

**THE STATUTE LAW (MISCELLANEOUS
AMENDMENTS) ACT, 1978**

No. 13 of 1978

Date of Assent: 8th November, 1978

Date of Commencement: 10th November, 1978

**An Act of Parliament to make minor amendments to the
Statute Law**

ENACTED by the Parliament of Kenya as follows:—

1. This Act may be cited as the Statute Law (Miscellaneous Amendments) Act, 1978. Short title.

2. Throughout the Laws of Kenya, unless the context otherwise requires— Reference to
Community
Corporations,
etc.
 - (a) any reference to the East African Railways Corporation, the East African Posts and Telecommunications Corporation, the East African Harbours Corporation, or to the Director-General or any officer or servant thereof shall be read and construed as a reference respectively to Kenya Railways, the Kenya Posts and Telecommunications Corporation, the Kenya Ports Authority, or to the Managing Director or any officer or servant thereof; and

 - (b) any reference to the East African Customs and Excise Department, or to the Commissioner-General of Customs and Excise or any officer or servant thereof shall be read and construed as a reference to the Customs and Excise Department, or to the Commissioner of Customs and Excise or any officer or servant thereof.

3. The several written laws specified in the first column of the Schedule are amended, in relation to the provisions thereof specified in the second column, in the manner specified in the third column. Amendments
of written
laws.

SCHEDULE

<i>Written Law</i>	<i>Provisions</i>	<i>Amendment</i>
The Civil Procedure Act (Cap. 21).	s. 71 A	<p>Re-number the existing section as subsection (1).</p> <p>Add the following new subsection—</p> <p>(2) An appeal under this section shall be final.</p>
	s. 81	<p>Insert the following new subsection—</p> <p>(1A) The judges referred to in subsection (1) of this section 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 as one of the judges so referred to, in which case he shall be the chairman.</p>
The Partnership Act (Cap. 29).	s. 2	<p>Delete the definition of "court" and substitute the following—</p> <p>"court" means the High Court or, where the gross assets of a partnership do not exceed fifty thousand shillings, the Resident Magistrate's Court.</p>
The Penal Code (Cap. 63).	s. 370	Delete "the Currency Officer of the East African Currency Board" and "the Currency Officer" wherever they appear and substitute "the Governor of the Central Bank of Kenya" and "the Governor" respectively.
The Criminal Procedure Code (Cap. 75).	s. 123 (3)	<p>Delete and substitute the following—</p> <p>(3) The High Court may, in any case save where a person is accused of murder or treason, direct that a person be admitted to bail or that bail required by a subordinate court or police officer be reduced.</p>
	s. 361	<p>Insert at the beginning of subsection (1) the words "Subject to subsection (8) of this section".</p> <p>Add the following new subsection—</p> <p>(8) This section shall not apply to—</p> <p>(a) a decision of the High Court in its appellate jurisdiction exercised under section 347 (1) (b) of this Code; or</p> <p>(b) a refusal by the High Court to admit an appeal out of time under section 349 of this Code,</p> <p>and any such decision or refusal, as the case may be, shall be final.</p>

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provisions</i>	<i>Amendment</i>
The Trustee Act (Cap. 167).	s. 4 (1)	Insert after paragraph (cd) the following new paragraph— (ce) in any security issued by or any loan to the Industrial Development Bank Limited;
The Chiefs' Authority Act (Cap. 128).	Throughout	Delete the expression "sub-chief" wherever it appears and substitute "assistant chief".
The Armed Forces Act (Cap. 199).	s. 227 (1)	Add the following paragraph— (z) the making of enquiries regarding members of the armed forces missing in action and the giving of awards and decorations, the promotion of, and the disposal of pay and allowances of, such persons.
The Industrial Training Act (Cap. 237).	s. 5c (2)	Delete and substitute— (2) The Director, acting on advice of the Council, may make payments out of a Fund for any of the following purposes— (a) the payment of maintenance and travelling allowances to persons attending training courses; (b) the making of grants or loans to persons providing courses or training facilities; (c) the payment of fees to persons providing further education in respect of persons who receive it in association with their training; (d) the reimbursement of an employer for all or part of his training costs including fees, instruction costs, materials costs and wages of apprentices or indentured learners while attending training courses; (e) the payment of sitting allowances and travelling, accommodation and entertainment expenses for members of Committees and any sub-committees set up under them while attending meetings of those Committees and sub-committees; (f) the payment of examiners' fees for setting, moderating, invigilating and marking proficiency tests for apprentices and indentured learners, and their travelling and accommodation expenses;

SCHEDULE—(Contd.)

Written Law	Provisions	Amendment
		(g) the payment of honoraria to instructors for conducting evening courses; and
		(h) such other expenditure related to training as may be approved by the Minister.
	s. 32	Delete the words "Subject as provided by subsection (1) of section 5B".
The Medical Practitioners and Dentists Act (Cap. 253).	s. 4 (1)	Insert after the words "all of whom shall be" the words "citizens of Kenya and".
The Coffee Act (Cap. 333).	s. 13	Delete and substitute the following—
	Prohibition of certain acts without licence	13 (1) Subject to subsection (2) of this section no person shall—
		(a) buy, sell, export, mill, warehouse or otherwise deal in or transact any business in coffee unless he is the holder of a current licence thereto authorizing him, issued, in its discretion, by the Board;
		(b) transport or have in his possession any coffee unless he is licensed to do any of the things specified in paragraph (a) of this subsection or is acting in the course of his employment as the servant or agent of such person.
		(2) This section shall not apply to—
		(a) the purchase of clean coffee by a wholesale or retail seller of provisions from a dealer who holds a current dealer's licence and the onward sale by such wholesale or retail seller where—
		(i) he keeps a register of all purchases so made by him; and
		(ii) such purchase and onward sale are made in the course of his normal business.
		(b) the purchase of coffee by any person from a dealer who holds a current dealer's licence or a planter who holds a current planter's licence where such coffee is required for the purchaser's own consumption or for planting on his own land;

SCHEDULE—(Contd.)

Written Law	Provisions	Amendment
		(c) the milling by a planter of coffee produced by him;
		(d) the warehousing of coffee by Kenya Railways or by the Kenya Ports Authority.
		(3) Any person who contravenes the provisions of subsection (1) of this section or acts in contravention of the conditions of any licence granted thereunder shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding ten years with or without corporal punishment.
		(4) Where a person is convicted of an offence under this section the court shall order that any coffee and any vehicle, vessel or other conveyance in relation to which the offence has been committed shall be forfeited to the Government unless, in the case of a vehicle, vessel or other conveyance, the court sees good reason, to be recorded by it in writing, not to do so.
		(5) Where a person is charged with an offence under this section the onus shall be upon the person charged to prove that he was at the material time the holder of a licence authorizing him to do the things with which he is charged or that he was acting in the course of his employment as the servant or agent of such person, as the case may be.
s. 21(2)	Delete and substitute the following—	
		(2) Any person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence and liable to imprisonment for a term not exceeding ten years with or without corporal punishment.
		(3) Where a person is convicted of an offence under this section the court shall order that any coffee and any vehicle, vessel or other conveyance in relation to which the offence has been committed shall be forfeited to the Government unless, in the case of a vehicle, vessel or other conveyance, the court sees good reason, to be recorded by it in writing, not to do so.

SCHEDULE—(Contd.)

Written Law

Provisions

Amendment

New section

Powers of
search and
seizure.

Add the following new section—

34A. (1) An officer of the Ministry of Agriculture or of the Board, authorized in writing by or on behalf of the Director or the Board, as the case may be, upon production of his authority on demand, and any police officer or administration police officer may—

(a) enter and search any premises upon which he has reason to believe there is coffee in respect of which an offence under section 13 or 21 of this Act is being or has been committed, and seize and remove any coffee found thereon which he has reasonable cause to believe may provide evidence of that offence:

Provided that, before removing any coffee under this paragraph, the person removing it shall furnish the person in whose custody or possession the coffee is at the time of removal with a written receipt therefor;

(b) stop, search and detain any vehicle, vessel or other conveyance which he has reason to believe is being or has been used for conveying any coffee in respect of which an offence under section 13 or 21 of this Act is being or has been committed.

(2) Every seizure under subsection (1) (a) of this section shall be reported without unnecessary delay to a subordinate court, and where any vehicle, vessel or other conveyance has been stopped and detained under subsection (1) (b) of this section the person so stopping and detaining shall forthwith take it or cause it to be taken together with its contents, or report the fact of its detention, to the nearest police station and the officer in charge of the police station may thereupon order that the vehicle, vessel or other conveyance, together with any coffee found therein, be seized.

(3) Any person who hinders or obstructs a person acting in the exercise of his powers under this section shall be guilty of an offence.

SCHEDULE—(Contd.)

Written Law	Provisions	Amendment
The Tea Act (Cap. 343).	s. 2	Insert in its appropriate alphabetical sequence the following new definition— “established agency” means Kenya Tea Packers Limited or such other body as the Minister may, by notice in the Gazette, appoint;
	s. 6 (4)	Delete and substitute— (4) A quorum of the Board shall be eight.
	s. 13 (1)	Delete and substitute the following— (1) No person shall manufacture tea for sale, whether by sun drying or otherwise, except under and in accordance with a licence.
New sections	Illegal manufacture, possession, etc.	Add the following new sections in appropriate numerical sequence— 13A. (1) Any person who— (a) manufactures tea for sale in contravention of section 13 of this Act; (b) transports or has in his possession any tea which to his knowledge or belief has been grown, manufactured or dried otherwise than in accordance with this Act; or (c) sells or exposes for sale any tea which has been grown, manufactured or dried otherwise than in accordance with this Act, shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding ten years with or without corporal punishment. (2) Where a person has in his possession or under his control any tea for which he is unable to account to the satisfaction of a person authorized under section 14 or 14A of this Act, such tea shall be deemed to have been grown, manufactured or dried otherwise than in accordance with this Act until the contrary is proved. (3) Where a person is convicted of an offence under this section the court shall order that any tea and any vehicle, vessel or other conveyance in relation to which an offence has been committed shall be forfeited to the Government unless, in the case of a vehicle, vessel or other conveyance, the court sees good reason, to be recorded by it in writing, not to do so.

SCHEDULE—(Contd.)

*Written Law**Provisions**Amendment*

Powers of search and seizure.

14A. (1) An officer of the Ministry of Agriculture or of the Board, authorized in writing by or on behalf of the Director or the Board, as the case may be, upon production of his authority on demand, and any police officer or administration police officer may—

(a) enter and search any premises upon which he has reason to believe there is tea in respect of which an offence under section 13A of this Act is being or has been committed, and seize and remove any tea found thereon which he has reasonable cause to believe may provide evidence of that offence:

Provided that, before removing any tea under this paragraph, the person removing it shall furnish the person in whose custody or possession the tea is at the time of removal with a written receipt therefor;

(b) stop, search and detain any vehicle, vessel or other conveyance which he has reason to believe is being or has been used for conveyance of tea in respect of which an offence under section 13A of this Act is being or has been committed.

(2) Every seizure under subsection (1) (a) of this section shall be reported without unnecessary delay to a subordinate court, and where any vehicle, vessel or other conveyance has been stopped and detained under subsection (1) (b) of this section the person so stopping and detaining shall forthwith take it or cause it to be taken together with its contents, or report the fact of its detention, to the nearest police station and the officer in charge of the police station may thereupon order that the vehicle, vessel or other conveyance, together with any tea found therein, be seized.

(3) Any person who hinders or obstructs a person acting in the exercise of his powers under this section shall be guilty of an offence.

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provisions</i>	<i>Amendment</i>
	s. 25 (2)	Add the following new paragraph— (b) regulating and controlling the method of packing and blending manufactured tea for sale for consumption in Kenya, including requiring holders of licences and permits to supply manufactured tea to the established agency for packing and blending manufactured tea for sale; Renumber paragraphs (b) to (g) inclusive as (c) to (h) respectively.
The Civil Aviation Act (Cap. 394).	s. 5 (1)	Insert the following new paragraph— (d) the Permanent Secretary of the Ministry responsible for defence; Renumber the existing paragraphs (d) and (e) as (e) and (f) respectively.
	s. 6	Delete the words “who shall be responsible, subject to the directions of the Minister, for the administration of this Act and”.
The Transport Licensing Act (Cap. 404).	s. 13 (2)	Delete.
The Income Tax Act (Cap. 470).	s. 13 (1)	Delete the words and comma “or such other of the Partner States as may be so specified,”.
	s. 93 (1) (c) (ii)	Delete “paragraph (c) of subsection (2)” and substitute “paragraph (f) of subsection (2)”.
	s. 132	Delete.
The Local Manufactures (Export Compensation) Act (Cap. 482).	s. 3	Delete the proviso and substitute the following— Provided that no compensatory payment shall be paid by or on behalf of the Commissioner in respect of the exportation of eligible goods— (i) which by the process of their manufacture include goods, whether eligible goods or ineligible goods, specified in and for the purposes of an order made under section 138 of the Customs and Excise Act (which provides for remission of certain duties); or

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provisions</i>	<i>Amendment</i>
		(ii) specified in and for the purpose of an order made under section 145 (1) of the Customs and Excise Act (which provides for refunds of certain duties).
	s. 4	Delete the words "of Customs and Excise appointed under section 3 (2) of the Customs and Excise Department Act, 1977". Delete the marginal reference "Act No. 8 of 1977".
The Estate Duty Act (Cap. 483).	s. 13 (1) and (2)	Delete "Section 7 (1) (b)" in each case and substitute "Section 7 (1) (f)".
The Insurance Companies Act (Cap. 487).	s. 3 (1)	Delete the words "and any statutory corporation" and substitute "any statutory corporation and a co-operative society registered under the Co-operative Societies Act".
	s. 4 (2) (b) (i)	Add after "by leave of the Court" the following— "and, if a co-operative society, it may have its registration cancelled by the Commissioner of Co-operative Development on receipt of a report from the Registrar".
	s. 4 (3)	Insert after "Companies Act" the words "or section 65 of the Co-operative Societies Act".
	ss. 9 (a) and 25 (5).	Insert after "winding up" the words "or dissolution".
	s. 26 (1)	Insert after "Companies Act" the words "or dissolved under the provisions of the Co-operative Societies Act".
The Central Bank of Kenya Act (Cap. 491).	s. 8	In subsection (1), delete the word "authorized" in the first line and substitute "initial". Add the following new subsections— (3) The Bank may, having regard to the amount by which the value of the assets of the Bank exceeds its liabilities, increase its paid up capital by such amount payable out of the General Reserve Fund as the Minister shall at the request of the Bank from time to time by order in the Gazette direct.

SCHEDULE—(Contd.)

Written Law	Provisions	Amendment
		(4) The paid up capital of the Bank shall not be reduced.
	s. 9 (1)	Delete the words “, if the sums standing to the credit of the General Reserve Fund at the end of the year are less than the authorized capital of the Bank, one quarter” and substitute “a proportion, to be determined by the Bank in consultation with the Minister,”.
	New Section Common seal and power of attorney.	Insert the following new section— 13A. (1) The affixing of the common seal of the Bank shall be authorized by the signature of the Governor and of some other person or persons authorized by the Governor in that behalf. (2) The Governor may, under the common seal of the Bank, empower any person to execute or authenticate on behalf of the Bank any documents on its behalf.
	s. 20	Delete the words “in terms of gold” and substitute “and any change or suspension thereof”.
The Hotels and Restaurants Act (Cap. 494).	s. 28 (2)	Delete and substitute— (2) The Minister shall, from time to time, review the operation of this Act in relation to its operation to hotels and restaurants and, for the purpose of including or excluding any class of hotel or restaurant from the provisions of this Act, may, by notice in the Gazette, amend the Fourth Schedule to this Act.
The Trade Marks Act (Cap. 506).	s. 3 (2)	Delete and substitute— (2) The Attorney-General may appoint a Deputy Registrar of Trade Marks and one or more Assistant Registrars of Trade Marks and such other officers as may from time to time be required for the purposes of this Act.
The Factories Act (Cap. 514).	s. 54 and the Fourth Schedule.	Delete.
The Motor Vehicle Components and Accessories Act (Cap. 520).	s. 2 (1)	In the definition of “motor vehicle components and accessories” delete the words from “as the Minister may” to the end and substitute— “as are set out in the Schedule to this Act; and the Minister may from time to time, by notice in the Gazette, amend the Schedule”.

SCHEDULE—(Contd.)

*Written Law**Provisions**Amendment*

New Schedule Insert the following new Schedule—

SCHEDULE

Axles.
 Axle beams.
 Axle casings.
 Axle hubs.
 Axle hub bearings.
 Axle cleaners.
 Batteries.
 Battery cables.
 Battery carriers.
 Battery lids.
 Battery terminals.
 Bumper bars.
 Bumper bar overriders.
 Cam shafts.
 Carburettor bases.
 Carburettor choke tubes.
 Carburettor floats.
 Carburettor float chambers.
 Carburettor jets.
 Carburettor top covers.
 Car radios.
 Car radio aeri-als.
 Clutch drive plates.
 Clutch housings.
 Clutch pressure plates.
 Clutch thrust races.
 Connecting rods.
 Crankshafts.
 Crankshaft bearings.
 Cylinder blocks.
 Cylinder heads.
 Distributor bodies.
 Distributor cams.
 Distributor caps.
 Distributor condensers.
 Distributor drive shafts.
 Distributor points.
 Distributor rotors.
 Drive shafts (half shafts).
 Driving mirrors, all types.
 Engine oil filters.
 Fuel injectors, all types.
 Fuel injector delivery pipes.
 Fuel injection pumps, all types.
 Fuel lift pumps, all types.
 Gearbox bearings.
 Gearbox casings.
 Gearbox covers.
 Gearbox gears.
 Gearbox selectors.
 Gearbox shafts.

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provisions</i>	<i>Amendment</i>
		Gearbox change levers.
		Generator armatures.
		Generator bodies.
		Generator end plates.
		Generator field coils.
		Generator pulleys.
		Headlight bulb holders.
		Headlight glasses.
		Headlight reflectors.
		Headlight rims.
		Headlight sealed beams.
		Horns.
		Hub caps.
		Ignition coils.
		Luggage racks.
		Magneto armatures.
		Magneto bodies.
		Magneto distribution caps.
		Magneto magnets.
		Pistons.
		Radiators.
		Radiator cowlings.
		Radiator fans.
		Radiator grills.
		Radiator grill panels.
		Rim embellishers.
		Seats.
		Sidelight bulb holders.
		Sidelight glasses.
		Sidelight reflectors.
		Steering rims.
		Steering boxes.
		Steering box bearings.
		Steering box bottom plates.
		Steering box segment shafts.
		Steering columns, inner and outer.
		Starter motor armatures.
		Starter motor bendix drives.
		Starter motor bodies.
		Starter motor brushes.
		Starter motor end plates.
		Starter motor field coils.
		Starter motor solenoids.
		Stub axles.
		Sun visors.
		Trafficator light units.
		Tyres.
		Tyre pumps.
		Water pumps.
		Wheels.
		Wheel bearings.
		Wheel braces.
		Windscreens.

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Law of Succession Act, 1972 (No. 14 of 1972).	s. 2	Delete and substitute—
		<p>Applic- ation of Act.</p> <p>2. (1) Except as otherwise expressly provided in this Act or any other written law, the provisions of this Act shall constitute the law of Kenya in respect of, and shall have universal application to, all cases of intestate or testamentary succession to the estates of deceased persons dying after the commencement of this Act and to the administration of estates of such persons.</p> <p>(2) The estates of persons dying before the commencement of this Act are subject to the written laws and customs applying at the date of death, but nevertheless the administration of their estates shall commence or proceed so far as possible in accordance with this Act.</p>
	s. 10	Delete the marginal note and substitute "Proof of oral wills".
	s. 50	Delete the words "the gross value of which does not exceed one hundred thousand shillings".
The Finance Act, 1978 (No. 8 of 1978).	s. 13	Add the following to the list of repealed Acts—
		<p>No. 12 of 1954</p> <p>The Local Loan and Conversion Act, 1954.</p>
The Customs and Excise Act, 1978 (No. 10 of 1978).	s. 15	Renumber the existing subsection (2) as subsection (3).
		<p>Insert the following new subsection—</p> <p>(2) The Minister may, by order in the Gazette—</p> <p>(a) provide that the importation of any goods or class of goods shall be prohibited or shall be prohibited save in accordance with such conditions as may be specified;</p>

SCHEDULE—(Contd.)

*Written Law**Provisions**Amendment*

(b) limit the application of the provisions of the Eighth Schedule in respect of all or any of the goods specified therein,

and thereupon in respect of such goods the provisions of this Act shall apply as if such goods are, or are not, as the case may be, included in the Eighth Schedule.

s. 60

Renumber the existing subsection (2) as subsection (3).

Insert the following new subsection—

(2) The Minister may, by order in the Gazette—

(a) provide that the exportation of any goods or class of goods shall be prohibited or shall be prohibited save in accordance with such conditions as may be specified;

(b) limit the application of the provisions of the Eighth Schedule in respect of all or any of the goods specified therein,

and thereupon in respect of such goods the provisions of this Act shall apply as if such goods are, or are not, as the case may be, included in the Eighth Schedule

New Section Add the following new section—

Transitional

236. Notwithstanding section 28 of the Interpretation and General Provisions Act, the Minister may, within a period of six months from the commencement of this Act, make orders granting remission or refund of duty under section 138 (1) or 145 (1), as the case may be, with retrospective effect to a date earlier than such commencement.