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ACTS, 2015

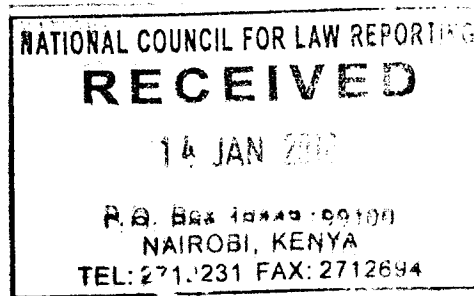
NAIROBI, 15th December, 2015

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**THE STATUTE LAW (MISCELLANEOUS
AMENDMENTS) ACT, 2015**

No. 25 of 2015

Date of Assent: 15th December, 2015

Date of Commencement: See Section 1

**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, 2015 and shall come into force upon publication in the Gazette.

Short title.

2. The several 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.

SCHEDULE

(s. 2)

<i>Written law</i>	<i>Provision</i>	<i>Amendment</i>
The Criminal Procedure Code (Cap.75)	s.364(1)	Insert the following new paragraph immediately after paragraph (b)— (c) in proceedings under section 203 or 296(2) of the Panel Code, the Prevention of Terrorism Act, the Narcotic Drugs and Psychotropic Substances (Control) Act, the Prevention of Organized Crimes Act, the Proceeds of Crime and Anti-Money Laundering Act, the Sexual Offences Act and the Counter-Trafficking in Persons Act, where the subordinate court has granted bail to an accused person, and the Director of Public Prosecution has indicated his intention to apply for review of the order of the court, the order of the subordinate court may be stayed for a period not exceeding fourteen days

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		pending the filing of the application for review.
The Prisons Act (Cap 90)	New	Insert the following new sections in proper numerical sequence—
	Remission of sentence.	<p>46. (1) Convicted criminal prisoners sentenced to imprisonment, whether by one sentence or consecutive sentences, for a period exceeding one month, may by industry and good conduct earn a remission of one-third of their sentence or sentences.</p> <p>Provided that in no case shall—</p> <p>(i) any remission granted result in the release of a prisoner until he has served one calendar month;</p> <p>(ii) any remission be granted to a prisoner sentenced to imprisonment for life or for an offence under section 296(1) of the Penal code or to be detained during the President's pleasure.</p> <p>(2) For the purpose of giving effect to the provisions of subsection (1), each prisoner on admission shall be credited with the full amount for remission to which he would be entitled at the end of his sentence if he lost no remission of sentence.</p> <p>(3) A prisoner may lose remission as a result of its forfeiture for an offence against prison discipline, and shall not earn any remission in respect of any period—</p> <p>(a) spent in hospital through his own fault; or</p> <p>(b) while undergoing confinement as a punishment in a separate cell.</p> <p>(4) A prisoner may be deprived of remission—</p> <p>(a) where the Commissioner considers that it is in the interests of the</p>

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reformation and rehabilitation of the prisoner;

- (b) where the Cabinet Secretary for the time being responsible for internal security considers that it is in the interests of public security or public order.

(5) Notwithstanding the provisions of subsection (1) of this section, the Commissioner may grant a further remission on the grounds of exceptional merit, permanent ill-health or other special ground.

The Registration s.2
of Persons Act
(Cap. 107).

Insert the following new definition in proper alphabetical sequence—

“Director” means the Director of National Registration appointed by the Public Service Commission.

The Firearms Act s.2
(Cap 114)

Insert the following new paragraph in the definition of the word “firearm”—

- (e) gunscope, gunsight, mufflers, bulletproof gear, night vision devices and other similar accessories.

Insert the following definition in proper alphabetical sequence—

“possession”—

- (a) includes not only having in one’s own personal possession, but also knowingly having anything in the actual possession or custody of any other person, or having anything in any place (whether belonging to or occupied by oneself or not) for the use or benefit of oneself or of any other person and the expressions “be in possession” or “have in possession” shall be construed accordingly; and

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(b) if there are two or more persons and any one or more of them with the knowledge and consent of the rest has or have anything in his or their custody or possession, it shall be deemed and taken to be in the custody and possession of each and all of them”.

The Pharmacy and Poisons Act,(Cap 244)

Delete the words “Minister” wherever they occur in the Act and substitute therefor the words “Cabinet Secretary”

s.2 Insert the following new definition in its proper alphabetical sequence.

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to health.

s.3(1) Delete paragraph (d) and substitute therefor the following new paragraph—

(d) three pharmacists representing the categories specified in this paragraph and appointed by the Cabinet Secretary from nine names competitively nominated by the Pharmaceutical Society of Kenya with due regard to gender, in which case the Society shall submit three names in respect of each of the following categories—

- (i) the public service;
- (ii) the community pharmacy; and
- (iii) the Pharmaceutical industry.

Delete paragraph (e) and substitute therefor the following new paragraph—

(e) two persons representing the faculty boards of the departments of pharmacy in universities of whom—

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		(i) one shall be nominated by a forum of public universities teaching pharmacy; and
		(ii) one shall be nominated by a forum of private universities teaching pharmacy.
The Valuation for Rating Act (Cap. 266)	s. 19(a)	Delete the words "High Court" and substitute therefor with the words "Environment and Land Court".
	s.20	Delete the words "High Court" wherever they appear and substitute therefor the words "Environment and Land Court".
	s.28	Delete the words "High Court" and substitute therefor with the words "Environment and Land Court".
The Rent Restriction Act. (Cap. 296)	s.4(9)	Delete the words "High Court" and substitute therefor the words "Environment and Land Court".
	s.8(2)	Delete the words "High Court" and substitute therefor the words "Environment and Land Court".
The Landlord and Tenant (Shops, Hotels and Catering Establishments) Act. (Cap.301)	s.15	Delete the words "High Court" wherever they appear and substitute therefor the words "Environment and Land Court".
	s.16(2)	Delete the words "High Court" wherever they appear and substitute therefor the words "Environment and Land Court".
The State Corporations Act (Cap. 446)	s.6(1)	Insert the following new paragraph immediately after paragraph (d)— (da) the Attorney-General or his representative.
	s.26(1)	Delete paragraph (a) and substitute therefor the following new paragraph—

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		(a) a chairman appointed by the President.
The Air Passenger Service Charge Act (Cap. 475).	s.3(3)	Delete and substitute therefor the following new subsection- (3) All proceeds of the charge imposed under this section shall be apportioned between the Kenya Airports Authority and the Kenya Civil Aviation Authority in such manner as the Cabinet Secretary may, by notice in the Gazette, specify.
The Kenya Information and Communications Act, 1998 (No2 of 1998)	s.2	Delete the definition of dominant telecommunications service provider” and substitute therefor the following- “dominant telecommunications service provider” means a licensee determined to be a dominant telecommunications service provider pursuant to the criteria set out in sections 4 and 23 of the Competitions Act, 2014.
	s.5B(5)	Insert the words “Cabinet Secretary, in consultation with the” immediately before the word “Authority
	s.27D	Insert the words “Cabinet Secretary, in consultation with the” immediately before the word “Authority”
	s.40(i)	Delete the word “Commission” and substitute therefor the word “Cabinet Secretary, in consultation with the Authority”
	s.46(1)(b)	Delete the word “Commission” and substitute therefor the word “Cabinet Secretary, in consultation with the Authority”
	s.46(3)	Delete the word “Commission” and substitute therefor the word “Cabinet Secretary, in consultation with the Authority”
	s.83C(2)	Insert the words “Cabinet Secretary, in consultation with the” immediately before the word “Authority”

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s.83V Insert the words “Cabinet Secretary, in consultation with the” immediately before the word “Authority”

s.84W(4) Delete and substitute therefor the following subsection—

(4) The Commission may, in consultation with the Competition Authority and after due process declare a person or institution, by notice in the Gazette, to be a “dominant telecommunications Service provider” for the purposes of this Act.

s.84W(5) Insert the words “in consultation with the Competition Authority” immediately after the words “ Commission shall” in the prefatory statement

s.85A(3) Insert the words “Cabinet Secretary, in consultation with the” immediately before the word “Authority”

The Environmental Management and Co-ordination Act, 1999. (No. 8 of 1999)

s.130 Delete the words “High Court” wherever they appear and substitute therefor the words “Environment and Land Court”.

The National Cohesion and Integration Act, 2008 (No.12 of 2008).

First Schedule

Insert the following new paragraph immediately after paragraph 7—

8. The provisions of this Schedule shall apply to appointment of new members of the Commission after the commencement of this Act.

The Anti-Counterfeit Act, 2008 (No. 13 of 2008).

s.6(1)

Insert the following new paragraph immediately after paragraph (c)-

(cc) the Attorney-General or his representative.

Delete paragraph (d).

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The Competition Act (No. 12 of 2010)	s.93	<p>Re-number the existing provision as subsection (1) and insert a new subsection as follows—</p> <p>(2) Without prejudice to the generality of subsection (1), rules made under this section shall prescribe for anything required to be prescribed under this Act.</p>
The Judicial Service Act, 2011 (No 1 of 2011)	s.30	<p>Delete subsection (3) and substitute therefor the following—</p> <p>(3) The provisions of this section shall apply to the appointment of the Chief Justice and Deputy Chief Justice except that—</p> <p>(a) the Secretary shall, within three days of the Commission's vote, forward the names of three qualified persons for each vacant position to the President;</p> <p>(b) the President shall, within fourteen days of receipt of the names forwarded select the person to fill the each vacant position and forward the name of the person to the National Assembly for approval;</p> <p>(c) the National Assembly shall, within twenty-one days of the day it next sits after receipt of the name of a person nominated for appointment to the post of Chief Justice or Deputy Chief Justice vet and consider the person;</p> <p>(d) where the National Assembly approves of the appointment of a person to the post of Chief Justice or Deputy Chief Justice, the Speaker of the National Assembly shall forward the name of the person to the President for appointment;</p> <p>(e) where the National Assembly rejects</p>

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the nomination of a person for appointment to the post of Chief Justice or Deputy Chief Justice, the Speaker shall within three days communicate its decision to the President and request the President to submit a fresh nomination;

(f) where a nominee is rejected by the National Assembly the President shall within seven days, submit to the National Assembly a fresh nomination from amongst the three persons shortlisted and forwarded by the Commission under paragraph (a);and

(g) if the National Assembly rejects all the subsequent nominees submitted by the President for approval the Commission shall constitute a different selection panel and conduct the recruitment afresh.

Paragraph 15 Insert a new subparagraph immediately after of the First subparagraph (2) as follows—

Schedule

(2A) The Secretary shall, within seven days of the Commission's vote, forward the names of the persons nominated for recommendation for judicial appointment to the President.

The National
Police Service
Act, 2011
(No.11A of
2011).

s.10(1)(g)

Delete and replace with the following new paragraph—

(g) determine the distribution and deployment of officers in the Service in the rank of Superintendent and below;

(ga) recommend to the Commission and the County Policing Authorities for the distribution and deployment of officers above the rank of Superintendent;

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(2)(b) Insert the words “administration, good order” immediately after the words “general control”

s.13 Delete and substitute therefor the following new Section—

Appointment of Deputy Inspector-General. 13. Whenever a vacancy arises in the Office of the Deputy Inspector-General the President shall on the recommendation of the Commission within fourteen days from the date the vacancy arises appoint a suitably qualified person to serve as Deputy Inspector-General.

s.14 Delete paragraph (b)

S.17 Delete and substitute therefor the following new Section—

Removal of Deputy Inspector-General. 17. The President may remove, retire or redeploy a Deputy Inspector-General at any time before the Deputy-Inspector General attains the age of retirement.

s.18(2) Delete.

(3) Delete.

s.23 Insert the following new paragraph immediately after paragraph (l)—

(la) issue general, special, routine and standing orders in respect of the Kenya Police Service.

s.26 Inset the following new paragraph immediately after paragraph (m)—

(ma) issue general, special, routine and standing orders in respect of the Administration Police Service.

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- s.29(1) Insert the words “by the President” immediately after the word “appointed”.
- (2) Delete.
- (3) Delete.
- s.30 Delete and substitute therefore the following new Section—
- Appointment of 30. Whenever a vacancy arises in the office of the Director of Criminal Investigations the President shall on the recommendation of the Commission within fourteen days from the date the vacancy arises, appoint a suitably qualified person to serve as Director of Criminal Investigations.
- s.31 Delete and substitute therefore the following new section—
- Removal of 31. The President may at any time remove, retire or redeploy a Director of Criminal Investigations at any time before the Director of Criminal Investigations attains the age of retirement.
- s.33 Insert the words ‘drawn from the Service’ immediately after the words “officers”.
- 41(1)(a) Delete the words “or a member of the County Executive Committee approved by the Governor”.
- Insert the following new subsection immediately after subsection (1) —
- (1A) The Governor may authorise the Deputy Governor to chair the meetings of the County Policing Authority in his absence.
- (9)(a) Delete the words “objectives and targets”.

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	(9)(b)	Delete the word “target” and substitute therefor the word “priorities”.
	(9)(c)	Delete.
	41(11)	Delete and substitute therefor the following new subsection— (11) The officer responsible for co-ordination of operations of the National Police Service in the County shall designate a police officer not below the rank of Assistant Superintendent of Police, as the secretary to the Authority.
	41(12)	Delete. Insert the following new subsection immediately after the subsection (13)— (14) Every County Policing Authority may establish such committees as may be necessary for the performance of its functions under this Act.
	42(2)	Insert the words “and any other matter necessary for the efficient operation of the Authority” at the end thereof.
	s.64	Insert the words “lay any lawful complaint before a magistrate or” immediately after the words “a police officer may”.
	s.76 (4)	Delete.
	(5)	Delete.
	s.81	Insert the words “in consultation with the Inspector-General” immediately after the words “Commission shall”.
	s.87	Insert the following new subsection immediately after subsection (6)— (6A) The Inspector-General may in exceptional cases and in the interest of the service, authorise the unit to undertake disciplinary proceedings against any officer who has been a subject of its investigations,

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and may for that purpose direct a Deputy Inspector-General or the Director of the Unit to appoint an officer to preside over such proceedings.

New

Insert the following new section immediately after section 88—

Interdiction. 88A. Where a police officer is interdicted from duty in accordance with Force Standing Orders or any other written law, the officer's appointment shall not cease only because of such interdiction.

Provided that the powers, privileges and benefits vested in him as a police officer shall, during his interdiction, be in abeyance, but the officer shall continue to be subject to the same discipline and penalties, and to the same authority, as if he had not been interdicted.

s.88(4) Delete

s.89(6) Delete the expressions “(c)”, “(d)”, and “(g)”.

Insert the following new subsection immediately after subsection (6) —

(6A) An officer recommended for dismissal under disciplinary proceedings shall be suspended from duty, pending the final decision of the Commission.

s.90(1) Insert the words “or other persons” immediately after the expression “police officers”.

(2) Delete the expression “police officer” and substitute therefor the word “person”.

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		Delete the words “against discipline”.
		Insert the following proviso at the end thereof— “Provided that where the person is a police officer, he or she shall be deemed to have committed an offence against discipline”.
	s. 110(1)	Insert the words “but not above the fifty five years” immediately after the word “years”
	s. 112(1)	Delete and substitute therefor the following new subsection— (1) Every reserve police officer enrolled under this Act shall serve for a period of five years and shall not be re-engaged.
The Kenya Citizenship and Immigration Act, 2011 (No. 12 of 2011).	s.5C(1)	Insert the words “and such other inter-agency units” immediately after the word “subcommittees”.
The Environment and Land Court Act, 2011.(No. 19 of 2011)	s.7	Insert the following new sub-section immediately after sub-section (2)— “(3) The Chief Justice may, on the recommendation of the Judicial Service Commission, transfer a judge who meets the qualifications set out at sub-section (1) to serve in the court”.
	s.8	Insert the following paragraph immediately after paragraph (c)— “(d) is transferred from the Court to the High Court or other court with the status of the High Court”
	New	Insert the following new section immediately after section 16— 16A. (1) All appeals from subordinate courts and local tribunals shall be filed within a period of thirty days from the date of the decree or order appealed against in matters in respect of disputes falling within the
	Appeals from subordinate	

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jurisdiction set out in section 13(2) of the Environment and Land Court Act, provided that in computing time within which the appeal is to be instituted, there shall be excluded such time that the subordinate court or tribunal may certify as having been requisite for the preparation and delivery to the appellant of a copy of the decree or order.

(2) An appeal may be admitted out of time if the appellant satisfies the court that he had a good and sufficient cause for not filing the appeal in time.

s. 26 Insert the following new sub-sections immediately after sub-section (2)—

(3) The Chief Justice may, by notice in the Gazette, appoint certain Magistrate to preside over cases involving environment and land in respect of any area of the county.

(4) Subject to Article 169(2) of the Constitution, the Magistrate appointed under sub-section (3) shall have jurisdiction and power to handle—

(a) disputes relating to offences defined in any Act of Parliament dealing with environment and land; and

(b) matters of civil nature involving occupation, title to land, provided that the value of the subject matter does not exceed the pecuniary jurisdiction as set out in the Magistrates' Courts Act.

The Power of Mercy Act, 2011 (No. 21 of 2011)

s.23(1) Delete the word “thirty” appearing immediately after the word “within” and substitute therefor the word “sixty”.

The Ethics and Anti-Corruption Commission Act, 2015 (No 22 of 2011)

s. 6 Delete

<i>Written law</i>	<i>Provision</i>	<i>Amendment</i>
The Land Registration Act, 2012. (No.3 of 2012).	s.101	Insert the words “and subordinate courts” immediately after the expression “2011”.
The Land Act, 2012. (No.6 of 2012).	s.150	Delete the words “is vested with exclusive jurisdiction” and substitute therefor the words “and the subordinate courts as empowered by any written law shall have jurisdiction”.
The Prevention of Terrorism Act, 2012 (No. 30 of 2012)	S.3	Insert the following new subsection immediately after subsection (12)— (13) An appeal to the court by an aggrieved entity under this section shall be filed in accordance with the procedure set out in regulations made by the Chief Justice.
	s.12A(2)	Delete and substitute therefor the following new subsection — (2) Without prejudice to subsection (1) unlawful possession of a weapon, an improvised explosive device or component of an improvised explosive device shall be presumed to be for terrorist or criminal purposes.
	S.45	Delete the words “in foreign states” appearing in the Marginal Note. Insert the words “within or” immediately before the word “outside”.
The Universities Act 2012 (No. 42 of 2012).	s.22	Delete subsection (1) and substitute therefor the following new subsection— (1) The President may, on the recommendation of the Cabinet Secretary revoke a Charter if in the opinion of the President the revocation is in the best interest of university education in Kenya.

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Delete subsection (2) and substitute therefor the following new subsection—

(2) The recommendation referred to under subsection (1) shall be made with the prior concurrence of the Commission which shall satisfy itself that the revocation is in the best interest of university education in Kenya.

New Insert the following new section immediately after section 22—

22A. (1) The Cabinet Secretary may, upon an initiation made under subsection (3), vary a Charter if in the opinion of the Cabinet Secretary that the variation is in the best interest of university education in Kenya.

(2) The recommendation referred to under subsection (1) shall be made based on a need to—

- (a) align the particular Charter to the Constitution or any written law;
- (b) align the university to the training and research priority of the national government that would develop expertise in a specified academic field, including instilling of skills with bias in employment creation;
- (c) in the case of a private university, to reflect changes in sponsorship of the university;
- (d) align the university to the dynamics in research, technology and prevailing academic requirements recommended by the body which by law represents employers; or
- (e) align the charter to the best interests of university education in Kenya.

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(3) A variation under subsection (1) may be initiated—

(a) by the Commission upon request by a university, in the case of a public university; or

(b) by the sponsor in the case of a private university;

and may include the introduction of such mechanisms as shall enable the university concerned to better carry out its functions.

(4) A decision for the variation by the Cabinet Secretary shall be made without unreasonable delay, but in any case—

(a) within three months from the date a recommendation for variation is made by the Commission, if the process is initiated by the Commission; or

(b) within six months from the date a formal request for variation is made by a university, if the process is initiated by a university.

(5) If a Charter is varied under subsection(1), the Cabinet Secretary shall forthwith cause a notice of variation to be published in the Gazette, and the variation shall come into effect on such date as may be specified in the notice.

(6) Notwithstanding subsection (5), the variation of the Charter shall not affect the validity of any academic award made by the University before variation.

(7) For the purpose of this section, “vary” includes a review or amendment.

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Insert a new subsection immediately after subsection (1) as follows—

(1A) The qualifications for appointment as a Vice Chancellor of a public university shall be as prescribed in regulations.

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Kenya Medical Supplies Authority, 2013 (No 20 of 2013)	39(1)	Delete paragraph (a) and substitute therefor the following new subsection— (a) in the case of a public university, by the Cabinet Secretary on the recommendation of the Council, after a competitive recruitment process conducted by the Council; and
	s.8	Delete the words “and appointed” and substitute therefor the words “by the Board and appointed by the Cabinet Secretary”
	s.8(2)	Insert the words “or Medicine” after the word “Pharmacy” appearing in paragraph (a)
	s.8(4)	Delete the words “three years and shall be eligible for re-appointment for one further term of three years” and substitute therefor the words “four years and shall be eligible for re-appointment by the Cabinet Secretary for one further term.”
The Statutory Instrument Act, 2013 (No.23 of 2013)	s.12(1)	Insert the words “upon tabling before the respective House of Parliament” immediately after the word “shall”
	15	Renumber the existing provision as subsection (1) and insert a new subsection as follows— (2) Where the Committee does not make the report referred to in subsection (1) within twenty eight days after the date of referral of the statutory instrument to the Committee under section 12, or such other period as the House may, by resolution approve, the statutory instrument shall be deemed to have fully met the relevant considerations referred to in section 13.