

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 24 (Senate Bills No. 4)*

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REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**SENATE BILLS, 2021**

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**NAIROBI, 8th March, 2021**

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**THE BASIC EDUCATION (AMENDMENT) BILL,  
2021**

**A Bill for**

**AN ACT of Parliament to amend the Basic Education Act and for connected purposes**

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

**1.** This Act may be cited as the Basic Education (Amendment) Act, 2021.

Short title.

**2.** Section 2 of the Basic Education Act, in this Act referred to as “the principal Act” is amended by inserting in the proper alphabetical sequence the following new definition—

Amendment of section 2 of No. 14 of 2013.

“learner” has the meaning assigned to it under section 2 of the Teachers Service Commission Act;

No. 20 of 2012.

**3.** Section 38 of the principal Act is amended by inserting the following new section immediately after section 38 —

Amendment of section 38 of No. 14 of 2013.

School feeding programme.

**38A. (1)** The National Government shall in consultation with County Governments and, in a bid to increase school enrollment and to ensure the nutritional wellbeing of learners, provide milk to learners enrolled in pre-primary and primary schools.

(2) The milk provided to learners under subsection (1) shall be distributed through the respective County Director of Education.

(3) The Cabinet Secretary may, by regulation, prescribe the criteria for the supply of milk to schools and the implementation of other school feeding programmes.

## **MEMORANDUM OF OBJECTS AND REASONS**

### **Statement of the Objects and Reasons for the Bill**

This Bill seeks to amend the Basic Education Act to ensure that school going children in Kenya are provided with milk. Through this amendment, the national government shall be required through the respective County Directors of Education to supply milk to all pupils in Kenya.

School milk programs not only positively contribute to the growth of the dairy sector, but they also improve nutrition and increase school attendance. The schools taking part in the program provide a guaranteed market for milk for smallholder farmers, who produce about 80 percent of Kenyan milk.

School health and nutrition interventions have been recognised as critical in addressing the Millennium Development Goals (MDGs) of universal basic education and gender equality in educational access.

Internationally, in the United Kingdom school feeding was the first component of the welfare reform in 1906, while in Brazil, the school feeding programme is prioritised within the Zero Hunger Strategy to address hunger and ensure the human right to adequate food for all.

School health and nutrition programmes, particularly when embedded within broader child development strategies, are in integral part of the long term development of a child. As part of an inclusive of maternal and child health as well as early child hood development, school health and nutrition programmes are a critical step to ensuring a child is able to reach their full potential.

In the long-term, counties will begin to rise above poverty as more children complete their education.

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

The Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

### **Statement of how the Bill concerns County Governments**

The Bill concerns county governments in terms of Article 110(1) (a) of the Constitution as it contains provisions that affect the functions and powers of the County Governments. Paragraph 9 of Part II of the Fourth Schedule

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to the Constitution designates pre-primary education as a devolved function.

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

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

BEATRICE KWAMBOKA,  
*Senator.*

*Section 38 of No. 14 of 2013 which it is proposed to amend —*

**Prohibition against employment of a child of compulsory school age**

**38.** (1) No person shall employ a child of compulsory school age in any labour or occupation that prevents such child from attending school.

(2) Any person who employs or prevents a child who is subject to compulsory attendance from attending school is guilty of an offence and is liable to fine not exceeding five million or to a period not exceeding five years or to both.