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Kenya Gazette Supplement No. 125 (National Assembly Bills No. 61)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2019

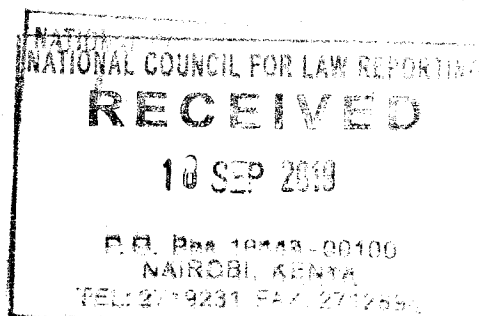
NAIROBI, 24th July, 2019

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PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

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

A Bill for

**AN ACT of Parliament to amend the Kenya
Information and Communications Act.**

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

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

Short title.

2. The Kenya Information and Communications Act (hereinafter referred to as “the Principal Act”) is amended in section 2 by inserting the following new definitions in the proper alphabetical sequence—

Amendment of
section 2 of Act
No. 2 of 1998.

“blogger” means any person who is registered as such by the Commission under section 84D;

“blogging” means collecting, writing, editing and presenting of news or news articles in social media platforms or in the internet;

“social media platforms” includes online publishing and discussion, media sharing, blogging, social networking, document and data sharing repositories, social media applications, social bookmarking and widgets;

“widgets” means an application, or a component of an interface, that enables a user to access a service.

3. The Principal Act is amended by inserting the following new Part immediately after Part VIA.

New Part.

PART VIAA — REGULATION OF SOCIAL MEDIA

Licensing of Social
media platforms.

84IA. (1) The Commission may on application in a prescribed manner and upon payment of a prescribed fee, grant a licence authorising any person to establish a social media platform for purposes of communication.

(2) A licence granted under this Part may be issued by an applicant subject to

such terms and conditions as the Commission may think fit, and may include—

- (a) the establishment of a physical office in the country;
- (b) the registration of all users of the social media platform using legal documents;
- (c) a requirement that the licensee shall keep all the data of the users of its platform and shall submit the same to the Commission when required; and
- (d) a requirement that the licensee shall carry out due diligence to ensure that all its users, if natural persons are of age of majority.

(3) The Commission may revoke a licence granted under this section where the licensee is in breach of its terms and conditions provided under subsection (2).

Sharing of
information.

84IB. A licensee may collect, use, preserve, and share information of its user where it is reasonably necessary to respond to a legal process.

Social media users
responsibility.

84IC. (1) A social media user shall ensure that any content published, written or shared through the social media platform—

- (a) does not degrade or intimidate a recipient of the content;
- (b) is not prejudicial against a person or group of people based on their race, gender, ethnicity, nationality, religion, political affiliation, language, ability or appearance; and
- (c) is fair, accurate and unbiased.

(2) Where a social media platform is created for a group of persons, it shall be the responsibility of the group administrator to—

- (a) notify the licensee of the social media platform of his or her intentions to form a group platform;
- (b) approve the members of the group;
- (c) approve the content to be published in the platform; and
- (d) control undesirable content and discussion.

(3) Any person who contravenes the provision of this section commits an offence and shall be liable upon conviction to a fine not exceeding two hundred thousand shillings, or to an imprisonment of a term not exceeding one year.

Registration of bloggers.

84ID.(1) The Commission may upon application in a prescribed manner and subject to such conditions as it may deem necessary, grant a licence authorizing any person to blogs.

(2) The Commission shall keep a register of bloggers in a prescribed manner.

(3) Any person who blogs without a licence is guilty of an offence.

(4) Any person who contravenes the provision of this section commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings, or to an imprisonment of a term not exceeding two years.

Bloggers code of conduct.

84IE. (1) The Commission shall develop a bloggers code of conduct.

MEMORANDUM OF OBJECTS AND REASONS**Statement of Objects and Reasons for the Bill**

The objective of this Bill is to amend the Kenya Information and Communications Act to provide for regulation of use of social media platforms.

Clause 1 of the Bill provides for the short title of the Bill.

Clause 2 provides for new definitions for clarity purposes.

Clause 3 seeks to introduce a new Part to the Act on regulation of social media platforms. The new part will introduce new sections to the Act on licensing of social media platforms, sharing of information by a licensed person, creates obligations to social media users, registration of bloggers and seeks to give responsibility to the Communications Authority to develop a bloggers code of conduct in consultation with bloggers.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not delegate any legislative powers, and it does not limit fundamental rights and freedoms.

Statement on how the Bill does not concern county governments

The Bill does not concern county governments in terms of Articles 110(1)(a) of the Constitution.

Statements that the Bill is not a money Bill within the meaning of Article 114 of the Constitution

The Bill is not a money Bill for the purposes of Article 114 of the Constitution, the enactment of this Bill will not occasion additional expenditure of public funds.

M. M. INJENDI,
Member of Parliament.