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**SPECIAL ISSUE**

Kenya Gazette Supplement No. 56 (Acts No. 4)



REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**ACTS, 2018**

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**NAIROBI, 7th May, 2018**

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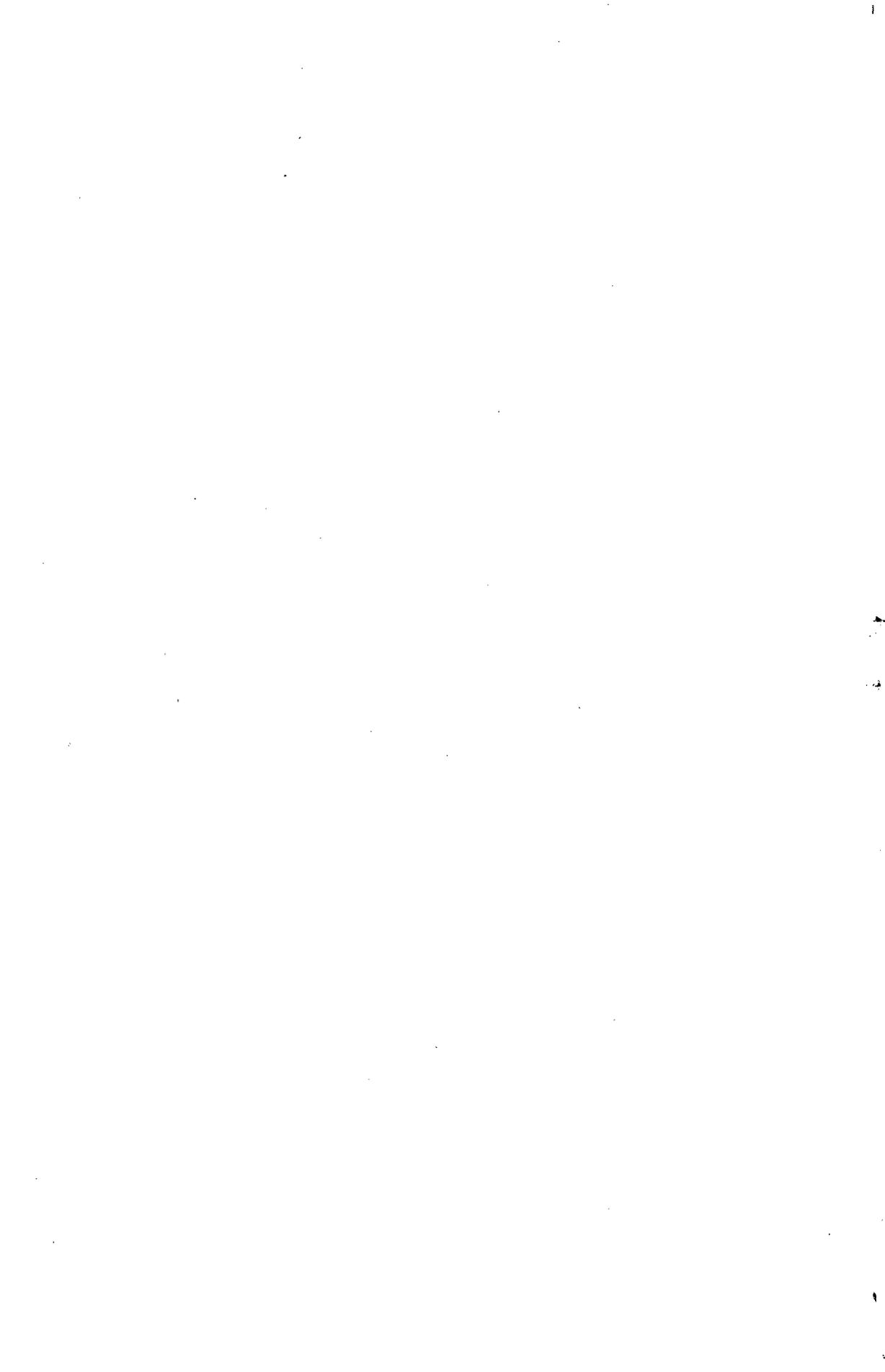
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**THE STATUTE LAW (MISCELLANEOUS  
AMENDMENTS) ACT, 2018**

**No. 4 of 2018**

*Date of Assent: 4th April, 2018*

*Date of Commencement: 21st May, 2018*

**AN ACT of Parliament to make minor amendments to  
Statute Law**

**ENACTED** by the Parliament of Kenya, as follows—

1. This Act may be cited as the Statute Law (Miscellaneous Amendments) Act, 2018. Short title.

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

**SCHEDULE** (s. 2)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Pensions Act (Cap.189).	s.2	Insert the following new definition in proper alphabetical sequence— “Minister” means the Cabinet Secretary responsible for matters relating to finance.
	s.5(3)	Delete the word “five” and substitute therefor the word “ten”.
The Pharmacy and Poisons Act (Cap. 244).	s.5(1)	Delete the words “Chief Pharmacist” and substitute therefor the words “the chief executive officer of the Board competitively recruited and appointed by the Board upon such terms and conditions of service as shall be determined by the Board upon the advice of the Salaries and Remuneration Commission”.
	s.3	Delete the word “Minister” wherever it occurs and substitute therefor the words “Cabinet Secretary”.
The Clinical Officers (Training, Registration and Licensing) Act No. 20 of 2017.	s.7(4)	Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.
	s.13(6)	Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
	s.16	Delete the word "Minister" and substitute therefor the words "Cabinet Secretary".
	s.17	Delete the word "Minister" and substitute therefor the words "Cabinet Secretary".
The Environmental Management and Co-ordination Act, 1999 (No. 8 of 1999).	s.125(1)	Delete the words "chairperson" appearing in paragraph (a) and substitute therefor the word "person".  Delete the words "Environment and Land" appearing in paragraph (b) and substitute therefor the word "High".
	s.125(5)	Delete the words "a Vice-Chairperson to the Tribunal" and substitute therefor the words  "a Chairperson to the Tribunal from amongst the persons appointed under paragraphs (a), (b) and (c) of subsection (1) and a Vice Chairperson to the Tribunal from amongst all members".
	s.129	Delete and substitute therefor the following new section
Appeals to the Tribunal		<b>129.</b> (1) Any person who is aggrieved by—
		(a) the grant of a licence or permit or a refusal to grant a licence or permit, or the transfer of a licence or permit, under this Act or its regulations;
		(b) the imposition of any condition, limitation or restriction on the persons licence under this Act or its regulations;
		(c) the revocation, suspension or variation of the person's licence under this Act or its regulations;
		(d) the amount of money required to paid as a fee under this Act or its regulations;

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
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- (e) the imposition against the person of an environmental restoration order or environmental improvement order by the Authority under this Act or its Regulations,

may within sixty days after the occurrence of the event against which the person is dissatisfied, appeal to the Tribunal in such manner as may be prescribed by the Tribunal.

(2) Unless otherwise expressly provided in this Act, where this Act empowers the Director-General, the Authority or Committees of the Authority or its agents to make decisions, such decisions may be subject to an appeal to the Tribunal in accordance with such procedures as may be established by the Tribunal for that purpose.

(3) Upon any appeal, the Tribunal may—

- (a) confirm, set aside or vary the order or decision in question;
- (b) exercise any of the powers which could have been exercised by the Authority in the proceedings in connection with which the appeal is brought; or
- (c) make such other order, including orders to enhance the principles of sustainable development and an order for costs, as it may deem just;
- (d) if satisfied upon application by any party, issue orders maintaining the status quo of any matter or activity which is the subject of the appeal until the appeal is determined;
- (e) if satisfied upon application by any party, review any orders made under paragraph (a).

(4) Any status quo automatically maintained by virtue of the filing of any

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
		appeal prior to the commencement of subsection (3) shall lapse upon commencement of this section unless the Tribunal, upon application by a party to the appeal, issue fresh orders maintaining the status quo in accordance with subsection (3)(a).
The Salaries and Remuneration Commission Act (No. 10 of 2011).	s.4(3)	Delete the words “shall serve on a part-time basis” and substitute therefor the words “other than those appointed under Article 230(2) (d) shall serve on a full time basis”
	S7	Delete subsections (3), (4), (5), (6), (7), (8), (9).
	s.7(10)	Delete and substitute therefor the following—  (10) The President shall, within seven days receipt of the names forwarded under subsection (2) nominate the members of the Commission from each category and forward the names of the nominees, together with the name of his nominee for Chairperson of the Commission, to the National Assembly”.
	s.7(11)	Delete the words “twenty one” and substitute therefor the words “fourteen”.
The Statutory Instruments Act (No. 23 of 2013)	s. 2	(a) Insert the following new definition—  “public participation” means involvement by the regulation making authority of persons or stakeholders that the statutory instrument may directly or indirectly apply to;  (b) Delete the definition of “explanatory memorandum” and substitute therefor the following new definition—

*Written Law**Provision**Amendment*

“explanatory memorandum” means a statement, prepared by the regulation-making authority that explains the purpose and operation of the statutory instrument and it includes any documents incorporated in the statutory instrument by reference and indicates how they may be obtained;”

Insert the following new section immediately after section 5—

5A. (1) Every statutory instrument shall be accompanied by an explanatory memorandum which shall contain—

- (a) a statement on the proof and demonstration that sufficient public consultation was conducted as required under Articles 10 and 118 of the Constitution;
- (b) a brief statement of all the consultations undertaken before the statutory instrument was made;
- (c) a brief statement of the way the consultation was carried out;
- (d) an outline of the results of the consultation;
- (e) a brief explanation of any changes made to the legislation as a result of the consultation.

(2) Where no such consultations are undertaken as contemplated in subsection (1), the regulation-making authority shall explain why no such consultation was undertaken.

(3) The explanatory memorandum shall contain such other information in the manner specified in the Schedule and may

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be accompanied by the regulatory impact statement prepared for the statutory instrument.

s.11(1) Insert the words “the relevant House of” before the word “Parliament”.

s.11(2) Delete subsection (2) and substitute therefor the following new subsection—

(2) Notwithstanding subsection (1) and pursuant to the legislative powers conferred on the National Assembly under Article 109 of the Constitution, all regulation making authorities shall submit copies of all statutory instruments for tabling before the National Assembly.

s.11(4) Insert the words “the relevant House of ” before the word “Parliament”.

s.15(2) Insert the word “sitting” immediately after the words “twenty-eight”.

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

(3) Despite the provision of this Act or any other written law, where a time is prescribed for doing an act or taking a proceeding by the National Assembly relating to the handling of a statutory instrument, the National Assembly may, by resolution, extend that time by a period not exceeding twenty-one days.

s.4(1)(a) Delete the expression “paragraph (i) and substitute therefor the expression “paragraph (g)”.