

Seattle University School of Law

## Seattle University School of Law Digital Commons

---

I. Core TJRC Related Documents

The Truth, Justice and Reconciliation  
Commission of Kenya

---

2012

### Act and Amendments (TJRC) - The Statute Law (Miscellaneous Amendment) Act 2012

Truth, Justice, and Reconciliation Commission

Follow this and additional works at: <https://digitalcommons.law.seattleu.edu/tjrc-core>

---

#### Recommended Citation

Truth, Justice, and Reconciliation Commission, "Act and Amendments (TJRC) - The Statute Law (Miscellaneous Amendment) Act 2012" (2012). *I. Core TJRC Related Documents*. 27.  
<https://digitalcommons.law.seattleu.edu/tjrc-core/27>

This Report is brought to you for free and open access by the The Truth, Justice and Reconciliation Commission of Kenya at Seattle University School of Law Digital Commons. It has been accepted for inclusion in I. Core TJRC Related Documents by an authorized administrator of Seattle University School of Law Digital Commons. For more information, please contact [coteconor@seattleu.edu](mailto:coteconor@seattleu.edu).

**THE STATUTE LAW (MISCELLANEOUS AMENDMENTS)  
ACT, 2012**

**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, 2012.
- 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 Revision of the Laws Act (Cap. 1).	S.8(1)(h)	Insert the words “section headings” immediately after the words “marginal notes”.
The Appellate Jurisdiction Act (Cap. 9).	S.3(1)	Insert the words “and any other Court or Tribunal prescribed by an Act of Parliament” immediately after the words “High Court”.
Magistrates’ Courts Act (Cap. 10).	S.5	Delete and substitute therefor the following new section –  Civil jurisdiction of Magistrates Courts. <b>5.</b> The Magistrates’ Courts shall have and exercise jurisdiction and powers in proceedings of a civil nature in which the value of the subject matter in dispute does not exceed –

- (a) seven million shillings for a Chief Magistrate;
- (b) five million shillings for a Senior Principal Magistrate;
- (c) four million shillings for a Principal Magistrate;
- (d) three million shillings for a Senior Resident Magistrate, and
- (e) two million shillings for a Resident Magistrate.

The Advocates Act (Cap. 16).	S.2	Delete the word “Committee” wherever it occurs in the definition of “Disciplinary Committee” and substitute therefor the word “Tribunal”.
	S.10	Delete paragraph (a) and substitute therefor the following- <ul style="list-style-type: none"><li>(a) an officer in the office of the Attorney-General or the office of the Director of Public Prosecutions;</li></ul>
	S.12(a)	Insert the words “Rwanda, Burundi” immediately after the word “Kenya”.
	S.13(1)	Insert the words “the High Court of Rwanda, the High Court of Burundi” in paragraph (d) immediately after the word “Uganda”.  Insert the following new paragraph immediately after paragraph (d) –

(e) he is for the time being admitted as an advocate of the superior court of a country within the Commonwealth and-

(i) has practised as such in that country for a period of not less than five years; and

(ii) is a member in good standing of the relevant professional body in that country:

Provided that the Council may, in addition, require that a person to whom this paragraph applies undergo such training, for a period not exceeding three months, as the Council may prescribe for the purpose of adapting to the practice of law in Kenya.

S.14 Insert the words “and the Director of Public Prosecutions” immediately after the expression “Attorney-General” wherever it occurs.

S.20 Insert the words “the Director of Public Prosecutions” immediately after the expression “Attorney-General”.

S.32(1) Insert the words “or the Director of Public Prosecutions” immediately after the

expression “Attorney-General”.

New Insert the following new sections immediately after section 32-

Employment as in-house Advocate. **32A.** (1) A person who is qualified to act as an advocate under this Act may be employed as an in-house advocate.

(2) A person who is employed as an in-house advocate shall—

(a) be an independent professional legal advisor to his or her employer; and

(b) not charge fees for services rendered below the minimum prescribed fees under section 44.

Standards of work and remuneration. **32B.**(1) The Chief Justice shall, on the recommendation of the Council of the Society, prescribe—

(a) the standards of work that may be performed by a person employed as an in-house advocate under this Act; and

(a) the criteria for determining the

remuneration payable to an in-house counsel by an employer.

(2) The employer of an in-house advocate shall not determine the remuneration of such advocate otherwise than in accordance with the criteria prescribed under subsection (1) (b).

(3) Notwithstanding subsection (2), the employer of an in-house advocate may, in making a determination under subsection (2), offer the advocate remuneration which is higher than that prescribed.

(4) Subject to subsection (3), a person who contravenes subsection (2) commits an offence.

S.55 Delete the expression “Disciplinary Committee” wherever it occurs and substitute therefor the expression “Disciplinary Tribunal”

S.57(1) Delete the introductory part and substitute therefor the following –

“(1) There is established a tribunal to be known as the Disciplinary Tribunal (in this Part referred to as “the Tribunal”) which shall consist of –”

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

(aa) the Director of Public Prosecutions;

- S.57 (2) Delete the word “Committee” wherever it occurs and substitute therefor the word “Tribunal”.
- S.57(2A) Delete the word “Committee” and substitute therefor the word “Tribunal”.
- S. 57(3) Delete the word “Committee” and substitute therefor the word “Tribunal”.
- S. 57(4) Delete the word “Committee” and substitute therefor the word “Tribunal”.
- S. 58(1) Delete the word “Committee” wherever it occurs and substitute therefor the word “Tribunal”.
- S. 58(2) Delete the word “Committee” and substitute therefor the word “Tribunal”.
- S. 58 (3) Delete the word “Committee” wherever it occurs and substitute therefor the word “Tribunal”.
- S. 58(4) Delete the word “Committee” wherever it occurs and substitute therefor the word “Tribunal”.
- S. 58(5) Delete the word “Committee” and substitute therefor the word “Tribunal”.
- S. 59 Delete the word “Committee” wherever it occurs and substitute therefor the word

“Tribunal”.

- S. 60(1) Delete the word “Committee” and substitute therefor the word “Tribunal”.
- S. 60(2) Delete the word “Committee” and substitute therefor the word “Tribunal”.
- S. 60(3) Delete the word “Committee” wherever it occurs and substitute therefor the word “Tribunal”.
- S. 60(4) Delete the word “Committee” wherever it occurs and substitute therefor the word “Tribunal”.
- S. 60(5) Delete the word “Committee” and substitute therefor the word “Tribunal”.
- S. 60(6) Delete the word “Committee” wherever it occurs and substitute therefor the word “Tribunal”.
- S. 60(8) Delete the word “Committee” and substitute therefor the word “Tribunal”.
- S. 60(9) Delete the word “Committee” and substitute therefor the word “Tribunal”.
- S.60(10) Delete the word “Committee” and substitute therefor the word “Tribunal”.
- S. 60(12) Delete the word “Committee” and substitute therefor the word “Tribunal”.
- S. 61(1) Delete the word “Committee” and substitute therefor the word “Tribunal”.
- S. 61(2) Delete the word “Committee” and substitute



- therefor the word “Tribunal”.
- S. 61(3) Delete the word “Committee” and substitute therefor the word “Tribunal”.
- S. 62(2) Delete the word” Committee” and substitute therefor the word” Tribunal”.
- S. 64 Delete the word “Committee” wherever it occurs and substitute therefor the word “Tribunal”.
- S. 71 Delete the word “Committee” and substitute therefor the word “Tribunal”.
- S.72 (1) Delete the word “Committee” wherever it occurs and substitute therefor the word “Tribunal”.
- S. 72(3) Delete the word wherever it occurs“Committee” and substitute therefore the word “Tribunal”.
- S.73 (1) Delete the word “Committee” and substitute therefor the word “Tribunal”.
- S. 75 Delete the word wherever it occurs “Committee” and substitute therefor the word “Tribunal”.
- S. 76 Delete the word “Committee” wherever it occurs and substitute therefor the word “Tribunal”.
- S.77 Delete the word “Committee” and substitute therefor the word “Tribunal”.
- S.78 Delete the word “Committee” and substitute therefor the word “Tribunal”.

	S. 80(1)	Delete the word “Committee” wherever it occurs and substitute therefor the word “Tribunal”.
	S. 81(2)	Delete the expression “Disciplinary Committee” and substitute therefor the expression “Disciplinary Tribunal”.
The Law Society of Kenya Act (Cap.18).	S. 2	Delete the word “Committee” from the definition of “Disciplinary Committee” and substitute therefor the word “Tribunal”.
The Civil Procedure Act (Cap.21).	S.2	Insert the following definitions in proper alphabetical sequence-  “impartial” in relation to a dispute means being and being seen to be unbiased towards parties to a dispute, their interests and the options they present for settlement;  “mediation” means an informal and non-adversarial process where an impartial mediator encourages and facilitates the resolution of a dispute between two or more parties, but does not include attempts made by a judge to settle a dispute within the course of judicial proceedings related thereto;  “mediation rules” means the mediation rules made under this Act;  “mediator” means an impartial third party selected to carry out a mediation.

New                    Insert    the following new sections immediately after section 59 –

Establishment  
of Mediation  
Accreditation  
Committee.

**59A.** (1) There shall be a Mediation Accreditation Committee which shall be appointed by the Chief Justice.

(2) The Mediation Accreditation Committee shall consist of –

- (a) the chairman of the Rules Committee;
- (b) one member nominated by the Attorney- General;
- (c) two members nominated by the Law Society of Kenya; and
- (d) eight other members nominated by the following bodies respectively -
  - (i) the Chartered Institute of Arbitrators (Kenya Branch);
  - (ii) the Kenya Private Sector Alliance;
  - (iii) the International

Commission of  
Jurists (Kenya  
Chapter);

(iv) the Institute of  
Certified  
Public  
Accountants  
of Kenya;

(v) the Institute of  
Certified  
Public  
Secretaries;

(vi) the Kenya  
Bankers'  
Association;

(vii) the Federation  
of Kenya  
Employers,  
and

(viii) the Central  
Organisation  
of Trade  
Unions.

(3) The Chief Justice shall designate a suitable person to be the Mediation Registrar, who shall be responsible for the administration of the affairs of the Committee under this Act.

(4) The functions of the Mediation Accreditation

Committee shall be to-

- (a) determine the criteria for the certification of mediators;
- (b) propose rules for the certification of mediators;
- (c) maintain a register of qualified mediators;
- (d) enforce such code of ethics for mediators as may be prescribed; and
- (e) set up appropriate training programmes for mediators.

Reference of cases to mediation.

**59B.**(1) The Court may—

- (a) on the request of the parties concerned; or
- (b) where it deems it appropriate to do so; or
- (c) where the law so requires,

direct that any dispute presented before it be referred to mediation.

(2) Where a dispute is

referred to mediation under subsection (1), the parties thereto shall select for that purpose a mediator whose name appears in the mediation register maintained by the Mediation Accreditation Committee.

(3) A mediation under this Part shall be conducted in accordance with the mediation rules.

(4) An agreement between the parties to a dispute as a result of a process of mediation under this Part shall be recorded in writing and registered with the Court giving the direction under subsection (1), and shall be enforceable as if it were a judgment of that Court.

(5) No appeal shall lie against an agreement referred to in subsection (4).

Other  
alternative  
dispute  
resolution  
methods.

**59C.** (1) A suit may be referred to any other method of dispute resolution where the parties agree or the Court considers the case suitable for such referral.

(2) Any other method of alternative dispute resolution shall be governed by such

procedure as the parties themselves agree to or as the Court may, in its discretion, order.

(3) Any settlement arising from a suit referred to any other alternative dispute resolution method by the Court or agreement of the parties shall be enforceable as a judgment of the Court.

(4) No appeal shall lie in respect of any judgment entered under this section.

Power to enforce private mediation agreements.

**59D.** All agreements entered into with the assistance of qualified mediators shall be in writing and may be registered and enforced by the Court.

The Bankruptcy Act (Cap. 53).	S.76	Delete the expression “Attorney-General” appearing in paragraph (d) and substitute therefor the expression “Director of Public Prosecutions”.
	S.149	Delete the expression “Attorney-General” wherever it appears and substitute therefor the expression “Director of Public Prosecutions”.
The Public Order Act (Cap. 56).	S.3(2)	Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.

The Penal Code (Cap. 63).	S.52(3)	Insert the following paragraph immediately after paragraph (a)-  (aa) the Director of Public Prosecutions or his representative”.
	S.181(4)	Insert the expression “the Director of Public Prosecutions” immediately after the expression “Attorney-General”.
The Protection of Aircraft Act (Cap. 68).	S.12	Delete the expression “Attorney – General and substitute therefor the expression “Director of Public Prosecutions”.
The Criminal Procedure Code (Cap. 75).	S.2	Delete the definition of “public prosecutor” and substitute therefor the following-  “public prosecutor” means the Director of Public Prosecutions, a state counsel, a person appointed under section 85 or a person acting under the direction of the Director of Public Prosecutions.
	S.81	Delete the expression “Attorney-General” wherever it appears in subsections (3) and (4) and substitute therefor the expression “Director of Public Prosecutions”.
	S.82(1)	Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
	S.83	Delete the expression “Attorney-General” and substitute therefor the words “Director of Public Prosecutions”.
	S.85	Delete the expression “Attorney-General” wherever it appears in subsections (1), (2) and (3) and substitute therefor the



expression “Director of Public Prosecutions”.

S.87 Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.

S.88 Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.

S.137A Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.  
(4)

S.137B Delete and substitute therefor the following new section-

Plea Agreement on behalf of the Republic.

**137B.** A plea agreement on behalf of the Republic shall be entered into by the Director of Public Prosecutions or officers authorized by the Director of Public Prosecutions in accordance with article 157(9) of the Constitution and any other person authorized by any written law to prosecute:

Provided that in any trial before a subordinate court, a public prosecutor may with the prior written approval of the Director of Public Prosecutions or officers subordinate to him, as the case may be, enter into a plea agreement in accordance with section 137A (1).

- S. 137L(2) Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
- S. 143 Delete the expression “Attorney-General” wherever it appears and substitute therefor the expression “Director of Public Prosecutions”.
- S. 161 Delete the expression “Attorney-General or the Solicitor-General” and substitute therefor the expression “Director of Public Prosecutions”.
- S.163 Delete the expression “Attorney-General” wherever it appears and substitute therefor the expression “Director of Public Prosecutions”.
- S.348A Delete the words “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
- S.350(2) Delete the expression “Attorney-General” appearing in paragraph (i) of the proviso and substitute therefor the expression “Director of Public Prosecutions”.
- S.352(3) Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
- S.352A Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
- S.379 Delete the expression “Attorney-General” wherever it appears in subsections (5) and (5A) and substitute therefor the expression “Director of Public Prosecutions”.

	S.386(1)	Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
	S.387	Delete the expression “Attorney-General” wherever it appears in subsections (4) and (6) and substitute therefor the expression “Director of Public Prosecutions”.
	S.388	Delete the expression “Attorney-General” wherever it appears and substitute therefor the expression “Director of Public Prosecutions”.
The Evidence Act (Cap. 80).	S.78(1)	Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
The Registration of Persons Act (Cap. 107).	S.18	Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
The Armed Forces Act (Cap. 199).	S.115	Delete the expression “Attorney-General” wherever it occurs in subsections (1) (b) and (2) and substitute therefor the expression “Director of Public Prosecutions”.
The Kenya Literature Bureau Act (Cap. 209).	S.2	Delete the word “Higher” appearing in the definition of “Minister”.
	S.3(2)	Delete the words “in Kenya” and substitute therefor the words “within and outside Kenya”.
	S.4(a)	Insert the words “digital and electronic materials” immediately after the words “magazines”.

- S.4(c) Delete the words “throughout Kenya” and substitute therefor the words “within and outside Kenya”.
- S.4(d) Delete the words “Kenyan authors” and substitute therefor the words “authors within and outside Kenya”.
- S.5(5) Delete the word “three ordinary meetings” and substitute therefor the word “four ordinary meetings”.
- S.5(9) Insert the words “in consultation with the State Corporations Advisory Committee” immediately after the words “the Minister may”.
- S.7(2)(a) Delete the words “two members” and substitute therefor the words “the chairman and one other member”.
- The Public Health Act (Cap. 242). S.95(2) Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
- The Science and Technology Act (Cap. 250). S. 3(1) Insert at the end thereof the words “which shall be a body corporate with perpetual succession and a common seal and capable, in its corporate name, of suing and being sued, and purchasing, holding and disposing of movable and immovable property and doing all such other things as may legally be done by a body corporate.”

The Medical Practitioners and Dentists Act (Cap. 253).	9(2)	Delete the words “publish in the Gazette” and substitute therefor the following-  “publish in the print or electronic media, as approved by the Board,”
The Kenya Red Cross Society Act (Cap. 256).	S.5(1)	Insert the following new paragraph immediately after paragraph (e) —  (f) to carry out training and certification in areas related to emergency services, pre- and post-hospital care, humanitarian assistance and disaster management.
	S.6	Insert the words “National and County” immediately before the word “Governments”.
	Schedule	Renumber the existing items as items numbers 1, 2, 3 and 4 respectively and add the following new items-  <b>5.</b> Protocol Additional to the Geneva Convention of 12 <sup>th</sup> August, 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 <sup>th</sup> June, 1997;  <b>6.</b> Protocol Additional to the Geneva Convention of 12 <sup>th</sup> August, 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II) of 8 <sup>th</sup> June, 1997.  <b>7.</b> Protocol Additional to the Geneva Convention of 12 <sup>th</sup> August, 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III) of 8 <sup>th</sup>

December, 2005.

The Prevention of Cruelty to Animals Act (Cap. 360).	S.23	Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
The Animal Diseases Act (Cap. 364).	S.2	Delete the definition of “animals” and substitute therefor the following —  “animals” means mammals, birds, reptiles, bees and life stages of fish, molluscs, crustaceans and amphibians whether originating from aquaculture establishments or removed from the wild and released to the environment, for human consumption or for ornamental purposes.  Delete the definitions of “birds” and “cattle”.
	S.12(1)	Delete the proviso and substitute therefor the following —  Provided that subject to section 13, compensation for animals slaughtered under this Act shall be paid to the owner as follows —  (a) where the animal was infected by a notifiable disease, the value before it became so infected; and  (b) where the animal was not so infected but was

suspected of being so infected, the value of the animal immediately before it was slaughtered.

- S.20 Delete the expressions “six months” and “five thousand” and substitute therefor the expressions “twelve months” and “thirty thousand” respectively.
- Prevention of Fraud (Investment) Act, 1997 (No. 1 of 1997). S. 25 Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
- The Narcotic Drugs and Psychotropic Substances Act, 1994 (No. 4 of 1994). S.22 “Delete the expression “Attorney-General” wherever it occurs in subsection (1) and (2) and substitute therefor the expression “Director of Public Prosecutions”.
- S.23 Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
- S.31 Delete the expression “Attorney-General” wherever it occurs and substitute therefor the expression “Director of Public Prosecutions”.
- S.33 Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
- S.34(2) Delete the expression “Attorney-General” and substitute therefor the expression

		“Director of Public Prosecutions”.
38(3)		Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
S.41(4)		Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
S.45(2)		Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
S.59		“Delete the expression “Attorney-General” wherever it occurs in subsections (1) and (2) and substitute therefor the expression “Director of Public Prosecutions”.
S.61(2)		Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
S.63(1)		Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
S.64		“Delete the expression “Attorney-General” wherever it occurs in subsection (1) and (2) and substitute therefor the expression “Director of Public Prosecutions”.
The National Crime Research Centre Act, 1997 (No. 4 of 1997).	S. 6(2)	Insert the following new paragraph—  (aa) the Permanent Secretary to the Treasury.



Insert the following paragraph immediately after paragraph (b)-

(bb) the Director of Public Prosecutions;

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

S.2

Insert the following new definitions in their proper alphabetical sequence –

“act of vandalism” means any willful, negligent, reckless or malicious act of stealing, destroying, damaging or breaking into telecommunications apparatus, lines, installations, hardware, software or plant used for telecommunication services and systems;

“vandalize” means to commit an act of vandalism.

S. 25

Insert the following subsection immediately after subsection (3)-

(3A) A licensee shall maintain a register of all persons to whom telecommunications services are provided under the licence, in such form as may be prescribed.

S.27 (2)

Insert the following paragraph immediately after paragraph (g) –

(gg) the registration of telecommunication subscribers.

S.32

Delete and substitute therefor the following new section –

**32.** A person who willfully, with intent to -

- (a) prevent, obstruct or delay transmission of any message;
- (b) interfere with the management or operation of a telecommunication apparatus; or
- (c) unlawfully intercept or acquaint himself or herself with the contents of any message; vandalizes, damages, removes, tampers with, touches or in any other way whatsoever interferes with any telecommunication apparatus or telecommunication line, post, or anything whatsoever, being part of or used in or about any licensed telecommunication system,

commits an offence and shall be liable, on conviction to a fine of not less than five million shillings or to imprisonment for a term of not less than ten years or to both.

New

Insert the following new section immediately after Section 32 -

Severing  
with intent  
to steal.

**32A.** A person who, with intent to steal, severs any telecommunication apparatus or other works under the control of a licensee, commits an offence and is liable, on conviction, to a fine of not less than five million shillings or to imprisonment for a term of not less than ten years or to both.

Fifth  
Schedule

Insert the words “ or such longer period and subject to such terms and conditions as the Minister may by notice in the Gazette, specify” immediately after the words “one year” appearing in subparagraph (a) of the proviso to paragraph 2.

Insert the words “or such longer period as aforesaid” immediately after the words “one year” appearing in subparagraph (b) of the proviso to paragraph 2.

Insert the words “or such longer period as the Minister may, by notice in the Gazette, specify” immediately after the words “six months” appearing in subparagraph (b) of the proviso to paragraph 3.

The Children  
Act, 2001  
(No. 8 of 2001).

S.31(1)

Insert the following paragraph immediately after paragraph (g)-

(gg) the Director of Public Prosecutions.

S.124

Delete the expression “Attorney-General” wherever it occurs and substitute therefor

the expression “Director of Public Prosecutions”.

The Copyright Act, 2001 (No. 12 of 2001).

S.15 Delete.

S.30(1) Delete the words “No person shall do any of the following acts without the authorization of the performer” and substitute therefor the words-

“Subject to section 30 of this Act, a performer shall have the exclusive right to carry out any of the following acts- ”

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

(f) distribution of a fixation of his performance or copies thereof, to the public.

(g) the making available to the public of his fixed performance, by wire or wireless means in such a way that members of the public may access them from a place or a time individually chosen by them.

S.30(3) Delete the words “unless the recipient knew or had good reason to believe that the claim or appointment, as the case may be was not valid”.

S.30(4) Delete the words “took place” and substitute therefor the words “was fixed”.

S.30(6) Delete and substitute therefor the following new subsection-

(6) Subject to subsections (7) and (8), the rights of an owner of a copyright in a fixation of their performance are not infringed by the making of a single copy of the performance for the personal and private use of the person making the copy and in respect of such use the owner of a related right in the performance shall have the right to receive fair compensation consisting of a royalty levied on audio-visual recording equipment or audio-visual blank media suitable for recording and other media intended for recording, payable at the point of first sale in Kenya by the manufacturer or importer for commercial purposes of such equipment or media.

Insert the following new subsections-

(7) The level of the royalty payable under subsection (6) shall be agreed upon between organizations representative of performers, manufacturers and importers of any audio-visual recording equipment and media intended for recording, or failing such agreement, by the Copyright Tribunal.

(8) The claims for compensation under this section shall be made through an organization representative of performers.

New Insert the following new section immediately after section 30-

Right to equitable remuneration for use of sound recordings and audio visual works.

**30A.** (1) If a sound recording is published for commercial purposes or a reproduction of such recording is used directly for broadcasting or other communication to the public, or is publicly performed, a single equitable remuneration for the performer and the producer of the sound recording shall be paid by the user through the respective collective management organization, and the remuneration shall be shared equally between the producer of the sound recording and the performer.

(2) If a fixation of a performance is published for commercial purposes or a reproduction of a fixation of a performance is used for broadcasting or other communication to the public, or is publicly performed, a single equitable remuneration for the performer shall be paid by the user to the collective management organization.

(3) The right of equitable remuneration under this section shall subsist from the date of publication of the sound recording or fixed performance until the end of the fiftieth calendar year following the year of publication, provided the sound recording or fixed performance is still protected under section 28 and 30.

(4) For the purposes of this section, sound recordings and fixations of performances that have been made available by wire or wireless means in such a way that members of the public may access them from a place and a time individually chosen by them shall be considered as if they have been published for commercial purposes.

S.36(1) Delete and substitute therefor the following-

(1) Every sound and audio-visual recording made available to the public by way of sale, lending or distribution in any other manner to the public for commercial purposes in Kenya shall have affixed on it an authentication device prescribed by the Board.

36(2) Delete the words “from the Kenya Revenue Authority”.

36(3) Delete and substitute the following new sub-section-

(3) The authentication device shall be issued to an applicant upon proof that the applicant has been authorized by the copyright owner to manufacture, reproduce, sell, import, rent or otherwise distribute the work.

36(6) Insert the word “knowingly” immediately before the word “sells”.

Insert the following new subsections-

(7) Any work requiring an authenticating device and which is sold or exhibited for sale without the authentication device shall be presumed to be an infringing copy.

(8) Any person who, without the permission of the Board—

(a) is found to be in possession of or to have reproduced, a security device; or

(b) is found to be in possession of any machine, instrument or contrivance intended to be used to produce or reproduce a security device,

shall be guilty of an offence and liable on conviction to a fine not exceeding two million shillings or to imprisonment for a term not exceeding ten years, or to both.

S.42

Delete and substitute therefor the following new section-

Powers of arrest. **42.** A police officer may arrest, without a warrant, any person suspected, upon reasonable grounds, of having committed an offence under this Act, and any officer of the Board who at the time is



wearing a visible badge of office and authorized thereto in writing by the Board, may arrest, without warrant, any person, who, in his presence, commits any such offence, and may detain such person until that person can be delivered into the custody of a police officer to be dealt with according to law:

Provided that a person shall not be arrested or detained without warrant unless reasonable grounds exist for believing that, except by such arrest, the person may not be found or made answerable to justice without unreasonable delay, trouble or expense.

The Anti-Corruption and Economic Crimes Act, 2003 (No. 3 of 2003).	S.35(1)	Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
	S.36(1)	Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
	S.37(1)	Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions.”
The Sexual Offences Act, 2006 (No 3 of 2006).	S. 38	Delete.

The Energy Act, S.2  
2006  
(No.12 of 2006).

Delete the words “and vessels” appearing in the definition of the term “apparatus” and substitute therefor the word “vessels, pipeline, electrical plants and equipment”;

Insert the following new definitions in proper alphabetical sequence –

“act of vandalism” means any willful, negligent, reckless or malicious act aimed at destroying or damaging an apparatus.

“vandalize” means to commit an act of vandalism.

S. 23 (1) Delete the proviso.

S.64(4) Delete and substitute therefor the following new subsection -

(4) A person who willfully or with intent to interfere with the management or operation of the apparatus of a licensee -

(a) extinguishes or causes to be extinguished, any public lamps;

(b) vandalizes or damages any works of or under the control of a licensee;

(c) steals or, with intent to steal, break, throws down or damages any works of or under the control of a licensee; or

(d) steals, illegally trades or improperly uses any of the electrical energy supplied by a

licensee,

commits an offence, and shall be liable, on conviction, to a fine of not less than five million shillings or to imprisonment for a term of not less than ten years, or both.

New Insert the following section immediately after section 64 —

Serving with intent to steal. **64A.** A person who, with intent to steal, severs any conductor, transformer or part thereof, insulator, tower, jumper or other installations under the control of a licensee, commits an offence and is liable, on conviction, to a fine of not less than five million shillings or to imprisonment for a term of not less than ten years, or to both.

S.95(3) Insert the following paragraphs immediately after paragraph (b) –

(c) diverts for sale in Kenya, goods destined for other markets;

S.100(1) Insert the following paragraph immediately after paragraph (e) –

(f) being the owner or operator of a bulk storage facility for petroleum products, service station, filling station or storage depot, hoards petroleum products;

Insert the following new section immediately after section 108 –

Protection  
from  
personal  
liability.

**108A.** The Chairman or other members of the Tribunal shall not be liable to be sued in any court for an act done or omitted to be done by them in the discharge of their duty as members of the Tribunal, whether or not within the limits of the jurisdiction, provided they, at the time, in good faith believed themselves to have jurisdiction to do or order the act complained of; and no officer of the Tribunal or other person bound to execute the lawful warrants, orders or other process of the Tribunal shall be liable to be sued in any court for the execution of a warrant, order or process which he would have been bound to execute if within the jurisdiction of the Tribunal.

The Labour  
Institutions Act,  
2007 (No. 12 of  
2007).

S.55(2)

Insert the words “unless the person is registered under this Act” immediately after the words “No person shall”.

The  
Constituencies  
Development  
Fund  
(Amendment)  
Act, 2007 (No.  
16 of 2007).

S.1

Delete all the words appearing immediately after the expression “2007” and substitute therefor the words “and shall be deemed to have come into operation on the 30<sup>th</sup> October, 2007”.

The Truth, Justice and Reconciliation Act, 2008 ( No. 6 of 2008)	S.20	<p>Insert the following subsections immediately after subsection (4) –</p> <p>(4A) Notwithstanding the provisions of subsections (3) and (4), where the Commission is unable to complete and submit its report within the time extended under subsection (4), the Commission shall, submit a progress report to the National Assembly together with a request for a further extension.</p> <p>Provided that a request under this subsection may be made notwithstanding that the period in respect of which it is made has expired.</p> <p>(4B) The National Assembly may, if satisfied with the reasons for the request under subsection (4A), extend the duration for the Commission to complete and submit its report, but shall not in any case extend such duration for more than three months.</p>
The Anti-Counterfeit Act, 2008 (No. 13 of 2008).	S. 6(1)	<p>Insert the following new paragraph immediately after paragraph (e)-</p> <p>(ee) the Director of Public Prosecutions.</p>
	S.30(1)	<p>Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.</p>

The Merchant Shipping Act, 2009 (No. 4 of 2009).	S.8(2)	Insert the following paragraph immediately after paragraph(g)–  (gg) prescribing the requirements for licencing as a maritime services provider, the conditions subject to which a maritime services provider should operate and the standards to be maintained in the provision of services.
	S.16(1)	Delete the words “shipbroker”, “ship breaker”, “cargo consolidator”, “ship repairer” and “maritime training”;  Insert the words “empty container depots” immediately after the word “haulage”
	New	Insert the following section immediately after section 412—  Penalties under Regulations. <b>412A.</b> Regulations made under sections 8, 360, 410 and 450 may provide that any person contravening any of the provisions thereof is liable on conviction to a fine not exceeding ten million shillings, or to imprisonment for a term not exceeding ten years, or to both.
The Counter – Trafficking in Persons Act, 2010 (No. 8 of 2010).	S.1	Place a full-stop immediately after the word “appoint” and delete the rest of the section.

The Vetting of Judges and Magistrates Act, 2011 (No. 2 of 2011).	S.23(2)	Delete and substitute therefor the following new subsections –  (2) the Board shall be divided into three panels for purposes of vetting, and the three panels shall vet the judges simultaneously while the Judicial Service Commission shall vet the Magistrates,  (3) The vetting process once commenced shall be concluded not later than the 28 <sup>th</sup> February, 2013, and any review of the decision of the Board or of the Judicial Service Commission shall be heard and concluded within the above specified period.
The Independent Electoral and Boundaries Commission Act, 2011 (No.9 of 2011).	S. 20 (1)	Delete the words “and employees”.
	First Schedule	Insert the following paragraph immediately after paragraph 8 –  <b>9.</b> All nominations and appointments under this section shall take into account the regional, gender and ethnic diversity of Kenya.
	Fifth Schedule	Delete the words “and shall be heard and determined within thirty days” appearing in paragraph 5 and substitute therefor the words “and shall be heard and determined

		within three months”.
The Political Parties Act, 2011 (No. 11 of 2011).	S.14(3)	Insert the words “within three days of the resignation” at the end of the subsection.
	S.35	Delete.
	S.41(4)	Delete the words “Civil Procedure Code” and substitute therefor the words “Criminal Procedure Code”.
	Fifth Schedule	Delete.
	Sixth Schedule Para 1	Delete the words “Selection Committee” and substitute therefor the words “Public Service Commission”.
	Para 2	Delete the words “Selection Committee” and substitute therefor the words “Public Service Commission”.
	Para 3	Delete the words “Selection Committee” and substitute therefor the words “Public Service Commission”.
	Para 4	Delete the words “Selection Committee” and substitute therefor the words “Public Service Commission”.
The Kenya Citizenship and Immigration Act, 2011 (No. 12 of 2011).	S.4(2)	Delete the word “undesirable” appearing in paragraph (f) and substitute therefor the word “inadmissible”.
	S.13(4)	Delete the introductory portion and substitute therefor the following-



“A person who is a dependant of any biological parent or who is under the legal guardianship of a person who is a citizen of Kenya by registration shall, upon application made in the prescribed manner, be registered as a citizen upon-”.

S.17 Delete subsection (2).

Insert the following new subsection –

(2) The Cabinet Secretary may for sufficient reason grant citizenship to individuals or children or dependants of individuals who are citizens of other countries and who voluntarily migrated to Kenya after 1963, and who, though they are holders of passports or identification documents of any other country, satisfy all the other requirements under section 15 or 16 of this Act”.

S.33 (2) Delete the word “insolvent” appearing in paragraph (d) and substitute therefor the word “bankrupt”.

S.33(2) Insert the word “or” at the end of paragraph (f) and insert the following new paragraph-

(g) is, by order of the Cabinet Secretary, declared inadmissible on grounds of national security or national interest.

S.33(3) Delete the words “regulatory officer’s right” and substitute therefor the words “immigration officer’s right”.

S.33(4) Delete.

S.33(5) Delete the word “undesirable” wherever it appears and substitute therefor the word “inadmissible”.

S.34 Delete the marginal note and substitute therefor the word “Residence”.

S.34(4) Delete and substitute therefor the following new subsection-

(4) Where a person who is exempted from the provisions of this section under subsection (3) ceases to be so exempted, that person shall after the expiration of such period of time, not exceeding six months, as an immigration officer may allow for the departure of the person from Kenya, report to the director accordingly and apply for the grant of a new status under this Act.

S.44(3) Delete the word “undersirable” wherever it occurs and substitute therefor the word “inadmissible”.

S.46(2) Delete the word “pupil” wherever it occurs and substitute therefor the word “student”.

S.49(2) Delete the word “secure” and substitute therefor the word “ensure”.

- S.49(3) Delete the words “immigration division” and substitute therefor the word “Service”.
- S.49(5) Delete the word “Minister” appearing in paragraph (d) and substitute therefor the words “Cabinet Secretary”.
- S.53(1) Delete the expression “44” appearing in paragraph (b) and substitute therefor the expression “43”.
- S.53(3) Delete the expression “(1) r” and substitute therefor the expression “(1)(q)”
- S.53(4) Delete the expression “(q)” and substitute therefor the expression subsection “(1)(p)”
- The Urban Areas and Cities Act, 2011 (No. 13 of 2011).
- S.5(1)(a) Delete the word “grant” appearing at the end thereof and insert the words “application for grant of city status”.
- S.8(3) Insert the words “taking account of regional, ethnic and gender diversity and representation of persons with disability” immediately after the word “institutions”.
- S.16(j) Delete the words “gross misbehavior or”
- S.24(4) Delete the words “limited to” and substitute therefor the words “regulated in accordance with”
- S.25 Insert the words “or town committee” immediately after the word “board” wherever it occurs.
- S.38 Delete the word “municipal”.
- S.43 (2) Delete the words “has a joint venture” and substitute therefor the words “enters into a

		joint venture”.
	S.43 (3)	Delete the words “authorized by a Board” and substitute therefor the words “authorized by the board or town committee”.
	S.49	Delete the words “members and”
	S.52(1)(a)	Insert the words “the board of a” immediately after the words “chairperson of”.
	Second Schedule	Insert the words “or town committee” immediately after the word “board” wherever it appears in paragraph 1(1)  Delete the word “municipality” appearing in paragraph 1(g) and substitute therefor the words “urban area”.
The Kenya National Commission Human Rights Act, 2011 (No.14 of 2011).	S.30 (b)	Delete.
	S.59	Insert the following proviso immediately after subsection (2) –  Provided that the process of appointing new Commissioners under section 11 of this Act shall be commenced at least four months before the expiry of that term.
The National Gender and Equality Commission Act, 2011 (No. 15 of 2011).	S.2	Delete the words “human rights and” from the definition of the words “Cabinet Secretary”.

The Commission for Revenue Allocation Act, 2011 (No. 16 of 2011).	S.5(2)	Delete and substitute therefor the following new subsection –  (2) Any of the members of the Commission may serve on a part-time basis.
The Environment and Land Court Act, 2011 (No. 19 of 2011).	S.2	Delete the expression “161” appearing in the definition of “Chief Registrar” and substitute therefor the expression “161(2)”.  Delete the definition of “environment” and substitute therefor the following –  “environment” shall have the meaning assigned to it under the No. 8 of 1999. Environmental Management and Co-ordination Act, 1999.  Delete the definition of the words “Principal Judge”.  Delete the word “approved” appearing in the definition of the word –  “Registrar” and substitute therefor the word “appointed”.
	S.4 (3)	Delete all the words appearing immediately after the words “Kenya”.
	S.5	Delete and substitute therefor the following-  Composition of the Court. <b>5.</b> The Court shall consist of the Presiding Judge and such number of Judges as may be determined by the Judicial

Service Commission from  
time to time.

S.6 Delete the words “Principal Judge”  
wherever they occur and substitute therefor  
the words “Presiding Judge”.

S.7(1) Delete and substitute therefor the following  
new subsection-

(1) A person shall be qualified  
for appointment as Judge of the  
Court if the person-

(a) possesses the  
qualifications specified  
under Article 166(2) of the  
Constitution; and

(b) has at least ten years’  
experience as a  
distinguished academic or  
legal practitioner with  
knowledge and experience  
in matters relating to  
environment or land.

S.7(2) Delete.

S.9(1) Insert at the end thereof the words “under  
section 20 of the Judicial Service Act,  
2011”.

S.9(2) Delete the words “Principal Judge” and  
substitute therefor the words “Judicial  
Service Commission”.

S. 10 Delete and substitute therefor the  
following –

Qualification  
for  
appointment  
of the  
Registrar of  
the Court.

**10.** A person shall not be qualified for appointment as the Registrar unless such person –

- (a) is an advocate of the High Court of Kenya, and has, since qualification –
  - (i) become eligible for appointment as a Judge of the High Court;
  - (ii) served for at least ten years as a professionally qualified magistrate; or
  - (iii) attained at least ten years' experience as a distinguished academic or legal practitioner or such experience in other relevant legal field; or
  - (iv) held the qualifications specified in paragraphs (i) to (iii) for a period amounting, in the aggregate, to ten years; and

- (b) has demonstrated competence in the performance of administrative duties for not less than three years.
- S.11(2) Delete the words “Principal Judge” and substitute therefor the words “Presiding Judge in charge”.
- S.13(1) Delete the words “written law” and substitute therefor the words “law applicable in Kenya”.
- S.13(2) Delete the words “relating to environment and land including disputes”.
- S.13 (2)(a) Delete the word “trade”.
- S.13 (3) Delete the words “the environment and land” and substitute therefor the words “ a clean and healthy environment”.
- S.13(5) Delete.
- S.13(6) Delete.
- S.14 Delete the word “Rules” and substitute therefor the words “Civil Procedure Rules”.
- S. 15 Insert the words “Chief” immediately before the word “Registrar”.
- S. 17 Delete.
- S.18(c) Delete the expression “159(2)” and substitute therefor the expression “159”.



- S.19 (1) Delete the words “and shall not be strictly bound by the rules of evidence”.
- Delete the proviso.
- S. 19(2) Delete the word “not” and the words “and shall be guided by the principals of natural justice”.
- S.19(3) Delete.
- S.19(4) Delete.
- S.21(2) Delete the words “being not less than three, assigned by the Principal Judge” and substitute therefor the words “as determined by the Chief Justice”.
- S.23(1) Delete the words “and Kiswahili”.
- S.23(2) Delete the words “Notwithstanding subsection (1)”
- S. 24(1) Delete the words “in consultation with the Court”.
- S.24(2) Delete the words “for matters” and substitute therefor the words “on matters”.
- S.24(4) Delete.
- S.25 Delete.
- S.26 Delete the heading and substitute therefor the heading “Sitting of the Court”.
- S.28 Delete.
- S.29 Delete the expression “one million” and

		substitute therefor the expression “twenty million”
	Schedule	Delete.
The Ethics and Anti-Corruption Act, 2011 (No. 22/2011).	S.36	Delete the word “Independent” appearing in the definition of the word “Commission”.
The Elections Act, 2011 (No. 24 of 2011).	S.2	Delete the definition of “voter’s card”.
	S.13(3)	Delete the words “which shall not be more than twenty-one days after the date of publication of such notice” and substitute therefore the words “which shall be at least forty-five days before such election”.
	S.22(1)	Delete paragraph (b) and substitute therefor, the following-  (b) holds a certificate, diploma or other post secondary school qualification acquired after a period of at least three months study, recognized by the relevant Ministry and in such manner as may be prescribed by the Commission under this Act.
	S.27	Delete the word “six” and substitute therefor the word “three”.
	S.28	Delete the words “three months before the nomination of its candidates” and substitute therefor the words “two months before the date of the general elections”.

- S.30(2) Delete the word “A” and substitute therefor the words “Where a political party does not nominate an agent under subsection (1), a”.
- S.36(1) Delete the words “four of whom shall be persons with disability and four of whom shall be the youth” appearing in paragraph (f) and substitute therefor the words “at least two of whom shall be persons with disability, two of whom shall be the youth and two of whom shall be persons representing a marginalized group.
- S.41(2) Insert the word “independent” immediately before the word “candidates”.
- S.43(1) Delete the words “three months before an election” appearing in paragraph (d) and substitute therefor the words “for the purpose of supporting a candidate or political party.
- S.43(5) Delete the word “seven” and substitute therefor the word “six”.
- S.56 Delete paragraphs (b), (c), (d), (e) and (f).
- S.108 Delete the words “State-owned radio and television broadcasting services” and substitute therefor the words “all broadcasting media”.
- S.112 Delete paragraph (b).
- Renumber the existing provision as subsection (1) insert the following new subsection –

(2) For avoidance of doubt, until the final announcement of all results of the first elections for Parliament under the Constitution –

- (a) a notice of commencement of the provisions of this Act under subsection (1) shall apply to the extent contemplated by section 2(1)(a) of the Sixth Schedule to the Constitution;
- (b) any election held before the first elections for Parliament under the Constitution shall be held in accordance with the provisions of the former Constitution and the law applicable under that Constitution pursuant to section 3(2) of the Sixth Schedule to the Constitution:

Provided that the period prescribed for the issuance of any document or the doing of any other act or thing in respect of an election to which is due at the commencement of this subsection shall, notwithstanding the provisions of any other written law, be deemed to run with effect from the date of such commencement.

Third Schedule. Delete the words “Magistrate/Commissioner for oaths” and substitute therefor the words “Member/Secretary/Returning Officer of the Independent Electoral and Boundaries Commission”.

The Kenya Citizens and Foreign Nationals Management Service Act, 2011 (No. 31 of 2011).	Long title.	Delete the words “administration of the laws relating to marriages”.
	S.4.(1)	Delete the word “marriages”.
	5(2)	Delete the words “on the recommendation of the Public Service Commission” appearing in paragraph (a);  Delete the proviso and substitute therefor the following-  “Provided that the membership of the Board shall not comprise more than two-thirds of either gender”.
	S.13(2)	Delete the words “on delegated authority from the Public Service Commission” appearing in paragraph (c).
	S.16(1)	Delete the words “as may be authorized by the Public Service Commission”.
	S.16(2)	Insert the words “or any member of the staff” immediately after the word “department”.
	First Schedule.	Delete the following entries –  The Marriage Act (Cap.150)  The African Christian Marriage and Divorce Act (Cap.15)  The Mohammedan Marriage and Divorce registration Act (Cap. 18)  The Hindu Marriage and Divorce Act (Cap. 157)

The Industrial  
Training  
(Amendment)  
Act, 2011 (No.  
34 of 2011).

New

Insert the following new section immediately after section 40 –

Interpretation. **41.** Notwithstanding any other provision of this Act, the expression “Cabinet Secretary” shall, until the first general elections under the Constitution, be construed to mean “Minister”.

S.6

Delete the expression “fifteen” appearing in new section 4H(5) and substitute therefor the expression “thirty– five”.