

THE FINANCE ACT

No. 9 of 2007

Date of Assent: 22nd October, 2007

Date of Commencement: See Section 1

An Act of Parliament to amend the law relating to various taxes and duties and for matters incidental thereto

ENACTED by the Parliament of Kenya, as follows –

PART I – PRELIMINARY

1. This Act may be cited as the Finance Act, 2007 and shall come into operation, or be deemed to have come into operation, as follows-

Short title and commencement.

- (a) sections 31, 32 and 34, on 1st July, 2005;
- (b) sections 2, 4, 5, 6, 7(b), 7(e), 8, 9, 10, 11, 14, 15(c), 15(d), 16, 17, 19, 21, 22(b), 23, 24, 25, 26, 27, 28(c), 29, 30, 37, 38, 39, 40, 41, 44, 45, 66, 67, 70, 75, and 76, on the 15th June, 2007;
- (c) sections 7(a), 12, 15(a) and (b), on the 1st July, 2007;
- (d) section 7(c), on the 1st October, 2007;
- (e) section 7(d), on the 16th October, 2007;
- (f) sections 3, 13, 18, 20, 22(a), 28(a) 28(b), 33, 35, 36, 42, 43, 46, 47, 48, 49, 50, 51, 52, 53, 54,55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 68, 69, 71, 72,73, and 74, on the 1st January, 2008.

PART II – CUSTOMS AND EXCISE

**Amendment of
section 2 of
Cap.472.**

2. Section 2 of the Customs and Excise Act is amended by inserting the following new definition in proper alphabetical sequence -

“services” means -

(a) any supply by way of business that is not a supply of goods or money; or

(b) anything which is not a supply of goods but is done for a consideration (including, if so done, the granting, assignment or surrender of any right).

**Amendment of
section 90 of
Cap.472.**

3. Section 90 of the Customs and Excise Act is amended by-

(a) re-numbering the existing subsection (2) as subsection (3);

(b) inserting a new subsection (2) as follows –

(2) Notwithstanding the provisions of this Act, no licence shall be issued for the manufacture of plastic bags of less than thirty microns.

**Amendment of
section 135 of
Cap.472.**

4. Section 135 of the Customs and Excise Act is amended by inserting the following new subsection immediately after subsection (5) -

(5A) Notwithstanding the foregoing provisions of this section, in calculating the quantity of spirits produced at a distillery, the Commissioner may apply such other method as may be prescribed after consultation with the industry.

**Insertion of a
new section
166C in
Cap.472.**

5. The Customs and Excise Act is amended by inserting a new section immediately after section 166B as follows -

166C (1) Where the Commissioner has *reasonable cause to believe that a person -*

Preservation
of funds.

(a) *has manufactured excisable goods on which tax has not been charged; or*

(b) *has collected duty which has not been accounted for; and*

(c) *is likely to frustrate the recovery of duty if information of the Commissioner's suspicion under this subsection is disclosed to him,*

~~or~~ *make an ex-parte application to the High Court, in this section referred to as "the Court", and the Court may issue an order to any person or institution holding funds belonging to the person, prohibiting the transfer, withdrawal or disposal of, or any other involving such funds.*

(2) *An order under subsection (1) shall have effect for 30 days and may be extended by the Court on application by the Commissioner.*

(3) *A person whose funds are the subject of an order under this section may, within 15 days of being served with the order, apply to the Court to discharge or vary the order or dismiss the application.*

(4) Where the Court has issued an order under this section, the Commissioner shall, within a period of 30 days of the order, determine the excise duty due and payable, issue a notice of assessment and commence recovery of such duty in accordance with the provisions of this Act.

(5) Upon issuance of a notice of assessment under subsection (4), the order shall automatically expire unless extended by the Court upon application by the Commissioner.

(6) A person served with an order under this section who, in any way, interferes with the funds to which it relates commits an offence.

(7) A person who preserves funds or any account pursuant to a Court order under this section, shall for all purposes, be deemed to have acted within the authority thereof and such person and all other persons concerned shall be indemnified in respect of the actions taken in connection therewith, against all proceedings, civil or criminal and all process, judicial or extrajudicial, notwithstanding any provisions to the contrary in any written law, contract or agreement.

**Amendment of
the Fourth
Schedule to
Cap.472.** ✓

6. The Fourth Schedule to the Customs and Excise Act is amended in the manner set out in the First Schedule to this Act.

**Amendment of
the Fifth
Schedule to
Cap.472.** ✓

7. The Fifth Schedule to the Customs and Excise Act is amended in the manner set out in -

(a) item (a) of the Second Schedule to the Act;

(b) item (b)(i) of the Second Schedule to this Act;

- (c) item (b)(ii) of the Second Schedule to this Act;
- (d) item (b)(iii) of the Second Schedule to this Act;
- (e) item (c) of the Second Schedule to this Act.

~~PART III~~ – VALUE ADDED TAX

8. Section 2 of the Value Added Tax Act is amended in subsection (1)-

**Amendment of
section 2 of
Cap. 476. C.**

- (a) by deleting the definition of “building” and substituting therefor the following new definition -

“building” includes garages, dwellings, apartment houses, hospitals and institutional buildings, colleges, schools, churches, office buildings, factories, warehouses, theatres, cinemas, silos and similar roofed structures affording protection and shelter”;

- (b) by deleting item (g) appearing in the definition of “supply”;
- (c) by inserting the following new definitions in proper alphabetical sequence –

Cap.531. “auditor” means a person who holds a practising certificate or a written authority to practice issued under the provisions of the Accountants Act;

“residential buildings” means dwellings built or used to accommodate persons for residential purposes;

“shipstores” means goods for use in aircraft and vessels engaged in international transport for consumption by passengers and crew and goods for sale on board.

Amendment of section 19A of Cap. 476.

9. Section 19A of the Value Added Tax Act is amended-

(a) by inserting a new proviso at the end of subsection (1) as follows -

“Provided that the Commissioner may, at any time, revoke an appointment under this subsection if he deems it appropriate to do so for the protection of revenue”.

(b) by adding new subsections immediately after subsection (2) as follows -

(3) For the avoidance of doubt, the withholding of tax under subsection (2) shall not relieve the supplier of taxable goods or services of the obligation to account for tax in accordance with this Act and the regulations.

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(4) Notwithstanding the foregoing provisions of this section, the Commissioner may, on application by the supplier of any goods or services to which subsection (2) applies, waive the requirements of this section in respect of the tax due thereon, if satisfied that owing to the nature of the supplier's business, it is impracticable to withhold and account for the tax in accordance with this section.

10. The Value Added Tax Act is amended by inserting a new section immediately after section 19A as follows -

Insertion of a new section 19B to Cap.476.

Preservation of funds.

19B (1) Where the Commissioner has reasonable cause to believe that a person -

(a) has made taxable supplies on which tax has not been charged; or

(b) has collected tax which has not been accounted for; and

(c) is likely to frustrate the recovery of tax if information on the Commissioner's suspicion under this subsection is disclosed to him,

the Commissioner may make an *ex-parte* application to the High Court, in this section referred to as "the Court, and the Court may issue an order to any person or institution holding funds belonging to the person, prohibiting the transfer, withdrawal or disposal of, or any other dealings involving such funds.

(2) An order under subsection (1) shall have effect for 30 days and may be extended by the Court on application by the Commissioner.

(3) A person whose funds are the subject of an order under this section may, within 15 days of being served with the order, apply to the Court to discharge or vary the order or dismiss the application.

(4) Where the Court has issued an order under this section, the Commissioner shall, within a period of 30 days of the order, determine the tax due and payable, issue a notice of assessment and commence recovery of such tax in accordance with the provisions of this Act.

(5) Upon issuance of a notice of assessment under subsection (4), the order shall automatically expire unless extended by the Court upon application by the Commissioner.

(6) A person served with an order under this section who, in any way, interferes with the funds to which it relates commits an offence.

(7) A person who preserves funds or any account pursuant to a Court order under this section, shall for all purposes, be deemed to have acted within the authority thereof and such person and all other persons concerned shall be indemnified in respect of the actions taken in connection therewith, against all proceedings, civil or criminal and all process, judicial or extrajudicial, notwithstanding any provisions to the contrary in any written law, contract or agreement.

(a) by deleting paragraph (b) and inserting a new paragraph as follows -

(b) maize, wheat, sugar, milk, edible vegetable fats and oils, rice, textiles, new and used clothing and footwear, imported or purchased locally during periods of civil strife, national calamity or disaster declared under any law for the time being in force, or where they are intended for use in officially recognized refugee camps in Kenya;

(b) by deleting paragraph (f);

(c) by inserting the following new paragraphs immediately after paragraph(j) –

(k) taxable goods and services supplied by a registered person for use in the construction or expansion of private universities (excluding student hostels and staff housing) with the approval of the Minister, on the recommendation of the Minister responsible for education;

(l) taxable goods and services supplied by a registered person to a specific project approved by the Minister, on the recommendation of the Minister responsible for housing, for the construction of not less than twenty housing units for low income earners, subject to such conditions as may be prescribed.

12. The Second Schedule to the Value Added Tax Act is amended in Part 1, in the manner specified in the Third Schedule to this Act.

**Amendment of
the Second
Schedule to
Cap.476.**

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**Amendment of
the Third
Schedule to
Cap.476.**

13. The Third Schedule to the Value Added Tax Act is amended in paragraph 10 by deleting subparagraph (c).

**Repeal of
Fourth
Schedule to
Cap.476**

14. The Value Added Tax Act is amended by repealing the Fourth Schedule.

**Amendment of
the Fifth
Schedule to
Cap.476**

15. The Fifth Schedule to the Value Added Tax Act is amended in the manner specified in -

- (a) item 1;
- (b) item 2(a);
- (c) item 2(b) of Part I of the Fourth Schedule;
- (d) Part II to the Fourth Schedule to this Act.

**Amendment of
the Sixth
Schedule to
Cap.476**

16. The Sixth Schedule to the Value Added Tax Act is amended-

- (a) by deleting paragraph 1(c);
- (b) by deleting the proviso to paragraph 16.

**Amendment of
the Eighth
Schedule to
Cap.476**

17. The Eighth Schedule to the Value Added Tax Act is amended -

- (a) in Part A by deleting paragraph (1) of item 9;
- (b) in Part B -
 - (i) by inserting the words "leased or" immediately before the word "imported", appearing in paragraph (2) of item 1;

- (ii) by adding the words “leased, imported or purchased by a ship or vessel operator” at the end of paragraph (1) of item 7;
- (iii) by inserting the words “leased or” before the word “imported” appearing in item 21.

PART IV – INCOME TAX

✓ **18.** Section 5 of the Income Tax Act is amended -

**Amendment
of section 5 of
Cap.470.**

(a) by deleting subsection (2B) and inserting the following new subsections -

(2B) Where an employee is provided with a motor vehicle by his employer, he shall be deemed to have received a benefit in that year of income equal to the higher of -

- (a) such value as the Commissioner may, from time to time, determine; and
- (b) the prescribed rate of benefit.

Provided that -

(i) where such vehicle is hired or leased from a third party, the employee shall be deemed to have received a benefit in that year of income equal to the cost of hiring or leasing; or

(ii) where an employee has restricted use of such motor vehicle, the Commissioner shall, if satisfied of that fact upon proof by the employee, determine a lower rate of benefit depending on the usage of the motor vehicle.

(2C). For the purposes of subsection (2B) -

“prescribed rate of benefit” means the following rates in respect of each month –

(a) in the 1996 year of income, 1% of the initial capital expenditure on the vehicle by the employer;

(b) in the 1997 year of income, 1.5% of the initial capital expenditure on the vehicle by the employer; and

(c) in 1998 and subsequent years of income, 2% of the initial expenditure on the vehicle by the employer.

(b) in subsection (4) -

(i) by inserting the following words in paragraph (b) immediately after the words “medical services provided by the employer” –

“or medical insurance provided by an insurance provider approved by the Commissioner of Insurance and paid for by the employer on behalf of a full-time employee.”

(ii) by inserting a new paragraph immediately after paragraph (e) as follows -

(f) meals served in canteens and cafeterias operated by an employer for the benefit of his low-income employees, subject to such conditions as the Commissioner may approve:

Provided that for the purposes of this paragraph, "low income employee" means an employee who is not a member of the management staff of the employer.

(c) in subsection (6), by adding the following expression at the end of paragraph (a) -

"and shall be deemed to have accrued to the employee either at the time the option vests in the employee or the option is exercised by the employee, whichever is the earlier".

✓ **19.** Section 9 of the Income Tax Act is amended in subsection (1) by deleting the words "that percentage of the full amount received on account of the carriage which the commissioner may determine to be just and reasonable" and substituting therefor the words "the gross amount received on account of the carriage".

**Amendment
of section 9 of
Cap.470.**

✓ **20.** Section 15 of the Income Tax Act is amended in subsection (2) by adding the following at the end of subparagraph (a) -

**Amendment
of section 15
of Cap.470.**

"and the Commissioner may prescribe such guidelines as may be appropriate for the purposes of determining bad debts under this subparagraph".

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**Amendment
of section 22C
of Cap.470.**

✓ **21.** Section 22C of the Income Tax Act is amended -

- (a) in subsection (3), by deleting the words “in trust for the depositor” appearing immediately after the word “institution”;
- (b) in subsection (4), by deleting the words “in qualifying assets” appearing at the end of the subsection and substituting therefor the words “in accordance with the prudential guidelines issued by the Central Bank”;
- (c) in subsection (8), by deleting the definition of “qualifying assets”.

**Amendment
of section 34
of Cap.470.**

22. Section 34 of the Income Tax Act is amended -

- (a) in subsection (1), by inserting the following new paragraph immediately after paragraph (g) -
 - (h) tax upon gross receipts of a person chargeable to tax under section 12C shall be charged at the resident rate for that year of income;
- (b) in subsection (2), by inserting the following new paragraph immediately after paragraph (h)-
 - (i) a payment in respect of gains or profits from the business of a ship owner which is chargeable to tax under section 9.

✓**23.** Section 35 of Income Tax Act is amended in subsection (3)-

Amendment of section 35 of Cap.470.

- (a) by inserting a new proviso at the end of paragraph (f) as follows-

Provided that for the purposes of this paragraph, contractual fee within the meaning of “management or professional fee” shall mean payment for work done in respect of building, civil or engineering works.

- (b) in subsection (3)(h) by inserting the words “(other than aircraft)” immediately after the word “assets”.

- (c) by deleting subsection (3C).

✓**24.** Section 39 of the Income Tax Act is amended in subsection (1) by inserting a new paragraph immediately after paragraph (b) as follows-

Amendment of section 39 of Cap.470.

- (c) has been paid by a person under section 12A.

✓**25.** Section 39A of the Income Tax Act is amended by deleting the phrase “section 117 of the Customs and Excise Act” and substituting therefor the phrase “section 110 of the East African Community Customs Management Act 2004”.

Amendment of section 39A of Cap.470.

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✓**26.** The Income Tax Act is amended by inserting a new Section immediately after section 96 as follows-

Insertion of a new section 96A of Cap.470.

Preservation of funds. **96A** (1) Where the Commissioner has reasonable cause to believe that a person -

(a) has made income which has not been charged to tax; and

(b) is likely to frustrate the recovery of tax if information on the Commissioner's suspicion under this subsection is disclosed to him,

the Commissioner may make an *ex-parte* application to court and the court may issue an order prohibiting the transfer, withdrawal or disposal of, or any other dealings involving the with funds to any person or institution holding such funds for the person having such income.

(2) An order under this section shall have effect for 30 days and may be extended by the court on application by the Commissioner.

(3) A person whose funds are the subject of a preservation order may, within 15 days of being served with the order, apply to the court to discharge, or vary the order and the court may, after hearing the parties, discharge or vary the order or dismiss the application.

(4) Where the Court has issued an order under this section, the Commissioner shall, within a period of thirty days from the date of the order, determine the tax due and payable, issue a notice of assessment and commence recovery of such tax in accordance with the provisions of this Act.

(5) Upon issuance of a notice of assessment under subsection (4), the order shall automatically expire unless extended by the Court upon application by the Commissioner.

(6) A person served with an order under this section who, in any way, interferes with the funds to which it relates commits an offence.

(7) A person or institution which has preserved funds or any account pursuant to a Court order under this section, shall for all purposes be deemed to have acted within the authority thereof and such person and all other persons concerned shall be indemnified in respect of the actions taken in connection therewith against all proceedings, civil or criminal and all process, judicial or extrajudicial, notwithstanding any provisions to the contrary or in any written law, contract or agreement.

✓ **27.** The First Schedule to the Income Tax Act is amended in Part 1 by inserting the following new item immediately after item 52-

**Amendment
of First
Schedule to
Cap.470.**

53. Monthly pension granted to a person who is sixty five years of age or more.

28. The Second Schedule to Income Tax Act is amended-

**Amendment
of Second
Schedule to
Cap.470.**

(a) in paragraph 1(1), by inserting a new subparagraph immediately after subparagraph (d) as follows -

“(e) in the case referred to in paragraph 5(1)(f) for the year commencing on or after the 1st January, 2008, five per cent;

(b) in paragraph 5(1), by inserting a new subparagraph immediately after subparagraph (e) as follows-

(f) a building in use as a rental residential building where such building is constructed in a planned development area approved by the Minister for the time being responsible for matters relating to housing;

(c) in paragraph 24(3)(e) by deleting the expression “5(1A)” and substituting therefor the expression “1(1A)”.

**Amendment
of Third
Schedule to
Cap.470.**

29. The Third Schedule to the Income Tax Act is amended -

(a) in Head B, by inserting the following new proviso in paragraph 2(f)-

“Provided that for purposes of this subparagraph, “commercial activities includes trading in, breaking bulk, grading, repacking or relabelling of goods and industrial raw materials”;

(b) in paragraph 3 by adding the following proviso in subparagraph (d) -

“Provided that the rate applicable to citizens of the East African Community Partner States in respect of dividend shall be five percent of the gross sum payable”

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30. The Eleventh Schedule to Income Tax Act is amended-

**Amendment
of the
Eleventh
Schedule to
Cap.470.**

- (a) in paragraph 3, by deleting the words “paragraph 2(e) of the Third Schedule” and substituting therefor the words “paragraph 2(f) of the Third Schedule”;
- (b) in paragraph 4, by deleting the words “subparagraph 2(e) of the Third Schedule” and substituting therefor the words “paragraph 2(f) of the Third Schedule”.

PART V – MISCELLANEOUS

✓ **31.** The Pensions Act is amended by repealing section 10 and replacing it with the following new section -

**Repeal and
replacement of
section 10 of
Cap.189.**

Minimum and
maximum
pensions.

10. A pension granted to an officer under this Act shall not be less than two thousand shillings or such other amount as may be specified by the President from time to time, but shall not exceed the full pensionable emoluments drawn by the officer at the time of his retirement.

32. The Pensions (Increase) Act is amended by repealing section 3 and replacing it with the following new section -

**Amendment of
section 3 of
Cap.190.**

Date and rate of
pension increase.

3. (1) Subject to the provisions of this Act, there shall be paid, with effect from the 1st July, 2005 and on the 1st July every two years thereafter, on every specified pension together with any other increase granted previously, a pension increase at the rate of three per cent of the pension in payment at the date of the increase -

Provided that no increase shall be payable under this section on -

(a) any specified pension which became payable after the date of the increase where the amount of the pension is calculated by reference to a salary received after such date;

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of 1977 (b) any pension to which the Public Officers' Pensions (Kenya and United Kingdom) Agreement Act, 1977, applies.

(2) In this section, "date of the increase" means the 1st July, 2005, or the 1st July every two years thereafter, as the case may be.

Amendment of
section 12 of
Cap.190.

33. Section 12 of the Pensions (Increase) Act is amended by deleting the words "one thousand shillings" and substituting therefor the words "ten thousand shillings".

Repeal of the
Second
Schedule to
Cap.190.

34. The Pensions (Increase) Act is amended by repealing the Second Schedule.

Amendment of
section 6 of
Cap.258.

35. Section 6 of the National Social Security Fund Act is amended by deleting the proviso to subsection (1).

Amendment of
section 13 of
Cap.258.

36. Section 13 of the National Social Security Fund Act is amended by inserting the following new subsection immediately after subsection (3)–

(4) The amount of the special contribution payable under subsection (3) shall be declared as surplus benefits when actuarial valuation of the Fund is carried out and shall be used to augment voluntary individual accounts.

37. Section 2 of the Government Lands Act is amended by inserting the following new definition in proper alphabetical sequence- Amendment of section 2 of Cap.280.

Cap. 469 “collector” means the Commissioner -General appointed under section 11(1) of the Kenya Revenue Authority Act.

38. Section 16 of the Government Lands Act is amended by deleting the words “Commissioner at the Land Office” and substituting therefor the word “collector”. Amendment of section 16 of Cap.280.

39. Section 17 of the Government Lands Act is amended by deleting the words “is not paid to the Commissioner” and substituting therefor the words “is not paid to the collector”. Amendment of section 17 of Cap.280.

40. Section 25 of the Government Lands Act is amended by deleting the words, “Commissioner at the Land Office” and substituting therefor the word “collector”. Amendment of section 25 of Cap.280.

41. Section 74 of the Government Lands Act is amended by deleting the word “Commissioner” and substituting therefor the word “collector”. Amendment of section 25 of Cap.280.

42. Section 6 of the Traffic Act is amended by inserting the following new subsection immediately after subsection (8)- Amendment of section 6 of Cap.403

(9) If a vehicle is written off by an insurer, the insurer shall forthwith return the registration book and identification plates issued under this Act or the regulations to the Registrar for cancellation.

43. Section 28 of the Traffic Act is amended by deleting the words “Controller of Inland Revenue” wherever it appears and substituting therefor the words “Registrar”. Amendment of section 28 of Cap.403.

44. The Traffic Act is amended by repealing section 95. Repeal of section 95 of Cap.403.

No. 9

Amendment of
section 5 of
Cap.404

45. Section 5 of the Transport Licensing Act is amended -

- (a) in subsection (1), by deleting subparagraphs (ii) and (iii) of paragraph (a); and,
- (b) by deleting subsections (3) and (4).

Amendment to
section 11 of
Cap 485A

46. Section 11 of the Capital Markets Act is amended in subsection (3) -

- (a) by inserting the following new paragraph immediately after paragraph (c) -

(cc) impose sanctions for breach of the provisions of this Act or the regulations made thereunder, or for non-compliance with the Authority's requirements or directions, and such sanctions may include -

(i) levying of financial penalties, proportional to the gravity or severity of the breach, as may be prescribed;

(ii) ordering a person to remedy or mitigate the effect of the breach, make restitution or pay compensation to any person aggrieved by the breach;

(iii) publishing findings of malfeasance by any person;

(iv) suspending or cancelling the listing of any securities, or the trading of any securities, for the protection of investors;

- (b) deleting paragraphs (k) and (l).

47. Section 18 of the Capital Markets Act is amended -

**Amendment of
section 18 of
Cap.485A.**

(a) in subsection (1) by-

(i) deleting paragraph (ee);

(ii) inserting the words "and paying beneficiaries from collected unclaimed dividends when they resurface" immediately after the word "obligations";

(b) in subsection (2), by inserting the following new paragraph immediately after paragraph (e)-

"(ee) unclaimed dividends outstanding in listed companies for more than seven years."

48. The Capital Markets Act is amended by inserting the following new section immediately after section 18-

**Insertion of a
new section of
Cap.485A**

**The Investor
compensation
Fund Board.**

18A.(1) There is hereby established a Board to be known as the Investor Compensation Fund Board.

(2) The Board shall be a body corporate with perpetual succession and a common seal, and capable, in its corporate name, of-

- (a) suing and being sued;
- (b) taking, acquiring, holding and disposing of movable and immovable property;
- (c) borrowing and lending money; and
- (d) doing or performing such other things as may lawfully be done by a body corporate

(3) The Board shall consist of-

- (a) a chairman appointed by the President on the recommendation of the Minister;
- (b) the Permanent Secretary to the Treasury or a person deputed by him in writing;
- (c) the Attorney-General or a person deputed by him in writing;
- (d) the Public Trustee;
- (e) the chief executive of the Capital Market Authority or a person deputed by him in writing;
- (f) the chief executive of the Board; and
- (g) five other members appointed by the Minister by virtue of their knowledge and experience in legal, financial, business or administrative matters.

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(4) The function of the Board shall be to administer the Fund established under section 18.

49. Section 24 of the Capital Markets Act is amended by inserting a proviso at the end of subsection (6) as follows –

Amendment of section 24 of Cap.485A.

“Provided that where an application for renewal of a licence is made under this section, the licence shall be deemed to continue in force until the application for renewal is determined.”

50. The Capital Markets Act is amended -

(a) by inserting the following new section immediately after section 25 -

Imposition of additional sanctions and penalties.

25A. (1) Without prejudice to any other provision of this Act, the Authority may impose the following sanctions or levy financial penalties in accordance with this Act, for the breach of any provisions of this Act, the regulations made thereunder, or the rules of procedure of a securities exchange, by a licensed or approved person, listed company, employee or a director of a licensed or approved person or director of a listed company as provided under section 11 (3) (d) -

Insertion of a new section 26 in Cap 485A.

(a) with respect to a licensed person, listed company, securities exchange or other approved person -

- (i) a public reprimand;
 - (ii) suspension in the trading of a listed company's securities for a specified period;
 - (iii) suspension of a licensed person from trading for a specified period;
 - (iv) restriction on the use of a licence;
 - (v) recovery from such person of an amount equivalent to two times the amount of the benefit accruing to such person by virtue of the breach;
 - (vi) the levying of financial penalties in such amounts as may be prescribed;
 - (vii) revocation of the licence of such person;
- (b) with respect to an employee of a licensed or approved person, including a securities exchange -
- (i) require the licensed or approved person to take disciplinary action against the employee;
 - (ii) disqualification of such employee from employment in any capacity by any licensed or approved person or listed company for a specified period;

(iii) recovery from the employee of a licensed or approved person an amount double the benefit accruing to such person by reason of the breach;

(iv) the levying of financial penalties as such amounts as may be prescribed;

(c) with respect to a director of a listed company or a licensed or approved person, including a securities exchange-

(i) disqualification of such person from appointment as a director of a listed company or licensed or approved person including, a securities exchange;

(ii) the recovery from such person of an amount equivalent to two times the amount of the benefit accruing to the person by reason of the breach;

(iii) the levying of financial penalties in such amounts as may be prescribed.

(2) In addition to any other sanction or penalty that may be imposed under this section, the Authority may make orders for restitution, subject to the provisions of subsection (3).

(3) The Authority shall exercise the power of restitution where the breach of the provisions of this Act or the regulations made under the Act results in a loss to one or more aggrieved persons, but subject to the following conditions -

(a) that the amount of the loss is quantified and proved to the Authority by the person making the claim; and,

(b) that notice is served by the Authority on the person expected to make the restitution, containing details of the amount claimed and informing them of their right to be heard.

(4) The Authority shall, in its annual report, publish the names of persons against whom action has been taken by the Authority under this Part.

Amendment to section 29 of Cap. 485A.

51. Section 29 of the Capital Markets Act is amended in subsection (1) by inserting the words “in respect of a business that requires to be licensed or approved” immediately before the words “shall satisfy itself”.

Amendment of section 33A of Cap. 485A.

52. Section 33A of the Capital Markets Act is amended in subsection (1) (a) by deleting the phrase “subsection (1) of section 26” and substituting therefor the phrase “section 25 (4) (c) (ii)”.

Amendment of section 34 of Cap. 485A.

53. Section 34 of the Capital Markets Act is amended-

(a) in subsection (2), by deleting the words “one million and five hundred thousand” and substituting therefor the words “fifteen million”;

(b) in subsection (3), by inserting the words “make restitution or” immediately after the words “shall be liable to”;

(c) in subsection (4), by -

- (i) inserting the words “restitution or” immediately before the word “compensation”;
- (ii) deleting paragraphs (a) and (b) and substituting therefor the following new paragraphs -

“(a) the loss sustained or adverse impact of the breach on the person or persons claiming compensation or restitution;

(b) the profits that have accrued to the person in breach;

(c) where harm has been done to the market as a whole, the illegal gains received or loss averted as a result of the illegal action as may be determined by the court.”

54. The Capital Markets Act is amended by inserting the following new section immediately after section 34 -

Financial penalties.

34A(1) The Minister may, in regulations, prescribe penalties to be paid for breach of or failure to comply with any of the provisions of this Act, which shall not exceed ten million shillings in the case of an institution, or five million shillings in the case of natural person:

Provided that the financial penalties with respect to-

Amendment of section 34 of Cap. 485A.

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(a) a breach of trading rules of a securities exchange by a licensed person, the penalty shall be double the brokerage commission payable to the licensed person on the relevant trade, or double the annual licence fees, whichever is higher:

(b) failure to comply with a reporting requirement by a listed company or licensed person, the penalty shall be double the applicable prescribed annual listing fee or licence fee, whichever is higher, for every calendar quarter during which the reporting requirement remains outstanding; or

(c) failure on the part of the securities exchange to enforce and ensure compliance with this Act and the rules of the securities exchange as approved by the Authority, the penalty shall be equal to the annual licence fee of the securities exchange.

(2) The discretion conferred on the Authority to levy financial penalties or to impose any other sanctions under this Act may be exercised separately or cumulatively, and in no circumstances shall the exercise of such penalties or sanctions prejudice, in any way, any right to any other legal proceedings that may be vested in the Authority.

(3) All financial penalties levied under this Act shall be paid into the Investor Compensation Fund.

55. Section 27A of the Insurance Act is amended by inserting the following new paragraph immediately after paragraph (b) -

Amendment of section 27A of Cap.487

(c) all the members of such Board have in writing addressed to the Commissioner signifying their acceptance to serve on the Board.

56. Section 41 of the Insurance Act is amended by deleting subsection (1) and substituting therefor the following -

Amendment to section 41 of Cap.487.

(1) An insurer carrying on in Kenya long term insurance business but not general insurance business shall keep at all times total admitted assets of not less than his total admitted liabilities and ten million shillings or five percentum of the total admitted liabilities, whichever is the higher.

57. Section 54 of the Insurance Act is amended -

Amendment of section 54 of Cap.487.

(a) by inserting a new subsection immediately after the provision in subsection (1) as follows -

(1A) The revenue account, balance sheet, profit and loss account and financial statement required to be prepared under subsection (1) shall be prepared in accordance with International Financial Reporting Standards and such accepted Kenyan reporting standards as may be prescribed.

(b) by inserting a new subsection immediately after subsection (4) as follows –

(5) In subsection (1A), “International Financial Reporting Standards” means –

(a) the standards issued by the International Accounting Standards Board of London; or

(b) Kenyan accepted standards developed by the Institute of Certified Public Accountants of Kenya.

Amendment of section 61 of Cap.487.

58. Section 61 of the Insurance Act is amended in subsection (5) by deleting the words “Permanent Secretary to the Treasury” and substituting therefor the words “Policy Holders Compensation Fund”.

Amendments to section 67D of Cap.487

59. Section 67D of the Insurance Act is amended in subsection (2) –

(a) by inserting a new paragraph immediately after paragraph (b) as follows -

“(c) committing any other business malpractices”;

(b) by deleting the words “Permanent Secretary to the Treasury” appearing in paragraph (b) and substituting therefor with the words “Policy Holders Compensation Fund”.

Amendment to section 150 of Cap.487.

60. Section 150 of the Insurance Act is amended -

(a) in subsection (1), by deleting the words “loss assessor” and substituting therefor the words “motor assessor, insurance investigator”;

(b) in subsection (2), by deleting the words “loss assessor” and substituting therefor the words “motor assessor, insurance investigator”;

(c) in subsection (3), by deleting the words “loss assessor” and substituting therefor the words “motor assessor, insurance investigator”.

61. Section 156 of the Insurance Act is amended by deleting subsection (2).

Amendment of section 156 of Cap.487.

62. Section 188 of the Insurance Act is amended by inserting a proviso at the end of subsection (1) as follows -

Amendment to section 188 of Cap.487.

Provided that where an application for its renewal is made under this section, the registration shall be deemed to continue in force until the application for the renewal is determined and the registration is renewed.

63. Section 3 of the Banking Act is amended in subsection (1) by deleting the word “Minister” appearing in the paragraph (b) of the proviso and substituting therefor the words “Central Bank”.

Amendment of Section 3 of Cap.488.

64. Section 9 of the Banking Act is amended in subsection (5) by deleting the word “Minister” wherever it occurs and substituting therefor the words “Central Bank”.

Amendment of section 9 of Cap.488.

65. Section 31 of the Banking Act is amended -

Amendment of section 31 of Cap.488.

(a) in subsection (3), by inserting the words “the Deposit Protection Fund Board, and” in paragraph (b) immediately before the words “institutions licensed under this Act”.

(b) in subsection (4), by inserting the expression “or (c)” immediately after the expression “(3)(b)”.

Amendment of section 52A of Cap.488.

66. Section 52A of the Banking Act is amended in subsection (2) by deleting the words “the Customs and Excise Act or the Value Added Tax Act” and substituting therefor the words “the East African Community Customs Management Act, the Value Added Tax Act or any of the other laws set out in the First schedule to the Kenya Revenue Authority Act”.

Amendment of section 4 of Cap.491.

67. Section 4 of the Central Bank of Kenya Act is amended by inserting the following new subsections immediately after subsection (2) -

(3) Subject to subsections (1) and (2), the Bank shall support the economic policy of the Government, including its objectives for growth and employment.

(4) The Minister may by notice in writing to the Bank, specify for purposes of this sections -

(a) the price stability targets of the government; and

(b) the economic policy to be taken by the Government.

(5) The Minister shall specify at least in every period of 12 months, the price stability target in consultation with the Bank and economic policies to be taken by the Government; provided that the first such specification shall be made at the beginning of the financial year next following the commencement of this section.

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(6) Where the Minister gives notice under this section, the Minister shall:

(a) publish the notice in such a manner as the Minister consider fit; and

(b) lay a copy of the notice before the appropriate committee of the National Assembly.

68. Section 4D of the Central Bank of Kenya Act is amended -

Amendment of section 4D of Cap.491.

(a) by deleting subsection (1) and substituting therefor the following new subsection -

(1) There shall be a committee of the Bank, to be known as the Monetary Policy Committee of the Central Bank of Kenya, which shall have the responsibility within the Bank for formulating monetary policy.

(b) in subsection (2) -

(i) by deleting paragraph (b) and substituting therefor the following new paragraph -

(b) the Deputy Governors, who shall be deputies to the chairman;

(ii) by deleting paragraph (c) and substituting therefor the following new paragraph -

(c) two members appointed by the Governor from among the staff;

(iii) by deleting the word “six” appearing in paragraph (d) and substituting therefor the word “four”.

(c) by inserting the following new subsection immediately after subsection (2) –

(2A) Of the two members appointed under subsection (2)(c) –

(a) one shall be a person with executive responsibility within the Bank for monetary policy analyses; and

(b) one shall be a person with responsibility within the Bank for monetary policy operations.

**Amendment of
section 10 of
Cap.491.**

69.Section 10 of the Central Bank of Kenya Act is repealed and replaced with the following -

10. There shall be a Board of Directors of the Bank, constituted as provided in section 11 which shall, subject to the provisions of this Act, be responsible for -

(a) determining the policy of the Bank, other than the formulation of monetary policy;

(b) determining the objectives of the Bank, including oversight for its financial management and strategy;

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(c) keeping under constant review the performance of the Bank in carrying out its functions;

(d) keeping under constant review the performance of the Governor in discharging the responsibility of that office;

(e) keeping under constant review the performance of the Governor in ensuring that the Bank achieves its objectives;

(f) determining whether the policy statements made pursuant to section 4B are consistent with the Bank's primary function and policy objectives under section 4; and

(g) keeping under constant review the use of Bank's resources.

70. Section 38 of the Central Bank of Kenya Act is amended by inserting the words "or ten thousand shillings, whichever is the higher", immediately after the word "deficiency".

Amendment of section 38 of Cap.491.

✓ **71.** Section 34 of the Retirement Benefits Act, 1997 is amended in subsection (4), by deleting the word "four" and substituting therefor the word "six".

Amendment of section 34 of Act No.3 of 1997.

✓ **72.** The Retirement Benefits Act, 1997 is amended by inserting the following new section immediately after section 36 –

Insertion of a new section 36A in Act No. 3 of 1997.

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Treatment
of death
benefits

36A. Upon the death of a member of a scheme, the benefit payable from the scheme shall not form part of the estate of the member for the purpose of administration and shall be paid out by the trustees in accordance with the scheme rules.

Amendment of
section 38 of
Act No.3 of
1997.

73. Section 38 of the Retirement Benefits Act, 1997 is amended in subsection –

(a) in subsection (1), by deleting the words “including mortgages” appearing in paragraph (c);

(b) by inserting the following new subsection immediately after subsection (1) -

(1A) Notwithstanding the provisions of subsection (1), a prescribed proportion of the benefits accruing to a member in a scheme may be assigned and used by the member to secure a mortgage loan from such institutions and on such terms as may be prescribed in regulations made by the Minister.

Insertion of
section 45A in
Act No. 3 of
1997.

74. The Retirement Benefits Act is amended by inserting the following new section immediately after section 45 as follows –

45A. (1) The Authority shall establish a trust fund into which shall be paid the benefits and other accrued income of members of retirement benefits schemes who cannot be traced within a period of two year from the commencement of winding-up of the respective schemes under the Act.

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(2) Any payment of the benefits from the fund established under this section shall be made in accordance with the rules of the scheme to which the member belonged at the time of its winding up.

(3) The accounts of the fund established under this section shall be audited by the Controller and Auditor General in accordance with the Public Audit Act, 2003.

(6) The Minister may make regulations for the management and operation of the fund.

75. The First Schedule to the Kenya Revenue Authority Act is amended-

**Amendment of
First Schedule
to Cap.469**

(a) in PART I, by inserting the following new items immediately after item 6 -

7. The East African Community Customs Management Act, 2004;

8. The Annexes to the Protocol on the Establishment of the East African Community Customs Union;

(b) in PART II, by inserting the following new item immediately after item 10 -

11. The Governments Lands Act (Cap.280).

(c) in PART III, by -

(i) deleting the following items -

11. The Government Lands Act (Cap.280).

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(ii) inserting the following new items immediately after item 4 -

5. The East African Community Customs Management Act, 2004;
6. The Annexes to the Protocol on the Establishment of the East African Community Customs Union.

**Amendment of
Schedule to
Cap.480.**

76. The Schedule to the Stamp Duty Act is amended –

(a) in item 8 by inserting the following words immediately after the word “company” -

Cap. 485A other than a company listed on a stock exchange approve under Capital Markets Act.

Cap.485A (b) in item 12 by deleting the words “(except marketable securities on a securities exchange recognized under the Capital Markets Authority Act for new or expanded listings and transfers involved in the creation of asset-backed marketable securities approved by the Capital Market Authority)”.

**Amendment of
s.22 of Act No.3
of 2005**

77. Section 22 of the Public Procurement and Disposal Act, 2005 is amended in subsection (1)-

(a) by inserting the following new paragraphs immediately after paragraph (a)-

(b) the Permanent Secretary to the Treasury, or his representative;

- (c) the Attorney-General or his representative.
- (b) by renumbering the existing paragraph (b) as paragraph (d).

FIRST SCHEDULE

Amendments to the Fourth Schedule to the Customs & Excise Act.

Delete the existing rates of duty in respect of the Tariff numbers and descriptions in the first and second column and insert the rates shown in the third column.

FOURTH SCHEDULE

| <i>Tariff No.</i> | <i>Tariff Description</i> | <i>New Duty Rate</i> |
|--------------------------|--|-----------------------------|
| 4101.20.00 | Whole hides and skins, of a weight per skin not exceeding 8 kg when simply dried, 10 kg when dry-salted, or 16 kg when fresh, wet-salted or otherwise preserved. | 40% or Sh.20 per Kg |
| 4101.50.00 | Whole hides and skins, of weight exceeding 16 kg. | 40% or Sh.20 per Kg |
| 4101.90.00 | Other, including butts, bends and bellies. | 40% or Sh.20 per Kg |
| 4102.10.00 | Raw skins of sheep or lamb (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further prepared), with wool on, whether or not split, other than those excluded by Note 1 (c) to Chapter 41. | 40% or Sh.20 per Kg |
| 4102.21.00 | Raw skins of sheep or lambs (pickled, but not tanned, parchment-dressed or further prepared), without wool on whether or not split, other than those excluded by Note 1 (c) to Chapter 41. | 40% or Sh.20 per Kg |
| 4102.29.00 | Other raw skins of sheep or lamb (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further | 40% or Sh.20 per Kg |

First Schedule (contd')

| Tariff No. | Tariff Description | New Duty Rate |
|-------------------|---|----------------------|
| | prepared), with wool on, whether or not split, other than those excluded by Note 1 (c) to Chapter 41. | |
| 4103.10.00 | Other raw hides and skins (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further prepared), whether or not debarred or split, other than those excluded by Note 1 (b) or 1 (c) to this Chapter, of goats. | 40% or Sh.20 per Kg |
| 4103.20.00 | Other raw hides and skins (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further prepared), whether or not debarred or split, other than those excluded by Note 1 (b) or 1 (c) to this Chapter, of reptiles. | 40% or Sh.20 per Kg |
| 4103.30.00 | Other raw hides and skins (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further prepared), whether or not debarred or split, other than those excluded by Note 1 (b) or 1 (c) to this Chapter, of swine. | 40% or Sh.20 per Kg |
| 4103.90.00 | Other raw hides and skins other than of reptiles, goats or kids. | 40% or Sh.20 per Kg |
| 4301.10.00 | Raw furskins of mink, whole, with or without head, tail or paws. | 40% or Sh.20 per Kg |
| 4301.30.00 | Raw furskins of lamb, the following: Astrakhan, Broadtail, Caracul, Persian and similar lamb, Indian, Chinese, Mongolian or Tibetan lamb, whole, with or without head, tail or paws. | 40% or Sh.20 per Kg |
| 4301.60.00 | Raw furskins of fox, whole, with or without head, tail or paws. | 40% or Sh.20 per Kg |
| 4301.70.00 | Raw furskins of seal, whole, with or without head, tail or paws. | 40% or Sh.20 per Kg |
| 4301.80.00 | Other raw furskins, whole, with or without head, tail or paws. | 40% or Sh.20 |

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First Schedule (contd')

| <i>Tariff No.</i> | <i>Tariff Description</i> | <i>New Duty Rate</i> |
|-------------------|--|-------------------------------------|
| 4301.90.00 | Heads, tails, paws and other pieces or cuttings, suitable for furriers' use. | per Kg 40% or Sh.20 |
| 8548.10.00 | Waste and scrap of primary cells, primary batteries and electric accumulators; spent primary cells, spent primary batteries and spent electric accumulators. | per Kg 20% or Kshs.10 per Kg. |

SECOND SCHEDULE

Amendments to the Fifth Schedule to the Customs and Excise Act, Cap 472.

FIFTH SCHEDULE**PART I**

(a) Amendments, other than rates of duty only, to the Fifth Schedule to the Customs and Excise Act.

Delete the existing Tariff numbers and descriptions thereof and insert the following -.

| <i>Heading No.</i> | <i>H.S.Code</i> | <i>Tariff No.</i> | <i>Amendments to Text</i> | <i>Rate of Duty</i> |
|--------------------|-----------------|-------------------|--|---------------------|
| CHAPTER 20 | | | | |
| | | 2009.21.00 | Grapefruit (including pomelo) juice, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter, of a brix value not exceeding 20. | 10% |
| | | 2009.29.00 | Other Grapefruit (including pomelo) juice, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter. | 10% |
| CHAPTER 22 | | | | |
| | | 2208.40.00 | Rum and other spirits obtained by distilling fermented sugar-cane products | Shs.280 or 65% |

Second Schedule (contd')

(b) Amendments of rates of duty only, in the Fifth Schedule to the Customs and Excise Act.

(i) Delete the existing rates of duty in respect of the tariff numbers and descriptions in the first and second columns and insert the rates specified in the third column.

| <i>Tariff No.</i> | <i>Goods Description</i> | <i>Rate of Duty</i> |
|--------------------------|---|----------------------------|
| 2201.10.00 | Mineral waters and aerated waters not containing added sugar or other sweetening matter nor flavoured. | Shs.6 per litre or 10% |
| 2201.90.00 | Ice and snow; other natural or artificial waters not containing added sugar or other sweetening matter nor flavoured. | Shs.6 per litre or 10% |
| 2203.00.90 | Other beer made from malt | Shs.50 per litre |
| 2204.10.00 | Sparkling wine | Shs.85 per litre or 65% |
| 2204.21.00 | Other wine; grape must with fermentation prevented or arrested by the addition of alcohol, in containers of 2 litres or less. | Shs.85 per litre or 65% |
| 2205.10.00 | Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances, in containers of 2 litres or less | Shs.85 per litre or 65% |
| 2205.90.00 | Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances, in containers of more than 2 litres | Shs.85 per litre or 65% |
| 2208.20.00 | Spirits obtained by distilling grape wine or grape marc. | Shs.280 per litre or 65% |
| 2208.30.00 | Whiskies. | Shs.280 per litre or 65% |
| 2208.40.00 | Rum and T. . . | Shs.280 per litre or |

Second Schedule (contd')

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| <i>Tariff No.</i> | <i>Goods Description</i> | <i>Rate of Duty</i> |
|-------------------|--|------------------------------------|
| 2208.50.00 | Gin and Geneva. | 65% Shs.280 per litre or 65% |
| 2208.60.00 | Vodka. | Shs.280 per litre or 65% |
| 2208.70.00 | Liqueurs and cordials. | Shs.280 per litre or 65% |
| 2208.90.10 | Distilled spirits (e.g. Konyagi, Uganda Waragi). | Shs.280 per litre or 65% |
| 2208.90.90 | Other spirits and other spiritous beverages. | Shs.280 per litre or 65% |

(ii) insert the following new tariff numbers, descriptions and rates of excise duty in proper numerical sequence -

| <i>Tariff No.</i> | <i>Goods Description</i> | <i>Rate of Excise Duty</i> |
|-------------------|---|----------------------------|
| 3923.21.00 | Sacks and bags (including cones) of polymers of ethylene. | 120% |
| 3923.29.00 | Sacks and bags of other plastics. | 120% |

(iii) insert the following new tariff number, description and date of duty in proper numerical sequence -

| <i>Tariff No.</i> | <i>Goods Description</i> | <i>Rate of Excise Duty</i> |
|-------------------|--|----------------------------|
| 2207.10.00 | Undenatured ethyl alcoholic strength by Vol. of 80% or higher. | 200 or 65% |

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Second Schedule (contd')

PART II

(c) In paragraph (2), delete Part II and insert the following new PART II –

| <i>Category</i> | <i>Retail selling price per mille</i> | <i>Rate of Excise Duty per mille (Kshs.)</i> |
|-----------------|---------------------------------------|--|
| A | Upto to Kshs.1,500 | 500 |
| B | Kshs1,501 to Kshs.2,500 | 800 |
| C | Kshs2,501 to Kshs.3,500 | 1200 |
| D | More than Kshs.3,501 | 2000 |

THIRD SCHEDULE
(Amendments of the Second Schedule to the
Value Added Tax Act, Cap. 476.)

(S.I. 2007

SECOND SCHEDULE

**EXEMPT GOODS
PART I**

1. Delete the following tariff numbers and description thereof

| <i>Tariff No.</i> | <i>Tariff Description.</i> |
|-------------------|--|
| 0105.92.00 | Live fowls of the species <i>Gallus domesticus</i> , weighing not more than 2000g. |
| 0105.93.00 | Live fowls of the species <i>Gallus domesticus</i> , weighing more than 2000g. |
| 0105.99.00 | Live ducks, geese, turkeys and guinea fowls, weighing more than 200g. |
| 0303.50.00 | Herrings, frozen. |
| 0303.60.00 | Cod, frozen. |
| 0304.10.00 | Fish fillets, and other fish meat (whether or not minced), fresh or chilled. |

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2. Insert in their numerical order the following tariff numbers and the description thereof -

| <i>Tariff No.</i> | <i>Tariff Description</i> |
|-------------------|---|
| 0105.94.00 | Live fowls of the species <i>Gallus domesticus</i> weighing more than 185g. |
| 0105.99.00 | Live ducks, geese and guinea fowls weighing more than 185g. |
| 0301.94.00 | Live Bluefin Tunas (<i>Thunnus thynnus</i>). |

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Third Schedule (Contd.)

| Tariff No. | Tariff Description |
|------------|--|
| 0301.95.00 | Live Southern Bluefin tuna (<i>Thunus maccoyii</i>). |
| 0302.67.00 | Sword fish (<i>Xiphias gladius</i>), excluding livers and roes, fresh or chilled |
| 0302.68.00 | Toothfish (<i>Dissostichus spp</i>), excluding livers and roes, fresh or chilled |
| 0303.51.00 | Herrings (<i>clupea harengus</i> , <i>clupea pallasii</i>), excluding livers and roes, frozen |
| 0303.52.00 | Cod (<i>Gadus morhua</i> , <i>Gadus ogac</i> , <i>Gadus macrocephalus</i>), excluding livers and roes, frozen. |
| 0303.61.00 | Sword fish (<i>xiphias gladius</i>), excluding livers and roes, frozen. |
| 0303.62.00 | Tooth fish (<i>Dissostichus spp.</i>), excluding livers and roes, frozen. |
| 0304.11.00 | Swordfish (<i>Xiphias gladius</i>) fillet, whether or not minced, fresh or chilled. |
| 0304.12.00 | Toothfish (<i>Dissostichus spp.</i>) fillet, whether or not minced fresh or chilled. |
| 0304.19.00 | Other fish fillet and fish meat, whether or not minced, fresh or chilled. |
| 0304.21.00 | Swordfish (<i>Xiphias gladius</i>) meat, whether or not minced, frozen. |
| 0304.22.00 | Toothfish (<i>Dissostichus spp.</i>)meat, whether or not minced, frozen. |
| 0304.29.00 | Other fish meat, whether or not minced, frozen. |
| 0304.91.00 | Swordfish (<i>Xiphias gladius</i>) meat, whether or not minced, frozen. |
| 0304.92.00 | Toothfish (<i>Dissostichus spp.</i>) meat, whether or not minced frozen. |
| 0304.99.00 | Other fish meat whether or not minced frozen. |
| 0603.11.00 | Cut flowers and flower buds of Roses, fresh. |
| 0603.12.00 | Cut flowers and flower buds of Carnations, fresh. |
| 0603.13.00 | Cut flowers and flower buds of Orchids, fresh. |
| 0603.14.00 | Cut flowers and flower buds of Chrysanthemums, fresh. |
| 0603.19.00 | Other cut flowers and flower buds, fresh. |
| 0603.90.00 | Other cut flowers and flower buds. |
| 0802.60.00 | Macadamia nuts whether or not shelled or peeled fresh or dried. |

Third Schedule (Contd.)

2007

| <i>Tariff No.</i> | <i>Tariff Description</i> |
|--------------------------|---|
| 4402.10.00 | Wood charcoal (including shell or nut charcoal), whether or not agglomerated, of bamboo |
| 4402.90.00 | Other wood charcoal (including shell or nut charcoal) whether or not agglomerated |

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FOURTH SCHEDULE

(S.16) No. 9

(Amendments of the Fifth Schedule to the Value Added Tax Act, Cap. 476.)

PART 1

FIFTH SCHEDULE

ZERO – RATING

PART B – ZERO RATED GOODS

1. Delete the following tariff numbers and their respective descriptions thereof –

| <i>Tariff. No.</i> | <i>Goods Description</i> |
|---------------------------|--|
| 3006.80.00 | Waste Pharmaceuticals |
| 3808.10.20 | Mosquito coils, chips, mats and similar insecticidal products designed for use by burning or heating. |
| 3808.10.31 | Pyrethrum based aerosol sprays. |
| 3808.10.39 | Other aerosol sprays |
| 3808.10.90 | Other insecticides put up in forms or packings for retail sale or preparations or articles. |
| 3808.20.00 | Fungicides. |
| 3808.30.00 | Herbicides, anti-sprouting products and plant-growth regulators. |
| 3808.40.00 | Disinfectants put up in forms or packings for retail sale or preparations or articles. |
| 3808.90.00 | Rodenticides and other similar products, put up in forms or packings for retail sale or as preparations or articles. |

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Fourth Schedule (Contd.)

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2. (a) Insert in their numerical order the following tariff numbers and the descriptions thereof –

| Tariff. No. | Goods Description |
|--------------------|--|
| 3006.91.00 | Appliances identifiable for ostomy use |
| 3006.92.00 | Waste Pharmaceuticals |
| 3808.50.00 | Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators, disinfectants and similar products, put up in forms or packings for retail sale or as preparations or articles (for example, sulphur-treated bands, wicks and candles, and fly-papers). containing one or more of the following substances : aldrin (ISO); binapacryl (ISO); camphechlor (ISO) (toxaphene); captafol (ISO); chlordane (ISO); chlordimeform (ISO); chlorobenzilate (ISO); DDT (ISO) (clofenotane (INN), 1,1,1-trichloro-2,2-bis(p-hlorophenyl)ethane); dieldrin (ISO, INN); dinoseb (ISO), its salts or its esters; ethylene dibromide (ISO) (1,2-dibromoethane); ethylene dichloride (ISO) (1,2-dichloroethane); fluoroacetamide (ISO); heptachlor (ISO); hexachlorobenzene (ISO); 1,2,3,4,5,6-hexachlorocyclohexane (HCH (ISO)), including lindane (ISO, INN); mercury compounds; methamidophos (ISO); monocrotophos (ISO); oxirane (ethylene oxide); parathion (ISO); parathion-methyl (ISO) (methyl-parathion); pentachlorophenol (ISO); phosphamidon (ISO); 2,4,5-T (ISO) (2,4,5-trichlorophenoxyacetic acid), its salts or its esters. |
| 3808.91.10 | Naphthalene balls insecticides |
| 3808.91.20 | Mosquito coils, chips, nets and similar insecticidal products designed for use by burning or heating. |

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Fourth Schedule (Contd.)

| Tariff. No. | Goods Description |
|--------------------|---|
| 3808.91.31 | Pyrethrum based aerosol spray insecticides. |
| 3808.91.39 | Other aerosol spray insecticides. |
| 3808.91.90 | Other insecticides put up in forms or packings for retail sale or preparations or articles. |
| 3808.92.00 | Fungicides. |
| 3808.93.00 | Herbicides, anti-sprouting products and plant growth regulators. |
| 3808.94.00 | Disinfectants put up in forms or packings for retail sale or preparations or articles. |
| 3808.99.00 | Rodenticides and other similar products, put up in forms or packings for retail sale or as preparations or articles (for example sulphur-treated bands, wicks and candles, and fly-papers.) |
| 8528.41.00 | Cathode-ray type monitors of a kind solely or principally used in an automatic data processing system of heading 8471. |
| 8528.51.00 | Other monitors of a kind solely or principally used in an automatic data processing system of heading 8471. |
| 8528.61.00 | Projectors of a kind solely or principally used in an automatic data processing system of heading 8471. |

(b) Insert in their numerical order the following tariff numbers and the descriptions thereof –

| | |
|------------|---|
| 0402.10.00 | -Milk and cream, concentrated or containing added sugar or other sweetening matter in powder, granules or other solid forms, of a fat content, by weight, not exceeding 1.5%. |
|------------|---|

Fourth Schedule (Contd.)

- 0402.21.90 Other milk and cream, not containing a sugar or other sweetening matter in powder, granules or other solid form if fat content, by weight, exceeding 1.5%.
- 0402.29.90 Other milk and cream containing a sugar or other sweetening matter in powder granules or other solid form if fat content, by weight, exceeding 1.5%.

PART II

PART C – ZERO RATED GOODS

Insert the following new items immediately after item 21-

22. Specialized solar equipment and accessories including deep cycle sealed batteries which exclusively use and/or store solar power.
23. Locally assembled bodies for motor vehicles (buses) for the transport of more than 25 persons.
24. Pyrethrum extract.