

SPECIAL ISSUE

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REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2019

NAIROBI, 14th November, 2019

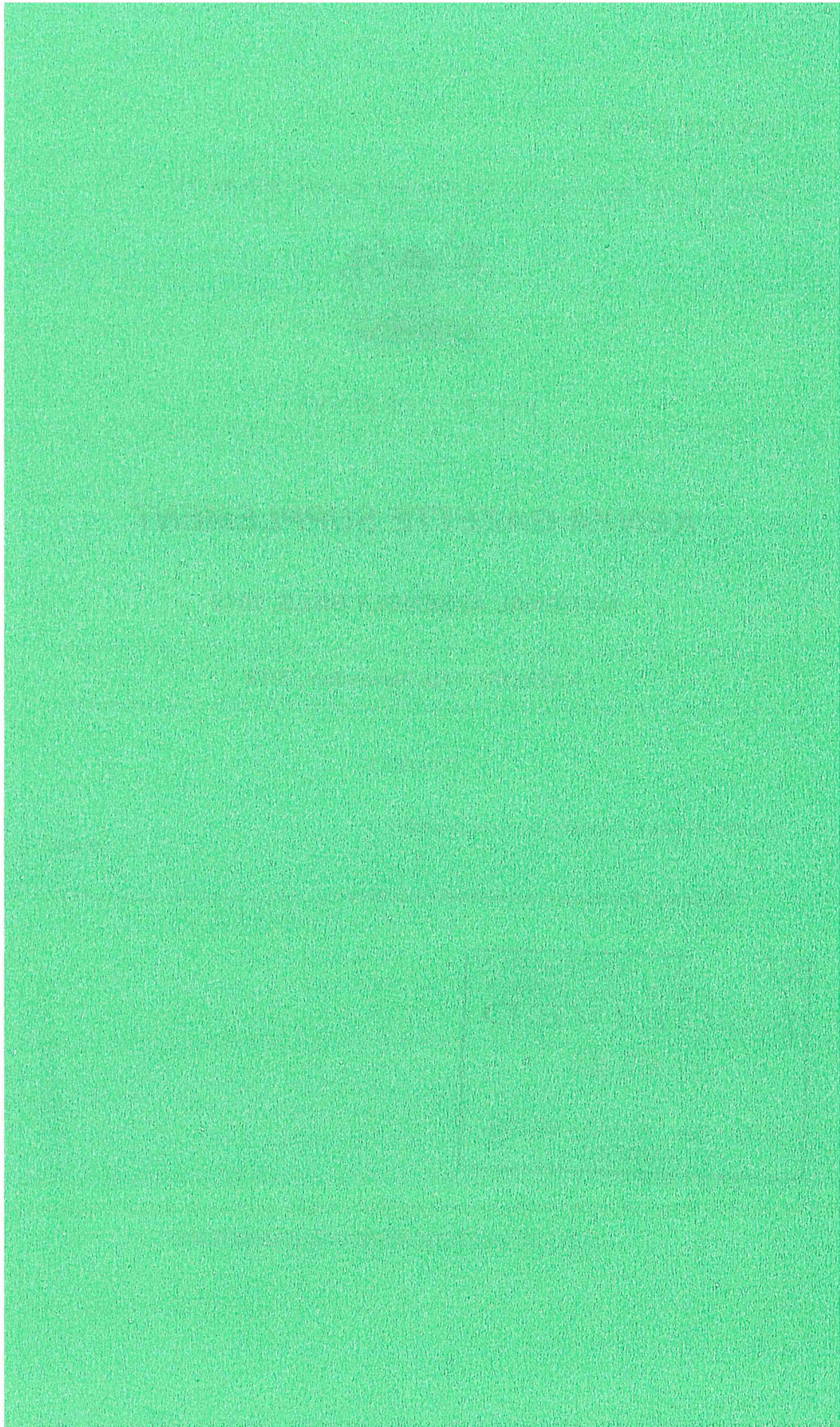
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**THE LAW OF SUCCESSION (AMENDMENT) BILL,
2019**

A Bill for

AN ACT of Parliament to amend the Law of Succession Act

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Law of Succession (Amendment) Act, 2019.

Short title.

2. Section 3 of the Law of Succession Act (hereinafter referred to as the “principal Act”) is amended in section 3 by inserting the following definition in proper alphabetical sequence—

Amendment of section 3 of Cap. 160.

“spouse” means a husband or a wife or wives recognised under the Marriage Act.

No. 4 of 2014.

3. The principal Act is amended by repealing section 29 and substituting therefore the following new section—

Amendment of section 29 of Cap. 160.

Meaning of
Dependant.

29. (1) For purpose of this Part—

“dependant” means—

- (a) the spouse and children of the deceased whether or not maintained by the deceased immediately prior to his death; and
- (b) such of the deceased’s parents, step parents, grandparents, grand children, step-children, children whom the deceased had taken into his family as his own, brothers and sisters and half-brothers, half-sisters, as were being maintained by the deceased immediately prior to his death.

(2) A person not named in this section shall not be a dependant for the purposes of this Act unless the person

proves maintained by the deceased for a period of two years prior to the deceased's death.

MEMORANDUM OF OBJECTS AND REASONS

Statement of Objects and Reasons for the Bill

The principal object of this Bill is to amend the Law of Succession Act to give legitimate dependants of a deceased person a claim and a right in the deceased's intestate estate.

The main aim of the Bill is to avoid situations where opportunistic schemers successfully claim a stake in a deceased person's estate hence disenfranchising the legitimate heirs of the deceased.

The Bill seeks to provide clarity on who a dependant of a deceased person is. It gives stronger protection to the spouse, children and extended family of a deceased person in succession matters. In that regard, clause 2 of the bill introduces the definition of the term "spouse" as contained in the Marriage Act.

Clause 3 of the Bill repeals section 29 of the principal Act and introduces a new meaning of the term "dependants".

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

The Bill does not delegate legislative powers and it does not limit rights and fundamental freedoms in the Bill of Rights.

Statement that the Bill does not concern County Governments

The Bill does not concern County Governments in terms of Article 110 (1) of the Constitution and it does not affect the functions and powers of County Governments recognized in the Fourth Schedule to the Constitution.

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

The enactment of this Bill will not occasion additional expenditure of public funds.

Dated the 12th November, 2019.

GEORGE PETER KALUMA,
Member of Parliament.

Section 29 of Cap. 160 which the Bill proposes to amend—

29. Meaning of dependant

For the purposes of this Part, “**dependant**” means—

- (a) the wife or wives, or former wife or wives, and the children of the deceased whether or not maintained by the deceased immediately prior to his death;
- (b) such of the deceased’s parents, step-parents, grand-parents, grandchildren, step-children, children whom the deceased had taken into his family as his own, brothers and sisters, and half-brothers and half-sisters, as were being maintained by the deceased immediately prior to his death; and
- (c) where the deceased was a woman, her husband if he was being maintained by her immediately prior to the date of her death.