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CONTENT

Bill for Introduction into the National Assembly—

PAGE

The Statute Law (Miscellaneous Amendments) Bill, 2018 261

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THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL, 2018

A Bill for

AN ACT of Parliament to make various 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, 2018.

Amendment of written laws.

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.

SCHEDULE

Written law	*Provision*	*Amendment*
The Judicature Act, (Cap.8).	s.2.	Delete the definition of the word" judge" and substitute therefor the following new definition— "Judge" means the Chief Justice or any other judge appointed under Article 166 of the Constitution and includes a judge serving in an acting capacity.
	No. 20 of 2011.	Insert the following new definitions in proper alphabetical sequence— "Employment and Labour Relations Court" means the Employment and Labour Relations Court established by the Employment and Labour Relations Court Act, 2011.
	No. 19 of 2011.	"Environment and Land Court" means the Environment and Land Court established by the Environment and Land Court Act, 2011.

	s.3(1)	Insert the words "the Environment and Land Court, the Employment and Labour Relations Court and" immediately after the expression "High Court".
	(2)	Insert the words "the Environment and Land Court, and "the Employment and Labour Relations Court and" immediately after the expression "High Court".
The Oaths and Statutory Declarations Act (Cap.15).	s. 12	Delete the words "a deputy registrar and district registrar" and substitute therefor the expression "and a Deputy Registrar".
	s.13	Delete.
The Advocates Act (Cap. 16).	s.11(4)	Delete the expression "Disciplinary Committee" and substitute therefor the expression "Disciplinary Tribunal".
	s.19	Delete the expression "Disciplinary Committee" wherever it appears in paragraphs (a) and (b) and substitute therefor the expression "Disciplinary Tribunal".
	s.23	Insert the following new subsection immediately after subsection (2) —
		(2A) Every advocate to whom a practicing certificate has been issued and who draws any legal document that includes pleadings, affidavits, depositions, deeds and other related instruments set out in section 34 and filed in any registry under any law requiring filing by an advocate shall in addition to setting out the firm's details include the name of the advocate drawing the document, the advocate's admission number and signature and the stamp of the respective law firm.
	s.25	Delete the expression "Disciplinary Committee" appearing in paragraph (f)

and substitute therefor the expression "Disciplinary Tribunal".

s.27 Delete the expression "Disciplinary Committee" and substitute therefor the expression "Disciplinary Tribunal".

s.46(d) Delete.

Insert the following new paragraphs immediately after paragraph (c)—

(d) any agreement by which an advocate agrees to accept, in respect of professional business, any fee or other consideration which is less than the remuneration prescribed by any Order under section 44;

(da) any agreement by which an advocate agrees to accept, in respect of professional business, any fee or other consideration which is more than twenty-five percent of the general damages recovered in respect of that business.

s.53(4) Delete the expression "Disciplinary Committee" wherever it occurs in paragraphs (b) and (e) and substitute therefor the expression "Disciplinary Tribunal".

(6C) Delete and substitute therefor the following new subsection—

(6C) An advocate against whom an Order is made under this section and who has not appealed against such Order under subsection (8) may apply to the Disciplinary Tribunal for a review of the Order.

s.57(1) Insert the words "or his representative" immediately after the expression "Attorney-General" appearing in paragraph (a);

Delete the expression "three years" appearing in paragraph (c) and substitute therefor the expression "four years".

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

(4) (1B) The election of the members referred to in paragraph (1) (c) shall be held at different times so that the expiry of the terms of office of at least two members falls at different times for purposes of continuity.

Delete the expression "Disciplinary Committee" wherever it appears in paragraphs (c) and (d) and substitute therefor the expression "Disciplinary Tribunal".

s.58(2) Delete and substitute therefor the following new subsections—

(2) The Attorney-General shall preside at all meetings of the Disciplinary Tribunal at which he is present and in his absence the Solicitor-General shall preside.

(2A) In the absence of both the Attorney-General and the Solicitor-General the person deputed by the Attorney-General under section 57(1)(b) shall preside, and in the absence of the person so deputed the members present shall elect one from among their number to preside.

s.61(2) Delete the expression "(if the complaint has been referred by it to the Tribunal)"

	s.61(3)	Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".
	s. 80	Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".
The Public Archives and Documentation Service Act (Cap.19).	s.2	Insert the following new definition in proper alphabetical sequence— "Minister" means the Cabinet Secretary responsible for matters relating to culture and national heritage.
The Civil Procedure Act (Cap.21)	s.11	Delete the word "district" wherever it appears and substitute therefor the word "county".
	s.21	Delete the word "district" wherever it appears and substitute therefor the word "county".
	s.40	Delete the word "district" wherever it appears and substitute therefor the word "county".
	s.65(1)(b)	Delete the words "other than a magistrate's court of the third class".
	s.81(1)	Delete and substitute therefor the following new subsection— "(1) There shall be a Rules Committee which shall consist of— (a) the following members appointed by the Chief Justice— (i) one judge of the Court of Appeal; (ii) one judge of the High Court; (iii) a judge of the Environment and Land Court;

(iv) one judge of the Employment and Labour Relations Court who is a member of the Employment and Labour Relations Court Rules Committee;

(v) two Magistrates, one of whom shall be the Secretary to the Committee;

(vi) three advocates nominated by the Law Society of Kenya, one of whom shall be nominated by the members of the Mombasa Law Society; and

(vii) one representative from the Kenya Law Reform Commission; and

(b) the Attorney-General or a designated representative."

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

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

(a) has been a member in good standing of the Law Society of Kenya for at least ten years; and

(b) holds a current practising certificate at the time of his or her nomination."

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

		"(1B) A person nominated by the Law Society of Kenya under subsection (1) may be nominated more than once to serve on the Committee. (1C) The Chief Justice may elect to be a member of the Committee, in which case he or she shall be the Chairperson, but where he elects not to be a member, the Chief Justice shall appoint one of the other members to be the Chairperson. (1D) The Committee may co-opt other persons whose knowledge and experience may assist the Committee in the discharge of its functions. (IE) The function of the Committee shall be to— (a) propose rules not inconsistent with this Act or any other written law to provide for any matters relating to the procedure before courts and tribunals; and (b) advise the Chief Justice on such rules as may be necessary under this section."
The Law of Contract Act (Cap. 23)	s. 3	Insert the following new subsection immediately after subsection (1)— "(1A) Notwithstanding subsection (1), before a suit is brought against a defendant under subsection (1), the plaintiff shall first realise the security of the principal."
The Foreign Judgment (Reciprocal Enforcement) Act (Cap.43)	s.2	Delete the definition of the words "superior courts in Kenya" and substitute therefor the following new definition— "superior courts in Kenya" means Supreme Court, the Court of Appeal, the High Court, the Employment and

Labour Relations Court and the Environment and Land Court.

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

s. 2 Insert the following new definitions in their proper alphabetical sequence—

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

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

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

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

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

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

(8) A pre-sentence report shall include a recommendation as to the suitable period of supervision, rehabilitation programmes and any

		measures necessary to reduce the risk of re-offending."
	s.5	Insert the following new subsections immediately after subsection (3) —
		"(4) The Court may extend the period of residence specified in the probation order for a further period not exceeding twelve months in exceptional circumstances and with compelling reasons provided by a probation officer. (5) The Court may make further orders providing for an offender to attend non-residential programmes at a probation institution or any other such facility established under this Act, or at any other facility suitable for the fulfilment of the supervision order."
	s.8(3)	Delete the expression "two hundred" appearing in paragraph (a) and substitute therefor the expression "twenty thousand".
	s. 17 (f)	Insert the words "including volunteer probation officers" immediately after the words "any person".
The Criminal Procedure Code (Cap.75).	s.2	Delete the expression "Attorney-General" appearing in the definition of the expression "officer in charge of a police station" and substitute therefor the expression "Inspector-General of the National Police Service". Delete the expression "Commissioner of Police" wherever it appears and substitute therefor the expression "Inspector-General of the National Police Service". Delete the definition of the expression "police station" and substitute therefor the following new definition—

	No.11A of 2011.	"police station" means a place designated by the Inspector-General as a police station under section 40 of the National Police Service Act, 2011.
Extradition (Contiguous and Foreign Countries) Act. (Cap.76).	s.3(3)	Delete the expression "House of Representatives" and substitute therefor the words "National Assembly".
	s.11(2)	Delete the expression "House of Representatives" and substitute therefor the expression "National Assembly".
	s.15(1)(b)	Delete the words "Commissioner of Police or chief officer of the police of the district, city, town or area where the prisoner is in custody" and substitute therefor the words "Inspector-General of Police or the Officer Commanding the respective Police Division or Police Station".
The Registration of Persons Act (Cap. 107).	s.3	Insert the following new definitions in proper alphabetical sequence—
		"Biometric" means unique identifiers or attributes including fingerprints, hand geometry, earlobe geometry, retina and iris patterns, voice waves and Deoxyribonucleic Acid in digital form;
		"Global Positioning System coordinates" means the unique identifier of precise geographic location on the earth, expressed in alphanumeric character being a combination of latitude and longitude; and
		"physical form" means existing in a form that one can see and touch.
	s.5(1)(d)	Delete the and substitute therefor—
		(d) (i) county of birth; or
		(ii) county of residence.
	(1)(g)	Insert the words "and Global Positioning System coordinates, Land Reference

Number, Plot Number or House Number" immediately after the word "place".

(1)(h) Insert the words "in physical form" immediately after the words "toe impressions".

Insert the following new paragraph immediately after paragraph (h)—

(ha) biometric data.

s.9(1) Delete.

Insert the following new section immediately after section 9—

New

Establishment of the National Integrated Identity Management System.

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

(2) The functions of the system are—

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

(b) to assign a unique national identification number to every person registered in the register;

(c) to harmonise, incorporate and collate into the register,

information from other databases in Government agencies relating to registration of persons;

(d) to centrally print and distribute for collection all national identification cards, refugee cards, foreigner certificates, birth and death certificates, driving licenses, work permits, passport and foreign travel documentation, student identification cards issued under the Births and Deaths Registration Act; Basic Education Act; Registration of Persons Act, Refugees Act, Traffic Act and the Kenya Citizenship and Immigration Act and all other forms of government issued identification documentation as may be specified by gazette notice by the Cabinet Secretary;

(e) to prescribe, in consultation with

the various relevant issuing authorities, a format of identification document to capture the various forms of information contained in the identification documents in paragraph (d) for purposes of issuance of a single document where applicable;

(f) to verify and authenticate information relating to the registration and identification of persons;

(g) to collate information obtained under this Act and reproduce it as may be required, from time to time;

(h) to ensure the preservation, protection and security of any information or data collected, obtained, maintained or stored in the register; and

(i) to perform such other duties which are necessary or expedient for the

		discharge of functions under this Act.
The Public Holidays Act (Cap. 110).	Schedule Part I	Delete the words "Kenyatta Day" and substitute therefor the words "Mashujaa Day". Delete the words "Independence Day" and substitute therefor the words "Jamhuri Day".
The Housing Act, (Cap. 117).	s.3(2)	Delete and substitute therefor the following new subsection— "(2) The Corporation shall consist of— (a) a chairperson appointed by the President; (b) the Principal Secretary responsible for housing in the Ministry; (c) a person appointed by the Cabinet Secretary for the time being responsible for finance; and (d) not less than five nor more than seven persons appointed by the Cabinet Secretary for the time being responsible for housing, being persons who in his or her opinion possess knowledge of housing development or housing finance."
The Law of Succession Act (Cap.160).	New	Insert the following new section immediately after section 49—
	Power to clear Court.	**49A.** (1). In any proceedings for an application or dispute relating to the administration of a

		deceased person's estate, the Court hearing the application or dispute may on its own motion or upon an application by any of the parties, direct that any persons, not being members of the Court or parties to the case or their advocates, be excluded from the Court. (2) The Court may prohibit the publication of the proceedings on the matter in respect of which a direction is given under subsection (1).
The National Youth Service Act (Cap. 208).	s.16	Renumber the existing provision as subsection (1) and insert the following new subsection— "(2) The Service may undertake such activities, including activities of a commercial nature, as may be necessary for the achievement of its objectives and the effective performance of its functions under subsection (1)."
The Kenya Ports Authority Act (Cap.391).	s.62(1) No. 26 of 2013.	Delete the expression "Chief Justice" and substitute therefor the words "Registrar of the Nairobi Centre for International Arbitration established under the Nairobi Centre for International Arbitration Act, 2013".
The Kenya Airports Authority Act (Cap.395).	s.33(1) No. 26 of	Delete the expression "Chief Justice" and substitute therefor the words "Registrar of the Nairobi Centre for International Arbitration established

	2013.	under the Nairobi Centre for International Arbitration Act, 2013".
The Traffic Act (Cap. 403)	s.2	Insert the following new definition in proper alphabetical sequence—
		"authorised officer" means a person appointed as such under section 3(4).
	s.3	Insert the following new subsections immediately after subsection (2) —
		(3) The Authority may appoint such number of suitably qualified persons to be inspectors of motor vehicles as it may deem necessary for purposes of this Act.
		(4) The Authority may designate any of its offices to be authorised officers for purposes of this Act.
	s.8	Renumber the existing provision as subsection (1) and insert the following new subsection after the renumbered subsection (1) —
		"(2) Any person who issues a motor vehicle insurance cover to a person other than the registered owner of the vehicle commits an offence and is liable on conviction to a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding two years for a first offence, and to a fine not exceeding twenty thousand shillings or imprisonment for a term not exceeding two years for each subsequent offence."
	s.39(1)	Delete the words "driving test examiners" and substitute therefor the words "the Authority".

s.45(1) Insert the words "or a commercial vehicle" immediately after the words "public service vehicle".

s.56(1) Insert at the end thereof the words "or as provided for under the East African Community Vehicle Load Control Act, 2013.

s.57 Insert the following new subsection immediately after subsection (2) —

"(3) An authorised officer may detain a vehicle carrying any of the loads requiring a permit as prescribed under this Act or the East African Community Load Control Act, 2013, and which is found to be without a permit, or direct such vehicle to proceed to such place as may be necessary, taking into account safety, health or security, and the transporter owning such vehicle shall be liable to such fine or imprisonment as may be prescribed."

s.58 Delete the expression "section 55 or section 56" and substitute therefor the expression "section 55, 56 or 57";

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

s.70(5B) Delete.

s.85 Delete and substitute therefor the following new section—

Driving under the influence of drink.

85. Subject to section 45, any person who, when driving or attempting to drive or when in charge of a vehicle other than a motor vehicle, on a road

or other public place, is under the influence of drink or a drug beyond the limits prescribed by the Cabinet Secretary, commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for term not exceeding two years, or to both.

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

(i) causes any damage to the road.

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

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

Delete and substitute therefor the following new section—

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

not exceeding one year or to both.

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

Penalties under this Part.

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

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

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

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

The Kenya Post Office Savings Bank Act (Cap.493).	s.14	Delete the word "Minister" and substitute therefor the word "Registrar".
		Renumber the existing provision as subsection (1) and insert the following new subsection —
	No.26 of 2013.	(2) For purposes of this section "Registrar" means the Registrar of the Nairobi Centre for International Arbitration established under the Nairobi Centre for International Arbitration Act, 2013.
The Export Processing Zones Act, 1990, (Cap. 517)	s.2	Insert the following definition in proper alphabetical sequence—
		"eligible activities" include activities to enable agricultural activities preceding processing and value addition, aquaculture, dairy and ranching and silviculture.
	s.15(1)	Insert the following words "land or building or part thereof" immediately after the word "area".
	s.21(c)	Delete the words "for a minimum period of thirty years within the export processing zone" and substitute therefor the words "or buildings or part thereof for a minimum period of ten years for land and six years for buildings or part thereof".
	s.26(3B)	Delete.
The National Council for Law Reporting Act, 1994 (No. 11of 1994).	s.2	Insert the following new subsection after subsection (3)—
		"(4) The Council is a body under the Office of the Attorney-General".
Kenya Revenue Authority Act, 1995 (No. 2 of 1995).	s.6(2)(b)	Insert the words "who shall be an ex-officio member" at the end thereof.

s.11(1) Delete and substitute therefor the following new subsection—

"(1) There shall be a Commissioner-General of the Authority who shall be recruited by the Board through a competitive process and appointed by the Minister with the prior approval of the National Assembly."

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

"(1A) The Commissioner-General shall be appointed on such terms and condition of service as the Board may determine in the instrument of appointment, upon advice of the Salaries and Remuneration Commission.

(1B) The Commissioner-General shall be an *ex officio* member of the Board but shall have no right to vote at any meeting of the Board, nor shall he be counted for purposes of quorum of the Board.

(1C) The Commissioner-General shall, subject to the directions of the Board, be responsible for the day-to-day management of the affairs of the Authority.

(1D) A person shall qualify for appointment as Commissioner-General if the person—

(a) is a citizen of Kenya;

(b) has satisfied the requirements of Chapter Six of the Constitution;

(c) is a member of a professional body recognized in Kenya;

(d) holds a degree in any of the following fields: taxation,

economics, finance, accounting, law, banking, trade, supply chain, actuarial science, business management or public administration, and also holds a postgraduate degree in relevant course as the Board may determine;

(e) has considerable knowledge, competence and at least fifteen years' experience in a managerial capacity in revenue management, taxation, business administration, banking, accounting, supply chain, pubic administration, accounting;

(f) is not directly or indirectly through representatives, engaged as a director, employee, officer or shareholder of any clearing any insurer, broker, insurance agent, or in any other sector of the public revenue collection, and if appointed shall be disqualified if he, his spouse or dependent child becomes such director, employee, officer or shareholder;

(g) has not been previously involved in the management or administration of an institution which was deregistered, wound up or placed under statutory management for any failure on the part of the management or the administration thereof; and,

(h) has not at any time been convicted of any offence involving fraud, theft, dishonesty, breach of trust or moral turpitude.

	Second Schedule, paragraph 2(1)	Delete and substitute therefor the following new subparagraph— "(1) Subject to subparagraph (2), the quorum for the conduct of business at any meeting of the Board shall be five members, excluding the *ex-officio* member."
The Higher Education Loans Board, 1995 (No. 3 of 1995).	s.4(1)	Delete and substitute therefor the following subsection— (1) The Board shall comprise of nine members as follows— (a) a chairperson who shall have a strong financial background, appointed by the Cabinet Secretary; (b) the Principal Secretary in the Ministry for the time being responsible for higher education; (c) the Principal Secretary in the Ministry for the time being responsible for finance; (d) the Chief Executive Officer of Kenya Universities and Colleges Central Placement Service; (e) the Chief Executive Officer of Commission for University Education; (f) the Chief Executive Officer of Technical and Vocational Education and Training; (g) the Chief Executive Officer of the Universities Funding Board; (h) one person with financial expertise, appointed by the Cabinet Secretary; and

(i) the Chief Executive Officer, as an ex-officio member.

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

"(3) The members of the Board other than ex-officio members shall hold office for a period of three years and may be eligible for appointment for one more final term."

Delete and substitute therefor the following new section—

s.5. Chief Executive Officer.

5. (1) There shall be a Chief Executive Officer of the Board who shall be appointed by the Cabinet Secretary on the recommendation of the Board after a competitive process conducted by the Board.

(2) The Chief Executive Officer shall be the head of the secretariat and shall be responsible for the day to day management of the activities of the Board.

(3) The Chief Executive Officer shall be an ex-officio member of the Board and shall have no right to vote at meetings of the Board.

(4) The Chief Executive Officer shall hold office for a period of four years and shall be eligible for reappointment for one final term, upon satisfactory performance, as evaluated by the Board.

	s.22.	Delete and substitute therefor the following new section –
	s.5.	Staff of the Board of The Authority. **22.** The Board may employ a Corporation Secretary and such other officers, inspectors and staff as may be necessary for the performance of the functions of the Board under this Act, and shall pay out of the fund to such officers, inspectors and staff, such salaries and allowances as the Board may determine from time to time.
The Kenya Information and Communications Act, 1998 (No. 2 of 1998)	s.6(1)(a)	Delete the expression "in accordance with section 6B".
	s.6B(1)	Delete the introductory part and substitute therefor the following— "Within fourteen days of the occurrence of a vacancy in the office of member, the Cabinet Secretary shall—
	(1)(b)	Delete the expression "chairperson or".
	(8)	Delete paragraph (a). Delete the expressions "the President or" and "as the case may be".
	(9)	Delete and substitute therefor the following— "(9) The Cabinet Secretary shall, within fourteen days of receipt of the names under subsection (8), appoint the members."

	(10)	Delete the expressions "chairperson and" and "the President and".
The Community Service Orders Act 1998 (No. 10 of 1998).	s.2	Delete the definitions of the expressions "Minister" and "Permanent Secretary". Insert the following new definitions in proper alphabetical sequence- "Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to correctional services; and "Principal Secretary" means the Principal Secretary in the Ministry for the time being responsible for matters relating to correctional services.
	s.3(3)	Delete the words "it may" and substitute therefor the words "it shall". Insert the following new subsection immediately after subsection (8)— (9) Where a person is convicted of an offence, and is placed under a Community Service Order, such conviction shall be disregarded for the purpose of any enactment by or under which any disqualification or disability is imposed upon convicted persons or by or under which provision is made for a different penalty in respect of an offence committed after a previous conviction: Provided that if the original order is set aside and the offender is sentenced for the original offence, this section shall cease to apply in respect of that offence, and the offender shall be deemed for purposes of any enactment imposing a disqualification to have been convicted on the date of sentence.

	s.7(1)(c)	Delete and substitute therefor the following new paragraph— "(c) the Principal Secretary in the Ministry for the time being responsible for matters relating to the interior and co-ordination of national government." Delete paragraph (g).
	(3)	Delete.
	s.8(1)	Delete paragraph (a) and substitute therefor the following new paragraph— (a) advise the Cabinet Secretary and the Chief Justice generally on the proper administration of this Act or on any other matters relating to community services.
	s.17	Delete the word "Minister" and substitute therefor the expression "Cabinet Secretary".
The Environmental Management and Co-ordination Act, 1999 (No. 8 of 1999).	s.29(4)	Delete the expression "(c) to (g)" and substitute therefor the expression "(d) to (f)".
	s.32	Delete the word "Council" wherever it appears in paragraphs (a), (b) and (c) and substitute therefor the expression "Cabinet Secretary".
	s.36(1)	Delete the word "Council" and substitute therefor the expression "Cabinet Secretary".
The Kenya Roads Board Act, 1999 (No.7 of 1999).	s.12(2)	Delete and substitute therefor the following new subsection— "(2) A person shall be qualified for appointment as the Executive Director if that person—

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

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

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

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

The Industrial Property Act, 2001 (No. 3 of 2001).	s.2	Delete the definition of the expressions "ARIPO protocol", "National Commission for Science, Technology and Innovation" and "Minister". Insert the following new definitions in proper alphabetical sequence— "Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to the Institute; "Harare Protocol" means the protocol on patents and industrial designs adopted at Harare on 10th December 1982; "international-type search" means a search similar to an international search provided under Article 15 of the Patent Cooperation Treaty; "National Commission for Science, Technology and Innovation" has the meaning assigned to it under the Science, Technology and Innovation Act, 2013.
	s.9	Delete the word "Minister" and substitute therefor the word "Cabinet Secretary".

s.6	Delete the word "Minister" wherever it occurs and substitute therefor the word "Cabinet Secretary".
s.12(2)	Delete and substitute therefor the following new subsection– (2) The Managing Director may delegate to a Deputy Managing Director or to a manager the functions conferred on him or her under this Act.
s.16	Delete the word "Minister" and substitute therefor the words "Cabinet Secretary".
s. 18	Delete the word "Minister" wherever it occurs and substitute therefor the words "Cabinet Secretary".
s. 21	Delete the word "Minister" and substitute therefor the words "Cabinet Secretary".
s. 27	Delete the word "Minister" wherever it occurs and substitute therefor the words "Cabinet Secretary".
s.29(1)(a)	Delete and substitute therefor the following new paragraph— (a) a culture of the micro-organism has been deposited with a depository institution as prescribed by the regulations.
s.29(1) (b)	Delete.
s.29(1)(c)	Delete.
s.34(4)	Delete and substitute therefor the following new subsection— (4) The appointment of an agent shall be indicated by furnishing a power of attorney signed by the applicant.
s.34(5)	Delete and substitute therefor the following new subsection—

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

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

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

Delete and substitute therefor the following new section—

s.59 Regional applications, grants and registrations under the Harare Protocol.

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

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

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

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

"designate" has the meaning assigned to it by the Harare Protocol;

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

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

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

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

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

(6) For purposes of subsection (5)—

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

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

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

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

s.62 Delete the word "court" and substitute therefor the word "Tribunal".

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

Joint ownership of applications and patents.

63. In the absence of any agreement to the contrary between the parties, joint owners of

an application or a patent may, separately, transfer their rights in the application or patent, exploit the protected patent and preclude any person from exploiting the patent but may only jointly grant permission to any third person to do any of the acts referred to in section 54.

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

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

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

"(1) For the purposes of this Part—

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

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

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

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

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

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

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

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

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

"(4) The following shall not be registered as industrial designs –

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

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

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

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

s.87 Delete the marginal note and substitute therefore with the following new marginal note—

"Application, examination, opposition and registration."

(2) Delete.

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

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

(6) Delete the expression "or a specimen thereof" in the proviso.

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

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

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

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

Insert the following new subsections after subsection (9)—

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

(11) Where an application for registration of an industrial design is accepted and published in error, the Managing Director may publish in the

journal an indication to that effect and direct that the application be re-examined.

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

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

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

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

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

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

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

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

s.90(4) Delete.

s.91 Delete and substitute therefor the following new section.

Publication of reference to registration of industrial designs.

91. The Managing Director shall, in relation to each industrial design registered under section

87, publish the details prescribed in the regulations.

New — Insert the following new section after section 91—

Publication of reference to registration of industrial designs.

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

s. 92(4) — Delete and substitute therefor the following new subsection—

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

s.93(2) — Delete and substitute therefor the following new subsection—

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

s.113 — Delete the word "minister" wherever it occurs and substitute therefor the word "Cabinet Secretary".

s.113(6) — Delete and substitute therefor the following new subsection—

(6) The Cabinet Secretary shall appoint a person who has experience of not less than seven years in matters relating to industrial property being qualified and entitled to practise as an advocate in Kenya to be the Secretary to the Tribunal.

	s.117	Delete the word "minister" and substitute therefor the word "Cabinet Secretary".
	s. 119	Delete the word "minister" and substitute therefor the word "Cabinet Secretary".
	s. 120	Delete the word "minister" wherever it occurs and substitute therefor the word "Cabinet Secretary".
	Second Schedule	Delete the word "minister" wherever it occurs and substitute therefor the word "Cabinet Secretary".
The Children Act, 2001 (No. 8 of 2001).	s.2	Insert the words "an officer of the national adoption society" immediately after the words "labour officer" appearing in the definition of the expression "authorised officer".
		Insert the following new definition in proper alphabetical sequence—
		"national adoption society" means the Child Welfare Society of Kenya established by the Child Welfare Society of Kenya Order, 2014.
	s.59	Insert the following new paragraph immediately after paragraph (e)—
		"(f) a temporary place of safety established under regulations made under this Act.
	New	Insert the following new sections immediately after section 72—

Powers of Cabinet Secretary over charitable children institutions.

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

children institution where—

(a) the lives of children in such institution are in danger or where their continued stay therein is likely to endanger their wellbeing;

(b) the institution or a person involved in the management of such institution in unfit to provide care or protection to the children;

(c) it has been established that the institution does not serve the best interest of the children therein; or

(d) such institution is in contravention of the Constitution, the Convention on Rights of the

Child, the African Charter on the Rights and Welfare of the Child or any other law or international treaties or conventions to which Kenya is a party.

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

Caretaker Committee.

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

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

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

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

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

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

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

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

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

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

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

New Insert the following new section immediately after section 183—

The powers of Cabinet Secretary over adoption societies.

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

cancel the registration of an adoption society where it is established that—

(a) the operations of such adoption society are against the best interests of the child;

(b) such adoption society is no longer necessary; or

(c) the operations of such adoption society are in contravention of the Constitution or any other law or any international treaty or convention to which Kenya is a party.

New

Insert the following new section immediately after section 197—

Committees.

197A. The Cabinet Secretary may, from time to time by notice in the Gazette, establish and assign functions to such committees or working groups as may be necessary for the

			better performance of any function required to be performed under this Act.
The Copyright Act, 2001 (No. 12 of 2001).		Delete and substitute therefor the following new section—	
	s.6	Composition of Board.	**6.** (1) The Board shall consist of— (a) a Chairperson appointed by the President; (b) the Principal Secretary in the National Treasury or a designated representative; (c) the Principal Secretary in-charge of matters relating to culture and heritage or a representative; (d) the Attorney-General or a representative; (e) three persons each nominated by associations recognised by the Government as representing stakeholders in music, film and publishing respectively; (f) one person nominated by

		the Law Society of Kenya by virtue of their knowledge and experience in matters related to Copyright; and (g) the Executive Director appointed under section 11. (2) Appointments under paragraphs (1) (e) and (f) shall be by the Attorney-General.
The Privatization Act, 2005 (No.2 of 2005).	s.23(3)	Delete and substitute therefor the following new subsection— (3) Upon approval of the proposal under subsection (2), the Cabinet Secretary shall communicate the same to the Commission and direct the Commission to commence implementation.
	(4)	Delete and substitute therefor the following new subsection— (4) The Cabinet Secretary shall compile and submit to the National Assembly, not later than four months after the end of each financial year, a consolidated report summarizing the status of implementation of each proposal approved under subsection(2) in that year.
The Witness Protection Act, 2006 (No. 16 of 2006).	s.2	Delete the definition of the word "Minister".
	s.3E	Insert the following new subsection immediately after subsection (7A)—

	(7B) Notwithstanding subsection (7A), the Board shall afford the Director an appropriate opportunity to defend himself against any allegation made against him before taking any action under that subsection.
s.3F(1)	Delete the word "Minister" and substitute therefor the words "Cabinet Secretary responsible for finance".
(6)	Delete the word "Minister" and substitute therefor the words "Cabinet Secretary responsible for finance".
(7)	Delete the word "Minister" and substitute therefor the expression "Cabinet Secretary".
s.3G(2)	Delete the word "Minister" and substitute therefor the expression "Attorney-General".
s.3I(2)(c)	Delete the word "Minister" and substitute therefor the expression "Attorney-General".
s.3I(6)	Delete the word "Minister" and substitute therefor the words "Cabinet Secretary responsible for finance"
s.3J(5)	Delete the word "Minister" and substitute therefor the words "Cabinet Secretary responsible for finance".
s.3K	Insert the following new subsection immediately after subsection (2)—
	(3) The legislative and regulatory provisions on the auditing of national security organs shall apply *mutatis mutandis* to the Agency.
s.3L(2)	Delete the word "Minister" and substitute therefor the expression "Attorney-General".
(3)	Delete the word "Minister" and substitute therefor the expression "Attorney-General".
s.3P	Insert the following new subsection immediately after subsection (3)—

		(4) A member of the Board may in writing designate an officer not below the level of Director or equivalent to represent him on the Board.
	s.5(4)	Delete the word "Minister" and substitute therefor the expression "Attorney-General".
	s.30D	Delete the word "Minister and substitute therefor the expression "Cabinet Secretary".
The Employment Act, 2007 (No. 11 of 2007).	s.10(3)	Insert the following new paragraph immediately after paragraph (e)— "(ea) deployment and redeployment of the employee, and the reassignment and redesignation of the job title or grading."
The Labour Institutions Act, 2007 (No. 12 of 2007).	s.43(1)	Insert the following paragraph immediately after paragraph (b)— (c) an Export Processing Zones Wages Council.
The Labour Relations Act, 2007, (No. 14 of 2007).	s.2	Deleting the definition of the expression "Minister" and substitute therefor the following new definition— "Minister" means the Cabinet Secretary for the time being responsible for labour.
	s.48	Delete section 48 and substitute therefor the following new section—

Deduction of trade union dues.

48. (1) No trade union shall claim or receive any trade union dues, unless it is registered.

(2) An employer whose workers are members of a registered trade union shall enter into a check-off agreement with the registered trade union.

(3) An employer shall deduct dues of a registered trade union from an employee's wages if that employee has authorized the employer to do so in the prescribed form.

(4) The employer shall remit the deductions to the trade union within fourteen days after the end of the month in which the deductions are made.

(5) An employee may revoke an authorization by giving one month notice to the employer and the trade union.

(6) Where an employee revokes any authorization under subsection (3), the employer shall cease to make any deductions after the expiry of the notice.

(7) With each monthly remittance, the employer shall give a registered trade union—

(a) a list in the prescribed form of the names of the members in respect of whom deductions are required to be made; and

(b) a copy of any notice of revocation under subsection (3).

(8) Where an employer refuses to enter into a check-off agreement under subsection (2), a trade union may make an application to the Labour Commissioner for an order that check-off agreement shall have effect between the trade union and the employer and, on hearing the application, the Commissioner may make such order as deemed fit.

(9) Any application made under subsection (8) shall be determined by the Commissioner within thirty days of the date of receipt of the application.

(10) An employer shall comply with an order made under subsection (8) within two months of the date of the Order.

(11) Where the trade union dues have been altered—

(a) the trade union shall give written notice of such

alternation to the employer and;

(b) the employer shall deduct the amount of the trade union dues as altered from the wages earned by an employee for the month following the month in which the notice of the alternation is received by him.

s.49 Delete and substitute therefor the following new section—

Deduction of agency fees from unionisable employees covered by collective agreements.

49. (1) Where a check-off agreement and a collective agreement are in force, a registered trade union may enter into an agreement with an employer for a deduction of an agency fee from the wages of employee in a bargaining unit who are not members of the trade union.

(2) A deduction under subsection (1) shall be made if the employee consents thereto in writing.

(3) The amount of the agency fees shall not

exceed the applicable trade union dues.

s.50(2)	Delete the word "notice" and substitute therefor the expression "check-off agreement" under subsection (2);
(b)	Delete.
(5)	Delete the words "into the account designated by the minister" and substitute therefor the expression "to a registered trade union".
(8)	Delete the words "into the account designated in the notice issued by the minister" and substitute therefor the expression "to a trade union".
(9)(i)	Delete.
s.76	Delete the word 'seven' and substituting therefor the expression 'twenty-one' under paragraph (c).
	Inserting the following proviso—
	Provided that the Notice issued under this section is supported by a two third majority members of the union.
s.78(1)(f)	Delete.
s.81	Delete.
New	Insert the following new Part immediately after Part X—

PART XA-PROTECTION OF ESSENTIAL SERVICES, LIFE AND PROPERTY

Limitation of right to strike and lock-out.

81. The right to go on strike under Article 41(2) (d) of the Constitution shall be limited as set out in this Part for the purpose of ensuring the continuation of essential services for the preservation of the life and health of the population and of property.

Interpretation of Part.

81A. (1). In this Part—

"break" means, in relation to an employee's contract of service, commit any act or make any omission which amounts to a breach of the contract of service under which he is employed;

"contract of service" means any contract whether entered into orally or in writing, whether expressed or implied, to employ or to serve as an employee for any period of time, and whether it is a contract of service or apprenticeship or learnership, or a contract personally to execute any work or labour;

"essential service" means any of the services specified in the Fourth Schedule, the interruption of which would probably endanger the life of a person or health of the population or any part of the population, or property.

(2) The Minister, after consultation with the Board—

(a) may from time to time, by Order in the Gazette amend the Fourth Schedule; and

(b) may declare any other service an "essential service" for the purpose of this section if a strike or lock-out is so prolonged as to endanger the life or health of a person or property.

(3) Any trade dispute in a service that is listed as or is declared to be an essential service may be adjudicated upon by the Industrial Court.

Collective Bargaining agreement for essential services.

81B. (1) A collective bargaining agreement for employees involved in the provision of essential services shall in addition to the requirements of section 57, contain a dispute resolution mechanism and such other matters as the Minister may prescribe, and shall be accompanied by a minimum service agreement in a format to be prescribed by the Minister.

(2) A minimum services agreement under subsection (1) shall indicate—

(a) the minimum number of employees required to continue working during a strike, either expressed as a number or a percentage of the current workforce;

(b) the type of services which must be continued during strike action, which shall be expressed by job function and not by individual employees;

(c) the minimum service levels associated with various functions and duties to be performed during strike action;

(d) the manner in which the essential services shall be provided during the strike;

(e) the process of responding to emergencies during the strike or lock-out; and

(f) a waiver of the right of the employer to engage replacement labour to provide services in excess of the minimum services.

Reporting of trade dispute to Minister.

81C. (1) A trade dispute in an essential service shall be reported by the concerned trade union or by the employer to the Minister by notice in writing indicating—

(a) the nature of the dispute, and

(b) seeking the intervention of the Minister in resolving the dispute.

(2) Where a period of twenty-one days elapses before the resolution of the trade dispute reported under subsection (1), the trade union or employer, as the case may be, shall serve the Minister a seven-day strike or lock-out notice which shall be accompanied by a minimum service agreement in accordance with section 81B.

Breach of employee's contract not unlawful in certain circumstances.

81D. An employee in an essential service shall not be deemed to have committed an offence if such employee breaks his contract of service after the

expiration of the period ot twenty-one days and seven days respectively as provided under section 81C.

Penalty for breach of contract of service.

81E (1) Any person who—

(a) procures or counsels any employee, whether an employee in an essential service or not, to break his contract of service, or

(b) being an employee, whether in an essential service or not, breaks his contract of service,

knowing or having reasonable cause to believe that the probable consequences of his so doing, either alone or in combination with others, are to endanger human life or public health, or to cause serious bodily injury to any person, or to expose valuable property to the risk of destruction, loss or serious injury, commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding three months.

	Fourth Schedule.	Delete and substitute therefor the following new Schedule –

FOURTH SCHEDULE

(section 81A(2)(a))

ESSENTIAL SERVICES

1. Water services.
2. Electricity services.
3. Health care services.
4. Hospital services.
5. Sanitary services.
6. Air navigational services.
7. Meteorological services.
8. Fire services.
9. Supply and distribution of fuel, petrol, oil, power and lighting services;
10. Telecommunications services;
11. Marine and port navigational services.

The Anti-Counterfeit Act, 2008, (No. 13 of 2008)	Long title.	Delete the word "agency and substitute therefor the word "Authority".
	s.2	Delete the definition of the term "Agency" and substitute therefor the following definition—

"Authority" means the Anti-Counterfeit Authority established under section 3.

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

Insert the following definitions in proper alphabetical order—

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

"counterfeit mark" means a spurious mark—

(a) that is used in connection with any goods, labels, patches, stickers, wrappers, budges, emblems, medallions, charms, boxes, containers, cans, handtags, documentation or packaging of any type or nature;

(b) that is identical with, or substantially indistinguishable from, a mark registered in the trade mark register and in use, whether or not a person knows such a mark was registered;

(c) that is applied to or used in connection with the goods for which the mark is registered, or is applied to or consists of a label, patch, sticker, wrapper, badges, emblems, medallion, charms, boxes, containers, cans, handtags, documentation or packaging of any type or nature, that is designed, marked or otherwise intended to be used on or in connection with the goods for which the mark is registered; and

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

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

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

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

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

s.4 Delete the word "Agency" and substitute therefor the word "Authority".

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

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

Insert the following paragraphs immediately paragraph (d)—

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

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

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

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

s.7(a)	Delete the word "Agency" and substitute therefor the word "Authority".
(b)	Delete the word "Agency" and substitute therefor the word "Authority".
(c)	Delete the word "Agency" and substitute therefor the word "Authority".
(d)	Delete the word "Agency" and substitute therefor the word "Authority".
(e)	Delete the word "Agency" and substitute therefor the word "Authority".
(f)	Delete the word "Agency" and substitute therefor the word "Authority".
(g)	Delete the word "Agency" and substitute therefor the word "Authority".
s.10(1)	Delete the word "Agency" and substitute therefor the word "Authority".
(2)(c)	Delete the word "Agency" and substitute therefor the word "Authority".
s.11	Delete the word "Agency" appearing in the marginal note and substitute therefor the word "Authority".
	Delete the word "Agency" and substitute therefor the word "Authority".
s.12(1)	Delete the word "Agency" and substitute therefor the word "Authority".
(2)	Delete the word "Agency" and substitute therefor the word "Authority".

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

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

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

s.15 Delete the word "Agency" and substitute therefor the word "Authority".

s.16(2) Delete the word "Agency" and substitute therefor the word "Authority".

Insert the following subsections immediately after subsection (3)—

(3A) Notwithstanding the provisions of any other written law for the time being in force, no claim under this Act shall be brought against the Authority for any alleged damage to or loss of any goods after the expiry of a period of twelve months from the date of the seizure, removal or detention of the goods, as the case may be.

(3B) The provisions of Part IV of the Government Proceedings Act shall apply mutatis mutandis to the Agency in relation to any execution of any judgment, decree or order against the Authority issued by any Court or tribunal or any other competent authority.

s.17 Delete the word "Agency" appearing in the marginal note and substitute therefor the word "Authority".

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

(a)	Delete the word "Agency" and substitute therefor the word "Authority".
(b)	Delete the word "Agency" and substitute therefor the word "Authority".
(c)	Delete the word "Agency" and substitute therefor the word "Authority".
(d)	Delete the word "Agency" and substitute therefor the word "Authority".
(e)	Delete the word "Agency" and substitute therefor the word "Authority".
s.18	Delete the word "Agency" and substitute therefor the word "Authority".
s.19(1)	Delete the word "Agency" and substitute therefor the word "Authority".
(2)	Delete the word "Agency" appearing in the opening words and substitute therefor the word "Authority".
(a)	Delete the word "Agency" and substitute therefor the word "Authority".
(b)	Delete the word "Agency" and substitute therefor the word "Authority".
(c)	Delete the word "Agency" and substitute therefor the word "Authority".
(d)	Delete the word "Agency" and substitute therefor the word "Authority".
(4)	Delete the word "Agency" and substitute therefor the word "Authority".

s.20(1) Delete the word "Agency" and substitute therefor the word "Authority".

(2) Delete the word "Agency" appearing in the opening statement and substitute therefor the word "Authority".

(a) Delete the word "Agency" and substitute therefor the word "Authority".

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

(3) Delete the word "Agency" and substitute therefor the word "Authority".

s.21(1) Delete the word "Agency" and substitute therefor the word "Authority".

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

s.23 Insert the following subsections immediately after subsection (3)—

(4) An inspector shall have the power to investigate any offence related or connected to counterfeiting notwithstanding that such an offence is not expressed as such under the provisions of this Act.

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

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

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

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

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

(b) is also satisfied either—

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

(ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the premises are unoccupied, or that the occupier is temporarily absent and it might defeat the object of the entry to await his return,

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

(7) An inspector entering any premises by virtue of this section may take with him such other persons and such equipment as may appear to him to be necessary; and on leaving any

premises which he has so entered by virtue of a warrant he shall, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured against trespassers as he found them.

s.26 Insert the following subsection immediately after subsection (8)—

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

s.32 Insert the following paragraphs immediately after paragraph (g)—

(h) have in his possession or control in the course of trade any labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, handtags, documentations, or packaging of any type or nature, with a counterfeit mark applied thereto, the use of which is likely to cause confusion, to cause mistake, or to deceive;

(i) aids or abets or conspires in the commission of any offence under this Act;

(j) import into Kenya, any goods or items bearing a trade mark, trade name or copyright that

has not been recorded with the Agency;

(k) import into Kenya, in the course of trade, any goods or items except raw materials that is unbranded;

(l) fail to declare the quantity or the intellectual property right subsisting in any goods being imported into the Kenya;

(m) falsely declare the quantity or the intellectual property rights subsisting in any goods being imported into Kenya; or

(n) import into or transit through Kenya any labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, handtags, documentations, or packaging of any type or nature, with a counterfeit mark applied thereto, the use of which is likely to cause confusion, to cause mistake, or to deceive.

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

Insert the following subsection immediately after subsection (5)—

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

appropriate steps to be taken in accordance with the provisions of this Act.

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

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

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

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

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

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

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

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

(7) Insert the words "or Executive Director" immediately after the word "Commissioner".

(9) Insert the words "or the Authority" immediately after the word "Act".

New. Insert the following new section immediately after section 34A—

Trademarks.

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

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

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

(a) the name, complete business address, and citizenship of the trademark owner or owners (if a partnership, the citizenship of each partner; if an association or corporation the State, country, or other political jurisdiction within which it was organized, incorporated, or created);

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

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

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

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

(4) The application shall be accompanied by—

(a) a status copy of the certificate of registration certified by the registering authority showing title to be presently in the name of the Applicant;

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

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

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

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

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

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

(a) complying with subsection (4) hereinabove;

(b) describing any time limit on the rights of ownership transferred;

(c) submitting a status copy of the certificate of registration certified by the registering authority showing title to be presently in the name of the new owner; and

(d) paying a fee as prescribed in the Second Schedule to the Act.

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

(a) a status copy of the certificate of registration certified by the registering authority showing title to be presently in the name as changed; and

(b) a fee as prescribed in the Second Schedule to the Act.

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

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

(a) a status copy of the certificate of

registration certified by the registering authority showing the title to be in the name of the applicant; and

(b) a statement describing any change of ownership or in the name of the owner and any change of addresses of the owners and places of manufacture;

(c) a fee as prescribed in the second schedule to the Act.

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

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

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

	s.35	Insert the following subsection immediately after sub-section (4)—
		(5) Where a Court has concluded the hearing of a matter in any criminal proceedings whether the suspect is convicted or acquitted and the goods in the opinion of Court are counterfeit and it appears that the suspect has benefited or obtained some monetary advantage from dealing in counterfeit goods the subject matter of the criminal proceedings, the Court shall on application of the prosecutor order the suspect to forfeit that benefit or monetary advantage to the Agency within a period of three months and in default the Agency may trace and recover that benefit or advantage from the suspect.
	s.36	Delete the word "Agency" wherever it appears and substitute therefor the word "Authority".
The Biosafety Act, 2009 (No. 2 of 2009)	s.6(1).	Delete and substitute therefor the following subsection—
		(1) The Authority shall be managed by a Board comprising of nine members as follows—
		(a) a Chairperson who shall be an eminent scientist, appointed by the Cabinet Secretary;
		(b) the Principal Secretary in the Ministry for the time being responsible for Science and Technology;
		(c) the Principal Secretary in the Ministry for the time being responsible for finance;
		(d) the Principal Secretary in the Ministry for the time being responsible for agriculture;

(e) three experts in the biological, environmental and social sciences respectively, appointed by the Cabinet Secretary;

(f) one member with financial expertise , appointed by the Cabinet Secretary; and

(g) the Chief Executive Officer who shall be an ex-officio member.

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

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

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

Staff of the Authority.

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

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

s.2 Delete paragraph (e) of the definition of the expression "designated non-financial businesses or professionals" and substitute therefor the following new paragraph—

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

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

(fa) advocates, notaries and other legal professionals who are sole practitioners partners, or employees within professional firms;

(fb) trust and company service providers.

s.48 Delete and substitute therefor the following new section—

Application of reporting obligations.

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

(a) advocates, notaries, other independent legal professionals and accountants when preparing or carrying out transactions for their clients in the following situations—

(i) buying and selling of real estate;

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

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

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

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

(b) a trust or company service provider not otherwise covered elsewhere in this Act, which as a business, provides any of the following services to third parties—

(i) acting as a formation agent of legal persons;

(ii) acting as, or arranging for another person to act as, a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;

(iii) providing a registered office, business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal

person or arrangement;

(iv) acting as, or arranging for another person to act as, trustee of an express trust;

(v) acting as or arranging for another person to act as, a nominee shareholder for another person.

The National Youth Council Act, 2009 (No. 10 of 2009).	s.2	Delete the definition of the word "Minister" and substitute therefor the following new definition—
		"Minister" means the Cabinet Secretary for the time being responsible for youth affairs.
		Delete the definition of the word "youth" and substitute therefor the following new definition—
		"youth" means the collectivity of all individuals in Kenya who have attained the age of eighteen years but have not attained the age of thirty-five years.
	s.4	Delete paragraph (o) and substitute therefor the following new paragraph—
		(o) promote and popularize programmes, initiatives and development of affirmative action funds targeting the youth.
	s.5(1)	Delete and substitute therefor the following new subsection—
		(1) The Council shall consist of—

(a) a chairperson appointed by the President from among the persons appointed under paragraph (g);

(b) the Principal Secretary in the Ministry for the time being responsible for youth affairs or a representative designated in writing;

(c) the Principal Secretary in the Ministry for the time being responsible for finance or a representative designated in writing;

(d) the Principal Secretary in the Ministry for the time being responsible for education or a representative designated in writing;

(e) the Principal Secretary in the Ministry for the time being responsible for the Interior and Co-ordination of National Government or a representative designated in writing;

(f) the Attorney-General or a representative designated in writing;

(g) ten youths to represent the Nairobi, Central, Nyanza, Western, South Rift, North Rift, Upper Eastern, Lower Eastern, North-Eastern and Coast regions nominated in accordance with subsection (1A); and

(h) the Secretary appointed under section 10.

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

(1A) The persons referred to in subsection (1) (g) shall be nominated through a competitive process by a panel convened by the Director responsible for the youth affairs in the counties comprising the respective regions and appointed by the Minster.

(1B) The panel referred to in subsection (1A) shall consist of two representatives each from—

(a) the office of the county youth director; and

(b) organisations serving the youth in the respective regions.

s.5(3) Delete the expression "(a), (g) and (h)" and substitute therefor the expression "(a) and (g)".

Delete paragraph (1) (f).

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

(1A) The Council may establish such branches as it may deem necessary for the effective and proper discharge of its functions under this Act to ensure access to its services in all parts of the country in accordance with Article 6(3) of the Constitution.

s.9 Delete the words "on the recommendation of the Council" and substitute therefor the words "on the recommendation of the Salaries and Remuneration Commission".

10(2) Delete and substitute therefor the following new subsection—

(2) The Secretary shall be a person who is a youth at the time of appointment and shall hold office for a

		period not exceeding five years on such terms and conditions as the Council may determine.
	s.23	Delete.
	First Schedule Paragraph 1(1).	Insert the words "or until attaining the age of thirty-five years, whichever is earlier" immediately after the expression "three years".
The Alcoholic Drinks Control Act (No. 4 of 2010).	s.2	Delete the definition of the word "magistrate" and substitute therefor the following new definition— "magistrate" shall have the meaning assigned to it under the Magistrate Courts Act, 2015.
The Competition Act, 2010 (No. 12 of 2010).	s.10(1)(a)	Delete and substitute therefor the following new paragraph— "(a) a chairperson appointed by the President."
The Judicial Service Act, 2011 (No. 1 of 2011).	s.15(1)(b)	Delete the word "seven" and substitute therefor the word "fourteen".
	s.15(2)	Delete the expression "within three days of receipt of the names" and substitute therefor the expression "within three days after approval by the National Assembly as contemplated under Article 250(2)(b) of the Constitution".
The Tourism Act, 2011 (No. 28 of 2011)	s.7(1)(a)	Delete the word "sustainable". Insert the words "establishments and operations" immediately after the word "tourism".
	(b)	Delete.
	(g)	Delete.
	(h)	Delete.
	s.31(a)	Delete and substitute therefor the following new paragraph—

		(a) implement and coordinate a national tourism marketing strategy developed in conjunction with the Ministry.
	s.42(b)	Delete the words "Develop and". Insert the words "developed in conjunction with the Ministry immediately after the word "strategy".
The Independent Police Oversight Authority Act, 2011 (No. 35 of 2011).	s. 11(1)	Delete the words "within fourteen days after the commencement of this Act" and substitute therefor the words "at least three months before the lapse of the term of the chairperson or member of the Authority, or within fourteen days of the occurrence of a vacancy in the office of the chairperson or member of the Authority under this Act".
	s. 12	Delete and substitute therefor the following new section—
	Filling of vacancy.	**12.** (1) Whenever there is a vacancy in the Board, the procedure set out under section 11 shall apply. (2) The process of replacement of a chairperson or a member of the Authority shall commence at least three months before the lapse of the term of the chairperson or member of the Authority.
The National Construction Authority Act, 2011 (No. 41 of 2011).	s.18(5)	Delete the expression "section 14 and 16" and substitute therefor the expression "section 16".
	s.30(c)	Delete the expression "section 29" and substitute therefor the expression "section 31".

	s.27(3)	Insert the words "under section 26(4)" at the end thereof.
	s.30	Delete the expression "Section 29" appearing in paragraph (a) and substitute therefor the expression "Section 31".
	s.42(2)	Delete the expression "section 29" appearing in paragraph (a) and substitute therefor the expression "section 31".
The Engineers Act 2011 (No. 43 of 2011).	s.23(6)	Delete the full stop at the end thereof and add the words "and may approve the extension of the renewal of such registration for the purpose of completing the works referred to in subsection (4)".
The Land Act, 2012 (No. 6 of 2012).	s.2	Delete the definition of the term "Court" and substitute therefor the following definition— "Court" means the High Court established by Article 165 of the Constitution and the Environment and Land Court established under the Environment and Land Court Act, 2011.
	s.23	Insert the following new subsection immediately after subsection (2)— (3) A lease or licence for private land within the meaning of Article 64(b) of the Constitution shall be issued by the Cabinet Secretary and registered by the Chief Land Registrar.
	s.28	Delete.
	s.29	Delete.
	s.30	Delete.
The Land Registration Act, 2012, (No. 3 of 2012).	s.2	Insert the words "the High Court established by Article 165 of the Constitution" immediately before the expression "the Environment and Land

		Court" appearing in the definition of the term "Court".
The National Authority for the Campaign Against Alcohol and Drug Abuse, 2012 (No. 14 of 2012).	s.6(1)(a)	Delete the expression "with the approval of the National Assembly".
The Kenya Defence Forces Act, 2012 (No. 25 of 2012).	s.61(2)	Insert the words "or any other lesser punishment provided for in this Act" at the end of paragraph (a).
	s.133(1)	Insert the words "on any other lesser punishment provided for in this Act" immediately after the word "death appearing in paragraph (a).
	s.245(11)	Insert the words "or arrangements" immediately after the word "agreements".
	s.249(5)(a)	Delete and substitute therefor the following paragraph— (a) take oath and declare allegiance to the President as the Commander-in-Chief of the Kenya Defence Forces, the Republic of Kenya and the Constitution.
	s.252	Renumber the existing provision as subsection (1) and insert the following new subsection— (2) A person who enlists into the Defence Forces as a service member or a member of the constabulary shall make and subscribe to the oath of allegiance set out in the Fourth Schedule.
	s.304(1)	Insert the following new paragraph immediately after paragraph (a)— (aa) the establishment of a pensions assessment board and a

		pensions appeals board, including their composition and functions.
	Fourth Schedule.	Delete subparagraph (i) and substitute therefor the following paragraph— (i) I will be faithful and bear true allegiance to the President as the Commander-in-Chief of the Kenya Defence Forces, the Republic of Kenya and the Constitution.
The Kenya School of Law Act, 2012 (No. 26 of 2012).	s.4(2)	Delete and substitute therefor the following new subsection— (2) Without prejudice to the generality of subsection (1), the object of the School shall be to— (a) ensure the continuity of professional development for all cadres of the legal profession; (b) provide para-legal training; (c) provide other specialised training in the legal sector; (d) develop curricula, training manuals, conduct examinations and confer academic awards; and (e) undertake research projects and provide consultancy services.
	s.16	Delete.
	Second Schedule.	Delete paragraphs (a) and (b).
The Legal Education Act, 2012 (No. 27 of 2012).	s.8(1)	Insert the following new paragraph immediately after paragraph (f)— (g) administer the pre-Bar Examination for entry into the Advocates Training Programme.

	s.8(2)	Insert the following new paragraph immediately after paragraph (a)— (aa) accreditation of legal education providers for the purpose of licensing of the Advocates Training Programme.
	s.8(3)	Insert the word "all" immediately before the word "legal" appearing in paragraph (a).
The National Transport and Safety Authority Act, 2012 (No. 33 of 2012).	s.2	Delete the definition of the word "Cabinet Secretary" and substitute therefor the following new definition— "Cabinet Secretary" means the Cabinet Secretary for the time being responsible for the Authority.
	s.3(2)	Delete.
	s.5	Delete.
	s.15(1)	Delete the word "Board" and substitute therefor the word "Cabinet Secretary".
	(3)	Delete the word "Board" and substitute therefor the word "Cabinet Secretary".
The Universities Act, 2012, (No. 42 of 2012).	s.35(1)(a)(v).	Delete and substitute therefor the following new subparagraph— (v) in the case of public universities, appoint Vice Chancellor, Deputy Vice Chancellors and Principals and Deputy Principals of Constituent Colleges, in consultation with the Cabinet Secretary, after a competitive process conducted by the Public Service Commission.
	s.39(1)(a).	Delete and substitute therefor the following new paragraph— (a) In the case of a public university, by the Council, in consultation with the Cabinet

Secretary, after a competitive process conducted by the Public Service Commission.

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

(3) The Vice-Chancellor of a public university shall hold office for one term of five years.

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

SECOND SCHEDULE

(Section 38(1))

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

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

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

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

The Treaty Making and Ratification Act, 2012. (No. 45 of 2012) s.3(3) Delete and substitute therefor the following new subsection—

(3) A treaty relating to the adjustment, alteration or variation of the present position of Kenya on

		matters of sovereignty, independence and territorial integrity shall be approved in a referendum in accordance with Article255 of the Constitution: Provided that the process of ensuring that the boundaries are correctly marked on the ground in accordance with the instruments establishing them shall not be deemed to amount to adjustment, variation or alteration under this section.
	New	Insert the following new section immediately after section 8—
		Consideration by the Senate. 8A. The provisions of section 8 shall apply with necessary modifications to the consideration of a treaty by the Senate.
The Office of the Director of Public Prosecutions Act, 2013 (No. 2 of 2013).	s.2(1)	In the definition of "investigative Agency", delete the expression "Ethics and Anti-Corruption Commission".
The Kenya Institute of Curriculum Development Act, 2013 (No. 4 of 2013).	s.5(2)	Delete and substitute therefor the following new subsection— "(2) The Council shall consist of— (a) a chairperson who shall be appointed by the President; (b) the Principal Secretary in the ministry responsible for matters relating to education and training or a representative designated by the Principal Secretary; (c) the Principal Secretary

responsible for Treasury or a representative designated by the Principal Secretary;

(d) one person to represent the Kenya National Examinations Council;

(e) one person to represent the Teachers Service Commission;

(f) the following members appointed by the Cabinet Secretary—

(i) one person to represent public universities;

(ii) one person from the private sector;

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

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

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

(3) Delete.

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

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

(2) Delete.

s.8 Delete.

First Schedule Delete.

The Kenya Agricultural and Livestock Research Act, 2013 (No.17 of 2013).	Second Schedule.	Delete paragraph (f).
	Third Schedule	Delete paragraph (i).
	Fourth Schedule	Delete paragraph (d).
The Kenya Law Reform Commission Act (No.19 of 2013).	s.6(1)(a)	Delete subparagraph (v) and substitute therefor the new subparagraph— (v) that the public is informed of review or proposed reviews of any laws; Delete subparagraph (vi) and substitute therefor the following new subparagraph— (vi)that it keeps an updated database of all laws passed by Parliament and all laws under review.
	s.8(4)	Delete and substitute therefor the following new subsection— (4) The members referred to in paragraphs (1)(b) and (c) shall be officers from the Office of the Attorney-General or the respective State Department, as the case may be, and a representative from the Law Society of Kenya.
	s.11(5)	Delete the expression "(3) (g)" and substitute therefor the expression" (4) (g)."
	s.11(8)	Delete.

	s.12(3)	Delete and substitute therefor the following new subsection— (3) The Chairperson and the Members appointed under subsection 8(1) (b) shall serve on a full-time basis while the Members appointed under subsections 8(1) (c), (d), (e), (f) and (g) shall serve on a part-time basis.
	Second Schedule Paragraph 5.	Delete the word "three" and substitute therefor the word "five".
The Nairobi Centre for International Arbitration Act, 2013 (No. 26 of 2013).	s.6(1)	Delete the word "justice" appearing in paragraph (c) and substitute therefor the word "finance". Delete the word "five" appearing in paragraph (e) and substitute therefor the word "three" Delete paragraph (f) and substitute therefor the following new paragraph— (f) one person each nominated by the following bodies respectively— (i) the Kenya National Chamber of Commerce and Industry; (ii) the Law Society of Kenya; (iii) the Kenya Association of manufacturers, and
	s.9(1)	Delete the word "Board" and substitute therefor the word "Centre".
	(3)	Delete and substitute therefor the following new subsection— (3) The Registrar shall be the chief executive officer of the Centre and responsible for the day-to-day management of the Centre and shall be the Secretary to the Board.

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

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

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

(b) a Deputy President.

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

(4) Insert at the end thereof the words "and shall serve on a part-time basis".

(5) Delete the words "his deputies" and substitute therefor the words "his deputy".

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

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

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

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

s.23 Delete.

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

Alternative Dispute Resolution.

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

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

Rules.

25. The Board may make rules for—

(a) the dispute resolution techniques and processes to be administered by the Court;

(b) the matters reserved for the Court in the Act or any other law;

(c) the general procedure of the Court; and

(d) any other matter to give effect to this Act.

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

(3) The chairperson shall hold office for the period of his appointment as a member of the Board or for the term specified in the instrument of appointment as such, and shall be eligible for reappointment for one further term.

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

SECOND SCHEDULE
(s.21(6))

CONDUCT OF THE AFFAIRS OF THE ARBITRAL COURT

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

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

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

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

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

The Science, Technology and Innovation Act, 2013 (No. 28 of 2013).	s.5(1)	Delete and substitute therefor the following new subsection—

"(1) The Commission shall be governed by a Board which shall consist of—

(a) a chairperson, who shall be an eminent scientist in any of the scheduled sciences set out in the Second Schedule, appointed by the President;

(b) the Principal Secretary in the Ministry for the time being responsible for research, science and technology, or his or her designated representative;

(c) the Principal Secretary in the Ministry for the time being responsible for finance, or his or her designated representative;

(d) the Director of the Kenya National Innovation Agency established under section 28;

(e) the Director of the National Research Fund established under section 32;

(f) three persons, appointed by the Cabinet Secretary virtue of their knowledge and experience in science, technology and innovation;

(g) one person nominated by the body currently recognised as representing the private section, and appointed by the Cabinet Secretary;

(h) the Director-General, who shall be an ex officio member and the Secretary to the Board."

s.8(1) Delete and substitute therefor the following new subsection—

(1) There shall be a Director-General to the Commission who shall be appointed by the Board in consultation with the Cabinet Secretary after a competitive recruitment process.

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

(4) The Director General shall hold office for a period of four years, which period may be renewed once after satisfactory performance, as evaluated by the Commission.

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

(5) The Commission may employ a Corporation Secretary and such other officers and staff as may be necessary

		for the performance of the functions of the Commission.
The National Social Security Fund Act, 2013 (No. 45 of 2013).	s.6(a)	Delete the expression "Cabinet Secretary from amongst the Trustees appointed under paragraph (d) (iii)" and substitute therefor the word "President".
	(d)	Delete and substitute therefor the following new paragraph— (d) five persons, not being public officers nor employees or directors of any public company, appointed by the Cabinet Secretary by virtue of their knowledge and experience in matters relating to administration of scheme funds, actuarial science, insurance, accounting and auditing, law or such other expertise as the appointing authority may consider relevant.
	New	Renumber the existing provision as subsection (1) and insert the following new subsection— (2) In making appointments of the members to the Board under subsection (1) (d), the Cabinet Secretary shall observe regional and gender balance.
	s.9	Inserting the expression "Subject to section 7(3) of the State Corporations Act," at the beginning of the section.
	s.11(2)	Delete and substitute therefor the following new subsection— (2) The quorum for the conduct of business at a meeting of the Board shall be two-thirds of the total number of members of the Board.

The Wildlife Conservation and Management Act (No. 47 of 2013).	s.3.	Delete the definition of the words "dealer" and "trophy" and substitute therefor the following new definitions—

"deal" means—

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

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

(c) to transport or convey a trophy or live species;

(d) to be in possession of any trophy or live species with intent to supply to another; or

(e) to do or offer to do any act preparatory to, in furtherance of, or for the purpose of, an act specified above; and

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

Insert the following new definition in proper alphabetical sequence—

"subsistence hunting" means hunting for the purposes of daily consumption by an individual and/ or his direct dependents.

s.6(1) Insert the words "a uniformed and disciplined" immediately after the words "established a".

s.7(e). Insert the word "levies" immediately after the word "revenue".

s.8(2)(f). Delete and substitute therefor the following new paragraph—

"(f) four other persons with both local and international technical experience in either fundraising, law, wildlife, finance, business or investment matters appointed by the Cabinet Secretary."

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

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

(a) is a citizen of Kenya;

(b) satisfies the requirements of Chapter Six of the Constitution;

(c) possess a degree in natural resources management, finance, business, or strategic management from a university recognized in Kenya; and

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

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

Community Wildlife Conservation Committees.

18. (1) There shall be eight Community Wildlife Conservation Committees whose jurisdiction shall be defined by the eight administrative Conservation

Areas currently established by the Service consisting of—

(a) a chairperson appointed by the Cabinet Secretary being a regional Commissioner from the Conservation Area;

(b) the Assistant Director appointed by the Service in charge of the respective Administrative Conservation Area who shall be the Secretary;

(c) an agricultural officer based in the respective Administrative Conservation Area;

(d) a medical officer based in the respective Administrative conservation Area;

(e) a livestock officer based in the respective Conservation Area nominated by Conservation Area Director of the service; and

(f) four persons being gazetted honorary wardens and members of the

communities located within the respective administrative conservation area.

(2) The Community Wildlife Conservation Committees may hold a maximum of four meetings every financial year; and any additional meetings shall only be held with the prior consent of the Cabinet Secretary.

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

Functions on Community Wildlife Committees.

19. The Cabinet Secretary shall publish in the Gazette the functions and guidelines of the Community Wildlife Conservation Committees.

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

The Wildlife Endowment Fund.

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

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

(a) a Chairperson being appointed the Cabinet Secretary;

(b) the Principal Secretary in the State Department for the time being responsible for matters relating to wildlife who shall be the Chairperson;

(c) the Principal Secretary in the State Department for the time being responsible for matters relating to finance;

(d) the Director General of the Service who shall be the Secretary;

(e) four representatives from the private sector, who shall have technical experience in either philanthropy, law, natural resources, finance, business and investment matters; and

(f) a representative from the office of the Attorney-General.

(3) There shall be paid into the Wildlife Conservation Trust Fund—

(a) moneys appropriated by Parliament;

(b) a proportion of such moneys as may be levied for payment of environmental

services by beneficiaries in productive and service sectors, and for biodiversity offset schemes that compensate for conservation impacts as a contribution towards the Wildlife Conservation Trust Fund as the Cabinet Secretary may, upon the recommendation of the governing board, determine;

(c) moneys for payment of environmental services and biodiversity offset schemes in which entities make payments directly to the Wildlife Conservation Trust Fund;

(d) moneys from debt-for-nature transactions;

(e) income from investments made by the governing board;

(f) such grants, donations, bequests or other gifts as may be made to the Fund.

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

(a) develop wildlife conservation initiatives;

(b) manage and restore protected areas and conservancies;

(c) protect endangered species, habitats and ecosystems;

(d) support wildlife security operations;

(e) facilitate community based wildlife initiatives;

(f) award wildlife conservation grants based on criteria to be established by the governing board; and

(g) such other purposes as may be provided by the governing board.

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

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

Offences relating to endangered and threatened species.

92. (1) A person who kills or injures, tortures or molests, or attempts to kill or injure, a critically endangered, or endangered species as specified in the Sixth Schedule or listed under CITES Appendix 1

commits an offence and shall be liable upon conviction to a term of imprisonment of not less than three years.

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

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

(4) Any person without permit or exemption issued under this Act is in possession of any live wildlife species or trophy of any critically endangered or endangered species as specified in the Sixth Schedule or listed under CITES Appendix 1, commits an offence and shall be liable upon conviction to a fine of not less than three million

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

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

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

Offences relating to trophies and trophy dealing.

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

(a) kills or injures, tortures or molests, or attempts to kill or injure, any wildlife species;

(b) deals in a wildlife trophy;

(c) deals in a live wildlife species;

(d) is in possession of a wildlife trophy or live wildlife species; or

(e) manufactures an item from a wildlife trophy,

commits an offence and shall be liable on conviction to a fine of not less than one million shillings or a term of imprisonment of not less than twelve months or to both such fine and imprisonment.

New Insert the following new section immediately after Section 95—

Poisoning of wildlife.

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

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

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

Offences relating to hunting for bush-meat trade.

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

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

(3) Any person who contravenes the subsection(1) commits an offence and is liable on conviction to a fine of up to one million shillings or a term of imprisonment of twelve months or to both such fine and imprisonment.

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

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

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

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

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

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

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

s.102(1). Insert the words "without a licence or permit of the Service in respect of any national park, national reserve, wildlife sanctuary or marine reserve, or, without authorization from the authority responsible for any other protected area as the case may be" immediately after the word "who".

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

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

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

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

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

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

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

"(5) A person convicted of an offence under this section shall, in the absence of any penalty prescribed under any other provision of this Act,

be liable on conviction, to a fine not exceeding ten million shillings or imprisonment for a term not exceeding five years or to both."

New

Insert the following new section immediately after section 116—

Protection of assets of the Service from execution, attachment etc.

116A. Notwithstanding anything to the contrary in any law—

(a) where any judgment or order has been obtained against the Service, no execution or attachment, or process in the nature thereof, shall be issued against the immovable property of the Service or any of its vehicles, vessels, aircraft or its other operating equipment, machinery, fixtures or fittings:

provided that the Director General shall cause to be paid out of the revenue of the Service such amount as may, by the judgment or order, be awarded against the Service to the person entitled thereto; and

(b) no immovable property of the Service or any of its vehicles, vessels, aircrafts or its other operating equipment, machinery, fixtures

		or fittings, shall be seized or taken by any person having by law, power to attach or distrain property without the previous written permission of the Director General.
	Third schedule Part A	Delete the words "poisonous snake, shark, stone fish, whale, sting ray, wild pig".
	Third schedule Part B	Delete the words "Crop" and "property damage" under the heading of part B.
	Third schedule Part B	Delete the items "snake, zebra, wildebeest, wild dog and eland".
The Retirement Benefits (Deputy-President and Designated State Officers) Act, 2015 (No. 8 of 2015).	First Schedule	Insert the following new paragraph immediately after paragraph (k)— "(l) office and office equipment."
The Companies Act, 2015 (No. 17 of 2015).	s. 151(3)	Insert the words "external and independent" immediately after the words "certified by the company's".
	s. 258	Insert the following new subsections immediately after subsection (4)— "(5) If the number of votes for and against a proposal are equal, the Members shall refer to the Memorandum and Articles of Association or the Shareholders' Agreement. (6) Where neither the Memorandum and Articles of Association nor the Shareholders' Agreement have provisions relating to equality of votes, the person presiding

at the meeting shall have a casting vote."

New — Insert the following new section immediately after section 275—

Annual General Meeting.

275A. (1) Every company shall convene a general meeting once a year.

(2) Subsection (1) does not apply to a single-member company.

(3) The Registrar may, on the application of the company, or for any other reason the Registrar determines necessary, extend the period referred to in subsection (1) even if, as a result, the period is extended beyond the calendar year.

(4) A company that contravenes this section commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings.

s. 281(2) — Delete the word "general" appearing in paragraph (b).

s. 329(1) — Delete and substitute therefor the following new subsection—

(1) The directors of a company may exercise a power of the company to—

(a) allot shares in the company;

(b) grant rights to subscribe for or to convert any security into shares in the company,

only if they are authorised to do so by a resolution of the company.

s. 329(2) — Delete the words "and may be

unconditional or subject to conditions".

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

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

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

(b) following a period during which the company, being exempt from audit, did not have any auditor, at any time before the next general meeting at which the company's annual financial statement is to be presented; or

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

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

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

Delete paragraph (c).

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

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

(a) a Chairperson appointed by the President.

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

(d) four persons appointed by the Cabinet Secretary.

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

Appointment of staff.

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

(2) The Board may whenever it deems it necessary for the better performance of the functions of the Authority, request the Public Service Commission to second to the Authority such number of public officers as it may consider adequate for its purposes.

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

s.2 Delete the definition of "Cabinet Secretary" and substitute therefor the following new definition—

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

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

s.9(3) Delete the expression "(1) (e)" and substitute therefor the expression" (1) (g)".

(5) Delete the expression "(1) (e)" and substitute therefor the expression "(1) (g)".

s.34 Insert the following new subsection immediately after subsection (2)—

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

s.35(2) Delete the expression "Director-General" and substitute therefor the expression "Chief Conservator of Forests".

s.40 Insert the following new subsection immediately after subsection (4)—

(5) Any person who fells, cuts, damages or removes, trades in or exports or attempts to export any protected tree, species or family of trees or regeneration thereof, or abets the commission of such act, commits an offence.

s.50(1) Delete the expression "Director-General" and substitute therefor the expression "Chief Conservator of Forests."

s.57(1) Delete the expression "section 59" and substitute therefor the expression "section 56".

New. Insert the following new section immediately after section 63—

Applicant of public of prosecutors.

63A. The Director of Public Prosecutions may, pursuant to the Criminal Procedure Code, by notice in the Gazette, appoint a forest officer to be a public prosecutor for the purposes of this Act.

s.64(3) Delete the expression "Section 61" and substitute therefor the expression "section 60".

s.73(2) Delete the words "that other user, as the case may be".

	s.74	Delete the expression "Director-General" and substitute therefor the expression "Chief Conservator of Forests".
Bribery Act, 2016 (No. 47 of 2016).	s. 13(1)(c)	Insert the word "acquiring" immediately before the word "property".
	s.16	Delete the expressions "7" and "12" wherever they appear.
	s.27(2)	Delete the words "this Act" appearing immediately after the words "offence under" and substitute therefor "the Act referred to in subsection (1)".

MEMORANDUM OF OBJECTS AND REASONS

The Statute Law (Amendment) Bill, 2018 seeks to make various, wide-ranging amendments to various statutes.

The Bill contains proposed amendments to the following statutes—

The Judicature Act, (Cap. 8)

The Bill proposes to amend the Judicature Act to the include the Employment and Labour Relations Court and the Environment and Land Court in in the Act in line with Chapter 10 of the Constitution. It also seeks to include the High Court as a court dealing with matters related to land.

The Oaths and Statutory Declarations Act (Cap. 15)

The Bill proposes to amend the Oaths and Statutory Declarations Act to remove references to offices and terminologies which have been rendered obsolete.

The Advocates Act (Cap. 16)

The Bill proposes to amend the Advocates Act to include the reference to the Disciplinarily Tribunal following the change of nomenclature. It also seeks to amend section 46 to outlaw agreements whereby an advocate receives more than twenty-five percent of the general damages received for a suit handled by him.

The Bill also seeks to amend section 57 on membership of the Tribunal to allow the Attorney General to appoint a representative to the Tribunal. It also proposes a term of office of four years from the previous term of three years, and also introduces a new subsection which provides for the staggering of the appointment of members of the Tribunal for purposes of continuity.

The Bill also proposes to replace the expression "Attorney General" with the expression "Director of Public Prosecutions" to align with the functions of their offices.

It also seeks to amend the Act to prescribe the requirements for the drawing of documents by practicing advocates.

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

The Bill proposes to amend the Public Archives and Documentation Service Act to define "Minister" as the responsible Cabinet Secretary in keeping with the new terminology in the Constitution.

The Civil Procedure Act (Cap. 21)

The Bill proposes to amend the Civil Procedure Act to replace the term "district" with the term "county" in keeping with the Constitution of Kenya, 2010. It also seeks to repeal section 21 and 40 and to delete the words "other than a magistrate's court of third class" in section 65(1) (b) since a third-class magistrate's court no longer exists.

The Bill also seeks to male amendments to the Act with respect to the composition and functions of the Rules Committee.

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

The Bill proposes to amend the Foreign Judgement (Reciprocal Enforcement) Act to expand the definition of the expression "Superior Courts of Kenya" to incorporate all the Courts provided for in the Constitution.

The Probation of Offenders Act (Cap. 64)

The Bill proposes to amend the Probation of Offenders Act to introduce an interpretation provision for the terms applied in the Act. It also amends section 4 to introduce new sub-sections (5), (6) and (7) to require the presentation of a pre-sentence report by a probation officer before a Court makes a Probation Order. It also gives a probation officer authority to access records and other necessary information for the purpose of making a social inquiry report.

It also introduces new provisions to gives a court making a probation order discretion to extend the period of residence and discretion to make further orders providing the offender to attend non-residential programmes. It also amends section 8 to enhance the fine for failure to comply with probation Order twenty thousand shillings up from two hundred shillings.

The Criminal Procedure Code (Cap. 75)

The Bill proposes to amend the Criminal Procedure Code to replace empower the Inspector-General of Police to give directions as to the person to act as the officer in charge of a police station, replacing the Attorney-General.

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

The Bill proposes to amend the Extradition (Contiguous and Foreign Countries) Act to replace the expression "House of Representatives" appearing therein with the expression "National as that expression is obsolete.

The Registration of Persons Act (Cap. 107)

The Bill proposes to amend the Registration of Persons Act (Cap. 107) to establish the National Integrated Identity Management System. The Bill proposes to provide for the capture of biometric data and geographical data in the registrations of persons in Kenya.

The Public Holidays Act (Cap. 110)

The Bill proposes to amend the Public Holidays Act to replace the term "Kenyatta Day" with the term "Mashujaa day" and the term "Independence Day" with term "Jamhuri Day" in keeping with the Constitution of Kenya, 2010.

The Law of Succession Act (Cap. 160)

The Bill proposes to amend the Law of Succession Act to give the Court handling a succession dispute discretion to exclude persons who are not members of the court or parties to the case from any proceeding relating to administration of a deceased person's estate. It also seeks to give the court discretion to prohibit publication of any matter arising in case in respect of which an exclusion Order is made.

The National Youth Service Act (Cap. 208)

The Bill proposes to amend the National Youth Service Act to empower the service to undertake other activities incidental to the achievement of the functions in section 16(1), including commercial activities.

The Kenya Ports Authority Act (Cap. 391)

The Bill proposes to amend the Kenya Ports Authority Act to provide that arbitrators in disputes under the Act shall be appointed by the Registrar of the Nairobi Centre for International in place of the Chief Justice.

The Kenya Airports Authority Act (Cap 395)

The Bill proposes amend the Kenya Airports Authority Act to provide that arbitrators in disputes under the Act shall be appointed by the Registrar of the Nairobi Centre for International Arbitration.

The Traffic Act (Cap. 403)

The Bill proposes amend the Traffic Act to provide for the appointment of inspectors of motor vehicles and designation of authorised officers for purposes of the Act. It also seeks to amend section 8 to create an offence and prescribe penalty on issuance of insurance cover to a person who is not a registered owner of a motor vehicle.

It also seeks to amend section 39 so that driving tests are conducted by the National Transport and Safety Authority. It also amends section 57 to create an offence and prescribe penalty for driving a vehicle which

requires a permit prescribed under the Act or the East African Community Load Control Act, 2013 without such a permit.

It also seeks to amend section 85 to give power to the Cabinet Secretary to prescribe the limits of drinks or drugs for drivers of motor vehicles. It also seeks to create offences and prescribe penalties for encroachment and damage to roads.

It seeks to enhance penalties in section 94 and section 104 and to prescribe a general penalty in section 106(8).

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

The Bill proposes to amend the Kenya Post Office Savings Bank Act to provide that arbitrators in disputes under the Act shall be appointed by the Registrar of the Nairobi Centre for International Arbitration in place of the Minister.

The Export Processing Zones Act (Cap 517)

The Bill seeks to amend the Export Processing Zones Act to create a conducive environment for investors in the manufacturing sector and promoting value addition.

Kenya Revenue Authority Act, 1995 (No. 2 of 1995)

The Bill seeks to amend the Kenya Revenue Authority Act, 1995 to provide for the manner of appointment of the Commissioner-General, and provide for his or her functions and roles.

The Higher Education Loans Board Act, 1995 (No. 3 of 1995)

The Bill seeks to amend the Higher Education Loans Board Act, 1995 to make more provisions on the Board.

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

The Bill seeks to amend the Kenya Information and Communications Act, 1998 to provide for the mode of appointment of the chairperson of the Communications Authority.

The National Hospital Insurance Fund Act 1998 (No. 4 of 1998)

The Bill seeks to amend the National Hospital Insurance Fund Act, 1995 to enable the Fund to receive contributions from the National Government, the County Governments and employers for the administration of employee benefits; contributions from the post-retirement medical funds or employers in respect to retired employees; donations, gifts or grants; to receive an employer's contribution, matching the employee's contribution and to receive contributions from the National and County Governments of Kenya for persons certified by the board to be unable to pay the contributions from funds voted by parliament for that purpose.

The Bill seeks to provide for prudent investment of the Fund and to provide for administration expenditures in respect of any financial year not exceeding fifteen per cent of the total annual collected Funds.

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

The Bill proposes to amend the Community Service Orders Act, 1998, to introduce the terms "Cabinet Secretary" and "Principal Secretary". It seeks to amend section 3 of the Act to make it a requirement for an inquiry into the circumstances of a case to be carried out before a court makes a Community Service Order. It also sets out the benefit of a community Service Order to a convicted person and cases where such an order may be set aside.

The Environmental Management and Co-ordination Act, 1999 (No. 8 of 1999)

The Bill proposes to amend the Environmental Management and Co-ordination Act, 1999, to provide for the presentation of reports on environmental degradation to the Cabinet Secretary in place of the Council. It also seeks to amend section 129 to expand the categories of persons who may appeal to the National Environment Tribunal.

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

The Bill seeks to amend the Industrial Property Act to align the definitions in the Act with the Constitution.

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

The Bill seeks to amend the Children Act to make the Child Welfare Society of Kenya a national adoption society and to confer powers on the Cabinet Secretary in relation to charitable children institutions, and adoption societies and for the establishment of task committees and working groups.

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

The Bill proposes to amend the Copyright Act, 2001, to streamline the composition and number of members of the Kenya Copyright Board.

The Privatization Act, 2005 (No. 2 of 2005)

The Bill proposes to amend section 23 of the Privatization Act, 2005, to give power to the Cabinet Secretary to direct the Privatization Commission to implement a proposal for privatization once it is approved by Cabinet. It also requires the Cabinet Secretary to submit annual reports on implementation of approved proposals to the National Assembly.

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

The Bill proposes to amend the Witness Protection Act, 2006, to require that the Director be given an opportunity to defend himself where a petition seeking his dismissal has been presented to the Board. It also seeks to apply the legislative and regulatory provisions on auditing of security organs to the Agency.

It also seeks to replace the term "Minister" with the term "Cabinet Secretary" in keeping with the Constitution of Kenya, 2010 and to clarify the various responsibilities for different Cabinet Secretaries under the Act. It also seeks to allow members of the Board to designate representatives to represent them on the Board.

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

The Bill seeks to amend the Labour Institutions Act, 2007 to provide for the establishment of an Export Processing Zones Wages Council.

The Bill further seeks to amend the Act to make provisions relating to the Board.

The Labour Relations Act, 2007 (No. 14 of 2007)

The Bill seeks to amend the Labour Relations Act, 2007 to make provisions for the safeguarding of essential services during provisions of industrial action.

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

The Bill seeks to amend the Anti-Counterfeit Act, 2008 to make provisions relating to the Board.

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

The Bill seeks to amend the Biosafety Act, 2009 to make provisions relating to the Board.

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

The Bill proposes to amend the Proceeds of Crime and Anti Money Laundering Act, 2009, to include employees of accountants, advocates and notaries or their employees, trust and company service providers in the definition of the expression "designated non-financial businesses or professions" for purposes of the Act.

It also seeks to amend section 48 to expand the reporting obligations to include employees of accountants, advocates and notaries or their employees, trust and company service providers.

The National Youth Council Act, 2009 (No. 10 of 2009)

The Bill proposes to amend the National Youth Council Act, 2009, to introduce new definitions of "Minister" and "youth" in line with the Constitution. It also seeks to change the composition of the members of the Board and the mode of nomination in keeping with inclusivity on appointments.

The Competition Act, 2010 (No. 12 of 2010)

The Bill seeks to amend the Competition Act, 2010 to provide for the mode of appointment of the chairperson of the Competition Authority.

The Judicial Service Act, 2011 (No. 1 of 2011)

The Bill seeks to amend the Judicial Service Act, 2011 to provide for approval by the National Assembly prior to appointment by the President, of nominees to the Judicial Service Commission.

The Tourism Act, 2011 (No. 28 of 2011)

The Bill seeks to amend the Tourism Act to make provisions to enhance the tourism sector.

The National Construction Authority Act, 2011 (No. 41 of 2011)

The Bill proposes to amend the National Construction Authority Act, 2011 to correct the referencing of sections.

The Engineers Act, 2011 (No.43 of 2011)

The Bill proposes to amend the section 23 of the Engineers Act, 2011 to provide for extension of renewal of registration where works have not been completed.

The Land Registration Act, 2012 (No. 3 of 2012)

The Bill seeks to amend the Land Registration Act 2012 to include the High Court as one of the Courts with jurisdiction over land matters.

The Land Act, 2012 (No. 6 of 2012)

The Bill proposes to amend the Land Act, 2012, to introduce a new provision which provides that a lease or licence for private land be issued by the Cabinet Secretary and registered by the Chief Land Registrar.

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

The Bill seeks to amend the National Authority for the Campaign Against Alcohol and Drug Abuse Act, 2012 to provide for the mode of appointment of the chairperson of the National Authority for the Campaign Against Alcohol and Drug Abuse.

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

The Bill proposes to amend the Kenya Defence Forces Act, 2012, to provide for an alternative to the death penalty following a court martial. It also seeks to harmonise the provisions of the Act relating to the Oath of allegiance to be taken by persons who join the Kenya Defence Forces. It also seeks to amend section 304(1) to empower the Defence Council to make regulations with regard to establishment of a Pensions Assessment Board and Pensions Appeals Board for the Kenya Defence Forces.

The Kenya School of Law Act, 2012 (No. 26 of 2012)

The Bill proposes to amend section 4 to the Kenya School of Law Act, 2012, to remove the current exclusivity and open up the licensing of other education providers to train advocates under the Advocates Act. It also deletes the provisions hitherto empowering the Kenya School of Law to determine the admission requirements for the advocates training programme as this is a function of the Council for Legal Education.

The Legal Education Act, 2012 (No. 27 of 2012)

The Bill proposes to amend section 8 of the Legal Education Act to regularise the administration of the pre-bar examination for entry into the advocates Training Programme. It also provides for accreditation of legal education providers for the purpose of licensing of the Advocates Training Programme in order to open allow other institutions to offer the programme.

The National Transport and Safety Authority Act, 2012 (No. 33 of 2012)

The Bill proposes to amend the National Transport and Safety Authority Act, 2012 (No. 33 of 2012) to confer the powers of the Board to the Cabinet Secretary.

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

The Bill seeks to amend the Universities Act, 2012 to make provisions on the appointment of Chancellors and Vice-Chancellors of public Universities.

The Treaty Making and Ratification Act, 2012 (No. 45 of 2012)

The Bill proposes to amend the Treaty Making and Ratification Act, 2012, to require approval by referendum on matters of sovereignty, independence and territorial integrity in line with Article 255 of the Constitution. It also introduces the consideration of a treaty by the Senate and the procedure thereto.

The Public Private Partnership Act, 2013 (No. 15 of 2013)

The Bill proposes to amend the Public Private Partnership Act, 2013, to remove the provisions relating to the Committee and confer functions on the Cabinet Secretary. It also seeks to expand the functions of the Unit. It also seeks to amend section 28 to empower the Cabinet Secretary to impose a success fee to be paid by a successful bidder on a transaction.

The Bill also proposes to amend section 45 to remove the requirement of consultation with the public private partnerships Unit and approval of the Committee where a contracting authority chooses to conduct a competitive dialogue with bidders. It also seeks to amend section 54 and sets out the procedures of submission of memorandum to Cabinet Secretary for approval. It also proposes section 57 which refers to presentation of proposals to the National Assembly for approval.

It also proposes to amend section 64 to provide for the amendment of both national and county level projects.

The Kenya Agricultural and Livestock Research Act, 2013 (No. 17 of 2013)

The Bill proposes to amend the Kenya Agricultural and Livestock Research Act, 2013, to delete paragraphs (i) of the Third Schedule and paragraph (d) of the Fourth Schedule. These paragraphs had placed matters relating to forest management and research under the Ministry of Agriculture.

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

The Bill proposes to amend section 6 (a) of the Kenya Law Reform Act, 2013, to clarify the functions of the Commission. It also seeks to amend section 8(4) to clarify on membership to the Commission and to provide for a representative of the Law Society of Kenya. It also clarifies on the term of office of the Chairperson and the members.

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

The Bill proposes to amend the Nairobi Centre for International Arbitration Act, 2013, to streamline the membership of the Board of Directors of the Centre and to clarify on the role of the Registrar and his term of office. It also seeks to clarify on the composition of the Arbitral Court.

The Bill also introduces a new schedule for the conduct of the affairs of the Arbitral Court. It also amends section 25 which deals with the power

of the Board to make rules, to give more scope to the exercise of the power.

The Bill also seeks to amend the Schedule to clarify on the term of office of the chairperson.

The Science, Technology and Innovation Act, 2013 (No. 28 of 2013)

The Bill seeks to amend the Science, Technology and Innovation Act, 2013 to provide for the mode of appointment of the chairperson of the National Commission for Science, Technology and Innovation.

The National Social Security Fund Act, 2013 (No. 45 of 2013)

The Bill seeks to amend the NSSF Act to make provisions relating to the membership and meetings of the Board.

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

The Bill seeks to amend the Wildlife Conservation and Management Act, 2013 to provide for the protection of wildlife and wildlife trophies and also in relation to the Wildlife Environment Fund.

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

The Bill proposes to amend the National Drought Management Act, 2016, to provide for appointment of the Chairperson by the President and to remove the requirement of approval by Parliament. It also amends section 13 which provides for appointment of staff by the Board on such terms as it may determine, unlike the current situation where it is served by a Secretariat.

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

The Bill proposes to amend the Protection of Traditional Knowledge and Traditional Cultural Expressions Act, 2016, to clarify that the responsible Cabinet Secretary is the Cabinet Secretary for matters relating to culture.

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

The Bill proposes to amend the Forest Conservation and Management Act, 2016, to introduce a new subsection to section 34 which provides that a petition on variation of the boundaries of public forests shall be forwarded to the National Assembly only on the recommendation of the Service. It also amends section 40 to create an offence for interference with protected tree species.

It also seeks to introduce a new provision which empower the Director of Public Prosecutions to appoint a forest officer to be a public prosecutor for purposes of the Act and to replace the term "Director-General" with the term "Chief Conservator of Forests".

The Bribery Act, 2016 (No. 47 of 2016)

The Bill proposes to the Bribery Act, 2016, to make minor clarifications and corrections.

The enactment of this Bill may occasion additional expenditure of public funds to be provided for in the estimates.

This Bill is a Bill not concerning county governments within the meaning of Article 110 of the Constitution.

Dated the 29th March, 2018.

ADEN DUALE,
Leader of Majority Party.

Section 2 of Cap. 8 which it is proposed to amend—

Interpretation.

2. In this Act, "judge" means the Chief Justice or a judge appointed under Article 166(5) of the Constitution or a judge of appeal appointed under Article 166(4) of the Constitution and includes acting appointments.

Section 2 of Cap. 8 which it is proposed to amend—

Mode of exercise of jurisdiction.

3. (1) The jurisdiction of the High Court, the Court of Appeal and of all subordinate courts shall be exercised in conformity with—

(a) the Constitution;

(b) subject thereto, all other written laws, including the Acts of Parliament of the United Kingdom cited in Part I of the Schedule to this Act, modified in accordance with Part II of that Schedule;

(c) subject thereto and so far as those written laws do not extend or apply, the substance of the common law, the doctrines of equity and the statutes of general application in force in England on the 12th August, 1897, and the procedure and practice observed in courts of justice in England at that date:

Provided that the said common law, doctrines of equity and statutes of general application shall apply so far only as the circumstances of Kenya and its inhabitants permit and subject to such qualifications as those circumstances may render necessary.

(2) The High Court, the Court of Appeal and all subordinate courts shall be guided by African customary law in civil cases in which one or more of the parties is subject to it or affected by it, so far as it is applicable and is not repugnant to justice and morality or inconsistent with any written law, and shall decide all such cases according to substantial justice without undue regard to technicalities of procedure and without undue delay.

Section 12 of Cap. 15 which it is proposed to amend—

Powers of magistrates and certain court officers to administer oaths.

12. A magistrate, the Registrar of the High Court, a deputy registrar and a district registrar may administer any oath or affirmation or take any affidavit or statutory declaration (voluntarily made and subscribed in accordance with the provisions of Part III) which might lawfully be administered or taken by a commissioner for oaths appointed under Part II.

Section 23 of Cap. 16 which it is proposed to amend—

Issue of practising certificate to confer membership of Society.

23. (1) Every advocate to whom a practising certificate is issued under this Part shall thereupon and without payment of any further fee, subscription, election, admission or appointment, and notwithstanding anything contained in the Law Society of Kenya Act (Cap. 18) or in any regulations made thereunder, become a member of the Society and the Advocates Benevolent Association and be subject to any provision of law or rule of the Society and the Advocates Benevolent Association for the time being affecting the members thereof.

(2) Every advocate who has become a member of the Society under this section shall remain a member until the end of one month after expiration of his practising certificate, unless his name, whether at his own request or otherwise, is removed from or struck off the Roll, whereupon he shall cease to be a member of the Society.

(2A) The Society shall issue to every advocate registered with it a stamp or seal bearing the advocate's name, admission number and the year of practice in such form as may be approved by the Council of the Society and prescribed in regulations, and such stamp or seal shall be affixed on every document drawn by such advocate and lodged for registration in any registry in Kenya or issued for any other professional purpose.

(3) An advocate who has become a member of the Society under this section and who is suspended from practice shall not be entitled during the period of the suspension to any of the rights or privileges of such membership.

Section 81 of Cap. 21 which it is proposed to amend—

Rules Committee.

(1) There shall be a Rules Committee consisting of two judges of the High Court, two judges of the Court of Appeal, the Attorney-General and two advocates, one to be nominated by the Law Society of Kenya and the other by the Mombasa Law Society, which shall have power to make rules not inconsistent with this Act and, subject thereto, to provide for any matters relating to the procedure of civil courts.

(1A) The judges referred to in subsection (1) shall be appointed by the Chief Justice, who shall nominate one of them to be chairman of the Committee; and the Chief Justice may himself elect to be a member of the committee in which case he shall be the chairman.

(2) In particular, and without prejudice to the generality of the powers conferred by subsection (1), such rules may provide for all or any of the following matters namely—

(a) the service of summonses, notices and other processes by post or in any other manner either generally or in any specified areas, and the proof of such service;

(b) the maintenance and custody, while under attachment, of livestock and other movable property, the fees payable for such maintenance and custody, the sale of such livestock and property, and the proceeds of such sale;

(c) procedure in suits by way of counterclaim and the valuation of such suits for the purposes of jurisdiction;

(d) procedure in garnishee and charging orders either in addition to, or in substitution for, the attachment and sale of debts;

(e) procedure where the defendant claims to be entitled to contribution or indemnity over against any person, whether a party to the suit or not;

(f) summary procedure—

(i) in suits in which the plaintiff seeks only to recover a debt or liquidated demand in money payable by the defendant, with or without interest, arising on a contract express or

implied; or on an enactment where the sum sought to be recovered is a fixed sum of money or in the nature of a debt other than a penalty; or on a guarantee, where the claim against the principal is in respect of a debt or a liquidated demand only or on a trust; or

(ii) in suits for the recovery of immovable property, with or without a claim for rent or mesne profits, by a landlord against a tenant whose term has expired or has been duly determined for nonpayment of rent, or against persons claiming under such tenant;

(ff) the selection of mediators and the hearing of matters referred to mediation under this Act.

(g) procedure by way of originating summons;

(h) consolidation of suits, appeals and other proceedings;

(i) delegation to any registrar or other official of the court of any judicial, quasi-judicial and non-judicial duties; and

(j) all forms, registers, books, entries and accounts which may be necessary or desirable for the transaction of the business of civil courts.

(3) The Chief Justice may, in consultation with the Rules Committee, issue practice notes or directions to resolve procedural difficulties arising under this Act, in order to facilitate the attainment of the overriding objective of this Act as specified in section 1A.

Section 4 of Cap. 64 which it is proposed to amend—

Power of court to permit conditional release of offenders.

4. (1) Where a person is charged with an offence which is triable by a subordinate court and the court thinks that the charge is proved but is of the opinion that, having regard to youth, character, antecedents, home surroundings, health or mental condition of the offender, or to the nature of the offence, or to any extenuating circumstances in which the offence was committed, it is expedient to release the offender on probation, the court may—

(a) convict the offender and make a probation order; or

(b) without proceeding to conviction, make a probation order,

and in either case may require the offender to enter into a recognisance, with or without sureties, in such sum as the court may deem fit.

(2) Where any person is convicted of an offence by the High Court and the court is of the opinion that, having regard to the youth, character, antecedents, home surroundings. health or mental condition of the offender, or to the nature of the offence, or to any extenuating circumstances in which, the offence was committed, it is expedient to release the offender on probation, the court may, in lieu of sentencing him to any punishment, make a probation order, and may require the offender to enter into a recognisance, with or without sureties, in such sum as the court may deem fit.

(3) Before making a probation order under subsection (1) or (2), the court shall explain to the offender in ordinary language the effect of the order and that, if he fails in any respect to comply therewith or commits another offence, he will be liable to be sentenced for the original offence, and the court shall not make a probation order unless the offender expresses his willingness to comply with the provisions of the order.

(4) Where any offender against whom a probation order has been made commits a subsequent offence or fails to comply with any of the terms of the probation order, any sum the subject of any recognisance entered into by or on behalf of the offender may, in the discretion of the court, be forfeited.

Section 5 of Cap. 64 which it is proposed to amend—

Probation order.

5. (1) Where a person is charged with an offence which is triable by a subordinate court and the court thinks that the charge is proved but is of the opinion that, having regard to youth, character, antecedents, home surroundings, health or mental condition of the offender, or to the nature of the offence, or to any extenuating circumstances in which the offence was committed, it is expedient to release the offender on probation, the court may—

(a) convict the offender and make a probation order; or

(b) without proceeding to conviction, make a probation order,

and in either case may require the offender to enter into a recognisance, with or without sureties, in such sum as the court may deem fit.

(2) Where any person is convicted of an offence by the High Court and the court is of the opinion that, having regard to the youth, character, antecedents, home surroundings, health or mental condition of the offender, or to the nature of the offence, or to any extenuating circumstances in which, the offence was committed, it is expedient to release the offender on probation, the court may, in lieu of sentencing him to any punishment, make a probation order, and may require the offender to enter into a recognisance, with or without sureties, in such sum as the court may deem fit.

(3) Before making a probation order under subsection (1) or (2), the court shall explain to the offender in ordinary language the effect of the order and that, if he fails in any respect to comply therewith or commits another offence, he will be liable to be sentenced for the original offence, and the court shall not make a probation order unless the offender expresses his willingness to comply with the provisions of the order.

(4) Where any offender against whom a probation order has been made commits a subsequent offence or fails to comply with any of the terms of the probation order, any sum the subject of any recognisance entered into by or on behalf of the offender may, in the discretion of the court, be forfeited.

Section 3 of Cap. 117 which it is proposed to amend—

Establishment and constitution of National Housing Corporation.

(1) There is hereby established a National Housing Corporation which shall be a body corporate by that name with perpetual succession and a common seal, and which shall perform the duties and have the powers conferred on it by this Act.

(2) The Corporation shall consist of the Permanent Secretary of the Ministry, a person appointed by the Minister for the time being responsible for Finance and not less than six nor more than eight other members appointed by the Minister, being persons who in his opinion possess special knowledge of housing development or housing finance and of whom at least three shall be public officers, and the Minister shall designate one of the members to be chairman.

(3) Appointed members of the Corporation shall each hold office for a period of three years or such longer period as the appointing Minister may think fit, but an appointment may be cancelled at any time by the Minister who made it.

(4) The Corporation shall have power to enter into contracts, to hold and dispose of property both movable and immovable, and may sue and be sued in its corporate name.

Section 16 of Cap. 208 which it is proposed to amend—

Functions of service.

16. The functions of the Service shall be the training of young citizens to serve the nation, and the employment of its members in tasks of national importance and otherwise in the service of the nation.

Section 35A of Cap. 244 which it is proposed to amend—

Licence to manufacture medicinal substances.

35A. (1) No person shall manufacture any medicinal substance unless he has been granted a manufacturing licence by the Board.

(2) Each manufacturing licence shall expire on the 31st December of every year and the renewal thereof shall be subject to compliance with conditions prescribed by the Board.

(3) No person shall manufacture any medicinal substance for sale unless he has applied for and obtained a licence from the Board in respect of each substance intended to be manufactured.

(4) Any person who intends to manufacture a medicinal substance shall make an application in the prescribed form for the licensing of the premises; and the application shall be accompanied by the prescribed fee.

(5) The Director of the National Drug Quality Control Laboratory or any member of the Laboratory staff authorized by him shall have power to enter and sample any medicinal substance under production in any manufacturing premises and certify that the method of manufacture approved by the Board is being followed.

Section 35D of Cap. 244 which it is proposed to amend—

Establishment of the National Drug Quality Control Laboratory.

35D. There shall be established a National Quality Laboratory which shall be used as a facility for—

(a) the examination and testing of drugs and any material or substance from or with which and the manner in which drugs may be manufactured, processed or treated and ensuring the quality control of drugs and medicinal substances;

(b) performing chemical, biological, bio-chemical, physiological and pharmacological analysis and other pharmaceutical evaluation; and

(c) testing, at the request of the Board and on behalf of the Government, of locally manufactured and imported drugs or medicinal substances with a view to determining whether such drugs or medicinal substances comply with this Act or rules made thereunder.

Section 11 of No. 2 of 1995 which it is proposed to amend—

Commissioner-General.

(1) There shall be a Commissioner-General of the Authority who shall be appointed by the Minister upon the recommendation of the Board on such terms and conditions as are specified in his instrument of appointment.

(2) The Commissioner-General shall be the Chief Executive of the Authority and, subject to the general supervision and control of the Board, shall be responsible—

(a) for the day to day operations of the Authority;

(b) for the management of funds, property and affairs of the Authority; and

(c) for the administration, organization and control of the staff of the Authority.

(3) The Minister may, after consultation with the Board, terminate the appointment of the Commissioner-General for—

(a) misbehaviour in terms of the code of conduct and discipline prescribed under section 21;

(b) the Commissioner-General's inability to perform the functions of his office by reason of mental or physical infirmity; or (c) any other sufficient cause.

(4) The Commissioner-General may, with the approval of the Board, by notice in the Gazette, delegate any of his powers or functions under this Act or any other written law to a Commissioner.

Section 3 of No. 10 of 1998 which it is proposed to amend—

(1) Where any person is convicted of an offence punishable with—

(a) imprisonment for a term not exceeding three years, with or without the option of a fine; or

(b) imprisonment for a term exceeding three years but for which the court determines a term of imprisonment for three years or less, with or without the option of a fine, to be appropriate, the court may, subject to this Act, make a community service order requiring the offender to perform community service.

(2) (a) Community service shall comprise unpaid public work within a community, for the benefit of that community, for a period not exceeding the term of imprisonment for which the court would have sentenced the offender.

(b) For the purposes of this Act, public work shall include but not be limited to—

(i) construction or maintenance of public roads or roads of access;

(ii) afforestation works;

(iii) environmental conservation and enhancement works;

(iv) projects for water conservation, management or distribution and supply;

(v) maintenance work in public schools, hospitals and other public social service amenities;

(vi) work of any nature in a foster home or orphanage

(vii) rendering specialist or professional services in the community and for the benefit of the community, and the nature or type of public work shall, in any particular case, be determined by the court after consultation with the community service orders committee.

(3) Where a court determines that a community service order should be made, it may, before making the order, direct a community service officer to conduct an inquiry into the

circumstances of the case and of the offender and report the findings to the court.

(4) An inquiry under subsection (3) shall be conducted in such manner and the report shall be in such form and cover such matters as may be prescribed.

(5) A court shall not make an order under this section in respect of an offender unless the offender is present and the court is satisfied.

(a) that adequate arrangements exist for the execution of the order; and

(b) after considering the report made under subsection (3) and, where necessary, after hearing the community service officer, that the offender is a suitable person to perform community service under the order.

(6) Where a court makes an order under this section in respect of two or more offences committed by the same offender, the court may direct that the period of community service specified in any of those orders shall be concurrent with or in addition to that specified in any other order.

(7) The court which makes a community service order shall forthwith give copies of the order to the community service officer of the area where the offender resides or will reside during the period of the order and the community service officer shall give a copy of the order each to the offender and to the supervising officer.

(8) Before making an order under this section, the court sentencing an offender shall explain to the offender in a language that he understands—

(a) the purpose and effect of the order and in particular, his obligations under section 4;

(b) the consequences specified in section 5 for failure to comply with the order or with any of the requirements of that section; and

(c) the powers of the court under section 6 to review the order on application either by the offender or of a community service officer.

Section 11 of No. 35 of 2011 which it is proposed to amend—

Procedure for appointment of the members of the Board.

(1) The President shall, within fourteen days after the commencement of this Act, constitute a selection panel comprising one person from each of the following bodies respectively.

(a) the Office of the President;

(b) the Office of the Prime Minister;

(c) the Judicial Service Commission;

(d) the Commission for the time being responsible for matters relating to anti-corruption;

(e) the Kenya National Commission on Human Rights; and

(f) the Commission for the time being responsible for matters relating to gender.

(2) The Public Service Commission shall—

(a) convene the first meeting of the selection panel, at which the members of the selection panel shall elect a chairperson from among their number; and

(b) provide the selection panel with such facilities and other support as it may require for the discharge of its functions.

(3) The selection panel shall, within seven days of its convening, by advertisement in at least two daily newspapers of national circulation, invite applications from persons who qualify for nomination and appointment for the position of chairperson and members of the Board.

(4) The selection panel shall

(a) consider the applications received under subsection (3) to determine their compliance with the provisions of the Constitution and this Act;

(b) short list the applicants;

(c) publish the names of the shortlisted applicants in at least two daily newspapers of national circulation; and

(d) conduct public interviews of the shortlisted persons in public;

(e) shortlist three qualified applicants for the position of chairperson;

(f) shortlist eight qualified applicants for the position of the members; and

(g) forward the names of the qualified persons under paragraphs (e) and (f) to the President.

(5) The President shall, if he approves, within fourteen days of receipt of the names of successful applicants forwarded under subsection (4)(g), select the chairperson and members of the Commission and forward the names of the persons so selected to the National Assembly for approval.

(6) The National Assembly shall, within twenty-one days of the day it next sits after receipt of the names of the applicants under subsection (5), vet and consider all the applicants, and may approve or reject any or all of them.

(7) Where the National Assembly approves of the applicants, the Speaker of the National Assembly shall forward the names of the approved applicants to the President for appointment.

(8) The President shall, within seven days of receipt of the approved applicants from the National Assembly, by notice in the *Gazette*, appoint the chairperson and members approved by the National Assembly.

(9) Where the National Assembly rejects any nomination, the Speaker shall within three days communicate its decision to the President and request the President to submit fresh nominations;

(10) Where a nominee is rejected by the National Assembly under subsection (9), the President shall within seven days, submit to the National Assembly a fresh nomination from amongst the persons shortlisted and forwarded by the selection panel under subsection (5);

(11) If the National Assembly rejects any or all of the subsequent nominees submitted by the President for approval under subsection (10), the provisions of subsections (1) to (6) shall apply.

(12) In shortlisting, nominating or appointing persons as chairperson and members of the Board, the selection panel, the National Assembly and the President shall ensure that not more than two-thirds of the members are of the same gender.

(13) The selection panel may, subject to this section, determine its own procedure.

(14) After the first general elections under the Constitution, the member of the selection panel under subsection (1)(b) shall be replaced by a representative of the Public Service Commission.

(15) The selection panel shall stand dissolved upon the appointment of the chairperson and members under subsection (9).

(16) Where the provisions of subsection (11) apply, the selection panel shall continue to exist but shall stand dissolved upon the requisite appointments being made under subsection (12).

Section 12 of No. 35 of 2011 which it is proposed to amend—

Filling of vacancy.

Whenever there is a vacancy in the Board, the procedure set out under section 11 shall apply.

Section 252 of No. 25 of 2012 which it is proposed to amend—

Enlistment.

A person who is offering to enlist in the Defence Forces shall be given a notice in the prescribed form setting out the questions to be answered on attestation and stating the general conditions of the enlistment, and a recruiting officer shall not recruit any person unless that person satisfies the recruiting officer that the person has been given such a notice, understands it, and wishes to enlist.

Section 4 of No. 26 of 2012 which it is proposed to amend—

Objects and functions of the School.

(1) The School shall be a public legal education provider responsible for the provision of professional legal training as an agent of the Government.

(2) Without prejudice to the generality of subsection (1), the object of the School shall be to—

(a) train persons to be advocates under the Advocates Act (Cap. 16);

(b) ensure continuing professional development for all cadres of the legal profession;

(c) provide para-legal training;

(d) provide other specialized training in the legal sector;

(e) develop curricular, training manuals, conduct examinations and confer academic awards; and

(f) undertake projects, research and consultancies.

Section 8 of No. 27 of 2012 which it is proposed to amend—

Functions of the Council.

(1) The functions of the Council shall be to—

(a) regulate legal education and training in Kenya offered by legal education providers;

(b) licence legal education providers;

(c) supervise legal education providers; and

(d) advise the Government on matters relating to legal education and training.

(e) recognise and approve qualifications obtained outside Kenya for purposes of admission to the Roll.

(f) administer such professional examinations as may be prescribed under section 13 of the Advocates Act.

(2) Without prejudice to the generality of subsection (1), the Council shall, with respect to legal education providers, be responsible for setting and enforcing standards relating to the—

(a) accreditation of legal education providers for the purposes of licensing;

(b) curricula and mode of instruction;

(c) mode and quality of examinations;

(d) harmonization of legal education programmes; and

(e) monitoring and evaluation of legal education providers and programmes.

(3) In carrying out its functions under subsection (2), the

Council shall—

(a) make Regulations in respect of requirements for the admission of persons seeking to enroll in legal education programmes;

(b) establish criteria for the recognition and equation of academic qualifications in legal education;

(c) formulate a system for recognizing prior learning and experience in law to facilitate progression in legal education from lower levels of learning to higher levels;

(d) establish a system of equivalencies of legal educational qualifications and credit transfers;

(e) advise and make recommendations to the Government and any other relevant authority on matters relating to legal education and training that require the consideration of the Government;

(f) collect, analyse and publish information relating to legal education and training;

(g) advise the Government on the standardization, recognition and equation of legal education qualifications awarded by foreign institutions;

(h) carry out regular visits and inspections of legal education providers; and

(i) perform and exercise any other functions conferred on it by this Act.

(4) Where any conflict arises between the provisions of this section and the provisions of any other written law for the time being in force, the provisions of this section shall prevail.

Section 35 of No. 42 of 2012 which it is proposed to amend—

Governing organs of a university.

(1) In addition to the provisions of its Charter, a university shall establish the following organs of governance or their equivalent—

(a) a Council, which shall—

(i) employ staff;

(ii) approve the statutes of the University and cause them to be published in the Kenya Gazette;

(iii) approve the policies of the University;

(iv) approve the budget;

(v) in the case of a public university, recommend for appointment of the Vice-Chancellor, Deputy Vice-Chancellors and principals of constituent colleges through a competitive process; and

(vi) undertake other functions set out under this Act and the Charter.

(b) the Senate, which shall be in charge of all academic matters of the university and shall undertake the functions assigned to it in the Charter of the university.

(c) the Management Board, which shall—

(i) be responsible for implementation of the policies of the university;

(ii) assist in the day-to-day management of the university; and

(iii) undertake such other functions as shall be set out in the Charter.

(2) Notwithstanding the generality of the provisions of subsection (1), the Council of a private university shall be appointed in accordance with provisions of the Charter, and such a university may, with the approval of the Commission, establish additional governance organs, including a Board of Trustees or its equivalent, as the sponsor may deem appropriate.

(3) A Board of Trustees established pursuant to subsection (2) or the sponsor of a private university shall, in addition to any other functions set out in the charter of the university—

(a) appoint members of the University Council;

(b) raise funds for the benefit of the university;

(c) promote the objects of the university; and

(d) appoint the university Chancellor.

Section 39 of No. 42 of 2012 which it is proposed to amend—

The Vice-Chancellor.

(1) The Vice-Chancellor of a university shall be appointed—

(a) in the case of a public university, by the Cabinet Secretary on the recommendation of the Council, after a competitive recruitment process conducted by the Council; and

(b) in the case of a private university, by the respective university Council in accordance with the provisions of the Charter.

(1A) The qualifications for appointment as a Vice Chancellor of a public university shall be as prescribed in regulations.

(2) The Vice-Chancellor shall be the chief executive of the university and shall—

(a) be the academic and administrative head of the university;

(b) have the overall responsibility for the direction, organization, administration and programmes of the university; and

(c) have such responsibilities and duties as may be provided for in the Charter.

(3) The Vice-Chancellor of a public university shall hold office for a term of five years and shall be eligible for a further term of five years.

(4) The term of the Vice-Chancellor of a private

university shall be as provided in the Charter.

(5) The provisions of this section shall apply mutatis mutandis to the Principal of a constituent college.

Section 3 of No. 45 of 2012 which it is proposed to amend—

Application.

(1) This Act applies to treaties which are concluded by Kenya after the commencement of this Act.

(2) This Act shall apply to—

(a) multilateral treaties;

(b) bilateral treaties which deal with—

(i) the security of Kenya, its sovereignty, independence, unity or territorial integrity;

(ii) the rights and duties of citizens of Kenya;

(iii) the status of Kenya under international law and the maintenance or support of such status;

(iv) the relationship between Kenya and any international organisation or similar body; and

(v) the environment and natural resources.

(3) A treaty relating to the adjustment, alteration or variation of the present position of Kenya on matters of sovereignty, independence and territorial integrity shall be approved in a referendum in accordance with Article 255 of the Constitution.

(4) Notwithstanding subsection (2)(b), the Government may enter into bilateral agreements—

(a) necessary for matters relating to government business; or

(b) relating to technical, administrative or executive matters.

Section 12 of No. 19 of 2013 which it is proposed to amend—

Term of office.

(1) The chairperson shall be appointed for a single term of six years and is not eligible for re-appointment.

(2) A member of the Commission shall be appointed for a single term of five years and is not eligible for re-appointment.

(3) The chairperson and members of the Commission, other than the *ex officio* members, shall serve on a full time basis.

Section 9 of No. 26 of 2013 which it is proposed to amend—

Registrar.

(1) There shall be a Registrar of the Board who shall be competitively recruited and appointed by the Board and whose terms and conditions of service shall be determined by the Board in the instrument of appointment or otherwise in writing from time to time.

(2) No person shall qualify for appointment under this section unless such person—

(a) has at least a degree from a recognized institution in the field of either law, finance, arbitration, economics, or insurance; and

(b) has at least ten years' experience in the relevant field of practice.

(3) The Registrar shall be responsible for the day to day management of the affairs and staff of the Centre and shall be the secretary to the Board.

Section 8 of No. 28 of 2013 which it is proposed to amend—

Commission Director-General.

(1) There shall be a Director-General to the Commission who shall be appointed by the Cabinet Secretary on the recommendation of the Commission after a competitive recruitment process.

(2) A person shall be qualified for appointment as a Director-General if the person—

(a) holds a doctorate degree from a university recognised in Kenya;

(b) has at least fifteen years experience in management of public or private institutions; and

(c) meets the requirements of Chapter Six of the Constitution.

(3) The Director-General shall be the chief executive officer of the Commission and shall be responsible for the day-to-day management of the affairs of the Commission.

(4) The Director-General shall hold office for a period of five years renewable for one further term.

(5) The Commission may employ such other officers and staff as may be necessary for the performance of the functions of the Commission.

Section 8 of No. 47 of 2013 which it is proposed to amend—

Board of Trustees.

(1) The Service shall be managed by a Board of Trustees appointed under subsection (2).

(2) The members of the Board of Trustees shall comprise—

(a) a chairperson appointed by the President;

(b) the Principal Secretary in the State Department for the time being responsible for matters relating to wildlife, or a designated representative;

(c) the Principal Secretary in the State Department for the time being responsible for finance, or a designated representative;

(d) the Principal Secretary in the State Department responsible for matters relating to county governments or a designated representative;

(e) the Inspector-General of Police;

(f) our other persons appointed by the Cabinet Secretary as follows—

(i) one representative from a national wildlife conservation non-governmental organization;

(ii) two representatives, who shall be of opposite gender and from community managed wildlife areas, nominated by an umbrella wildlife conservancy body;

(iii) one representative from privately-managed wildlife areas;

(g) the Director-General of the Service, who shall be the secretary to the Board of Trustees.

(3) A member appointed under subsection (2)(f)(ii) shall be the vice-chairperson of the Board of Trustees.

(4) The Chairperson and members of the Board of Trustees, other than *ex-officio* members, shall hold office for a term of three years and shall be eligible for appointment in accordance with subsection (2) for one further term of three years.

(5) The Cabinet Secretary shall appoint one-third of the members of the Board under subsection (2)(f) in a staggered manner so that the respective expiry dates of their terms shall fall at different times.

(6) There shall be paid to the chairperson and members such remuneration, fees or allowances for expenses as the Salaries and Remuneration Commission may determine.

Section 258 of No. 17 of 2015 which it is proposed to amend—

General rules for voting on company resolutions.

(1) When a vote on a written resolution put to the members of a company is taken, then—

(a) if the company has a share capital — each member has one vote for each share, or each one hundred shillings of stock, held by the member; and

(b) if the company does not have a share capital — each member has one vote.

(2) When a vote on a resolution is to be taken by the members of a company at a meeting on a show of hands—

(a) each member present in person has one vote; and

(b) each proxy present who has been duly appointed by a member entitled to vote on the resolution has one vote.

(3) When a vote on a resolution is to be taken by the members of a company by a poll—

(a) if the company has a share capital—each member present in person, or each proxy present who has been duly appointed by a member, has one vote for each share, or each one hundred shillings of stock, held by the member; and

(b) if the company does not have a share capital — each member present in person, or each proxy present who has been duly appointed by a member, has one vote.

(4) This section has effect subject to provisions of the company's articles to the contrary.

Section 721 of No. 17 of 2015 which it is proposed to amend—

Appointment of auditors of public company: general.

(1) A public company is required to have an auditor or auditors for each financial year of the company, unless the directors reasonably resolve otherwise on the ground that an audited financial statement is unlikely to be required for a particular financial year.

(2) For each financial year for which an auditor or auditors is, or are to be appointed, other than the company's first financial year, a public company shall ensure that the appointment is made before the end of the general meeting at which the company's annual financial statement for the previous financial year is presented.

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

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

(b) following a period during which the company, being exempt from audit did not have any auditor, at any time before the next general meeting at which the company's annual financial statement is to be presented; or

(c) to fill a casual vacancy in the office of auditor.

(4) The members may appoint an auditor or auditors by ordinary resolution—

(a) at a general meeting at which the company's annual financial statement is presented;

(b) if the company should have appointed an auditor or auditors at such a meeting but did not do so;

(c) if the directors had power to appoint an auditor or auditors under subsection (3) but did not make an appointment.

(5) An auditor or auditors of a public company may be appointed only in accordance with this section or section 722.

Section 34 of No. 34 of 2016 which it is proposed to amend—

Variation of boundaries or

(1) Any person may petition the National Assembly or the

revocation of public forests.

Senate, for the variation of boundaries of a public forest or the revocation of the registration of a public forest or a portion of a public forest.

(2) A petition under subsection (1) shall demonstrate that the variation of boundaries or revocation of the registration of a public forest or a portion of a public forest does not—

(a) endanger any rare, threatened or endangered species; or

(b) adversely affect its value as a water catchment area; and prejudice biodiversity conservation, cultural site protection of the forest or its use for educational, recreational, health or research purposes.

(3) A petition made under subsection (1) shall be considered in accordance with the provisions of the Petitions to Parliament (Procedure) Act and the Standing Orders of the relevant House.

(4) The Cabinet Secretary shall, within thirty days of the petition being committed to the relevant Committee, submit a recommendation on whether the petition should be approved subject to—

(a) the petition being subjected to an independent Environmental Impact Assessment; and

(b) public consultation being undertaken in accordance with the Second Schedule.

(5) If the relevant Committee, reports that it finds that the petition—

(a) does not disclose a ground for the variation of the boundaries of a public forest or the revocation of the registration of a public forest or a portion of a public forest, no further proceedings shall be taken; or

(b) discloses a ground for the variation of the boundaries of a public forest or the revocation of the registration of a public forest or a portion of a public forest, the National Assembly or the Senate shall vote on whether to approve the

recommendation.

(6) If the resolution under subsection (5)(b) is supported by a majority of the members of the National Assembly or the Senate, present and voting, the Cabinet Secretary shall publish a notice in the *Gazette*.

Section 27 of No. 47 of 2016 which it is proposed to amend—

Pending bribery cases.

(1) This section applies with respect to bribery offences or suspected bribery offences under the Anti-corruption and Economic Crimes Act, 2003.

(2) Any investigation or prosecution or court proceedings instituted before the commencement of this Act based on an offence under this Act shall, with the necessary modifications, be treated or continued as if they were instituted under this Act.