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SPECIAL ISSUE

Kenya Gazette Supplement No. 48 (Acts No. 6)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

ACTS, 2009

NAIROBI, 23rd July, 2009

CONTENT

Act—

PAGE

The Statute Law (Miscellaneous Amendment) Act, 2009.....517

THE STATUTE LAW (MISCELLANEOUS AMENDMENT) ACT

No. 6 of 2009

Date of Assent: 22nd July, 2009

Date of Commencement: 23rd July, 2009

An Act of Parliament to make minor amendments to statute law

ENACTED by the Parliament of Kenya, as follows—

Short title. 1. This Act may be cited as the Statute Law (Miscellaneous Amendments) Act, 2009.

Amendment of written laws. 2. The several written laws specified in the first column of the Schedule are amended, in the provisions specified in the second column thereof, in the manner respectively specified in the third column.

SCHEDULE (s. 2)

<i>Written Law</i>	<i>Provision</i>	<i>Amendment</i>
The Appellate Jurisdiction Act (Cap.9).	New	<p>Insert the following new sections immediately after section 3 -</p> <p>Objective of Act. 3A.(1) The overriding objective of this Act and the rules made hereunder is to facilitate the just, expeditious, proportionate and affordable resolution of the appeals governed by the Act.</p>

(2) The Court shall, in the exercise of its powers under this Act or the interpretation of any of its provisions, seek to give effect to the overriding objective specified in subsection (1).

(3) An advocate in an appeal presented to the Court is under a duty to assist the Court to further the overriding objective and, to that effect, to participate in the processes of the Court and to comply with directions and orders of the Court.

Duty of
Court.

3B.(1) For the purpose of furthering the overriding objective specified in section 3A, the Court shall handle all matters presented before it for the purpose of attaining the following aims –

- (a) the just determination of the proceedings;
- (b) the efficient use of the available judicial and administrative resources;
- (c) the timely disposal of the proceedings, and all other proceedings in the Court, at a cost affordable by the respective parties; and
- (d) the use of suitable technology.

The Advocates Act (Cap.16). S.17

Insert the following new subsection immediately after subsection (2) –

(3) The grant shall be made not later than sixty days upon receipt of a list of names submitted by the

Committee on Senior Counsel through the Chief Justice.

S.18 Insert the following new subsection immediately after subsection (3) –

(4) The Chief Justice shall cause to be published in the Gazette the names of the advocates upon whom the rank of Senior Counsel is conferred.

S.81(1) Insert the following new paragraph immediately after paragraph (e) –

(ee) the procedure for the conferment of, and the privileges attached to, the rank of Senior Counsel.

The Civil Procedure Act (Cap. 21).

New Insert the following new sections immediately after section 1 –

Objective of Act. **1A** (1) The overriding objective of this Act and the rules made hereunder is to facilitate the just, expeditious, proportionate and affordable resolution of the civil disputes governed by the Act.

(2) The Court shall, in the exercise of its powers under this Act or the interpretation of any of its provisions, seek to give effect to the overriding objective specified in subsection (1).

(3) A party to civil proceedings or an advocate for such a party is under a duty to assist the Court to further the overriding objective of the Act

and, to that effect, to participate in the processes of the Court and to comply with the directions and orders of the Court.

Duty of Court.

1B.(1) For the purpose of furthering the overriding objective specified in section 1A, the Court shall handle all matters presented before it for the purpose of attaining the following aims –

- (a) the just determination of the proceedings;
- (b) the efficient disposal of the business of the Court;
- (c) the efficient use of the available judicial and administrative resources;
- (d) the timely disposal of the proceedings, and all other proceedings in the Court, at a cost affordable by the respective parties; and
- (e) the use of suitable technology.

S.81

Insert the following new paragraph in subsection (2) immediately after paragraph (i) –

- (ii) the selection of mediators and the hearing of matters referred to mediation under this Act.

Insert the following new subsection immediately after subsection (2) –

(3) The Chief Justice may, in consultation with the Rules Committee, issue practice notes or directions to resolve procedural difficulties arising under this Act, in order to facilitate the attainment of the overriding objective of this Act as specified in section 1A.

The Films and
Stage Plays Act
(Cap.222).

S.2

Delete the words “Board of Censors” appearing in the definition of “Board” and substitute therefor the words “Kenya Film Classification Board”.

S.11

Delete and substitute therefor the following new section -

Establishment
of the Kenya
Film
Classification
Board.

11.(1) There is established a board to be known as the Kenya Film Classification 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) holding and alienating, movable and immovable property; and

- (c) doing or performing all such other things or acts for the proper performance of its functions as may be lawfully done by a body corporate.

New Insert the following new section immediately after section 11 -

Membership of the Board. **11A.** The Board shall consist of -

- (a) a Chairman appointed by the Minister;
- (b) the Permanent Secretary in the Ministry for the time being responsible for matters relating to information and communications;
- (c) the Permanent Secretary to the Treasury;
- (d) the chief executive officer appointed under section 11C; and
- (e) eight other members appointed by the Minister by virtue of their knowledge and experience in matters relating to -

- (i) psychology;
- (ii) women's and children's rights;
- (iii) religion;
- (iv) cinematography;
- (v) such other field as the Minister may deem appropriate.

Co-option of members.

11B. The Board may, from time to time, co-opt such number of persons as it may determine, having regard to the number of films requiring examination, to examine and classify films.

Appointment and duties of the chief executive officer.

11C.(1) There shall be a chief executive officer of the Board who shall be appointed by the Board on such terms and conditions of service as the Minister may approve.

(2) The chief executive officer shall be the accounting officer of the Board and responsible for the day-to-day management of the affairs of the Board, and any other function prescribed under this Act or assigned by the Board.

Other staff of the Board. **11D.** The Board may employ such number of other staff on such terms and conditions of service as the Minister may approve.

S.12. Delete subsection (1) and (2) substitute therefor the following new subsections -

(1) No person shall exhibit any film at an exhibition to which the public are admitted or distribute such film unless he is registered as an exhibitor or distributor by the Board and issued with a certificate.

(2) No film or class of film shall be distributed, exhibited or broadcast, either publicly or privately, unless the Board has examined it and issued a certificate of approval in respect thereof:

Provided that this subsection shall not apply in respect of -

(a) educational documentaries which are approved by the Kenya Institute of Education; or

(b) films restricted for use in the medical profession.

S.15 Delete and substitute therefor the following new section -

Functions of the Board. **15.(1)** The functions of the Board shall be to -

(a) regulate the creation, broadcasting, possession,

distribution and
exhibition of films by –

(i) examining every
film and every
poster submitted
under this Act for
purposes of
classification;

(ii) imposing age
restriction on
viewership;

(iii) giving consumer
advice, having due
regard to the
protection of
women and
children against
sexual exploitation
or degradation in
cinematograph
films and on the
internet.

(b) license and issue
certificate to distributors
and exhibitors of films;

(2) The Board may from time
to time prescribe -

(a) the procedure for
application for
licensing as a
distributor or exhibitor
of films; and

- (b) guidelines to be applied in the classification of films.

S.16(1)(d) Delete.

32.(1) Delete the words "two thousand" and "two months" and substitute therefor the words "one hundred thousand" and "five years" respectively.

35(2) Delete paragraph (g).

The Pest
Control
Products Act
(Cap.346).

S.2 Insert the following definitions in proper alphabetical sequence -

"adulteration" means addition of any substance or thing to a pest control product so as to change or alter its character, value, quality, composition, merit, efficacy and safety;

"counterfeiting" means manufacturing, formulating, producing or making of any pest control products, labels or packages that are identical or substantially indistinguishable from those legally authorized under this Act and are likely to cause confusion, mistake or to deceive or pass off as being genuine pest control products, labels or packages of the registrant of that particular product and "counterfeit goods" shall be construed accordingly.

New Insert the following new section immediately after section 4 -

Control of counterfeit products.

4A. Any person who adulterates or counterfeits, or is found in possession of adulterated or counterfeit pest control products, labels or packages, shall be guilty of an offence and shall, on conviction, be liable to a fine of not less than two hundred and fifty thousand shillings, and not exceeding one million shillings, or to imprisonment for a term not exceeding two years, or to both.

S.10

Delete subsection (3) and substitute therefor the following new subsection -

Forfeiture of pest control products.

(3) A court convicting a person for an offence under this Act or any regulation made thereunder -

(a) may order that any pest control product in relation to which the offence was committed shall be forfeited to the state; and

(b) may make such order as it may deem proper as to the payment by the defendant of all or any fees and other expenses incidental to

the analysis and disposal of a pest control product in respect of which the conviction is obtained.

S.11 Renumber the existing provision as subsection (1) and insert the following new subsection-

(2) No matter or thing done by a member of the Board or any officer, employee or agent of the Board shall, if it was done *bona fide* for executing the functions, powers or duties of the Board, render the member, officer, employee or agent personally liable to any action, claim or demand whatsoever.

S.12 Delete subsection (1) and substitute therefor the following new subsection -

(1) Any person who contravenes provisions of section 3 or 4 shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding two years, or to a fine of not less than two hundred and fifty thousand shillings, or to both.

New Insert the following new section immediately after section 12 -

General
Penalty.

12A Any person who is guilty of an offence under this Act for which no special penalty is provided by this Act shall be liable to a fine not exceeding fifty thousand

shillings, or to imprisonment for a period not exceeding six months, or to both.

The
Constitutional
Offices
(Remuneration)
Act (Cap. 423).

s.2(1) Delete the expression "1st July, 2001" and substitute therefor the expression "1st July, 2008".

Schedule Repeal and replace with the following new Schedule -

SCHEDULE (s.2)

<i>Office</i>	<i>Salary Scale or Rate</i>
Attorney-General	Band A 1
Chief Justice	Band A 1
Judge of Appeal	Band A 2
Puisne Judge	Band A 3
Controller & Auditor-General	Band A 2
Chairman, Public Service Commission	Band A 2
Deputy Chairman, Public Service Commission	Band A 3
Member, Public Service Commission	Band A 3
Chairman, Interim Independent Electoral Commission	Band A 2

	Vice-Chairman, Interim Independent Electoral Commission	Band A 3
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	Member, Interim Independent Electoral Commission	Band A 3
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“Salary Scale Band A1” means a salary scale commencing at Ksh.399, 440 per month, increasing by 39, 940 per annum to Ksh. 439,380 per month; thereafter increasing by Ksh.43,140 per annum to Ksh. 482,520 per month; thereafter increasing by Ksh.49,140 per annum to Ksh.531,660 per month; thereafter increasing by Ksh.55,140 per annum to Ksh. 586,800 per month; thereafter increasing by Ksh. 61,140 per annum to Ksh.647, 940 per month thereafter increasing by Ksh.67, 140 to Ksh. 916, 500 per month.

“Salary Scale Band A2” means a salary scale commencing at Ksh.292,765 per month, increasing by Ksh. 19,320 per annum to Ksh. 312,085 per month; thereafter increasing by Ksh. 21,055 per annum to Ksh. 333,140 per month; thereafter increasing by Ksh.22,950 per annum to Ksh.356,090 per month; thereafter increasing by Ksh. 25,015 per annum to Ksh.406,120 per month; thereafter increasing by Ksh.30,000 per annum to Ksh 436,120 per month; thereafter increasing by Ksh. 35,000 per annum to Ksh 576,120 per month.

“Salary Scale Band A3” means a salary scale commencing at Ksh.232,960 per month, increasing by Ksh. 13,930 per

annum to Ksh.246,890 per month; thereafter increasing Ksh. 15,170 per annum to Ksh. 262,060 per month; thereafter increasing by Ksh. 16,575 per annum to Ksh.295,210 per month; thereafter increasing by Ksh.17,872 to Ksh.366,698 per month; thereafter increasing by Ksh.18,654 per annum to Ksh.441,314 per month; thereafter increasing by Ksh.20,002 per annum to Ksh. 481,318 per month.

The Stamp Duty Act (Cap. 480).

S.2

Delete the definition of "stamp" and substitute therefor the following –

"stamp" means a stamp embossed by means of a die or a franking machine, or an adhesive stamp.

The Kenya Information and Communications Act, 1998 (No.2 of 1998).

New

Insert the following section immediately after section 46R -

Broadcasting
Content
Advisory
Council.

46S.(1) There is established a Council to be known as the Broadcasting Content Advisory Council, in this section referred to as "the Council."

(2) The Council shall -

(a) be responsible for and make decisions on –

(i) the administration of the broadcasting content aspect and provisions of this Act;

- (ii) the mechanisms for handling complaints under this Act;
 - (b) monitor compliance with broadcasting codes and ethics for broadcasters; and
 - (c) have such other functions and powers as the Board may determine.
- (3) The Council shall consist of -
 - (a) the Permanent Secretary in the Ministry for the time being responsible for information and communications, or his representative;
 - (b) six other members appointed by the Minister as follows -
 - (i) two members nominated by the Commission, one of whom shall be recommended by the Inter-Religious Forum;
 - (ii) two members appointed by the Media Council of Kenya established

under the Media
Act, 2007;

(iii) one member
nominated by the
Law Society of
Kenya; and

(iv) one member, not
being a civil
servant, nominated
by the Attorney-
General.

(4) The members shall at
their first meeting elect one of
their number to be the Chairman.

(5) In nominating members
of the Council under subsection
(3), the nominating body or
authority shall nominate
persons who-

(a) have knowledge and
experience in media matters,
broadcasting,
communication or cultural
issues;

(b) it is satisfied do not have a
conflict of interest under Part
IVA and have no financial or
other interest likely to
prejudicially affect the
carrying out of their
functions under this Part;
and

(c) are, in the opinion of the
nominating body or

authority, suitable to perform the functions and duties of a member competently and honestly.

S.88 Delete.

S.102(1) Insert the words "and such matters as may be referred to it by the Minister" immediately after the words "this Act";

Delete the word "four" appearing in paragraph (b) and substitute therefor the word "two".

Insert the following new paragraph –

(c) two other members who shall be nominated by the Media Council established under the Media Act, 2007, and appointed by the Minister.

No.3 of
2007

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

New

Insert the following new sections in proper numerical sequence –

Protection
of rivers,
lakes and
wet lands.

42.(1) No person shall, without the prior written approval of the Director-General given after an environmental impact assessment, in relation to a river, lake or wetland in Kenya, carry out any of the following activities -

- (a) erect, reconstruct, place, alter, extend, remove or demolish any structure or part of any structure in, or under the river, lake or wetland;
- (b) excavate, drill, tunnel or disturb the river, lake or wetland;
- (c) introduce any animal, whether alien or indigenous, dead or alive, in any river, lake or wetland;
- (d) introduce or plant any part of a plant specimen, whether alien or indigenous, dead or alive, in any river, lake or wetland;
- (e) deposit any substance in a lake, river or wetland or in, on or under its bed, if that substance would or is likely to have adverse environmental effects on the river, lake or wetland;
- (f) direct or block any river, lake or wetland from its natural and normal course; or
- (g) drain any lake, river or wetland.

(2) The Minister may, by notice in the Gazette, declare a lake shore, wetland, coastal zone or river bank to be a protected area and impose such restrictions as he considers necessary, to protect the lake shore, wetland, coastal zone and river bank from environmental degradation and shall, in doing so, take into consideration the following factors—

- (a) the geographical size of the lake shore, wetland, coastal zone or river bank; and
- (b) the interests of the communities resident around the lake shore, wetland, coastal zone or river bank concerned.

(3) The Minister may, by notice in the Gazette, issue general and specific orders, regulations or standards for the management of river banks, lake shores, wetlands or coastal zones and such orders, regulations or standards may include management, protection, or conservation measures in respect of any area at risk of environmental degradation and shall provide for—

- (a) the development of an overall environmental management plan for a lake, river, wetland or coastal area, taking into account the relevant sectoral interest;
- (b) measures for the prevention or control of coastal erosion;
- (c) the conservation of mangrove and coral reef ecosystems;
- (d) plans for the harvesting of minerals within the coastal zone, including strategies for the restoration of mineral sites;
- (e) contingency plans for the prevention and control of all deliberate and accidental discharge of pollutions into the sea, lakes or rivers;
- (f) plans for the protection of wetlands;
- (g) the regulation of harvesting of aquatic living and non-living resources to ensure

optimum sustainable
yield;

(h) special guidelines for access to and exploitation of living and non-living resources in the continental shelf, territorial sea and the Exclusive Economic Zone;

(i) promotion of environmentally friendly tourism; and

(j) the management of biological resources.

(4) The Authority shall, in consultation with the relevant lead agencies, issue guidelines for the management of the environment of lakes and rivers.

(5) Any person who contravenes or fails to comply with any orders, regulations or standards issued under this section shall be guilty of an offence.

Standards for
the control
of noxious
smells.

107. The Authority shall, in accordance with the relevant lead agencies, establish -

2009

Statute Law (Miscellaneous Amendment)

No. 6

(a) procedures for the measurement and determination of noxious smells;

(b) minimum standards for the control of pollution of the environment by noxious smells; or

(c) guidelines for measures leading to the abatement of noxious smells, whether from human or from naturally occurring phenomena.

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

S.2

Delete the definition of "indecent act" and substitute therefor the following-

"indecent act" means an unlawful intentional act which causes -

(a) any contact between any part of the body of a person with the genital organs, breasts or buttocks of another, but does not include an act that causes penetration;

(b) exposure or display of any pornographic material to any person against his or her will;

S.16(1) Renumber the existing paragraph (a) as paragraph (aa) and insert the following new paragraph in proper sequence -

(a) knowingly displays, shows, exposes or exhibits obscene images, words or sounds by means of print, audio-visual or any other media to a child with intention of encouraging or enabling a child to engage in sexual acts.

The Energy Act,
2006 (No.12 of
2006).

S.57(2) Delete the word "provided" appearing at the end thereof and substitute therefor the word "given".

Insert the following proviso:

Provided that the licensee may, in its discretion, allow an applicant under this section to pay the costs of installation of the supply in instalments, over such period and on such terms and conditions as may be agreed upon between the licensee and such person.

S.61(1) Insert the following words immediately before the word "charges"-

"to the licensee any costs of installation or instalments thereof payable under section 57(2), or"

Delete the word "and" appearing at the end of subparagraph (i) of the proviso.

Delete subparagraph (ii) of the proviso.

- The HIV and AIDS Prevention and Control Act, 2006 (No.14 of 2006).
- s.2 Insert the following new definition in proper alphabetical sequence –
- “guardian”, in relation to a child or a person with disability, means any person having custody of such child or person with disability by reason of the death, illness, absence or inability of the parent of such child or person, or for any other cause.
- s.14(1) Delete the word “legal” appearing in paragraph (c) (i).
- s.18 Delete the word “legal” appearing in paragraph (c) (i).
- s.20(1) Delete the word “shall” and substitute therefor the word “may”.
- s.22(1) Delete the word “legal” appearing in paragraph (e) (i).
- The Media Act, 2007 (No.3 of 2007).
- s.18 Insert the following paragraph immediately after paragraph (h) -
- (i) such monies as may be appropriated by Parliament for the purposes of the Council.
- s.22 Insert the following new paragraph immediately after paragraph (c) -
- (d) Where public funds have been given, the accounts of the Council shall be examined, audited and reported upon annually by the Controller and Auditor-General in accordance with the Public Audit Act.

The Tobacco
Control Act, 2007
(No.8 of 2007).

S.14(3) Delete.

S.34 Insert the following new subsection immediately after subsection (5) -

(6) A manager or owner of a prohibited smoking area who fails to display the smoking prohibition warning as prescribed in subsections (1) and (2) commits an offence and shall be liable on conviction to a fine not exceeding one hundred and fifty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

The Supplies
Practitioners
Management Act,
2007 (No.17 of
2007).

S.2. Delete the expression "3" in the definition of the term "Council" and substitute therefor the expression "4";

Delete the expression "4" in the definition of the term "Institute" and substitute therefor the expression "3";

Delete the definition of "supplies practitioner" and substitute therefor the following new definition-

"supplies practitioner" means a person registered as a supplies practitioner under section 16.

New Insert the following new sections immediately after section 3 -

Membership of
the Institute. 3A(1) A person who is registered under this Act shall be a member of the Institute.

(2) The members of the Institute shall be in the following categories—

(a) Fellows, comprising those persons who become Fellows pursuant to an invitation under subsection (3), each of whom shall be titled “Fellow of the Kenya Institute of Supplies Management”; (designatory letters F.K.I.S.M);

(b) members, comprising those members of the Institute who are registered under section 16, each of whom shall be titled “Member of the Kenya Institute of Supplies Management.” (designatory letters M.K.I.S.M);

(c) associate members, comprising persons eligible to be registered under section 16 but who do not meet all the requirements prescribed under subsection (1) of that section.

(3) Where the Council

considers that a member of the Institute has rendered outstanding services to the supplies profession, the Council may invite the member to become a Fellow.

(4) Members of the Institute shall pay such fees and subscriptions as the Council may determine.

Honorary
Fellows.

3B(1) Where the Council considers that a person, not being a member of the Institute, has rendered exceptional services to the Institute or the procurement and supplies management profession, the Council may invite the person to become an Honorary Fellow of the Institute.

(2) An Honorary Fellow shall not be a member of the Institute.

S.4 Delete subsection (1) and substitute therefor the following new subsection -

(1) The Institute shall be governed by a Council to be known as the Council of the Institute which shall consist of -

- (a) a chairman, who shall be a member of the Institute with at least five years experience, elected by the members of the Institute;
- (b) the Permanent Secretary in the

Ministry responsible for Finance;

(c) the Director-General of the Public Procurement Oversight Authority; and

(d) six other members elected by members of the Institute.

Insert the following new subsection immediately after subsection (1) -

(1A) The Chairman and the members of the Council referred to in paragraph (d) shall be elected by the members of the Institute specified in section 3A(2)(a) and (b) in the manner prescribed by regulations.

4(2) Delete the expression "subsection (1)" and substitute therefor the expression "subsection (1)(d)".

S.8 Delete the words "may be determined at the annual general meeting" and substitute therefor the words "the Minister may approve".

S.12 Insert the following new subsection immediately after subsection (1)-

(1A) The Examinations Board shall be a body corporate with perpetual succession and a common seal and shall be capable in its corporate name of-

(a) suing and being sued;

(b) purchasing, acquiring, holding or disposing of property;

(c) doing or performing all such other acts necessary for the proper performance of its functions under this Act.

- S.12(2) Delete the word "Board" wherever it appears and substitute therefor the words "Examinations Board".
- S.12(2)(a) Insert the words "from amongst the members of the Institute" immediately after the word "Council" appearing in the second line;
- S.12(3) Delete the expression in "(2)(b)" and substitute therefor the expression "(2)(a)";
- Delete the word "Board" and substitute therefor the word "Council".
- S.13 Delete the word "Committee" appearing in the marginal note and substitute therefor the word "Board".
- S.15(1) Delete the words "which shall be a committee of the Council".
- S.15(2) Delete paragraphs (a) and (b) and substitute therefor the following new paragraphs—
- (a) a Chairperson who shall be appointed by the Council from amongst members of the Council;
- (b) two persons who shall be qualified supplies practitioners appointed by the Council from amongst the members of the Institute.
- S.19 Renumber the existing subsection (1) as (1A) and insert a new subsection as follows

(1) The Registrar shall cause to be kept a register of the members of the Institute.

The Truth Justice and Reconciliation Act, 2008 (No. 6 of 2008).

s.9 (2) Delete and substitute therefor the following new subsection-

(2)The function of the selection panel shall be to nominate persons for appointment as commissioners in accordance with the First Schedule.

s.10 (2) Delete the words “for nomination by” and substitute therefor the words “and forwarded to”.

s.10 (5) Delete the word “seven” and substitute therefor the word “nine”.

Delete the word “three” appearing in paragraph (a) and substitute therefor the word “four”.

Delete the word “four” appearing in paragraph (b) and substitute therefor the word “five”.

s.19 Place a full stop immediately after the words “as the chairperson” and delete the rest of the section.

s.34 Delete the marginal note and substitute therefor the following-

“No amnesty for international law crimes”.

s. 34(2) Place a full-stop immediately after the words “any law in Kenya” and delete the rest of the subsection.

- s. 34(3) Insert the words “genocide, crimes against humanity” immediately after the words “in respect of”.
- s.38(4) Delete the word “grant” and substitute therefor the word “recommend”.
- First Schedule
Para 5 Delete the words “nine persons” and substitute therefor the words “six persons”.
- Delete the words “the list of nominees” and substitute therefor the words “the names of the six nominees together with those of the three nominees forwarded by the Panel of Eminent African Personalities”.
- The Constitution of Kenya Review Act, 2008
(No.9 of 2009).
- s.2 Insert the following new definitions in proper alphabetical sequence-
- “core functions” means the activities of the Committee of Experts from the date of appointment to the last day of civic education under section 35.
- s.13(3) Delete.
- S.14(1) Insert the words “in contravention of the Public Officer Ethics Act, 2003” immediately after the word “misconduct.”
- S.15(1) Delete paragraph (a) and substitute therefor the following new paragraph-
- (a) where the vacancy is in respect of a citizen of Kenya, the Parliamentary Select Committee shall, within twenty-one days of the notification under section 13(2), submit to the President through the

Minister, the name of a person qualified under this Act and nominated by that Committee to fill the vacancy.

S.23 Insert the words “throughout the review process” immediately after the words “civic education” appearing in paragraph (i).

S.28 Delete the words “from the date of the commencement of this Act” appearing in subsection (1) and substitute therefor the words “from the date of its appointment”.

Insert the following new subsection immediately after subsection (1)-

(2) For the purposes of this section “work” means the core functions of the Committee of Experts within the meaning of section 2.

S. 33(1) Delete and substitute therefor the following new subsection-

(1) The Parliamentary Select Committee shall, within twenty-one days, resubmit the draft Constitution and the report presented to it under section 32(c) to the Committee of Experts, together with the recommendations agreed upon as a result of its deliberations, and the Committee of Experts shall revise the draft Constitution taking into account the achieved consensus.

S.33(4) Delete the word “fifteen” and substitute therefor the word “thirty”.

S.33(4)(b) Delete the words “the Committee of Experts for consultation and redrafting” appearing in paragraph (b) and substitute therefor the words “the Attorney-General, who shall, within seven days, submit them to the Committee of Experts for consultation and redrafting.”

New Insert the following new subsection immediately after subsection (5) -

(5A) The National Assembly shall consider the draft Constitution submitted under subsection (5) in accordance with the provisions of section 47A(2)(b) of the Constitution.

S.33(8) Delete the word “fourteen” and substitute therefor the word “seven”.

S.33(10) Insert the words “within twenty-one days” immediately after the words “the National Assembly shall”.

S.34(3) Delete the words “Electoral Commission” and substitute therefor the words “Interim Independent Electoral Commission”.

S.37(1) Delete the words “Electoral Commission” and substitute therefor the words “Interim Independent Electoral Commission”.

S.38 Delete the words “Electoral Commission” and substitute therefor the words “interim Electoral Commission”.

S.39 Delete the words “Electoral Commission” wherever they occur and substitute therefor the words “Interim Independent Electoral Commission”.

- S.43(1) Delete the words "Electoral Commission" and substitute therefor the words "Interim Independent Electoral Commission".

Insert the following new subsection immediately after subsection (3) -

(4) The Interim Independent Electoral Commission shall, consequent upon the results of the referendum becoming final, by notice in the Gazette, confirm the results as the final results of the referendum.

- New Insert the following new section immediately after section 43-

Proclamation of new Constitution. **43A.** The President, shall by notice in the Gazette, promulgate the new Constitution not later than fourteen days after the publication of the final result of the referendum.

- S.44(1) Delete the expression "High Court" and substitute therefor the words "the Interim Independent Constitutional Dispute Resolution Court established by section 60A of the Constitution".

- S.44(2) Delete the words "Electoral Commission" and substitute therefor the words "Interim Independent Electoral Commission".

- S.45(1) Delete and substitute therefor the following new section -

Composition and
operations of
Court.

45.(1) The judges of the Interim Independent Constitutional Court shall elect one of their number to be the Presiding Judge of the Court.

(2) The Court may engage such staff as may be necessary for the performance of its functions and may, in its absolute discretion, request for secondment of staff from the Judiciary or other sections of the public service.

(3) The Court shall regulate its own procedure.

(4) Without prejudice to subsection (3), the Court shall enjoy the status of the High Court of Kenya, and in this regard, the rules of practice and procedure applicable to the High Court shall apply to the Court, subject to necessary modification provided.

(5) A petition under section 44 shall be determined by a panel of five judges appointed by the Presiding Judge.

(6) Unless otherwise ordered by the Presiding Judge, interlocutory matters

shall be dealt with by a single judge from the panel.

- S.46(1)(c) Delete the words “Electoral Commission” and substitute therefor the words “Interim Independent Electoral Commission”.
- S.58(3) Delete the words “Electoral Commission” and substitute therefor the words “Interim Independent Electoral Commission”.
- New Insert the following new Schedule immediately after the Third Schedule-

FOURTH SCHEDULE (s.31)

Organizations to Choose Representatives to the Reference Group

Religious Sector:

1. Supreme Council of Kenya Muslim (SUPKEM).
2. National Council of Churches of Kenya (NCKK).
3. Kenya Episcopal Conference (KEC).
4. Evangelical Alliance of Kenya (EAK).
5. Hindu Council of Kenya (HCK).
6. Seventy Day Adventist (SDA).
7. Organization of Africa Instituted Churches (OAIC).
8. National Muslim Leadership Forum (NAMLEF)

9. African Independent Pentecostal Church of Africa (AIPCA).

Women Organizations:

10. Maendeleo ya Wanawake Organization (MYWO).
11. National Council of Women of Kenya (NCWK).
12. Federation of Women Lawyers (FIDA).

Private Sector:

13. Central Organization of Trade Unions (COTU).
14. Kenya Private Sector Alliance (KEPSA).
15. Kenya National Union of Teachers (KNUT).
16. Federation of Kenya Employers (FKE)

Professional Groups:

17. Association of Professional Societies in East Africa (APSEA).
18. Law Society of Kenya (LSK).
19. Kenya Magistrate and Judges Association (KMJA).
20. Kenya Medical Association (KMA).

Special Interests:

21. United Disabled Persons of Kenya (UDPK).

22. Kenya Alliance for the Advancement of the Right of the Child (KAARC).
23. The Cradle – The Children’s Foundation.
24. Kenya Society for the Blind.

Civil Society:

25. NGO Council.
26. National Convention Executive Council (NCEC).
27. Youth Agenda.
28. Kenya Human Rights Commission.

Others:

29. Media Council of Kenya.
30. Association of Local Government Authorities of Kenya.