

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) ACT, 1986

No. 18 of 1986

Date of Assent: 23rd December, 1986

*Date of Commencement: Section 1 (2)—By Notice
Rest: 30th December, 1986*

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

ENACTED by the Parliament of Kenya, as follows:—

Short title and commencement.

1. (1) This Act may be cited as the Statute Law (Miscellaneous Amendments) Act, 1986.

No. 11 of 1986.

(2) The amendment to the State Corporations Act, 1986 shall come into operation on a date to be appointed by the President by notice in the Gazette.

Amendment of written laws.

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 relation thereto in the third column.

SCHEDULE

(s. 2)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Magistrates' Courts Act (Cap. 10).	s. 2	Insert "a principal magistrate" immediately after "chief magistrate," in the definition of "magistrate";
	s. 3(1)	Insert "a principal magistrate" immediately after "chief magistrate";
	s. 5(1)	Insert "principal magistrate" immediately after "chief magistrate";
	s. 5(1)	Delete the proviso and insert the following— Provided that the Chief Justice may, by notice in the Gazette, increase the limit of jurisdiction of a chief magistrate, principal magistrate, senior resident magistrate, or resident magistrate to a sum not exceeding one hundred and twenty-five thousand shillings.

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Kadhis' Courts Act (Cap. 11).	s. 4(1)	Delete and insert the following— (1) In pursuance of section 66 (3) of the Constitution there shall be established such number of kadhi's courts as the Chief Justice may, in consultation with the Chief Kadhi, determine.
The Advocates Act (Cap. 16). ss. 36(2)(c), 37, 38(3)		Delete “a fine not exceeding five thousand shillings” wherever it occurs and insert “a fine not exceeding twenty-five thousand shillings or to imprisonment for a term not exceeding two years or both”.
	s. 39(1)	Delete “a fine not exceeding one thousand shillings in the case of an unqualified person or a fine not exceeding one hundred shillings in the case of an advocate” and insert “a fine not exceeding five thousand shilling in the case of an unqualified person or a fine not exceeding five hundred shillings in the case of an advocate”.
	s. 46(1)	Delete “a fine not exceeding five hundred shillings” and insert “a fine not exceeding twenty-five thousand shillings”.
	s. 47(1)	Delete “five hundred shillings” wherever it occurs and insert “twenty-five thousand shillings”.
	s. 62(6)(b) and (d)	Delete and insert the following— (b) that such advocate be suspended from practice for a specified period not exceeding five years; (d) that such advocate do pay a fine not exceeding fifty thousand shillings”
	s. 87(1)	Delete “a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding three months,” and insert “a fine not exceeding twenty-five thousand shillings or to imprisonment for a term not exceeding two years”.
The Law Society of Kenya Act (Cap. 18)	s. 18	Delete “six weeks” and insert “twelve weeks”.
The Courts Brokers Act (Cap. 20).	s. 4(2)(a)	Insert “principal magistrate” immediately after “senior resident magistrate”.
The Penal Code (Cap. 63)	s. 58(1)	Delete.
The Criminal Procedure Code (Cap. 75).	s. 7(1)(a)	Insert “principal magistrate” immediately after “chief magistrate.”

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
	First Schedule	Insert the following in the fifth column against items for sections 42, 43, 43A, 44, 47, 59, 60, 69, 85, 122(1)(a), 166, 167, 170, 171, 172, 202, 210, 220, 221, 222, 224, 225, 228, 229, 230, 232, 247, 264, 286, 287, 288 and 336— A subordinate court of the first class presided over by a chief magistrate, a principal magistrate or a senior resident magistrate.
The Prisons Act (Cap. 90) s. 46(1)		Delete paragraph (ii) of the proviso and insert the following— (ii) any remission be granted to a prisoner sentenced to imprisonment for life or for an offence under section 296(1) or 297(1) of the Penal Code or to be detained during the President's pleasure.
The Explosives Act (Cap. 115).	s. 18	Cap. 63. Delete “one hundred shillings” and insert “two thousand shillings”.
The Traditional Liquor Act (Cap. 122).	s. 2(1)	Delete the definition of “licence” and insert the following— “licence” means a licence specified in the Schedule but does not include a temporary licence.
	s. 10(b)	Delete the words “no retail licence” and insert “no retail on-licence or general retail licence”.
	s. 27(1)	Delete the words “retail licence” and insert “general retail licence”. Delete “ten litres” and insert “twenty litres”
	Schedule	Delete paragraph 3 and insert the following new paragraphs— 3. A retail on-licence, which shall authorize the licensee to sell traditional liquor for consumption only on the licensed premises. 4. A retail off-licence, which shall authorize the licensee to sell traditional liquor for consumption elsewhere than on the licensed premises. 5. A general retail licence, which shall authorize the licensee to sell traditional liquor on the licensed premises for consumption on or off those premises, in any quantity not exceeding twenty litres at any one transaction.

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Betting, Lotteries and Gaming Act (Cap. 131).	s. 60 Chain letters, etc.	Delete and insert the following— 60 (1) A person who sends or causes to be sent or supplies or delivers any chain letter or voucher or who sends or receives money or moneys worth in connection with a chain letter or voucher shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two years or to both. (2) For the purposes of this section "chain letter or voucher" means any document supplied or delivered from one person to another suggesting to the person to whom it is supplied or delivered— (a) that he should send, supply or deliver a document having the same or similar purport to another person or persons; and (b) that he should remit to a person or to an address specified in the first mentioned document money or money's worth.
The Law of Succession Act (Cap. 160).	s. 55	Renumber the existing section as subsection (1) and insert the following new subsection— (2) The restriction on distribution under subsection (1) does not apply to the distribution or application before the grant of representation is confirmed of any income arising from the estate and received after the date of death whether the income arises in respect of a period wholly or partly before or after the date of death.
	s. 58	Repeal and insert the following new section— Number of administrators where there is a continuing trust. 58. (1) Where a continuing trust arises— (a) no grant of letters of administration in respect of an intestate estate shall be made to one person alone except where that person is the Public Trustee or a Trust Corporation.

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
		(b) no grant of letters of administration with the will annexed shall be made to one person alone except where— (i) that person is the Public Trustee or a Trust Corporation; or (ii) in the will the testator has appointed one or more trustees for the continuing trust who are willing and able to act.
		(2) Where an application for a grant of letters of administration in respect of an intestate estate is made by one person alone and a continuing trust arises the court shall, subject to section 66, appoint as administrators the applicant and not less than one or more than three persons as proposed by the applicant which failing as chosen by the court of its own motion.
s. 71		In subsection (2), insert at the beginning the words “Subject to subsection (2A)”. Insert after subsection (2) the following new subsection—
		(2A) Where a continuing trust arises and there is only one surviving administrator, if the court confirms the grant, it shall, subject to section 66, appoint as administrators jointly with the surviving administrator not less than one or more than three persons as proposed by the surviving administrator which failing as chosen by the court of its own motion.
New Section		Insert after section 75 the following new section—
Continuing trust arising.		75A(1) If, after confirmation of the grant of letters of administration at any time there is a continuing trust and only one surviving administrator, that administrator shall without delay apply to the court to appoint, subject to section 66, as administrators jointly with him not less than one or more than three persons as proposed by him, which failing as chosen by the court of its own motion.

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
		(2) If a sole surviving administrator fails to apply to the court in accordance with subsection (1) within three months of there being a continuing trust and only one surviving administrator, on the application of any interested party in, or a creditor or debtor of the estate or of its own motion, the court may appoint additional administrators in accordance with subsection (1).
s. 83	Insert the following new paragraph at the end thereof—	<p>(e) to produce to the court, if required by the court, either of its own motion or on the application of any interested party in the estate, a full and accurate inventory of the assets and liabilities of the deceased and a full and accurate account of all dealings therewith up to the date of the account;</p> <p>(g) to complete the administration of the estate in respect of all matters other than continuing trusts and if required by the court, either of its own motion or on the application of any interested party in the estate, to produce to the court a full and accurate account of the completed administration.</p>
s. 95	Renumber the existing section as subsection (1) and insert the following new subsection—	<p>(2) Any personal representative who, as regards the estate in respect of which representation has been granted to him if at any time there is a continuing trust and he is the sole surviving administrator, wilfully fails to apply to the court within three months in accordance with section 75A for the appointment of further administrators shall be guilty of an offence and shall be liable to a fine not exceeding five thousand shillings.</p>

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Local Government Act (Cap. 265)	s. 227	Delete and insert the following— Financial year.
	s. 229 (1)	227. The financial year of every local authority shall be the year commencing on the first day of July and ending on the thirtieth day of June in the following year. Delete and insert the following—
		229(1) The accounts required to be kept by a local authority shall be balanced for any financial year not later than 31st December in the year following the year of account or such later date as in any particular case the Minister may determine and an annual statement or abstract thereof shall be prepared.
The Local Authorities Provident Fund Act (Cap. 272)	s. 4(4)	Delete “the 31st December” and insert “the 30th June”;
	s. 5(1)(a)	Delete “seven” and insert “eight”.
	s. 8(4)	Delete “31st December” and insert “30th June”;
	s. 12(a)	Delete “1st January” and “31st December” and insert “1st July” and “30th June” respectively.
	s. 12(b)	Delete “31st December” and “1st January” and insert “30th June” and “1st July” respectively.
	s. 12(c)	Delete “1st January” and insert “1st July”.
	s. 21(1) and (4)	Delete the words (“or such longer period as the Minister may approve”) and insert “or such longer period as the National Assembly may by resolution appoint”.
The Mining Act (Cap. 306)	s. 2	Delete the word “sand” occurring in the definition of “minerals”.
	s. 12	Insert the following new subsections immediately after subsection (2)— (3) No person shall deal in minerals unless he has been registered as a dealer and has been issued with a mineral dealers licence by the Commissioner:

SCHEDULE —(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
		Provided that a person holding a valid mining title who has declared as provided by this Act that he is in production and is disposing of the type of mineral for which he is licensed to mine shall not be required to obtain a mineral dealers licence.
		(4) A person who has been issued with a mineral dealers licence shall maintain a proper register of the kind, quantity and quality of minerals dealt in, bought, sold, bartered, exported, cut or polished, the manner by which it was obtained or disposed of; and the dealer shall make the register available for inspection by the Commissioner or any person authorized by him in writing.
		(5) A mineral dealers licence issued under this section shall expire on the 31st December in the year of issue.
		(6) The fees for a mineral dealers licence shall be prescribed by the Minister by notice in the Gazette.
		(7) For the purposes of this section, "to deal in minerals" includes to buy, sell, barter, deposit or receive as a pledge or security, export, cut or polish any miners which are subject to this Act.
s. 13(6)	Delete.	
s. 18(6)	Delete and insert—	
		(6) For every exclusive prospecting licence there shall be paid a registration fee of one hundred shillings and a conveyancing fee of five hundred shillings; and for every renewal thereof a renewal fee of one hundred shillings and a conveyancing fee of such sum not exceeding five hundred shillings as the Registrar of mines may assess.
s. 18(7)	Delete "a fee of fifteen shillings" and insert "a fee of two hundred and fifty shillings".	
s. 20(1)(b)	Delete "two shillings" and insert "twenty shillings".	
s. 29(4)	Delete "two shillings" and insert "fifty shillings".	
s. 44	Delete "six shillings and fifty cents" and "ten per centum" and insert "one hundred and fifty shillings" and "twenty five per centum" respectively.	

SCHEDULE —(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Trading in Unwrought Precious Metals Act (Cap. 309)	s. 7(2)	Delete and insert the following— (2) The fee for a licence shall be ten thousand shillings. Provided that the Commissioner may reduce such fee.
The Kenya Railways Corporation Act (Cap. 397)	s. 27	Delete the expression “Controller and Auditor-General” wherever it occurs and insert “Auditor-General (Corporations)”.
The Public Roads Toll Act (Cap. 407)	s. 7(2) Cap. 412.	Delete and insert the following— (2) The Public Roads Toll Fund shall be administered by the accounting officer of the Ministry for the time being responsible for roads appointed by the Treasury under the Exchequer and Audit Act.
The Banking Act (Cap. 488)	s. 28	Delete “sections 7, 8, 9, 10, 11, 11A, 11B, 12, 14(2), 17, 21 and 23” and insert “sections 7, 8, 9, 10, 11, 11A, 11B, 12, 14(2), 16, 17, 19, 20, 21 and 23”.
The Insurance Act, 1984 (No. 1 of 1985)	s. 2(1)	Insert the following definitions in appropriate alphabetical sequence— “claims settling agent” means a person who engages in the business of settling or negotiating insurance claims under policies issued by insurers whether in Kenya or outside Kenya; “insurance surveyor” means a person who engages in surveying risks and in advising on the rate and terms and conditions of premiums including making suggestions for improvement of the risks; and, in the marine insurance business, includes a person who surveys or assesses the losses on behalf of the insured; “loss adjuster” and “loss assessor” means persons who do the business of assessing, investigating, negotiating and settling losses on behalf of the insurer or the insured; “risk manager” means a person, his clients or employer with regard to a programme of minimizing losses arising through unforeseen events, and of minimizing the cost of such protection by physical or financial measures through insurance or any other means.

SCHEDULE—(Contd.)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
	s. 22	Insert the following at the end thereof— “or by a partnership whose partners are all citizens of Kenya or by a corporate body whose shares are owned by citizens of Kenya or is wholly owned by the Government”.
	s. 23(1)	Insert the following at the end thereof— “or by a partnership whose partners are all citizens of Kenya or by a corporate body whose shares are wholly owned by citizens of Kenya or is wholly-owned by the Government.
	s. 24(1)	Delete “outstanding interest” and insert “controlling interest”.
	s. 50	In the marginal note, delete “specimen investments” and insert “specified investments”.
	s. 50(9)	Delete the full stop after the word “subscription” and insert a colon.
	s. 57(1)(b)	Delete the full-stop after “prescribed” and insert a colon.
	s. 74(2)	Delete the words “as to be suitability” and insert “as to the suitability”.
	s. 153(2)	Insert at the end thereof the following words “or by a partnership whose partners are all citizens of Kenya or by a corporate body whose shares are wholly owned by citizens of Kenya or which is wholly owned by the Government.
The State Corporations Act, 1986 (No. 11 of 1986)	s. 26 (1)(a)	Delete and insert the following— (a) a chairman to be appointed by the President.