

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**NATIONAL ASSEMBLY BILLS, 2021**

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**NAIROBI, 16th April, 2021**

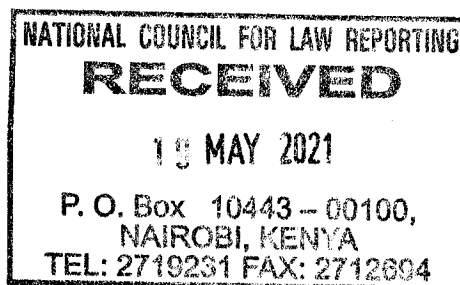
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**THE COMPUTER MISUSE AND CYBERCRIMES  
(AMENDMENT) BILL, 2021**

**A Bill for**

**AN ACT of Parliament to amend the Computer Misuse and Cybercrimes Act**

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

**1.** This Act may be cited as the Computer Misuse and Cybercrimes (Amendment) Act, 2021.

Short title.

**2.** Section 6 of the Computer Misuse and Cybercrimes Act (in this Act referred to as “the principal Act”) is amended in subsection (1) by inserting the following new paragraph immediately after paragraph (j)—

Amendment of section 6 of No. 5 of 2018.

“(ja) recommend websites to be rendered inaccessible within the Republic;”

**3.** The principal Act is amended by inserting the following new section immediately after section 24—

Insertion of new section in No. 5 of 2018.

**Pornography. 24A. (1)** A person shall not knowingly—

- (a) publish pornography through a computer system;
- (b) produce pornography for the purpose of its publication through a computer system;
- (c) download, distribute, transmit, disseminate, circulate, deliver, exhibit, lend for gain, exchange, barter, sell or offer for sale, let on hire or offer to let on hire, offer in any way, or make available in any way from a telecommunications apparatus pornography; or
- (d) possess pornography in a computer system or on a computer data storage medium.

(2) A person who contravenes subsection (1) commits an offence and is

liable, on conviction, to a fine not exceeding twenty million shillings or imprisonment for a term not exceeding twenty five years, or to both.

(3) It shall be a defence to a charge for an offence under subsection (1) where a publication is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing, drawing, painting, art, representation or figure is in the interest of science, literature, learning or other objects of general concerns.

(4) For purposes of this section—  
“pornography” “includes any data, whether visual or audio, that depicts persons engaged in sexually explicit conduct;

“publish” includes to—

- (a) distribute, transmit, disseminate, circulate, deliver, exhibit, lend for gain, exchange, barter, sell or offer for sale, let on hire or offer to let on hire, offer in any other way, or make available in any way;
- (b) having in possession or custody, or under control, for the purpose of doing an act referred to in paragraph (a); or
- (c) print, photograph, copy or make in any other manner whether of the same or of a different kind or nature for the purpose of doing an act referred to in paragraph (a).

4. Section 27 of the principal Act is amended in subsection (1) by inserting the following new paragraphs immediately after paragraph (a)—

“(aa) is likely to cause those persons to commit suicide or cause any other harm to themselves;

Amendment of  
section 27 No. 5  
of 2018.

(ab) is likely to cause other persons to join or participate in unlicensed and extreme religious or cult activities;”

**5. Section 33 of the principal Act is amended by inserting the following new subsection immediately after subsection (1)–**

Amendment of  
section 33 No. 5  
of 2018.

“(1A) A person who publishes or transmits electronic messages that is likely to cause other persons to join or participate in terrorist activities, commits an offence and shall be liable on conviction to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding twenty five years, or to both.