

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

No. 7 of 2007

Date of Assent: 10th October, 2007

Date of Commencement:

- (a) *The Amendments specified in the Schedule in relation to:*
- (i) *The National Assembly Remuneration Act, (Cap. 5):
9th January, 2003*
- (ii) *The Advocates Act, (Cap. 16): By Notice*
- (iii) *The Traffic Act, (Cap. 403): By Notice*
- (b) *All Other Provisions: 15th October, 2007*

**An Act of Parliament to make minor amendments to
statute law**

ENACTED by the Parliament of Kenya, as follows -

- | | |
|--|-------------------------------------|
| 1. This Act may be cited as the Statute Law (Miscellaneous Amendments) Act, 2007. | Short title. |
| 2. The several written laws specified in the first column of the Schedule are amended, in the provisions specified in the second column thereof, in the manner respectively specified in the third column. | Amendment of written laws. |
| 3. The amendments specified in the Schedule in relation to – | Commencement of various provisions. |
| (a) the National Assembly Remuneration Act, shall be deemed to have come into operation on the 9 th January, 2003; | Cap. 5. |
| (b) section 58A of the Advocates Act, shall come into operation on such date as the Attorney-General may, by notice in the Gazette, appoint; | Cap. 16. |
| (c) the Traffic Act, shall come into operation on such date as the Minister responsible for transport may, by notice in the Gazette, appoint. | Cap. 403. |

SCHEDULE

(S.2)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>		
The Revision of the Laws Act (Cap. 1).	S.6(2)	<p>Insert the following immediately after the words "Government printer, Nairobi" -</p> <p style="padding-left: 40px;">or "Printed and Published by(name of Printer) with the Authority of the Attorney-General".</p> <p>Insert the following new subsection immediately after subsection (2) -</p> <p style="padding-left: 40px;">(3) In addition to the publication of the Laws of Kenya in the manner prescribed in the foregoing provisions of this section, a Printer, referred to in subsection (2), may also publish the Laws of Kenya in electronic form.</p>		
The National Assembly Remuneration Act (Cap. 5).	Second Schedule	<p>Insert the following new item and corresponding entry immediately after the entries relating to item 4 -</p> <table border="0" style="margin-left: 40px;"> <tr> <td style="vertical-align: top;">5. Every Member of the National Assembly.</td> <td style="vertical-align: top;">A severance allowance at the rate of Ksh. 300,000/= for every year in service.</td> </tr> </table>	5. Every Member of the National Assembly.	A severance allowance at the rate of Ksh. 300,000/= for every year in service.
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The National Assembly and Presidential Elections Act (Cap. 7).	s.17	<p>Insert the following new subsection immediately after subsection (5)—</p> <p style="padding-left: 40px;">(6) The concurrence referred to in subsection (5) shall be signified in writing to the President with a copy to the</p>		

Speaker by the Chairman or any other official designated for the purpose by the political party.

s. 20(1) Insert the following new paragraph in the proviso in proper numerical sequence –

- (iv) where after due diligence it is not possible to effect service under paragraphs (a) and (b), the presentation may be effected by its publication in the Gazette and in one English and one Kiswahili local daily newspaper with the highest national circulation in each case.

The Judicature Act (Cap.8) s.7(1) Delete the word “fifty” and substitute therefor the word “seventy”.

s.7(2) Delete the word “eleven” and substitute therefor the word “fourteen”.

The Advocates Act (Cap.16) s. 10 Delete paragraph (d) and substitute therefor the following new paragraph -

- (a) such other person, being a public officer or an officer in a public corporation, as the Attorney-General may, by notice in the Gazette, specify:

Provided that the officers referred to in this section shall

not be entitled to charge fees for so acting.

✓ s. 13(1)(b)(i) Delete the words “one year” and substitute therefor the words “eighteen months”.

s.22(1)(a) Delete the word “and” appearing after the semi- colon.

s.22(1)(b) Delete the full-stop after the word “Association” and substitute therefor a semi-colon and the word “and”.

New Insert the following paragraph immediately after the paragraph (b)-

(c) by producing a written approval signed by the Chairman of the Society stating that there is no objection to the grant of the certificate.

s.25 Delete subsection (3) and substitute therefor the following new subsection—

(3) The Council of the Society shall make representations or submit a recommendation to the Registrar with respect to any application made under this section, and any such representations shall be taken into account by the Registrar and shall be absolutely privileged.

s.57(1)(d) Delete.

s.57(1A) Delete.

s.57(2A) Renumber as subsection (1A).

New Insert the following new section after Section 58-

Establishment
of Regional
Disciplinary
Committees.

S.58A(1). There are hereby established Disciplinary Committees (in this Part referred to as “Regional Committees”) in five representative regions, other than Nairobi, identified by the society.

(2) Each Regional Disciplinary Committee shall have a jurisdiction concurrent to that of the Disciplinary Committee established under section 57 of the Advocates Act in their respective regions, and shall exercise the same functions and have the same powers and duties set out under this Part or under any other written law.

(3) Each Regional Committee shall consist of five advocates (other than the Chairman, Vice-Chairman or Secretary of the Society) of not less than ten years’ standing, all of whom shall be elected by the various chapters or regional

representatives of the Society, who shall hold office for two years and shall be eligible for re-election.

Cap. 16 (4) The provision of this Part shall apply accordingly to the Committee and the Regional Committees, and the two shall be used interchangeably where reference is made to one or in any other written law.

s.71 Insert the following words immediately after the word “Committee”:-

“and with the written approval of the Chairman of the Society,”

s.81 Insert the following subsection immediately after subsection (2)—

(3) No rule made under this section shall require an advocate who is a member of the National Assembly or the Speaker and who holds a practising certificate to undergo continuing legal education during his tenure as such member or as the Speaker.

The Law Society of Kenya Act (Cap.18).

s.13(2) Delete the word “annually” appearing on the second line and substitute therefor the word “bi-annually”.

s.13(3) Delete the words “or has at any time previously been”.

s.13(4) Delete and substitute therefor the following new subsection-

- (4) The chairman, the vice-chairman and the other members of the Council shall take office immediately after the ordinary general meeting of the Society, and shall hold office as such until the conclusion of the ordinary general meeting held in the second year after their election:

Provided that, in the event of death, resignation, removal or disqualification of the chairman, the vice-chairman or any other member of the Council during his term of office, the vacancy so created shall be filled by the Society-

- (i) in the case of the chairman or vice-chairman, from persons who are members of the Council; or
- (ii) in the case of any other member, from among the members of the Society.

The Limitation of Actions Act (Cap. 22).

s.42 Renumber the paragraphs appearing immediately after paragraph (h) as paragraphs (i) and (j) respectively.

New Insert following paragraph –

- (k) actions, including actions claiming equitable relief, in which recovery or compensation in respect of the loss of or damage to any public property is sought.

	New	Renumber the existing provision as subsection (1) and insert a new subsection as follows – (2) Subsection (1)(k) shall apply retroactively.
The Chattels Transfer Act (Cap.28).	s.8	Delete.
	s.10(5)	Delete.
	New	Insert the following section immediately after section 14 - <div style="margin-left: 40px;"> <p>Fee on registration. 14A. There shall be paid to the Registrar, upon the registration or renewal of registration of every instrument under this Act, such fees as the Minister may prescribe through regulations.</p> </div>
The Penal Code (Cap. 63).	s.77(1)	Delete the words “three years” and substitute therefor the words “seven years”.
	s.99	Delete the words “misdemeanour and is liable to imprisonment for one year” and substitute therefor the word “felony”.
	s.100	Delete the word “misdemeanour and substitute therefor the word “felony”.
	s.101	Delete the word “misdemeanour” appearing in subsection (1) and substitute

therefor the word “felony”.

Delete subsection (2).

s.102 Delete the word “misdemeanour” and substitute therefor the word “felony”.

New Insert the following new section immediately after section 102 –

Penalties. **102A.** A person convicted of an offence under sections 99, 100, 101 or 102 of this Part shall be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding ten years or to both.

s.127 Renumber the existing provision as subsection (1) and delete the word “misdemeanour” and substitute therefor the word “felony”,

Insert the following new subsections –

(2) A person convicted of an offence under this section shall be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding ten years or to both.

s.170 Delete.

s.331 Renumber the existing provision as subsection (1) and delete the word “misdemeanour” and substitute therefor the word “felony”.

Insert the following new subsections –

(2) A person convicted of an offence

under this section shall be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding ten years or to both.

The Criminal
Procedure Code
(Cap.75).

- s.2 Delete the definition of “complainant”.
- s. 7(1)(b) Insert at the end thereof the words “or under the Sexual Offences Act, 2006”
- s.85(2) Delete the words “not being a police officer below the rank of Assistant Inspector of Police”.
- s. 201 Renumber the existing section as subsection (1) and add the following new subsection-
- (2) The provisions of section 200 of this Act shall apply *mutatis mutandis* to trials held in the High Court.
- s.262 Delete.
- s.263 Delete.
- s.265 Delete.
- s.266 Delete.
- s.269 Delete.
- s.270 Delete.
- s.271 Delete.
- s.273 Delete.
- s.275(6) Delete

(a)

s.282 Delete the proviso to the section and delete the words “to choose assessors under section 297, and”.

s.297 Delete.

s.298 Delete.

s.299 Delete.

s.300 Delete the words “when the assessors have been chosen”.

s.322 Delete and substitute therefor the following provision –

Delivery of
judgment. **322. (1) When the case on both sides is closed, the judge shall then give judgement.**

(2) If the accused person is convicted, the judge shall pass sentence on him according to law.

s.333(2) Insert the following proviso -

Provided that where the person sentenced under subsection (1) has, prior to such sentence, been held in custody, the sentence shall take account of the period spent in custody.

s.394 Delete the words “an assessor” and substitute therefor the word ‘a`.

The Evidence Act (Cap.80). s.25A Renumber the existing section as subsection (1) and add the following at the end thereof –

Done HC

“before a judge, a magistrate or before a police officer (other than the investigating officer), being an officer not below the rank of Chief Inspector of Police, and a third party of the person’s choice.

Insert the following subsection-

(2) The Attorney-General shall in consultation with the Law Society of Kenya, Kenya National Commission on Human Rights and other suitable bodies make rules governing the making of a confession in all instances where the confession is not made in court.

s.174 Delete.

The Housing Act (Cap.117).

s.12 Insert the following new subsection immediately after subsection (3)—

(4) Notwithstanding any other provisions of this Act or of any other written law, the Corporation may take over the management, control and title to any property developed by a local authority which is in default using funds provided, secured or guaranteed by the Corporation upon the expiry of a ninety days’ notice given by the Corporation to the local authority:

Provided that the Corporation shall compensate such local authority

for the undeveloped site value of such property upon the vesting of title in the Corporation under this subsection.

The Public Trustee Act (Cap.168).	s.8(1)	Delete the words “one hundred” and substitute therefor the words “five hundred”.
	s.11	Delete the expression “seventy-five” appearing in paragraph (ii) of the proviso and substitute therefor the words “five hundred”.
	s.12(1)	Delete the words “one hundred” appearing in the proviso and substitute therefor the words “five hundred”.
The Service Commissions Act (Cap.185).	New	Insert the following new section immediately after section 12-
	Superannuation fund.	<p>12A. A Commission shall have power to establish a superannuation fund for the benefit of its officers in accordance with the provisions of the Retirement Benefits Act, 1997, and may for that purpose prescribe rules for the management and control of the fund.</p>
	No. 3 of 1997.	
The Education Act (Cap.211).	New	Insert the following new section immediately after Section 4 –
	Minister may establish institutes.	<p>4A.(1)The Minister may, by order in the Gazette, establish one or more educational institutes with responsibility for the co-ordination of such activities as may be specified in the order.</p>

(2) An order under this section may specify —

(a) that the institute to which it relates shall have corporate personality;

(b) the duties, powers and functions of the institute;

(c) the manner in which the institute shall be governed;

(d) the constitution, duties, powers and functions of an academic board responsible to the governing body of the institute, and

(e) such other matters with respect to the conduct and management of the institute, as the Minister may find it necessary or desirable to provide for.

The Kenya
National Library
Services Board
Act (Cap.225).

s.6

Delete and substitute therefor the following new section -

Appointment of
Director and other
staff.

6.(1) There shall be a Director of the Service who shall be appointed by

the Board and whose terms and conditions of service shall be determined by the Board in the instrument of appointment and otherwise

in writing from time to time.

(2) A person shall be qualified for appointment under this section if such person -

(i) is a professional librarian; or

(ii) is an information communication technology specialist, and

(iii) has proven managerial skills and experience.

(3) The Director shall be an *ex-officio* member of the Board but shall have no right to vote at any meeting of the Board.

(4) The Board may, from time to time, appoint such officers and other staff as it may consider necessary for carrying out its functions under this Act on such terms and conditions as it may deem fit.

The Land
Adjudication
Act (Cap. 284).

New Insert the following new section immediately after section 26 –

No objection
Register

26A. (1) When the time for objection under section 26(1) has expired, the adjudication officer shall prepare a No Objection Register in respect of any land not subject to an objection, and deliver the same to the Director of Land Adjudication who shall –

(a) certify thereon and on the duplicate adjudication register that the adjudication of the land set out therein has become final; and

(b) forward the No Objection Register together with a copy of the duplicate adjudication register to the Chief Land Registrar for the purpose of registration under section 28.

(2). The provisions of this section shall apply to all adjudication registers not yet finalized before its commencement.

s. 29(3) Delete the word “all”.

The Cotton Act,
(Cap. 335).

s.3A(1) (b) Renumber paragraph (iii) as paragraph (ii).

s.3A(2) Delete.

- The Kenya Tourist Development Corporation Act. (Cap. 382).
- s.9(3)(a) Delete the words “five hundred pounds” and substitute therefor the words “twenty-five million pounds”.
- (3)(b) Delete the words “thirteen million two hundred and fifty pounds” and substitute therefor the words “fifty million pounds”.
- The Traffic Act. (Cap. 403).
- s. 37 Delete and substitute therefor the following new section—
- Form of driving and provisional licence
- 37.(1) A driving licence shall be in the form of a computerized smart card made of plastic material containing a micro-processor-based chip, and provisional licences shall be in the prescribed form, which shall be impressed with the official stamp of the issuing authority.
2. The driving licence shall have -
- (a) a front side, which shall contain the Personal Identification Number (PIN) and Identity Card Number, photograph, name, date of birth, sex, signature, and licence number of the licence holder, and the class of the vehicle to be driven or restricted; and

(b) a rear side, which shall contain the thumb print of the licence holder, the date of issue per class, the date of expiry per class, conditions and any other information, if any, and the signature and reference number of the issuing authority.

(3)The micro-processor based chip shall contain features for micro-printing, image hosting, ultra-violet printing (logo), the national coat of arms, hologram, and both side lamination.

(4)The micro-processor based chip shall contain the driver's name, biometric information, the photograph, signature, licence number, class of vehicle to be driven or restricted, the date of issue, the date of expiry, conditions or other information, if any, and the signature and reference number of the issuing authority.

s. 119(1) Insert the following paragraph immediately after paragraph (n) –

(na) measures for enforcing the provisions of sections 44(1) and

45 which shall include prescribed limits of alcohol and drugs concentration, provision of specimens for analysis, choice of tests and devices, and the protection of persons under treatment.

The Transport Licensing Act (Cap.404) s.10(1) Delete the words “until the 31st December in the year in which it is issued” and substitute therefor the words “for one year from the date of issue”.

The Constitutional Offices (Remuneration) Act (Cap.423). s.2(1) Insert the following proviso at the end thereof-

Provided that where a salary scale is specified, the holder of the office shall be paid such salary, within the scale, as the President may determine having regard to –

(a) the seniority of the various office holders, based on the number of years served in a particular office; and

(b) the differences in skills, workload and accountabilities attached to each office.

The Insurance Act (Cap. 487). s.203(1) Insert the words “or deny” immediately after the word “admit” appearing in paragraph (a).

The East African Development Bank Act (Cap. 493A). Schedule Delete the words “actions may be brought against the Bank in the territories of the Members States” appearing in paragraph 1 of Article 45 and substitute therefor the words “the Bank shall enjoy immunity

from every form of legal process except in cases arising out of the exercise of its borrowing powers, in which cases it may be sued”.

Delete the word “controversies” appearing in paragraph 2 of Article 45 and substitute therefor the word “disputes”.

Delete paragraph 1 of Article 46 and substitute therefor the following paragraph –

1. Property and other assets of the Bank, wheresoever located and by whomsoever held, shall be immune from interference, search, requisition, confiscation, expropriation or any other form of taking or foreclosure by executive, legislative, judicial or administrative action, and premises used for the business of the Bank shall be immune from search, provided that in legal proceedings brought within the terms of the Charter such immunity shall apply before delivery of a final judgment against the Bank by the highest court of competent jurisdiction.

The Trade
Marks Act
(Cap.506).

s.2 Delete the definition of “Director” and substitute therefor the following new definition –

“Director” means the Managing Director of the Kenya Industrial Property Institute appointed under section 11 (1) of the Industrial Property Act, 2001.

No. 3 of
2001.

s.3 Delete subsection (2) and substitute therefor the following subsection –

(2) The appointment of the officers required for the purposes of this Act shall be made in accordance with the provisions of the Industrial Property Act, 2001.

Insert the following new subsection immediately after subsection (5) –

(6) The Minister may, on the recommendation of the Board, whenever he deems it necessary or appropriate, appoint an advocate of the High Court of Kenya with at least seven years' working experience in matters relating to intellectual property, to assist the Registrar in the performance of any of the functions or the exercise any of the powers conferred upon the Registrar under this Act with respect to the conduct of hearings relating to opposition to applications for registration or rectification of the register.

- s.4(1) Delete the words “registered users” and substitute therefor the word “licensees”.
- s.7(1) Delete the words “registered user” wherever they occur in paragraphs (b), (c) and (d) and substitute therefor the word “licensee”.
- s.7(3) Delete the words “registered user” wherever they occur in paragraphs (a), (c) and (d) and substitute therefor the word “licensee”.

- s.8(2) Delete the word “registered user” wherever they occur and substitute therefor the word “licensee”.
- s.9(1),
(2)(c),
(3) Delete the words “registered user” and substitute therefor the word “licensee”.
- s.10 Delete the words “registered user” and substitute therefor the word “licensee”.
- s.18(1)(i),
(iii), (3) Delete the words “registered user” wherever they occur and substitute therefor the word “licensee”.
- s.31 Delete the words “registered user” wherever they occur and substitute therefor the word “licensee”.
- s.32(1)(b),
(2) Delete the words “registered user” and substitute therefor the word “licensee”.
- s. 37(2) Delete the words “registered user” and substitute therefor the word “licensee”.
- Third
Schedule
para. 4. Delete the words “registered user” and substitute therefor the word “licensee”.
- The Hire
Purchase Act
(Cap.507). ,
- s.3 Delete the expression “three hundred thousand” and substitute therefor the expression “four million”.
- s.18(2) Delete the expression “twenty thousand” and substitute therefor the expression “two hundred thousand”.
- s.33 Delete the expression “one thousand” and substitute therefor the expression “one hundred thousand”.

The Export Processing Zones Act (Cap. 517).

s.15(2) Delete the word “President” and substitute therefor the word “Minister”

(2A) Delete.

The Non-Governmental Organisations Co-ordination Act, 1990 (No.19 of 1990).

s.4(1) Delete paragraph (b) and substitute therefor the following new paragraph –

(b)three members appointed by the Minister by virtue of their knowledge or experience in development and welfare management;

s.6 Delete subsection (4) and substitute therefor the following new subsection –

(3) The quorum necessary for the business of the Board shall be six.

s.7 Delete paragraph (h) and substitute therefor the following new paragraph –

(h) to develop and publish a code of conduct for the regulation of Non-Governmental Organisations and their activities in Kenya.

s.23 Delete the words “a Kenyan National Council of Voluntary Agencies” and substitute therefor the words “a Council to be known as the Non-Governmental Organisations Council”.

s.24(1) Delete and substitute therefor the following new subsection –

(1) The Council shall advise the Board with respect to the code of conduct and such other statutes as may facilitate the regulation of Non-Governmental Organisations on matters of their activities, national security, training, the development of national manpower, institutional building, scientific and technological development and other matters of national interest.

(2) Delete

(3) Delete

(4) Delete and substitute therefor the following new subsection –

(4) The Board shall prescribe rules and procedures for the audit of the accounts of non-Governmental Organisations.

The National Council for Law Reporting Act, 1994 (No.2 of 1994).

s.3 Delete and substitute therefor the following new section –

3. The Council shall -

(a) ~~be~~ responsible for the preparation and publication of the reports to be known as the Kenya Law Reports, which shall contain judgements, rulings and opinions of the superior courts of record;

- (b) undertake such other publications as in the opinion of the Council are reasonably related to or connected with the preparation and publication of the Kenya Law Reports; and
- (c) perform any other functions conferred on the Council by or under the provisions of any other written law.

The Narcotic Drugs and Psychotropic Substances Act, 1994 (No.4 of 1994).

s.67(1) Delete and substitute therefor the following new subsection (1) –

(1) The Minister, in consultation with the Minister for the time being responsible for matters relating to health, may from time to time by notice in the Gazette designate any duly qualified analyst whose qualification shall be prescribed by the Minister for the purposes of the Act.

s.74A(1) Insert the words “where practicable”, immediately before the words “in the presence of”.

s.74A(1)
(d) Delete the words “and the other analyst (if he so wishes) shall each” and substitute therefor the word “shall”.

s.74A(2) Delete the words “analysts’ certificates” and substitute therefor the words “designated analyst’s certificate”.

- s.74A(3) Delete the word “certificates” and substitute therefor the words “designated analyst’s certificate”.

Insert immediately after the word “trial” the words “or any contemplated trial particularly where the accused person’s identity is not yet known or the accused person is outside the jurisdiction of Kenya at the time of taking such samples”.

- s.74A(4) Insert immediately after words “accused person” the words “where practicable”.

- s.74A(5) Delete the words “analysts’ certificates” and substitute therefor the words “designated analyst’s certificate”.

Insert the following subsection immediately after subsection (5) –

(6) The provisions of this section shall apply to all proceedings commenced on or after the 7th June, 2002.

- s.79(1) Delete the words “subject to this Act” and substitute therefor the words “Notwithstanding the provisions of section 74A or any other provision of this Act in relation to the seizure of any narcotic drug or psychotropic substance”.

The
Auctioneers
Act, 1996 (No.5
of 1996).

- s.3(1) Delete paragraph (e) and substitute therefor the following new paragraph –

- (e) four auctioneers of not less than five years’ standing, nominated by the Chief Justice on the

2007

recommendation of the
association.

The Industrial
Property Act,
2001 (No.3 of
2001).

s.6 Delete paragraph (a) and substitute therefor the following new paragraph –

(a) a chairman appointed by the Minister, who shall be the holder of a degree in law or science and with at least seven years' experience in matters relating to industrial property.

s.11(2) Delete the word “or” appearing at the end of paragraph (a);

Insert the word “and” at the end of paragraph (b);

Renumber paragraph (a) as paragraph (b) and vice-versa.

s.82 (3) Delete and substitute therefor the following new subsection:-

(3) A registration certificate for a utility model shall expire at the end of the tenth year after the date of filing of the application in respect thereof, and shall not be renewable:

Provided that the registration certificates in respect of utility models which were issued under this Act before the commencement of this subsection shall expire at the end of the tenth year from the date of grant.

Second
Schedule

Insert the following new paragraph immediately after paragraph 6 –

6A. The registration of a utility model granted immediately before the commencement of this Act shall be deemed to be a registration under this Act and shall expire at the end of the tenth year after the date of such grant.

Delete the words “twelve months” appearing in subparagraph (a) of paragraph 12 and substitute therefor the words “thirty-six months”.

Delete subparagraph (b) of paragraph 12 and substitute therefor the following new subparagraph —

(b) Subject to subparagraph (a), every officer or employee of the Institute shall enter into a written contract with the Institute within a period of twelve months with effect from the date of the appointment of the Board, whereupon his services with the Government shall be transferred to the Institute:

Provided that the terms and conditions of service of the contract shall not be to the disadvantage of the officer or employee.

Delete the words “after which he shall comply with paragraphs (a) or (b) above” appearing in subparagraph (c) of paragraph 12 and substitute therefor the words “at the end of which he shall either exercise his option as provided under subparagraph (a) or enter into a contract with the Institute as provided for in subparagraph (b)”.

2007

Statute Law (Miscellaneous Amendments)

No. 7

The Copyright Act, 2001 (No. 12 of 2001).

s.6 Renumber the existing provision as subsection (1);

Delete paragraph (a) thereof;
Insert the following new subsection –

(2) The Minister shall appoint a chairman from among the members appointed under subsection (1).

The Anti-Corruption and Economic Crimes Act, 2003 (No.3 of 2003).

s.2 Delete the words “allegedly guilty” appearing in the definition of “unexplained assets” and substitute therefor the words “reasonably suspected”;

s.3(1) Delete the words “Judicial Service Commission” and substitute therefor the words “Chief Justice”.

Delete paragraph (a) and substitute therefor the following new paragraph –

“(a) corruption and economic crimes and related offences; and”.

Delete the word “judges” appearing in the marginal note and substitute therefor the word “magistrates”.

s.4 Delete the words “Judicial Service Commission” appearing in subsection (2) and substitute therefor the words “Chief Justice”.

s.23 Insert the following new subsection—

(4) The provisions of the

Cap. 75 Criminal Procedure Code, the
 Cap. 80 Evidence Act, the Police Act
 Cap. 84 and any other law conferring on
 the police the powers, privileges
 and immunities necessary for the
 detection, prevention and
 investigation of offences relating
 to corruption and economic
 crime shall, so far as they are not
 inconsistent with the provisions
 of this Act or any other law,
 apply to the Director and an
 investigator as if reference in
 those provisions to a police
 officer included reference to the
 Director or an investigator.

New Insert the following new section:

Cessation
 of
 investigations

25A(1) The Commission may, in
 consultation with the Minister and the
 Attorney General, tender an undertaking
 in a form prescribed by the Minister, not
 to institute or continue with investigations
 against any person suspected of an
 offence under this Act.

(2) Where the Commission intends
 to take action as specified in subsection
 (1), it shall by notice in the daily
 newspapers invite interested persons to
 approach it for such an undertaking within
 a period specified in the notice.

(3) An undertaking under this
 section shall only be made in cases where
 the suspected person-

(a) makes a full and true disclosure of
 all material facts relating to past
 corruption or economic crime;

- (b) through the Commission, pays or refunds to, or deposit with, the Commission for, all persons affected, any property or money irregularly obtained, with interest thereon at a rate prescribed by the Minister;
- (c) makes reparation to any person affected by his corrupt conduct, and
- (d) pays for all loss of public property occasioned by his corrupt conduct.

(4) The Commission shall publish its intention to make the undertaking by notice in at least two newspapers of national circulation-

- (a) stating the name of the proposed beneficiary of the undertaking;
- (b) stating the offence of which the person is suspected;
- (c) confirming that the person has fulfilled all the conditions set out in subsection (2); and
- (d) inviting any person with an objection to the proposed undertaking to forward their objections to the Commission within a period specified in the notice.

(5) An aggrieved person may

object to the proposed undertaking on the grounds that-

(a) the suspected person has not fully satisfied the conditions set out in subsection (2); or

(b) he has any other evidence relevant under this section which may affect the Commission's decision regarding the undertaking.

(6) The Commission shall consider all objections submitted and shall take such action as may be appropriate in the circumstances.

(7) The Commission shall not make any undertaking in respect of corrupt conduct or economic crime which leads to circumstances which cause a danger to public safety, law and order.

(8) Any person in respect of whom the Commission makes an undertaking under this section shall be disqualified from holding public office.

s.26(1) Delete the opening statement and substitute therefor the following—

(1) If, in the course of investigation into any offence, the Director is satisfied that it could assist or expedite such investigation, the Director may, by notice in writing, require a person who, for reasons to be stated in such notice, is reasonably

suspected of corruption or economic crime to furnish, within a reasonable time specified in the notice, a written statement in relation to any property specified by the Director and with regard to such specified property—

s.27(1) Delete and substitute therefor the following—

(1) The Commission may apply *ex-parte* to the court for an order requiring an associate of a suspected person to provide, within a reasonable time specified in the order, a written statement stating, in relation to any property specified by the Director, whether the property was acquired by purchase, gift, inheritance or in some other manner, and what consideration, if any, was given for the property.

s.28(1) Delete the opening statement and substitute therefor the following—

(1) The Commission may apply, with notice to affected parties, to the court for an order to—

s.30 Delete and substitute therefor the following new section—

Admissibility
of things
produced or
found.

30. Where the notice is directed at a person under investigation or a person who has been charged with an offence of corruption or an

economic crime, any statement, record or information given pursuant to such notice, shall not be given in evidence against such person in any criminal proceedings except where such person is charged with knowingly or recklessly giving false information.

s.39 Delete the words “bribing agents” in the marginal note and substitute therefor the words “bribery involving agents”.

New Insert the following sections immediately after section 47 –

Attempts,
conspiracies
etc.

47A.(1) A person who attempts to commit an offence involving corruption or an economic crime is guilty of an offence.

(2) For the purposes of this section, a person attempts to commit an offence of corruption or an economic crime if the person, with the intention of committing the offence, does or omits to do something designed to its fulfilment but does not fulfill the intention to such an extent as to commit the offence.

(3) A person who conspires with another to commit an offence of corruption or economic crimes is guilty of an offence.

(4) A person who incites another to do any act or make any omission of such a nature that, if

that act were done or the omission were made, an offence of corruption or an economic crime would thereby be committed, is guilty of an offence

- s.55(2) Delete the words “who is or was a public officer” appearing in the introductory portion;

Delete the words “compensation as a public officer” appearing in paragraph (b) and substitute therefor the words “known legitimate sources of income”.

- New Insert the following new subsection immediately after subsection (8)-

(9) This section shall apply retroactively.

- New Insert the following new sections immediately after section 56 –

Appointment
of receiver.

56A. (1) The Commission may, at any time with leave of the court, appoint a receiver for such property as is suspected by the Commission to have been acquired through corrupt conduct.

(2) The appointment of a receiver under subsection (1) above shall be in writing signed by the Director or Assistant Director.

(3) The receiver shall have powers of management,

control and possession of the property for which he is appointed.

(4) The Commission or the receiver shall, at the time of the appointment or soon thereafter, serve a notice on the person who has or who appears to have custody or control of the property, and, where the property is required under any written law to be registered, a similar notice shall be served on the respective registrar:

Provided that where the property is situated outside Kenya, the notice shall not be necessary but the Commission shall have the power to liaise with foreign governments, government departments and international agencies for the confiscation, management, control and repatriation of the property.

(5) A person served with a notice under the foregoing subsection shall not, except by authority of a court order, deal with the property in any manner inconsistent with the instructions of the receiver.

(6) A person who

contravenes subsection (5) shall be guilty of an offence and liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding ten years or to both for a first offence, and to imprisonment for a term not exceeding ten years without the option of a fine for a subsequent offence in respect of the same property.

(7) For avoidance of doubt, a receiver may be appointed under this section in respect of any kind of property whether tangible or intangible, movable or immovable, and including buildings, income, debts, bank deposits, business concerns, stocks and other properties.

(8) The receiver shall keep proper books of account and give quarterly reports to the Commission, and may pay the costs of receivership out of the property for which he has been appointed.

(9) A person aggrieved by the appointment of a receiver under this section may request the Commission in writing to set aside the appointment in return for an offer of deposit of some

reasonable security, or he may apply to the High Court for setting aside or variation of the appointment on the ground that –

- (a) he has offered to the Commission a reasonable security which has not been accepted by the Commission; or
- (b) he has in his possession evidence to show that, on a balance of probabilities, he acquired the property otherwise than through crime or civil wrongs.

(10) An application to the High Court under subsection (9) shall be heard *inter-partes*, and the Commission shall be entitled to cross-examine the applicant and to call evidence in rebuttal.

Out of
Court
settlement.

56B.(1) In any matter where the Commission is mandated by this Act or any other law to institute civil proceedings or applications, it shall be lawful for the Commission to issue a notice or

letter of demand to the person intended to be sued, and may, in such notice or letter, inform the person about the claim against him and further inform him that he could settle the claim within a specified time before the filing of court proceedings.

(2) The Commission may negotiate and enter a settlement with any person against whom the Commission intends to bring, or has actually brought, a civil claim or application in court.

(3) The Commission may tender an undertaking in writing not to institute criminal proceedings against a person who-

(a) has given a full and true disclosure of all material facts relating to past corrupt conduct and economic crime by himself or others; and

(b) has voluntarily paid, deposited or refunded all property he acquired through corruption or economic crime; and

(c) has paid for all losses occasioned by his corruption conduct to public property.

(4) A settlement or undertaking under this section shall be registered in court.

New Insert the following new Part immediately after Part VII -

PART VIIA – EXECUTION

Execution
against the
Commission.

61A. Notwithstanding anything to the contrary in any law, where judgment or an order has been given against the Commission for payment of money by way of damages or otherwise-

- (a) no execution or attachment in the nature thereof shall be issued against the Commission or against the assets, debts or bank deposits of the Commission;
- (b) the Director shall except if there is an appeal or application pending against the Judgment or order, cause to be paid out of the funds of the Commission provided expressly for such purposes in the annual estimates, such amounts as may be payable under the decree to the person entitled thereto;
- (c) no property of the Commission shall be seized or taken by any person having, by law, power to attach or distrain property without the previous written permission of the Director.

First Schedule Insert the following new subparagraph immediately after subparagraph 3(2)—

(3) A director shall, unless his office becomes vacant by reason of his death, resignation, or ceasing to hold office under paragraph 5, continue in office until he is reappointed or replaced by a new director appointed under the Act.

Second Schedule Insert the following new subparagraph in paragraph 2 immediately after paragraph 2(2)—

(3) A member of the Advisory Board shall, unless his office becomes vacant by reason of his death, resignation or ceasing to hold office by virtue of paragraph 4, continue in office until he is reappointed or replaced by another member appointed under the Act.

The Public Officer Ethics Act, 2003 (No.4 of 2003).

s.2 Insert the following proviso at the end of paragraph (e) of the definition of “public officer” –

Provided that this Act shall apply to an officer of a co-operative society within the meaning of that Act.

s.3(2) Insert the following paragraph immediately after paragraph (c) –

(d) Directors and Assistant Directors of the Kenya Anti-Corruption Commission.

s.4(2) Delete the expression “H” and substitute therefor the expression “M”.

s.26(1) Delete the word “annually and as otherwise” and substitute therefor the words “once every two years”.

s.27(1) Delete and substitute therefor the following:-

(1) The declaration shall be submitted in the December of every second year.

s.27(2) Delete the words “an annual” and substitute therefor the expression “a”.

s.30 Delete and substitute therefor the following provision—

Access to
declaration
s.

30. (1) The contents of a declaration or clarification under this Act shall be accessible to any person upon application to the responsible Commission in the prescribed manner if the applicant shows to the satisfaction of the responsible Commission that he or she has a legitimate interest and good cause in furtherance of the objectives of this Act, in such declaration or clarification:

Provided that prior to the responsible Commission making an affirmative decision under this section, it shall grant the opportunity to the affected party to make representations on the matter.

(2) No information obtained pursuant to subsection (1) shall be published or in any way made public except with prior written authority of the responsible Commission.

(3) Any person who—

(a) publishes or in any way makes public any information obtained under the foregoing sections without prior permission of the responsible Commission;

(b) knowingly republishes or otherwise disseminates or discloses to another person information to which this section relates where—

(i) such information was disclosed to himself or to some other person; or

(ii) such information was obtained in contravention of this Act,

shall be guilty of an offence and liable on conviction to imprisonment for five years or to a fine not exceeding five hundred thousand shillings, or to both.

s.31 Delete the word “thirty” and substitute therefor the word “five”

s.36 Insert the word “responsible” immediately before the word “Commission” wherever it occurs.

Insert the words “made under section 42” immediately after the word “regulations”

The Public Audit Act, 2003 (No. 12 of 2003).

s. 49 Insert the words “or his nominee” at the end of paragraph (b);

Insert the words “or his nominee” at the end of paragraph (f).

The National Commission on Gender and Development Act, 2003 (No. 13 of 2003).

s.5(3) Delete the words “chairperson and the”

Delete the expression “(g)” and substitute therefor the expression “(j)”.

New Insert the following new subsection immediately after subsection (3) –

(3A) The Chairperson shall hold office on a fulltime basis on such terms and conditions as may be specified in the instrument of appointment.

(4) Delete the expression “(g)” and substitute therefor the expression “(J)”.

The Sexual Offences Act, 2006 (No.3 of 2006).

s. 2(1) Delete the definition of the expression “gang rape”.

Insert the following new definition in its proper alphabetical sequence—

“gang” means two or more persons;

Insert the word “unlawful” immediately before the word “intentional” in the definition of the expression “indecent act”.

s. 5(1)(b) Insert the word “into or” immediately after the words “genital organ”.

s. 10 Delete the word “others” appearing immediately after the words “in association with” and substitute therefor the words “another or others, or any person who, with common intention, is in the company of another or others who commit the offence of rape or defilement”.

- s. 11 Delete subsection (6).
- New Insert the following new section immediately after section 11—
- Indecent act with adult. 11A. Any person who commits an indecent act with an adult is guilty of an offence and liable to imprisonment for a term not exceeding five years or a fine not exceeding fifty thousand shillings or to both.
- s.16(1) Insert the words -
- “which depict the image of any child” immediately after the word “whatsoever”.
- s.35(3) Insert the words “responsible for health” immediately after the word “Minister”.
- (5) Insert at the end thereof the words “or any other institution approved or gazetted by the Minister responsible for health.
- New Insert the following new section immediately after section 47 –
- Chief Justice may make rules. 47A. The Chief Justice may make rules of Court for the implementation of this Act.
- First Schedule Delete paragraph 3 and substitute therefor the following new paragraph—
3. Any proceedings commenced under any written law or part thereof

repealed by this Act shall continue to their logical conclusion under those written laws:

- | | | |
|---|--------------|--|
| The Kenya Maritime Authority Act, 2006 (No. 5 of 2006). | s. 5(1) | Insert the following new paragraph immediately after paragraph (p) —

(pp) implement and undertake co-ordination in maritime security; |
| | s. 11(4) | Delete the word “appointment” and substitute therefor the word “appointed”. |
| | s. 14 (1)(c) | Delete the word “Principal” and substitute therefor the word “Chief”. |
| | s. 14(1)(d) | Delete the word “Principal” and substitute therefor the word “Chief”. |
| | s. 14(2) | Insert the word “on” immediately after the word “Authority” appearing in the third line. |
| | s. 22(2) | Delete the word “four” and substitute therefor the word “three”. |
| First Schedule | | Delete paragraph (4) and substitute therefor the following new paragraph —

Staff. 4. Any person who is an officer of the former Authority immediately before the appointed day shall be deemed to be an officer of the Authority. |
| Second Schedule | | Delete the word “indirect” appearing in paragraph (4)(1) and substitute therefor the word “indirectly”. |

The Licensing Law Act, 2006 (No.20 of 2006).	s.55	Delete
	s.56	Delete
	s.57	Delete
	s.58	Delete
	s.59	Delete
	s.60	Delete
	s.61	Delete
	s.62	Delete