

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 28 (National Assembly Bills No. 20)*



REPUBLIC OF KENYA

**KENYA GAZETTE SUPPLEMENT**

**NATIONAL ASSEMBLY BILLS, 2019**

**NAIROBI, 15th March, 2019**

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**THE KENYA INFORMATION AND COMMUNICATIONS  
(AMENDMENT) BILL, 2019**

**A Bill for**

**AN ACT of Parliament to amend the Kenya Information and Communications Act, and for connected purposes**

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

**1.** This Act may be cited as the Kenya Information and Communications (Amendment) Act, 2019. Short title.

**2.** The Kenya Information and Communications Act, (in this Act referred to as the “principal Act”), is amended by inserting the following new section immediately after section 25— Insertion of new section 25A in Cap. 411A.

Licensee may operate other businesses.

**25A.** (1) In addition to operating a telecommunication system or providing a telecommunication service as may be specified in the licence granted under section 25, a person may engage in any other business provided that such person shall—

- (a) obtain the relevant licences from the respective regulators of any industry or sector ventured into;
- (b) legally split or separate the telecommunication business from such other business; and
- (c) provide separate accounts and reports in respect of all businesses carried out.

(2) A person who provides any service without the relevant licence under this section commits an offence.

(3) A person convicted of an offence under this section shall, on conviction be liable to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding two years, or to both.

(4) A person who, at the commencement date of this section, was operating a business that does not comply with the requirements of this section shall ensure that the business is compliant within six months of the coming into force of this section.

(5) The Commission, shall, within six months of the coming into force of this section and thereafter annually, report to Parliament on the extent to which this section has been implemented.

3. The principal Act is amended by inserting the following new section immediately after section 34—

Insertion of new section 34A in Cap. 411A.

Compensation  
for call-drops.

**34A.** (1) A licensee is liable to credit a consumer who initiates a call that gets cut out after a connection by Kenya Shillings ten shillings worth of airtime for each call drop within its network for a maximum of three call drops per day.

(2) Despite subsection (1), a licensee shall not be liable to compensate a consumer, where a call gets cut out due to third party interference on the licensee's connection lines, inevitable accident or *force majeure*.

5. Section 84J of the principal Act is amended—

Amendment of section 84J of Cap. 411A.

- (a) by deleting sub-section (2) and substituting therefor the following new sub-section—
- (2) The object and the purpose of the Fund shall be to—
- (a) promote the availability of quality services at just, reasonable and affordable rates for all consumers;
- (b) increase nationwide access to advanced telecommunications services;
- (c) advance the availability of such services to all consumers, including those in low income, and rural areas;
- (d) increase access to telecommunications and

advanced services in schools, libraries and rural health care facilities;

- (e) provide equitable and non-discriminatory contributions from all providers of telecommunications services to the fund supporting universal service programs; and
- (f) support capacity building and promote innovation in information and communications technology services.

(c) by inserting the following new sub-sections immediately after sub-section (3) —

(4) The Commission shall in each financial year submit to the National Assembly a report indicating —

- (a) the total amount of money that was collected for the respective financial year;
- (b) the activities the Commission undertook to implement the objectives of the Fund; and
- (c) the extent to which the objectives of the Fund were achieved.

(5) The Universal Fund shall be utilized by the Commission as follows—

- (a) six-percent of the Fund shall be used for ensuring the availability of telecommunication services to all consumers, including those in low income and rural areas;
- (b) twenty percent of the Fund shall be used for increasing access to telecommunications and advanced services in schools, libraries and rural health care facilities.
- (c) ten percent of the Fund shall be used for ensuring increased nationwide access to advanced telecommunications services; and
- (d) ten percent of the Fund shall be used for furthering the other objectives of the Fund as the Commission may determine.

(6) A person who fails to utilize or utilizes the Universal Fund in a manner that does not promote the