

**THE STATUTE LAW (MISCELLANEOUS
AMENDMENTS) ACT, 1992**

No. 11 of 1992

Date of Assent: 20th October, 1992

Date of Commencement: 23rd October, 1992

**An Act of Parliament to make minor amendments to the
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, 1992.
- Amendment of written laws.** 2. (1) 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.
- Cap. 210.** (2) The amendment to the University of Nairobi Act shall be deemed to have taken effect on the 6th September, 1985.

SCHEDULE

(s. 2)

| <i>Written Law</i> | <i>Provision</i> | <i>Amendment</i> |
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| The National Assembly and Presidential Elections Act (Cap. 7). | Part VA (sections 18A to 18L (inclusive)). | Delete. |
| | s. 12 | Insert the following subsection immediately after subsection (3)— (4) Notwithstanding anything contained in this section or any other written law, whenever a fresh election of a President is to be held pursuant to subsection (4) of section 5 of the Constitution the fresh election shall be commenced and held within twenty-one days after any of the grounds specified in that subsection have arisen. |
| | s. 34(1) | Delete the expression "not exceeding one thousand shillings" appearing in paragraph (j) and insert "not exceeding five thousand shillings". |

SCHEDULE—(Contd.)

| <i>Written Law</i> | <i>Provision</i> | <i>Amendment</i> |
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| The Defamation Act (Cap. 36) | New section. | Insert the following new section immediately after section 7— |
| | Right of reply. | 7A. (1) Any person or body of persons shall be entitled to a right of reply to any factual inaccuracy affecting them which has been published in a newspaper and which is damaging to the character, reputation or good standing of that person or body of persons. |
| | | (2) Where a person or body of persons is entitled to a right of reply under subsection (1) a correction shall be printed in the next possible edition of the newspaper. |
| | | (3) The correction shall be printed free of charge and be given similar prominence as the item complained of and shall appear at a similar place in the newspaper. |
| | | (4) The correction must be of such length as is necessary to identify the original item. |
| | | (5) Any person or body of persons seeking to exercise the right of reply under the provisions of this section shall do so in writing to the editor or publisher of the newspaper within a period of fourteen days from the date of publication of the damaging material: |
| | | Provided that the right of reply shall not be exercisable after a period of six months from the publication of the relevant damaging material. |
| | | (6) In any civil proceedings for libel, the court, unless it is of the opinion that any reply under this section is either irrelevant or unreasonable in all the circumstances of the case, shall be at liberty to award an additional amount of damages together with the damages for defamation where the publisher has failed or refused to publish a correction or failed to give it the prominence required by this section. |

SCHEDULE—(Contd.)

| <i>Written Law</i> | <i>Provision</i> | <i>Amendment</i> |
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| | | (7) In any civil proceedings for libel instituted by a person or body of persons entitled to a right of reply who or which has failed to exercise such right in accordance with this section the court shall, in the event of it having found in favour of the plaintiff, be at liberty to reduce the amount of damages which it would have otherwise awarded by such sum as the court considers appropriate having regard to all circumstances of the case. |
| | s. 8(2) | Delete the expression "Sections 6 and 7" and insert "Sections 6, 7 and 7A". |
| | New section. | Insert the following new section immediately after section 16— |
| | Award of damages. | 16A. (1) In any action for libel, the court shall assess the amount of damages payable in such amount as it may deem just: Provided that where the libel is in respect of an offence punishable by death the amount assessed shall not be less than one million shillings, and where the libel is in respect of an offence punishable by imprisonment for a term of not less than three years the amount assessed shall not be less than four hundred thousand shillings. |
| The Arbitration Act (Cap. 49) | s. 2 | Delete the definition of "arbitration agreement" and insert the following new definition— "arbitration agreement" means an agreement in writing (including an exchange of letters, telegrams, telexes or fax messages, or any combination thereof) to submit to arbitration present or future differences capable of settlement by arbitration. Insert the following definitions in their proper alphabetical sequence— "Convention award" means an award made in pursuance of an arbitration agreement in the territory or a state, other than Kenya, which is a party to the New York Convention; |

SCHEDULE—(Contd.)

| <i>Written Law</i> | <i>Provision</i> | <i>Amendment</i> |
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| | | <p>“domestic arbitration agreement” means an arbitration agreement which does not provide expressly or by implication for arbitration in a state other than Kenya and to which neither—</p> <p>(a) an individual who is a national of or habitually resident in a state other than Kenya; or</p> <p>(b) a body corporate which is incorporated in, or whose central management and control is exercised in, any state other than Kenya, is a party at the time proceedings are commenced;</p> <p>“the New York Convention” means the Convention on the Recognition and Enforcement of Foreign Arbitral Awards adopted by the United Nations Conference on International Commercial Arbitration on the 10th June, 1958.</p> |
| | New section. | <p>Insert the following new section immediately after section 6—</p> <p>Effect of foreign arbitration. 6A. (1) If any party to an agreement to which this section applies, or any person claiming through or under him, commences any legal proceedings with any other party to the agreement, or any party claiming through or under him, in respect of any matter agreed to be referred to arbitration, any party to the proceedings may, at any time after appearance, and before delivering any pleadings or taking any other steps in the proceedings, apply to the court to stay the proceedings and the court shall, unless satisfied that the arbitration agreement is null and void, inoperative or that it is incapable of being performed, or that there is not in fact any dispute between the parties with regard to the matter agreed to be referred, make an order staying the proceedings.</p> <p>(2) This section shall apply only to arbitration agreements which are not domestic agreements and section 6 shall not</p> |

SCHEDULE—(Contd.)

Written Law

Provision

Amendment

apply to an arbitration agreement to which this section applies.

New Part. Insert the following new Part immediately after section 36—

PART IV—CONVENTION AWARDS

Effect of Convention award. 36A. (1) A Convention award shall, subject to this Part, be enforceable in Kenya either by action or in the same manner as the award of an arbitrator is enforceable by virtue of section 27.

(2) Any Convention award which would be enforceable under this Part shall be treated as binding for all purposes on the persons between whom it was made, and may accordingly be relied on by any of those persons by way of defence, set off or otherwise in any legal proceedings in Kenya; and any reference in this Part to enforcing a Convention award shall be construed as including references to relying on such an award.

(3) Where a Convention award would, but for this section, be also a foreign award within the meaning of Part III of this Act, that Part shall not apply to it.

Evidence. 36B. The party seeking to enforce a Convention award shall produce—

(a) the duly authenticated original award or a duly certified copy of it; and

(b) the original arbitration agreement or duly certified copy of it; and

(c) where the award or agreement is in a language other than English, a translation of it certified by an official or sworn translator or by a diplomatic or consular agent.

SCHEDULE—(Contd.)

| <i>Written Law</i> | <i>Provision</i> | <i>Amendment</i> |
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| | Refusal of enforcement. | <p>36C. (1) Enforcement of a Convention award shall not be refused except in the cases mentioned in this section.</p> <p>(2) Enforcement of a Convention award may be refused if the person against whom it is invoked proves—</p> <p>(a) that a party to the arbitration agreement was (under the law applicable to him) under some incapacity; or</p> <p>(b) that the arbitration agreement was not valid under the law to which the parties subjected it or, failing any indication thereon, under the law of the country where the award was made; or</p> <p>(c) that he was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present his case; or</p> <p>(d) subject to subsection (4), that the award deals with a difference not contemplated by or not falling within the terms of submission to arbitration or contains decisions on matters beyond the scope of the submission to arbitration; or</p> <p>(e) that the composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, with the law of the country where the arbitration took place; or</p> <p>(f) that the award has not yet become binding on the parties, or has been set aside or suspended by a competent authority.</p> <p>(3) Enforcement of a Convention award may also be refused if the award is in respect of a matter which is not capable</p> |

SCHEDULE—(Contd.)

| Written Law | Provision | Amendment |
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| | | <p>of settlement by arbitration or if it would be contrary to public policy to enforce the award.</p> <p>(4) A Convention award which contains decisions on matters not submitted to arbitration may be enforced to the extent that it contains decisions on matters submitted to arbitration which can be separated from those on matters not so submitted.</p> <p>(5) Where an application for the setting aside or suspension of a Convention award has been made to such a competent authority as is mentioned in subsection (2)(f) the court before which enforcement of the award is sought may, if it thinks fit, adjourn the proceedings and may, on the application of the party seeking to enforce the award, order the other party to give security.</p> |
| | Evidence of state parties to the Convention. | <p>36D. (1) The Minister may, by notice in the Gazette, declare that any state specified in the notice is a party to the New York Convention and while the notice is in force it is conclusive evidence that state is a party to that Convention.</p> <p>(2) A notice under this section may be varied or revoked by a subsequent notice.</p> |
| The Election Offences Act (Cap. 66). | ss. 3, 4 and 5(7). | Delete the words "three years" wherever they occur and insert "five years". |
| | s. 11(1) | Delete the words "three years" and "two years" and insert "five years" and "four years" respectively. |
| | ss. 13(2) and 15. | Delete the words "a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding twelve months" and insert "a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three years". |

SCHEDULE—(Contd.)

| <i>Written Law</i> | <i>Provision</i> | <i>Amendment</i> |
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| The Copyright Act (Cap. 130). | s. 14(2) | Delete the definition of "competent authority" and insert the following new definition— "competent authority" means an authority of not less than three and not more than five persons, one of whom shall be a person qualified as an advocate of the High Court of Kenya of not less than seven years standing or a person who holds or has held judicial office in Kenya who shall be the chairman, appointed by the Attorney-General for the purpose of exercising jurisdiction under this Act where any matter requires to be determined by such authority. |
| The University of Nairobi Act (Cap. 210) | s. 24 | Insert the word "not" immediately after the word "shall" appearing in the second line of subsection (4). Delete the word "but" appearing immediately after "Gazette" in the second line of subsection (4) and insert "and". |
| The Medical Practitioners and Dentists Act (Cap. 253) | s. 4(1) | Delete paragraph (e) and insert the following new paragraph— (e) a representative of each of the universities in Kenya which have power to grant a qualification which is registrable under this Act. |
| | s. 22 | Delete and insert the following new section— Penalty for unregistered and unlicensed person practising. 22.(1) Any person who wilfully and falsely takes or uses any name, title or addition implying a qualification to practise medicine or surgery or dentistry, or who, not being registered or licensed under this Act, practises or professes to practise or publishes his name as practising medicine or surgery or dentistry, or who being licensed under section 15, practises as a private practitioner, shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding twelve months or to both. (2) Subject to this Act, no person shall use the title "doctor" unless he is registered or licensed under this Act as a medical or dental practitioner or he has acquired a higher academic doctoral qualifications which entitles him to use |

SCHEDULE—(Contd.)

| <i>Written Law</i> | <i>Provision</i> | <i>Amendment</i> |
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| | | <p>that title and any person who contravenes the provisions of this subsection shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding two years or to both.</p> <p>(3) Nothing in subsection (1) shall make it an offence for a person in the service of—</p> <p>(a) the medical department of the Government; or</p> <p>(b) a hospital, dispensary or similar institution which the Director of Medical Services, by notice in the Gazette, declares to be an approved institution for the purposes of this section,</p> <p>to render medical assistance in the course of his duties in such service or for a person to carry out treatment under the direction, supervision and control of medical practitioner or a dentist or of a person licensed under section 13.</p> |
| The Local Government Act (Cap. 265). | ss. 5 and 9 | Delete the expression "the Minister" wherever it occurs and insert "the Minister, acting in consultation with the Electoral Commission,". |
| The Valuation for Rating Act (Cap. 266). | s. 3 | Delete the expression "five years" and insert "ten years". |
| | s. 8(1) | Delete the expression "or the Eviction of Tenants (Control) (Mombasa) Act". |
| | s. 10(1) | Delete the expression "may lodge an objection" and insert "may, on the payment of a non-refundable fee of five hundred shillings and on the prescribed form, lodge an objection". |
| | s. 26 | Delete. |
| | s. 27(1) | Delete the proviso and insert the following new proviso— Provided that nothing in this subsection shall apply to land used for profit or for |

SCHEDULE—(Contd.)

| <i>Written Law</i> | <i>Provision</i> | <i>Amendment</i> |
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| | | residential purposes other than those specified in paragraphs (a) and (d) of this subsection. |
| The Rating Act (Cap. 267). | s. 16 | Delete subsection (3) and insert the following— (3) The rating authority shall charge interest at the rate of two per centum per mensem or at such other rate as the Minister shall by notice in the Gazette prescribe on any sum remaining unpaid after the day on which the same was payable and for the purposes of this subsection a part of a month shall be counted as one month. |
| The Wildlife (Conservation and Management) Act (Cap. 376). | s. 65(3) | Delete and insert the following new section— (3) Any person who is dissatisfied with the manner in which compensation is made or not made under section 62 may appeal to the Tribunal within the time prescribed by regulations made under section 67(g). |
| | s. 67 | Delete paragraph (g) and insert the following new paragraph— (g) make provision for the manner and time in which application for the award of compensation under section 62 may be made and for the regulation of the proceedings of District Committees established by that section and the Appeal Tribunal established under section 65; and the manner and time in which appeals under section 65(3) may be made. |
| The State Corporations Act (Cap. 446) | s. 6 | Delete the word “seven” appearing in the first line of subsection (1) and insert “eleven”. |
| | | Delete the word “three” appearing in the third line of subsection (2) and insert “five”. |
| The Stamp Duty Act (Cap. 480). | Schedule— paragraph 29. | Insert the expression “and financial institution” immediately after the word “bank”. |
| The Investment Promotion Centre Act (Cap. 485). | s. 7(1) | Delete the expression “Managing Director” and insert “executive chairman”. |
| | First Schedule | Delete the words “with power for the Minister to prescribe different types of business enterprise” appearing in paragraph 6. |

SCHEDULE—(Contd.)

| <i>Written Law</i> | <i>Provision</i> | <i>Amendment</i> |
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| | | Delete the expression "subject only to compliance with any condition stated in Table B in respect of the relevant additional licence" appearing in paragraph 7(1). |
| | | Delete the expression "subject only to the matters specified in Table C" appearing at end of paragraph 7(2). |
| | | Delete the words "relevant statute" appearing at the end of the paragraph 8 and insert the following "relevant written law: |
| | | Provided that the Centre shall, upon receipt of the application for a general authority ascertain the fees payable in respect of additional licences and advise the applicant accordingly. |
| | Second Schedule. | Delete paragraphs 1, 2, 8 and 10 and insert the following new paragraphs— |
| | Cap. 118. | 1. Industrial registration under section 8 of the Industrial Registration Act. |
| | Cap. 237. | 2. Registration of employers for the purposes of orders made under the Industrial Training Act. |
| | Cap. 496. | 8. Permit to use standardization marks under the Standards Act. |
| | Cap. 258. | 10. Registration under the National Social Security Fund Act. |
| The Companies Act (Cap. 486). | s. 19(2) | Insert the expression "by a name which consists of abbreviations, initials or" immediately after "registered". |
| The Land Acquisition Act (Cap. 495) | s. 29(1) | Insert the following paragraphs immediately after paragraph (b)— (c) one shall be a prominent businessman of not less thirteen years standing; and (d) one shall be a prominent farmer of not less than ten years standing. |
| The Hire-purchase Act (Cap. 507). | s. 3(1) | Delete the words "eighty thousand shillings" and insert "three hundred thousand shillings or such other higher or lower sum as the Minister may, after taking into account market forces from time to time prevailing, prescribe". |
| | s. 8(1) | Delete the word "and" appearing at the end of paragraph (c). Delete the colon at the end of paragraph (d) and insert a semi-colon and the word "and" and the following new paragraph— (e) a condition that the legal ownership of, and title to, the goods shall |

SCHEDULE—(Contd.)

| <i>Written Law</i> | <i>Provision</i> | <i>Amendment</i> |
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| The Valuers Act (Cap. 532). | s. 12(1) | automatically be vested on the hirer upon payment by him of the hire-purchase price in full. |
| | Schedule— paragraphs 1 and 2(1). | Delete the expression “a member of the Institution of Surveyors of Kenya (Valuers Chapter)” wherever it appears in paragraphs (a), (b) and (c) and insert “a full member of the Institution of Surveyors of Kenya (Chapter of Valuation and Estate Management Surveyors). |
| | | Delete the expression “the Institution of Surveyors of Kenya (Valuers Chapter)” wherever it appears and insert “the Institution of Surveyors of Kenya (Chapter of Valuation and Estate Management Surveyor)”. |
| | | Delete the expressions “member of” or “members of” wherever they appear and insert “a full member of” or “full members of” respectively. |
| The Estate Agents Act (Cap. 533). | s. 13(1) | Delete paragraph (a) and insert the following— |
| | | (a) a full member of the Institution of Surveyors of Kenya in the chapters of Valuation and Estate Management Surveyors, Building Surveyors and Land Management Surveyors. |
| | | Delete the expression “a member of the Institution of Surveyors of Kenya” appearing in paragraph (b) and insert “a full member of the Institution of Surveyors of Kenya in the chapters of Valuation and Estate Management Surveyors, Building Surveyors and Land Management Surveyors”. |
| | s. 17 | Repeal and insert the following new section— |
| | | Appeals. 17. Any person aggrieved by a decision of the Board— |
| | | (a) refusing to register his name; or |
| | | (b) removing his name from register; or |
| | | (c) suspending his registration under this Act; or |

SCHEDULE—(Contd.)

| Written Law | Provision | Amendment |
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| | | <p>(d) refusing to restore his name on the register, may, within twenty-eight days of receiving the written decision of the Board, appeal to the High Court against the decision of the Board and in the case of that appeal—</p> <p>(i) the appeal shall be treated as an appeal to the High Court from a subordinate court exercising civil jurisdiction;</p> <p>(ii) the High Court may give such decision as it deems fit; and</p> <p>(iii) the decision of the High Court shall be final.</p> |
| | Schedule— paragraph 1. | <p>Delete subparagraphs (a), (b) and (c) and insert the following—</p> <p>(a) a chairman, who shall be a full member of any of the following chapters of the Institution of Surveyors of Kenya namely Valuation and Estate Management, Building Surveyors and Land Management;</p> <p>(b) two public officers who are full members of any of the chapters of the Institution of Surveyors of Kenya referred to in paragraph (a);</p> <p>(c) two persons who are full members of any of the chapters of the Institution Surveyors of Kenya referred to in paragraph (a) appointed by the Minister from the names of persons recommended by the institution who are in private practice.</p> |
| The Certified Public Secretaries of Kenya Act (Cap. 534). | s. 12 | Delete the expression "eight members" and insert "nine members". |
| | s. 17(1)(b) | Delete the expression "a secretary" appearing in the first line and insert "certified public secretary". |
| | s. 19 | Delete the word "secretary" wherever it appears and insert "certified public secretary". |
| The Non-Governmental Organizations Co-ordination Act, 1990 (No. 19 of 1990) | s. 2 | Delete the definition of "Non-Governmental Organization" and insert the following new definition— "Non-Governmental Organization" means a private voluntary grouping of |

SCHEDULE—(Contd.)

| Written Law | Provision | Amendment |
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| | | individuals or associations, not operated for profit or for other commercial purposes but which have organized themselves nationally or internationally for the benefit of the public at large and for the promotion of social welfare, development charity or research in the areas inclusive of, but not restricted to, health, relief, agriculture, education, industry and the supply of amenities and services. |
| | s. 4(1) | Delete the expression "five members" appearing in paragraph (i) and insert "seven members". |
| | s. 19 | Delete the comma and words ", and such a decision of the Minister shall be final" appearing in subsection (3) and insert the following new subsection— (3A) Any organization aggrieved by the decision of the Minister may, within, twenty-eight days of receiving the written decision of the Minister, appeal to the High Court against that decision and in the case of such appeal— (a) the High Court may give such direction and orders as it deems fit; and (b) the decision of the High Court shall be final. |
| | s. 34 | Delete the comma and words "and that decision shall be final and binding" appearing in subsection (2) and insert the following new subsection— (3) Any organization aggrieved by the decision of the Minister may, within twenty-eight days of receiving the written decision of the Minister, appeal to the High Court against that decision and in the case of such appeal— (a) the High Court may give such direction and orders as it deems fit; (b) the decision of the High Court shall be final. |
| The Districts and Provinces Act, 1992 (No. 5 of 1992) | Second Schedule | Delete the expression "thence due west by its intersection with the meridian 40° 15' E., appearing under the heading 5. LAMU DISTRICT and insert the following— "thence due west by a straight line to its intersection with Mkondo wa Fujo River; |

SCHEDULE—(Contd.)

*Written Law**Provision**Amendment*

thence generally southerly, south westerly, by that river and continuing with Ziwa la Ngombe River for approximately 12 kilometres to its intersection, with median line to a river grid reference FH 565314;

thence north-westerly and up-stream by the course of that river and continuing up-stream with Mkondo wa Gambi River to its intersection with extended straight line due west from the east southerly point of the former with Witu Trading Centre;

thence due west by a straight line to its intersection with the meridian 40° 15' E.

Delete the expression “thence generally easterly and south-easterly downstream by the course of the river to its intersection on the south bank with the north-western boundary of the original L.R. 2288 (Government Land)” appearing under the heading 22. THE KIAMBU DISTRICT and insert the following—

“thence south-westerly by that road to its intersection with the Thika River;

thence generally easterly and downstream by the course of the river to its intersection on the south bank with the north-western boundary of the original L.R. 2288 (Government Lands).

Delete the expression “thence generally north-westerly, easterly by the western and southern boundary of Malakisi Location and continuing with the southern boundary of Namubila and Lwandanyi Location to intersection with the Kabukara River “appearing under the heading “ 39. THE BUNGOMA DISTRICT” and insert the following—

“thence generally north-westerly, easterly by the western and northern boundary of Malakisi Location and continuing with the generally western boundary of Namubila Location to its intersection with the Kabukara River”;

Delete paragraph six to twelve and paragraph sixteen of the heading “41. THE

SCHEDULE—(Contd.)

| <i>Written Law</i> | <i>Provision</i> | <i>Amendment</i> |
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| | | SIAYA DISTRICT" and insert the following new paragraphs respectively— |
| | | "thence continuing by the generally northern boundary of North Ugenya, Sihayi, and East Ugenya Location and continuing south-easterly by East Ugenya Location boundary to its intersection with Uholo North Location; |
| | | "thence southerly by the eastern boundary of Uholo North and Uholo East Location to its intersections with the Viratsi River; |
| | | "thence generally south-westerly, and downstream by the course of that river to its confluence with the Adoho River which forms the north-eastern boundary of Yiro Sub-location of South Ugenya Location"; |
| | | Delete the following paragraphs— |
| | | "thence north-westerly by that boundary and continues with north-westerly, north-easterly, easterly by central Kitutu Location boundary to its intersections with western boundary of Ekembo Location; |
| | | "thence northerly by the western boundary of that location and continuing northerly by western boundary of Keera and West Mugirango Location to its intersection with common boundary between Homa Bay, Kisii and Nyamira districts" appearing under the heading "46. THE NYAMIRA DISTRICT" and insert the following— |
| | | "thence north-westerly by East Kitutu, Gachuba and Kemera locations boundary to its intersection with the Kisii Municipality boundary; |
| | | "thence north-westerly by Kisii Municipality boundary and continuing with western boundary of Kemera Location boundary to its intersection with boundary of Central Kitutu Location; |
| | | "thence northerly by that location boundary and continuing generally south-easterly to its intersection with boundary of North Kitutu Location; |

SCHEDULE—(Contd.)

| <i>Written Law</i> | <i>Provision</i> | <i>Amendment</i> |
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| | | “thence northerly by that boundary and continuing generally north-westerly by Bosamaro, Keera location to its intersection with West Mugirango Location; |
| | | “thence generally western by that location boundary to its intersection with common boundary between Homa Bay, Kisi'i and Nyamira districts. |
