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REPUBLIC OF KENYA

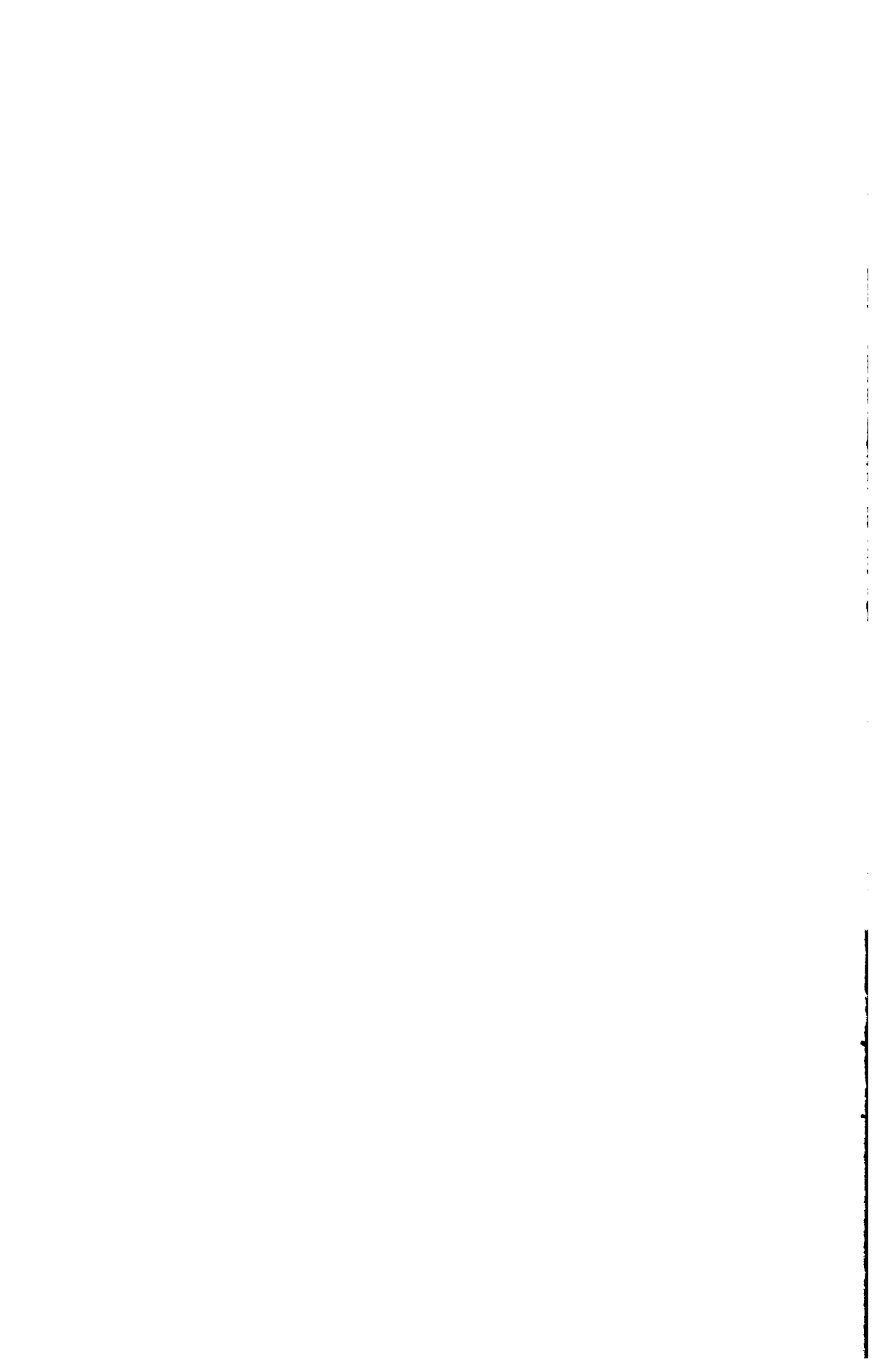
KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2020

NAIROBI, 14th December, 2020

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**THE BUSINESS LAWS (AMENDMENT) (NO 2)
BILL, 2020**

A Bill for

AN ACT of Parliament to make amendments to various statutes to facilitate the ease of doing business in Kenya, and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1 This Act may be cited as the Business Laws (Amendment) (No 2) Act, 2020 and shall come into force upon assent

Short title and commencement

2 Section 3 of the Law of Contract Act is amended in subsection (6), in the definition of the term “sign”, by inserting the following new paragraph immediately after paragraph (b)—

Amendment of section 3 of Cap 23

(c) execution of the document in accordance with section 37 of the Companies Act, 2015, for body corporates incorporated under the Companies Act, 2015

3 Section 5B of the Industrial Training Act is amended by inserting the following proviso at the end of subsection (2)—

Amendment of section 5B of Cap 237

Provided that the amount payable under the levy shall be remitted at the end of the financial year of the business but not later than the ninth day of the month following end of the financial year ”

4 Section 117 of the Stamp Duty Act is amended by inserting the following new paragraph immediately after paragraph (o)—

Amendment of section 117 of Cap 480

(p) fixed duty of one hundred shillings charged on contracts to be chargeable as conveyances on sale under section 49

5 Section 15 of the National Hospital Insurance Fund is amended in subsection (4) by deleting the word ‘first’ and substituting therefor the word “ninth”

Amendment of section 15 of 9 of 1998

6 Section 2 of the National Construction Authority Act is amended by inserting the following new definition in proper alphabetical sequence—

Amendment of section 2 of No 41 of 2011

“building” means any construction work that has the provision of shelter for its occupants or

contents as one of its main purposes and includes a public and private building,

“defect” means deficiency in the design, the workmanship, and in the materials or systems used in the construction of a building or failure in maintenance of the building that results in a failure of a component part of a building or structure resulting in partial or total collapse of the building or renders the building unfit for occupation and includes structural defects and latent defects,

“relevant professional” means a person who is registered —

- (a) as an engineer under the Engineers Act, 2011, or
- (b) as an architect or quantity surveyor under the Architects and Quantity Surveyors Act

7 The National Construction Authority Act is amended by inserting the following new section immediately after section 22—

Amendment of
section 22 of No
41 of 2011

Inquiry into defects
in a building

22A (1) The Board may institute an inquiry into defects in a building to establish the cause of the defects on its own initiative or upon receipt of a complaint addressed to the Board in writing made by or on behalf of any person alleging defects in a building approved by a registered person

(2) The procedure for an inquiry into the conduct of a contractor shall apply, with necessary modifications, to the inquiry into the defects of a building

(3) Upon conclusion of an inquiry, the Board shall prepare a report which shall—

- (a) outline the findings on the cause of the defects in the building and the liability of the defects apportioned either on the contractor, relevant professional or the owner of the building,
- (b) recommend appropriate remedial action against the contractor in accordance with the Act, and

(c) submit a copy of the report to the respective regulators of the relevant professionals or criminal investigation agencies for further remedial action

(4) The Minister shall make regulations to give effect to this section

8 Section 54 of the Land Registration Act is amended—

Amendment of section 54 of No 3 of 2012

(a) in subsection (1), by deleting the words “the lessee” appearing immediately after the words “express or implied, by ” and substituting therefore the words “the lessor”,

(b) in subsection (2), by deleting paragraph (c)

9 The Land Registration Act is amended by repealing section 55 and replacing it with the following new section—

Repeal and replacement of section 55 of No 3 of 2012

Lessor s consent to dealing with leases

55 (1) If a lease contains a condition, express or implied, by the lessor that the lessee shall not transfer, sub-let, charge or part with the possession of the land leased or any part of it without the written consent of the lessor, the dealings with the lease shall not be registered unless the consent of the lessor has been produced to, and authenticated to the satisfaction of the Registrar

(2) The Registrar shall not register any instrument purporting to transfer or create any interest in that land

10 The Land Registration Act is amended by inserting the following new section immediately after section 55—

Insertion of new section 55A in No 3 of 2012

Lessor s consent on government leases

55A Notwithstanding any contrary condition contained in the lease, the Registrar shall dispense with the production of the written consent of the lessor under section 54 and 55 in respect of a lease where the government is the lessor, before any dealing with the lease is registered