

SPECIAL ISSUE

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CONTENT

Act—	PAGE
The Statute Law (Miscellaneous Amendments) Act, 2020	213

**THE STATUTE LAW (MISCELLANEOUS
AMENDMENTS) ACT, 2020**

No. 20 of 2020

Date of Assent: 11th December, 2020

Date of Commencement: See Section 1

**AN ACT of Parliament to make various amendments to
statute law**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Statute Law (Miscellaneous Amendments) Act, 2020 and shall come in force upon assent. Short title.

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

SCHEDULE

<i>Written law</i>	<i>Provision</i>	<i>Amendment</i>
Interpretation and General Provisions Act (Cap. 2)	s. 3	Delete the definition of “armed forces” and substitute therefor the following— “Kenya Defence Forces” has the meaning assigned to it under the Kenya Defence Forces Act, 2012. Delete the proviso to the definition of “the Cabinet Secretary” and substitute therefor the following new proviso— “Provided that where there is no Cabinet Secretary assigned the responsibility for matters relating to the legal sector, the Attorney-General shall be responsible for the matter in question.”
The Records Disposal Act (Cap. 14)	s. (2) (1)	Insert the words “Employment and Labour Relations Court, Environment and Land Court”, immediately after the words “High Court”.

No. 20	<i>Statute Law (Miscellaneous Amendments)</i>	2020
The Penal Code (Cap. 63)	s. 52 (3) (b)	Delete the words “Commissioner of Police” and substitute therefor the word “Inspector-General”.
The Public Holidays Act (Cap. 109)	s. 3	Delete the word “Minister” and substitute therefor the expression “Cabinet Secretary”. Delete the word “district” and substitute therefor the word “sub-county”.
	Schedule	Delete the expression “Moi Day” and substitute therefor the expression “Utamaduni Day”.
The Firearms Act (Cap. 114)	s. 2	Delete the expression “Commissioner of Police” appearing in the definition of the expression “approved carrier” and substitute therefor the expression “Inspector-General”. Insert the following new definition in proper alphabetical sequence— “Inspector-General” means the Inspector-General of Police appointed under Article 245(2) of the Constitution.
	s. 27 (8)	Delete the expression “Commissioner of Police” and substitute therefor the expression “Inspector General”.
	s. 29 (3)	Delete the expression “Commissioner of Police” and substitute therefor the expression "Inspector-General”.
	s. 38 (1)	Delete the expression “Commissioner of Police” and substitute therefor the expression “Inspector-General”.

2020

*Statute Law (Miscellaneous Amendments)***No. 20**

- s. 38 (2) Delete the expression “Commissioner of Police” and substitute therefor the expression “Inspector-General”.
- s. 38 (3) Delete the expression “Commissioner of Police” and substitute therefor the expression “Inspector-General”.
- s. 38 (4) Delete the expression “Commissioner of Police” and substitute therefor the expression “Inspector-General”.
- s. 39 (2) Delete the expression “Commissioner of Police” and substitute therefor the expression “Inspector-General”.

The Official Secrets Act
(Cap. 187)

- s. 2 (1) Delete the words “of the first class” in the definition of “court”.

Insert the following new definitions in proper alphabetical sequence—

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to internal security”;

“data” means information recorded in a format in which it can be processed by equipment operating automatically in response to instructions given for that purpose, and includes representations of facts, information and concepts held in any removable storage medium;

“telecommunication apparatus” means apparatus constructed or adapted for use in transmitting anything which is transmissible by a telecommunication system or in conveying anything which is transmitted through such a system;

Delete the definition of “telegraph apparatus”.

- s. 6 Delete and substitute therefor the following new section—
- Production of data. **6.** (1) Where it appears to the Cabinet Secretary that it is in national interest to do so, the Cabinet Secretary may, apply to the High Court for an order, requiring any person who owns or controls any telecommunications apparatus used for the sending or receipt of any data to or from any place outside Kenya, to produce to the Cabinet Secretary or any person named in the order, the original or transcripts of all such data and all other documents relating to such data.
- (2) Any person who fails to comply with a request made under subsection (1) shall be guilty of an offence and liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.
- s. 10 (1) Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
- s. 10 (2) Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.

	s. 19 (1)	Delete the expression “Attorney-General” and substitute therefor the expression “Director of Public Prosecutions”.
The Kenya Roads Board Act, 1999 (No. 7 of 1999)	s.7(1)(b)	Delete the words “Executive Director” and substitute therefor the words “Director General”.
	s.12	Delete the words “Executive Director” wherever it appears and substitute therefor the words “Director General”.
		Insert the following new subsection immediately after subsection (3) —
		“(4) The Director General shall hold office for a period of five years and shall be eligible for re-appointment for one further term of five years.”
	s.26(1)	Delete the words “Executive Director” and substitute therefor the words “Director General”.
	s.28	Delete the words “Executive Director” and substitute therefor the words “Director General”.
	s.29	Delete the words “Executive Director” and substitute therefor the words “Director General”.
	Second Schedule, paragraph 3	Delete subparagraph (1) and substitute therefor the following new subparagraph—
		“(1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting, at such place or places in Kenya and at such time or times as the chairman may determine.”

paragraph 5(1) Delete the words “Executive Director” and substitute therefor the words “Director-General”.

The Statistics Act, 2006 (No. 4 of 2006)

s. 23

Delete subsections (3) and (4) and substitute therefor the following new subsections—

“(3) The Director-General may, with the approval of the Board, cause any official statistical data collected, analysed and disseminated by the Bureau to be cancelled, revised or adjusted where such data is found not to be accurate:

Provided that where such data relates to the size of the population, the Board shall inform the Cabinet Secretary accordingly and the Cabinet Secretary shall seek the approval of the full Cabinet to make the desired cancellation, revision or adjustment.

“(4) The Cabinet Secretary shall, within fourteen days of receiving approval under subsection (3), publish the official data which is cancelled, revised or adjusted, in the *Gazette*.”

The Employment Act, 2007 (No. 11 of 2007)

s. 2

Delete the definition of the expressions “employee contribution”, and “National Housing Development Fund”.

s. 3 (2)

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

“(a) the Kenya Defence Forces or the reserve as respectively defined in the Kenya Defence Forces Act, 2012.”

Insert the following new paragraph immediately after paragraph (b)—

“(ba) the Kenya Coast Guard Service.”

	s. 31A	Delete.
The Accountants Act, 2008 (No. 15 of 2008)	s. 4 (2)	<p>Insert the following new paragraph immediately after paragraph (c)—</p> <p>“(ca) trainee accountant members being—</p> <p>(i) persons registered under section 17(2A) by the Examinations Board and who are undertaking professional accountancy education or training; and</p> <p>(ii) persons practising accountancy as part of the initial professional development towards qualification as an accountant.”</p>
	s. 4	<p>Insert the following new subsection immediately after subsection (4)—</p> <p>“(5) Membership of the Institute under subsection (2) (ca) shall be for such period as the Cabinet Secretary may prescribe, after which the member shall apply for membership under paragraph (b) or (c) of that section.”</p>
	s. 17(2A)	<p>Delete and substitute therefor the following new subsection—</p> <p>“(2A). A person seeking to undertake examinations in accountancy as prescribed by the Examination Board shall be registered with the Board, and with the Institute as a trainee accountant:</p> <p>Provided that the person shall not be required to pay the Institute any fee for the registration as a</p>

		trainee accountant, if the person is not employed.”
The Judicial Service Act, 2011 (No. 1 of 2011)	s. 7	Delete the words “two years” and substitute therefor the words “one year”.
The Kenya National Commission on Human Rights Act, 2011 (No.14 of 2011)	s.11(2)	Delete paragraph (ii). Delete paragraph (iii) and substitute therefor the following new paragraph— “(iii) the Office of the Attorney-General.”
The Employment and Labour Relations Court Act, 2011 (No. 20 of 2011)	s. 27	Insert the following new paragraph immediately after paragraph (c)— “(ca) delegating judicial, quasi-judicial and non-judicial duties to the Registrar.”
The Ethics and Anti-Corruption Commission Act, 2011 (No. 22 of 2011)	s. 11(1)(j)	Insert the words “including proceedings for the recovery of property or proceeds of corruption located outside Kenya” immediately after the word “measures”.
The National Police Service Commission Act, 2011 (No. 30 of 2011)	s. 10 (2)	Delete the word “concerned”.
The Public Appointments (Parliamentary Approval) Act, 2011 (No. 33 of 2011)	s. 8(1)	Delete the word “fourteen” and substitute therefor the word “twenty-eight”.
The Universities Act, 2012 (No. 42 of 2012)	s. 24	Insert the following new subsections immediately after subsection 2— “(3) Despite subsection (1), the

President may, on the recommendation of the Commission through the Cabinet Secretary, and on the advice of the National Security Council, establish a specialized degree awarding institution specializing in national security issues.

(4) The provisions of Part V of this Act shall apply to an institution established under this section with such modifications as may, with the approval of the Cabinet Secretary and the Commission, be specified in the respective Charter.

(5) A Charter granted to an institution established under this section shall stipulate the conditions under which the institution shall operate, and a clearly defined mandate with regard to specified academic programmes.”

The Kenya Law Reform Commission Act, 2013 (No. 19 of 2013)	s. 8 (1) (b)	Delete and substitute therefor the following new paragraph— (b) one member appointed by the Attorney-General through an open and competitive process.
	s.8(1)(c)	Delete and substitute therefor the following new paragraph— (c) a representative of the Law Society of Kenya who shall be an advocate of the High Court of Kenya.
	s. 8 (3)	Delete and substitute therefor the following new subsection— “(3) the representatives of the Attorney-General, the Director of Public Prosecutions and the Chief Justice appointed under sub-section (1) (ca), (d) and (e) respectively shall be <i>ex-officio</i> members of the Commission.”
	s. 9 (2)	Insert the words “other than an <i>ex-</i>

- officio* member” immediately after the word “Commission”.
- s.12 (2) Insert the words “other than an *ex officio* member” immediately after the word “Commission”.
- The Investment and Financial Analysts Act, 2015 (No. 13 of 2015) s. 18(1)(e) Delete the word “public”.
- Delete the phrase “a securities and investment” and substituting therefor the phrase “investment (including securities) and financial”.
- s. 20 Insert the following new subsections immediately after subsection (1) —
- “(1A) A person shall not become a Chief Investment Officer, or head of an investment department or function in a firm investing public funds, or a firm in the practice of investment and financial analysis, unless the person is registered as a certified investment and financial analyst and holds a practising certificate and an annual licence issued by the Registration Committee.”
- “(1B) A person shall not perform verification, certification and advice of investment of funds in public entity, or a firm in the practice of investment and financial analysis, unless the person is registered as a certified investment and financial analyst and holds a practising certificate and an annual licence issued by the Registration Committee.
- “(1C) A person shall not verify investment returns declared by a firm investing public funds, or a firm in the practice of investment and financial analysis, unless the person is registered as a certified investment and financial analyst and holds a practising

2020	<i>Statute Law (Miscellaneous Amendments)</i>	No. 20
		certificate and an annual licence issued by the Registration Committee”.
	s. 32	Insert the following new subsection immediately after subsection (a)— “(aa) money appropriated by the National Assembly.”
	s. 34	Insert the following new subsection immediately after subsection (4) — “(4A) The accounts of the Institute relating to monies appropriated by the National Assembly shall be audited in accordance with the Public Audit Act, 2015.”
The Witness Protection Act, 2016 (No. 16 of 2016)	s. 3J	Delete subsection (4).
	s. 3K (2)	Delete the expression “No. 12 of 2003” and substitute therefor the expression “No. 34 of 2015”.
	s. 3K (2)	Insert the following new subsection immediately after subsection (3)— “(4) The legislative and regulatory provisions on classified procurement and disposal of assets shall apply <i>mutatis mutandis</i> to the Agency.”
The Kenya Coast Guard Service Act, 2018 (No. 11 of 2018)	s. 2	Insert the following new definition in proper alphabetical sequence— “para-military organizations” includes the Kenya Wildlife Service and the Kenya Forest Service.
	s. 6 (2) (a)	Insert the words “para-military organizations” immediately after the words “national security organs”.

- s. 7 Insert the following new subsection immediately after subsection (3)—
- “(3A) The Cabinet Secretary may by notice in the *Gazette* and with the approval of the Council, amend the ranks specified in the First Schedule.”
- s. 13 (2) Insert the following new paragraphs immediately after paragraph (f)—
- “(fa) the Principal Secretary in the Ministry responsible for matters relating to immigration and citizenship;
- (fb) the Principal Secretary in the Ministry responsible for matters relating to shipping and maritime affairs;
- (fc) the Director-General of the Kenya Fisheries Services;
- (fd) the Director-General of the Kenya Wildlife Service.”
- s. 14 (2) Insert the words “report to the Council and” immediately after the words “the Technical Committee shall”.
- Part II of the First Schedule Delete the expression “Chief Warrant Officer Grade I” and substitute therefor the expression “Warrant Officer I”.
- Delete the expression “Chief Warrant Officer Grade II” and substitute therefor the expression “Warrant Officer II”.
- Delete the expression “Senior Warrant Officer” and substitute therefor the expression “Senior Sergeant”.