

THE STATUTE LAW (REPEAL AND MISCELLANEOUS AMENDMENTS) ACT, 1990

No. 7 of 1990

Date of Assent: 18th June, 1990

Date of Commencement: 22nd June, 1990

An Act of Parliament to repeal the Metric System Act and 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 (Repeal and Miscellaneous Amendments) Act, 1990.

Repeal of Cap. 523.

2. The Metric System Act is repealed.

Amendment of written laws.

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

Retrospective effect of certain amendments. Cap. 149.

4. The amendments specified in the Schedule in relation to the Births and Deaths Registration Act shall be deemed to have come into operation on the 1st July, 1989.

SCHEDULE

(s. 2)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Criminal Procedure Code (Cap. 75).	New section	Insert the following new section 15 immediately after section 14—
	Suspended sentences.	15 (1) Any court which passes a sentence of imprisonment for a term of not more than two years for any offence may order that the sentence shall not take effect unless during the period specified by the court (hereinafter called the "operational period") the offender commits another offence, whether that offence is punishable by imprisonment, corporal punishment or by a fine.

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<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
		(2) Where the offender is convicted of an offence during the operational period the sentence for the first offence in respect of which the offender was convicted under subsection (1) shall thereupon take effect.
		(3) Where under subsection (2) the sentence passed for the first offence under subsection (1) takes effect the sentence passed for the subsequent offence shall run consecutively to the sentence passed for the first offence.
	s. 123 (3)	Delete the words "direct that the person be admitted to bail or" and insert "direct that the person be or not be admitted to bail or".
	s. 379	Insert the following new subsection immediately after subsection (5)—
		(5A) Where the Attorney-General certifies that a sentence passed by the Court of Appeal in the exercise of its original jurisdiction should be reviewed by the Court of Appeal, the Court of Appeal may, after giving the accused person or his advocate an opportunity of being heard, make such order by way of enhancement of sentence or maintaining the sentence passed as is consistent with the ends of justice.
The Evidence Act (Cap. 80).	s. 3 (1)	Delete the definitions of "Gazette and Government Printer" and "public officer".
	s. 131	Delete the expression "or by the Secretary-General of the Community".
The Police Act (Cap. 84)	s. 49	Delete and insert the following new section—
	Reciprocating country defined.	49. In this part, "reciprocating country" means any country which the President may, being satisfied that the law of that country contains provisions reciprocal to this Part and

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		that Kenya is or will be declared a reciprocating country for the purpose of those provisions, by notice in the Gazette, declare to be a reciprocating country for the purposes of this Part.
	ss. 50 and 51	Delete the expression "neighbouring country" where it occurs and insert "reciprocating country".
The Births and Deaths Registration Act (Cap. 149).	s. 2	Delete the definition of "Registrar-General" and insert the following definition in proper alphabetical sequence— "Principal Registrar" means the Principal Registrar of Births and Deaths appointed under section 3 of this Act.
	s. 3	Delete and insert the following new section— Principal Registrar. 3 (1). There shall be a Principal Registrar of Births and Deaths.
	s. 4	Delete.
	ss. 6 and 8	Delete "Registrar-General" and insert "Principal Registrar".
	s. 9 (1)	Delete subsection (1).
	s. 12	Delete the comma and words "in case of Africans".
	s. 15 (1)	Delete subsection (1).
	ss. 23, 24, 25, 26, 27 and 28	Delete the expression "Registrar-General" and insert "Principal Registrar".
The Pensions Act (Cap. 189).	s. 10	Repeal and insert the following new section— Maximum pension. 10. A pension granted to an officer under this Act shall not exceed the full pensionable emoluments drawn by him at the date of his retirement.
The Pharmacy and Poisons Act (Cap. 244).	New section	Insert the following new section immediately after section 9— Annual licence. 9A (1) Every registered pharmacist shall require, in addition to the certificate of registration issued under section 9, an annual licence in a prescribed form for

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		which he shall pay to the Registrar a prescribed fee which shall be the aggregate of— (a) such annual fee as shall be prescribed by the Minister under section 9 of this Act; and (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.
		(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.
		(3) Every annual licence shall bear the date on which it is issued and shall be effective from that date and shall expire at the end of the year in which it is issued.
		(4) The licence year shall be from the 1st January to 31st December in each year.
		(5) The Registrar shall note on the register the date of issue of every annual licence.
	s. 10 (3)	Delete the expression "Registrar of Births and Deaths" and insert "Principal Registrar of Births and Deaths".
	s. 20 (1)	Delete "the name and certificate of registration" and insert "the name, certificate of registration and annual licence".
	New section	Insert the following new section in Part IV— Advertisement of drugs. 36 (1) Subject to the provisions of this Act, no person shall advertise any drug or poison except with the written permission of the Board. (2) Applications for the advertisement of any drug or poison shall be made to

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		the Board in the prescribed form and shall be accompanied by the prescribed fee.
	s. 40 (1) and 40 (3)	Delete the expression "sections 37, 38 and 39" and insert "sections 36, 37, 38 and 39".
The Survey Act (Cap. 299).	New section	Insert the following new section immediately after section 10—
	Annual licence.	10A (1) Every person who has been issued with a licence to practise as a surveyor under section 10 shall, if he intends to to practise, require in addition to such a licence an annual licence in prescribed form for which he shall pay to the Board a prescribed fee which shall be the aggregate of—
		(a) the annual fee as may be prescribed by the Minister under section 45 (1) (a) of this Act; and
		(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.
		(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 Board to the Treasury in such manner as the Minister for the time being responsible for finance shall direct.
		(3) Every annual licence shall bear the date of the day on which it is issued and shall have effect from the beginning of that day and shall expire at the end of the licence year in which it is issued:
		Provided that where the name of a surveyor is removed from the register, the annual licence of that surveyor shall expire forthwith.

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		(4) The licence year shall be from the first January to the 31st December in each year.
		(5) The Board shall cause to be entered on the register a note of the date of issue of every annual licence.
The Medical Practitioners and Dentists Act (Cap. 353).	New section	Insert the following new section immediately after section 15—
	Annual licence.	15A (1) Every person licensed to engage in private practice under section 15 shall, in addition to such licence, require an annual licence to practise in the prescribed form for which he shall pay to the Board a prescribed fee which shall be the aggregate of—
		(a) the prescribed fee payable under section 15 (2); and
		(b) the sum of five thousand shillings or such other sum as the Minister for the time being responsible for finance may prescribe by notice in the Gazette.
		(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 Board to the Treasury in such manner as the Minister for the time being responsible for finance shall direct.
		(3) Every annual licence shall bear the date on which it is issued and shall be effective from that date and shall expire at the end of the licence year in which it is issued.
		(4) The licence year shall be from the 1st January to the 31st December in each year.
		(5) The Registrar shall note on the register the date of issue of every licence.

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The Veterinary Surgeons Act (Cap. 366)	s. 12	<p>Delete section 12 and insert the following new section—</p> <p>Licensed veterinary surgeons.</p> <p>12 (1) Whenever the Board is satisfied that it is in the public interest so to do, it may in its discretion and on payment of the prescribed fee, grant a licence to practise veterinary surgery to any person who holds a veterinary qualification which would entitle him to practise veterinary surgery in the country where it was awarded.</p> <p>(2) The prescribed fee under this section shall be the aggregate of—</p> <p>(a) such sum as the Board may by notice in the Gazette determine; 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>(3) Any sum payable under subsection (2) (a) shall be applied by the Board in such manner as may be determined by the Minister and any sum payable under subsection (2) (b) shall be paid by the Board to the Treasury in such a manner as the Minister for the time being responsible for finance shall direct.</p> <p>(4) A licence shall be in the proscribed form and shall be granted subject to such conditions, including restriction in the area in which a licensee may practise, and the Board may, subject to section 19, cancel any such licence.</p> <p>(5) The Board shall keep or cause to be kept a list of names and qualifications of persons to whom licences have been granted under this section.</p> <p>(6) The Board shall, not later than 31st January of every year,</p>

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The Income Tax Act (Cap. 470).	s. 39	<p>publish in the Gazette a list of the names and qualifications of all persons licensed under this section.</p> <p>Delete paragraph (a) and insert the following new paragraph—</p> <p>(a) has been deducted under section 17A (in respect of a person other than an individual), sections 35, 36 and 37; or</p>
The Trade Marks Act (Cap. 506).	s. 2	<p>Insert the following definition in its proper alphabetical sequence—</p> <p>“Director” means the Director of the Industrial Property Office appointed under section 4 of the Industrial Property Act, No. 19 of 1989, 1989.</p>
	s. 3	<p>Delete subsections (1), (2) and (3) and insert the following—</p> <p>(1) The Director shall be the Registrar of Trade Marks under and for the purposes of this Act.</p> <p>(2) The Minister 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.</p> <p>(3) The Registrar shall have a seal of such device as may be approved by the Minister.</p>
The Architects and Quantity Surveyors Act (Cap. 525).	s. 10A	<p>Delete subsections (1) and (2) and insert the following—</p> <p>(1) Subject to subsection (1A), every person who has been registered under this Act and who practises either on his own or as a partner in a partnership firm shall require, in addition to such registration, an annual licence in a prescribed form for which he shall pay to the Board a prescribed fee which shall be the aggregate of—</p> <p>(a) such annual fee as shall be prescribed by the Minister under section 5 (g) of this Act; 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>

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		(1A) The provisions of subsection (1) shall not apply to a registered person who is employed— (a) by the Government or other public body; or (b) by any state corporation as defined by the State 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. (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 Board to the Treasury in such manner as the Minister for the time being responsible for finance may direct.
The Accountants Act (Cap. 531).	s. 22A (1)	Insert the commas and words “, if he intends to practise,” immediately after the words “certificate shall”.
	New section	Insert the following new section— Licensing of dual occupations. 22B (1) Where any person to whom section 22A 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. (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.
The Valuers Act (Cap. 532).	s. 8A (1)	Insert the words “to the Board” immediately after the words “he shall pay”.
	New section	Insert the following new section immediately after section 8A— Licensing of dual occupations. 8B (1) Where any person to whom section 8A applies carries on more than one professional occupation at the

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		same time such person shall elect in writing which of such occupations shall be deemed to be his primary occupation. (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.
The Sectional Properties Act, 1987 (No. 21 of 1987).	s. 29 (6)	Delete subsections (6) and (7) and insert the following new subsections— (6) A local authority, a judgement creditor of the Corporation for an amount of not less than five thousand shillings or any owner or person having a registered interest in or over the units comprised in a sectional plan may apply to the tribunal for the appointment of a receiver and manager upon such terms as the tribunal may direct. (7) The tribunal may order any or all of the duties of the Board or the Corporation to be vested in the receiver and manager to the exclusion of the Board or the Corporation.
	s. 38 (1)	Insert the comma and words “, subject to the payment of such charge as is prescribed in the regulations,” immediately after the words “the person making the request”.
The Certified Public Secretaries of Kenya Act, 1988 (No. 12 of 1988).	New section	Insert the following new section 18B immediately after section 18A— Licensing of dual occupations. 18B (1) Where any person to whom section 18A 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. (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.

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The Kenya Broadcasting Corporation Act, 1988 (No. 15 of 1988).	s. 9 (2)	Delete.
	s. 15 (2)	Delete the words "within twelve months" and insert "within two years and six months".
	s. 17 (1)	Delete the words "within a period of one year from the date of commencement of this Act" and insert "within a period of two years and six months from the date of commencement of this Act".
	s. 48	Delete the expression "on Director-General" appearing in the marginal note.
The Advocates Act, 1989 (No. 18 of 1989).	s. 2	Insert the following new definition in its proper alphabetical sequence— "annual licence" means a licence issued under section 21;
	s. 9	Insert a semi-colon and the word ";" and immediately after paragraph (c) and insert the following new paragraph— (d) he has in force an annual licence.
	Part VII Heading	Delete the heading and insert the following— PRACTISING CERTIFICATE AND ANNUAL LICENCE
New sections	s. 21	Insert the words "and annual licences" immediately after "certificates".
		Insert the following new sections immediately after section 30— Annual licence. 30A (1) Every person issued with a practising certificate under this Part shall, if he intends to practice in his professional capacity, require, in addition to such practising certificate, an annual licence in the prescribed form for which he shall pay to the Society a prescribed fee which shall be the aggregate of— (a) such annual fee as may be prescribed by the Society under section 81 of this Act; and (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.

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(2) Any sum payable under subsection (1) (a) shall be applied by the Society in such manner as the Council may prescribe and any sum payable under subsection (1) (b) shall be paid by the Society to the Treasury in such manner as the Minister for the time being responsible for finance shall direct.

(3) 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; or

(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,

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 Corporations Act; or

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(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.

Licensing of dual occupations.

30B (1) Where any person to whom section 30A 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.

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(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.

Application
for and
issue of
annual
licence.

30C (1) Application for an annual licence shall be made to the Registrar—

- (a) by delivering to him an application in duplicate in the prescribed form; and
- (b) by delivering evidence satisfactory to the Registrar that the applicant has paid to the Society the fee prescribed for an annual licence.

(2) The Registrar shall, if satisfied that the name of the applicant is on the Roll and that he is not for the time being suspended from practice, within fourteen days of the receipt by him of the application, issue to the applicant an annual licence.

(3) Every annual licence shall bear the date on which it is issued and shall have effect from the beginning of that day and shall expire at the end of the licence year in which it is issued.

(4) The licence year shall be from the 1st January, to the 31st December, in each year.

(5) The Registrar shall cause one copy of each declaration received by him under this section to be filed in a register kept for that purpose and any person may inspect the register during office hours without payment.

(6) The Registrar shall note on the register maintained under subsection (5) the date of issue of each annual licence.

- s. 81(1) Delete the expression "certificates" where it appears in paragraph (b) and insert "certificates and annual licences".