

**THE STATUTE LAW (MISCELLANEOUS
AMENDMENTS) ACT, 1993**

No. 11 of 1993

Date of Assent: 16th December, 1993

Date of Commencement: 31st December, 1993

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, 1993. Short title.

2. 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. Amendment of written laws.

SCHEDULE

(s. 2)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Interpretation and General Provisions Act (Cap. 2).	s. 57 (b)	Insert after the word "holiday" in the second line the words "or all official non-working days".
The Magistrates' Courts Act (Cap. 10).	s. 5(1)	Delete the proviso and insert the following— Provided that the Chief Justice may by notice in the Gazette increase the limit of jurisdiction of— (i) a Chief Magistrate or Senior Principal Magistrate to a sum not exceeding five hundred thousand shillings; or (ii) a Principal Magistrate, a Senior Resident Magistrate or a Resident Magistrate to a sum not exceeding three hundred thousand shillings.
The Penal Code (Cap. 63).	s. 89	In subsection (1) delete the words "not exceeding five years" and insert "of not less than seven years and not more than fifteen years".
	s. 308(1)	Delete all the words after "imprisonment" in the fifth line and insert "of not less than seven years and not more than fifteen years".

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Criminal Procedure Code (Cap. 75).	Part XII	Delete the sub-heading "INQUIRIES AS TO SUDDEN DEATHS" and insert "INQUIRIES AS TO SUDDEN DEATHS AND MISSING PERSONS BELIEVED TO BE DEAD".
	s. 386(1)	Delete full stop at the end of paragraph (c) and insert a semi-colon and the following— “(d) is missing and believed to be dead;” In the ninth line after “shall” insert “in the case of paragraph (a), (b) or (c);” In the last line delete the full stop after “inquests” and insert a semi-colon and the following— and in the case of paragraph (d) shall immediately send to the Attorney-General through the Commissioner of Police as full a report as possible together with details of all supporting evidence relating to the circumstances surrounding the disappearance and the grounds upon which the death of that person is presumed to have taken place.
	s. 386 (2)	Insert after the word “When” in the first line the following— “, except in the case of a missing person believed to be dead”.
	s. 387	Insert in subsection (1) after the word “may” the words “but shall in the case of a missing person believed to be dead,”. Insert after subsection (5) the following new subsection— (6) In the case of an inquiry relating to a missing person believed to be dead the magistrate shall at the termination of the inquiry report the case together with his findings to the Attorney-General and shall make recommendations as to whether or not the period regarding the presumption of death provided for by section 118A of the Evidence Act should be reduced and if so what lesser period should, in the circumstances of the death, be substituted for the period of seven years.
	Cap. 80.	

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
	s. 388	In subsection (1) delete the full stop and insert the following— “and shall in the case of missing person believed to be dead give such directions as he deems fit”. Insert after subsection (3) the following new subsection— (4) Upon receiving a report under section 387(6) the Attorney-General shall after considering the recommendations of the magistrate direct him to make an order as to the period which should be recorded before the death is presumed and upon the expiration of such period the Registrar-General shall be empowered on the production to him by the proper officer entitled to apply for and receive a grant of representation under the Law of Succession Act, of a court certified copy of the magistrate's order, to issue to that person an appropriate certificate of death in accordance with the Births and Deaths Registration Act.
	Cap. 160.	
	Cap. 149.	
The College of Arms Act (Cap. 98).	s. 3	In subsection (1)— (i) delete paragraph (a) and insert the following— “(a) the Minister, or the person deputed by him, who shall be chairman”; and (ii) delete in paragraph (b) the word “three” and insert “four”.
The Firearms Act (Cap. 114).	s. 4	In subsection (3) (a) delete the words “not exceeding fifteen years” and insert “of not less than seven years and not more than fifteen years”. In subsection (3) (b) delete the words “to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding ten years or to both” and insert “to imprisonment for a term not exceeding ten years”.

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
	s. 26A	In subsection (1) delete the words "not exceeding ten years" and insert "of not less than seven years and not more than fifteen years". In subsection (2) delete the words "not exceeding ten years" and insert "of not less than seven years and not more than fifteen years".
	s. 27	In subsection (3) delete the words "not exceeding six months or to a fine not exceeding two thousand shillings or to both" and insert "of not less than seven years and not more than fifteen years". In subsection (7) delete the words "not exceeding six months or to a fine not exceeding two thousand shillings or to both" and insert "not exceeding ten years".
The Public Trustee Act (Cap. 168).	s. 5	Delete the words "a Deputy Public Trustee" and insert "one or more Deputy Public Trustees".
	s. 8	In subsection (1) delete the words "twenty thousand" and insert "one hundred thousand". In subsection (2) delete the words "five thousand" and insert "twenty thousand".
	s. 11	In paragraph (ii) of the proviso delete the words "eight thousand" and insert "seventy-five thousand".
	s. 12(1)	In the proviso delete the words "twenty thousand" and insert "one hundred thousand".
	s. 16(2)	In the proviso delete the words "ten thousand" and insert "twenty thousand".
The Pharmacy and Poisons Act (Cap. 244).	s. 3	Delete section 3 and insert the following new section.

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
	Establishment of Pharmacy and Poisons Board.	<p>3 (1) The Minister shall appoint a Board to be known as the Pharmacy and Poisons Board which shall consist of the following persons—</p> <p>(a) the Director of Medical Services who shall be the Chairman;</p> <p>(b) the Chief Pharmacist;</p> <p>(c) the Director of Veterinary Services or a veterinary surgeon nominated by him;</p> <p>(d) four Pharmacists appointed by the Minister from a panel of names submitted by the Pharmaceutical Society of Kenya of whom—</p> <p>(i) one shall be from the Civil Service;</p> <p>(ii) one shall be from the community pharmacy; and</p> <p>(iii) one from the pharmaceutical industry;</p> <p>(e) one representative of the Department of Pharmacy of the University of Nairobi nominated by the Faculty Board; and</p> <p>(f) one pharmaceutical technician appointed by the Minister from a panel of names submitted by the Kenya Pharmaceutical Association.</p> <p>(2) Those members of the Board appointed under paragraphs (d), (e) and (f) of subsection (1)—</p> <p>(a) shall hold office for a period of three years but shall be eligible for re-appointment;</p>

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(b) may at any time resign by instrument in writing addressed to the Chairman.

(3) Notwithstanding the provisions of subsection (2) the Minister may, if at any time it appears to him that a member of the Board has failed to carry out his functions under this Act, revoke the appointment of that person and shall appoint another person under subsection (1) in place of that member for the remainder of the period of office of that member, and if that member is nominated or elected by any other authority or body, his nomination or election shall be deemed to have been annulled on account of the revocation of his appointment to the Board.

(4) The Minister may appoint an appropriately qualified person to act temporarily in the place of any member of the Board other than the Chairman in the case of death, illness, resignation or absence from Kenya.

(5) The appointment, removal, death, resignation of any member shall be notified in the Gazette.

(6) The Board shall be a body corporate with perpetual succession and a common seal, and shall be capable in its corporate name of—

- (a) suing and being sued;
- (b) acquiring, holding and disposing of property;
- (c) borrowing and lending money.

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
	s. 5(1)	Delete subsection (1) and insert the following— The Registrar. 5 (1) There shall be a registrar of the Board who shall be the Chief Pharmacist.
	s. 8	Delete paragraph (b) and insert the following— (b) satisfies the Board that he holds at least a bachelor of pharmacy degree (whether of Kenya or of some other country) which the Board considers acceptable.
The Mental Health Act (Cap. 248).	s. 2	In the definition of "mental hospital" delete "section 7" and insert "section 9".
	s. 4(2)	In paragraph (g) delete full stop and insert a semi-colon and the following— (h) the Deputy Director of Mental Health; (i) the Chief Nursing Officer.
	s. 43	Delete and insert the following new section— No medical recommendation for admission of a person to a mental hospital and no medical certificate for the purposes of Parts V, VI, and VII shall be signed by any person owning a financial interest in such mental hospital unless the person in respect of whom the recommendation or certificate is signed, is at the time of signing, admitted to the mental hospital or is lawfully detained in some other suitable place for observation as to his mental condition, by the person who signs the certificate.
	s. 47	Delete and insert the following— Any person who, not being a medical practitioner or a person approved and authorized by the Director, knowingly and wilfully signs any medical certificate for the purposes of any of the provisions of this Act shall be guilty of an offence.
The Medical Practitioners and Dentists Act (Cap. 253)	s. 4	In subsection (3) delete "three years" and insert "five years". Insert after subsection (14) the following new subsection— (15) The Board shall be a body corporate with perpetual succession and a

SCHEDULE—(Contd.)

Written Law	Provision	Amendment
		<p>common seal, and shall be capable in its corporate name of—</p> <p>(a) suing and being sued;</p> <p>(b) acquiring, holding and disposing of property;</p> <p>(c) borrowing and lending money.</p>
		<p>Insert after section 11 the following new section—</p>
	<p>Supervisory functions of the Board.</p>	<p>11A. (1) The Board shall satisfy itself that courses of study to be followed by students for a degree in medicine or dentistry, including the standard of proficiency required for admission thereto and the standards of examinations leading to the award of a degree, are sufficient to guarantee that the holder thereof has acquired the minimum knowledge and skill necessary for the efficient practice of medicine or dentistry.</p> <p>(2) For the purposes of this section the Board may—</p> <p>(a) appoint persons to visit any university or other institution in Kenya offering a course in medicine or dentistry and to report to it on the course of study, staffing, accommodation and equipment available for training in medicine or dentistry and other arrangements available for such training;</p> <p>(b) appoint persons to attend examinations in any aspect of medicine or dentistry at any such university or institution and to report to it on the sufficiency of the examinations and on such matters relating thereto as the Board may require;</p>

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(c) require the dean or head of the faculty of medicine or dentistry or both at any such university or institution to provide written information to it concerning any of the matters referred to in paragraph (a) or (b).

(3) The Board shall forward a copy of any report made under subsection (2) to the university or institution concerned and may, if it is satisfied that the standard of any course or examination is insufficient, and after it has given the university or institution an opportunity of making observations on the report, require the university or institution in writing to take such measures as it may specify in order to improve or rectify the standard of such course or examination.

(4) If the Board, after requirements in writing has been made under subsection (3), is satisfied that the university or institution has nevertheless failed to take measures which are in the opinion of the Board necessary to improve or rectify the standard of any course or examination, it may cancel or suspend any recognition of a degree, diploma, or qualification awarded by that university or institution for the purposes of section 11:

Provided that no degree awarded prior to such cancellation or suspension shall be thereby affected.

The Local Government Act
(Cap. 265).

s. 150 (1)

Delete and insert the following—

(1) A local authority may with the approval of the Minister, pay to a

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<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
		councillor, at such rates as the Minister may specify, or where the Minister has specified maximum rates, at such rates as it may determine not exceeding those maximum rates—
		(a) such terminal benefits as may be determined by the Minister;
		(b) allowances in respect of—
		(i) expenditure on subsistence or travelling necessarily incurred by him for the purposes of enabling him to perform his duties as councillor;
		(ii) loss of earnings, which he would otherwise have made, necessarily suffered by him for purpose specified in the paragraph (i); and
		(iii) additional expenses, other than expense on account of subsistence or travelling, to which he would not otherwise have been subject, necessarily incurred by him for the purpose aforesaid.
	s. 151	In subsection (1) insert after "officer" in the fourth line the words "or a councillor who has held office as a councillor continuously for twenty years or more" and delete the colon in the seventh line and insert the words "or a councillor who has held office as a councillor continuously for twenty years or more:".
The Government Lands Act (Cap. 280).	s. 2	Delete the definition of "agricultural purpose" and insert the following " 'agricultural purpose' means any purpose falling within the meaning of agriculture as defined in the Agriculture Act".
	Cap. 318	
	s. 7	Insert in the first line after "Commissioner" the words "or an officer of the Lands Department".
		Insert in the second line of the proviso after "Commissioner" the word "or such officer".
The Agriculture Act (Cap. 318).	s. 2	Delete the definition of agriculture and insert the following— "agriculture" means cultivation of land and the use of land (whether or not

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		covered by water) for any purpose of husbandry and includes—
		(a) horticulture, fruit growing and seed growing;
		(b) dairy farming, bee keeping and breeding and keeping of livestock;
		(c) conservation and keeping of game animals, game birds and protected animals (all as defined in the Wildlife (Conservation and Management) Act and also of all aquatic animals;
	Cap. 376	(d) breeding, game ranching, game cropping and other wildlife utilization and otherwise turning to account within the provisions of the Act referred to in paragraph (c) but not otherwise of game animals and game birds (not being protected animals) and also of all aquatic animals whether in inland waters or the waters of the maritime zones falling within the provisions of the Fisheries Act;
	Cap. 378	(e) the use of land as grazing, meadow land, market gardens or nursery grounds; and
		(f) the use of land for woodlands and other forms of agroforestry, when that use is ancilliary to the use of land for other agricultural purposes; and "agricultural" shall be construed accordingly.
The Kenya Ports Authority Act (Cap. 391).	s. 4	Delete "two persons" in paragraph (f) and insert "six persons".
The Kenya Railways Corporation (Cap. 397).	s. 4	Delete "three persons" in paragraph (f) and insert "six persons".
The Traffic Act (Cap. 403).	s. 103(2)	Delete and insert the following— (2) A person who contravenes or fails to comply with this section shall be guilty of an offence and liable to a fine of not less than two thousand shillings and not more than five thousand shillings, and in addition the court may order the confiscation of the instrument by which the offence is committed.
	s. 104	Delete and insert the following— Any person who contravenes or fails to comply with any provisions of this Part shall be guilty of an offence and liable,

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
		where no penalty is specifically provided to a fine of not less than two thousand shillings and not more than five thousand shillings.
Export Processing Zones Act (Cap. 517).	s. 25 (1)	In paragraph (c), after "maintenance" insert, "or processing or conversion".
The Accountants Act (Cap. 531).	s. 14(1)	Delete paragraphs (c) and (d) and insert the following— (c) may borrow and lend money or raise or borrow money in such usual manner and upon security as it may from time to time determine; (d) may acquire, hold and dispose of property; and (e) may sue and be sued in its corporate name.
