

**THE STATUTE LAW (MISCELLANEOUS
AMENDMENTS) (No. 2) ACT, 1990**

No. 21 of 1990

Date of Assent: 14th January, 1991

Date of Commencement: 18th January, 1990

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) (No. 2) Act, 1990.

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 of that Schedule, in the manner specified in the third column.

Amendments of written laws.

3. The amendments specified in the Schedule in relation to the Law of Contracts Act shall come into operation on such day as Attorney-General may, by notice in the Gazette, appoint.

Commencement of amendments to Cap. 23.

SCHEDULE

(s. 2)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Civil Procedure Act (Cap. 21).	s. 79E	Delete "one thousand shillings" and insert "ten thousand shillings".
The Law of Contract Act (Cap. 23).	s. 3	<p>Repeal subsection (3) and insert the following new subsections—</p> <p>(3) No suit shall be brought upon a contract for the disposition of an interest in land unless—</p> <p>(a) the contract upon which the suit is founded—</p> <p style="margin-left: 2em;">(i) is in writing;</p> <p style="margin-left: 2em;">(ii) is signed by all the parties thereto; and</p> <p style="margin-left: 2em;">(iii) incorporates all the terms which the parties have expressly agreed in one document; and</p> <p>(b) the signature of each party signing has been attested by a witness who is present when the contract was signed by such party.</p> <p>(4) Subsection (3) shall not apply to a contract made in the course of a public auction nor shall anything in that subsection affect the creation or operation of a resulting, implied or a constructive trust.</p>

SCHEDULE—(Contd.)

Written Law

Provision

Amendment

(5) The terms of a contract may be incorporated in a document either by being set out in it or by reference to some other document.

(6) For the purposes of subsection (3)—

“disposition” includes a transfer and a devise, bequest or appointment of property contained in a will;

“transfer” includes a mortgage, charge, lease, conveyance, assignment, assent, vesting declaration, vesting instrument disclaimer, release and every other assurance of property or any interest therein by any instrument other than a will or a codicil;

“party” includes any agent, auctioneer or advocate duly authorized in writing to act in the absence of the party who has given such authority;

“interest in land” means any estate in or charge over land, or any estate in or charge over the proceeds of sale of land;

“sign”, in relation to a contract, includes making one's mark or writing one's name or initial on the instrument as an indication that one intends to bind himself to the contents of the instrument.

(7) The provisions of subsection (3) shall not apply to any agreement or contract made or entered into before the commencement of that subsection.

The Penal Code, (Cap. 63).

s. 68

Delete and insert the following—

Foreign
enlistment. 68(1) Any person who, without the authority of the President in writing—

(a) prepares or fits out any naval or military expedition to proceed against the dominions of any friendly state, or is engaged in such preparation or fitting out or assists therein or is employed in any capacity in such expedition; or

(b) being a citizen of Kenya accepts or agrees to accept any commission or engagement in the military, naval, air, police or other armed forces or service of any

SCHEDULE—(Contd.)

Written Law	Provision	Amendment
		nature whatsoever, or, whether a citizen of Kenya or not, induces any other person to accept or agree to accept any commission of engagement in the military, naval, air, police or other armed forces of any foreign state; or
		(c) being a citizen of Kenya, quits or goes on board any vessel with a view of quitting Kenya, with intent to accept any commission or engagement in the military, naval, air, police or other armed forces or service of any nature whatsoever of any, foreign state; or
		(d) being the master or owner of any vessel, knowingly either takes on board, or has on board such vessel, any illegally enlisted person; or
		(e) with intent or knowledge, or having reasonable cause to believe that the same will be employed in the military or naval service of any foreign state at war with a friendly state, builds, agrees to build, causes or allows to be dispatched any vessel, or issues or delivers any commission for any vessel,
		shall, unless he proves to the satisfaction of the court that in any case falling within provisions of paragraphs (b) and (c) the commission or engagement concerned was not voluntary, be guilty of an offence and liable to imprisonment for ten years.
		(2) Notwithstanding subsection (1), a person building, causing to be built or equipping a vessel in pursuance of a contract made before the commencement of the war referred

SCHEDULE—(Contd.)

Written Law	Provision	Amendment
		<p>to in paragraph (e) of subsection (1), is not liable to any of the penalties specified in that subsection in respect of such building or equipping if—</p> <p>(a) upon a proclamation of neutrality being issued by the President he forthwith gives notice to the Minister that he is so building, causing to be built or equipping such vessel and furnishes such particulars of contract and of any matters relating to, or done, or to be done, under the contract as may be required by the Minister; and</p> <p>(b) he gives such security and takes and permits to be taken such other measures, if any, as the Minister may prescribe for ensuring that such vessel shall not be dispatched, delivered or removed without the authority of the President until the termination of the war.</p>
The Registration of Persons Act (Cap. 107).	s. 2	<p>Insert the following new definition in its proper alphabetical sequence—</p> <p>“authorized officer” means a registration officer authorized by the Principal Registrar to exercise the powers or perform the duties and functions in respect of which the expression is used.</p>
	s. 6	<p>Renumber the existing provision as subsection (1) and insert the following new subsections—</p> <p>(2) The Principal Registrar may, by notice in the Gazette or in such other manner as he may think fit to bring the contents thereof to the notice of the persons affected thereby, require any person or class of persons in any particular area of Kenya to attend before a registration officer at such dates as may be specified in the notice for the purposes of registering under the provisions of this Act; and any such person, upon being so required, shall attend and give to</p>

SCHEDULE—(Contd.)

Written Law

Provision

Amendment

the registration officer the particulars specified in subsection (1) of section 5 and for that purpose shall permit his finger, thumb, palm or toe impressions to be recorded in the manner prescribed.

(3) Where the Principal Registrar issues a notice in respect of any area under subsection (2), any unregistered person being of a class of persons required to register by the notice who enters that area or who, being within that area, thereafter becomes liable to registration shall present himself forthwith before a registration officer, and shall register himself in the manner provided in subsection (2).

(4) A requirement under subsection (2) may be made notwithstanding that any person or class of persons has, prior to that requirement, been registered under this Act.

(5) Where any person is required to register under subsection (2) and has been, prior to that requirement, registered under this Act and issued with an identity card, he shall, on being required by a registration officer so to do, forthwith surrender that identity card.

s. 9 Insert the following new proviso at the end of subsection (2)—

Provided that a registered person may elect, or be required by a registration officer, to supply a photograph of himself in duplicate where the registration officer is satisfied that the photographs are of the prescribed size and type and have been taken within the prescribed time.

s. 14(1) Delete the expression "ten thousand" and "twelve months" and insert the expressions "fifteen thousand" and "eighteen months" respectively.

s. 16 Insert the words "initial registration" immediately after the word "for" appearing in paragraph (e).

SCHEDULE—(Contd.)

Written Law	Provision	Amendment
	New section	Insert the following new section immediately after section 17—
	Powers of arrest without warrant.	17A Where a person is reasonably suspected of committing or having committed an offence under this Act or any rules made thereunder, an authorized officer or a police officer of the rank of inspector or above may demand his name and address and, if he refuses or fails to give that information to the satisfaction of that officer or if that officer has reasonable grounds for believing that unless arrested that person may escape or cause an unreasonable delay, trouble or expenses in being made answerable to justice, he may without warrant arrest him and hand him over to a police officer or in the absence of a police officer take him to the nearest police station without unnecessary delay.
The Housing Act (Cap. 117)	s. 7B	Insert the following new paragraphs immediately after paragraph (d)—
		<p>(e) to operate a housing finance institution with powers to borrow funds from the Government, overseas agencies, pension and trust funds and any other institution or persons, as well as to collect deposits and savings from the public to be applied to the financing of residential housing development and related matters;</p> <p>(f) to establish, promote or aid in establishing or promoting, constitute, form or organize companies syndicates or partnerships alone or in conjunction with any other person or institutions for the carrying on of any such functions as the Corporation is empowered to carry on under this Act.</p>

SCHEDULE—(Contd.)

Written Law

Provision

Amendment

s. 8

Delete and insert the following—

Charge of loan on rates and revenues of local authority.

8(1). All loans made to a local authority by the Corporation shall be secured against the development financed by the loan advanced or against or in addition to any other specific immovable property owned by the local authority.

(2) The Corporation shall be a party to any contract or agreement between any person and the local authority advanced such loans with power to assume all the rights and remedies of such local authority in respect of developments financed by funds advanced by the corporation.

s. 9

Delete and insert the following new section—

Powers of the Corporation where local authority is in default.

9(1) Where a local authority defaults in the repayment of debt charges due to the Corporation, the Corporation shall take over the management of the property developed by the local authority using funds borrowed from the Corporation and assume collection of any monies payable to the local authority by the beneficiary or any other person as provided in section 8(2) until the outstanding debt is recovered substantially or in full.

(2) Upon taking over the management of the property under subsection (1), the Corporation shall have the same rights and obligations as the local authority has in respect of the developments financed with funds provided by the Corporation.

(3) Any shortfall experienced are a result of the Corporation exercising its powers under this section shall be recovered

SCHEDULE—(Contd.)

Written Law	Provision	Amendment
The Law of Succession Act (Cap. 160).	s. 2	<p>from any other securities provided by the local authority or as civil debt recoverable summarily.</p> <p>Insert the following new subsection immediately after subsection (2)—</p> <p>(3) Subject to subsection (4), the provision of this Act shall not apply to testamentary or intestate succession to the estate of any person who at the time of this death is a Muslim to the intent that in lieu of such provisions the devolution of the estate of any such person shall be governed by Muslim law.</p> <p>(4) Notwithstanding the provisions of subsection (3), the provisions of Part VII relating to the administration of estates shall where they are not inconsistent with those of Muslim law apply in case of every Muslim dying before, on or after the 1st January, 1991.</p>
	s. 3(1)	<p>Insert the following definitions in their proper alphabetical order—</p> <p>“Muslim” means any person who professes the religion of Islam and accept the unity of God and Muhammed as his prophet;</p> <p>“Muslim law” means the law applicable to a person who is a Muslim at the time of his death.</p>
	s. 48	<p>Renumber the existing section as subsection (1) and insert the following new subsection—</p> <p>(2) For the avoidance of doubt it is hereby declared that the Kadhis’ courts shall continue to have and exercise jurisdiction in relation to the estate of a deceased Muslim for the determination of questions relating to inheritance in accordance with Muslim law and of any other question arising under this Act in relation to such estates.</p>
	s. 50	<p>Renumber the existing section as subsection (1) and insert the following subsection—</p> <p>(2) An appeal shall lie to the High Court in respect of any order or decree made by a Kadhis’ Court in respect of the estate of a deceased Muslim and, with the prior leave thereof in respect of any point of Muslim law, to the Court of Appeal.</p>

SCHEDULE—Contd.)

Written Law	Provision	Amendment
	New section	Insert the following new section immediately after section 50—
		<p>Power to make rules. 50A. The Chief Justice may, in consultation with the Chief Kadhi, make rules of court for the better carrying into effect in relation to the estates deceased Muslims of the provisions of sections 47, 48, 49 and 50 and, in particular for regulating the exercise of the jurisdiction conferred by this Act.</p>
	s. 53	Insert the word “grant” immediately after “intestacy” in paragraph (b).
The Pharmacy and Poisons Act (Cap. 244).	s. 9A	<p>Delete and insert the following—</p> <p>Annual licence. 9A (1) Every registered pharmacist if he intends to practice in his professional capacity, shall require, in addition to the certificate of registration issued under section 9, an annual licence in a prescribed form for which he shall pay to the Registrar a prescribed fee which shall be the aggregate of—</p> <p>(a) such annual fee as shall be prescribed by the Minister under section 9; and</p> <p>(b) the sum of five thousand shillings or such other sum as may be prescribed by the Minister for the time being responsible for finance by notice in the Gazette.</p> <p>(2) Any sum payable under subsection (1) (a) shall be applied by the Board in such manner as may be prescribed by the Minister and any sum payable under subsection (1) (b) shall be paid by the Registrar to the Treasury in such manner as the Minister for the time being responsible for finance shall direct.</p> <p>(3) Every annual licence shall bear the date on which it is issued and shall be effective from that date and shall expire</p>

SCHEDULE—(Contd.)

Written Law	Provision	Amendment
		at the end of the licence year in which it is issued.
		(4) The licence year shall be from the 1st January to 31st December in each year.
		(5) For the purposes of this section, a person shall be deemed to practice in his professional capacity if he engages exclusively in his profession—
		(i) under his name or under any other authorized style as sole proprietor of a pharmacy practice; or
		(ii) in partnership with other pharmacists and is entitled to receive a share of the profits earned by such partnership for his own financial benefit and is liable to bear a share of any losses incurred by such partnership,
		but no person shall be deemed to practise in his professional capacity where he is employed—
		(a) by the Government or any other public body; or
		(b) by any state corporation as defined by the State
	Cap. 446.	Corporations Act; or
		(c) as an employee of any person or partnership engaged in his profession where all fees and charges earned by him in his professional capacity enure to the benefit of his employer, notwithstanding that he is employed in his professional capacity.
		(6) The Registrar shall note on the register the date of issue of every annual licence.
The National Hospital Insurance Act (Cap. 255).	s. 5(2)	Insert the following new proviso—
		Provided that where the income of a person paying the standard contribution is derived solely from employment, the standard contribution shall be paid only from his wages or salary.

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Government Lands Act (Cap. 280).	s. 116	<p>Insert the following subsection immediately after subsection (1)—</p> <p>(1A) For the prevention of any fraud or improper dealing or for any other sufficient cause, the Registrar may lodge a caveat, which shall be in the prescribed form forbidding the registration of any document affecting the land the subject thereof absolutely.</p> <p>Delete subsection (2) and insert the following—</p> <p>(2) A caveat lodged under subsection (1) shall be in the prescribed form and shall be verified by the oath of the caveator or his agent, and shall contain an address in Kenya at which notices may be served.</p>
The Registration of Titles Act (Cap. 281).	s. 65(1)	<p>Insert the words "or for any other sufficient cause" at the end of paragraph (f).</p>
The Land Titles Act (Cap. 282).	s. 72	<p>Insert the following new subsection immediately after subsection (1)—</p> <p>(1A) For the prevention of any fraud or improper dealing or for any other sufficient cause, the Registrar may lodge a caveat which shall be in the prescribed form forbidding the registration of any document affecting the land the subject thereof absolutely.</p> <p>Delete subsection (2) and insert the following—</p> <p>(2) A caveat lodged under subsection (1) shall be in the form in the Third Schedule and shall be verified by the oath of the caveator or his agent and shall contain an address within Kenya at which notices may be served.</p>

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Registered Land Act (Cap. 300).	New Section	Insert the following new section immediately after section 39—
	Vesting instruments and dispositions in the name of the proprietor.	39A (1) The Registrars shall give effect to any vesting order or vesting declaration (express or implied) made on the appointment or discharge of a trustee or otherwise and to dispositions made in the name and on behalf of proprietor by a person authorized to make the disposition and the provisions of the Trustee Act relating to the appointment and discharge of trustee and the vesting of trustee property shall apply to proper entry being made on the register.
	Cap. 167.	(2) The Registrar shall also give effect on the register in the prescribed manner to any vesting instrument which may be made pursuant to any statutory power.
The Income Tax Act (Cap. 470).	Third Schedule	Delete paragraph 2 and insert the following—
		2. The corporation rate of tax shall be—
	(a) in the case of a resident Company—	<i>Rate in each twenty</i>
	(i) for the year of income 1974 and each subsequent year of income up to and including the year of income commencing on 1st January, 1989	9.00
	(ii) for the year of income commencing on 1st January, 1990	8.50
	(iii) for the year of income commencing on the 1st January, 1991, and each subsequent year of income	8.00

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
	(b) in the case of non-resident company having a permanent establishment in Kenya—	
	(i) for the year of income 1974 and each subsequent year of income including the year of income commencing on the 1st January, 1989 ..	10.50
	(ii) for the year of income commencing on the 1st January, 1990	10.00
	(iii) for the year of income commencing on the 1st January, 1991 and each subsequent year of income	9.50
	(c) that part of the total income of a company which relates to income derived from the mining of specified minerals where the rate shall be five shillings and fifty cents in respect of each twenty shillings of that part of the total income; but the rate shall be nine shillings in each twenty shillings of that part of the total income from the fifth year, and in each subsequent year, after the first year in which the company is liable to pay corporation tax;	
	(d) that part of the chargeable income of a resident insurance company which relates to its life insurance business where the rate shall be eight shillings in each twenty of chargeable; and	
	(e) an export processing zone enterprise shall be exempted from paying any corporation tax for a period of ten years commencing from the date of the licence issued by the Export Processing Zone Authority; but the corporation rate of tax will be twenty five per cent for the period of ten years commencing immediately thereafter.	

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>				
The Trade Licensing Act (Cap. 497).	Second Schedule	Insert the following new entry at the end thereof— <table border="0" style="margin-left: 40px;"> <tr> <td style="text-align: center;"><i>Profession</i></td> <td style="text-align: center;"><i>Act under which Licensed</i></td> </tr> <tr> <td style="text-align: center;">Advocates.</td> <td style="text-align: center;">Advocates Act, 1979 (No. 18 of 1989).</td> </tr> </table>	<i>Profession</i>	<i>Act under which Licensed</i>	Advocates.	Advocates Act, 1979 (No. 18 of 1989).
<i>Profession</i>	<i>Act under which Licensed</i>					
Advocates.	Advocates Act, 1979 (No. 18 of 1989).					
The Architects and Quantity Surveyors Act (Cap. 525).	s. 10A	Insert the expression “in his professional capacity” immediately after the words “who practices” appearing in subsection (1). Delete the expression “or other public body” appearing in subsection (1A) and insert “or any other public body”.				
The Engineers Registration Act (Cap. 530).	s. 12A	Insert the expression “in his professional capacity” immediately after the words “to practise” appearing in subsection (1). Insert the following new subsection (6)— (6) For the purposes of this Act, a person shall be deemed to practise in his professional capacity if the engages exclusively in his profession— (a) on his own account and is entitled to receive the entire amount of all fees or charges earned for his own financial benefit; or (b) in partnership with others and is entitled to receive a share of the profits earned by such partnership for his own financial benefit and is liable to bear a share of any losses incurred by such partnership, but no person shall be deemed to practise in his professional capacity where he is employed— (i) by the Government or any other public body; or (ii) by any state corporation as defined by the State Corporations Act; or (iii) as an employee of any person or partnership engaged in his profession where all fees earned by him in his professional capacity enure to the benefit of his employer notwithstanding that he is employed in his professional capacity.				

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Accountants Act (Cap. 531).	s. 22A	<p>Insert the expression "in his professional capacity" immediately after the words "to practice" appearing in subsection (1).</p> <p>Insert the following new subsection immediately after subsection (5)—</p> <p>(6) For the purposes of this Act, a person shall be deemed to practice in his professional capacity if he engages exclusively in his profession—</p> <p>(a) on his own account and is entitled to receive the entire amount of all fees or charges earned for his own financial benefits; or</p> <p>(b) in a partnership with others and is entitled to receive a share of the profits earned by such partnership for his financial benefits and is liable to bear a share of any losses incurred by such partnership,</p> <p>but no person shall be deemed to practice in his professional capacity where he is employed—</p> <p>(i) by the Government or any other public body; or</p> <p>(ii) by any state corporations as defined Cap. 446 by the State Corporations Act; or</p> <p>(iii) as an employee of any person or partnership engaged in his profession where all fees earned by him in his professional capacity enure to the benefit of his employer notwithstanding that he is employed in his professional capacity.</p>
The Valuers Act (Cap. 532).	s. 8A	<p>Insert the expression "in his professional capacity" immediately after the words "to practice" appearing in subsection (1).</p> <p>Insert the following new subsection (6) immediately after subsection (5)—</p> <p>(6) For the purposes of this section, a person shall be deemed to practice in his</p>

SCHEDULE—(Contd.)

Written Law	Provision	Amendment
		<p>professional capacity if he engages exclusively in his profession—</p> <p>(i) on his own account and is entitled to receive the entire amount of all fees and charges earned for his own financial benefits; or</p> <p>(ii) in partnership with others and is entitled to receive a share of the profits earned by such partnership for his own financial benefit and is liable to bear a share of any losses incurred by such partnership,</p> <p>but no person shall be deemed to practise in his professional capacity where he is employed—</p> <p>(a) by the Government or any other public body;</p> <p>(b) by any state corporations as defined by the State Corporations Act;</p> <p>Cap. 446. or</p> <p>(c) as an employee of any person or partnership engaged in his profession where all fees and charges earned by him in his professional capacity enure to the benefit of his employer notwithstanding that he is employed in his professional capacity.</p>
The Estate Agents Act (Cap. 533).	s. 8A	<p>Insert the words “in his professional capacity” immediately after the words “to practise” appearing in subsection (1).</p> <p>insert the following new subsection immediately after subsection (5)—</p> <p>(6) For the purposes of this section, a person shall be deemed to practise in his professional capacity if he engages exclusively in his profession—</p> <p>(i) on his own account and is entitled to receive the entire amount of all fees and charges earned for his own financial benefit; or</p>

SCHEDULE—(Contd.)

Written Law	Provision	Amendment
		<p>(ii) in a partnership with others and is entitled to receive a share of the profits earned by such partnership for his own financial benefit and is liable to bear a share of any losses incurred by such partnership,</p> <p>but no person shall be deemed to practise in his professional capacity where he is employed—</p> <p>(a) by the Government or any other public body; or</p> <p>(b) by any state corporation as defined in State Corporations Act, or</p> <p>(c) as an employee of any person or partnership engaged in his profession where all fees earned by him in his professional capacity enure to the benefit of the employer; notwithstanding that he is employed in his professional capacity.</p>
	Cap. 446	
	New Section	Insert the following new section—
	Licensing of dual Occupations.	<p>8B. (1) Where any person to whom section 8A applies carries on more than one professional occupation at the same time such person shall elect in writing which of such occupations shall be deemed to be his primary occupation.</p> <p>(2) A person to whom subsection (1) applies shall only be required to obtain an annual licence in respect of his primary occupation to the intent that no such person shall obtain more than one annual licence in any one year.</p>
The Sectional Properties Act, 1987 (No. 21 of 1987).	s. 3	<p>Delete the expression "section 5" appearing in the definition of "sectional plan" and insert "section 9".</p> <p>Insert the following definition in its proper alphabetical sequence.</p> <p>"unit factor", in relation to a unit, means the unit factor determined for that unit as shown in the schedule of unit factors endorsed on a sectional plan registered by the Registrar.</p>

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
	s. 5	Delete the expression "certificate of sectional property" wherever it occurs and insert "title deed for sectional property".
	s. 6(1)	Delete the expression "certificate of sectional property" and insert "title deed for sectional property".
	s. 11	Delete subsection (2) and insert the following new subsection. (2) Where the plan presented for registration as a sectional plan is in respect of building containing units it shall, in addition to the certificate required under subsection (1), be endorsed or accompanied by a certificate of a surveyor as defined under the Cap 299. Survey Act or such other person as shall be approved by the Director of Survey stating that the units shown on the plan correlate with the existing structure.
	s. 17	Delete subsection (4) and insert the following new subsections. (4) The Corporation shall be regulated in accordance with this Act and the by-laws specified in the regulations shall subject thereto, have effect in relation to the corporation and its board. (5) The provisions of the Companies Act shall not apply to the Corporation. Cap. 486.
	s. 29	Delete subsection (8).
	s. 30	Insert the following subsection immediately after subsection (1). (1A) Notwithstanding subsection (1) on first registration the by-laws specified in the regulations shall be the by-laws of the Corporation. Delete the expression "contain" appearing in subsection (5) and insert "contained". Insert the following new subsection immediately after subsection (5)— (6) A by-law made by the Corporation under subsection (1) shall have no force or effect to the extent to which it purports to prohibit or restrict— (a) the keeping on a unit of a dog used as a guide by a completely blind owner, occupier or resident of the unit; or

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
		(b) the use of a dog as a guide on a unit or common property by a completely or partially blind person.
	s. 31	Delete the expression "Penalties" appearing as a marginal note and insert "Enforcement of by-laws".
	s. 41	Delete the expression "prescribed in the regulations" and insert "prescribed in the by-laws".
	s. 42(4)	Delete the expression "subsection (2)" and insert "subsection (3)".
The Advocates Act, 1989 (No. 18 of 1989).	New section	Insert the following new section immediately after section 53—
	Remuneration of Commissioner.	53A. (1) There shall be paid to the Commissioner such remuneration by way of salary allowance, pension or gratuity as shall be determined by the President.
		(2) The remuneration referred to in subsection (1) shall be paid out of money provided by Parliament.
The Certified Public Secretaries of Kenya Act, 1988 (No. 12 of 1988).	s. 18A	Insert the expression "in his professional capacity" immediately after the words "to practice" appearing in subsection (1).
		Insert the following subsection (6) immediately after subsection (5)—
		(6) For the purposes of this section, a person shall be deemed to practise in his professional capacity if he engages exclusively in his profession—
		(i) on his own account and is entitled to receive the entire amount of all fees and charges earned for his own financial benefit ; and
		(ii) in partnership with others and is entitled to receive a share of the profits earned by such partnership for his own financial benefit and is liable

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
		to bear a share of any losses incurred by such partnership, but no person shall be deemed to practise in his professional capacity where he is employed—
		(a) by the Government or any other public body; or
	Cap. 446.	(b) by any state corporation as defined in the State Corporations Act; or
		(c) an employee of any person or partnership engaged in his profession where all fees and charges earned by him in his professional capacity enure to the benefit of his employer, notwithstanding that he is employed in his professional capacity.
