

SPECIAL ISSUE

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REPUBLIC OF KENYA

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NATIONAL ASSEMBLY BILLS, 2021

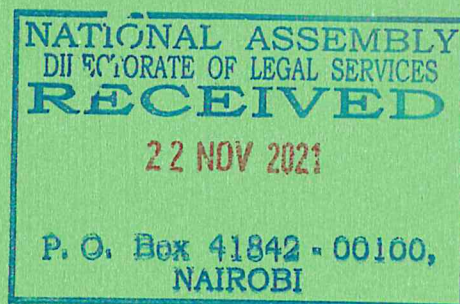
NAIROBI, 11th November, 2021

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**THE HIGHER EDUCATION LOANS BOARD
(AMENDMENT) BILL, 2021**

A Bill for

**AN ACT of Parliament to amend the Higher Education
Loans Board Act**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Higher Education
Loans Board (Amendment) Act, 2021.

Short title.

2. The Higher Education Loans Board Act is amended
in section 14 by inserting the following new subsections
immediately after subsection (2)—

Amendment of
section 14 of No.3
of 1995.

“(2A) The Board shall not reject an application
for a loan under this Act only on the ground that the
student has not attained the age of eighteen years.

(2B) A person granted an education loan by the
Board under this Act and who is under the age of
eighteen years shall be required to have his or her
parents or guardian as co-signatories to the loan.”

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principal object of this Bill is to amend the Higher Education Loans Board Act, No. 3 of 1995 to expressly provide that the Higher Education Loans Board shall not deny a loan to a student who has not attained the age of eighteen years.

The amendment further provides that any student who applies for an education loan and who is under the age of eighteen years shall be required to have his or her parents or guardian as co-signatories to the loan agreement, so as to ensure the validity of the loan agreement.

This will ensure that university students who have not attained the age of eighteen years and who do not yet have national identification cards, are allowed access to the higher education loans. The amendment will thus ensure the access to loans of all eligible university students despite their age.

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

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

Statement of how the Bill concerns county governments

The Bill does not concern county governments in terms of Article 109(5) of the Constitution as it does not contain provisions that affect the functions and powers of the county governments as set out in the Fourth Schedule to the Constitution.

Universities and other institutions of higher learning is a function of the national government as provided in Part 1 of the Fourth Schedule to the Constitution.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

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

Dated the 19th October, 2021.

GIDEON KOSKE,
Member of Parliament.

Section 14 of No.3 of 1995 which is intended to be amended—

14. Conditions for grant of loan

(1) The Board may—

- (a) accept or reject any application for a loan;
- (b) grant a loan to any student and in so granting impose conditions, demand security and require repayment in instalments at such times and within such periods as the Board deems fit:

Provided that and subject to the provisions of this section the Board may upon the request by any student to whom a loan has been granted at any time vary—

- (i) the condition subject to which the loan was made;
- (ii) any security given in relation to the loan;
- (iii) any of the terms of repayment of the loan.

(2) Where the Board has resolved to make a loan to any eligible student, the Board shall notify the applicant in writing, and require him within a specified period not exceeding six months to comply with any conditions and provide any security which the Board may have imposed or demanded.

(3) Where any applicant fails to comply with the requirement of the Board notified to him under subsection (2) within the prescribed period, the application shall be deemed to have lapsed.

(3A) The Board shall notify every applicant in writing whether the application for a higher education loan has been accepted or rejected.

(3B) A student may appeal against a decision of the Board to reject his or her application for grant of a higher education loan in writing, addressed to the Secretary of the Board.

(4) Where in granting a higher education loan to any student the Board considers it prudent to request for a guarantor to guarantee any loan granted to a student, in case of any default by the loanee in the repayment of the loan any guarantor who has guaranteed any such loan, shall automatically and fully be liable to pay to the Board all or any loan together with interest accrued and outstanding owed to the Board by the loanee, as shall be notified to the guarantor by the Board.

(5) Where a guarantor who has been notified by the Board under subsection (4) fails or refuses to repay such loan together with any interest accrued thereon, the guarantor shall be guilty of an offence and liable to criminal prosecution or civil proceedings or both in accordance with the provisions of this Act.

