

NATIONAL COUNCIL FOR  
LAW REPORTING  
LIBRARY

SPECIAL ISSUE

Kenya Gazette Supplement No. 165 (National Assembly Bills No. 58)



REPUBLIC OF KENYA

# ***KENYA GAZETTE SUPPLEMENT***

**NATIONAL ASSEMBLY BILLS, 2015**

---

---

**NAIROBI, 18th September, 2015**

---

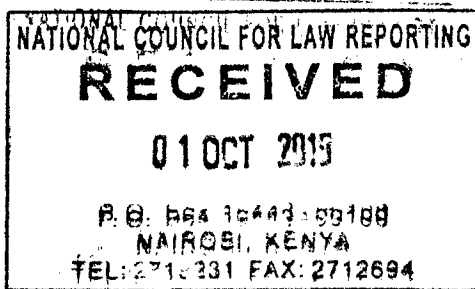
---

CONTENT

Bill for Introduction into the National Assembly—

PAGE

The Statute Law (Miscellaneous Amendments) (No. 2) Bill, 2015..... 3229



**THE STATUTE LAW (MISCELLANEOUS  
AMENDMENTS) (NO. 2) BILL, 2015**

**A Bill for**

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

**ENACTED** by the Parliament of Kenya, as follows—

**1.** This Act may be cited as the Statute Law (Miscellaneous Amendments) (No. 2) Act, 2015.

Short title.

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

Amendment of  
written laws.

**SCHEDULE**

(s. 2)

<i>Written law</i>	<i>Provision</i>	<i>Amendment</i>
The Industrial Training Act (Cap. 237).	s. 4(e) (i)	Delete the words “Kenya Federation of Employers” and substitute therefor the words “federation most representative of employers” organisations”.
	s. 4(e) (ii)	Delete the words “Central Organisation of Trade Unions” and substitute therefor the words “federation most representative of trade unions”.
The National Hospital Insurance Fund Act, 1998 (No. 9 of 1998).	5.4(1)	Insert the following new paragraph immediately after paragraph (j)—  (k) five persons appointed by the Cabinet Secretary by virtue of their knowledge and experience in matters related to finance, actuarial science or general or strategic management.
The Copyright Act, 2001 (No. 12 of 2001).	S.30(8)	Insert the words “and the compensation shall be collected by the Board and distributed to the respective copyright

- collecting society registered under section 46” at the end thereof.
- The Kenya Institute of Curriculum Development Act, 2013. (No. 4 of 2013).
- s.5 Insert the following new sub-section immediately after section (2)—
- (2A) The members of the Council contemplated in sub-section (2)(f), (g), (h) and (i) shall be appointed by the Cabinet Secretary in writing by notice in the Gazette.
- Delete subsection (3)
- s.7 Insert the words “if the chairman or” immediately before the word “member” appearing in paragraph (a).
- Delete subsection (2).
- s.8 Delete.
- First Schedule. Delete.
- The Kenya Law Reform Commission Act 2013 (No. 19 of 2013)
- s.8(1) Delete and substitute therefor the following new subsection—
- (1) The Commission shall consist of-
- (a) a Chairperson appointed by the President;
- (b) two members of opposite gender appointed by the Cabinet Secretary responsible for matters relating to justice;
- (c) one member, being an advocate of the status of Senior Counsel nominated by the Law Society of Kenya;
- (d) one member, being an advocate of the status of Senior Counsel and with relevant experience in devolution laws, nominated by the Council of Governors;

- (e) two representatives of opposite gender of the Attorney-General appointed in writing;
- (f) one representative of the Director of Public Prosecutions appointed in writing; and
- (g) one member, being a judge of the Court of Appeal, appointed in writing to represent the Chief Justice.

## **MEMORANDUM OF OBJECTS AND REASONS**

The Statute Law (Miscellaneous Amendments) Bill, 2015 is in keeping with the practice of making minor amendments which do not merit the publication of a separate Bill.

The Bill contains amendments to the following laws—

### **The Industrial Training Act (Cap. 237).**

The Bill seeks to amend the Industrial Training Act to empower the Cabinet Secretary to nominate a member of the most representative federation of employer's organization and the most representative Federation of trade unions to the Board of the Industrial Training Authority.

### **The National Hospital Insurance Fund Act (No. 9 of 1988).**

The Bill seeks to amend the Act to enable the Cabinet Secretary to set criteria for appointment of Members of the Board of the National Hospital Insurance Fund.

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

The Bill proposes to amend the Copyright Act, 2001 to provide for structured compensation of performers and producers of sound recordings for private copying of works in line with international norms and practices.

### **The Kenya Institute of Curriculum Development Act, 2013 (No. 4 of 2013).**

The Bill seeks to amend the Kenya Institute of Curriculum Development Act to provide for some members of the Board to be appointed by the Cabinet Secretary and to remove the procedure of appointment set out in the First Schedule to the Act. The Bill further seeks to amend the Act to provide for the resignation of the Chairperson of the Board and replacement of the Chairperson by the Cabinet Secretary.

### **The Kenya Law Reform Commission Act, 2013 (No. 19 of 2013).**

The Bill seeks to amend the Kenya Law Reform Commission Act to harmonise the provisions on the membership of the Commission.

This Bill is a Bill concerning county government and its enactment shall not occasion any additional expenditure of public funds.

Dated the 18th September, 2015.

**ADEN DUALE,**  
*Leader of the Majority Party.*

*Section 4 of Cap 237 which it is proposed to amend—*

4. (1) (1) There shall be a Board to be known as the National Industrial Training Board which shall consist of—

- (e) members nominated as follows and appointed by the Cabinet Secretary—
  - (i) three persons nominated by the Federation of Kenya Employers; and
  - (ii) three persons nominated by the Central Organisation of Trade Unions; and

*Section 4(1) of No. 9 of 1998 which it is proposed to amend—*

4. (1) There shall be established a Board to be known as the National Hospital Insurance Fund Board of Management which shall consist of—

Establishment of Board.

- (a) a chairman to be appointed by the President by virtue of his knowledge and experience in matters relating to insurance, financial management, economics, health or business administration;
- (b) the Permanent Secretary in the Ministry for the time being responsible for matters relating to Health or his representative;
- (c) the Permanent Secretary to the Treasury or his representative;
- (d) the Permanent Secretary/Director of Personnel Management or his representative; the Director of Medical Services;
- (f) one person nominated by the Federation of Kenya Employers;
- (g) one person nominated by the Central Organisation of Trade Unions;
- (h) one person nominated by the Kenya National Union of Teachers;
- (i) one person nominated by the Kenya National Farmers Union;
- (j) two members appointed by the Minister as follows—
  - (i) one person nominated by the Association of Kenya Insurers;

- (ii) one person nominated by non-profit making health-care providers;
- (k) the chairman of the Kenya Medical Association; and
- (l) one member representing non-governmental organisations involved in the provision of health care services, nominated by the Non-Governmental Organisations Council established under the Non-Governmental Organisations Co-ordination Act, 1990.

*Section 30 (8) of No. 21 of 2001 which it is proposed to amend—*

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

*Section 2 of No. 42 of 2012 which it is proposed to amend—*

“foreign university” means a university established outside Kenya, which intends to offer university education in Kenya;

*Section 5 of No. 42 of 2012 which it is proposed to amend—*

5. (1) The functions of the Commission shall be to—
- (a) promote the objectives of university education;
  - (b) advise the Cabinet Secretary on policy relating to university education;
  - (c) promote, set standards and assure relevance in the quality of university education;
  - (d) monitor and evaluate the state of university education systems in relation to the national development goals;
  - (e) licence any student recruitment agencies operating in Kenya and any activities by foreign institutions;
  - (f) develop policy for criteria and requirements for admission to universities;
  - (g) recognize and equate degrees, diplomas and certificates conferred or awarded by foreign

Functions of the Commission.

universities and institutions in accordance with the standards and guidelines set by the Commission from time to time;

- (h) undertake or cause to be undertaken, regular inspections, monitoring and evaluation of universities to ensure compliance with set standards and guidelines;
- (i) collect, disseminate and maintain data on university education;
- (j) accredit universities in Kenya;
- (k) regulate university education in Kenya;
- (l) accredit and inspect university programme in Kenya;
- (m) promote quality research and innovation; and
- (n) perform such other functions and exercise such other powers as the Commission may deem necessary for the proper discharge of its mandate under this Act.

(3) For the avoidance of doubt, save as may be provided for under any other written law, the Commission shall be the only body with the power to perform the functions set out in this section.

*Section 20(1) of No. 42 of 2012 which it is proposed to amend—*

**20.** (1) A university granted a Charter in accordance with section 19—

Effect of a Charter.

- (a) shall be a body corporate, and as such shall continue the activities of the university as undertaken under the Letter of Interim Authority, including the employment of staff, except where activity is expressly altered under the Charter;
- (b) shall mobilize academic resources;
- (c) may develop and mount its new academic programmes subject to review by the Commission in accordance with the provisions of this Act;
- (d) may establish campuses and constituent colleges which must conform to standards established by regulations made under this Act; and

(e) may award degrees, including honorary degrees.

*Section 35 of No. 42 of 2012 which it is proposed to amend—*

**35.** (2) Notwithstanding the generality of the provisions of subsection (1), the Council of a private university shall be appointed in accordance with provisions of the Charter, and such a university may, with the approval of the Commission, establish additional governance organs, including a Board of Trustees or its equivalent, as the sponsor may deem appropriate.

Governing organs of a university.

(3) A Board of Trustees established pursuant to subsection (2) or the sponsor of a private university shall, in addition to any other functions set out in the charter of the university—

- (a) appoint members of the University Council;
- (b) raise funds for the benefit of the university;
- (c) promote the objects of the university; and
- (d) appoint the university Chancellor.

*Section 51A of No. 42 of 2012 which it is proposed to amend—*

**51A.** (1) A private university granted a charter may enter into a financing arrangement with any person or institution upon such terms and conditions as may be set out in the arrangement, for the purpose of financing the objectives for which the university is established.

Financing arrangements

(2) without prejudice to the generality of subsection (1) the finance arrangement may set out—

- (a) the rights and obligations of each party to the arrangement;
- (b) the sharing of assets or liabilities arising from the arrangement;
- (c) the manner of termination of such arrangement;
- (d) such other matters as may be necessary under the law under which the arrangement is made.

*Section 2 of No. 45 of 2012 which it is proposed to amend—*

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

*Section 5(3) of No. 4 of 2013 which it is proposed to amend—*

5. (3) The chairperson and members of the Council shall be appointed in accordance with the procedure set out in the First Schedule.

*Section 7 of No. 4 of 2013 which it is proposed to amend—*

7. (1) The office of the chairperson or a member of the Council, other than an ex officio member, shall become vacant—

Vacancy in office.

- (a) if the member resigns by giving notice in writing to the Cabinet Secretary, which notice shall take effect on the date specified therein, and, where no date is specified, on the date of receipt of the notice by the Cabinet Secretary, as the case may be;
- (2) Where the office of the chairperson or a member of the Council becomes vacant, the Cabinet Secretary may appoint another person to replace the person vacating office following the procedure specified in section 8.

*Section 8 of No. 4 of 2013 which it is proposed to amend—*

8. Where a vacancy occurs in the membership of the Council, the Cabinet Secretary shall, within fourteen days of notification of the vacancy, convene a selection panel for purpose of selecting a suitable person to fill the vacancy.

Filling of vacancy.

*First Schedule of No. 4 of 2013 which it is proposed to amend—*

#### **PROCEDURE OF APPOINTMENT OF CHAIRPERSON OR MEMBER OF THE COUNCIL**

(1) The Cabinet Secretary shall, within fourteen days after the commencement of this Act and whenever it becomes necessary to appoint new members of the Council, as contemplated under section 8, request the Public Service Commission to constitute a selection panel comprising—

- (a) one representative of the Ministry responsible for education;
- (b) one representative of the Public Service Commission;

(c) three persons with proven business experience who meet the requirements of Chapter Six of the Constitution.

(2) The Public Service Commission shall—

(a) convene the first meeting of the selection panel, at which the members of the selection panel shall elect a chairperson from among themselves; and

(b) provide the selection panel with such facilities and other support as it may require for the discharge of its functions.

(3) Subject to this Act, the selection panel shall, within seven days of convening, by advertisement in the media, invite applications from persons who qualify for nomination and appointment for the position of chairperson and members.

(4) The selection panel shall—

(a) consider the applications received under subsection (3) to determine their compliance with the provisions of the Constitution and this Act;

(b) short list the applicants;

(c) publish the names of the short listed applicants and the qualified applicants in the media;

(d) conduct interviews of the short listed persons;

(e) shortlist three qualified applicants for the position of chairperson;

(f) shortlist double the number of required members qualified applicants for the position of the members; and

(g) forward the names of the qualified persons to the Cabinet Secretary.

(5) The Cabinet Secretary shall, within fourteen days of receipt of the names forwarded under subsection (4)(g), appoint the chairperson and members of the Council from among the successful applicants.

(6) In nominating and appointing persons as chairperson and members of the Council, the selection panel and the Cabinet Secretary shall ensure that the Board

reflects the regional and ethnic diversity of the people of Kenya and that not more than two-thirds of the members are of the same gender.

(7) The selection panel may, subject to this section, determine its own procedure for the conduct of meetings and business affairs.

(8) The selection panel shall stand dissolved upon the appointment of the chairperson and members under paragraph (6).

(9) Despite the foregoing provisions, the Cabinet Secretary may, by notice in the Gazette, extend the period specified in respect of any matter under this section by a period not exceeding twenty-one days.

*Section 8(1) of No. 19 of 2013 which it is proposed to amend—*

8. (1) The Commission shall consist of—

Composition of the  
Commission.

- (a) a chairperson appointed by the President through an open and competitive process;
- (b) two members appointed by the Cabinet Secretary through an open and competitive process;
- (c) two members appointed by the Attorney-General;
- (d) a representative of the Attorney-General appointed in writing; and
- (e) a representative of the Cabinet Secretary appointed in writing.

