

Approved
SNA
13/11/24

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – THIRD SESSION – 2024

DEPARTMENTAL COMMITTEE ON EDUCATION

REPORT ON:

THE UNIVERSITIES (AMENDMENT) BILL (NO. 5) 2023

(National Assembly Bill No. 79 of 2023)

CLERKS CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 13 NOV 2024	DAY: WED
TABLED BY:	MAJORITY PARTY WHIP HON. NAOMI NAPO, MP
CLERK-AT THE-TABLE:	MS. MERCY CHUMO.

NAIROBI

NOVEMBER 2024

NATIONAL ASSEMBLY
RECEIVED
13 NOV 2024
SPEAKER'S OFFICE
P. O. Box 41842, NAIROBI.

TABLE OF CONTENTS

Contents	1
LIST OF ABBREVIATIONS AND ACRONYMS	3
CHAIRPERSON'S FOREWORD.....	5
PART I	6
1.0 PREFACE.....	6
1.1 Mandate of the Committee.....	6
1.2 Subjects	6
1.3 Committee Membership.....	7
1.4 Committee Secretariat.....	8
PART II	9
2.0 BACKGROUND	9
2.1 Introduction.....	9
2.2 Memorandum of Objects and Reasons for the Bill.....	9
PART III	11
3.0 CONSIDERATION OF THE BILL BY THE COMMITTEE	11
3.1 Committal of the Bill	11
3.2 Public Participation on the Bill	11
3.3 Meeting with the Sponsor of the Bill.....	11
4.0 COMMITTEE OBSERVATIONS	13
PART V.....	14
5.0 COMMITTEE RECOMMENDATION	14

LIST OF ABBREVIATIONS AND ACRONYMS

ANC	-	Amani National Congress
CUE	-	Commission for University Education
DAP-K	-	Democratic Action Party Kenya
IND	-	Independent
JP	-	Jubilee Party
KUCCPS	-	Kenya Universities and Colleges Central Placement Service
NAPUK	-	National Association of Private Universities in Kenya
ODM	-	Orange Democratic Movement
TVETA	-	Technical Vocational and Educational Training Authority

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 2024 sponsored by Hon. Mejjadonk Benjamin Gathiru, MP was read a first time on 21st February, 2024 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, Cap. 210 to end the practice of universities offering certificate and diploma courses. This is informed by the fact that currently there are two bodies certifying certificate and diploma courses, that is, the Technical and Vocational Education and Training Authority for technical and vocational colleges and the Commission for University Education for the universities, leading to inconsistencies in the content and duration of the courses.

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 7th March, 2024 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 Nutritionist and Dieticians Institute. All the submissions were considered by the Committee.

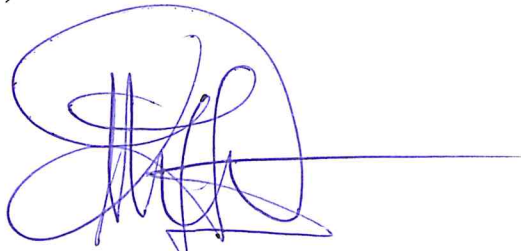
Further, in considering the Bill the Committee held a total of three (3) meetings to receive and consider submissions.

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) (No.5) Bill, 2023 (National Assembly Bill No. 79) sponsored by the Hon. Mejjadonk Benjamin Gathiru, MP).



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 proposed 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 Noonaiishi 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 Bill was introduced to address the overlapping roles of Kenyan universities and technical institutions in offering diploma and certificate courses, a situation that has led to inconsistencies in course quality, content, and duration. Currently, both the Technical and Vocational Education and Training Authority (TVETA) and the Commission for University Education (CUE) are responsible for certifying diploma and certificate courses, creating regulatory challenges and confusion in the education sector.
7. As universities were initially established to focus on degree and research programs, this overlap has also drawn concerns about mission drift, where universities increasingly venture into areas designated for technical and vocational institutions.
8. The Bill aims to streamline the education system by restricting universities to degree and postgraduate courses, leaving diploma and certificate programs to technical and vocational colleges. This reallocation is intended to boost enrollment in technical institutions, which have struggled to attract students despite substantial government investment.
9. By clarifying institutional roles, the Bill seeks to enhance the quality and relevance of education at all levels, ensuring that students receive focused training tailored to either academic or technical pathways. This legislative move aligns with the government's broader goal to strengthen technical and vocational education as a means of addressing skill gaps and promoting economic development.

2.2 Memorandum of Objects and Reasons for the Bill

10. The principal object of the Bill is to amend the Universities Act, *Cap. 210* to end the practice of universities offering certificate and diploma courses. This is informed by the fact that currently there are two bodies certifying certificate and diploma courses, that is, the Technical and Vocational Education and Training Authority for technical and vocational colleges and the Commission for University Education for the universities leading to inconsistencies in the content and duration of the courses.
11. **Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms**
 9. The Bill delegates legislative powers to the Cabinet Secretary. It does not 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) (No.5) Bill, 2023 (National Assembly Bill No. 79) sponsored by the Hon. Mejjadonk Benjamin Gathiru, MP, was read a first time on 21st February, 2024 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 7th March, 2024 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 Nutritionist and Dieticians Institute which were considered by the Committee.
15. In considering the Bill the Committee held a total of three (3) meetings to receive and consider submissions from the stakeholders.

3.3 Meeting with the Sponsor of the Bill

16. Hon. Mejjadonk Benjamin Gathiru, M.P, the sponsor of the Universities (Amendment) Bill, 2023 sent written submissions to the Committee as follows:
17. The principal objective of this Bill is to amend the Universities Act, 2012 to end the practice of universities offering certificate and diploma courses. This is informed by the fact that currently there are two bodies certifying certificate and diploma courses and this leads to inconsistencies in the content and duration of the courses.
18. The Universities (Amendment) (No 5) Bill 2023 seeks to prohibit universities from offering diploma and certificate courses, reserving these programs for technical and vocational colleges. Further the Kenya Universities and Colleges Central Placement Service (KUCCPS) should be barred from placing students in university to undertake diploma or certificate courses.
19. The proposed legislation marks a significant shift in the role of universities, emphasizing their function as institutions of higher learning and academic research. By limiting certificate and diploma courses to technical and vocational colleges, proponents aim to streamline educational pathways and increase enrolment in these institutions.
20. To mitigate immediate disruptions, the proposed legislation includes transitional measures allowing current students enrolled in diploma and certificate courses to complete their studies under the existing arrangement. This transitional period provides stability for affected students and institutions while allowing for a smooth transition to the new regulatory framework.

-
21. Beyond restricting universities from offering diploma and certificate courses, the bill empowers the Commission for University Education (CUE) to enhance the recognition of international qualifications. By equating postgraduate certificates and diplomas conferred by foreign universities, the proposed regulatory changes aim to facilitate academic mobility and international collaboration, enriching the academic landscape and fostering global partnerships. Per the new bill, Chancellors of any university will only award postgraduate certificates and postgraduate diploma courses and not the basic certificate and diploma courses.
 22. Further, it is necessary to remove certificate and diploma courses from universities since there are two bodies certifying certificate and diploma courses. These are the Technical and Vocational Education and Training Authority for technical and vocational colleges and the Commission for University Education (CUE) for universities.
 23. There is confusion and inconsistencies in the content and duration of the courses and if the bill is approved, CUE will have the function to recognise and equate postgraduate certificates and postgraduate diplomas conferred by foreign universities and institutions as opposed to basic certificates and diplomas.
 24. The proposal is in tandem with the recommendations contained in the report submitted last year by the Presidential Working Party on Education Reforms (PWPER), a task force to address the challenges that had for long years bedevilled the country's education sector. In their report, PWPER members sanctioned that universities be barred from offering certificates and diplomas noting that the institutions needed to focus on degree programmes for optimum quality.
 25. The Universities (Amendment) Bill, 2023 represents a pivotal moment in Kenya's higher education sector, signalling a strategic shift in educational priorities and institutional roles. The proposed legislation will enhance the quality of higher education and strengthen tertiary institutions. Also, the legislation will promote inclusivity, excellence, and innovation in Kenya's tertiary education system.

PART IV

4.0 COMMITTEE OBSERVATIONS

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


- i. Section 20(1)(e) of the University Act, authorizes chartered universities to award degrees, including honorary degrees. Subsequently, the Statute Law (Miscellaneous Amendment) Act of 2012 broadened this mandate of universities, to include offering of diploma courses, and certificates. Pursuant to the aforementioned amendment, universities in Kenya have the mandate to provide diplomas, and certificates which is also a mandate of the Technical Vocational Training Colleges.
- ii. There however, have been several challenges arising from permitting both universities and Technical Vocational and Educational Training colleges to offer certificates and diploma courses. Some of these challenges include: duplication of roles, congestion in universities, under-utilization of resources among others.
- iii. This amendment is in line with the recommendations in the Report of the Presidential Working Party on Education Reform, 2023.

PART V

5.0 COMMITTEE RECOMMENDATION

The Committee, having considered the Universities (Amendment) Bill, 2023 (National Assembly Bills No.79), the submissions from stakeholders and the sponsor of the Bill, recommends that the House approves the Bill.

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 13 NOV 2024	DAY/WED WED
TABLED BY:	MAJORITY PARTY WHIP HON. NAOMI NAGU, MP
CLERK-AT THE TABLE:	M.S. MERCY CHUMBO.

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

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. BENJAMIN GATHIRU MEJIADONK, 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	

