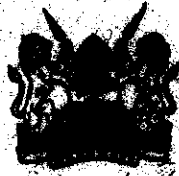


Kenya Gazette Supplement No. 34 (Bills No. 17)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

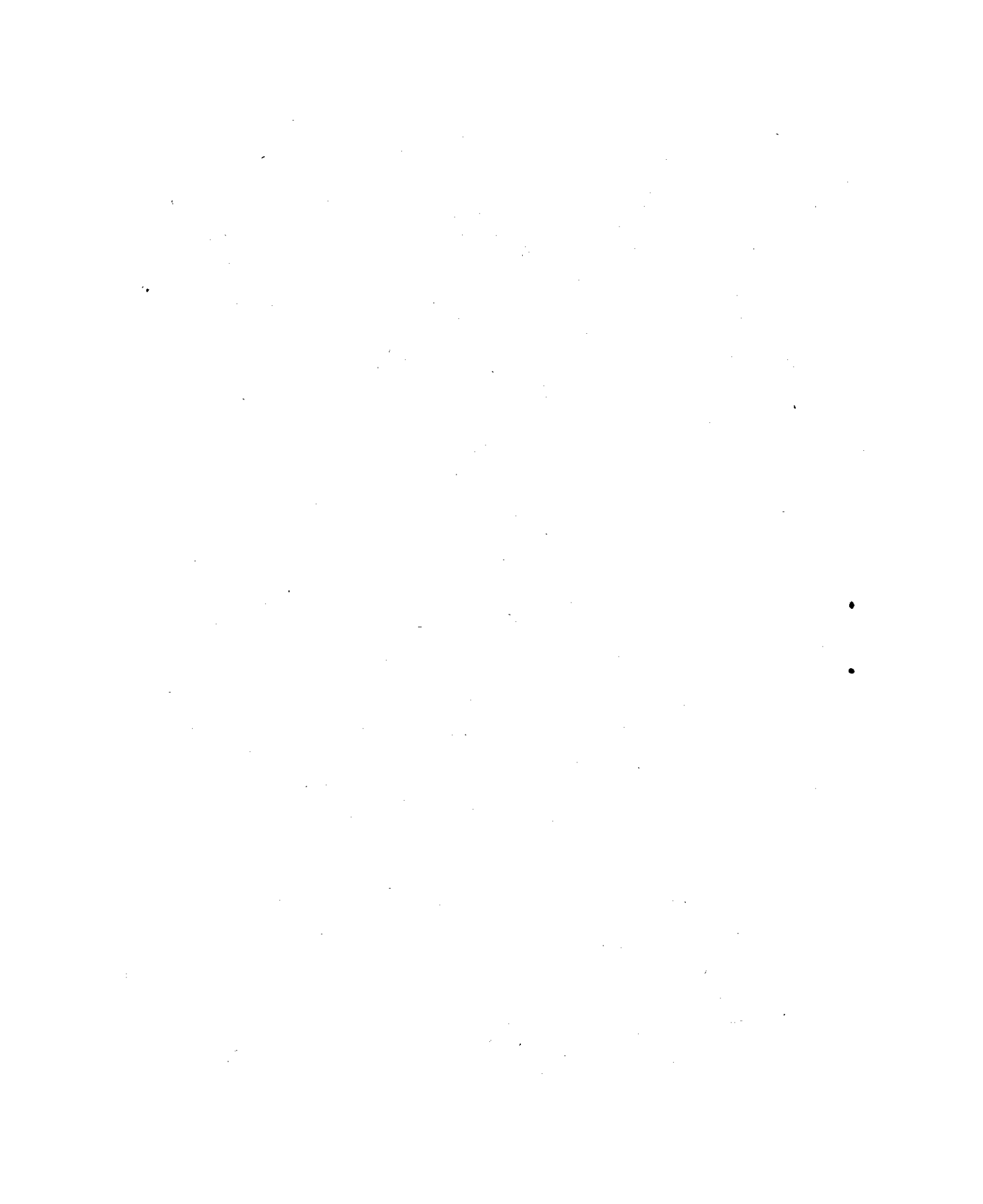
BILLS, 2012

NAIROBI, 2nd May, 2012

CONTENT

Bill for Introduction into the National Assembly—

The Statute Law (Miscellaneous Amendments) Bill, 2012..... 1083



**THE STATUTE LAW (MISCELLANEOUS AMENDMENTS)
BILL, 2012**

A Bill for

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

ENACTED by the Parliament of Kenya, as follows—

Short title. 1. This Act may be cited as the Statute Law
(Miscellaneous Amendments) Act, 2012.

Amendment of
written laws. 2. The several written 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.

Commencement
of amendments to
Caps. 5 and 423.
Cap.5 3. The amendments relating to —
(a) the National Assembly Remuneration Act, shall be
deemed to have come into operation on the 1st July,
2003;
Cap.423. (b) the Constitutional Offices (Remuneration) Act,
shall be deemed to have come into operation on the
1st July, 2008.

SCHEDULE (s. 2)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Finance Act, 2012 (No.4 of 2012).	S.1	Delete the expression "1 st January, 2006" appearing in paragraph (a) and substitute therefor the expression "1 st July, 2003".
The Revision of the Laws Act (Cap. 1).	S.8(1)(h)	Insert the words "section headings" immediately after the words "marginal notes".

The National
Assembly
(Remuneration)
Act (Cap.5).

First
Schedule,
Part II

Insert the words "or Speaker of the National
Assembly" immediately after the words
"Chairperson, Parliamentary Service
Commission".

Insert the words "or Deputy Speaker of
the National Assembly" immediately after
the words "Vice-Chairperson,
Parliamentary Service Commission".

Insert the words "or member of the
Speaker's Panel of the National Assembly"
immediately after the words "Chairperson,
sub-Committee of the Parliamentary service
Commission".

The Appellate
Jurisdiction Act
(Cap. 9).

S.3(1)

Insert the words "and any other Court or
Tribunal prescribed by an Act of
Parliament" immediately after the words
"High Court".

Magistrates'
Courts Act
(Cap. 10).

S.5

Delete and substitute therefor the following
new section –

Civil
jurisdiction
of
Magistrates
Courts.

5. The Magistrates' Courts
shall have and exercise
jurisdiction and powers in
proceedings of a civil nature
in which the value of the
subject matter in dispute does
not exceed –

- (a) ten million shillings for a
Chief Magistrate;
- (b) eight million shillings for
a Senior Principal
Magistrate;

(c) six million shillings for a Principal Magistrate;

(d) four million shillings for a Senior Resident Magistrate, and

(e) two million shillings for a Resident Magistrate.

The Advocates Act (Cap. 16).

S.2

Delete the word "Committee" wherever it occurs in the definition of "Disciplinary Committee" and substitute therefor the word "Tribunal".

S.10

Delete paragraph (a) and substitute therefor the following-

(a) an officer in the office of the Attorney-General or the office of the Director of Public Prosecutions;

S.12(a)

Insert the words "Rwanda, Burundi" immediately after the word "Kenya".

S.13(1)

Insert the words "the High Court of Rwanda, the High Court of Burundi" in paragraph (d) immediately after the word "Uganda".

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

(e) he is for the time being admitted as an advocate of the superior court of a country within the Commonwealth and-

(i) has practised as such in that country for a period of not less than five years; and

(ii) is a member in good standing of the relevant professional body in that country:

Provided that the Council may, in addition, require that a person to whom this paragraph applies undergo such training, for a period not exceeding three months, as the Council may prescribe for the purpose of adapting to the practice of law in Kenya.

S.14 Insert the words "and the Director of Public Prosecutions" immediately after the expression "Attorney-General" wherever it occurs.

S.20 Insert the words "the Director of Public Prosecutions" immediately after the expression "Attorney-General".

S.32(1) Insert the words "or the Director of Public Prosecutions" immediately after the expression "Attorney-General".

New Insert the following new sections immediately after section 32-

Employment
as in-house
Advocate.

32A. (1) A person who is

qualified to act as an advocate under this Act may be employed as an in-house advocate.

(2) A person who is employed as an in-house advocate shall—

- (a) be an independent professional legal advisor to his or her employer; and
- (b) not charge fees for services rendered below the minimum prescribed fees under section 44.

Standards of
work and
remuneration.

32B.(1) The Chief Justice shall, on the recommendation of the Council of the Society, prescribe—

- (a) the standards of work that may be performed by a person employed as an in-house advocate under this Act; and
- (a) the criteria for determining the remuneration payable to an in-house counsel by an employer.

(2) The employer of an

in-house advocate shall not determine the remuneration of such advocate otherwise than in accordance with the criteria prescribed under subsection (1) (b).

(3) Notwithstanding subsection (2), the employer of an in-house advocate may, in making a determination under subsection (2), offer the advocate remuneration which is higher than that prescribed.

(4) Subject to subsection (3), a person who contravenes subsection (2) commits an offence.

S.55 Delete the expression "Disciplinary Committee" wherever it occurs and substitute therefor the expression "Disciplinary Tribunal"

S.57(1) Delete the introductory part and substitute therefor the following -

"(1) There is established a tribunal to be known as the Disciplinary Tribunal (in this Part referred to as "the Tribunal") which shall consist of -"

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

(aa) the Director of Public Prosecutions;

- S.57 (2) Delete the word "Committee" wherever it occurs and substitute therefor the word "Tribunal".
- S.57(2A) Delete the word "Committee" and substitute therefor the word "Tribunal".
- S. 57(3) Delete the word "Committee" and substitute therefor the word "Tribunal".
- S. 57(4) Delete the word "Committee" and substitute therefor the word "Tribunal".
- S. 58(1) Delete the word "Committee" wherever it occurs and substitute therefor the word "Tribunal".
- S. 58(2) Delete the word "Committee" and substitute therefor the word "Tribunal".
- S. 58 (3) Delete the word "Committee" wherever it occurs and substitute therefor the word "Tribunal".
- S. 58(4) Delete the word "Committee" wherever it occurs and substitute therefor the word "Tribunal".
- S. 58(5) Delete the word "Committee" and substitute therefor the word "Tribunal".
- S. 59 Delete the word "Committee" wherever it occurs and substitute therefor the word "Tribunal".
- S. 60(1) Delete the word "Committee" and substitute therefor the word "Tribunal".
- S. 60(2) Delete the word "Committee" and substitute

therefor the word "Tribunal".

- S. 60(3) Delete the word "Committee" wherever it occurs and substitute therefor the word "Tribunal".
- S. 60(4) Delete the word "Committee" wherever it occurs and substitute therefor the word "Tribunal".
- S. 60(5) Delete the word "Committee" and substitute therefor the word "Tribunal".
- S. 60(6) Delete the word "Committee" wherever it occurs and substitute therefor the word "Tribunal".
- S. 60(8) Delete the word "Committee" and substitute therefor the word "Tribunal".
- S. 60(9) Delete the word "Committee" and substitute therefor the word "Tribunal".
- S.60(10) Delete the word "Committee" and substitute therefor the word "Tribunal".
- S. 60(12) Delete the word "Committee" and substitute therefor the word "Tribunal".
- S. 61(1) Delete the word "Committee" and substitute therefor the word "Tribunal".
- S. 61(2) Delete the word "Committee" and substitute therefor the word "Tribunal".
- S. 61(3) Delete the word "Committee" and substitute therefor the word "Tribunal".
- S. 62(2) Delete the word "Committee" and substitute

therefor the word "Tribunal".

- S. 64 Delete the word "Committee" wherever it occurs and substitute therefor the word "Tribunal".
- S. 71 Delete the word "Committee" and substitute therefor the word "Tribunal".
- S.72 (1) Delete the word "Committee" wherever it occurs and substitute therefor the word "Tribunal".
- S. 72(3) Delete the word wherever it occurs "Committee" and substitute therefor the word "Tribunal".
- S.73 (1) Delete the word "Committee" and substitute therefor the word "Tribunal".
- S. 75 Delete the word wherever it occurs "Committee" and substitute therefor the word "Tribunal".
- S. 76 Delete the word "Committee" wherever it occurs and substitute therefor the word "Tribunal".
- S.77 Delete the word "Committee" and substitute therefor the word "Tribunal".
- S.78 Delete the word "Committee" and substitute therefor the word "Tribunal".
- S. 80(1) Delete the word "Committee" wherever it occurs and substitute therefor the word "Tribunal".
- S. 81(2) Delete the expression "Disciplinary Committee" and substitute therefor the

expression "Disciplinary Tribunal".

The Law
Society of
Kenya Act
(Cap.18).

S. 2

Delete the word "Committee" from the definition of "Disciplinary Committee" and substitute therefor the word "Tribunal".

The Civil
Procedure Act
(Cap.21).

S.2

Insert the following definitions in proper alphabetical sequence-

"impartial" in relation to a dispute means being and being seen to be unbiased towards parties to a dispute, their interests and the options they present for settlement;

"mediation" means an informal and non-adversarial process where an impartial mediator encourages and facilitates the resolution of a dispute between two or more parties, but does not include attempts made by a judge to settle a dispute within the course of judicial proceedings related thereto;

"mediation rules" means the mediation rules made under this Act;

"mediator" means an impartial third party selected to carry out a mediation.

New

Insert the following new sections immediately after section 59 -

Establishment
of Mediation
Accreditation
Committee.

59A. (1) There shall be a Mediation Accreditation Committee which shall be

appointed by the Chief Justice.

(2) The Mediation Accreditation Committee shall consist of -

- (a) the chairman of the Rules Committee;
- (b) one member nominated by the Attorney-General;
- (c) two members nominated by the Law Society of Kenya; and
- (d) seven other members nominated by the following bodies respectively -
 - (i) the Chartered Institute of Arbitrators (Kenya Branch);
 - (ii) the Kenya Private Sector Alliance;
 - (iii) the International Commission of Jurists (Kenya Chapter);
 - (iv) the Institute of Certified

Public
Accountants
of Kenya;

(v) the Institute of
Certified
Public
Secretaries;

(vi) the Kenya
Bankers'
Association;
and

(vii) the Federation
of Kenya
Employers.

(3) The Chief Justice shall designate a suitable person to be the Mediation Registrar, who shall be responsible for the administration of the affairs of the Committee under this Act.

(4) The functions of the Mediation Accreditation Committee shall be to-

(a) determine the criteria for the certification of mediators;

(b) propose rules for the certification of mediators;

(c) maintain a register of

qualified mediators;

(d) enforce such code of ethics for mediators as may be prescribed; and

(e) set up appropriate training programmes for mediators.

Reference of cases to mediation.

59B.(1) The Court may—

(a) on the request of the parties concerned; or

(b) where it deems it appropriate to do so,

direct that any dispute presented before it be referred to mediation.

(2) Where a dispute is referred to mediation under subsection (1), the parties thereto shall select for that purpose a mediator whose name appears in the mediation register maintained by the Mediation Accreditation Committee.

(3) A mediation under this Part shall be conducted in accordance with the mediation rules.

(4) An agreement

between the parties to a dispute as a result of a process of mediation under this Part shall be recorded in writing and registered with the Court giving the direction under subsection (1), and shall be enforceable as if it were a judgment of that Court.

(5) No appeal shall lie against an agreement referred to in subsection (4).

Other
alternative
dispute
resolution
methods.

59C. (1) A suit may be referred to any other method of dispute resolution where the parties agree or the Court considers the case suitable for such referral.

(2) Any other method of alternative dispute resolution shall be governed by such procedure as the parties themselves agree to or as the Court may, in its discretion, order.

(3) Any settlement arising from a suit referred to any other alternative dispute resolution method by the Court or agreement of the parties shall be enforceable as a judgment of the Court.

(4) No appeal shall lie

in respect of any judgment entered under this section.

Power to enforce private mediation agreements.

59D. All agreements entered into with the assistance of qualified mediators shall be in writing and may be registered and enforced by the Court.

The Bankruptcy Act (Cap. 53).	S.76	Delete the expression "Attorney-General" appearing in paragraph (d) and substitute therefor the expression "Director of Public Prosecutions".
	S.149	Delete the expression "Attorney-General" wherever it appears and substitute therefor the expression "Director of Public Prosecutions".
The Public Order Act (Cap. 56).	S.3(2)	Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".
The Penal Code (Cap. 63).	S.52(3)	Insert the following paragraph immediately after paragraph (a)- (aa) the Director of Public Prosecutions or his representative".
	S.181(4)	Insert the expression "the Director of Public Prosecutions" immediately after the expression "Attorney-General".
The Protection of Aircraft Act (Cap. 68).	S.12	Delete the expression "Attorney - General" and substitute therefor the expression "Director of Public Prosecutions".
The Criminal Procedure Code (Cap. 75).	S.2	Delete the definition of "public prosecutor" and substitute therefor the following-

“public prosecutor” means the Director of Public Prosecutions, a state counsel, a person appointed under section 85 or a person acting under the direction of the Director of Public Prosecutions.

- S.81 Delete the expression “Attorney-General” wherever it appears in subsections (3) and (4) and substitute therefor the expression “Director of Public Prosecutions”.
- S.82(1) Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
- S.83 Delete the expression “Attorney-General” and substitute therefor the words “Director of Public Prosecutions”.
- S.85 Delete the expression “Attorney-General” wherever it appears in subsections (1), (2) and (3) and substitute therefor the expression “Director of Public Prosecutions”.
- S.87 Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
- S.88 Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
- S.137A (4) Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
- S.137B Delete and substitute therefor the following new section-

137B. A plea agreement on behalf of the Republic shall be entered into by the Director of Public Prosecutions or officers authorized by the Director of Public Prosecutions in accordance with article 157(9) of the Constitution and any other person authorized by any written law to prosecute:

Provided that in any trial before a subordinate court, a public prosecutor may with the prior written approval of the Director of Public Prosecutions or officers subordinate to him, as the case may be, enter into a plea agreement in accordance with section 137A (1).

- S. 137L(2) Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".
- S. 143 Delete the expression "Attorney-General" wherever it appears and substitute therefor the expression "Director of Public Prosecutions".
- S. 161 Delete the expression "Attorney-General or the Solicitor-General" and substitute therefor the expression "Director of Public Prosecutions".
- S.163 Delete the expression "Attorney-General" wherever it appears and substitute therefor the expression "Director of Public Prosecutions".

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- S.348A Delete the words "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".
- S.350(2) Delete the expression "Attorney-General" appearing in paragraph (i) of the proviso and substitute therefor the expression "Director of Public Prosecutions".
- S.352(3) Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".
- S.352A Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".
- S.379 Delete the expression "Attorney-General" wherever it appears in subsections (5) and (5A) and substituting therefor the expression "Director of Public Prosecutions".
- S.386(1) Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".
- S.387 Delete the expression "Attorney-General" wherever it appears in subsections (4) and (6) and substitute therefor the expression "Director of Public Prosecutions".
- S.388 Delete the expression "Attorney-General" wherever it appears and substitute therefor the expression "Director of Public Prosecutions".
- The Evidence Act (Cap. 80). S.78(1) Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".

The Registration of Persons Act (Cap. 107).	S.18	Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".
The Armed Forces Act (Cap. 199).	S.115	Delete the expression "Attorney-General" wherever it occurs in subsections (1) (b) and (2) and substitute therefor the expression "Director of Public Prosecutions".
The Kenya Literature Bureau Act (Cap. 209).	S.2.	Delete the word "Higher" appearing in the definition of "Minister".
	S.3(2)	Delete the words "in Kenya" and substitute therefor the words "within and outside Kenya".
	S.4(a)	Insert the words "digital and electronic materials" immediately after the words "magazines".
	S.4(c)	Delete the words "throughout Kenya" and substitute therefor the words "within and outside Kenya".
	S.4(d)	Delete the words "Kenyan authors" and substitute therefor the words "authors within and outside Kenya".
	S.5(5)	Delete the word "three ordinary meetings" and substitute therefor the word "four ordinary meetings".
	S.5(9)	Insert the words "in consultation with the State Corporations Advisory Committee" immediately after the words "the Minister may".

	S.7(2)(a)	Delete the words “two members” and substitute therefor the words “the chairman and one other member”.
The Public Health Act (Cap. 242).	S.95(2)	Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
The Science and Technology Act (Cap. 250).	S. 3(1)	Insert at the end thereof the words “which shall be a body corporate with perpetual succession and a common seal and capable, in its corporate name, of suing and being sued, and purchasing, holding and disposing of movable and immovable property and doing all such other things as may legally be done by a body corporate.
The Medical Practitioners and Dentists Act (Cap. 253).	9(2)	Delete the words “publish in the Gazette” and substitute therefor the following- “publish in the print or electronic media, as approved by the Board,”
The Kenya Red Cross Society Act (Cap. 256).	S.5(1)	Insert the following new paragraph immediately after paragraph (e)— (f) to carry out training and certification in areas related to emergency services, pre- and post-hospital care, humanitarian assistance and disaster management.
	S.6	Insert the words “National and County” immediately before the word “Governments”.
	Schedule	Renumber the existing items as items numbers 1, 2, 3 and 4 respectively and add the following new items-

5. Protocol Additional to the Geneva Convention of 12th August, 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8th June, 1997;

6. Protocol Additional to the Geneva Convention of 12th August, 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) of 8th June, 1997.

7. Protocol Additional to the Geneva Convention of 12th August, 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III) of 8th December, 2005.

The Pyrethrum Act (Cap .340). S.16

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

(4) Any person who is found guilty of an offence under this section shall be liable –

(a) for a first offence, to a fine not exceeding two million shillings or to imprisonment for a term not exceeding three years, or to both; or

(b) for a second or subsequent offence, to a fine not exceeding four million shillings or to imprisonment for a term not exceeding six years, or to both.

The Tea Act (Cap. 343).	S.3(1)(e) (i)	Delete the words "two" and substitute therefor the word "three".
	S.3(1)(e) (v)	Delete and substitute therefor the following subparagraph- (v) one person who possesses such knowledge and experience as the Minister considers beneficial to the Board;
	S.3(1)(e) (vi)	Delete.
New		Insert the following new subsection immediately after subsection (4) – (4A) Notwithstanding the provisions of subsection (3) the members of the Board in office immediately before the commencement of that subsection shall remain in office until the 31 st December, 2011.
	S.6(4)	Delete the word "seven" and substitute therefor the words "two – thirds of the members of the Board".
	S.25 (2)	Insert the following paragraph immediately after paragraph (b)- (bb) prescribing eligibility criteria for appointment of members of the Board.
The Prevention of Cruelty to Animals Act (Cap. 360).	S.23	Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".

The Animal
Diseases Act
(Cap. 364).

S.2

Delete the definition of "animal" and substitute therefor the following—

"animal" means mammals, birds, reptiles, bees and life stages of fish, molluscs crustaceans and amphibians whether originating from aquaculture establishments or removed from the wild and released to the environment, for human consumption or for ornamental purposes.

Delete the definitions of "birds" and "cattle".

S.12(1)

Delete the proviso and substitute therefor the following—

Provided that subject to section 13, compensation for animals slaughtered under this Act shall be paid to the owner as follows—

(a) where the animal was infected by a notifiable disease, one-half of its value before it became so infected; and

(b) where the animal was not so infected but was suspected of being so infected, the value of the animal immediately before it was slaughtered.

	S.20	Delete the expressions "six months" and "five thousand" and substitute therefor the expressions "twelve months" and "thirty thousand" respectively.						
The Constitutional Offices (Remuneration) Act (Cap.423).	Schedule	Insert the following new entries immediately after the entry reading "Member, Interim Independent Electoral Commission"— <table border="0" style="margin-left: 40px;"> <tr> <td>Chairman, Interim Independent Boundaries Commission</td> <td style="text-align: right;">Band A2</td> </tr> <tr> <td>Vice-Chairman, Interim Independent Boundaries Commission</td> <td style="text-align: right;">Band A3</td> </tr> <tr> <td>Member, Interim Independent Boundaries Commission</td> <td style="text-align: right;">Band A3</td> </tr> </table>	Chairman, Interim Independent Boundaries Commission	Band A2	Vice-Chairman, Interim Independent Boundaries Commission	Band A3	Member, Interim Independent Boundaries Commission	Band A3
Chairman, Interim Independent Boundaries Commission	Band A2							
Vice-Chairman, Interim Independent Boundaries Commission	Band A3							
Member, Interim Independent Boundaries Commission	Band A3							
Prevention of Fraud (Investment) Act, 1997 (No. 1 of 1997).	S. 25	Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".						
The Narcotic Drugs and Psychotropic Substances Act, 1994 (No. 4 of 1994).	S.22	"Delete the expression "Attorney-General" wherever it occurs in subsection (1) and (2) and substitute therefor the expression "Director of Public Prosecutions".						
	S.23	Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".						
	S.31	Delete the expression "Attorney-General" wherever it occurs and substitute therefor						

the expression "Director of Public Prosecutions".

- S.33 Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".
- S.34(2) Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".
- 38(3) Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".
- S.41(4) Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".
- S.45(2) Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".
- S.59 "Delete the expression "Attorney-General" wherever it occurs in subsections (1) and (2) and substitute therefor the expression "Director of Public Prosecutions".
- S.61(2) Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".
- S.63(1) Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".
- S.64 "Delete the expression "Attorney-General" wherever it occurs in subsection (1) and (2) and substitute therefor the expression "Director of Public Prosecutions".

The National
Crime Research
Centre Act,
1997 (No. 4 of
1997).

S. 6(2)

Insert the following new paragraph—

(aa) the Permanent Secretary to
the Treasury.

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

(bb) the Director of Public
Prosecutions;

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

S. 25

Insert the following subsection
immediately after subsection (3)-

(3A) A licensee shall
maintain a register of all persons to
whom telecommunications
services are provided under the
licence, in such form as may be
prescribed.

S.27 (2)

Insert the following paragraph immediately
after paragraph (g) –

(gg) the registration of
telecommunication subscribers.

New

Insert the following new section
immediately after Section 32 -

Vandalism.

32A. Any person who willfully destroys or damages, or does any act with intent, knowing that such act is likely to impede the working of any telecommunication line, cable or other apparatus used or intended for use in the service of the public, the Government or any local authority, commits an offence and is, liable on conviction to a fine not exceeding ten million shillings, or to imprisonment for life.

**Fifth
Schedule**

Insert the words " or such longer period and subject to such terms and conditions as the Minister may by notice in the Gazette, specify" immediately after the words "one year" appearing in subparagraph (a) of the proviso to paragraph 2.

Insert the words "or such longer period as aforesaid" immediately after the words "one year" appearing in subparagraph (b) of the proviso to paragraph 2.

Insert the words "or such longer period as the Minister may, by notice in the Gazette, specify" immediately after the words "six months" appearing in subparagraph (b) of the proviso to paragraph 3.

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

S.31(1)

Insert the following paragraph immediately after paragraph (g)-

(gg) the Director of Public Prosecutions.

	S.124	Delete the expression "Attorney-General" wherever it occurs and substitute therefor the expression "Director of Public Prosecutions".
The Sugar Act, 2001 (No. 10 of 2001).	S.30	Delete paragraphs (a) and (b) and substitute therefor the following- <ul style="list-style-type: none"> (a) such percentage of shares of all privatized sugar companies as the Minister may determine, taking into account the management, financial and technical needs of the company being privatized; (b) a board representation commensurate with the shareholding under paragraph (a).
The Copyright Act, 2001 (No. 12 of 2001).	S.15	Delete.
	S.30(1)	Delete the words "No person shall do any of the following acts without the authorization of the performer" and substitute therefor the words- <ul style="list-style-type: none"> "Subject to section 30 of this Act, a performer shall have the exclusive right to carry out any of the following acts- <p>Insert the following new paragraph immediately after paragraph (e)-</p> <ul style="list-style-type: none"> (f) distribution of a fixation of

his performance or copies thereof, to the public.

- (g) the making available to the public of his fixed performance, by wire or wireless means in such a way that members of the public may access them from a place or a time individually chosen by them.

S.30(3) Delete the words “unless the recipient knew or had good reason to believe that the claim or appointment, as the case may be was not valid”.

S.30(4) Delete the words “took place” and substitute therefor the words “was fixed”.

S.30(6) Delete and substitute therefor the following new subsection-

(6) Subject to subsections (7) and (8), the rights of an owner of a copyright in a fixation of their performance are not infringed by the making of a single copy of the performance for the personal and private use of the person making the copy and in respect of such use the owner of a related right in the performance shall have the right to receive fair compensation consisting of a royalty levied on audio-visual recording equipment or audio-visual blank media suitable for recording and other media intended for recording,

payable at the point of first sale in Kenya by the manufacturer or importer for commercial purposes of such equipment or media.

Insert the following new subsections-

(7) The level of the royalty payable under subsection (6) shall be agreed upon between organizations representative of performers, manufacturers and importers of any audio-visual recording equipment and media intended for recording, or failing such agreement, by the Copyright Tribunal.

(8) The claims for compensation under this section shall be made through an organization representative of performers.

New

Insert the following new section immediately after section 30-

Right to equitable remuneration for use of sound recordings and audio visual works.

30A. (1) If a sound recording is published for commercial purposes or a reproduction of such recording is used directly for broadcasting or other communication to the public, or is publicly performed, a single equitable remuneration for the performer and the producer of the sound recording shall be paid by the user through the respective collective management organization, and the remuneration shall be shared equally between the producer of the sound recording and the performer.

(2) If a fixation of a performance is published for commercial purposes or a reproduction of a fixation of a performance is used for broadcasting or other communication to the public, or is publicly performed, a single equitable remuneration for the performer shall be paid by the user to the collective management organization.

(3) The right of equitable remuneration under this section shall subsist from the date of publication of the sound recording or fixed performance until the end of the fiftieth calendar year following the year of publication, provided the sound recording or fixed performance is still protected under section 28 and 30.

(4) For the purposes of this section, sound recordings and fixations of performances that have been made available by wire or wireless means in such a way that members of the public may access them from a place and a time individually chosen by them shall be considered as if they have been published for commercial purposes.

S.36(1) Delete and substitute therefor the following-

(1) Every sound and audio-visual recording made available to the public by way of sale, lending or distribution in any other manner to the public for commercial purposes in Kenya shall have affixed on it an authentication device prescribed by the Board.

36(2) Delete the words “from the Kenya Revenue Authority”.

36(3) Delete and substitute the following new sub-section-

(3) The authentication device shall be issued to an applicant upon proof that the applicant has been authorized by the copyright owner to manufacture, reproduce, sell, import, rent or otherwise distribute the work.

36(6) Insert the word “knowingly” immediately before the word “sells”.

Insert the following new subsections-

(7) Any work requiring an authenticating device and which is sold or exhibited for sale without the authentication device shall be presumed to be an infringing copy.

(8) Any person who, without the permission of the Board—

(a) is found to be in possession of or to have reproduced, a security device; or

(b) is found to be in possession of any machine, instrument or contrivance intended to be used to produce or reproduce a security device,

shall be guilty of an offence and liable on conviction to a fine not exceeding two million shillings or to imprisonment for a term not exceeding ten years, or to both.

S.42 Delete and substitute therefor the following new section-

Powers of arrest. **42.** A police officer may arrest, without a warrant, any person suspected, upon reasonable grounds, of having committed an offence under this Act, and any officer of the Board who at the time is wearing a visible badge of office and authorized thereto in writing by the Board, may arrest, without warrant, any person, who, in his presence, commits any such offence, and may detain such person until that person can be delivered into the custody of a police officer to be dealt with according to law:

Provided that a person shall not be arrested or detained without warrant unless reasonable grounds exist for believing that, except by such arrest, the person may not be found or made answerable to justice without unreasonable delay, trouble or expense.

The Anti-Corruption and Economic Crimes Act, 2003 (No. 3 of 2003).

S.35(1)

Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".

S.36(1)

Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".

S.37(1)

Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions."

The Sexual Offences Act, 2006 (No 3 of 2006).

S. 38

Delete.

The Energy Act, 2006 (No.12/2006).

S. 23 (1)

Delete the proviso.

New

Insert the following sections in proper numerical sequence—

Vandalism.

64A. A person who willfully destroys or damages or does any act with intent, or knowing it to be likely that such act will impair the usefulness or efficiency, or impede the working of any property used or intended to be used for the purposes of supply of electricity to any person or community of persons commits an offence and is liable on conviction to imprisonment for life.

Protection
from
personal
liability.

108A. The Chairman or other members of the Tribunal shall not be liable to be sued in any court for an act done or omitted to be done by them in the discharge of their duty as members of the Tribunal, whether or not within the limits of the jurisdiction, provided they, at the time, in good faith believed themselves to have jurisdiction to do or order the act complained of; and no officer of the Tribunal or other person bound to execute the lawful warrants, orders or other process of the Tribunal shall be liable to be sued in any court for the execution of a warrant, order or process which he would have been bound to execute if within the jurisdiction of the Tribunal.

The Witness
Protection Act,
2006 (No.16 of
2006).

S.3A

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

(3) The provisions of the State Corporations Act shall not apply to the Agency.

The Labour
Institutions Act,
2007 (No. 12 of
2007).

S.55(2)

Insert the words “unless the person is registered under this Act” immediately after the words “No person shall”.

The
Constituencies
Development

S.1

Delete all the words appearing immediately after the expression “2007” and substitute therefor the words “and shall

Fund
(Amendment)
Act, 2007 (No.
16 of 2007).

be deemed to have come into operation on
the 1st December, 2007”.

The Truth,
Justice and
Reconciliation
Act, 2008 (No.
6 of 2008)

S.20

Insert the following subsections
immediately after subsection (4) –

(4A) Notwithstanding the provisions of
subsections (3) and (4), where the
Commission is unable to complete and
submit its report within the time extended
under subsection (4), the Commission
shall, submit a progress report to the
National Assembly together with a request
for a further extension.

Provided that a request under this
subsection may be made notwithstanding
that the period in respect of which it is
made has expired.

(4B) The National Assembly may, if
satisfied with the reasons for the request
under subsection (4A), extend the duration
for the Commission to complete and
submit its report, but shall not in any case
extend such duration for more than three
months.

S.52(1)

Delete the words “three months” and
substitute therefor the words “forty- five
days”.

The National
Cohesion and
Integration Act,
2008 (No. 12 of
2008).

S.19

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

(2) A reappointment under
subsection (1) shall be by the
President by notice published in
the Gazette.

The Anti-Counterfeit Act, 2008 (No. 13 of 2008).

S. 6(1) Insert the following new paragraph immediately after paragraph (e)-

(ee) the Director of Public Prosecutions.

S.30(1) Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".

The Merchant Shipping Act, 2009 (No. 4 of 2009).

S.8(2) Insert the following paragraph immediately after paragraph(g)-

(gg) prescribing the requirements for licencing as a maritime services provider, the conditions subject to which a maritime services provider should operate and the standards to be maintained in the provision of services.

S.16(1) Delete the words "shipbroker", "ship breaker", "cargo consolidator", "ship repairer" and "maritime training";

Insert the words "empty container depots" immediately after the word "haulage"

New Insert the following section immediately after section 412—

Penalties under Regulations. **412A.** Regulations made under sections 8, 360 and 410 and 450 may provide that any person contravening any of the provisions thereof is liable on conviction to a fine not

exceeding two million shillings, or to imprisonment for a term not exceeding three years, or to both.

The Counter – Trafficking in Persons Act, 2010 (No. 8 of 2010). S.1 Place a full-stop immediately after the word “appoint” and delete the rest of the section.

The Vetting of Judges and Magistrates Act, 2011 (No. 2 of 2011). S.23 (2) Delete.

The Independent Electoral and Boundaries Commission Act, 2011 (No.9 of 2011). S. 20 (1) Delete the words “and employees”. S.5 Insert the following new subsection immediately after subsection (4) –

(5)All nominations and appointments under this section shall

First Schedule Insert the following paragraph immediately after paragraph 8 –

(9) All nominations and appointment under this section shall take into account the regional, gender and ethnic diversity of Kenya.

Fifth Schedule Delete the words “and shall be heard and determined within thirty days” appearing in paragraph 5 and substitute therefor the words “and shall be heard and determined within three months”.

The Political
Parties Act,
2011 (No. 11 of
2011).

S.35(1)

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

- (1) The President shall, within fourteen days of the commencement of this subsection, or of the occurrence of a vacancy in the Office of Registrar or Assistant Registrar in consultation with the Prime Minister, and with the approval of the National Assembly, appoint a Selection Committee comprising-
- (a) a chairperson who shall be nominated by the President;
 - (b) one person nominated by the Law Society of Kenya;
 - (c) one person nominated by the Institute of Certified Public Accountants of Kenya;
 - (d) one person nominated by the Association of Professional Societies in East Africa;
 - (e) two person nominated by the political parties represented in the National Assembly according to their proportion of members in the Assembly; and
 - (f) two person nominated by the political parties represented in the Senate according to their proportion of members in the Senate.

	S.33(4)	insert the following new subsection immediately after subsection (4)-
		(5) Despite the foregoing provisions, the President, in consultation with the Prime Minister, may by notice in the Gazette extend the period specified in respect of any matter under this section for a period of not more than twenty-one days.
	S.41(4)	Delete the words "Civil Procedure Code" and substitute therefor the words "Criminal Procedure Code".
	Fifth Schedule	Delete the expression "34" appearing in paragraph 1 and substitute therefor the expression "35"
		Delete the expression "and 6" appearing in paragraph 6 and substitute the expression "and 7".
		Delete the words "chairperson and" appearing in paragraph 8.
The Kenya Citizenship and Immigration Act, 2011 (No. 12 of 2011).	S.4(2)	Delete the word "undesirable" appearing in paragraph (f) and substitute therefor the word "inadmissible".
	S.13(4)	Delete the introductory portion and substitute therefor the following-
		"A person who is a dependant of any biological parent or who is under the legal guardianship of a person who is a citizen of Kenya by registration, shall upon

application made in the prescribed manner be registered as a citizen upon-

S.17 Delete subsection (2).

Insert the following new subsection –

(2) The Cabinet Secretary may for sufficient reason grant citizenship to individuals or children or dependants of individuals who are Citizen of other countries and who voluntarily migrated to Kenya after 1963, and who through they are holders of passports or identification documents of any other country satisfy all the other requirements under Section 15 or 16 of Act”.

S.33 (2) Delete the word “insolvent” appearing in paragraph (d) and substitute therefor the word “bankrupt”.

S.33(2) Insert the word of “or” at the end of paragraph (f) and insert the following new paragraph-

(g) is, by order of the Cabinet Secretary, declared inadmissible on grounds of national security or national interest.

S.33(3) Delete the words “regulatory officer’s right” and substitute therefor the words “immigration officer’s right”.

S.33(4) Delete.

S.33(5) Delete the word "undesirable" wherever it appears and substitute therefor the word "inadmissible".

S.34 Delete the marginal note and substitute therefor the word "Residence".

S.34(4) Delete and substitute therefor the following new subsection-

(4) Where a person who is exempted from the provisions of this section under subsection (3) ceases to be so exempted, that person shall after the expiration of such period of time, not exceeding six months, as an immigration officer may allow for the departure of the person from Kenya, report to the director accordingly and apply for the grant of a new status under this Act.

S.44(3) Delete the word "undersirable" wherever it occurs and substitute therefor the word "inadmissible".

S.46(2) Delete the word "pupil" wherever it occurs and substitute therefor the word "student".

S.49(2) Delete the word "secure" and substitute therefor the word "ensure".

S.49(3) Delete the words "immigration division" and substitute therefor the word "Service".

S.49(5) Delete the word "Minister" appearing in paragraph (d) and substitute therefor the words "Cabinet Secretary".

The Urban
Areas and Cities
Act, 2011 (No.
13 of 2011).

- S.53(1) Delete the expression "44" appearing in paragraph (b) and substitute therefor the expression "43".
- S.53(3) Delete the expression "(1) r" and substitute therefor the expression "(1)(q)"
- S.53(4) Delete the expression "(q)" and substitute therefor the expression subsection "(1)(p)"
- S.5(1)(a) Delete the word "grant" appearing at the end thereof and insert the words "application for grant of city status".
- S.8(3) Insert the words "taking account of regional, ethnic and gender diversity and representation of persons with disability" immediately after the word "institutions".
- S.16(j) Delete the words "gross misbehavior or"
- S.24(4) Delete the words "limited to" and substitute therefor the words "regulated in accordance with"
- S.25 Insert the words "or town committee" immediately after the word "board" wherever it occurs.
- S.38 Delete the word "municipal".
- S.43 (2) Delete the words "has a joint venture" and substitute therefor the words "enters into a joint venture".
- S.43 (3) Delete the words "authorized by a Board" and substitute therefor the words "authorized by the board or town committee".

	S.49	Delete the words “members and”
	S.52(1)(a)	Insert the words “the board of a” immediately after the words “chairperson of”.
	Second Schedule	Insert the words “or town committee” immediately after the word “board” wherever it appears in paragraph 1(1)
		Delete the word “municipality” appearing in paragraph 1(g) and substitute therefor the words “urban area”.
The Kenya National Commission Human Rights Act, 2011 (No.14 of 2011).	S.30 (b)	Delete.
	S.59	Insert the following proviso immediately after subsection (2) – Provided that the process for appointing new Commissioners under section 11 of this Act shall be commenced at least four months before the expiry of that term.
The National Gender and Equality Commission Act, 2011 (No. 15 of 2011).	S.2	Delete the words “human rights and” and from the definition of the words “Cabinet Secretary”.
The Commission for Revenue Allocation Act, 2011 (No. 16 of 2011).	S.5(2)	Delete and substitute therefor the following new subsection – (2) Any of the members of the Commission may serve on a part-time basis.

The Environment S.2
and Land Court
Act, 2011
(No. 19 of
2011).

Delete the expression "161" appearing in the definition of "Chief Registrar" and substitute therefor the expression "161(2)".

Delete the definition of "environment" and substitute therefor the following –

"environment" shall have the meaning assigned to it under the No. 8 of 1999. Environmental Management and Co-ordination Act, 1999.

Delete the definition of the words "Principal Judge".

Delete the word "approved" appearing in the definition of the word –

"Registrar" and substitute therefor the word "appointed".

S.4 (3) Delete all the words appearing immediately after the words "Kenya".

S.5 Delete and substitute therefor the following-

Composition of the Court.

5. The Court shall consist of the Presiding Judge and such number of Judges as may be determined by the Judicial Service Commission from time to time.

S.6 Delete the words "Principal Judge" wherever they occur and substitute therefor the words "Presiding Judge".

S.7(1) Delete and substitute therefor the following new subsection-

(1) A person shall be qualified for appointment as Judge of the Court if the person-

(a) possesses the qualifications specified under Article 166(2) of the Constitution;

(b) has at least ten years' experience as a distinguished academic or legal practitioner with knowledge and experience in matters relating to environment or land; and

(c) has held the qualification specified in paragraph (a) and (b) for a period amounting, in the aggregate, to ten years.

S.7(2) Delete.

S.9(1) Insert at the end thereof the words "under section 20 of the Judicial Service Act, 2011".

S.9(2) Delete the words "Principal Judge" and substitute therefor the words "Judicial Service Commission".

S. 10

Delete and substitute therefor the following

Qualification
for
appointment
of the
Registrar of
the Court.

10. A person shall not be qualified for appointment as the Registrar unless such person -

(a) is an advocate of the High Court of Kenya, and has, since qualification -

(i) become eligible for appointment as a Judge of the High Court;

(ii) served for at least ten years as a professionally qualified magistrate; or

(iii) attained at least ten years' experience as a distinguished academic or legal practitioner or such experience in other relevant legal field; or

(iv) held the qualifications specified in paragraphs (i) to (iii) for a period amounting, in the

aggregate, to ten
years; and

(b) has demonstrated
competence in the
performance of
administrative duties
for not less than three
years.

- S.11(2) Delete the words “Principal Judge” and substitute therefor the words “Presiding Judge in charge”.
- S.13(1) Delete the words “written law” and substitute therefor the words “law applicable in Kenya”.
- S.13(2) Delete the words “relating to environment and land including disputes”.
- S.13 (2)(a) Delete the word “trade”.
- S.13 (3) Delete the words “the environment and land” and substitute therefor the words “ a clean and healthy environment”.
- S.13(5) Delete.
- S.13(6) Delete.
- S.14 Delete the word “Rules” and substitute therefor the words “Civil Procedure Rules”.
- S. 15 Insert the words “Chief” immediately before the word “Registrar”.
- S. 17 Delete.

- S.18(c) Delete the expression "159(2)" and substitute therefor the expression "159".
- S.19 (1) Delete the words "and shall not be strictly bound by the rules of evidence".
- Delete the proviso.
- S. 19(2) Delete the word "not" and the words "and shall be guided by the principals of natural justice".
- S.19(3) Delete.
- S.19(4) Delete.
- S.21(2) Delete the words "being not less than three, assigned by the Principal Judge" and substitute therefor the words "as determined by the Chief Justice".
- S.23(1) Delete the words "and Kiswahili".
- S.23(2) Delete the words "Notwithstanding subsection (1)".
- S. 24(1) Delete the words "in consultation with the Court".
- S.24(2) Delete the words "for matters" and substitute therefor the words "on matters".
- S.24(4) Delete.
- S.25 Delete.
- S.26 Delete the heading and substitute therefor the heading "Sitting of the Court".
- S.28 Delete.

The Industrial Court Act, 2011 (No. 20 of 2011).	S.29	Delete the expression “one million” and substitute therefor the expression “twenty million”
	Title	Delete the word “Industrial” and substitute therefor the words “Labour Relations”.
	Long Title.	Delete and substitute therefor the following – “An Act of Parliament to establish the Labour Relations Court to hear and determine disputes relating to employment and labour relations and for connected purposes”.
	S.1	Delete the word “Industrial” and substitute therefor the words “Labour Relations”.
	S.2	Delete the word “employment and Labour Relations” in the definition of the term “Committee” and substitute therefor the words “Labour Relations”. Delete the word “Industrial” appearing in the definition of the word “Court” and substitute therefor the words “Labour Relations”. Delete the expression “161” appearing in the definition of the expression “Chief Registrar” and substitute therefor the expression “161(2)”. Delete the word “Industrial” appearing in the definition of the word “Court” and

substitute therefor the words "Labour Relations".

Delete the definition of "Principal Judge".

S.3(1) Delete the words "just expeditious and proportionate" and substitute therefor the words "efficient, effective, just and expeditious".

S.4(1) Delete and substitute therefor the following -

(1) There is hereby established the Labour Relations Court pursuant to Article 162(2)(a) of the Constitution.

S.5(1) Delete and substitute therefor the following -

(1) The Court shall consist of the Presiding Judge and such number of judges as may be appointed in accordance with Article 166(1) (b) of the Constitution.

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

(1A) The Judicial Service Commission shall determine the number of Judges to be recruited specifically for the Court".

S.5(2) Delete.

S.5(3) Delete.

S.5(4) Delete.

- S.5(5) Delete.
- S.6 Renumber the existing paragraphs as paragraphs (b), (c) and (d) and insert the following new paragraph-
- “(a) possesses the qualifications specified under clause 166(2) of the Constitution, and”.
- S.7(1) Delete the expression “168(5)” appearing in paragraph (c) and substitute therefor expression “168”.
- S.7(2) Delete.
- S.8 Delete.
- S.9(1) Delete paragraph (b)
- S.9(2) Delete and substitute therefor the following new subsection-
- (2) The Registrar and officers of the Court appointed under subsection (1) shall perform the administrative functions of the court under the supervision and direction of the Registrar.
- S.9(3) Delete.
- S.9(4) Delete.
- S.9(5) Delete.
- S.10 Delete and substitute therefor the following –
- Qualifications for appointment as Chief Registrar. **10. A person shall not be**

qualified for appointment as the Chief Registrar unless such a person-

- (a) is an advocate of the High Court of Kenya and has, since qualification-
 - (i) become eligible for appointment as a Judge of the High Court;
 - (ii) served for at least ten years as a professionally qualified magistrate; or
 - (iii) attained at least ten years' experience as a distinguished academic or legal practitioner of such experience in other relevant legal field; or
 - (iv) held the qualifications specified in paragraphs (i) to (iii) for a period amounting, in the aggregate, to ten years; and

(b) has demonstrated competence in the performance of administrative duties for not less than three years.

S.11(1) Delete the introductory portion and substitute therefor the following –

“(1) The Registrar shall perform the duties assigned to the Registrar under this Act and such other duties as the Chief Registrar may direct, and in particular be responsible for –“.

S.11 (2) Delete the words “the Senior Deputy Registrar”.

S.12(2) Delete and substitute therefor the following –

(5) The Court shall have appellate jurisdiction to hear and determine appeals from –

(a) decisions of the Registrar of Trade Unions; and

(b) any other local tribunal or commission as prescribed under any written law.

S.13 Delete the words “rules made under this

Act" and substitute therefor the words
"Civil Procedure Rules".

- S.14 Insert the words "Chief" immediately
before the word "Registrar"
- S.15 (2) Delete.
- S.15 (3) Delete.
- S.15(5) Delete the word "bound" and substitute
therefor the word "guided".

Insert the following proviso at the end of
the section-

Provided that nothing in this
section shall preclude the Court
from making reference to
guidelines issued by the Salaries
and Remuneration Commission
from time to time to the extent to
which they may be relevant to the
dispute.

- S.17 (2) Delete.
- S.18 Delete.
- S.19 Delete.
- S.20(1) Delete.
- (2) Delete.
- (3) Delete.
- (6) Delete.
- Delete.

(7) Delete the words “two hundred thousand” and “six months” and substitute therefor the words “two million” and “two years” respectively.

S.21 (2) Delete and substitute therefor the following –

(3) Notwithstanding subsection (1), any matter certified by the Court as raising a substantive question of law shall be heard of by an uneven number of judges determined by the Chief Justice.

S.22 Delete the word “Industrial” and substitute therefor the words “Labour Relations”.

S.24(a) Delete the words “Principal Judge” and substitute therefor the words “Presiding Judge”.

S. 27(1) Delete the marginal note and substitute therefor the following –

“Rules and Regulations of the Court”.

Delete the words “in consultation with the Committee”.

S.28 Delete.

S.29(4)(b) Delete the words “Principal Judge” and substitute therefor the words “Presiding Judge”.

S.29(5) Delete.

	S.30	Delete.
	S.32(3)	Delete.
	S.35	Delete the words "and where the provisions of any law conflict with the provisions of this Act, the Provisions of this Act shall prevail".
	Schedule	Delete.
The Ethics and Anti-Corruption Act, 2011 (No. 22/2011).	S.36	Delete the word "Independent" appearing in the definition of the word "Commission".
	S.3(3)	Delete and substitute therefor the following new subsection – (7) The headquarters of the Commission shall be in the Capital city of Kenya, but the Commission shall ensure access to its services in all parts of the Republic in accordance with section 6(3) of the Constitution.
The Elections Act, 2011 (No. 24 of 2011).	S.10(1)	Insert the words "a voter's card issued to him in respect of that registration and" immediately after the word "produces". Insert the following proviso at the end of the subsection- Provided that a person who fails to produce a voter's card and whose name appears in the register of voters in respect of that polling station shall be eligible to vote in that polling station.

S.22(1) Delete paragraph (b) and substitute therefor, the following-

(b) holds a certificate, diploma or other post secondary school qualification acquired after a period of at least three months study, recognized by the relevant Ministry and in such manner as may be prescribed by the Commission under this Act.

S.27 Delete the word "six" and substitute therefor the word "three".

S.30(2) Delete the word "A" and substitute therefor the words "Where a political party does not nominate an agent under subsection (1), a".

S.36(1) Delete the words "four of whom shall be persons with disability and four of whom shall be the youth" appearing in paragraph (f) and substitute therefor the words "at least two of whom shall be person with disability, two of whom shall be the youth and two of whom shall be persons representing a marginalized group."

S.43(1) Delete the words "three months before an election" appearing in paragraph (d) and substitute therefor the words "for the purpose of supporting a candidate or political party."

S.43(5) Delete the word "seven" and substitute therefor the word "five".

S.108 Delete the words "State-owned radio and

television broadcasting services” and substitute therefor the words “State-owned broadcasting media”.

S.112

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

(2) For avoidance of doubt, until the final announcement of all results of the first elections for Parliament under the Constitution –

(a) a notice of commencement of the provisions of this Act under subsection (1) shall apply to the extent contemplated by section 2(1)(a) of the Sixth Schedule to the Constitution;

(b) any election held before the first elections for Parliament under the Constitution shall be held in accordance with the provisions of the former Constitution and the law applicable under that Constitution pursuant to section 3(2) of the Sixth Schedule to the Constitution:

Provided that the period prescribed for the issuance of any document or the doing of any other act or thing in respect of an election to which is due at the commencement of this subsection shall, notwithstanding the provisions of any other written law, be deemed to run with effect from the date of such commencement.

The Kenya
Citizens and
Foreign
Nationals
Management
Service Act,
2011 (No. 31 of
2011).

Long title. Delete the words “administration of the laws relating to marriages”.

S.4.(1) Delete the word “marriages”.

5(2) Delete the words “on the recommendation of the Public Service Commission” appearing in paragraph (a);

Delete the proviso and substitute therefor the following-

“Provided that the membership of the Board shall not comprise more than two-thirds of either gender”.

S.13(2) Delete the words “on delegated authority from the Public Service Commission” appearing in paragraph (c).

S.16(1) Delete the words “as may be authorized by the Public Service Commission”.

S.16(2) Insert the words “or any member of the staff” immediately after the word “department”.

First Schedule. Delete the following entries –

The Marriage Act (Cap.150)

The African Christian Marriage and Divorce Act (Cap.15)

The Mohammedan Marriage and Divorce registration Act (Cap. 18)

The Hindu Marriage and Divorce Act (Cap. 157)

The Industrial Training (Amendment) Act, 2011 (No. 34 of 2011).

New

Insert the following new section immediately after section 40 –

Interpretation. 41. Notwithstanding any other provision of this Act, the expression “Cabinet Secretary” shall, until the first general elections under the constitution be construed to mean “Minister”.

S.6

Delete the expression “fifteen” appearing in new section 4H(5) and substitute therefor the expression “thirty– five”.

MEMORANDUM OF OBJECTS AND REASONS

The Bill is in keeping with the practice of tabling one Bill consisting of various amendments with the object of updating the statutes to remove anomalies and bring it in line with present-day conditions.

The Bill proposes amendments to various Acts which do not warrant individual Bills.

These include the following-

The Revision of the Laws Act (Cap.1)

The Bill seeks to amend the Revision of the Laws Act to the use of section headings in legislation. Currently the Act refers to marginal notes only.

It is considered that section headings will be more convenient in law revision.

The National Assembly Remuneration Act (Cap. 5)

The Bill proposes to amend the Act to expand the categories of members who may receive allowances under Part II of the First Schedule to the Act. Currently the recipients are the chairperson, vice-chairperson and the Commissioners of the Parliamentary Service Commission, and the chairperson and members of Parliamentary Committees. It is proposed to include the Speaker, Deputy Speaker and members of the Speaker's Panel.

The Appellate Jurisdiction Act (Cap. 9)

The Bill proposes to amend the Appellate Jurisdiction Act to expand the jurisdiction of the Court of Appeal in accordance with Article 64 of the Constitution, which confers power on the Court of Appeal to hear appeals from the High Court and other Courts and Tribunals as may be provided for an Act of Parliament.

The Magistrates' Courts Act (Cap.10)

The Bill proposes to amend the Magistrates Courts Act to enhance the pecuniary jurisdiction of Courts of various levels.

The Advocates Act (Cap. 16)

The Bill proposes various amendments to the Advocates Act.

It seeks to introduce amendments to recognize the replacement of the Attorney-General as Public Prosecutor by the Director of Public Prosecutions, and also to redesignate the Disciplinary Committee as the "Disciplinary Tribunal".

Other proposed amendments provide for the following-

- (a) qualification for admission for advocates of the High Courts of Rwanda and Burundi;
- (b) qualifications for admission for advocates of the Superior Courts of other Commonwealth Countries, subject to conditions;
- (c) employment and practice of in-house advocates;

The Law Society of Kenya Act (Cap. 18)

The Bill proposes to amend the Law Society of Kenya Act consequent to the amendments to the Advocates Act.

The Civil Procedure Act (Cap. 21)

The Bill seeks to amend the Civil Procedure Act to introduce the aspect of mediation of cases. This is recommended as an aid to the streamlining of the court process. This will involve the establishment of a Mediation Accreditation Committee by the Chief Justice.

The Bill provides for the selection of mediators by the parties to a dispute. It also allows for the reference of suits to other methods of mediation with the leave of the court. Settlements arising out of the mediation process will be enforceable as judgments of the court and no appeal shall lie from them.

The Bankruptcy Act (Cap. 53)

The Bill proposes to amend the Bankruptcy Act to recognize the replacement of the Attorney-General as public prosecutor by the Director of Public Prosecutions.

The Public Order Act (Cap. 56)

The Bill proposes to amend the Public Order Act to recognize the replacement of the Attorney-General as public prosecutor by the Director of Public Prosecutions.

The Penal Code (Cap.63)

The Bill proposes to amend the Penal Code Act to recognize the replacement of the Attorney-General as public prosecutor by the Director of Public Prosecutions.

The Protection of Aircraft Act (Cap. 68)

The Bill proposes to amend the Protection of Aircraft Act to recognize the replacement of the Attorney-General as public prosecutor by the Director of Public Prosecutions.

The Criminal Procedure Code (Cap. 75)

The Bill proposes to amend the Criminal Procedure Code to recognize the replacement of the Attorney-General as public prosecutor by the Director of Public Prosecutions.

The Evidence Act (Cap. 80)

The Bill proposes to amend the Evidence Act to recognize the replacement of the Attorney-General as public prosecutor by the Director of Public Prosecutions.

The Registration of Persons Act (Cap. 107)

The Bill proposes to amend the Registration of Persons Act to recognize the replacement of the Attorney-General as public prosecutor by the Director of Public Prosecutions.

The Armed Forces Act (Cap. 199)

The Bill proposes to amend the Armed Forces Act to recognize the replacement of the Attorney-General as public prosecutor by the Director of Public Prosecutions.

The Kenya Literature Bureau Act (Cap. 209)

The Bill seeks to amend the Kenya Literature Bureau Act to extend the mandate of the Bureau to enable it to serve authors from outside Kenya. It also seeks to empower the Board to store its documents in electronic form.

It also proposes to streamline the affairs of the Board of the Bureau by enhancing the quorum for the requisition of a special meeting. It also seeks to involve the State Corporations Advisory Committee in the decision on the remuneration of Board members. It seeks to clarify that the authentication of the seal of the

Board shall be done by the Chairman and one other member of the Board in order to.

The Public Health Act (Cap. 242)

The Bill seeks to amend the Public Health Act to recognize the replacement of the Attorney-General as public prosecutor by the Director of Public Prosecutions.

The Science and Technology Act (Cap. 250)

The Bill seeks to amend the Science and Technology Act to provide for the incorporation of the National Council for Science and Technology.

The Medical Practitioners and Dentists Act (Cap. 253)

The Bill proposes to amend the Medical Practitioners and Dentists Act to allow for the publication of the names of medical and dental practitioners in the print or electronic media with the approval of the Board.

The Kenya Red Cross Society Act (Cap. 256)

The Bill proposes to amend the Kenya Red Cross Society Act to assign to the Society the objective of offering training in courses related to their activities, and also to itemize additional Protocols to the international conventions the Society's activities are required to accord with. It also proposes provisions for the recognition of the activities of the Society at the National and county levels of Government.

The Pyrethrum Act (Cap. 340)

The Bill seeks to amend the Pyrethrum Act to enhance the penalties under the Act to make them more deterrent in order to safeguard the industry.

The Tea Act (Cap. 343)

The Bill seeks to amend the Tea Act to provide for the extension of the term of the Tea Board of Kenya existing before the amendment of the Act *vide* Act No. 4 of 2011, to the 31st December, 2011.

This is in order to afford adequate time for the conducting of elections of the new Board members as provided for under that Act. It also seeks to reduce the number of Board members and to empower the Minister to make regulations prescribing the criteria for eligibility for appointment as members of the Board.

The Prevention of Cruelty to Animals Act (Cap.360)

The Bill seeks to amend the Prevention of Cruelty to Animals Act to recognize the replacement of the Attorney-General as public prosecution by the Director of Public Prosecutions.

The Animal Diseases Act (Cap. 364)

The Bill seeks to amend the Animal Diseases Act to introduce more inclusive definitions of the animals under the purview of the Act.

It also proposes to amend section 12 of the Act to clarify the provisions on compensation payable to owners of animals which are slaughtered on the orders of the Director in order to facilitate the prevention or control of notifiable diseases, by setting out the principles on which the same shall be calculated. It also seeks to enhance the penalties to be imposed under the Act.

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

The Bills seeks to amend the Constitutional Offices (Remuneration) Act to facilitate the payment of the appropriate salaries and benefits in respect of the time served by the members of the (former) Interim Independent Boundaries Commission.

The Prevention of Fraud (Investment) Act (No. 1 of 1977)

The Bill seeks to amend the Narcotic Drugs and Psychotropic Substances Act, 1994 to recognize the replacement of the Attorney-General as public prosecutor by the Director of Public Prosecutions.

The Narcotic Drugs and Psychotropic Substances Act (No. 4 of 1994)

The Bill seeks to amend the Narcotic Drugs and Psychotropic Substances Act, 1994 to recognize the replacement of the Attorney-General as public prosecutor by the Director of Public Prosecutions.

The National Crime Research Centre Act, 1997 (No. 4 of 1997)

The Bill seeks to amend the National Crime Research Center Act to provide for the membership of the Permanent Secretary to the Treasury on its Governing Council in line with the requirements of the State Corporations Act (Cap.446).

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

The Bill seeks to amend the Kenya Information and Communications Act, 1998 to require communications services licensees to maintain registers of all their customers, and also to provide for the making of regulations on the registration of telecommunications subscribers.

The Bill also seeks to introduce a new provision for a deterrent penalty for interference with telecommunication line cables or other apparatus which are for the service of the public or the Government.

It also seeks to empower the Minister to extend the transitional period for broadcasting licences.

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

The Bill proposes to amend the Children Act, 2001 to recognize the replacement of the Attorney – General as public prosecutor by the Director of Public Prosecutions.

The Sugar Act, 2001 (No. 10 of 2001)

The Bill proposes to amend the Sugar Act to accommodate the rights of growers on the advent of the privatization of sugar companies and milling companies. Currently sugar growers are entitled to 51% representation on the boards of directors of milling companies. The Ministry recommends that this percentage

should henceforth be determined by the Minister taking into account the management and technical needs of the company.

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

The Bill proposes to amend the Copyright Act to enable owners of the Copyright in sound recordings to gain from their works. It also proposes to amend the Copyright Act to require the affixing of authentication devices issued by the Kenya Copyright Board on all sound and audio – visual recordings made available to the public on a commercial basis.

It also proposes to authorize police officers to arrest any person who infringes the provisions of the Act.

The Anti-Corruption and Economic Crimes Act, 2003 (No. 3 of 2003)

The Bill proposes to amend the Anti-Corruption and Economic Crimes to recognize the replacement of the Attorney-General as public prosecutor by the Director of Public Prosecutions.

The Sexual Offences Act, 2006 (No. 3 of 2006)

The Bill proposes to amend the Sexual Offences Act, 2006, by deleting section 38 thereof, which criminalizes the making of false allegations against a person under the Act (because it has been found likely to discourage the reporting of offences).

The Energy Act, 2006 (No. 12 of 2006)

The Bill proposes to amend the Energy Act to remove the requirement that for one to be appointed an agent by the Energy Regulatory Commission one has to be from the Ministry of Trade or from a local authority.

This is to widen the scope of the Commission in sourcing for the expertise it requires for its purposes. Specifying the two institutions is a limitation and might hinder the implementation of the mandate of the Energy Regulatory Commission. It is proposed that the Minister be empowered to prescribe such qualifications through regulations.

It also seeks to remove the limitation on the qualification of persons to be licensed by the Commission as electrical contractors. Currently the Act provides at Section 38(2) (a) that one must be registered by the Institution of Engineers of Kenya.

The Bill also proposes to amend the Act to introduce deterrent penalties for persons who willfully destroy property intended to be used for the supply of electricity to the public.

It is also intended to introduce a provision to protect the members of the Energy Tribunal from personal liability, a provision which has hitherto been missing from the Act.

The Witness Protection Act, 2006 (No. 16 of 2006)

The Bill proposes to amend the witness Protection Act to exempt the Witness Protection Agency from the provisions of the State Corporations Act. This is in order to ensure that the Agency may adequately carry out its operations, most of which have to be covert.

The Constituencies Development Fund (Amendment) Act, 2007 (No. 16 of 2007)

The Bill proposes to amend the Constituencies Development Fund (Amendment) Act, 2007 to provide for a date on which the Act should be deemed to have come into operation.

This is due to the fact that the commencement date for the Act was to be notified by the Minister through a legal notice, which was not done within the period of thirty days from the date of assent as required under section 1, and has not been done to date.

The amendment will validate the actions taken under the Act by the Constituencies Development Fund Board.

The Truth, Justice and Reconciliation Act, 2008 (No. 6 of 2008)

The Bill proposes to amend the Truth Justice and Reconciliation Act, 2008 to provide for further extension of time for the completion of the work of the Commission when

it appears that the Commission is unable to complete its work even after one extension.

It also proposes to amend the Act to reduce the period of the life of the Commission after the submission of its report to the President.

The National Cohesion and Integration Act, 2008 (No. 12 of 2008)

The Bill proposes to amend the National Cohesion and Integration Act to specify the mode of reappointment of the Chairperson and Commissioners of the National Cohesion and Integration Commission.

The Anti – Counterfeit Act, 2008 (No. 13 of 2008)

The Bill proposes to amend the Act to recognize the replacement of the Attorney-General as public prosecutor by the Director of Public Prosecutions.

The Merchant Shipping Act, 2009 (No. 4 of 2009)

The Bill intends to amend the Merchant Shipping Act to empower the Minister to make regulations on the conditions on which one may serve as Maritime Services Provider.

This is in order to maintain high Service Standards in order to ensure competitiveness, efficiency and integrity in Kenyan ports in order to place them at par with other ports elsewhere.

It is also intended to amend the Act to delete certain terms referring to services providers in order to discourage monopolization of the services by the same providers.

It is also proposed to introduce a provision for the sanctions to be imposed of persons contravening the regulations.

The Counter-Trafficking in Persons Act, 2010 (No. 8 of 2010)

The Bill proposes to amend the Counter-Trafficking in Persons Act, to confer discretion on the Minister to appointment of the commencement date.

The Vetting of Judges and Magistrates Act, 2011 (No. 2 of 2011)

The Bill proposes to amend the Vetting of Judges and Magistrates, 2011, Act to remove the rigid timelines prescribed for the vetting of the different categories of Judges and Magistrates for effective completion of the exercise.

The Independent Electoral and Boundaries Commission Act, 2011 (No. 9 of 2011)

The Bill proposes to amend the Independent Electoral and Boundaries Commission Act, 2011 to clarify that it is the Salaries and allowances of the members of the Commission, who are State Officers, which shall be determined by the Salaries and Remuneration Commission, and not those of the employees of the Commission. It proposes to amend the First Schedule to provide for that all nominations and appointments made under the Act should have regard to the regional, gender and ethnic diversity of Kenya. It also seeks to amend the Fifth Schedule to the Act to provide that the High Court shall hear an application for the review of a decision of the Commission within a period of three months in line with Article 89(11) of the Constitution. The Act currently provides for thirty days, which is contrary to the Provisions of that Article.

The Political Parties Act, 2011 (No. 11 of 2011)

The Bill proposes to amend section 35 of the Political Parties Act, 2011 to allow for the extension of the time provided for the appointment of a selection committee for purposes of the Act. The period within which the selection committee was to be appointed expired prior to the completion of the process.

It also proposes to amend section 41 (4) of the Act to clarify that the Political Parties Tribunal shall employ the procedure under the Criminal Procedure Code. Paragraph 8 of the Fifth Schedule is to be amended to remove the reference to the election of the chairperson of the Selection Committee by the members of the Committee as the chairperson is to be nominated by the President under the Act.

The Kenya Citizenship and Immigration Act, 2011 (No. 12 of 2011)

The Bill proposes to amend the Kenya Citizenship and Immigration Act to clarify the provisions on acquisition of citizenship by children or wards persons who are citizen of Kenya by registration, and of persons ordinarily resident in Kenya after 1963 who hold passports of other countries.

It also proposes to provide for inadmissibility of non-citizens on grounds of national interest and national security, and to harmonize the provisions of the Act.

It also proposes to amend the Act to correct the reference to bankruptcy.

The Urban Areas and Cities Act, 2011 (No. 13 of 2011)

The Bill proposes to amend the Urban Areas and Cities Act to remove the impression of a limitation on the right of access to information from the board or committee of a city or municipality upon application, and clarify that the section intends to regulate the same.

It also proposes to amend the provision requiring the members of a board of a city or municipality to subscribe to an existing pension scheme, as these are not officers of the board.

It also has proposals to clarify some of the provisions of the Act.

The Kenya National Commission on Human Rights Act, 2011 (No. 14 of 2011)

The Bill proposes to amend the KNCHR Act to remove the restriction on the Commission not to investigate criminal human rights violations which may include violation of international conventions to which Kenya is a member.

It also proposes to amend the Act to provide for the commencement of the process of appointment of new Commissioners under the Act.

The National Gender and Equality Commission Act, 2011 (No. 15 of 2011)

The Bill proposes to amend the National Gender and Equality Commission Act to clarify the responsibilities of the Cabinet Secretary.

The Commission for Revenue Allocation Act, 2011 (No. 16 of 2011)

The Bill proposes to amend the Commission Revenue Authority that the members may serve on a part-time basis.

The Environment and Land Court Act, 2011 (No. 19 of 2011)

The Bill proposes to amend the Environment and Land Courts Act, 2011, to harmonize the provisions relating to the Court with those obtaining with respect to the Courts within the Judiciary and the Constitution. It also proposes to rename the Principal Judge of the Court as the Presiding Judge.

The Industrial Court Act, 2011 (No. 20 of 2011)

The Bill proposes to amend the Industrial Court Act to rename the Employment and Labour Relations Court as the Labour Relations Court, and redesignate the Principal Judge of the Court as the Presiding Judge.

This is in order to harmonize the provisions relating to the Court with those obtaining with respect to other courts within the Judiciary.

The Ethics and Anti-Corruption Commission Act, 2011 (No. 22 of 2011)

The Bill proposes to amend section 3(3) the EACC Act to provide for access to the services of the Commission in the capital city and all other areas of the country. The current provision requires the Commission to ensure access to its services in all parts of the Republic.

The Elections Act, 2011 (No. 24 of 2011)

The Bill proposes to amend –

- (a) section 10 (1) to provide for a voter's card as one of the documents a person may produce during voting;
- (b) section 22(1) to clarify that the certificate, diploma or post secondary school qualification specified in the section for purposes of nomination in an election under the Act must be acquired after a period of at least three months study and be recognized by the relevant Ministry;
- (c) section 27 to amend the time required for a political party to submit its nomination rules from a period of six months to a period of three months before the nomination of its candidates;

- (d) section 30 (2) to provide for the appointment of an agent by a candidate nominated by a political party only where the candidates' party does not appoint an agent for its candidate;
- (e) section 36(1) to provide for the inclusion of candidates representing marginalized groups in the party lists submitted by a political party and to provide for the resignation of a public officer who intends to contest in an election at least five months before an election;
- (f) section 43(1) and (5) to prohibit the use of public resources for the purpose of supporting a candidate or a political party and to provide for the resignation of a public officer who intends to contest in an election at least five months before an election;
- (g) section 108 to include other forms of broadcasting other than radio and election in the provisions requiring reasonable airtime for candidates during the campaign period; and
- (h) section 112 to clarify that the Elections Act, 2011 only applies to the first elections under the Constitution and not to by elections to be held before the next general elections.

**The Kenya Citizens and Foreign Nationals Management Service Act, 2011
(No. 31 of 2011)**

The Bill proposes to amend the Act to remove the Marriage Laws from the list of laws to be administered by the Management Service established under the Act. It also proposes to amend the provisions on the membership of the Board established under the Act to ensure gender parity.

The enactment of this Bill will entail additional expenditure of public funds which shall be provided for through the estimates.

Dated the 30th April, 2012.

GITHU MUIGAI,
Attorney-General.

Section 8 (1) (h) of Cap.1 which it is proposed to amend

(h) to supply or alter marginal notes and tables showing the arrangements of sections;

First Schedule to Cap. 5 which it is proposed to amend-

PART II

(s.2(2))

<i>Office Held</i>	<i>Sitting Allowance (KSh. Per day)</i>
Chairperson, Parliamentary Service Commission	20,000.00
Vice-Chairperson, Parliamentary Service Commission	15,000.00
Chairperson, Sub-Committee of the Parliamentary Service Commission	12,500.00
Other Commissioners, Parliamentary Service Commission	10,000.00
Chairperson of a Parliamentary Committee	8,000.00
Member, Parliamentary Committee	5,000.00

Section 3(1) of Cap.9 which it is proposed to amend –

(1) The Court of Appeal shall have jurisdiction to hear and determine appeals from the High Court in cases where an appeal lies to the Court of Appeal under law.

Section 5 of Cap. 10 which it is proposed to delete and substitute –

Civil
jurisdiction
of Resident
Magistrate's
Court.

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

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

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

(2) The Resident Magistrate's Court shall have and exercise the same jurisdiction and powers in proceedings concerning claims under customary law as is conferred on district magistrates under section 9 (a).

Section 10 (a) of Cap.16 which it is proposed to delete and substitute –

- (a) an officer in the Attorney – General's office;

Section 12(a) of Cap. 16 which it proposed to amend-

(12) Subject to this Act, no person shall be admitted as an advocate unless –

- (a) he is a citizen of Kenya, Uganda or Tanzania;

Section 13 (1) of Cap. 16 which it is proposed to amend –

13.(1) A person shall be duly qualified if –

- (a) having passed the relevant examinations of any recognized university in Kenya he holds, or has become eligible for the conferment of, a degree in law of the university; or
- (b) having passed the relevant examinations of such university, university college or other institution as the Council of Legal Education may from time to time approve, he holds, or has become eligible for conferment of, a degree in law in the grant of that university, university college or institution which the Council may in each particular case approve, and thereafter both –
 - (i) he has attended as a pupil and received from an advocate of such class as may be prescribed, instruction in the proper business, practice and employment of an advocate, and has attended such course or tuition as may be prescribed for a period which in the aggregate including such instruction, does not exceed one year; and
 - (ii) he has passed such examination as the Council of Legal Education may prescribe; or
- (c) he possesses any other qualifications which are acceptable to and recognized by the Council of Legal Education;
- (d) he is an advocate for the time being of the High Court of Kenya or the High Court of Uganda or the High Court of Tanzania.

Section 14 of Cap.16 which it is proposed to amend –

14. The Attorney – General may take pupils in accordance with

section 13 and this Part and in any regulations “advocate”, in the context of pupillage, includes the Attorney – General.

Section 20 of Cap.16 which it is proposed to amend –

20. The Attorney – General, the Solicitor – General, Senior Counsel or Queen’s Counsel according to the date of their appointment as such, the chairman and the vice-chairman (if not a Senior Counsel) of the Society shall, in that order, take precedence of advocates who, *inter se*, shall take precedence according to the date upon which they signed their names on the Roll.

Section 32 of Cap.16 which it is proposed to amend –

32. (1) Notwithstanding that an advocate has been issued with a practicing certificate under this Act, he shall not engage in practice on his own behalf either full-time unless he has practiced in Kenya continuously on a full-time basis for a period of not less than two years after obtaining the first practicing certificate in a salaried post either as an employee in the office of the Attorney-General or an organization approved by the Council of Legal Education or of an advocate who has been engaged in continuously full-time private practice on his own behalf in Kenya for a period of not less than five years.

(2) The person employing an advocate under this section shall in the prescribed form notify the secretary to the Council of Legal Education and the Registrar of the High Court of the commencement and the termination of the employment at the time of commencement and at the termination.

(3) This section shall come into operation on such date as the Attorney-General may be notice in the Gazette appoint.

Section 55 of Cap. 16 which it is proposed to delete and substitute-

55. Every advocate and every person otherwise entitled to act as an advocate shall be an officer of the Court and shall be subject to the jurisdiction thereof and, subject to this Act, to the jurisdiction of the Disciplinary Committee.

Provided that the Persons mentioned in section 10, other than those included in paragraph (c) of that section, shall not be subject to the jurisdiction of the Disciplinary Committee.

Nothing in this Act shall supersede, lessen or interfere with the powers vested in the Chief Justice or any of the judges of the Court to deal with misconduct or offences by an advocate, or any person entitled to act as such, committed during, or in the course of, or relating to, proceedings before the Chief Justice or any judge.

Section 57 of Cap.16 which it is proposed to amend –

(1) There is hereby established a committee, to be known as the Disciplinary Committee (in this Part referred to as “the Committee”) which shall consist of –

- (a) The Attorney- General;
- (b) The Solicitor-General or a person deputed by the Attorney-General;
- (c) Six advocates (other than the chairman, vice – chairman or secretary of the Society), of not less than ten years standing, one of whom shall be an advocate who does not ordinarily practice in Nairobi, all of whom shall be elected and shall hold office for three years and be eligible for re-election; and
- (d) Three other persons, not being advocates appointed by the Attorney-General on the recommendation of the Society.

Section 57(1) of Cap. 16 which it is proposed to amend-

57.(1) There is hereby established a committee, to be known as the Disciplinary Committee (in this Part referred to as “the Committee”) which shall consist of –

- (a) the Attorney-General;
- (b) the Solicitor-General or a person deputed by the Attorney-General; and
- (c) six advocates (other than the chairman, vice-chairman or secretary of the Society), or not less than ten years standing, one of whom shall be an advocate who does not ordinarily practice in Nairobi, all of whom shall be elected and shall hold office for three years and be eligible for re-election;
- (d) three other persons, not being advocates appointed by the Attorney-General on the recommendation of the Society.

(2) During the illness, or temporary absence from Kenya, of any of its elected members, the committee may nominate any advocate who is qualified for election as a member of the Committee to act as a temporary member of the Committee.

(2A) The members of the Committee shall be paid such remuneration, fees or allowances for expenses as Attorney- General, in consultations with the Treasury, may authorize out of monies provided by Parliament for that purposes.

(3) In the event of there being any complaint or matter pending before the Committee at the date of retirement of any member and such member being a member of a tribunal thereof which had, prior to such date, entered upon the hearing thereof in accordance with section 60, that member shall, in the event of his not being re-elected, be deemed to remain in office for the purpose only of such complaint or matter and shall so remain until such complaint or matter has been finally disposed of.

(4) For the purposes of subsection (3), a complaint or matter shall be deemed to be pending if under consideration by the Committee, and a complaint or matter shall be deemed to have been finally disposed of-

- (a) in the case of an application under section 59, or a complaint under section 60, upon the making of a final order; or
- (b) in the case of a matter arising under section 71, when the Chief Justice has signified his decision thereon; or
- (c) in the case of an application under section 72, upon the final conclusion of the proceedings relating thereto before the Committee or the Court, as the case may be; or
- (d) in any other case, upon the final determination thereof by the Committee.

Section 58 of Cap. 16 which it is proposed to amend-

58.(1) The Committee may, subject to subsection (2), act as a tribunal of either three or five members, and may require the chairman or vice-chairman of the Society or both or any other member of the Council of the Society to sit as an additional member or members of the Committee to constitute the tribunal for the purposes of any complain or matter where, on the grounds of availability or convenience, a tribunal would not otherwise be available.

(2) The Attorney-General or Solicitor-General shall be the chairman of the Committee and shall preside at all meetings at which he is present, and in absence of the Attorney-General under section 57 (1) (b) shall be chairman of that meeting.

(3) The Secretary of the Society shall be the Secretary of the Committee and his remuneration, if any, shall be paid by the Society:

Provided that the Committee may, in the case of absence or ability to act of the secretary, appoint any person entitled to act as an advocate to act as secretary to the Committee during the period of such absence or inability to act and in such case the remuneration, if

any, of the person so appointed shall be paid by the Society.

(4) For the purposes of any application or complaint made to it under this Part, the Committee may administer oaths or affirmations, and the complainant and the advocate to whom a complaint relates, and an applicant making any application to the Committee, may take out a summons to give evidence or to produce documents, but no person shall be liable under such summons to produce any documents which he could not legally be compelled to produce at the trial of a suit.

(5) All proceedings before the Committee shall be deemed for the purposes of Chapter XI of the Penal Code to be judicial proceedings and for the purposes of the Evidence Act to be legal proceedings.

Section 59 of Cap. 16 which it is proposed to amend –

59.(1) An advocate may make an application to the Committee to procure his name to be removed from the Roll.

(2) On the hearing of an application under subsection (1), the Committee may make an order that the name of such advocate be removed from the Roll and may make such other order in relation to the case as it may think fit.

Section 60 of Cap. 16 which it is proposed to amend –

60.(1) A complaint against an advocate of professional misconduct, which expression includes disgraceful or dishonourable conduct incompatible with the status of an advocate, may be made to the Committee by any person.

(2) Where a person makes a complaint under subsection (1), the complaint shall be by affidavit by himself setting out the allegations of the professional misconduct which appear to arise on the complaint to the Committee, accompanied by such fee as may be prescribed by rules made under section 58 (6); and every such fee shall be paid to the society and may be applied by the Society to all or any of the objects of the Society.

(3) Where a complaint is referred to the Committee under Part X or subsection (1) the Committee shall give the advocate against whom the complaint is made an opportunity to appear before it, and shall furnish him with a copy of the complaint and of any evidence in support thereof, and shall give him an opportunity of inspecting any relevant document not less than seven days before the date fixed for the hearing:

Provided that, where in the opinion of the Committee the complaint does not disclose any *prima facie* case of professional misconduct, the Committee may, at any stage of the proceedings, dismiss such complaint without requiring the advocate to whom the complaint relates to answer any allegations made against him and without hearing the complaint.

(4) After hearing the complaint and the advocate to whom the same relates, if he wishes to be heard, and considering the evidence adduced, the Committee may order that the complaint be dismissed or, of the opinion that a case of professional misconduct on the part of the advocate has been made out, the Committee may order –

- (a) that such advocate be admonished;
- (b) that such advocate be suspended from practice for a specified period not exceeding five years; or
- (c) that the name of such advocate be struck off the Roll; or
- (d) that such advocate pays a fine not exceeding one million shillings, or such combination of the above as the Committee thinks fit;
- (e) that such advocate pays to the aggrieved person compensation or reimbursement not exceeding five million shillings.

(5) The Committee may make any such order as to payment by any party of any costs or witness expenses and of the expenses of

the Committee or the members thereof in connection with the hearing of any complaint as it may think fit, and any such order may be registered with the Court and shall thereupon be enforceable in the same manner as an order of the Court to the like effect.

(6) After hearing the complaint and the advocate to whom the same relates, if he wishes to be heard, and considering the evidence adduced, the Committee may order that the complaint be dismissed or, if of the opinion that a case of professional misconduct on the part of the advocate has been made out, the Committee may order-

- (a) that such advocate be admonished; or
- (b) that such advocate be suspended from practice for a specified period not exceeding five years; or
- (c) that the name of such advocate be struck off the Roll; or
- (d) that such advocate pay a fine not exceeding one million shillings, or such combination of the above orders as the Committee thinks fit;
- (e) that such advocate pay to the aggrieved person compensation or reimbursement not exceeding five million shillings.

(7) If a bill of costs has been filed in Court by the advocate against whom a complaint is being heard but has not been taxed, the Committee may adjourn the complaint for such period as it considers reasonable to allow such taxation:

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

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

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

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

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

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

(12) The Committee may issue a warrant for the levy of the amount of any sum ordered to be paid by virtue of this section on the immovable and movable property of the advocate by distress and sale under warrant, and such warrant shall be enforced as if it were a warrant issued by the Court.

Section 61(1) (2) and (3) of Cap. 16 which it is proposed to delete and substitute

61.(1) On the termination of the hearing of complaint, if the Committee does not dismiss the same, the Committee shall embody its findings and the order or orders made by it in the form of a report of the Court, which shall be delivered to the Registrar, together with

the record of evidence taken and any documents put in evidence.

(2) The Registrar shall give to the complainant, to the complaints Commission (if the complainant has been referred by it to the Committee), to the Council of the Society and to the advocate to whom the complaint relates notice of delivery of the report, which shall be open to inspection by the complainant, the Commissioner, the advocate to whom the complaint relates and their respective advocates if any, and by the Council.

(3) At the conclusion of the hearing of a complaint the Committee may, if evidence of an offence appears to it to have been disclosed under section 80, make a report of the proceedings and its findings to the Attorney-General who shall consider whether to exercise his powers under that section.

Section 62(2) of Cap. 16 which it is proposed to delete and substitute –

(2) The Court shall set down for hearing any appeal filed under subsection (1) and shall give to the Council of the Society and to the advocate not less than twenty-one days notice of the date of hearing.

Section 64 of Cap. 16 which it is proposed to delete and substitute –

64. The Court, after considering the evidence taken by the Committee, the report of the Committee and the memorandum of appeal, and having heard the parties, and after taking any further evidence, if it thinks fit so to do, may-

- (a) refer the report back to the Committee with directions for its findings on any specified point; or
- (b) confirm, set aside or vary any order made by the Committee or substitute therefor such order as it may think fit,

and may also make such order as to the payment by any person of costs, or otherwise in relation to the appeal, as it may think fit.

Section 71 of Cap.16 which it is proposed to delete and substitute –

71. The Chief justice shall, upon recommendation of the Committee, order the Registrar to restore on the Roll the name of any advocate whose name has been removed or struck off the Roll, and the Registrar shall, upon payment by the advocate of the prescribed fee, restore such name accordingly.

Section 72 (1) (2) and (3) of Cap.16 which it is proposed to delete and substitute –

(1) An application may be made by or on behalf of the Council of the Society to the Committee for an order directing that, as from a date to be specified in such order, no advocate shall, in connection with his practice as an advocate, without the written permission of such council, which may be given for such period and subject to such conditions.

(2) The provisions of sections 58 and of subsections (4), (5) and (6) of section 60 shall apply, *mutatis mutandis*, to the hearing of an application under this section.

(3) Every order made by the Committee under this section shall be filed, on a file to be kept for that purpose, by the secretary to the Committee who shall cause a certified copy of such order to be delivered to the person to whom it relates or shall forward by the same by registered post of his last known address.

Section 73 (1) of Cap.16 which it is proposed to delete and substitute –

(1) Any person against whom an order has been made by the Committee under section 72 may, within fourteen days of the date of such order, appeal against such order to the Court, by giving notice of appeal to the Registrar and shall file with the Registrar a memorandum setting out his grounds of appeal to the Registrar and shall file with the Registrar a memorandum setting out his grounds of appeal within thirty days after the giving by him of such notice of appeal.

Section 75 of Cap.16 which it is proposed to delete and substitute –

75. Every report and every order made by the Committee under this Part shall be signed by the chairman of the Committee and any document purporting to be a report or an order so signed shall be received in evidence in any judicial proceedings or in any proceedings under this Act, and shall be deemed to be such a report or an order without further proof of its contents unless the contrary is shown.

Section 76 of Cap.16 which it is proposed to delete and substitute –

76. Subject to section 75, all rules, certificates, notices and other documents made or issued by the Committee for any purpose whatsoever may be signed on behalf of the Committee by the Secretary to the Committee or by such member or other person as the Committee may for that purpose appoint.

Section 77 of Cap.16 which it is proposed to delete and substitute –

77. Any person who, without good and lawful excuse contravenes or fails to comply with any order, notice or direction of the Committee or the Complaints Commission shall be liable to proceedings under section 60.

Section 78 of Cap.16 which it is proposed to delete and substitute –

78. No member of the Committee, nor any person who is or was at any material time a member, or the secretary, thereof, shall be liable to be sued in any civil court for or in respect of any act or thing done or omitted to be done, or ordered to be done or omitted, by him, in good faith, in the exercise, discharge or performance or intended or purported exercise, discharge or performance, of any of the powers jurisdiction, duties or functions conferred upon him under or by virtue of this Act.

Section 80 of Cap.16 which it is proposed to delete and substitute –

80. Any person who, being an advocate, is entrusted in his professional capacity with any money, valuable security or other property to retain it in safe custody with instructions to pay or apply it for any purpose in connection with his duty as an advocate fails to pay, apply or account for the same after due completion of the purpose for which it was given shall be guilty of an offence:

Provided that no prosecution for an offence under this section shall be instituted unless a report that has been made to the Attorney-General by the Committee under subsection (3) of section 61.

The definition of "Disciplinary Committee" in section 2 of Cap. 18 which it is proposed to amend-

"Disciplinary Committee" means the Disciplinary Committee established under section 59 of the Advocates Act;

Section 2 of Cap.21 which it is proposed to amend—

2. In this Act, unless the context otherwise requires-

"Act" includes rules;

"court" means the High Court or subordinate court acting in the exercise of its jurisdiction;

"decree" means the formal expression of an adjudication which, so far as regards the court expressing it, conclusively determines the rights of the parties with regard to all or any of the matters in controversy in the suit and may be either preliminary or final; it includes 34 of section 91, but does not include-

(a) any adjudication from which an appeal lies as an appeal from an order; or

(b) any order of dismissal for default:

Provided that, for the purposes of appeal, "decree"

includes judgment, and a judgment shall be appealable notwithstanding the fact that a formal decree in pursuance of such judgment may not have been drawn up or may not be capable of being drawn up;

Explanation – A decree is preliminary when further proceedings have to be taken before the suit can be completely disposed of. It is final when such adjudication completely disposes of the suit. It may be partly preliminary and partly final.

“decree holder” means any person in whose favour a decree has been passed or an order capable of execution has been made, and includes the assignee of such decree or order;

“district” means the local limits of the jurisdiction of a subordinate court;

“foreign court” means a court situate outside Kenya which has no authority in Kenya;

“foreign judgment” means the judgment of a foreign court;

“judgment-debtor” means any person against whom a decree has been passed or an order capable of execution has been made;

“legal representative” means a person who in law represents the estate of a deceased person, and where a party sues or is sued in a representative character the person on whom the estate devolved on the death of the party so suing or sued;

“mesne profits” in relation to property, means those profits which the person in wrongful possession of such property actually received or might with ordinary diligence have received therefrom, together with interest on such profits, but does not include profits due to improvements

made by the person in wrongful possession;

“movable property” includes growing crops;

“order” means the formal expression of any decision of a court which is not a decree and includes a rule *nisi*;

“pleading” includes a petition or summons, and the statements in writing of the claim or demand of any plaintiff, and of the defence of any defendant thereto, and of the reply of the plaintiff of any defence or counterclaim of a defendant;

“registrar” includes a district registrar and a deputy registrar;

“rules” means rules and forms made by the Rules Committee to regulate the procedure of courts;

“share in a corporation” includes stock, debenture stock, debentures and bonds;

“suit” means all civil proceedings commenced in any manner prescribed.

Section 76 of Cap.53 which it is proposed to amend –

76. As regards the debtor, it shall be the duty of the official receiver –

- (a) to investigate the conduct of the debtor and to report to the court, stating whether there is reason to believe that the debtor has committed any act which constitutes an offence under this Act or which would justify the court in refusing, suspending or qualifying an order for his discharge;
- (b) to make such other reports concerning the conduct of the debtor as the court may direct;

(c) to take such part as he may deem fit in the public examination of the debtor;

(d) to take such part and give such assistance in relation to the prosecution of any fraudulent debtor as the Attorney-General may direct.

Section 149 of Cap.53 which it is proposed to amend –

149. Where the court orders the prosecution of any person for any offence under this Act or for any offence arising out of or connected with any bankruptcy proceedings, the Attorney-General shall institute and carry on the prosecution:

Provided that, where the order of the court is made on the application of the official receiver and based on his report, the official receiver may institute the prosecution and carry on the proceedings, if or so long as those proceedings are conducted before a sub-coordinate court, unless in the course thereof circumstances arise which render it desirable that the remainder of the proceedings should be carried on by the Attorney-General.

Section 3(2) of Cap.56 which it is proposed to amend –

(2) No prosecution under this section shall be instituted without the consent of the Attorney-General.

Section 52 (3) of Cap.63 which it is proposed to amend –

(3) There is established a Board to be known as the prohibited publications review Board (hereafter referred to as “the Board”) which shall comprise –

(a) the Attorney-General or his representative, who shall be the chairman;

(b) the Commissioner of the Police or his representative;

- (c) the Director of Medical Services or his representatives;
- (d) two persons from the religious community, to be appointed by the Minister; and
- (e) two other persons of integrity, good character and good standing to be appointed by the Minister.

Section 181 (4) of Cap. 63 which it is proposed to amend –

(4) A court may, on the application of the Attorney-General, the Solicitor-General, a State Counsel or a Superintendent of Police, order the destruction of any obscene matter or thing to which this section relates, whether any person may or may not have been convicted under this section in respect of the obscene matter or thing.

Section 12 of Cap. 68 which it is proposed to amend –

12.(1) No prosecution for an offence under section 3, 4 or 5 shall be instituted without the written consent of the Attorney-General.

(2) Notwithstanding the provisions of subsection (1), a person may be arrested for, and charged with, an offence under section 3, 4 or 5, and may be remanded in custody or bail.

Section 2 of Cap. 75 which it is proposed to amend –

(2) In this Code, unless the context otherwise requires-

“cognisable offence” means an offence for which a police officer may, in accordance with the First Schedule or under or any law for the time being in force, arrest without warrant;

“Complainant” means a person who lodges a complaint with the police or any other lawful authority;

“drug related offence” means any specified in Part IV of the Dangerous Drugs Act and includes the possession, manufacture, distribution or receipt of any drug of any quantity whatsoever;

“non-cognizable offence” means an offence for which a police officer may not arrest without warrant;

“officer in charge of a police station” includes any officer superior in rank to an officer in charge of a police station and also includes, when the officer in charge of the police station is absent from the station-house, or unable from illness or to her cause to perform his duties, the police present at the station-house who is next in rank to that officer, and is above the rank of constable, or, when the Attorney-General so directs, any other police officer so present;

“plea agreement” means an agreement entered into between the prosecution and an accused person in a criminal trial in accordance with Part IV;

“police officer” means a police officer or an administration police officer;

“police station” means a police station within the meaning of section 2 of the Police Act;

“prosecutor” means a public prosecutor or a person permitted by the court to conduct a prosecution under section 88 of the Act;

“public prosecutor” means the Attorney-General, the Solicitor-General, the Deputy Public Prosecutor, a state counsel, a person appointed under section 85 or a person acting under the directions of the Attorney-General;

“Registrar of the High Court” includes a deputy registrar of the High Court and a district Registrar of the High Court;

“summary trial” means a trial held by a subordinate court under Part VI.

Section 81 of Cap.75 which it is proposed to amend—

81.(1) Whenever it is made to appear to the High Court –

- (a) that a fair and impartial trial cannot be had in any criminal court subordinate thereto; or
- (b) that some questions of law of unusual difficulty is likely to arise; or
- (c) that a view of the place in or near which any offence has been committed may be required for the satisfactory trial of the offence; or
- (d) that a view of the place in or near which any offence has been committed may be required for the satisfactory trial of the offence; or
- (e) that an order under this section will tend to the general convenience of the parties or witness; or
- (f) that such an order is expedient for the ends of justice or is required by any provision of this Code.
- (g) that such an order is expedient for the ends of justice or is required by any provision of this Code,

it may order-

- (i) that an offence be tried by a court not empowered under the preceding sections of this Part but in other respects competent to try the offence;
- (ii) that a particular criminal case, or class of cases be transferred from a criminal

court subordinate to its authority to any other criminal court of equal or superior jurisdiction;

(iii) that an accused person be committed for trial to itself.

(2) The High Court may act on the report of the lower court, or on the application of a party interested, or on its own initiative.

(3) Every application for the exercise of the power conferred by this section shall be made by motion, which shall, except when the applicant is the Attorney-General, be supported by affidavit.

(4) An accused person making any such application shall give to the Attorney-General notice in writing of the application, together with a copy of the grounds on which it is made, and no order shall be made on the merits of the application unless at least twenty-four hours have elapsed between the giving of notice and the hearing of the application.

(5) When an accused person makes any such application, the High Court may direct him to execute a bond, with or without sureties, conditioned that he will, if convicted, pay the costs of the prosecutor.

Section 82 (1) of Cap. 75 which it is proposed to amend—

(1) In any criminal case and at any stage thereof before verdict or judgment, as the case may be, the Attorney-General may enter a *nolle prosequi*, either by stating in court or by informing the court in writing that the Republic intends that the proceedings shall not continue, and thereupon the accused shall be at once discharged in respect of the charge for which the *nolle prosequi* is entered, and if he has been committed to prison shall be released, or if on bail his recognizance shall be discharged; but discharge of an accused person shall not operate as a bar to subsequent proceedings against him on account of the same facts.

Section 83 of Cap. 75 which it is proposed to amend—

83. The Attorney-General may order in writing that all or any of the powers vested in him by sections 81 and 82, and by Part VIII, be vested for the time being in the Solicitor-General, the Deputy Public Prosecutor, the Assistant Deputy Public Prosecutor or a state counsel, and the exercise of those powers by the Solicitor-General, the Deputy Public Prosecutor, the Assistant Deputy Public Prosecutor or a state counsel shall then operate as if they had been exercised by the Attorney-General:

Provided that the Attorney-General may in writing revoke an order made by him under this section.

Section 85 of Cap. 75 which it is proposed to amend—

85.(1) The Attorney-General, by notice in the Gazette, may appoint public prosecutors for Kenya or for any specified area thereof, and either generally or for any specified case or class of cases.

(2) The Attorney-General, by writing under his hand, may appoint any advocate of the High Court or person employed in the public service to be a public prosecutor for the purposes for any case.

(3) Every public prosecutor shall be subject to the express directions of the Attorney-General.

Section 87 of Cap. 75 which it proposed to amend—

87. In trial before a subordinate court a public prosecutor may, with the consent of the court or on the instructions of the Attorney-General, at any time before judgment is pronounced, withdraw from the prosecution of any person, and upon withdrawal-

- (a) if it is made before the accused person is called upon to make his defence, he shall be discharged, but discharged of an accused person shall not operate as a bar to subsequent proceedings against

him on account of the same facts;

- (b) if it is made after the accused person is called upon to make his defence, he shall be acquitted.

Section 88 of Cap.75 which it is proposed to amend—

88. (1) A magistrate trying a case may permit the prosecution to be conducted by any person, but no person other than a public prosecutor or other officer generally or specially authorized by the Attorney-General in this behalf shall be entitled to do so without permission.

(2) Any such person or officer shall have the same power of withdrawing from the prosecution as is provided by section 87 and the provisions of that section shall apply to withdrawal by that person or officer.

(3) Any person conducting the prosecution may do so personally or by an advocate.

Section 137 A (4) of Cap.75 which it is proposed to amend—

(4) Where prosecution is undertaken privately no plea agreement shall be concluded without the written consent of the Attorney-General.

Section 137B which it is proposed to delete and substitute—

137B. A plea agreement on behalf of the Republic shall be entered into by the Attorney-General, the Director of Public Prosecutions or officers authorized by the Attorney-General in accordance with section 26 (5) of the Constitution and any other person authorized by any written law to prosecute:

Provided that in any trial before a subordinate court, a public prosecution may, with prior written approval of the Attorney-General, the Director of Public Prosecutions, or officers subordinate to him, as the case may be, enter into a plea agreement in accordance with section 137A (1).

Section 137L (2) of Cap.75 which it is proposed to amend—

(2) Notwithstanding subsection (1), the Attorney-General, in the public interest and the orderly administration of justice, or the accused person, may apply to the court which passed the sentence to have the conviction and sentence procured pursuant to a plea agreement set aside on the ground of fraud or misrepresentation.

Section 143 of Cap.75 which it is proposed to amend—

143. (1) Proceedings for the trial of a person who is not a Kenya Citizen for an offence committed within the exclusive zone and the territorial waters shall not be instituted in any court except with the leave of the Attorney-General and upon his certificate that it is expedient that proceedings should be instituted:

Provided that –

- (i) proceedings before a subordinate court previous to the committal of an accused person for trial or to the determination of the court that the offender is to be put upon his trial shall not be deemed proceedings for the trial of the offence committed by the offender for the purposes of the consent and certificate;
- (ii) it shall not be necessary to aver in charge or information that the consent or certificate of the Attorney-General required by this section has been given, and the fact of their having been given shall be presumed unless disputed by the accused person at the trial; and the production of a document purporting to be signed by the Attorney-General and containing the consent and certificate shall be sufficient evidence for all the purposes of this section of that consent and certificate;

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(iii) this section shall not prejudice or affect the trial of an act of privacy as defined by Law of Nations.

(2) In this section, "offence" means an act neglect or default of such a description as would, if committed in England, be punishable on indictment according to the law of England for the time being in force.

Section 161 of Cap.75 which it is proposed to amend—

161. In the case where the right of reply depends upon the question whether evidence has been called for the defence, the fact that the person charged has been called as a witness shall not of itself confer on the prosecution the right of reply:

Provided that the Attorney-General or the Solicitor-General when appearing personally as advocate for the prosecution shall in all cases have the right of reply.

Section 163 of Cap.75 which it is proposed to amend—

(1) if a person detained in a mental hospital or other place of custody under section 162 or section 280 is found by the medical officer in charge of the mental hospital or place to be capable of making his defence, the medical officer shall forthwith forward a certificate to that effect to the Attorney-General.

(2) The Attorney-General shall thereupon inform the court which record the finding concerning that person under section 162 whether it is the intention of the Republic that proceedings against that person shall continue or otherwise.

(3) In the former case, the court shall thereupon order the removal of the person from the place where he is detained and shall cause him to be brought in custody before it, and shall deal with him in the manner provided by section 164; otherwise the court shall forthwith issue an order that the person be discharged in respect of the proceedings brought against him and released from custody and

thereupon he shall be released, but the discharge and release shall not operate as a bar to any subsequent proceedings against him on account of the same facts.

Section 348 A of Cap.75 which it is proposed to amend—

348A. when an accused person has been acquitted on a trial held by a subordinate court, or where an order refusing to admit a complaint or formal charge, or an order dismissing a charge, has been made by a subordinate court, the Attorney – General may appeal to the High Court from the acquittal or order on a matter of law.

Section 350 (2) (i) of Cap.75 which it is proposed to amend—

(i) subject to the provisions of paragraph (ii), where, within five days of the date of the judgment or order appealed against, the appellant or his advocate has applied to the subordinate court which passed the judgment or made the order for a copy of the record of the proceedings before that court, and where the appeal is entered within the period of limitation prescribed by section 349 but before receipt by the appellant or his advocate of the copy of the record, the petition of appeal may be amended on notice in writing to the Registrar of the High Court and to the Attorney– General and without leave of the High Court, within seven days of the receipt by the appellant or his advocate of the copy of the record applied for;

Section 352 (3) of Cap 75 which it is proposed to amend—

(3) Whenever an appeal is summarily rejected notice of rejection shall forthwith be given to the Attorney-General and to the appellant or his advocate.

Section 352A of Cap.75 which it is proposed to amend –

352A. Where an appeal against conviction has been lodged and

a judge of the High Court is satisfied that the conviction cannot be supported, and the Attorney-General has informed the court in writing that he does not support the conviction, the judge may summarily allow the appeal.

Section 379 of Cap. 75 which it is proposed to amend—

379.(1) A person convicted on a trial held by the High Court and sentenced to death, or to imprisonment for a term exceeding twelve months, or to a fine exceeding two thousand shillings, may appeal to the Court of Appeal –

- (a) against the conviction, on grounds of law or of fact, or mixed law and fact;
- (b) with the leave of the Court of Appeal, against the sentence, unless the sentence is one fixed by law.

(2) A person convicted on a trial held by the High Court and sentenced to-

- (a) a term of imprisonment of twelve months or less; or
- (b) a fine exceeding two hundred shillings but not exceeding two thousand shillings; or
- (c) a fine of two hundred shillings or less, or corporal punishment, where the Court of Appeal or the trial judge is of the opinion that the case involved a question of law of great general or public importance,

may, with the leave of the Court of Appeal, or upon a certificate of the trial judge that it is a fit for appeal, appeal against his conviction on any ground which appears to the Court of Appeal, or the judge, to be a sufficient ground of appeal.

(3) No appeal shall be allowed in the case of an accused person who has pleaded guilty and has been convicted on that plea by the High Court, except as to the extent or legality of his sentence.

(4) Save in a where the appellant has been sentenced to death, a judge of the High Court, or of the Court of Appeal, may, where an appeal to the Court of Appeal has been lodged under this section, grant bail pending the hearing and determination of appeal.

(5) Where a person has been acquitted in a trial before the High Court in the exercise of its original jurisdiction and the Attorney-General has, within one month from the date of acquittal or within such further period as the Court of Appeal may permit, signed and filed with the registrar of the court a certificate that the determination of the trial involved a point of law of exceptional public importance and that it is desirable in public interest that the point should be determined by Court of Appeal, the Court of Appeal shall review the case or such part of it as may be necessary, and shall deliver a declaratory judgment thereon.

(6) A declaratory judgment under subsection (5) shall not operate to reverse an acquittal, but shall thereafter be binding upon all courts subordinate to the Court of Appeal in the same manner as an ordinary judgment of that court.

Section 386(1) of Cap. 75 which it is proposed to amend—

(1) The officer in charge of a police station, or any other officer specially empowered by the Minister in that behalf, on receiving information that a person-

(a) has committed suicide; or

(b) has been killed by another or by an accident; or

(c) has died under circumstances raising a reasonable suspicion that some other person has committed an offence;

(d) is missing and believed to be death,

shall in the case of paragraph (a), (b) or (c) immediately give information thereof to the nearest magistrate empowered to hold inquests, and unless otherwise directed by any rule made by the

Minister shall proceed to the place where the body of the deceased person is, and shall there make an investigation and draw up a report on the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner, or by what weapon or instrument (if any), the marks appear to have been inflicted; and the report shall be forwarded forthwith to the nearest magistrate empowered to hold inquests; and in the case of paragraph (d) shall immediately send to the Attorney – General through the Commissioner of Police as full a report as possible together with details of all supporting evidence relating to the circumstances surrounding the disappearance and the grounds upon which the death of that person is presumed to have taken place.

Section 387 of Cap.75 which it is proposed to amend—

387.(1) When a person dies while in the custody of the Police, or of a prison officer, or in a prison, the nearest magistrate empowered to hold inquests shall, and in any other case mentioned in section 386 (1) a magistrate so empowered may, but shall in the case of a missing person believed to be dead, hold an inquiry into the cause of death, either instead of or in addition to the investigation held by the police or prison officer, and if he does so he shall have all the powers in conducting it which he would have in holding an inquiry into an offence.

(2) Whenever the magistrate considers it expedient to make an examination of the dead body of a person who has been already interred, in order to discover the cause of his death, the magistrate may cause the body to be disinterred and examined.

(3) If before or at the termination of the inquiry the magistrate is of the opinion that the commission by some known person or persons of an offence has been disclosed, he shall issue a summons or warrant for his or their arrest, or take such other steps as may be.

(4) if at the termination of inquiry the magistrate is of the opinion that an offence has been committed by some person or persons unknown, he shall record his opinion and shall

forthwith send a copy thereof to the Attorney-General.

(5) If at the termination of the inquiry the magistrate is of the opinion that an offence has been committed by some person or persons unknown, he shall record his opinion and shall forthwith send a copy thereof to the Attorney-General.

(6) In the case of an inquiry relating to a missing person believed to be dead the magistrate shall at the termination of the inquiry report the case together with his findings to the Attorney-General and shall make recommendations as to whether or not the period regarding the presumption of death provided for by section 118A of the Evidence Act should be reduced and if so what lesser period should, in the circumstances of the death, be substituted for the period of seven years.

Section 388 of Cap. 75 which it is proposed to amend—

388.(1) The Attorney-General may at any time direct a magistrate to hold an inquiry, in accordance with section 387, into the cause of a particular death to which the provision of that section apply and shall in the case of a missing person believed to be dead give such directions as he deems fit.

(2) When an inquiry has been terminated under section 387, and it appears to the Attorney-General that further investigation is necessary, the Attorney-General may direct the magistrate to reopen the inquiry and to make further investigation, and thereupon the magistrate shall have full power to reopen the inquiry and make further investigation and thereafter to proceed in the same manner as if the proceedings at the inquiry had not been terminated:

Provided that the provisions of this subsection shall not apply to an inquiry at which a magistrate has recorded his opinion that the offence of murder or manslaughter has been committed by a person.

(3) When giving any direction under this section, the Attorney-General may also direct whether the body is to be disinterred and examined.

(4) Upon receiving a report under section 387 (5) the Attorney-General shall after considering the recommendations of the magistrate direct him to make an order as to the period which should be recorded before the death is presumed and upon the expiration of such period the Registrar-General shall be empowered on the production to him by the proper officer entitled to apply for and receive a grant of representation under the law of Succession Act, of a court certified copy of the magistrate's order, to issue to that person an appropriate certificate of death in accordance with the Births and Deaths Registration Act.

Section 78(1) of Cap.80 which it is proposed to amend—

(1) In criminal proceedings a certificate in the form in the Schedule to this Act, given under the hand of an officer appointed by order of the Attorney-General for the purpose, who shall have prepared a photographic print or a photographic enlargement from exposed film submitted to him shall be admissible, together with any photographic prints, photographic enlargements and any other annex referred to therein, and shall be evidence of all facts stated therein.

Section 18 of Cap.107 which it is proposed to amend—

18. A prosecution for an offence under this Act may, without prejudice to any other power in that behalf and in particular subject to the general or special directions of the Attorney-General be instituted and conducted by any registration officer of or above the rank of registrar or fingerprint officer.

Section 115 of Cap.199 which it is proposed to amend—

115.(1) Subject to this Part, where a person has been convicted by a court martial—

- (a) the person convicted may, with the leave of the High court given pursuant to section 116, appeal to the High court against the conviction, or against the sentence, or against both;

(b) the Attorney-General may, in any case, within forty days of the promulgation of the conviction, appeal to the High Court against the sentence.

(2) Subject to this Part, where a person has been acquitted of a charge by a court martial, the Attorney-General may, within forty days of the acquittal, appeal to the High Court against the acquittal.

(3) The decision of the High Court on any appeal under this Act shall be final and shall not be subject to a further appeal.

Section 2 of Cap.209 which it is proposed to amend—

2. In this Act—

“Board” means the Board of Management established by section 5;

“Bureau” means the Kenya Literature Bureau established by section 3;

“Minister” means the Minister for the time being responsible for matters relating to Higher Education.

Section 3(2) of Cap.209 which it is proposed to amend—

(2) The Bureau shall continue to carry out in Kenya the functions previously performed by the East African Literature Bureau.

Section 4(a) of Cap.209 which it is proposed to amend—

(a) to carry on the business of publishing, printing and distributing literary, educational, cultural and scientific books, periodicals, journals, magazines and works of every description;

Section 4(c) of Cap.209 which it is proposed to amend—

- (c) to promote, through appropriate Government agencies, the production of low cost adult literacy, educational, cultural and scientific literature and material and make them available for distribution throughout Kenya;

Section 4(d) of Cap.209 which it is proposed to amend—

- (d) to promote, encourage and assist Kenyan authors, through financial incentives or otherwise, to publish scholarly works;

Section 5(5) of Cap.209 which it is proposed to amend—

- (5) The Board shall hold at least three ordinary meetings each year; except that a special meeting may be convened by the chairman of his own volition or at the written request of at least three members and such a meeting shall not be convened until after the expiry of fourteen days after the notice of the intention to hold the meeting has been served on every member of the Board.

Section 5(9) of Cap.209 which it is proposed to amend—

- (9) The members of the Board shall be paid such remuneration, fees or allowances for expenses as the Minister may determine; except that no remuneration fees or allowances for expenses shall be paid to a member who is a public officer in the receipt of a salary.

Section 7(2)(a) of Cap.209 which it is proposed to amend—

- (a) where they are required to be under seal, if sealed with the common seal of the Bureau and signed by two members of the Board; or

Section 95(2) of Cap.242 which it is proposed to amend—

- (2) It shall be lawful for the Attorney-General to lay any reports of evidence concerning the removal of a person for

detention under this Act together with evidence as to any property possessed by such person before the High Court for its consideration, and the High Court may upon consideration of such reports and evidence appoint a manager for the care or custody of the property of any such person aforesaid, and, where it appears to the High court desirable that temporary provision should be made for the maintenance or other necessary requirements of such person or any member of his family out of any money or available securities belonging to him in the hands of his bankers or of any other person, the High Court may authorize such banker or other person to pay to the manager such sums as may be deemed necessary and may give directions as to the application thereof for the benefit of such person aforesaid or for the relief of his family or any member thereof.

Section 3(1) of Cap. 250 which it is proposed to amend—

(1) There is hereby established a body to be known as the National Council for Science and Technology.

Section 9(2) of Cap. 253 which it is proposed to amend—

(2) The Registrar shall once in every year, as soon as convenient after the 1st January but not later than the 31st March, publish in the Gazette, a list containing the names, qualifications and registered addresses of all registered medical and dental practitioners.

Section 5(1) of Cap. 256 which it is proposed to amend—

(1) The objects of the Society shall be—

- (a) to furnish volunteer aid to the sick and wounded in time of war and to non-belligerents and to prisoners of war and civilian sufferers from the effects of war;
- (b) in the case of catastrophes or public disasters,

to provide the victims thereof with relief;

- (c) in time of peace or war to carry on and assist in the work for the improvement of health, the prevention of diseases and the mitigation of suffering throughout the world;
- (d) to promote the Junior Red Cross movement among the youth of all races; and
- (e) to propagate the ideals and the humanitarian principles of the Red Cross with a view to developing a feeling of solidarity and mutual understanding among all men and all nations.

Section 6 of Cap.256 which it is proposed to amend—

6. The Society is hereby recognised by the Government as a voluntary aid society auxiliary to the public authorities both for the purpose of the Scheduled Conventions and otherwise, and shall have the right in conformity with the Scheduled Conventions to use the heraldic emblem of a red cross on a white ground, formed by reversing the Swiss Federal colours, or the emblems of the red crescent or red lion and sun on a white ground or any colourable imitations thereof or the words "Red Cross".

The Schedule to Cap.256 which it is proposed to amend.

SCHEDULE

(Section 2)

Geneva Convention for the Amelioration of the Condition of the Wounded and Sick of armed forces in the field, of the 12th August, 1949.

Geneva Convention for the amelioration of the condition of Wounded Sick And Shipwrecked Members of armed forces at sea, of the 12th August, 1949.

Geneva Convention Relative to the Treatment of Prisoners of

War, of the 12th August, 1949.

Geneva Convention Relative to the Protection of Civilian Persons
in Time of War, of the 12th August, 1949.

Section 16 of Cap. 340 which it is proposed to amend—

Control of
transactions in
pyrethrum.

16.(1) No pyrethrum grower shall deliver pyrethrum or pyrethrum products to any person other than the Board.

(2) No person other than the Board shall, without the permission of the Board, take delivery of any pyrethrum or pyrethrum products from a pyrethrum grower or other person in possession of pyrethrum or pyrethrum products whether by import into East Africa or otherwise:

Provided* that this subsection shall not, unless the Minister otherwise prescribes, apply to-

- (a) preparations *bona fide* imported into or manufactured in Kenya for the pose of sale to the public;
- (b) *bona fide* experimental or research operations.

(3) Any person who contravenes any of the provisions of subsection (1) or subsection (2) shall be guilty of an offence:

Provided that it shall not be an offence for a pyrethrum grower to deliver, or for a person to take delivery of, pyrethrum or pyrethrum products in compliance with an order or direction of the Board, or for the purpose of drying, storage or transportation.

Section 3(1) (e) (i) of Cap. 343 which it is proposed to delete.—

- (i) two persons nominated by factory organizations to represent smallholder tea producers;

Section 3(1) (e) (v) of Cap. 343 which it is proposed to amend—

(v) two persons, one a man and a woman, appointed by the Minister from amongst producers and trade unionists and who possess such knowledge and experience as the Minister considers beneficial to the Board;

Section 3(1) (e) (vi) of Cap. 343 which it is proposed to delete—

(vi) two persons nominated by the Minister who possess such knowledge and experience as the Minister considers beneficial to the Board;

Section 6(4) of Cap. 343 which it is proposed to amend—

(4) The Quorum for the conduct of the business of the Board shall be seven members including the chairman or person presiding.

Section 23 of Cap. 360 which it is proposed to amend—

23. A prosecution under this Part against a licensee shall not be instituted except by or with the written consent of the Attorney-General.

Section 2 of Cap 364 which it is proposed to amend-

2. In this Act, unless the context otherwise requires—

“administrative officer” includes a veterinary officer;

“animal disease” means any disease of an animal and includes a notifiable disease;

“animals” includes all stock, ruminating animals, dogs, cats, rabbits, captive wild animals and any other animal which the Minister may, by notice in the Gazette, declare to be an animal to which this Act shall apply;

“birds” includes all fowl, turkeys, geese, ducks, guinea-fowl, pigeons, pheasants, parrots, ostriches, and all captive wild birds, and the eggs of all such birds;

“cattle” includes bulls, cows, oxen, heifers and calves;

“Director” means the Director of Veterinary Services;

“infected area” means any area declared by the Director to be an area infected by a notifiable disease;

“inspector” means a person appointed an inspector for the purposes of this Act by or under section 3;

“notifiable disease” includes cattle plague (rinderpest), anthrax, contagious bovine pleuropneumonia, tuberculosis, East coast fever, epizootic or ulcerative lymphangitis, rabies, foot-and mouth disease, sheep-pox, scab, swine-fever, swine erysipelas, glanders, farcy, surra, trypanosomiasis, heartwater, mange(scabies) in horses and mules, bacillary white diarrhea and pullorum disease, fowl pest, avian influenza (fowl plague), lumpy skin disease, paratuberculosis (Johnes disease), atrophic rhinitis and scrapie and any other contagious or infectious disease of animals that the Minister may, by notice in the Gazette, declare to be a notifiable disease for the purposes of this Act:

Provided that Minister may, by notice in the Gazette, remove from this definition the name of any notifiable disease included therein;

“stock” includes camels, cattle, sheep, goats, horses, mules, donkeys, swine, birds and bees;

“this Act” includes any subsidiary legislation made thereunder;

“veterinary officer” means a veterinary officer in the employment of the Government or the Director;

“veterinary surgeon” shall have the same meaning as that assigned to that expression in Veterinary Surgeons Act.

Section 12(1) of Cap 364 which it is proposed to amend-

(1) No action shall lie against the Government and or any public officer, or any officer of such local authority, for any act done in good faith under this Act or for any act done in good faith in connection with the diagnosis, control, prevention or treatment of notifiable diseases of animals (including the preparation of biological products), and no compensation shall be payable to any person for any act done under this Act unless the Minister otherwise directs:

Provided that, subject to section 13, compensation for animals slaughtered under this Act shall be paid by the Government to the owner as follows, that is to say, where the animal was infected by notifiable disease one-half of its value immediately before it became so infected but so that the compensation shall not exceed in the case of horses is hundred shillings, in the case of mules four hundred shillings, in the case of cattle three hundred shillings, in the case of donkeys and camels two hundred shillings and in the case of other animals one hundred shillings, and where the animal was not so infected but was suspected of being so infected the value of the animal immediately before it was slaughtered but so that the compensation shall not exceed in the case of horses one thousand two hundred shillings, in the case of mules eight hundred shillings, in the case of cattle six hundred shillings, in the case of donkeys and camels four hundred shillings and in the case of other animals two hundred shillings.

Section 20 of Cap.364 which it is proposed to amend-

20. Any person who is guilty of an offence under this Act

shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding five thousand shillings or to both.

The Schedule to Cap.423 which it is proposed to amend -

SCHEDULE

(s.2)

<i>Office</i>	<i>Salary Scale or Rate</i>
Attorney-General	Band A1
Chief Justice	Band A1
Judge of Appeal	Band A2
Puisne Judge	Band A3
Controller & Auditor-General	Band A2
Chairman, Public Service Commission	Band A2
Deputy Chairman, Public Service Commission	Band A3
Member, Public Service Commission	Band A3
Chairman, Interim Independent Electoral Commission	Band A2
Vice-Chairman, Interim Independent Electoral Commission	Band A3
Member, Interim Independent Electoral Commission	Band A 3

“Salary Scale Band A1” means a salary scale commencing at Kshs.399,440 per month, increasing by 39,940 per annum to Ksh.439,380 per month; thereafter increasing by Ksh.43,140 per annum to Ksh.482,520 per month; thereafter increasing by Ksh.49,140 per annum to Ksh.531,660 per month; thereafter increasing by Ksh.55,140 per annum to Ksh.586,800 per month; thereafter increasing by Ksh.61,140 per annum to Ksh.647,940 per month thereafter increasing by Ksh.67,140 to Ksh.916,500 per month.

“Salary Scale Band A2” means a salary scale commencing at Ksh.292,765 per month, increasing by Ksh.19,320 per annum to Ksh.312,085 per month; thereafter increasing by Ksh.21,055 per annum to Ksh.33,140 per month; thereafter increasing by Ksh.22,950 per annum to Ksh.356,090 per month; thereafter increasing by Ksh.25,015 per annum to Ksh.406,120 per month; thereafter increasing by Ksh.30,000 per annum to Ksh.436,120 per month; thereafter increasing by Ksh.35,000 per annum to Ksh.576,120 per month.

“Salary Scale Bank A3” means a salary scale commencing at Ksh.232,960 per month, increasing by Ksh.13,930 per annum to Ksh.246,890 per month; thereafter increasing by Ksh.15,170 per annum to Ksh.262,060 per month; thereafter increasing by Ksh.16,575 per annum to Ksh.295,210 per month; thereafter increasing by Ksh.17,872 to Ksh.366,698 per month; thereafter increasing by Ksh.18,654 per annum to Ksh.441,314 per month; thereafter increasing by Ksh.20,002 per annum to Ksh.481,318 per month.

Section 25 of No. 1 of 1977 which it is proposed to amend-

25. The Attorney-General may make rules with respect to the procedure to be followed in giving effect to the provisions of this Part, and with respect to any matters incidental, ancillary or supplemental to those provisions or concerning the administration or protection of the fund.

Section 22(1) and (2) of Act No.4 of 1994 which it is proposed to amend-

(1) Where there are reasonable grounds to believe that any person has committed a specified offence and investigation has commenced in relation to it, the Attorney-General may apply to the Court for a restraint order in respect of all or any of the property of the person.

(2) Any application for a restraint order under subsection (1) may be made *ex parte* to the Court and shall be accompanied by an affidavit sworn on the information and belief of the Attorney-General deposing to the following matters—

-
- (a) the offence alleged to have been committed by the person and in relation to which investigation has commenced;
 - (b) the grounds for believing that the person has committed the offence; and
 - (c) a description, as far as possible, of the property in respect of which the order is sought.

Section 23 of Act No.4 of 1994 which it is proposed to amend-

23. Any transfer by any person against whom any application has been made under section 22 of any property to which the application relates or any right or interest in such property shall, while the application is pending and subject to the other provisions of this Part, be void:

Provided that where an application under section 22 is dismissed by the Court, and the Attorney-General intimates to the Court that he intends to appeal against the dismissal, the Court may direct that this section shall continue to apply in relation to the property in respect of which the application has been made until the appeal is finally disposed of.

Section 31 of Act No.4 of 1994 which it is proposed to amend-

31.(1) Where the Court has directed the Official Receiver under section 26 to have the custody and control of any property specified in a restraint order, the Court may—

- (a) on the application of the Attorney-General, the Official Receiver or the person against whom the order has been made—
 - (i) give instructions to the Official Receiver in respect of the management of the property; and

(ii) decide any question that may arise in the course of the management of the property by the Official Receiver; and

(b) on the application of the Attorney-General or the Official Receiver direct the person against whom the restraint order has been made, to furnish to the Official Receiver, within such time as may be specified by the Court, such information and particulars relating to the property, in respect of which the restraint order has been made, as may be specified in the direction.

(2) The Official Receiver shall not be personally liable—

(a) for any loss or damage, arising from his having taken custody or control of any property, sustained by a person claiming the property or any interest in the property; or

(b) for the cost of proceedings taken to establish any claim to the property or to any interest in the property,

unless the Court is of the opinion that the Official Receiver has been guilty of negligence in respect of the taking of custody or control of the property.

(3) The Official Receiver shall not be personally liable for any taxes, duties, rates or other municipal or other statutory charges imposed by or under any law in respect of the property of any person of which he has been directed by a restraint order to take custody and control except to the extent, if any, of rents and profits received by the Official Receiver in respect of that property on or after the date of the restrain order.

(4) Where the Official Receiver has taken custody and control of the property of any person in accordance with a restraint order, he shall be entitled to receive, in respect of the

exercise and the performance of his functions in relation to the property, fees equal to the fees that he would be entitled to receive if he were exercising and performing the functions in consequence of his having taken custody or control of the property by virtue of a receiving order made under the Bankruptcy Act.

Section 33 of No.4 of 1994 which it is proposed to amend —

33. Where an application has been made to the Court under section 22 against any person on the ground that he has committed a specified offence, the Court may, on the application either of the Attorney-General or of the respondent, or otherwise, stay the hearing of the application until a final decision has been made in respect of the complaint or information.

Section 34 (2) of No.4 of 1994 which it is proposed to amend —

(2) After hearing the Attorney-General and considering such evidence as may be produced by him and after hearing the legal representative who has made the application under subsection (1) and considering the evidence proved by him—

Section 38 (3) of No.4 of 1994 which it is proposed to amend —

(3) The Court may, on application of the Attorney-General, the Official Receiver or any person to whom maintenance is payable under subsection (1) vary its decision in respect of the matters referred to therein.

Section 41(4) of No.4 of 1994 which it is proposed to amend —

(4) Without prejudice to the provisions of subsections (1) and (2), the Attorney-General may apply to the Court to recover any forfeiture imposed by section 36.

Section 45(2) of No.4 of 1994 which it is proposed to amend —

(2) The Court, to which any application is made under

subsection (1), may, after giving notice to the Attorney-General and after hearing the applicant and the Attorney-General and receiving and considering any evidence that it considers necessary for a proper decision in the matter, make such order as it thinks proper and just.

Section 59 of No. 4 of 1994 which it is proposed to amend—

59.(1) For the purposes of an investigation or proceedings under this Act, the Attorney-General may request an appropriate authority of another country to arrange for—

- (a) evidence to be taken, or information, documents or articles to be produced or obtained in that country; or
- (b) a warrant or other instrument authorizing search and seizure to be obtained and executed in that country; or
- (c) a person from that country to come to Kenya to assist in the investigation or proceedings; or
- (d) a restraint order or forfeiture order made under this Act to be enforced in that country, or a similar order to be obtained and executed in that country; or
- (e) an order or notice under this Act to be served on a person in that country; or
- (f) other assistance to be provided, whether pursuant to a treaty or arrangement between Kenya and that country or otherwise.

(2) Requests by other countries to Kenya for assistance of a kind specified in subsection (1) may be made to the Attorney-General.

Section 61(2) of No.4 of 1994 which it is proposed to amend —

(2) Where the person who is the subject of a request under paragraph (c) of section 59 is in custody in the other country by virtue of a sentence or order of a court or tribunal exercising criminal jurisdiction, the effect of a request under that paragraph shall be to authorize the detention in custody of the person in transit to and from Kenya, and while in Kenya at such places as the Attorney-General may specify.

Section 63(1) of No.4 of 1994 which it is proposed to amend —

(1) Where another country requests assistance from Kenya in obtaining and executing a search and seizure warrant for the purposes of an investigation or proceedings relating to the corresponding law of that country, the Attorney-General may apply to the court for the warrant requested.

Section 64 of No.4 of 1994 which it is proposed to amend —

64.(1) Where—

- (a) a court of tribunal of another country issues a restraint order, forfeiture order or pecuniary penalty order in respect of an offence against the corresponding law of that country; and
- (b) that country requests assistance from Kenya in enforcing those order against property believed to be located in Kenya, the Attorney-General may apply to the High Court for the registration of the order.

(2) Where the Attorney-General applies to the High Court for registration of an order under subsection (1) the High Court shall register the order.

(3) An order registered in accordance with this section has effect and may be enforced, as if it were an order made under section 26 or 42, as the case may be.

Section 6 (2) of No. 4 of 1997 which it is proposed to amend-

(2) The membership of the Council shall comprise of the following persons-

- (a) the Attorney-General or his representative who shall be the chairman;
- (b) the Chief Justice or his representative;
- (c) the Commissioner of Police or his representative;
- (d) the Commissioner for Social Services or his representative;
- (e) the Commissioner for Social Services or his representative;
- (f) the Commissioner of Prisons or his representative;
- (g) three persons appointed by the Minister, being persons eminently qualified in the fields of criminal law, sociology or criminology, to represent universities in Kenya;
- (h) one representative of non-Governmental Organizations to be nominated by the National Council of Non-Governmental Organizations; and
- (i) three other persons appointed by the Minister by virtue of their knowledge or expertise in specific aspects of crime-oriented research work.

Section 25 of No. 2 of 1998 which it is proposed to amend—

(1) The Commission may, upon application in the prescribed manner and subject to such conditions as it may deem necessary, grant licences under this section authorizing all persons, whether of a specified class or any particular person to —

- (a) operate telecommunications systems or;
- (b) provide telecommunications services of such description as may be specified in the licence.

(2) A licence granted under subsection (2)(a) may authorize -

- (a) the provision, by means of any telecommunication system to which the licence relates, of any telecommunication services of a description specified in the licence; and
- (b) the connection to any telecommunication system to which the licence relates of -
 - (i) any other telecommunication systems of a description specified in the licence and;
 - (ii) any telecommunication apparatus of a description specified in the licence.

(3) A licence granted under this section may include conditions requiring the licensee -

- (a) to provide the telecommunication services specified in the licence or of a description so specified;
- (b) to interconnect to the telecommunication system to which the licence relates, or permit the connection to such system, of such other telecommunication systems and apparatus as are specified in the licence or are of a

description so specified, either without charge or subject to a reasonable charge to be determined in accordance with the method specified in the licence;

(c) to permit the provision by means of the telecommunication system or telecommunication apparatus connected thereto of such services as are specified or of a description so specified;

(d) to pay such fees as the Commission may prescribe; and

(e) to fulfil such other conditions as the Commission may prescribe.

(4) A licence granted under this section shall, unless earlier revoked in accordance with any term in that regard contained in the licence, continue in force for such period as may be specified in the licence.

(5) The Commission may renew, vary, modify or revoke any licence granted under this Act in accordance with provisions of this Act.

Section 27 (2) of No. 2 of 1998 which it is proposed to amend —

(4) Without prejudice to the generality of subsection (1), the Minister in consultation with the Commission may make regulations with respect to—

(a) the running of telecommunication systems;

(b) the privacy of telecommunication;

(c) the provision of telecommunication services pursuant to the provisions of section 23 and in particular, the manner in which such services shall be offered and performed, the issue of licences and the payment of fees in

respect thereof, and such other matters as it deems fit;

- (d) the period during which and conditions subject to which messages and papers relating to telecommunication services belonging to, or in the custody of telecommunication operators shall be preserved;
- (e) the issue, variation and withdrawal of approvals in respect of contractors for relevant operations in connection with any telecommunication system and the maintenance of registers of such contractors;
- (f) fees and other charges for any matter permitted or matters required to be done under this Act in relation to telecommunication services;
- (g) the form of any licence, notice, approval, certificate, authority or other written document required or permitted to be issued by or submitted to the Commission in relation to telecommunication services.

Paragraph 2 of the Fifth Schedule to the Kenya Information and Communications Act, 1998, which it is intended to amend-

2. The Commission shall respect and uphold the vested rights and interests of parties holding broadcasting permits issued by the Minister prior to the commencement of this Act;

Provided that-

- (a) such parties shall be granted a period not exceeding one year during which they may continue to operate in accordance with their existing permits; and

- (b) before the expiry of the one year period, such parties shall apply to the Commission to be licensed under this Act.

Section 31(1) of No. 8 of 2001 which it is proposed to amend---

(1) The Council shall consist of -

- (a) a chairperson who shall be an eminent person who is knowledgeable in, or has actively contributed to the promotion of the rights and welfare of children, who shall be appointed by the President;
- (b) the Permanent Secretary in the Ministry responsible for matters relating Children,
- (c) the Permanent Secretary in the Ministry responsible for matters relating to Education;
- (d) the Permanent Secretary in the Ministry responsible for Local Authorities;
- (e) the Permanent Secretary in the Ministry responsible for Health;
- (f) the Permanent Secretary in the Ministry responsible for Finance;
- (g) the Attorney-General;
- (h) the Permanent Secretary in the Ministry responsible for Labour;
- (i) the Commissioner of Police;
- (j) six persons representing non-governmental organizations engaged in child welfare activities

nominated by the Minister in accordance with such procedure may prescribed;

Provided that membership under this paragraph shall be representative of the interest of all stakeholders and shall take into account the principle of gender parity;

- (k) three persons representing religious organizations, nominated engaged in child welfare activities nominated by the Minister in accordance with such procedure may be prescribed:

Provided that membership under this paragraph shall be representative of the interest of all stakeholders ad shall take into account the principle of gender parity;

- (l) two representatives of the private sector appointed by the Minister being persons knowledgeable in or who have actively contributed to the promotion of the rights and welfare of children;

- (m) The Director of Children's Services who shall be the Secretary to the Council.

Section 124 of No. 8 of 2001 which it is proposed to amend —

124. The Attorney- General may authorize the Director at any stage in the proceedings under this Part, whether before, during or after the making of any application, to take over and assume the conduct of any application or proceedings in respect of a child:

Provided that the Attorney-General shall not be entitled to terminate any proceedings over which he has authorized the Director to assume control under this section without the leave of the court.

Section 30 of No.10 of 2001 which it is proposed to amend —

30. Notwithstanding any other provisions in this Act or any other written law to the contrary, growers shall be entitled to at least—

- (a) 51% shareholding of privatized sugar factories;
- (b) 51% representation of Boards of Directors of milling companies.

Section 15 of No. 12 of 2001 which it is proposed to delete —

15. The provisions of section 14 shall not relieve the Board of the liability to pay compensation or damages to any person for an injury to him, his property or any of his interests caused by the exercise of the powers conferred on the Board by this Act or by any other written law or by the failure, whether wholly or partially, of any works.

Section 30 (1) of No. 12 of 2001 which it is proposed to amend —

(1) No person shall do any of the following acts without the authorization of the performer:

- (a) Broadcast his performance except where the broadcast is made from a fixation of the performance authorized by the performer;
- (b) Communicate to the public his performance except where the communication-
 - (i) is made from fixation of the performance; or
 - (ii) is made from broadcast of the performance, authorized by the performer;
- (c) Make a fixation of a previously unfixed performance;

and

(d) Reproduce a fixation of the performance in either of the following cases:

(i) where the performance was initially fixed without the authorization of the performer;
or

(ii) where the reproduction is made for purposes different from those for which the performer gave his authorization;

(e) Rent for commercial purposes to the public, the original and copies of their fixed performances.

Section 30 (3) of No.12 of 2001 which it is proposed to amend —

(3) A binding authorization given under this section may be given by the performer or by a duly appointed representative to whom he has granted in writing the right to give such authorization; and any authorization given by the performer claiming that he has retained the relevant rights or by a person claiming to be a duly appointed representative of a performer shall be considered valid unless the recipient knew or had good reason to believe that the claim or appointment, as the case may be, was not valid.

Section 30 (4) of No. 12 of 2001 which it is proposed to amend —

(4) protection of the rights of the performer under this section shall subsist of fifty years and after the end of the year in which the performance took place.

Section 30 (6) of No. 12 of 2001 which it is proposed to delete and substitute-

(6) In this section —

“performance” means the representation of a

work by such action as dancing, playing, reciting, singing, declaiming or projecting to listeners by any means whatsoever;

“performer” means an actor, singer, declaimer, musician or other person who performs a literary or musical work and includes the conduct of the performance of any such work;

“publication” means a work or a sound recording, tangible copies of which have been made available to the public in a reasonable quantity for sale, rental, public lending or for other transfer of the ownership or the possession of the copies, provided that in the case of a work, the making available to the public took place with the consent of the author or other owner of copyright, and in the case of a sound recording, with the consent of the producer of the sound recording or his successor in title.

Section 36 (1) of No. 12 of 2001 which it is provided to delete and substitute-

(1) A manufacturer or producer of sound and audio-visual works or recordings shall apply to the Board for the authentication of copyright works.

Section 36 (2) of No. 12 of 2001 which it is proposed to amend —

(2) The Board shall authenticate copyright works according to all required documents furnished to it by the applicant for that purpose and shall issue an approval certificate in the prescribed form to the applicant for authority to purchase authentication device from the Kenya Revenue Authority.

Section 36 (3) of No. 12 of 2001 which it is proposed to delete and substitute -

(3) A manufacturer or producer of sound recordings or audio-visual works shall purchase authentication device from the Kenya Revenue Authority as may be required to cover the

number of copyright works he intends to sell or distribute.

Section 36 (6) of No. 12 of 2001 which it is proposed to amend -

(6) Any person who sells or offers for sale any copyright work that require an authentication device without an authentication device affixed thereto is guilty of an offence and is liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding four years, or to both.

Section 42 of No.12 of 2001 which it is proposed to delete and substitute -

42. Any police officer may arrest, without a warrant, any person whom he suspects upon reasonable grounds of having committed any offence under this Act and any officer of the Board who at the time is wearing a visible badge of office and authorized thereto in writing by the Board, may arrest, without warrant, any person who, in his presence, commits any such offence and may detain such person until he can be delivered into the custody of a police officer to be dealt with according to law:

Provided that no person shall be arrested or detained without warrant unless reasonable grounds exist for believing that, except by the arrest of such person, he may not be found or made answerable to justice without unreasonable delay, trouble or expense.

Section 35 (1) of No. 3 of 2003 which it is proposed to amend -

(1) Following an investigation the Commission shall report to the Attorney-General on the results of the investigation.

Section 36 (1) of No. 3 of 2003 which it is proposed to amend -

(1) The Commission shall prepare quarterly reports setting out the number of reports made to the Attorney-General under section 35 and such other statistical information relating to those reports as the Commission considers appropriate.

Section 37 (1) of No. 3 of 2003 which it proposed to amend -

(1) The Attorney – General shall prepare an annual report with respect to prosecutions for corruption or economic crime.

Section 3A of No.12 of 2006 which it is proposed to amend -

3A. (1) There is established an Agency to be known as the Witness Protection Agency.

Section 38 of No.3 of 2006 which it is proposed to delete -

38. Any person who makes false allegations against another person to the effect that the person has committed an offence under this Act is guilty of an offence and shall be liable to punishment equal to that for the offence complained of.

(2) The Agency shall be a body corporate with perpetual succession and a common seal, and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) holding and alienation movable and immovable property;
- (c) borrowing and lending money; and
- (d) doing or performing all such other acts or things as may be lawfully done by a body corporate.

Section 23 (1) of 12 of 2006 which it is proposed to amend-

23.(1) The Commission may appoint committees, or agents, as may be necessary or expedient for the better carrying out of the objects and purposes of this Act:

Provided that the agents are from the Local Authority or the Ministry of Trade.

Section 55(2) of No. 12 of 2007 which it is proposed to amend —

(2) No person shall—

- (a) carry out business as an employment agency;
- (b) charge or recover any payment in connection with the procurement of employment through an employment agency;

Section 1 of No. 16 of 2007 which it is proposed to amend —

1. This Act may be cited as the Constituencies Development Fund (Amendment) Act, 2007, and shall come into operation on such date, being not later than thirty days from the date of assent, as the Minister may, by notice in the Gazette, appoint.

Section 20 of No. 6 of 2008 which it is proposed to amend —

20. (1) The Commission shall be inaugurated within twenty one days of the appointment of its members and shall operate for two years.

(2) Before the commencement of the period of two year specified in subsection (1), the Commission shall have a preparatory period of three months during which it may undertake all tasks necessary to ensure that it is able to work effectively from the commencement of its operations.

(3) Where for any reason the Commission is unable to finalize its work within the period of two years in accordance with subsection 1, it shall, at least three months before the expiry of the two years period, submit a progress report to the National Assembly together with a request for extension of the period

beyond two years.

(4) The National Assembly may, if satisfied as to the reasons why an extension of the life of the Commission is necessary, extend the duration for the Commission to continue its work but shall not in any case extend such duration for more than six months.

(5) The Commission shall, after its inauguration –

(a) inform the public of its existence and the purpose of its work; and

(b) when appropriate, invite all interested parties who may wish to do so, to make statements or give information to the Commission

Section 52 of No.6 of 2008 which it is proposed to amend –

52. (1) The Commission shall stand dissolved three months after submission of its report to the President

(2) Before the Commission is dissolved, the commissioners shall, among the final administrative activities of the Commission

(a) organize its archives and records, as appropriate, for possible future reference, giving special consideration to -

(i) the materials or information that may be made available to the public either immediately or when conditions and resources allow; and

(ii) the measures that may be necessary to protect confidential information; and

(b) organize the disposal of the remaining property of the Commission.

Section 19 of No. 12 of 2008 which it is proposed to amend—

19. The Chairperson and Commissioners shall hold office for a term of three years and shall be eligible for reappointment.

Section 6(1) of No. 13 of 2008 which it is proposed to amend—

6.(1) The management of the Agency shall vest in a Board which shall consist of—

- (a) a Chairman appointed by the Minister;
- (b) the Permanent Secretary in the Ministry for the time being responsible for matters relating to industrialization or his representative;
- (c) the Permanent Secretary in the Ministry for the time being responsible for matters relating to trade or his representative;
- (d) the Permanent Secretary in the Ministry for the time being responsible for matters relating to finance or his representative;
- (e) the Attorney-General or his representative;
- (f) the Commissioner for Customs Services or his representative;
- (g) the Executive Director of Kenya Copyright Board or his representative;
- (h) the Managing Director of the Kenya Industrial Property Institution or his representative;
- (i) the Managing Director of the Kenya Plant Health Inspectorate Service or his representative;
- (j) the Managing Director of the Kenya Bureau of

- Standards or his representative;
- (k) the Chief Executive of the Kenya Association of Manufacturers or his representative;
 - (l) the Executive Director appointed under section 10;
 - (m) the Registrar, Pharmacy and Poisons Board;
 - (n) one person from the private sector with knowledge in intellectual property rights appointed by the Minister; and
 - (o) one person from the private sector with knowledge in consumer protection appointed by the Minister.

Section 30(1) of No.13 of 2008 which it is proposed to amend -

30.(1) The Attorney-General may, pursuant to the provisions of the Criminal Procedure Code, appoint public prosecutors for purposes of cases arising under this Act.

Section 8(2) of No.4 of 2009 which it is proposed to amend -

(2) Without prejudice to the generality of the foregoing, the minister may make regulations for the following purposes—

- (a) the extent to which this Act may be applicable to Government ships which are engaged in government non-commercial services;
- (b) the facilitation of the enforcement of any international convention or instrument relating to this Act;
- (c) prescribing anything that may be prescribed under this Act;

- (d) prescribing fees, stamp duties and all other payments required under this Act;
- (e) the holding of enquiries and investigations;
- (f) port state control of ships while in Kenyan ports;
- (g) the granting and withdrawal of licenses for maritime service providers;
- (h) oversight and monitoring of service delivery in the maritime sector, having regard to availability, quality, standards of service, cost, efficiency of production and distribution of such services.

Section 16(1) of No. 4 of 2009 which it is proposed to amend —

16.(1) No owner of a ship or person providing the service of a shipping line shall, either directly or indirectly, provide in the maritime industry the service of crewing agencies, pilotage, clearing and forwarding agent, port facility operator, shipping agent, terminal operator, container freight station, quay side service provider, general ship contractor, haulage, ship broker, ship breaker, ship chandler, cargo consolidator, ship repairer, maritime training or such other service as the Minister may appoint under section 2.

Section 1 of No. 8 of 2010 which it is proposed to amend —

1. This Act may be cited as the Counter –Trafficking in Persons Act, 2010 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint which date shall not be later than ninety days after the date of publication.

Section 23(2) of No. 2 of 2011 which it is proposed to delete-

(2) Subject to subsection (1)

- (a) the vetting of the Judges of the Court of Appeal shall be finalized within three months;
- (b) the vetting of Magistrates shall be finalized within six months ; and
- (c) all the requests for reviews granted under section 22 shall be considered after the vetting of all judges and magistrates under paragraphs (a) and (b) and shall be finalized within one month.

Section 20(1) of No. 9 of 2011 which it is proposed to amend —

20. (1) Members and employees of the Commission shall be paid such remuneration or allowances as the Salaries and Remuneration Commission shall determine.

Paragraph 5 of the Fifth Schedule to No. 9 of 2011 which it is proposed to amend —

5. An application for the review of the decision made under paragraph 4 shall be made within thirty days of the publication of the decision in the Gazette and shall be heard and determined within thirty days of the date on which it is filed.

Section 35(1) of No. 11 of 2011 which it is proposed to amend —

35. (1) The President shall, within fourteen days of the commencement of this Act, or of the occurrence of a vacancy in the Office of Registrar or Assistant Registrar in consultation with the Prime Minister, and with the approval of the National Assembly, appoint a Selection Committee comprising-

- (a) a chairperson who shall be nominated by the President;
- (b) one person nominated by the Law Society of Kenya;
- (c) one person nominated by the Institute of Certified Public

Accountants of Kenya;

- (d) one person nominated by the Association of Professional Societies in East Africa;
- (e) two persons nominated by the political parties represented in the National Assembly according to their proportion of members in the Assembly; and
- (f) two persons nominated by the political parties represented in the Senate according to their proportion of members in the Senate.

Section 41(4) of No. 11 of 2011 which it is proposed to amend —

(4) The Tribunal shall apply the rules of evidence and procedure under the Evidence Act and the Civil Procedure Code, with the necessary modifications, while ensuring that its proceedings do not give undue regard to procedural technicalities.

Section 4 (1) (f) of No. 12 of 2011 which it is proposed to amend-

(f) advising the Cabinet Secretary on declaration and removal of prohibited immigrants and undesirable persons;

Section 13(4) of No. 12 of 2011 which it is proposed to delete-

(4) A child or a person with disability who is a dependant of any biological parent or legal guardian who is a citizen of Kenya by registration shall upon and application made on their behalf in a prescribed manner be registered as a citizen, upon-

- (a) production of documents conferring Kenya citizenship to any of the parents or the legal guardian;

(b) production of the child's or the person with disability's birth certificate; and

(c) proof of lawful residence of the child or person with disability in Kenya.

Section 17(2) of No. 12 of 2011 which it is proposed to delete-

(2) Applications under this section shall be made within a period of five years from the date of commencement of this Act and may by notice in the gazette be extended by the Cabinet Secretary for an additional period of three years.

Section 33(2), (3), (4) and (5) of No. 12 of 2011 which it is proposed to amend-

(2) For purposes of this Act, an inadmissible person is a person who is not a Kenyan citizen and who-

(a) refuses to submit for examination by a medical practitioner after being required to do so under section 48 (1)(d) of this Act;

(b) the family and dependants of a prohibited immigrant;

(c) incapable of supporting himself and his dependants (if any) in Kenya;

(d) is adjudged insolvent;

(e) anyone who has been judicially declared incompetent;

(f) an asylum seeker whose application for grant of refugee status has been rejected under the Refugee

Act, 2006;

(3) The Cabinet Secretary may make regulations on admission of regulatory officer's right to deny entry a person other than an asylum seeker who, upon entering or seeking to enter Kenya, fails to produce a valid and acceptable passport or travel document recognized in Kenya to an immigration officer on demand or within such time as that officer may allow;

(4) Any other person who is declared an inadmissible person by the order of Cabinet Secretary in line with an objective and written criteria or who was, immediately before the commencement of this Act, a prohibited immigrant within the meaning of the Immigration Act (now repealed), including matters legislated in the public.

(5) Subject to section 34 the entry into and residence in Kenya of a Prohibited Immigrant or an undesirable person shall be unlawful, and a person seeking to enter Kenya shall, if he or she is a prohibited immigrant or undesirable person, be refused permission to enter or transit through Kenya, whether or not he or she is in possession of any document which, were it not for this section, would entitle him or her to enter or transit through Kenya.

Section 34(4) of No. 12 of 2011 which it is proposed to delete-

(4) Where any person ceases to be a person to whom subsection (3) applies, the person shall, after the expiration of such period of time not exceeding six months following the cessation as an immigration officer may allow for the departure of that person from Kenya, his presence in Kenya shall, unless otherwise authorized under this Act, be unlawful.

Section 44(3) of No. 12 of 2011 which it is proposed amend-

(3) Where any person who is conveyed to Kenya in a carrier, is refused permission to enter Kenya on the ground that he is a prohibited immigrant or undesirable person-

(a) the owner of the carrier and the person in charge of

the carrier which brings in a prohibited immigrant or undesirable person shall be liable to a surcharge in the sum not exceeding Kenya shillings two hundred thousand for every such person brought into Kenya and in default of payment of the sum surcharged the carrier shall be liable to detention at the cost jointly and severally of the owner and the person in charge;

- (b) the person in charge of the carrier shall, if so required by an immigration officer, take that person into his custody and ensure that he is removed from Kenya;
- (c) the owner of the carrier and the person in charge of the carrier shall jointly and severally be liable to pay to the Government all expenses incurred by the Government in respect of the transportation, maintenance and upkeep of that person and his removal from Kenya, and the amount of such expenses shall be a civil debt recoverable
- (d) notwithstanding paragraphs (a),(b) and (c) above, any carrier knowingly bringing in passengers with forged documents, passengers without travel documents, passengers with documents issued to other people, passengers without return or onward ticket or passengers without visa shall be liable to a surcharge of Kenya shillings One Million for every passenger and in default of payment of the surcharge the carrier shall be liable to detention at own costs; or
- (e) notwithstanding paragraphs (a),(b) and (c) above, any carrier bringing in passengers in transit who are improperly documented shall be surcharged Kenya Shillings one Million per passenger failure to which the carrier may be detained at their own cost.

Section 46(2) of No. 12 of 2011 which it is proposed to amend-

- (2) Any person, being in charge of learning institution, who allows a student who is required under this Act to obtain a

student's pass to attend such institution before such pupil is in possession of a pupil's pass, commits an offence.

Section 49(3) and (5) of No. 12 of 2011 which it is proposed to amend-

(3) At least once during the seven days following the review under subsection (1), and at least once during each thirty day period following each previous review, the immigration division shall produce the detained person before a judicial officer to review the reasons for continued detention.

(5) The Court shall not order the release of a permanent resident or a foreign national unless it is satisfied that the permanent resident or foreign national shall present himself on being required to do so by an immigration officer or a police officer and taking into account the following factors-

- (a) whether he is a danger to the public and whether or not he is carrying or conveying documents; and
- (b) whether he is likely to appear for examination or an admissibility hearing or a hearing regarding his removal from Kenya or a hearing to determine whether he should be permitted to remain in Kenya or whether there are pending proceedings that could lead to the making of a removal order;
- (c) where the Cabinet Secretary is taking necessary steps to inquire into a reasonable suspicion that they are inadmissible on the grounds of security or for violating human or international rights;
- (d) where the Cabinet Secretary is of the opinion that the identity of the foreign national has not been, but may be, established and have not reasonably cooperated with the Minister by providing relevant information for the purposes of establishing his or her identity or the Minister is making reasonable efforts to establish his or her identity.

Section 5(1)(a) of No. 13 of 2011 which it is proposed to amend –

5.(1) Subject to subsection (3), an urban area may be classified as a city under this Act if the urban area satisfies the following criteria –

- (a) has a population of at least five hundred thousand residents according to the final gazette results of the last pollution census carried out by an institution authorized under any written law, preceding the grant;

Section 8 (3) of No. 13 of 2011 which it is proposed to amend –

(3) The ad hoc committee shall comprise of relevant professionals in good standing nominated by the following institutions –

- (a) the Institution of Surveyors of Kenya;
- (b) the Kenya Institute of Planners;
- (c) the Architectural Association of Kenya;
- (d) the Law Society of Kenya;
- (e) an association of urban areas and cities;
- (f) the Institute of Certified Public Accountants of Kenya; and
- (g) the business community.

Section 16 (j) of No. 13 of 2011 which it is proposed to amend –

(j) engages in any gross misbehavior or gross misconduct.

Section 24 (4) of No. 13 of 2011 which it is proposed to amend –

(4) The right of access to information under Article 35 of the Constitution shall be limited to the nature and extent specified under this section.

Section 25 of No. 13 of 2011 which it is proposed to amend –

25. The Chairperson, vice chairperson and members of a board shall not receive a salary from the board but shall be paid such allowances and benefits as the county executive committee shall, with the approval of the country assembly, and on the advice of the Salaries and Remuneration Commission, determine.

Section 38 of No. 13 of 2011 which it is proposed to amend –

38. A city or urban area shall prepare an integrated city or urban area municipal development plan in accordance with the Third Schedule to this Act.

Section 43 (2) of No. 13 of 2011 which it is proposed to amend –

(2) Where an urban area or city has a joint venture with another entity, the monies allocated for the joint venture shall be determined by a joint budget.

Section 43 (3) of No. 13 of 2011 which it is proposed to amend –

(3) No payment shall be made out of the funds of a board or town committee unless it has been provided for in the approved annual or revised or supplementary estimates of expenditure and authorized by a board.

Section 49 of No.13 of 2011 which it is proposed to amend –

49. All members and officers of a board shall, on the commencement of this Act, subscribe to an existing pension scheme approved by the Retirement Benefits Authority.

Section 52 (1) (a) of No.13 of 2011 which it is proposed to amend –

52. (1) No act, matter or thing done or omitted to be done by –

- (a) the chairperson or vice chairperson of a city or municipality;

Paragraph 1 of the Second Schedule to No. 13 of 2011 which it is proposed to amend-

1.(1) Subject to paragraph (2), residents of a city or urban area have the right to –

- (a) contribute to the decision-making processes of the city or urban area by submitting written or oral presentations or complaints to a board or town committee through the city or municipal manager or town administrator
- (b) prompt responses to their written or oral communications;
- (c) be informed of decisions of a board, affecting their rights, property and reasonable expectations;
- (d) regular disclosure of the state of affairs of the city or urban area, including its finances;

Section 30(b) of No. 14 of 2011 which it is proposed to delete-

30. The Commission shall not investigate-

- (a).....
- (b) a criminal offence.

Section 59 of No. 14 of 2011 which it is proposed to amend –

59. (1) Notwithstanding section 60-

- (a) any order or notice made or issued by the Kenya National Human Rights and Equality Commission and the former Kenya National Commission on Human Rights shall be deemed to have been made or issued under this Act;
- (b) any function carried out by the Kenya National Human Rights and Equality Commission and the former Kenya National Commission on Human Rights during the transition period shall be deemed to have been carried out under this Act;
- (c) all assets and liabilities which immediately before the commencement of this Act were vested in the Kenya National Human Rights and Equality Commission and the former Kenya National Commission on Human Rights shall vest in the Commission;
- (d) all rights, powers and duties, whether arising under any written law or otherwise which immediately before the coming into operation of this Act were vested in the Kenya National Human Rights and Equality Commission shall be transferred to, vested, imposed on, or be enforceable by or against the Commission;
- (e) all actions, suits or legal proceedings by or against the Kenya National Human Rights and Equality Commission shall be carried out on, prosecuted by or against the Commission and no such suit, action or legal proceedings shall abate or be affected by the coming into operation of this Act.

(2) Notwithstanding section 9, the persons who were members of the former Kenya National Commission on Human Rights and who became members of the Kenya National Human Rights and Equality Commission pursuant to section 26 of the Sixth Schedule to the Constitution shall become members of the Commission upon the commencement of this Act for their unexpired term.

The definition of "Cabinet Secretary" in section 2 of No. 15 of 2011 which it is proposed to amend—

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to human rights and gender;

Section 5(2) of No. 16 of 2011 which it is proposed to delete-

(2) The chairperson and members of the Commission shall, pursuant to Article 250(5) of the Constitution, serve on a part-time basis.

Section 2 of No.19 of 2011 which it is proposed to amend –

2. In this Act, unless the context otherwise requires –

"Chief Justice" means the Chief Justice appointed under Article 166 of the Constitution;

"Chief Registrar" means the person holding the office of Chief Registrar under Article 161 of the Constitution.

"environment" means the totality of nature and natural resources, including the cultural heritage and infrastructure essential for social-economic activities;

"Judge" means a person appointed in accordance with the provisions of Article 166(1)(b) of the Constitution;

"Principal Judge" means the principal judge of the Court elected in accordance with Article 165(2) of the Constitution;

"Register" means the register where all pleadings

and supporting documents and all orders and decisions of the Court are kept;

“rules” means the rules made under section 24.

Section 4(3) of No.19 of 2011 which it is proposed to delete –

(3) The Court shall have and exercise jurisdiction throughout Kenya and shall pursuant to section 26, ensure reasonable and equitable access to its services in every county.

Section 5 of No.19 of 2011 which it is proposed to amend –

5. The Court shall consist of –

(a) the Principal Judge; and

(b) such member of Judge as may be necessary for the efficient and effective discharge of the functions of the Court.

Section 6 of No.19 of 2011 which it is proposed to amend –

6.(1) The Principal Judge shall be elected in accordance with Article 165(2) of the Constitution.

(2) The Principal Judge shall hold office for a new renewable term of five years.

(3) The Principal Judge shall have supervisory powers over the Court and shall report to the Chief Justice.

(4) In the absence of the Principal Judge or in the event of a vacancy in the office of the Principal Judge, the judges of the Court may elect any other Judge of the Court to exercise the functions of the Principal Judge.

Section 7(1) of No.19 of 2011 which it is proposed to amend –

7.(1) A person shall be qualified for appointment as Registrar if

the person—

- (a) is an advocate of the High Court of Kenya and has, since admission to the Roll of Advocates—
 - (i) become eligible for appointment as a Judge of the High Court;
 - (ii) served for at least eight years as a professionally qualified magistrate; or
 - (iii) attained at least eight years' experience as a distinguished academic or legal practitioner or such experience in other relevant legal field;
- (b) demonstrated competence in the performance of administrative duties for not less than three years; and
- (c) meets the requirements of Chapter Six of the Constitution.

Section 7(2) of No.19 of 2011 which it is proposed to delete –

7. (2) The Chief Justice may on the recommendation of the Judicial Service Commission, transfer a judge who meets the qualifications set out at subsection (1) to serve in the Court.

Section 9(1) and (2) of No. 19 of 2011 which it is proposed to amend –

9. (1) There shall be a Registrar of the Court appointed by the Judicial Service Commission.

(2) Any administrative function of the Registrar may in the Registrar's absence, be performed by any member of the Court authorized by the Principal Judge.

Section 10 of No. 19 of 2011 which it is proposed to delete-

Qualifications
for appointment
of the Registrar
of the Court.

10. A person shall be qualified for

appointment as Registrar if the person -

- (a) is an advocate of the High Court of Kenya and has, since admission to the Roll of Advocates –
 - (i) become eligible for appointment as a Judge of the High Court;
 - (ii) served for at least eight years as a professionally qualified magistrates; or
 - (iii) attained at least eight years' experience as a distinguished academic or legal practitioner or such experience in other relevant legal field;
- (b) demonstrated competence in the performance of administrative duties for not less than three years; and
- (c) meets the requirements of Chapter Six of the Constitution.

Section 11(2) of No.19 of 2011 which it is proposed to amend –

(2) In relation to the proceedings before the Court, the Registrar may consider and dispose of procedural or administrative matters in accordance with the Rules or on the direction of the Principal Judge.

Section 13(1) of No.19 of 2011 which it is proposed to amend –

13.(1) The Court shall have original and appellate jurisdiction to hear and determine all disputes in accordance with Article

162(2)(b) of the Constitution and with the provisions of this Act or any other written law relating to environment and land.

Section 13(2) of No.19 of 2011 which it is proposed to amend –

(2) In exercise of its jurisdiction under Article 162 (2) (b) of the Constitution, the Court shall have power to hear and determine disputes relating to environment and land, including disputes—

Section 13(2)(a) of No.19 of 2011 which it is proposed to amend –

(a) relating to environmental planning and protection, trade, climate issues, land use planning, title, tenure, boundaries, rates, rents, valuations, mining, minerals and other natural resources;

Section 13(3) of No.19 of 2011 which it is proposed to amend –

(3) Nothing in this Act shall preclude the Court from hearing and determining applications for redress of a denial, violation or infringement of, or threat to, rights or fundamental freedom relating to the environment and land under Articles 42, 69 and 70 of the Constitution.

Section 13(5) of No.19 of 2011 which it is proposed to delete –

(5) The Court shall have supervisory jurisdiction over the subordinate courts, local tribunals, persons or authorities in accordance with Article 165(6) of the Constitution.

Section 13(6) of No.19 of 2011 which it is proposed to delete –

(6) For the purposes of subsection (7)(b), the Court may call for the record of any proceedings before any subordinate court, body, authority or local tribunal exercising judicial or quasi-judicial functions, or a decision of any person exercising executive authority referred to in subsection (7)(b), and may make any order or give any direction it considers appropriate to ensure the fair administration of justice.

Section 14 of No.19 of 2011 which it is proposed to amend –

14. A judgement, award, order or decree of the Court shall be enforceable in accordance with the Rules.

Section 15 of No.19 of 2011 which it is proposed to amend –

15. The seal of the Court shall be such device as may be determined by the Court and shall be kept in the custody of the Registrar.

Section 17 of No.19 of 2011 which it is proposed to delete –

17. Except as otherwise provided for in Article 50(8) of the Constitution, the proceedings of the Court shall be in public.

Section 18(c) of No.19 of 2011 which it is proposed to amend –

(c) the principles of judicial authority under Article 159(2) of the Constitution;

Section 19(1) of No.19 of 2011 which it is proposed to amend –

(1) In any proceedings to which this Act applies, the Court shall act expeditiously, without undue regard to technicalities of procedure and shall not be strictly bound by rules of evidence:

Provided that the Court may inform itself on any matter as it thinks just and may take into account opinion evidence and such facts as it considers relevant and material.

Section 19(2) of No.19 of 2011 which it is proposed to amend –

(2) The Court shall not be bound by the procedure laid down by the Civil Procedure Act and shall be guided by the principles of natural justice.

Section 19(3) of No. 19 of 2011 which it is proposed to delete –

(3) The Court shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court while trying a suit, in respect of the following matters, namely

- (a) summoning and enforcing the attendance of any person and examining them on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or document or copy of such record or document from any office in accordance with Article 35 of the Constitution;
- (e) issuing commissions for the examination of witnesses or documents;
- (f) reviewing its decision;
- (g) dismissing an application for default or determining it ex parte;
- (h) setting aside any order of dismissal of any application for default or any order passed by it ex parte;
- (i) passing an interim order, including granting an injunction or stay after providing the parties concerned an opportunity to be heard, on any application made or appeal filed under this Act; and
- (j) any other matter which may be prescribed by the rules.

Section 21(2) of No. 19 of 2011 which it is proposed to amend-

(2) Notwithstanding subsection (1), any matter certified by the Court as raising a substantial question of law-

(a) Under Article 165(3)(b) or (d) of the Constitution, or

(b) Concerning impact on the environment and land shall be heard by an uneven number of judges not less than three, assigned by the Principal Judge.

Section 23(1) and (2) of No.19 of 2011 which it is proposed to amend –

(1) The language of the Court shall be English and Kiswahili.

(2) Notwithstanding subsection (1), in all appropriate cases, the Court shall facilitate the use by parties of indigenous languages, Kenyan Sign language, Braille and other communication formats and technologies accessible to persons with disabilities.

Section 24(1) of No.19 of 2011 which it is proposed to amend –

24. (1) The Chief Justice shall, in consultation with the Court, make rules to regulate the practice and procedure of the Court.

Section 24(2) of No.19 of 2011 which it is proposed to amend –

(2) The Chief Justice shall make rules to regulate the practice and procedure, in tribunals and subordinate courts, for matters relating to land and environment.

Section 24(4) of No.19 of 2011 which it is proposed to amend –

(4) In the absence of the rules envisaged under subsection (1), the Court shall regulate its own procedure.

Section 25 of No. 19 of 2011 which it is proposed to amend –

25. All appointments under this Act shall be made in accordance with Article 27 of the Constitution and shall meet the requirements of Chapter Six of the Constitution.

The marginal note to Section 26 of Act No. 19 of 2011 which it is proposed to delete –

“Access to Justice.”

Section 28 of No. 19 of 2011 which it is proposed to amend –

28. The Court shall not adjudicate over disputes between the same parties and relating to the same issues previously and finally determined by any court of competent jurisdiction prior to the commencement of this Act.

Section 29 of No. 19 of 2011 which it is proposed to amend –

29. Any person who refuses, fails or neglects to obey an order or direction of the Court given under this Act, commits an offence, and shall, on conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years, or to both.

The long title of No. 20 of 2011 which it is proposed to amend –

AN ACT of Parliament to establish the Industrial Court as a superior court of record; to confer jurisdiction on the Court with respect to employment and labour relations and for connected purposes.

Section 1 of No 20 of 2011 which it is proposed to amend-

1. This Act may be cited as the Industrial Court Act, 2011.

Section 2 (1) of No 20 of 2011 which it is proposed to amend-

(1) In this Act, unless the context otherwise requires –

“Chief Registrar” means the person holding the office of Chief Registrar appointed under Article 161 of the Constitution;

“Committee” means the Employment and Labour Relations Rules Committee established under section 23;

“Court” means the Industrial Court established under section 4;

“employee” means a person employed for wages or a salary and includes an apprentice and indentured learner;

“employer” means any person, public body, firm, corporation or company who or which has entered into a contract of service to employ any individual and includes the agent, foreman, manager or factor of such person, public body, firm, corporation or company;

“federation” means a registered federation of trade unions or employers’ organization;

“Judge” means a person appointed in accordance with the provisions of Article 166(1)(b) of the Constitution;

“Principal Judge” means the Principal Judge of the Court;

Section 3(1) of No.20 of 2011 which it is proposed to amend-

(1) The Principal objective of this Act is to enable the Court to facilitate the just, expeditious and proportionate resolution of disputes governed by this Act.

Section 4(1) of No.20 of 2011 which it is proposed to delete-

(1) In pursuance of Article 162(2)(a) of the Constitution, there is established the Industrial Court for the purpose of settling

employment and industrial relations disputes and the furtherance, securing and maintenance of good employment and labour relations in Kenya.

Section 5(1) of No. 20 of 2011 which it is proposed to amend

(1) The Court shall consist of –

- (a) the Principal Judge; and
- (b) such number of Judges as the President may, acting on the recommendations of the Judicial Service Commission, appoint.

Section 5(2) and (3) of No. 20 of 2011 which it is proposed to delete-

(2) The Principal Judge shall be elected in accordance with the procedure prescribed in Article 165(2) of the Constitution.

(3) The Principal Judge shall hold office for a term of not more than five years and shall be eligible for re-election for one further term of five years.

Section 5(4) of No. of 2011 which it is proposed to delete-

(4) The Principal Judge shall have supervisory powers over the Court and shall be answerable to the Chief Justice.

Section 5(5) of No. 20 of 2011 which it is proposed to delete-

(5) In the absence of the Principal Judge or in the event of a vacancy in the office of the Principal Judge, the Judges of the Court may elect any other Judge to have and exercise and perform the powers and functions of the Principal Judge, and who shall be deemed to be the Principal Judge.

Section 6 of No. 20 of 2011 which it is proposed to amend-

6. A person shall be qualified for appointment as a Judge of the Court if the person –

- (a) has at least ten years' experience as a superior court judge or a professionally qualified magistrate; or
- (b) has at least ten years, experience as a distinguished academic or legal practitioner with considerable knowledge and experience in the law and practice of employment and labour relations in Kenya; or
- (c) holds the qualifications specified in paragraph (a) and (b) for a period amounting in the aggregate, to ten years.

Section 7 (1) (c) of No. 20 of 2011 which it is proposed to amend-

(c) is removed from office by a tribunal appointed by the President in accordance with Article. 168(5) of the Constitution.

Section 7(2) of the No. 20 of 2011 which it is proposed to delete-

(2) Subject to provisions of the Constitution, the Principal Judge may elect either to retire from office or to continue serving as Judge of the Court upon expiry of the Principal Judge's term.

Section 8 of No. 20 of 2011 which it is proposed to delete-

8. (1) The remuneration and benefits payable to or in respect of Judges shall be a charge on the consolidated Fund.

(2) The administrative expenses of the Court and other expenses of the Court in the discharge of its functions shall be paid from the Judiciary Fund established under Article 173 of the Constitution.

Section 9(1)(b) of No. 20 of 2011 which it is proposed to delete -

9.(1) The Judicial Service Commission shall appoint the following officers of the Court –

(b) the Senior Deputy Registrar, one or more Deputy Registrars and one or more assistant Registrars, as the administration of Justice requires.

Section 9(2) of No.20 of 2011 which it is proposed to delete-

(2) The officers of the Court shall perform the administrative functions of the Court under the supervision and control of the Registrar.

Section 9(3) of No.20 of 2011 which it is proposed to amend

(3) The Senior Deputy Registrar, Deputy Registrar or Assistant Registrar of the Court may perform such other functions of the Registrar as the Registrar may delegate generally or specifically.

Section 9(4) of No. 20 of 2011 which it is proposed to delete-

(4) The Senior Deputy Registrar, Deputy Registrar of the Court or if there is more than one, the most Senior Deputy Registrar shall act as Registrar of the Court whenever –

Section a 9 (5) of No. 20 of 2011 which it is proposed to delete-

(5) The Registrar may delegate his or her administrative functions to any member of staff of the Court.

Section 10(a) of No. 20 of 2011 which it proposed to delete-

10. A person shall be qualified for appointment as Registrar if the person –

(a) is an advocate of the High Court of Kenya and has, since admission to the Roll of Advocates –

(i) become eligible for appointment as a Judge of the High Court;

- (ii) served for at least ten years as a professional qualified magistrate; or
- (iii) attained at least ten years' experience as a distinguished academic or legal practitioner or such experience in other relevant legal field; and

The introductory portion of Section 11(1) of No. 20 of 2011 which it proposed to delete-

11.(1) In relation to the proceedings before the Court, the Registrar shall act in accordance with the instructions of the Chief Registrar and shall, in Particular, be responsible for –

Section 11(2) of No. 20 of 2011 which it proposed to amend

(2) The Registrar, the Senior Deputy Registrars, the Deputy Registrar, the Assistant Registrar and other officers of the Court shall exercise such powers and perform such duties as may be conferred upon them by this Act, the rule of the Court or any other written law.

Section 12 (2) of No. 20 of 2011 which it proposed to delete-

(2) An application, claim or complaint may be lodged with the Court by or against an employee, an employer, a trade union, an employer's organization, a federation, the Registrar of Trade Unions, the Cabinet Secretary or any office established under any written law for such purpose.

Section 13 of No. 20 of 2011 which it is proposed to amend-

13. A judgment, award, order or decree of the Court shall be enforceable in accordance with the rules made under this Act.

Section 14 of No. 20 of 2011 which it proposed to amend-

14. The seal of the Court shall be such device as may be determined by the Court and shall be kept in the custody of the Registrar.

Section 15 (2) of No. 20 of 2011 which it is proposed to delete-

(2) The Court may refuse to determine any dispute, other than an appeal or review before the Court, if the Court is satisfied that there has been no attempt to effect a settlement pursuant to subsection (1).

Section 15 (3) of No. 20 of 2011 which it is proposed to delete-

(3) Subject to any other written law, a certificate issued by a conciliator accompanied by the record or evidence of the minutes of the conciliation meetings giving reasons for the decisions as arrived at by the conciliator, shall be sufficient proof that an attempt has been made to resolve the dispute through conciliation, but the dispute remains unresolved.

Section 15 (5) of No. 20 of 2011 which it is proposed to amend-

(5) In the exercise of its powers under this Act, the Court shall be bound by the national wage guidelines on minimum wages and standard of employment, and other terms and conditions of employment that may be issued, from time to time, by the Cabinet Secretary for the time being responsible for finance.

Section 17 (2) of No. 20 of 2011 which it is proposed to delete-

(2) An appeal from the judgment, award, decision, decree or order of the Court shall lie only on matters of law.

Section 18 of No 20 of 2011 which it is proposed to delete-

18. The Court shall have appellate jurisdiction to hear and determine appeals from –

- (a) decisions of the Registrar of Trade Unions; and
- (b) any other court, local tribunal or commission as prescribed under any written law.

Section 19 of No. 20 of 2011 which it is proposed to delete-

19. Except as otherwise provided in Article 50(8) of the Constitution, the proceedings of the Court shall be in public.

Section 20 (1) of No. 20 of 2011 which is proposed to delete-

20. (1) In any proceedings to which this Act applies, the Court shall act without undue regard to technicalities and shall not be strictly bound by rules of evidence except in criminal matters:

Provided that the Court may inform itself on any matter as it considers just and may take into account opinion evidence and such facts as it considers relevant any material to the proceedings.

Section 20(2) of No. 20 of 2011 which it is proposed to delete-

(2) The Court shall have power to summon witnesses, to Administer oaths and affirmations and to require any person who appears to it to have special knowledge of any relevant matter, or of any other matters to which this Act applies or any written law to which it relates to furnish, in writing or otherwise, and to confirm on oath, such expert opinion as may be relevant to any of the issues in the proceedings.

Section 20 (3) of No. 20 of 2011 which it is proposed to delete-

(3) The expert referred to in subsection (2) shall be paid in accordance with the Rules.

Section 20(6) of No 20 of 2011 which it is proposed to delete-

(6) An order purporting to be signed by or under the authority of the Judge conducting the proceedings of the Court shall be presumed,

until the contrary is proved, to have been given by the Court.

Section 20(7) of No. 20 of 2011 which it is proposed to amend-

(7) A person who-

- (a) Without reasonable cause fails to comply with an order given under subsection (4); or
- (b) Is required by an order made under subsection (4) to furnish information, and who makes any statement or furnishes any information which the person knows or has reasonable cause to believe to be false or misleading in material particular,

Commits an offence and shall, on conviction be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

Section 21(2) of No.20 of 2011 which it is proposed to -

(2) Notwithstanding subsection (1) any matter certified by the Court as raising a substantial question of law under Article 165 (3) (b) or (d) of the Constitution shall be heard by an uneven number of judges, being not less than three, assigned by the Chief Justice.

Section 22 of No.20 of 2011 which it is proposed to amend -

22. In any proceedings before the Court or a subordinate industrial court, a party to the proceedings may act in person or be represented by an advocate, an office bearer or official of the party's trade union or employers' organization and, if the party is a juristic person, by a director or an employee especially authorized for that purpose.

Section 24(a) of No.20 of 2011 which it is proposed to amend

24. The Committee shall consist of -

(a) The Principal Judge who shall be the chairperson;

The marginal note to Section 27(1) of No.20 of 2011 which it is proposed to replace

“Powers of the Chief Justice.”

Section 28 of No. 20 of 2011 which it is proposed to delete -

28. All appointments under this Act shall be in accordance with Article 232 (1) (i) of the Constitution and the appointees shall be required to meet the requirements of Chapter Six of the Constitution.

Section 29(5) of No.20 of 2011 which it is proposed to delete -

(5) Appeals on matters relating to employment and labour relations from the designated magistrate’s courts shall lie with the court.

Section 30 of No. 20 of 2011 which it is proposed to delete -

30. The Cabinet Secretary may make regulations for the better carrying out of the provisions of this Act.

Section 32(3) of No.20 of 2011 which it is proposed to delete -

(3) The persons who at the commencement of this Act are members of the Industrial Court shall be deemed to have been appointed under this Act.

Section 35 of No.20 of 2011 which it is proposed to amend -

35. Any other written law relating to the regulation of employment and labour relations shall have effect subject to such

modification as may be necessary to give effect to this Act, and where the provisions of any law conflict with the provisions of this Act, the provisions of this Act shall prevail.

Schedule to No. 20 of 2011 which it is proposed to delete-

SCHEDULE

(s.25 (2))

**PROVISIONS RELATING TO THE CONDUCT OF
BUSINESS AND AFFAIRS OF THE EMPLOYMENT AND
LABOUR RELATIONS RULES COMMITTEE**

1. (1) Other than the chairperson, a member of the Committee shall, subject to the provisions of this Act hold office for a period not exceeding five years on such terms and conditions as may be specified in the instrument of appointment, and shall not be eligible for re-appointment.

(2) A member other than the chairperson may-

(a) at any time resign from office notice, in writing, to the Chief Justice;

(b) be removed from office by the Chief Justice if the member-

(i) has been absent from three consecutive meetings of the Committee without the leave of the Chairperson;

(ii) is adjudged bankrupt or enters into a composition agreement or scheme of arrangement with creditors;

(iii) is convicted of criminal offence; or

(iv) is otherwise unable or unfit to discharge their functions as a member of the Committee.

(3) The Chief Justice may remove, for sufficient reason, any member of the respective nominating organizations for reasons given in paragraph (2)(b).

(4) If a member of the Committee is removed under subsection (3), the Chief Justice shall fill the vacancy from nominations submitted by the organization that made the initial nominations.

2.(1) The Committee shall meet not less than four times in every financial year, and not more than three months shall elapse between the date of one meeting and the date of the next meeting.

Provided that the chairperson may call a special meeting of the committee at any time where the chairperson deems it expedient for the transaction of the business of the Committee.

(2) Other than a special meeting, or unless three quarters of members agree, at least fourteen days' written notice of every meeting of Committee shall be given to members of the Committee by the Secretary.

(3) The quorum for the conduct of business of the Committee shall be seven members present and voting and unless a unanimous decision is reached, decisions shall be by a majority vote of the members present, and in the case of equality of vote, the chairperson or in his absence, the vice-chairperson shall have a casting vote:

Provided that one member from the most representative employers organization and one representative of the most representative employees organization is present to form the quorum.

(4) The chairperson shall preside over all meetings of Committee.

(5) In the absence of the chairperson, the vice-chairperson shall Preside.

(6) The chairperson and vice-chairperson shall not be of the same gender.

(7) In the absence of both the chairperson and vice- chairperson, absence, the members present shall elect one of their number who shall, with respect to that meeting and the business transacted thereat, have all the powers of the Chairperson.

(8) At the first meeting of the Committee, the members shall elect a vice-chairperson, not being a public servant, from among its members.

3. Save as provided in this Schedule, the Committee may regulate its own procedure.

Section 3(3) of No. 22 of 2011 which it is proposed to amend-

(3) The Commission shall ensure access to its services in all parts of the Republic accordance with Article 6(3) of the Constitution.

Section 10(1) of No. 22 of 2011 which it is proposed to amend-

(1) A person whose name is entered in a register of voters in a particular polling station, and who produces an identification document shall be eligible to vote in that polling station.

Section 36 of No. 22 of 2011 which it is proposed to amend-

36. The Anti-Corruption and Economic Crimes Act, 2003 is amended in section 2, by deleting the definition of "Commission" and substituting therefor the following new definition-

"Commission" means the Independent Ethics and Anti-Corruption Commission established under section 3 of the Independent Ethics and Anti-corruption Commission Act, 2011, pursuant to Article 79 of the Constitution;

Section 22(1) of No.24 of 2011 which it is proposed to amend -

22. (1) A person may be nominated as a candidate for an

election under this Act only if that person—

- (a) is qualified to be elected to that office under the Constitution and this Act; and
- (b) holds a post secondary school qualification recognised in Kenya.

Section 27 of No.24 of 2011 which it is proposed to amend –

27. A political party shall submit its nomination rules to the Commission at least six months before the nomination of its candidates.

Section 30(2) of No. 24 of 2011 which it is proposed to amend –

(2) A candidate nominated by a political party may appoint an agent of the candidate's choice.

Section 36(1) of No. 24 of 2011 which it is proposed to amend –

36. (1) A party list submitted by a political party under—

- (a) Article 97(1)(c) of the Constitution shall include twelve candidates;
- (b) Article 98(1)(b) of the Constitution shall include sixteen candidates;
- (c) Article 98(1)(c) of the Constitution shall include two candidates;
- (d) Article 98(1)(d) of the Constitution shall include two candidates;
- (e) Article 177(1)(b) of the constitution shall include a list of the number of candidates reflecting the number of wards in the county;

- (f) Article 177(1)(c) of the Constitution shall include eight candidates, four of whom shall be persons with disability and four of whom shall be the youth.

Section 43 (1) of No. 24 of 2011 which it is proposed to amend –

43. (1) A public officer shall not—

- (a) engage in the activities of any political party or candidate or act as an agent of a political party or a candidate in an election;
- (b) publicly indicate support for or opposition against any party, side or candidate participating in an election;
- (c) engage in political campaigns or other political activity; or
- (d) use public resources to initiate new development projects in any constituency or county three months before an election in that constituency or county.

Section 43 (5) of No. 24 of 2011 which it is proposed to amend –

(5) A public officer who intends to contest an election under this Act shall resign from public office at least seven months before the date of election.

Section 108 of No. 24 of 2011 which it is proposed to amend –

108. All candidates and political parties participating in an election shall be allocated reasonable airtime on state radio and television broadcasting services during the campaign period.

Section 112 of No.24 of 2011 which it is proposed to amend –

112. Notwithstanding the provisions of this Act –

- (a) the register of voters prepared under the National Assembly and Presidential Elections Act shall be deemed to have been prepared under this Act;
- (b) a voter's cards issued under the National Assembly and Presidential Elections Act shall be deemed to have been issued under this Act;
- (c) an election official holding office immediately before the commencement of this Act shall be deemed to have been appointed in accordance with the provisions of this Act; and
- (d) an election petition filed under the National Assembly and Presidential Elections Act shall be deemed to have been filed under this Act.

The long title of No. 31 of 2011 which it is proposed to amend

AN ACT of Parliament to establish the Kenya Citizens and Foreign National Management Service; to provide for the creation and maintenance of a national population register and the administration of the laws relating to births and deaths, identification and registration of citizens, immigration and refugees; administration of the laws relating to marriages and for connected purposes.

Section 4(1) of No. 31 of 2011 which it is proposed to amend-

4. (1) The Service shall, under the general supervision of the Cabinet Secretary, be responsible for the implementation of policies, laws and any other matter relating to citizenship and immigration, births and deaths, marriages, identification and registration of persons, issuance of identification and travel documents, foreign nationals management and the creation and maintenance of a comprehensive national population register.

Section 5 (2)(a) of No. 31 of 2011 which it is proposed to amend

5. The Board shall consist of-

-
- (a) The chairperson to be appointed by the President on the recommendation of the Public Service Commission.

The Proviso to section 5(2) of No. 31 of 2011 which it is proposed to delete-

Provided that the Director-General and the Secretary to the Board shall be of the opposite gender and where majority of members under paragraph (b) are of one gender, the appointees under paragraph (c) shall be of the opposite gender.

Section 16 (1) and (2) of No. 31 of 2011 which it is proposed to amend-

(1) The Service may upon such terms and conditions as may be authorized by the Public Service Commission appoint such Directors and other members of staff as may be necessary for carrying out its functions.

(2) Any reference to a Director or Head of a Department of the Service, by whatever reference adopted and in relation to laws administered by the Service, shall be construed as reference to the Director- General.

The First Schedule to No. 31 of 2011 which it is proposed to amend -

FIRST SCHEDULE

(s.4(2)(b))

The Citizenship and Immigration Act, 2011

The Births and Deaths Registration of Person Act (Cap. 149)

The Registration of Persons Act (Cap. 107)

The Refugees Act, 2006 (No. 13 of 2006)

The Marriage Act (Cap. 150)

The African Christian Marriage and Divorce Act (Cap. 151)

The Mohammedan Marriage and Divorce Registration Act (Cap. 155)

The Hindu Marriage and Divorce Act (Cap. 157)

Section 4H(5) in section 6 of No. 34 of 2011 which it is proposed to amend-

(5) Not more than fifteen percent of the total annual levy collected under this Act may be used for administration of the Authority within that year.

