

SPECIAL ISSUE

Rispah Smiyu
12/12/09

Kenya Gazette Supplement No. 82 (Acts No. 8)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

ACTS, 2009

NAIROBI, 23rd December, 2009

CONTENT

Act—

PAGE

The Finance Act, 2009 577

THE FINANCE ACT**No. 8 of 2009***Date of Assent: 22nd December, 2009**Date of Commencement: See Section I*

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

ENACTED by the Parliament of Kenya, as follows –

PART I – PRELIMINARY

1. This Act may be cited as the Finance Act, 2009 and shall come into operation, or be deemed to have come into operation, as follows–

Short title and commencement.

- (a) sections 2, 4, 5, 6(a), 6(b), 6(e), 7, 8, 10, 11, 12, 13, 14, 15, 16, 18, 19, 21, 22(a), 22(c), 22(d), 23, 24, 25, 26, 27, 28, 30(a) and 65, on the 12th June 2009;
- (b) section 66, on the 1st July 2009;
- (c) sections 6(c), 6(d) and 14(a)(ii) on the 26th November, 2009;
- (d) sections 3, 9, 17, 20, 22(b), 29, 30(b), 30(c), 30A, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 67, 68, 69, 70, 71, 72, 73, 74 and 75, on the 1st January, 2010.

PART II – CUSTOMS AND EXCISE

Amendment of
section 90 of
Cap.472.

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

(a) in subsection (2), by deleting the words “industrial use” appearing in paragraph (b) and substituting therefor the words “packing and packaging”;

(b) by inserting a new subsection immediately after subsection (2) as follows -

(2A): The licences required under subsection (2) shall be valid for a renewable period of one year.

Amendment of
section 91A of
Cap.472.

3. Section 91A of the Customs and Excise Act is amended in subsection (1) by deleting the words “two hundred millilitres or less” and substituting therefor the words “less than two hundred and fifty millilitres”.

Repeal of
section 126A of
Cap. 472.

4. The Customs and Excise Act is amended by repealing section 126A.

Amendment of
Fourth
Schedule to
Cap. 472.

5. The Fourth Schedule to the Customs and Excise Act is amended by renumbering the existing Fourth Schedule as Part I and inserting a new Part II as follows-

PART II

“Part I shall not apply to exports to Export Processing Zones”.

6. The Fifth Schedule to the Customs and Excise Act is amended -

Amendment of
Fifth Schedule
to Cap. 472.

- (a) in the manner specified in paragraph 1 of the First Schedule to this Act;
- (b) in the manner specified in paragraph 2 of the First Schedule to this Act;
- (c) in the manner specified in paragraph 2A of the First Schedule to this Act;
- (d) in the manner specified in paragraph 2B of the First Schedule to this Act;
- (e) in the manner specified in paragraph 3 of the First Schedule to this Act.

PART III - VALUE ADDED TAX

7. Section 2 of the Value Added Tax Act is amended by inserting the following new definition in proper alphabetical sequence -

Amendment of
section 2 of
Cap. 476.

“transit goods” means goods imported from a foreign place, through the territory of Kenya, to a foreign destination.

8. Section 9 of the Value Added Tax Act is amended in subsection (1) by deleting subparagraph (c)(ii) and substituting therefor the following new subparagraph -

Amendment of
section 9 of
Cap. 476.

(ii) the amount of duty of customs, if any, paid on those goods.

Amendment of
section 12 of
Cap. 476.

9. Section 12 of the Value Added Tax Act is amended in subsection (1) by deleting the words "thirty days" and substituting therefor the words "three months".

Amendment of
section 19A of
Cap. 476.

10. Section 19A of the Value Added Tax Act is amended by inserting a new subsection immediately after subsection (2) as follows -

(2A) A person withholding tax under subsection (2) shall issue a withholding tax certificate to the supplier at the time of making the payment for the supplies.

Amendment of
section 23 of
Cap.476

11. Section 23 of the Value Added Tax Act is amended in subsection (3) by deleting paragraph (b) and substituting therefor the following new subsection -

(b) taxable goods for emergency relief purposes for use in specific areas and within a specified period, imported or purchased locally by the Government or its approved agent, a non-governmental organization or a relief agency authorized by the Minister responsible for disaster management, where -

- (i) the goods are for use in areas where a natural disaster or calamity has occurred in Kenya; or
- (ii) the goods are intended for use in officially recognized refugee camps in Kenya;
- (iii) the goods are household utensils, food stuffs, materials for provision of shelter or equipment and materials for health, sanitary or educational purposes; and,

- (iv) in the case of a natural disaster or calamity, the importation or purchase locally is made within six months or such further period, not exceeding twelve months, as the Commissioner may permit in each case:

Provided that the goods imported or purchased under this paragraph shall be of such quantities and subject to such limitations as the Commissioner may impose.

12. The Second Schedule to the Value Added Tax Act is amended by inserting the following tariff number and description in proper numerical order -

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

<i>Tariff No.</i>	<i>Tariff Description.</i>
8517.12.00	Telephones for cellular networks or for other wireless networks.

13. The Third Schedule to the Value Added Tax Act is amended -

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

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

1. The following financial services -

- (a) the operation of current, deposit or savings accounts, including the provision of account statements;

- (b) the issue, transfer, receipt or any other dealing with money, including money transfer services, and accepting over the counter payments of household bills, but excluding the services of carriage of cash, restocking of cash machines, sorting or counting of money;
- (c) issuing of credit and debit cards;
- (d) automated teller machine transactions, excluding the supply of automated teller machines and the software to run it;
- (e) telegraphic money transfer services;
- (f) foreign exchange transactions, including the supply of foreign drafts and international money orders;
- (g) cheque handling, processing, clearing and settlement, including special clearance or cancellation of cheques;
- (h) the making of any advances or the granting of any credit;

- (i) issuance of securities for money, including bills of exchange, promissory notes, money and postal orders;
- (j) the provision of guarantees, letters of credit and acceptance and other forms of documentary credit;
- (k) the issue, transfer, receipt or any other dealing with bonds, debentures, treasury bills and other forms of security or secondary security;
- (l) the assignment of a debt for consideration;
- (m) the management of a unit trust or collective investment scheme registered by the Capital Markets Authority and managed by the trustees of the scheme;
- (n) credit rating bureau services provided by a credit agency registered by the Capital Market Authority;
- (o) the provision of the above financial services on behalf of another on a commission basis.

(b) in paragraph 10, by renumbering the existing provision as subparagraph (1) and inserting a new subparagraph as follows -

(2) Sale of buildings.

Amendment of
the Fifth
Schedule to
Cap. 476.

14. The Fifth Schedule to the Value Added Tax Act is amended -

(a) in Part A -

(i) in the manner set out in paragraphs 1, 2 and 3 of the Second Schedule to this Act;

(ii) in the manner set out in paragraph 4 of the Second Schedule to this Act.

(b) in Part B, in the manner specified in the Second Schedule to this Act;

(c) in Part C -

(i) by deleting the word "other" appearing at the beginning of item 9;

(ii) by inserting the words "parts of" at the beginning of item 17.

Amendment of
the Seventh
Schedule to
Cap. 476.

15. The Seventh Schedule to the Value Added Tax Act is amended -

(a) in paragraph 1, by deleting the words "or within fourteen days of the completion thereof" appearing in subparagraph (a);

- (b) in paragraph 10(1), by inserting the words "at the time of making the payments to the supplier" immediately after the word "Regulations" appearing in subparagraph (b).

PART IV – INCOME TAX

16. Section 2 of the Income Tax Act is amended -

Amendment of
section 2 of
Cap.470.

- (i) by inserting the following new definition in proper alphabetical sequence -

No.2 of 1998. "telecommunication operator" means a person licensed as such under the Kenya Information and Communications Act, 1998;

- (ii) by deleting the definition of "training fee" and substituting therefor the following new definition -

"training fee" means a payment made in respect of a business or user training services designed to improve the work practices and efficiency of an organization, and includes any payment in respect of incidental costs associated with the provision of such services.

17. Section 4 of the Income Tax Act is amended by inserting the following proviso at the end of paragraph (b) -

Amendment of
section 4 of
Cap.470.

“Provided that in computing the total income of a partnership, there shall be deducted the cost of medical expenses or medical insurance cover paid by the partnership for the benefit of any partner, subject to a limit of one million shillings per year.

Amendment of section 4A of Cap.470.

18. Section 4A of the Income Tax Act is amended in subsection (4) by inserting the following new definition immediately after the definition of “company” -

“all loans” shall have the meaning assigned in section 16(3).

Amendment of section 7A of Cap.470.

19. Section 7A of the Income Tax Act is amended by deleting subsection 3(c).

Amendment of section 8 of Cap.470.

20. Section 8 of the Income Tax Act is amended -

(a) in subsection (4), by deleting the words “one hundred and eighty thousand” and substituting therefor the words “three hundred thousand”;

(b) in subsection (5) by -

(i) deleting the words “four hundred and eighty thousand” appearing in paragraph (a) and substituting therefor the words “six hundred thousand”;

(ii) deleting the words “forty eight thousand” appearing in subparagraph (b)(i) and substituting therefor the words “sixty thousand”;

- (iii) deleting the words "four hundred and eighty thousand shillings" appearing in subparagraph (b)(ii) and substituting therefor the words "six hundred thousand";
- (iv) deleting the words "four hundred and eighty thousand shillings or the first forty-eight thousand shillings" appearing in subparagraph (c)(i) and substituting therefor the words "six hundred thousand shillings or the first sixty thousand shillings";
- (v) deleting the words "four hundred and eighty" appearing in paragraph (d) and substituting therefor the words "six hundred".

21. Section 10 of the Income Tax Act is amended in paragraph (d) by deleting the words "in Kenya".

Amendment of
section 10 of
Cap 470.

22. Section 15 of the Income Tax Act is amended-

Amendment of
section 15 of
Cap.470.

(a) in subsection (2) -

- (i) by deleting the words "but excluding the National Social Security Fund" appearing in paragraph (o);
- (ii) by inserting a new paragraph immediately after paragraph (x) as follows -

(y) expenditure of a capital nature incurred in the purchase or acquisition of an indefeasible right to use a fibre optic cable by a telecommunication operator, provided the amount of deduction shall be limited to five per cent per annum:

(b) in subsection (3), by inserting the following new paragraph immediately after paragraph (f) –

(g) in the case of a business which is a sole proprietorship, the cost of medical expenses or medical insurance cover incurred for the benefit of the proprietor, subject to a limit of one million shillings per year.

(c) in subsection (4) –

(i) by deleting the words “for the next succeeding year of income” appearing in the introductory portion and substituting therefor the words “for that year and the next four succeeding years of income”;

(ii) by deleting the words “subsequent years” appearing in paragraph (ii) of the proviso and substituting therefor the words “next succeeding four years”;

2009

(iii) by adding a new subparagraph in the proviso immediately after subparagraph (iii) as follows-

(iv) Any deficit incurred by a person as at 1st. January, 2010 shall be deemed to have been incurred in that year of income.

(d) by inserting the following new subsection immediately after subsection (4) -

(4A) Notwithstanding subsection (4), the Minister may, on the recommendation of the Commissioner, extend the period of deduction beyond five years where a person applies through the Commissioner for such extension, giving evidence of inability to extinguish the deficit within that period.

23. Section 16 of the Income Tax Act is amended by deleting subsection 2(i).

Amendment of
section 16 of
Cap.470.

24. Section 19 of the Income Tax Act is amended -

Amendment of
section 19 of
Cap.470.

(a) in subsection (5), by deleting paragraph (a) and substituting therefor the following new paragraph -

(a) the amount of actuarial surplus, as determined under the Insurance Act and recommended by the actuary to be transferred from the life fund for the benefit of shareholders;

- (b) in subsection (5A) by deleting the proviso and substituting therefor the following new proviso -

Provided that the amount of negative transfer shall be limited to the actuarial surplus recommended by the actuary to be transferred from the life fund for the benefit of shareholders in previous years of income.

- (c) in subsection (6), by deleting paragraph (a) and substituting therefor the following new paragraph -

(a) the same proportion of the amount of actuarial surplus recommended by the actuary to be transferred to the shareholders as the actuarial liability in respect of its long term insurance business in Kenya bears to the actuarial liability in respect of its total long term insurance business; and

- (d) in subsection (6A), by deleting the proviso and substituting therefor the following new proviso -

Provided that the amount of negative transfers shall be limited to the amount of actuarial surplus recommended by the actuary to be transferred from the life fund for the benefit of the shareholders in the previous years on income.

25. Section 35 of the Income Tax Act is amended in subsection (1), by deleting paragraph (a) and substituting therefor the following new paragraph -

Amendment of section 35 of Cap.470.

- (a) a management or professional fee or training fee except -
- (i) a commission paid to a non-resident agent in respect of flowers, fruits or vegetables exported from Kenya and auctioned in any market outside Kenya and audit fees for analysis of maximum residue limits paid to a non-resident laboratory or auditor; or
 - (ii) a commission paid by a resident air transport operator to a non-resident agent in order to secure tickets for international travel.

26. The Income Tax Act is amended by repealing section 39A.

Repeal of section 39A of Cap.470.

27. Section 72 of the Income Tax Act is amended in subsection (1), by deleting the words "for each period of twelve months or part thereof during which the failure continues" appearing in paragraph (a).

Amendment of section 72 of Cap.470.

28. The Income Tax Act is amended by inserting the following new section immediately after section 75 -

Insertion of section 75A in Cap 470.

Assessment in certain cases.

75A.(1) Notwithstanding any other provision of this Act, where the Commissioner has reason to believe that any tax payable by any person is at risk of non-payment -

- (a) due to the imminent departure of the person from Kenya; or
- (b) where the person, being a company, is about to be liquidated or otherwise wound up or cease business;

the Commissioner may, whether or not the due date for the payment of that tax has arrived, by notice in writing served on that person require that person to pay the tax within the time specified in the notice.

(2) Any person who fails to pay tax when required to do so under subsection (1) shall be guilty of an offence.

Amendment of
Second
Schedule to
Cap.470.

29. The Second Schedule to the Income Tax Act is amended –

(a) in paragraph 1 -

(i) by inserting the following new subparagraph immediately after subparagraph (1)(c)–

(cc) in a case referred to in paragraph 1(1)(a) for the year of income commencing on or after 1st January, 2010, ten per cent;

2009

- (ii) by inserting the following new subparagraph immediately after subparagraph (1)(d)–

“(dd) in a case referred to in paragraph 5(1)(e) for the year of income commencing on or after 1st January, 2010, fifty per cent.

- (iii) by inserting the following new subparagraph immediately after subparagraph (1)(e)–

“(ee) in a case referred to in paragraph 5(1)(f) or 5(1)(ff) for any year of income commencing on or after 1st January 2010, where roads, power, water sewer and other social infrastructure have been provided, twenty five per cent.

- (b) in paragraph 5, by deleting subparagraph (1)(e) and substituting therefor the following new subparagraph –

(e) a building in use as a hostel or an educational building, or a building in use for training, provided such building has been certified by the Commissioner for the purposes of this paragraph;

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

(ff) a building in use as a commercial building other than a building referred to in subparagraph (1)(f);

(d) in paragraph (7), by inserting the following new subparagraph immediately after subparagraph (3) -

(4) For telecommunication equipment purchased and used by a telecommunication operator, other than machinery specified under subparagraph (3)(d), the amount of wear and tear for a year of income shall be twenty per cent of the amount of expenditure incurred.

(e) in paragraph 24 -

(i) by inserting the following new subparagraphs immediately after subparagraph 1(e) -

(f) on the construction of a building or purchase and installation of machinery outside the City of Nairobi or the Municipalities of Mombasa or Kisumu whereof the value of the investment is not less than two hundred million shillings;

- (g) on the purchase of filming equipment by a local film producer licensed by the Minister responsible for matters relating to communication;
- (ii) by inserting the following new subparagraphs immediately after subparagraph (2)(b) -
- (c) in the case of an investment referred to in subparagraph (1) (f), be equal to one hundred and fifty percent of the capital expenditure;
- (d) in the case of the equipment referred to in subparagraph (1)(g), be equal to one hundred percent of the capital expenditure.
- (iii) by inserting the words "or the building or machinery referred to in subparagraph (f)" immediately after the expression "subparagraph (c)" appearing in subparagraph (1);
- (iv) in subparagraph (3)(e), by inserting the words "or the transformation and distribution of electricity through the national grid" immediately after the words "supply to the national grid" appearing in the definition of the word "manufacture".

(ee) in paragraph 26, by deleting the expression "paragraph 24(1)(a) or (c)" and substituting therefor the expression "paragraph 24(1) (a), (c) or (f);"

(f) by inserting new paragraphs immediately after paragraph 31 as follows-

31A. Where a person incurs capital expenditure under a concessionairing arrangement, the deduction shall be spread and claimed in equal portions over the period of the concession, provided that the period of the concession shall be deemed to commence in the year in which the machinery is first put into use.

31B. Subject to this Schedule, where a person incurs capital expenditure on the purchase or acquisition of the right to the use of a computer software, there shall be deducted, in computing his gains or profits for the year of income in which the software is first used and for subsequent years of income, an amount equal to one-fifth of that expenditure.

Amendment of
the Third
Schedule to
Cap.470.

30. The Third Schedule to the Income Tax Act is amended in paragraph 5 -

(a) by inserting a new subparagraph immediately after subparagraph (b)(ii) as follows –

(iii) bearer bonds with a maturity of ten years and above, ten percent of the gross amount payable.

(b) by deleting the words “and provided that tax has not been deducted under section 37” appearing in subparagraph (d)(i);

(c) by deleting the words “and provided that tax has not been deducted under section 37” appearing in subparagraph (d)(ii).

PART V – MISCELLANEOUS

30A. Section 2 of the National Assembly Remuneration Act is amended in subsection (2) – **Amendment of section 2 of Cap 5.**

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

(a) the persons for the time being holding the several offices specified in the first column of Part II of the First Schedule shall receive a sitting allowance at the rates respectively specified in the second column of that Schedule in respect of every meeting attended;

(b) by deleting the proviso.

No. 8

Amendment
of section 2 of
Cap. 27.

31. The Bills of Exchange Act is amended in section 2 by inserting the following new definitions in proper alphabetical sequence-

Cap. 488. "bank" has the meaning assigned in section 2 of the Banking Act;

Cap. 491. "Central Bank" means the Central Bank of Kenya established under section 3 of the Central Bank of Kenya Act;

"cheque truncation" means a system of cheque clearing and settlement between banks based on electronic data or images or both electronic data and images, without the conventional physical exchange of instruments;

"Minister" means the Minister for the time being responsible for matters relating to finance.

Amendment
of section 49
of Cap. 27.

32. Section 49 of the Bills of Exchange Act is amended by inserting the following new paragraph immediately after paragraph (f)-

(ff) where a cheque has been presented in accordance with section 74A, the presentment of an image return document, as defined under section 74B(5), to the drawer or endorser, shall be deemed to be sufficient notice of dishonor.

Amendment
of section 52
of Cap. 27.

33. Section 52 of the Bills of Exchange Act is amended by inserting the following subsection immediately after subsection (4)-

(5) Subsection (4) shall not apply in relation to-

- (a) presenting a cheque for payment under section 74A; or
- (b) a cheque which is paid following presentment under section 74A.

34. Section 74A of the Bills of Exchange Act is amended in subsection (6) by deleting the word "Authority" appearing in paragraph (b) and substituting therefor the words "Central Bank".

Amendment
of section
74A of Cap.
27.

35. Section 74B of the Bills of Exchange Act is amended in subsection (5) by deleting the words "rules of the clearing house" and substituting therefor the words "Central Bank under section 74C".

Amendment
of section 74B
of Cap. 27.

36. The Bills of Exchange Act is amended by inserting the following new section immediately after section 74 B-

Insertion of
section 74C
in Cap. 27.

Regulations. **74C.** The Central Bank may make such regulations as may be necessary or expedient for giving effect to the provisions of this Act in respect of any matter or thing relating to cheque truncation.

37. Kenya Airports Authority Act is amended by inserting the following new section immediately after section 17 -

Insertion of
sections 17A
and 17B in
Cap. 395.

Establishment of Fund. **17A.** There is established a Fund to be known as the Kenya Airports Authority Fund (hereinafter referred to as "the Fund").

Sources of Fund. **17B.** There shall be paid into the Fund -

Cap.475.

- (a) all proceeds from the charge collected under the Air Passenger Service Charge Act;
- (b) any monies appropriated by Parliament for the purposes of the Authority;
- (c) the rates, charges, dues, or fees levied by the Authority under this Act;
- (d) such sums as may be payable to the Authority pursuant to this Act or any other written law, or pursuant to any gift or trust; and
- (e) all moneys from any other sources provided for or donated or lent to the Authority.

Payments out of
the Fund.

17C. There shall be paid out of the Fund any expenditure incurred by the Authority in the exercise of its powers or the performance of its functions under this Act.

38. Section 6 of the Traffic Act is amended in subsection (1A) by deleting the proviso and substituting therefor the following new proviso – Amendment of section 6 of Cap.403.

Provided that a commercial vehicle which requires inspection shall be inspected and registered within thirty days of release by the customs.

39. Section 9 of the Traffic Act is amended –

Amendment of section 9 of Cap.403.

(a) by deleting subsection (2);

(b) in subsection (3), by deleting the expression “subsections (1) and (2)” and substituting therefor the expression “subsection (1)”;

(c) in subsection (5), by deleting the expression “subsection (1), (2) and (4)” and substituting therefor the expression “subsection (1) and (4)”.

40. Section 98 of the Traffic Act is amended in subsection (4) by deleting the words “two years” and substituting therefor the words “one year”. Amendment of section 98 of Cap.403.

41. Section 10 of the Insurance (Motor Vehicle Third Party Risks) Act is amended by deleting subsection (5). Amendment of section 10 of Cap 405.

42. The Air Passenger Service Charge Act is amended in section 2, by inserting the following new definition in proper alphabetical sequence – Amendment of section 2 of Cap 475.

Cap.469

“Kenya Revenue Authority” means the Authority by that name established under section 3 of the Kenya Revenue Authority Act.

Amendment
of section 5 of
Cap 475.

43. Section 5 of the Air Passenger Service Charge Act is amended -

- (a) in subsection (2), by deleting the word "Government" and substituting therefor the word "Commissioner";
- (b) in subsection (5), by deleting the word "Government" and substituting therefor the word "Commissioner".

Insertion of
new section
6A in
Cap.475.

44. The Air Passenger Service Charge Act is amended by inserting the following section immediately after section 6 -

Charge to be paid
into the Kenya
Airports Authority
Fund.

Cap. 395.

6A. The Commissioner shall pay the charge collected by him under this Act into the Kenya Airports Authority Fund established under the Kenya Airports Authority Act, after deducting the expenses of the Kenya Revenue Authority for the collection of the charge.

Amendment
of section 31
of Cap.485A.

45. Section 31 of the Capital Markets Act is amended in subsection (1) by deleting the words "trade in" appearing immediately after the words "dealer shall" and substituting therefor the words "transfer".

Amendment
of section 23
of Cap.487.

46. Section 23 of the Insurance Act is amended by inserting the following new subsections immediately after subsection (4) -

2009

(4A). No person shall -

- (a) control, or be beneficially entitled, directly or indirectly, to more than twenty-five per cent of the listed share capital or voting rights of an insurer; or
- (b) be entitled to appoint more than twenty-five per cent of the board of directors of an insurer; or
- (c) be entitled to receive more than twenty-five per cent of the aggregate dividends of an insurer in any given financial year:

Provided that this subsection shall not apply to -

- (i) a corporate entity licensed by an insurance, banking, pensions or securities regulator in Kenya; or
- (ii) a foreign corporate entity licensed by an insurance, banking, pensions or securities regulator in its country of origin; or
- (iii) the Government of Kenya;
- (iv) a state corporation within the meaning of the State Corporations Act.

Cap.446.

(4B) No person shall be appointed as an executive director, managing director, principal officer or other senior management official of an insurer if such person-

- (i) controls, or is beneficially entitled, directly or indirectly, to more than twenty per cent of the listed share capital or voting rights of the insurer; or
- (ii) is entitled to appoint more than twenty per cent of the Board of Directors of the insurer; or
- (iii) is entitled to receive more than twenty per cent of the aggregate dividends of the insurer in any given financial year.

(4C) A person who, at the commencement of subsections (4A) and (4B), holds any right, interest or office in an insurer contrary to the provisions of those subsections, shall comply with the requirements thereof by the 31st December, 2010.

Amendment
of section 41
of Cap.487

47. Section 41 of the Insurance Act is amended in subsection (8) by deleting the proviso and substituting therefor the following -

Provided that -

- (a) this subsection shall not apply to -

- (i) buildings and other real property owned by the insurer jointly with any organisation;
 - (ii) investments referred to in section 50(3);
 - (iii) cash held by banks on behalf of the insurer in current or savings accounts, or subject to section 50(4)(g), fixed deposits; and
- (b) investments of long term insurance business or a general insurance business in a company or a group of companies which is a bank or a financial institution, or a group of banks or financial institutions shall, pursuant to section 50(10), not exceed ten percent.

48. The Insurance Act is amended by inserting a new section immediately after section 76 as follows-

Insertion of section 76A in Cap 487.

Insurance cover upon change of ownership of motor vehicle.

76A. Upon change of ownership of a motor vehicle, an insurer shall -

- (a) only issue a temporary policy for a period not exceeding three months, pending the registration of the motor vehicle in the name of the new owner;

- (b) not renew the temporary cover or issue any new policy in respect of the motor vehicle, unless the new owner provides proof of the registration of the motor vehicle in his name by the Registrar of Motor Vehicles.

Amendment
of section 188
of Cap.487

49. Section 188 of the Insurance Act is amended in subsection (2) by deleting the expression "30th November" and substituting therefor the expression "30th September".

Amendment
of section 203
of Cap.487

50. Section 203 of the Insurance Act is amended in subsection (3) by deleting expression "(2)" appearing before the words "a penalty equal to" and substituting therefor expression "(1)".

Amendment
of the Second
Schedule to
Cap.487.

51. The First Schedule to the Insurance Act is amended in paragraph 3 by deleting the expression "(g)" appearing in subparagraph (3) and substituting therefor the expression "(h)".

Amendment
of section 2 of
Cap.488.

52. Section 2 of the Banking Act is amended -

- (a) by inserting the following new definition in proper alphabetical sequence -

"agency" means an entity contracted by an institution and approved by the Central Bank to provide the services of the institution on behalf of the institution, in such manner as may be prescribed by the Central Bank:

Provided that where such entity is a co-operative society, prior approval to provide the services shall be sought from the Sacco Societies Regulatory Authority established under the SACCO Societies Act, 2008.

No.14 of 2008.

- (b) in the definition of the word "bank" by deleting the words "and includes the Co-operative Bank of Kenya Limited";
- (c) in the definition of "branch", by inserting the word "permanent" immediately before the word "premises";
- (d) by inserting the following new definition in proper alphabetical sequence -

"place of business" means any premises, other than the head office, including a branch, an agency or a mobile unit, or such other premises as may, from time to time, be prescribed by the Central Bank, at which an institution transacts banking or financial business in Kenya and which is open to the public.

53. Section 3 of the Banking Act is amended in subsection (1) by inserting the words "or a duly approved agency conducting banking business on behalf of an institution" immediately after the word "institution" appearing in paragraph (a).

Amendment
of section 3 of
Cap.488.

54. Section 12 of the Banking Act is amended -

- (a) by deleting the words "in Kenya" appearing in the introductory portion;

Amendment
of section 12
of Cap.488.

(b) in paragraph (b) -

(i) by deleting subparagraph (ii) of the proviso and substituting therefor the following new subparagraph -

(ii) a shareholding in any corporation established for the purpose of promoting development on Kenya and approved by the Minister; or in a foreign company which is licensed to carry on the business of the institution in its country of incorporation and approved by the Central Bank;

(ii) by inserting a new subparagraph in the proviso immediately after paragraph (ii) as follows -

(iii) approval granted by the Central Bank shall be subject to such conditions as the Central Bank may deem appropriate.

**Amendment
of section 16
of Cap.488.**

55. Section 16 of the Banking Act is amended in subsection (1) by inserting the words "or a duly approved agency conducting banking business on behalf of an institution" immediately after the word "licence".

**Amendment
of section 20
of Cap.488.**

56. Section 20 of the Banking Act is amended -

(a) in subsection (1), by deleting the words "bad and doubtful debts" and substituting therefor the words "loans, advances and other assets";

- (b) in subsection (2), by deleting the words “bad and doubtful debts” wherever they occur and substituting therefor the words “loans, advances and other assets”.

57. Section 27 of the Banking Act is amended by inserting the words “or their duly authorised agencies” after the word “institutions” wherever it occurs.

Amendment
of section 27
of Cap.488.

58. Section 28 of the Banking Act is amended in subsection (1) by inserting the words “and their agencies” immediately after the word “institutions” wherever it occurs.

Amendment
of section 28
of Cap.488.

59. Section 31 of the Banking Act is amended in subsection (3) –

Amendment
of section 31
of Cap.488.

(a) by inserting the words “fiscal or tax agency, fraud investigations agency” immediately after the words “financial regulatory authority” appearing in paragraph (a);

(b) by inserting the following proviso at the end of paragraph (a) –

Provided that the sharing of information with institutions outside Kenya shall only apply where there is a reciprocal arrangement.

60. Section 32 of the Banking Act is amended in subsection (1), by deleting the words “institution and its” and substituting therefor the words “institution and its agencies and of their”.

Amendment
of section 32
of Cap.488.

61. Section 54 of the Banking Act is amended in paragraph (c) by deleting the words “other than the Co-operative Bank of Kenya”.

Amendment
of section 54
of Cap.488.

No. 8

Amendment
of section 26
of Cap.491.

62. Section 26 of the Central Bank of Kenya Act is amended by inserting the following proviso at the end of subsection (1) –

Provided that if, at any time, the Bank is unable to maintain the reserve of external assets required under this subsection, it shall provide the Minister with a time-bound remedial plan.

Repeal and
replacement
of section 33L
of Cap.491.

63. The Central Bank of Kenya Act is amended by repealing section 33L and replacing it with the following new section -

General penalty under
Part.

33L. A person convicted of an offence under this Part for which no other penalty is provided shall be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

Insertion of
section 56A
in Cap.491.

64. The Central Bank of Kenya Act is amended by inserting the following new section immediately after section 56 -

General Penalty.

56A. A person convicted of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

Amendment
of section 4 of
Cap. 493B.

65. The Kenya Post Office Savings Bank Act is amended in section 4 by inserting a new paragraph immediately after paragraph (f) as follows –

(ff) to deal in foreign exchange.

66. The Foreign Investment Protection Act is amended by inserting the following new section immediately after section 8A -

Insertion of
section 8B in
Cap.518.

Special
arrangement for
investment
promotion and
protection.

8B. (1) The Minister for Finance may, from time to time, by notice in the Gazette declare that the arrangement specified in the notice, being arrangements made with the Government of any country with a view to promoting and protecting the investments of that country in Kenya, shall have effect according to its tenor.

(2) A notice under this section may be amended or revoked by a subsequent notice and an amendment or revoking notice may contain such transitional provision or termination date as the Minister may consider necessary or expedient.

67. Section 2 of the Retirement Benefits Act is amended in the definition of the word "actuary" by deleting the words "recognized as such by" and substituting therefor the words "who is a Fellow of".

Amendment
of section 2 of
No. 3 of 1997.

68. Section 37 of the Retirement Benefits Act is amended in the proviso by deleting the expression "five million" and substituting therefor the expression "one hundred million".

Amendment
of section 37
of No. 3 of
1997.

69. Section 38 of the Retirement Benefits Act is amended in subsection (1) by adding the following immediately after paragraph (c) -

Amendment
of section 38
of No. 3 of
1997.

“or in the case of scheme funds which comprise any statutory contributions, be placed in any investment other than Government securities or infrastructure bonds issued by public institutions”.

Repeal and replacement of section 18 of No 9 of 2001.

70. The Coffee Act is amended by repealing section 18 and replacing it with the following new section -

Kinds of licences.

18. Licences under section 17 shall be of the following kinds -

- (a) a coffee dealers licence, authorizing the holder to-
 - (i) buy or deal in clean coffee produced in Kenya or to import clean coffee from outside Kenya, and to process, in Kenya for local sale or export, coffee of any country of origin; and
 - (ii) deal in roasting, blending and packaging coffee for local sale or export;
- (b) a coffee miller's licence authorizing the holder to conduct the business of milling;
- (c) a marketing agent's licence, authorizing the holder to conduct the business of marketing coffee and auctioneering;
- (d) a warehouseman's licence, authorizing the holder to conduct the business of warehousing coffee;

- (e) a pulping station licence, authorizing the holder to operate a pulping station.

71. Section 35 of the Persons with Disabilities Act, 2003 is amended by deleting subsection (2) and substituting therefor the following new subsection - Amendment of section 35 of 14 of 2003.

- (2) The Minister responsible for finance may, by notice in the Gazette, prescribe the procedure for application for and grant of exemption under this section.

72. Section 34 of the Microfinance Act is amended-

Amendment of Section 34 of No.19 of 2006.

- (a) by inserting the following new subsection immediately after subsection (3) -

(3A). The Deposit Protection Fund Board and institutions licensed under this Act shall, in the ordinary course of business and in such manner and to such extent as the Minister may, in regulations, prescribe, exchange such information on non performing loans as may, from time to time, be specified by the Central Bank in regulations.

- (b) in subsection (4) by inserting the word "other" immediately before the word "information".

73. Section 48 of the Microfinance Act is amended by inserting the following new subsection immediately after subsection (2) - Amendment of section 48 of No.19 of 2006.

(2A) The Central Bank may issue directions and guidelines to institutions generally for the better carrying out of their functions, and in particular, with respect to –

- (a) the standards to be adhered to in the conduct of their business in Kenya or in countries where their branches or subsidiaries are located;
- (b) guidelines to be adhered to by institutions in order to maintain a stable and efficient deposit taking microfinance system.

Amendment
to section 6 of
No. 7 of 1999.

74. Section 6 of the Kenya Roads Board Act, 1999 is amended in subsection (2)(d) –

- (a) by deleting the expression “twenty percent” appearing at the beginning of paragraph (i) and substituting therefor the expression “twenty-two percent, which shall be deposited into a special bank account to be called Constituency Roads Fund Account to be maintained by every Constituency;”
- (b) deleting the existing paragraph (ii) and substituting therefor the following –

“(ii) ten percent of the monies from the Fund is allocated for the maintenance or development of link roads between constituencies and to serve as Government counterpart funds in funding works on rural roads, to be administered by the Kenya rural Roads Authority and that the said percentum shall be equally distributed to the Constituencies where Kenya Rural Roads Authority has the mandate.

75. The Kenya Roads Board Act is amended by repealing Section 17 and replacing it with the following new sections -

Repeal and replacement of section 17 of Act No. 7 of 1999

Establishment, powers and functions of the Constituency roads Committee

17.(1) There is hereby established, for every constituency, a committee to be known as the Constituency Roads Committee.

(2) The Constituency Roads Committee shall comprise of -

- (a) four members from the respective Constituency Development Fund Committee;
- (b) the Member of Parliament for the Constituency;
- (c) a representative of the Kenya Rural Roads Authority in the region, who shall be the Secretary to the Committee;

- (d) a representative from the Ministry responsible for planning;
- (e) the respective District Commissioner or his representative; and
- (f) two members co-opted by the Committee to represent such special interests with regard to roads as the committee may determine from time to time, and who shall not have voting rights;

(3) The Constituency Roads Committee shall designate two of the members appointed under paragraph (a) of subsection (2) to be the Chairman and Vice Chairman of the Committee respectively, and any two members from subsection (2)(a) designated by the Committee and the Kenya Rural Roads Authority accountant shall be the signatories to the Constituency Roads Fund account established by the constituency.

(4) The function of the Constituency roads Committee shall be to advise the Kenya Rural Roads Authority on the formulation of the annual roads programme and the roads to be included therein.

(5) The Constituency Roads Committee shall meet at least four times a year, and a quorum shall comprise of the chairman or vice-chairman and four other members.

17A. (1) There is hereby established for every Constituency a committee to be known as the Constituency Roads Tender Committee.

Establishment, powers, and functions of the Constituency Roads Tender Committee.

(2) The Constituency Roads Tender Committee shall comprise of –

- (a) three representatives of the Constituency Development Fund Committee who are members of the Constituency Roads Committee;
- (b) a representative of the Kenya Rural Roads Authority in the Region;
- (c) the procurement officer of the Kenya Rural Roads Authority in the region, or his representative, who shall be the Secretary.

(3) The members of the Constituency Roads Tender Committee shall appoint two of the members referred to in paragraph (2)(a) to be chairman and vice-chairman of the Committee respectively:

Provided that the Chairman of the Constituency Roads Committee shall not be eligible to be appointed chairman or vice-chairman of the Constituency Roads Tender Committee.

(4) The functions of the Constituency Roads Tender Committee shall be to procure road works for the Constituency with funds allocated to the Constituency under this Act.

(5) The quorum shall be the Chairman and at least three other members of the Committee.

(S.5)

FIRST SCHEDULE

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

FIFTH SCHEDULE**PART I**

Delete the following tariff numbers, descriptions and rates of excise duty thereof -

<i>Sl No.</i>	<i>Goods Description.</i>	<i>Rate of Duty</i>
11.00	Frozen orange juice, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	10%
12.00	Orange juice not frozen, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter, of a brix value not exceeding 20.	10%
19.00	Other orange juice, unfermented and not containing added spirit, whether or not containing sugar or other sweetening matter.	10%
21.00	Grape fruit juice, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	10%
29.00	Other grape fruit juice, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	10%

First Schedule (Contd.)

No. 8

620

Finance

2009

Tariff No.	Goods Description.	Rate of Duty
009.31.00	Juice of any other single citrus fruit, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter of a brix value not exceeding 20.	10%
009.39.00	Other juice of any other single citrus fruit, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	10%
009.41.00	Pineapple juice, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter, of a brix value not exceeding 20.	10%
009.49.00	Other pineapple juice, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	10%
009.50.00	Tomato juice, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	10%
009.61.00	Grape juice (including grape must), unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter, of a brix value not exceeding 20.	10%
009.69.00	Grape juice (including grape must), unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	10%
009.71.00	Apple juice, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter, of a brix value not exceeding 20.	10%
009.79.00	Other apple juice, unfermented and not containing added spirit, whether or not containing	10%

First Schedule (Contd.)

Tariff No.	Goods Description.	Rate of Duty
	added sugar or other sweetening matter.	
2009.80.00	Juice of any other single fruit or vegetable, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	10%
2009.90.00	Mixtures of Juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter	10%
2106.90.70	Concentrated beverages rendered ready for consumption by simple dilution with water (e.g. syrups, cordials, squashes etc.)	10%
2201.10.00	Mineral waters including natural or artificial mineral and aerated waters, not containing added sugar or other sweetening matter nor flavoured	Shs.6 per litre 10%
2201.90.00	Ice and snow; other natural or artificial mineral waters and aerated water, not containing added sugar or the sweetening matter nor flavoured	Shs. 6 per litre or 10%
2202.10.00	Waters including Mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured	10%
2202.90.00	Other non- alcoholic beverages	10%
2712.10.00	Petroleum jelly	10%
3303.00.10	Perfumes and Toilet waters.	10%

<i>Tariff No.</i>	<i>Goods Description.</i>	<i>Rate of Duty</i>
3304.10.00	Lip make-up preparations	10%
3304.20.00	Eye make-up preparations	10%
3304.30.00	Manicure or pedicure preparations	10%
3304.91.00	Other powders, whether or not compressed	10%
3304.99.00	Other beauty or make up preparations and preparations for the care of the skin (other than medicaments), including sunscreen or sun tan preparations	10%
3305.10.00	Shampoos	10%
3305.20.00	Preparations for permanent waving or straightening of hair	10%
3305.30.00	Hair lacquers	10%
3305.90.00	Other preparations for the use on hair	10%
3307.10.00	Pre-shave, shaving or after-shave preparations	10%
3307.20.00	Personal deodorants and antiperspirants	10%
3307.30.00	Perfumed bath salts and other bath preparations	10%

First Schedule (Contd.)

2009

623
Finance

No. 8

Tariff No.	Goods Description.	Rate of Duty
3307.49.00	Other preparations for perfuming or deodorising rooms, including odouriferous preparations use during religious rites	10%
3307.90.00	Depilatories and other perfumed, cosmetic or toilet preparations, not elsewhere specified or included	10%
7101.10.00	Natural pearls	10%
7101.21.00	Cultured pearls, unworked	10%
7101.22.00	Cultured pearls, worked	10%
7102.10.00	Unsorted diamonds	10%
7102.31.00	Non-industrial diamonds, unworked or simply sawn, cleaved or bruted, but not mounted or set.	10%
7102.39.00	Non-industrial diamonds, worked, not mounted or set.	10%
7103.10.10	Tanzanite unworked or simply sawn, or roughly shaped.	10%
7103.10.20	Alexandrite unworked or simply sawn, or roughly shaped	10%

<i>Tariff No.</i>	<i>Goods Description.</i>	<i>Rate of Duty</i>
7103.10.90	Other precious stones, unworked or simply sawn, or roughly shaped	10%
7103.91.00	Rubies, sapphires and emeralds, otherwise worked.	10%
7103.99.10	Tanzanite, worked.	10%
7103.99.20	Alexandrite worked.	10%
7103.99.90	Other precious stones and semi-precious stones, (other than diamonds), otherwise worked.	10%
7104.10.00	Peizo-electric quartz being synthetic or reconstructed precious or semi precious stones.	10%
7104.20.00	Other unworked or simply sawn or roughly shaped synthetic or semi precious stones.	10%
7104.90.00	Other synthetic or reconstructed precious or semi precious stones, worked.	10%
7106.91.00	Unwrought silver including silver plated with gold or platinum.	10%
7106.92.00	Semi manufactured silver including silver plated with gold or platinum.	10%

First Schedule (Contd.)

2009

Tariff No.	Goods Description.	Rate of Duty
107.00.00	Base metals clad with silver, not further worked than semi manufactured.	10%
108.11.00	Non-monetary gold (including gold plated with platinum), in powder form.	10%
108.12.00	Other unwrought forms of gold, including gold plated with platinum, non-monetary.	10%
108.13.00	Other semi manufactured forms of gold, (including gold plated with platinum.	10%
109.00.00	Base metals, gold or silver, clad with gold, not further worked and semi manufactured.	10%
111.00.00	Base metals, gold or silver, clad with gold, not further worked than semi manufactured.	10%
112.30.00	Ash containing precious metal or precious metal compounds.	10%
113.11.00	Articles of Jewellery and parts thereof, of silver, whether or not plated or clad with other precious metals.	10%
113.19.00	Articles of Jewellery and parts thereof, of other precious metal, whether or not plated or clad with other precious metals.	10%
113.20.00	Articles of Jewellery and parts thereof, of base metal, whether or not plated or clad with	10%

First Schedule (Contd.)

Tariff No.	Goods Description.	Rate of Duty
	precious metals.	
7114.11.00	Articles of gold smiths' or silversmiths' wears and parts thereof, of silver, whether or not plated or clad with other precious metals.	10%
7114.19.00	Articles of gold smiths' or silversmiths' wears and parts thereof, of other precious metals, whether or not plated or clad with other precious metals.	10%
7114.20.00	Articles of gold smiths' or silversmiths' wears and parts thereof, of other base metal, clad with other precious metals.	10%
7115.90.00	Other articles of precious metal or of metal clad with other precious metal.	10%
7116.10.00	Articles of natural or cultured pearls.	10%
7116.20.00	Articles of precious or semi-precious stones (natural, synthetic or reconstructed).	10%
7117.11.00	Cuff links and studs, of base metal, whether or not plated with precious metal.	10%
7117.19.00	Other imitation jewellery or base metal, whether or not plated with precious metal.	10%

First Schedule (Contd.)

Tariff No.	Goods Description.	Rate of Duty
2204.21.00	Other wine; grape must with fermentation prevented or arrested by the addition of alcohol, in containers of 2 litres or less.	Shs.70 or 50% per litre
2204.29.00	Other wine, grape must with fermentation prevented or arrested by the addition of alcohol, or in containing of more than 2 litres	Shs.70 or 50% per litre
2204.30.00	Other grape must wine	Shs.70 or 50% per litre
2205.10.00	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances, in containers of 2 litres or less	Shs.70 or 50% per litre
2205.90.10	Vermouth and other wine of such fresh grapes flavoured with plants or aromatic substances, in containers of more than 2 litres	Shs.70 or 50% per litre
2206.00.10	Cider	Shs.54 per litre
2206.00.20	Opaque beer (eg Chibuku)	Shs.54 per litre
2206.00.90	Other fermented beverages, mixtures of fermented beverages and non-alcoholic beverage not elsewhere specified or included.	Shs.54 per litre
2207.10.00	Under natured ethyl alcohol of an alcoholic strength by volume of 80% vol. or higher.	Shs.120 or 65% per litre
2208.20.00	Under natured ethyl alcohol of an alcoholic strength by volume of less than 80% vol. spirits	Shs.120 or 65% per litre

<i>Tariff No.</i>	<i>Goods Description.</i>	<i>Rate of Duty</i>
117.90.00	Other imitation jewellery.	10%
118.10.00	Coin (other than gold coin), not being legal tender.	10%
Insert the following tariff numbers, descriptions and rates of excise duty thereof –		
<i>Tariff No.</i>	<i>Goods Description.</i>	<i>Rate of Duty</i>
2009.11.00	Frozen orange juice, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	7%
2009.12.00	Orange juice not frozen, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter, of a brix value not exceeding 20.	7%
2009.19.00	Other orange juice, unfermented and not containing added spirit, whether or not containing sugar or other sweetening matter.	7%
2009.21.00	Grape fruit juice, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	7%
2009.29.00	Other grape fruit juice, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	7%

First Schedule (Contd.)

Tariff No.	Goods Description.	Rate of Duty
2009.31.00	Juice of any other single citrus fruit, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter of a brix value not exceeding 20.	7%
2009.39.00	Other juice of any other single citrus fruit, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	7%
2009.41.00	Pineapple juice, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter, of a brix value not exceeding 20.	7%
2009.49.00	Other pineapple juice, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	7%
2009.50.00	Tomato juice, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	7%
2009.61.00	Grape juice (including grape must), unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter, of a brix value not exceeding 20.	7%
2009.69.00	Grape juice (including grape must), unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	7%
2009.71.00	Apple juice, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter, of a brix value not exceeding 20.	7%
2009.79.00	Other apple juice, unfermented and not containing added spirit, whether or not containing	7%

<i>Tariff No.</i>	<i>Goods Description.</i>	<i>Rate of Duty</i>
-------------------	---------------------------	---------------------

	added sugar or other sweetening matter.	
2009.80.00	Juice of any other single fruit or vegetable, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	7%
2009.90.00	Mixtures of Juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter	7%
2201.10.00	Mineral waters and aerated waters, including natural or artificial not containing added sugar or other sweetening matter nor flavoured	Shs 3 or 5% per litre
2201.90.00	Other natural or artificial waters not containing added sugar or other sweetening matter nor flavoured, ice and snow;	Shs 3 or 5% per litre
2202.10.00	Waters, including Mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured	7%
2202.90.00	Other non- alcoholic beverages	7%
2203.00.10	Stout and porter beer made from malt	Shs.54 per litre
2203.00.90	Other beer made from malt	Shs.54 per litre
2204.10.00	Sparkling wine of fresh grapes, including fortified wines	Shs.70 or 50% per litre

630

Finance

2009

Tariff No.	Goods Description.	Rate of Duty
2208.30.00	obtained by distilling grape wine or grape mare. Whiskies.	Shs.120 or 65% per litre
2208.40.00	Rum and other spirits obtained by distilling fermented sugar cane products.	Shs.120 or 65% per litre
2208.50.00	Gin and Geneva	Shs.120 or 65% per litre
2208.60.00	Vodka	Shs.120 or 65% per litre
2208.90.10	Liqueurs and cordials.	Shs.120 or 65% per litre
2208.90.10	Distilled spirits (e.g. Konyagi, Uganda Waragi)	Shs.120 or 65% per litre
2208.90.90	Other spirits and other spirituous beverages	Shs.120 or 65% per litre
2712.10.00	Petroleum jelly	5%
3303.00.00	Perfumes and Toilet waters.	5%
3304.10.00	Lip make-up preparations	5%
3304.20.00	Eye make-up preparations	5%

First Schedule (Contd.)

<i>Tariff No.</i>	<i>Goods Description.</i>	<i>Rate of Duty</i>
3304.30.00	Manicure or pedicure preparations	5%
3304.91.00	Other powders, whether or not compressed	5%
3304.99.00	Other beauty or make up preparations and preparations for the care of the skin (other than medicaments), including sunscreen or sun tan preparations	5%
3305.10.00	Shampoos	5%
3305.20.00	Preparations for permanent waving or straightening of hair	5%
3305.30.00	Hair lacquers	5%
3305.90.00	Other preparations for the use on hair	5%
3307.10.00	Pre-shave, shaving or after-shave preparations	5%
3307.20.00	Personal deodorants and antiperspirants	5%
3307.30.00	Perfumed bath salts and other bath preparations	5%
3307.49.00	Other preparations for perfuming or deodorising rooms, including odoriferous preparations used during religious rites	5%

First Schedule (Contd.)

2A. Delete the following tariff numbers, descriptions and the corresponding rates of excise duty.

		633	
		<i>Finance</i>	No. &
2106.90.70	Concentrated beverages rendered ready for consumption by simple dilution with water (e.g. syrups, cordials, squabbles etc)	10%	
2204.10.00	Sparkling wine of fresh grapes, including fortified wines	Shs.70 per litre or 50%	
2204.21.00	Other wine; grape must with fermentation prevented or arrested by the addition of alcohol, in containers of 2 litres or less.	Shs.70 per litre or 50%	
2204.29.00	Other wine, grape must with fermentation prevented or arrested by the addition of alcohol, or in containing of more than 2 litres	Shs.70 per litre or 50%	
2204.30.00	Other grape must wine	Shs.70 per litre or 50%	
2205.10.00	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances, in containers of 2 litres or less	Shs.70 per litre or 50%	
2205.90.10	Vermouth and other wine of such fresh grapes flavoured with plants or aromatic substances, in containers of more than 2 litres	Shs.70 per litre or 50%	
2207.10.00	Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol. or higher.	Shs.120 per litre or 65%	

First Schedule (Contd.)

2208.20.00	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol. spirits obtained by distilling grape wine or grape mare.	Shs.120 per litre or 65%
2208.30.00	Whiskies.	Shs.120 per litre or 65%
2208.40.00	Rum and other spirits obtained by distilling fermented sugar cane products.	Shs.120 per litre or 65%
2208.50.00	Gin and Geneva	Shs.120 per litre or 65%
2208.60.00	Vodka	Shs.120 per litre or 65%
2208.90.10	Liqueurs and cordials.	Shs.120 per litre or 65%
2208.90.10	Distilled spirits (e.g. Konyagi, Uganda Waragi)	Shs.120 per litre or 65%
2208.90.90	Other spirits and other spirituous beverages	Shs.120 per litre or 65%

First Schedule (Contd.)

2B. Insert the following tariff numbers descriptions and the corresponding rates of excise duty.

2106.90.90	Other food preparations not elsewhere specified or included	7%
2204.10.00	Sparkling wine of fresh grapes, including fortified wines	Shs.70 per litre or 35%
2204.21.00	Other wine; grape must with fermentation prevented or arrested by the addition of alcohol, in containers of holding 2 litres or less.	Shs.70 per litre or 35%
2204.29.00	Other wine, grape must with fermentation prevented or arrested by the addition of alcohol, in containers holding more than 2 litres	Shs.70 per litre or 35%
2204.30.00	Other grape must	Shs.70 per litre or 35%
2205.10.00	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances, in containers of holding 2 litres or less	Shs.70 per litre or 35%
2205.90.10	Vermouth and other wine of such fresh grapes flavoured with plants or aromatic substances, in containers holding more than 2 litres	Shs.70 per litre or 35%
2207.10.00	Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol. or higher.	Shs.120 per litre or 35%
2208.20.00	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol. spirits	Shs.120 per litre or 35%

2208.30.00	Whiskies.	Shs.120 per litre or 35%
2208.40.00	Rum and other spirits obtained by distilling fermented sugar cane products.	Shs.120 per litre or 35%
2208.50.00	Gin and Geneva	Shs.120 per litre or 35%
2208.60.00	Vodka	Shs.120 per litre or 35%
2208.70.00	Liqueurs and cordials.	Shs.120 per litre or 35%
2208.90.10	Distilled spirits (e.g. Konyagi, Uganda Waragi)	Shs.120 per litre or 35%
2208.90.90	Other spirits and other spirituous beverages	Shs.120 per litre or 35%

3. Delete the existing Part III and insert the following new Part III-
1. Excise duty on beer not made from malt shall be Shs.45 per litre.
 2. Mobile cellular phone services shall be charged excise duty at the rate of 10% of their excisable value.
 3. Other wireless telephone services shall be charged excise duty at the rate of 10% of their excisable value.

First Schedule (Contd.)

4. All imported used computers of more than three years from the date of manufacture shall attract excise duty at the rate of 25%.
5. Plastic shopping bags shall be charged excise duty at the rate of 50% of their excisable value.

SECOND SCHEDULE

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

FIFTH SCHEDULE.**PART A**

1. Amend paragraph 6 by inserting the words "gazetted" immediately before the word "exporters".
2. Amend paragraph 9 by inserting the words "and taxable supplies in respect of tea or coffee bought from the auction centres provided the tea or coffee is for export" immediately after the words "tea auction centres".
3. Insert the following new paragraphs immediately after paragraph 18 --
 19. The supply of taxable goods or taxable services for use in the construction of grain silos upon approval by the Director of Agriculture.
 20. The supply of taxable goods, including motor vehicles, and taxable services to Kenya Red Cross Society.
 21. The supply of taxable goods and taxable services to a film producer approved by the Minister responsible for Information.
4. Insert the following new paragraph immediately after paragraph 21 -

22. The supply of taxable services to ships.

PART B

Insert in their numerical order the following tariff numbers and the descriptions thereof-

<i>Tariff No.</i>	<i>Tariff Description</i>
3702.51.00	Other photographic film on rolls, sensitized, unexposed, of any material other than paper, paperboard or textiles; for colour photograph (polychrome) of a width not exceeding 16mm and of a length not exceeding 14m.
3702.52.00	Other photographic film on rolls, sensitized, unexposed, of any material other than paper, paperboard or textiles; for colour photograph (polychrome) of a width not exceeding 16mm and of a length exceeding 14m.
3702.53.00	Other photographic film on rolls, sensitized, unexposed, of any material other than paper, paperboard or textiles; for colour photograph (polychrome) of a width exceeding 16mm but not exceeding 35mm and of a length not exceeding 35mm.
3702.54.00	Other photographic film on rolls, sensitized, unexposed, of any material other than paper, paperboard or textiles; for colour photograph (polychrome) of a width exceeding 35mm and of a length exceeding 35mm.

<i>Tariff No.</i>	<i>Tariff Description</i>
3702.55.00	30m other than for slides. Other photographic film on rolls, sensitized unexposed, of any material other than paper, paperboard or textiles; for colour photograph (polychrome) of a width exceeding 16mm but not exceeding 35mm and of a length exceeding 30m.
8521.90.00	Other video recording or reproducing apparatus whether or not incorporating a video tuner.
8525.50.00	Transmission apparatus.
8525.60.00	Transmission apparatus incorporating reception apparatus.
8501.31.00	DC generators of an output not exceeding 750w
8501.32.00	DC generators of an output exceeding 750w but not exceeding 75kw
8501.33.00	DC generators of an output exceeding 75kw but not exceeding 375kw
8501.34.00	DC generators of an output exceeding 375kw
8502.11.00	Generating sets of output not exceeding 75 KVA
8502.12.00	Generating sets of an output exceeding 75 KVA but not exceeding 375 KVA
8502.13.00	Generating sets of an output exceeding 375 KVA
8502.20.00	Generating sets with spark ignition internal combustion piston engines
8502.31.00	Wind powered generating sets
8502.39.00	Other generating sets
8525.80.00	Television cameras, digital cameras and video camera recorders.
8712.00.00	Bicycles and other cycles (including delivery tricycles), not motorised.
9002.11.00	Lenses for cameras, projectors or photographic enlargers or reducers.
9006.53.00	Other cameras for roll film of a width of 35 mm.
9006.91.00	Parts and accessories for cameras.

<i>Tariff No.</i>	<i>Tariff Description</i>
9010.50.00	Other apparatus and equipment for photographic (including cinematographic) laboratories; negatoscopes.
9006.69.00	Other photographic flashlight apparatus and flash bulbs.

PART C

ZERO RATED GOODS

1. In paragraph 9 by deleting the word "other".
2. Deleting the existing paragraph 12 and inserting the following new paragraph 12 -
 12. Other special purpose motor vehicles, other than those principally designed for the transport of persons or goods (for example breakdown lorries, spraying lorries, mobile workshops, mobile radiological unit, refrigerated trucks, garbage collection trucks and insulated milk tankers).
3. In paragraph 17 by inserting the word "and parts" immediately after the words "agricultural tractors" appearing at the start of the paragraph.

Second Schedule (Contd.)

4. By adding a new paragraph after paragraph 25 –
 26. Locally produced and ginned cotton.

Second Schedule (Contd.)

4. By adding a new paragraph after paragraph 25 –
 26. Locally produced and ginned cotton.