

**THE STATUTE LAW (MISCELLANEOUS  
AMENDMENTS) ACT 1969**

**No. 10 of 1969**

*Date of Assent: 25th June 1969*

*Date of Commencement: 27th June 1969*

**An Act of Parliament to make minor amendments to the  
Statute Law**

ENACTED by the Parliament of Kenya, as follows:—

1. This Act may be cited as the Statute Law (Miscellaneous Amendments) Act 1969. Short title.

2. The several written laws specified in the first column of the Schedule to this Act are hereby 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. Amendment of written laws.

SCHEDULE			(s. 2)
<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>	
The Chattels Transfer Act (Cap. 28).	s. 2.  Cap. 490	In the definition of "instrument", add at the end of exception (j) the words "or by a co-operative society registered under the Co-operative Societies Act"	
The Debts (Summary Recovery) Act (Cap. 42).	s. 2A.	(a) In subsection (1), replace "the Courts Act" with "the Magistrate's Courts Act";  (b) In subsection (2), delete the words "The Minister, after consulting"; delete "the Minister, after consultation as aforesaid", and substitute "he".	
The Penal Code (Cap. 63).	s. 52 (1).  ss. 389, 390	Delete everything after "person specified in the order".  Delete, and substitute a new section as follows—	
		Attempts to commit offences.	389. Any person who attempts to commit a felony or a misdemeanour is guilty of an offence and is liable, if no other punishment is provided, to one-half of such punishment as may be provided for the offence attempted, but so that if that offence is one punishable by death or life

## SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Penal Code (Cap. 63)—(Contd.).	ss. 389, 390.	imprisonment he shall not be liable to imprisonment for a term exceeding seven years, and may suffer corporal punishment if such is provided for as a mandatory or discretionary punishment for the offence attempted.
The Criminal Procedure Code (Cap. 75).	s. 29 (h).	Delete "under the".
	s. 186, marginal note.	Replace "sixteen" with "fourteen".
	s. 202.	Replace "dismiss the charge" with "thereupon acquit the accused".
	s. 354 (7).	Delete.
The Evidence Act (Cap. 80).	First Schedule.	In relation to section 365 of the Penal Code insert a new item in column 5 as follows— "subordinate court of the first class".
	s. 2.	(a) Renumber as subsection (1). (b) Delete "affidavits presented to any court or officer nor to". (c) Add a new subsection as follows— (2) Subject to the provisions of any other Act or of any rules of court, this Act shall apply to affidavits presented to any court.
	s. 29.	Replace "unless such officer" with "unless such police officer".
	s. 47.	Immediately following section 47 insert a new section as follows— Proof of guilt.
		47A. A final judgment of a competent court in any criminal proceedings which declares any person to be guilty of a criminal offence shall, after the expiry of the time limited for an appeal against such judgment or after the date of the decision of any appeal therein, whichever is the latest, be taken as conclusive evidence that the person so convicted was guilty of that offence as charged.

## SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Evidence Act (Cap. 80)—(Contd.).	s. 57 (1).	Immediately after the words "is inadmissible unless—" add a new paragraph as follows—  (aa) such evidence is otherwise admissible as evidence of a fact in issue or is directly relevant to a fact in issue; or
	s. 131.	Replace "Organization" with "Community".
The Administration Police Act (Cap. 85).	s. 2.	Delete the definition of "Reserve".
	s. 4 (3).	Replace "a magistrate" with "an administrative officer".
	s. 7.	Replace ", District Officer, Liwali or Mudir" with "or District Officer".
	Part VI.	Delete.
The Fugitive Offenders Pursuit Act (Cap. 87).	s. 2.	(a) Replace the definition of "the Act" with— Cap. 76. "the Act" means the Extradition (Contiguous and Foreign Countries) Act;"  (b) In the definition of "adjoining territory", replace "Tanganyika" with "Tanzania".
The Prisons Act (Cap. 90).	s. 67 (1).	Replace "eighteen years" with "seventeen years".
	s. 68 (1).	Delete "male".
The Liquor Licensing Act (Cap. 121).	s. 4 (2) (b).	Replace with—  (b) one person appointed by every municipal council and county council having jurisdiction in the licensing area; and.
	s. 27.	Renumber as subsection (1), and add new subsection as follows—  (2) If the renewal of a licence is refused and the licensee appeals under section 18 of this Act against the refusal, the licensee shall, on payment of the fee for the appropriate licence, be entitled, unless the Minister directs otherwise, to a renewal of the licence which is the subject of the appeal to be valid only until the appeal has been determined, such licence to commence on the day after the determination of his existing licence:

Provided that if the appeal is refused the licensee shall be entitled to a refund of a proportionate part of the fee paid.

## SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Liquor Licensing Act (Cap. 121)—(Contd.).	s. 38.	Replace "Inspector" with "Assistant Inspector".
The African Liquor Act (Cap. 122).	ss. 4, 30.	Immediately following the words "justice of the peace" where they occur in the first line, insert ", administrative officer".
The Trustee Act (Cap. 167).	s. 4 (1).	Replace paragraph (ca) with a new paragraph as follows— (ca) in any security, being a security the price of which is quoted on a recognized stock exchange in Kenya, issued by a company formed and registered under the Companies Act whose total issued and paid-up share capital is not less than ten million shillings and which has paid a dividend on all of its shares which rank for dividend in each of the five years immediately preceding the year in which the investment is made: Provided that the Registrar of Companies may, by notice in the Gazette, certify any company to be the successor of any former company for the purposes of this section and in such case any such dividend paid by the former company during such period shall be deemed to have been a payment made by the successor company.
The Public Trustee Act (Cap. 168).	ss. 2A, 4, 6, 9.	Insert immediately following the words "the Land Adjudication Act", wherever they appear, the words "or the Land Consolidation Act".
	s. 9.	(a) Insert immediately following the words "granted to the Public Trustee under this Act" the words "or where the Public Trustee, in accordance with the provisions of subsection (4) of section 4 of this Act, is administering the estate of a deceased person without having made application for any such grant". (b) In proviso (ii) replace "eight thousand shillings" with "ten thousand shillings".

Cap. 486.

## SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Asian Officers' Family Pensions Act (Cap. 194).	s. 3.	Replace "President" with "Minister" throughout.
The Trade Disputes Act (Cap. 234).	s. 50A.	Immediately following the words "This Act applies to trade disputes", insert the words "in which".
The Survey Act (Cap. 299).	s. 2.	(a) Replace the definition of "grant" with— "grant" means any conveyance, lease or licence of unalienated government land for a period exceeding one year made on behalf of the Government under the Government Lands Act;
		Cap. 280.
		(b) Add at the end of the definition of "licensed surveyor" the words "but shall not include a Government surveyor".
	s. 7 (1).	In paragraph (b), insert after "being licensed surveyors" the words "or holders of an East African Land Survey Certificate".
	s. 9.	Insert after paragraph (e)— (ea) to hear and determine any dispute between the Director and a licensed surveyor as to the application of any regulations in which provision is made for reference to the Board.
	s. 12 (1).	Replace paragraph (c) with— (c) is the holder of an East African Land Survey Certificate; or.
	s. 12 (2).	Immediately before the words "paragraph (c)", insert the words "paragraph (b),".
	s. 22.	Replace "the Land Adjudication Act" with "the Land Consolidation Act or the Land Adjudication Act 1968.".
		Cap. 283. 35 of 1968.
	s. 33 (2) (a).	Replace "public" with "Government".
	s. 35 (2).	Immediately after the word "lists", insert the words "or maps".

## SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Survey Act (Cap. 299)—(Contd.).	s. 37.	Replace paragraph (c) with— (c) being a licensed surveyor, allows an unlicensed person to perform any survey to which section 22 of this Act applies.
	s. 45.	(a) Insert after paragraph (o)— (oa) the procedure which shall be followed by the Board in and determining any dispute between the Director and a licensed surveyor as to the application of any regulation in which provision is made for reference to the Board;  (b) Insert after paragraph (p)— (pa) the fees or charges to be paid in respect of the hearing of any dispute by the Board;.
The Dairy Industry Act (Cap. 336).	s. 2.	Replace "Board of Agriculture (Non-Scheduled Areas)" with "Central Agricultural Board".
The Branding of Stock Act (Cap. 357).	s. 19.	Delete "or a Regional Veterinary Officer" wherever it appears.
The Prevention of Cruelty to Animals Act (Cap. 360).	s. 25.	Immediately following subsection (1), insert a new subsection as follows— (1A) Where any animal is destroyed in accordance with this section and the owner thereof is absent and cannot be found without unreasonable delay, it shall be lawful for such authorized officer or police officer to take such reasonable steps as are necessary to dispose of the carcass.
The Streets Adoption Act (Cap. 406).	s. 16 (1).	Replace "five years" with "seven years".

## SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Export Duty Act (Cap. 482).	s. 6A.	Insert a new section as follows— Commence- ment.           6A. This Act shall be deemed to have come into operation on 1st May 1964, and it is hereby declared that any export duty or purported export duty raised, levied, collected or paid in respect of any exportation of sisal or coffee on or after the said date shall for all purposes be deemed to have been validly and lawfully raised, levied, collected or paid under the provisions of this Act relating thereto.
The Estate Duty Act (Cap. 483).	s. 7.	Insert a new subsection as follows— (2) This section shall not apply to His Excellency Mzee Jomo Kenyatta, First President and Commander-in-Chief of the Armed Forces of the Republic of Kenya.
The Registration of Business Names Act (Cap. 499).	s. 17 (1).	Add at the end— (e) which in the opinion of the Registrar is undesirable.
The Civil Procedure Act (Cap. 5 (1948)).	s. 2	(a) Delete the definitions of "advocate", "foreign court", "public officer" and "signed". (b) Insert in its appropriate alphabetical order a new definition as follows— "foreign court" means a court situate outside Kenya which has no authority in Kenya. (c) In the definitions of "judge" and "order", delete the word "civil".
	ss. 2, 6, 9, 12, 15, 54, 55, 56, 57.	Replace "the Colony" with "Kenya" throughout.
	s. 6.	Delete "or before His Majesty in Council".
	ss. 40 (2), 41, 44.	Replace "Governor in Council of Ministers" with "Minister".

## SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Civil Procedure Act (Cap. 5 (1948))—(Contd.).	s. 44 (2).	Replace "the Army Act" with "the Armed Forces Act"
	s. 53.	Delete "in practice in the Colony".
	s. 56.	(a) In subsection (1), delete "as if they were subjects of His Majesty". (b) In the explanation, replace "the United Kingdom of Great Britain and Northern Ireland" with "Kenya", and delete "one of His Majesty's Secretaries of State or of".
	s. 57.	Replace "His Majesty" with "the Government" throughout.
	s. 65 (1) (a).	Delete.
	s. 65 (1) (b).	Replace "other" with "original".
	s. 65 (2) and (3).	Delete.
	s. 65A.	(a) Renumber as section 79B. (b) Replace "notwithstanding section 71 of this Act" with "notwithstanding section 79C of this Act".
	s. 70.	Renumber as section 79A.
	s. 71.	Renumber as section 79c.
	s. 71A.	Insert a new section as follows—

APPEALS FROM  
APPELLATE DECREES  
OF A SUBORDINATE  
COURT

Second appeal from subordinate court.

71A. Except where otherwise expressly provided by this Act, and subject to such provision as to the furnishing of security as maybe prescribed, an appeal shall lie to the High Court from a decree passed by a subordinate court of the first class on an appeal from a subordinate court of the third class, on a question of law only.



## SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Civil Procedure Act (Cap. 5 (1948))—(Contd.).	s. 72.	(a) Replace the heading with— <b>APPEALS FROM APPELLATE DECREES OF THE HIGH COURT.</b>
		(b) Replace the marginal note with— Second appeal from the High Court.
	ss. 73, 74.	Delete.
	s. 79c.	Insert immediately following section 79c four new sections as follows—  Second appeal from High Court on no other grounds.      79D. No second appeal from a decree passed in appeal by the High Court shall lie except on the grounds mentioned in section 72 of this Act.  No second appeal from High Court in certain cases.      79E. No second appeal from a decree passed in appeal by the High Court shall lie in any suit when the amount or value of the subject-matter of the original suit does not exceed one thousand shillings unless special leave has been first obtained from the court before whom the appeal is to be heard.
s. 79c.	Appeals by paupers.      79F. A person who has been allowed to take, defend or be a party to any legal proceedings in a subordinate court as a pauper may not appeal to the High Court, or from the High Court to the Court of Appeal, except with the leave of the Court before whom the proceedings appealed against were heard or (if such leave is refused) unless special leave has been first obtained from the Court before whom the appeal is to be heard.	

## SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Civil Procedure Act (Cap. 5 (1948))—(Contd.).	s. 79C.	<p>Time for filing appeals from subordinate courts.</p> <p>79G. Every appeal from a subordinate court to the High Court shall be filed within a period of thirty days from the date of the decree or order appealed against, excluding from such period any time which the lower court may certify as having been requisite for the preparation and delivery to the appellant of a copy of the decree or order:</p> <p>Provided that an appeal may be admitted out of time if the appellant satisfies the court that he had good and sufficient cause for not filing the appeal in time.</p>
The Magistrate's Courts Act 1967 (No. 17 of 1967).	s. 12.	<p>Add a new subsection as follows—</p> <p>(3) Where an appeal has been entered the Registrar of the High Court may at any stage transfer any appeal pending for trial or disposal from the court in which such appeal has been filed to any other magistrate's court of the first class.</p>
	s. 44 (1).	Renumber as section 44.
	s. 45 (1).	Renumber as section 45.
	First Schedule.	Replace "(s. 43)" with "(s. 42)".
	Second Schedule.	<p>(a) Replace "(s. 44)" with "(s. 43)".</p> <p>(b) In paragraph 1, replace subparagraph 2A with a new subparagraph as follows—</p> <p>(2A) Where immediately before the commencement of this Act, a person had a right to appeal, or to apply for leave to appeal out of time, in respect of proceedings instituted in an African court or in any court then subordinate to the High Court, he shall be entitled to exercise that right (in accordance with subparagraph (2) of this paragraph) at any time within six</p>

## SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Magistrate's Courts Act 1967 (No. 17 of 1967)—(Contd.).	Second Schedule.	weeks after the commencement of the Statute Law (Miscellaneous Amendments) Act 1969.
The Tourist Industry Licensing Act 1968 (No. 1 of 1968).	s. 2.	After the definition of "members' club" insert—  "raw materials" includes any trophy, or any portion thereof, within the meaning assigned thereto by the Wild Animals Protection Act and any such trophy shall be deemed to be indigenous until the contrary is proved;
	Cap. 376.	
The Land Adjudication Act 1968 (No. 35 of 1968).	s. 23 (6).	Immediately following the words "has withheld his signature", add "or that his signature cannot be obtained without an amount of delay or expense which in the circumstances of the case is considered by them to be unreasonable".
	s. 32 (1).	Replace "shall pay the prescribed adjudication fee" with "shall be liable to pay a fee at such rate and at such time as may be prescribed for that adjudication section".