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THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – THIRD SESSION – 2024


DEPARTMENTAL COMMITTEE ON EDUCATION

REPORT ON:

THE UNIVERSITIES (AMENDMENT) BILL, 2023

(National Assembly Bill No. 38 of 2023)

CLERKS CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS

	
THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 13 NOV 2024	DAY: WED
TABLED BY: CLERK-AT THE TABLE:	DEPUTY MAJORITY PARTY WHIP HON. NAOMI KHAQO MP MS. MERG CHUMD

NAIROBI

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NATIONAL ASSEMBLY
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LIST OF ABBREVIATIONS AND ACRONYMS

ANC	-	Amani National Congress
DAP-K	-	Democratic Action Party Kenya
IND	-	Independent
JP	-	Jubilee Party
KUCCPS	-	Kenya Universities and Colleges Central Placement Service
KNCHR	-	Kenya National Commission on Human Rights
NAPUK	-	National Association of Private Universities in Kenya
ODM	-	Orange Democratic Movement

ANNEXURES

1. Report adoption Schedule
2. Minutes
3. Copy of the newspaper advertisement on public participation
4. Letter inviting stakeholders for meetings with the Committee
5. Stakeholder submissions

CHAIRPERSON'S FOREWORD

The Universities (Amendment) Bill, 2023 (National Assembly Bills No.38) sponsored by Hon. Wanami Wamboka, M.P was read a First Time on 18th October, 2023 and committed to the Departmental Committee on Education for consideration and reporting to the House, pursuant to Standing Order 127(1).

The object of the Bill is to amend the Universities Act to provide a framework on the exclusive placement of government sponsored students in public universities. The Bill further seeks to remove private universities board representation in the Board of management of Kenya Universities and Colleges Central Placement Service (KUCCPS) to safeguard the Universities Fund in line with the constitutional principles of public finance.

Pursuant to Article 118(1) (b) of the Constitution and Standing Orders 127(3), adverts for request for submission were placed in the "Daily Nation" and the "Standard" newspapers on 20th October, 2023 inviting interested members of the public to submit any representations they may have on the Bill. The Committee received representations from National Association of Private Universities in Kenya (NAPUK) and the Kenya National Commission on Human Rights (KNCHR). All the submissions were considered by the Committee.

Further, in considering the Bill the Committee held a total of four (4) meetings to receive and consider submissions.

The Committee having considered the Bill clause by clause and taking into consideration views and recommendations of the stakeholders pursuant to Standing Order 127(3A) made observations and recommendations contained in section 4.0 and 5.0 of this Report.

Acknowledgement

The Committee is grateful to the Office of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings.

On behalf of the Committee, and pursuant to Standing Order 127(4), it is my pleasant duty to table the Report of the Departmental Committee on Education on its consideration of the Universities (Amendment) Bill, 2023 (National Assembly Bill No. 38) sponsored by the Hon. Wanami Wamboka, M.P.



HON. JULIUS MELLY, CBS, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON EDUCATION

PART I

1.0 PREFACE

1.1 Mandate of the Committee

1. The Departmental Committee on Education was constituted pursuant to the provisions of Standing Order No. 216(1) of the National Assembly Standing Orders. Pursuant to the Standing Order 216 (5) read together with the Second Schedule to the Standing Orders, the functions of the Committee are to: -
 - (i) *investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the Ministry of Education;*
 - (ii) *study the programme and policy objectives of Ministry and the Departments of the Ministry, and the effectiveness of the implementation;*
 - (iii) *study and review all legislation referred to it;*
 - (iv) *study, assess and analyze the relative success of the relevant Ministry as measured by the results obtained as compared with their stated objectives and,*
 - (v) *investigate and inquire into all matters relating to the as may be necessary, and as may be referred to the Committee by the House;*
 - (vi) *to vet and report on all appointments where the Constitution or any law requires the National Assembly and by extension, the Committee to approve;*
 - (vii) *make reports and recommendations relating to the functions of the relevant Ministry to the House as often as possible, including recommendation of proposed legislation;*
 - (viii) *make recommendations to the House as often as possible, including recommendation of proposes legislation;*
 - (ix) *consider reports of the relevant commissions and independent offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - (x) *examine any questions raised by Members on a matter within the mandate of the Committee.*

1.2 Subjects

2. The Committee, according to the Second Schedule of the Standing Orders, examines the following subjects:
 - i) Education;
 - ii) Training; and
 - iii) Research.
3. The Committee oversees the following government entities: -
 - (a) Ministry of Education comprising the following State Departments:
 - (i) State Department for Basic Education
 - (ii) State Department for Higher Education and Research
 - (iii) State Department for Technical, Vocational Education and Training
 - (b) The Teachers Service Commission.

1.3 Committee Membership

4. The Committee comprises of the following Members: -

1. Hon. Julius Kibiwott Melly, CBS, MP
Chairperson
Tinderet Constituency
UDA

2. Hon. Moses Malulu Injendi, MP
Vice Chairperson
Malava Constituency
ANC

3.Hon. Dr. Christine Ombaka, MP
Siaya County
ODM

10.Hon Julius Taitumu M'Anaiba, MP
Igembe North Constituency
UDA

4.Hon. Eve Akinyi Obara, MP
Kabondo Kasipul Constituency
ODM

11.Hon. Nabii Nabwera Daraja, MP
Lugari Constituency
ODM

5.Hon. Jerusha Mongina Momanyi, MP
Nyamira County
JP

12.Hon. Peter Ochieng Orero, MP
Kibra Constituency
ODM

6.Hon. Abdul Ebrahim Haro, MP
Mandera South Constituency
UDA

13.Hon. (Prof.) Phylis Jepkemoi Bartoo
Moiben Constituency
UDA

7.Hon. Anne Muratha, MP
Kiambu County
UDA

14.Hon. Rebecca Noonaishi Tonkei, MP
Narok County
UDA

8.Hon. Clive Gisairo, MP
Kitutu Masaba, Constituency
ODM

15. Hon. Timothy Toroitich, MP
Marakwet West Constituency,
IND

9.Hon. Dick Oyugi Maungu, MP
Luanda Constituency
DAP-K

1.4 Committee Secretariat

5. The Committee secretariat comprise of: -

Mr. Mohamed Boru
First Clerk Assistant

Mr. Clive Onyancha
Clerk Assistant II

Mr. Eric Kanyi
Fiscal Analyst II

Ms. Fiona Wanjiru
Legal Counsel

Dr. Mburu Maina
Research Officer III

Mr. Jared Onyancha
Public Relations Officer III

Mr. Richard Sang
Serjeant-At-Arms

Mr. Nimrod Ochieng'
Audio Recording Officer

Ms Pauline Njuguna
Hansard Officer II

PART II

2.0 BACKGROUND

2.1 Introduction

6. The introduction of the Bill was driven by concerns over the allocation of public funds to private universities, which are not governed by the same stringent regulatory frameworks as public institutions. While private universities play a role in addressing the increasing demand for higher education, critics argued that the government's financial support for these institutions was not being used effectively. Public funds were perceived as being misallocated to profit-driven private universities, leading to calls for more transparent and accountable management of taxpayer money.
7. Additionally, the Bill seeks to address the lack of oversight in the financial management of private universities. The provisions aim to safeguard public funds by restricting KUCCPS placements to only public universities and removing private university representation on the KUCCPS board. This move is intended to ensure that public resources are used exclusively for the benefit of public institutions, aligning with national priorities and improving accountability in the higher education sector.

2.2 Memorandum of Objects and Reasons for the Bill

8. The object of the Bill is to amend the Universities Act to provide a framework on the exclusive placement of government sponsored students in public universities. The Bill further seeks to remove private universities board representation in the Board of management of Kenya Universities and Colleges Central Placement Service (KUCCPS) to safeguard the Universities Fund in line with the constitutional principles of public finance.
9. The functions of the Sub-County Education Board shall include, the establishment of a data bank of all education and training institutions in the sub-county and assessment of the budgetary requirements of all education and training institutions in the sub-county and developing allocation programmes including programmes for allocation to institutional lunch programmes.

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

9. The Bill does not delegate legislative powers to the Cabinet Secretary nor does it limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

10. The Bill does not affect the functions of the 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.

11. The Universities and other institutions of higher learning are functions 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

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

PART III

3.0 CONSIDERATION OF THE BILL BY THE COMMITTEE

3.1 Committal of the Bill

13. The Universities (Amendment) Bill, 2023 (National Assembly Bill No. 38) sponsored by the Hon. Wanami Wamboka, MP was read a First Time on 18th October, 2023 and committed to the Departmental Committee on Education for consideration and reporting to the House, pursuant to Standing Order 127(1).

3.2 Public Participation on the Bill

14. Pursuant to Article 118(1) (b) of the Constitution and Standing Orders 127(3), adverts for request for submission were placed in the “Daily Nation” and the “Standard” newspapers on 20th October, 2023 inviting interested members of the public to submit any representations they may have on the Bill. (**Annexure 3**). The Committee received representations from National Association of Private Universities in Kenya (NAPUK) and the Kenya National Commission on Human Rights (KNHCR) which were considered by the Committee.

15. In considering the Bill the Committee held a total of three meetings to receive and consider submissions from the stakeholders.

3.3 Meeting with the Sponsor of the Bill

16. Hon. Wanami Wamboka, M.P, the sponsor of the Universities (Amendment) Bill, 2023 appeared before the Committee on 22nd October 2024 and submitted as follows:

17. The principal object of the bill is to provide a framework for the exclusive placement of government-sponsored students in Public Universities.

18. It further seeks to remove Private Universities’ board representation in the Board of Management of Kenya Universities and Colleges Central Placement Service (KUCCPS) to safeguard the Universities Fund in line with the Constitutional Principles of Public finance. The implication is to remove the two Vice- chancellors representing private universities membership in the Board of KUCCPS.

19. The Bill also seeks to amend Section 56(1) of the Universities Act in paragraph (a) by inserting the word “public” immediately after the words “government-sponsored students to ensure that the functions of Kenya Universities and Colleges Central Placement Service are the coordination and placement of Government-sponsored students to public Universities and Colleges.

20. The provisions of this Act shall come into force six months after its commencement. The Kenya Universities and Colleges Central Placement Service shall, within thirty days of the Commencement of this Act, publish and publicize the changes in the placement of Government-sponsored students as established by this Act.

PART IV

4.0 COMMITTEE OBSERVATIONS

23. Upon reviewing the Bill and the submission received, the Committee made the following observations:

- i. The mandate of KUCCPS is not limited to placement of students in Universities. The Service also acts as a database related to University and College placement, disseminates information on available programmes in Universities and advises the Government on student placement.
- ii. The removal of the two Board members representing private Universities would disadvantage private Universities since KUCCPS also acts as a database related to University and College placement, disseminates information on available programmes in Universities, among other functions.
- iii. Under the New Funding Model for higher education, the Kenya Universities and Colleges Central Placement Service has not placed government-sponsored students in private Universities for the last two academic years.

PART V

5.0 COMMITTEE RECOMMENDATION

The Committee, having considered the Universities (Amendment) Bill, 2023 and the submissions from stakeholders and the sponsor of the Bill, recommends that the House approves the Bill with amendments contained in the Schedule of Amendments forming part six.

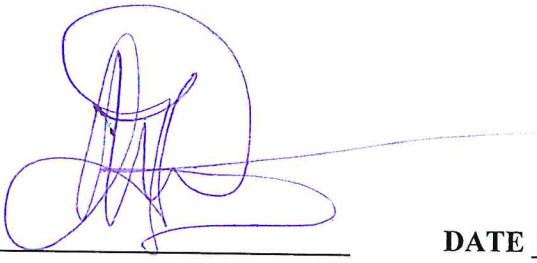
PART VI


6.0 SCHEDULE OF AMENDMENTS

The Committee having considered the Bill clause by clause and considering views and recommendations of the stakeholders pursuant to Standing Orders 127 (3A) recommends that the amendments contained in the Bill should be deleted in their entirety.

The Committee considered all clauses of the Bill and recommended as follows;

- i. Clause 1 – Deletion
- ii. Clause 2 – Deletion
- iii. Clause 3 – Deletion
- iv. Clause 4 – Deletion

SIGNED  DATE 12/11/2024
HON. JULIUS MELLY, CBS, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON EDUCATION

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DATE: 13 NOV 2024	
DAY: WED	
TABLED BY:	MAJORITY PART LEADER Hon NAOMI WAGO MP,
CLERK-AT THE TABLE:	Ms. MERCI CHUMBO

ANNEX 1:

**REPORT
ADOPTION
SCHEDULE**



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT – THIRD SESSION – 2024
DEPARTMENTAL COMMITTEE ON EDUCATION

ADOPTION SCHEDULE

AGENDA: REPORT ON THE UNIVERSITIES (AMENDMENT)
BILL, 2023 BY HON. WANAMU WAMBOKA, MP

NO.	NAME	SIGNATURE
1.	Hon. Julius Melly, MP Chairperson	-
2.	Hon. Malulu Injendi, MP Chairperson	-Vice
3.	Hon. Dr. Christine Oduor Ombaka, MP Member	-
4.	Hon. Eve Obara, MP Member	-
5.	Hon. Jerusha Momanyi, MP Member	-
6.	Hon. Abdul Haro, MP Member	-
7.	Hon. Anne Muratha, MP Member	-
8.	Hon. Clive Gisairo, MP member	-
9.	Hon. Dick Maungu MP Member	-
10.	Hon. Julius Taitumu M'Anaiba, MP Member	-
11.	Hon. Nabii Daraja, MP Member	-
12.	Hon Peter Orero, MP Member	-
13.	Hon. (Prof.) Phylis Bartoo, MP Member	-
14.	Hon. Rebecca Tonkei, MP Member	-
15.	Hon. Timothy Toroitich, MP Member	-

