section 60".
- s.73(2) Delete the words "that other user, as the case may be".

- s.74 Delete the expression "Director-General" and substitute therefor the expression "Chief Conservator of Forests".
- Bribery Act, s. 13(1)(c) Insert the word "acquiring" immediately before the word "property".
2016 (No. 47 of 2016).
- s.16 Delete the expressions "7" and "12" wherever they appear.
- s.27(2) Delete and substitute therefor the following new subsection-
- (2) Any investigation or prosecution or court proceedings instituted before the commencement of the Act based on an offence under the Anti-Corruption and Economic Crimes Act, 2003 shall be continued under the Anti-Corruption and Economic Crimes Act, 2003.
- Public Finance s.24 Insert the following new subsection Management Act, 2012 immediately after subsection (2) -
- (2A) Notwithstanding the provisions of subsection (1), the Parliamentary Service Commission may with the approval of the National Assembly, establish any other fund for the purpose of Parliament or a House of Parliament.
- (3) Insert the words "this Act or" immediately after the word "under"