

REPUBLIC OF KENYA



THE SENATE

TWELFTH PARLIAMENT – THIRD SESSION

STANDING COMMITTEE ON STANDING COMMITTEE ON LABOUR
AND SOCIAL WELFARE

REPORT ON THE PETITION CONCERNING CLEARANCES REQUIRED BY
PUBLIC BODIES ON APPLICATION FOR JOBS IN KENYA.

Clerk's Chambers,
The Senate,
Parliament Buildings,
NAIROBI

November, 2019

Contents

APPENDICES.....	2
ABBREVIATIONS AND ACRONYMS.....	3
PREFACE	4
CHAPTER 1: INTRODUCTION	6
1.1 EMERGING ISSUES FROM THE PETITION	6
1.2 THE PETITIONERS PRAYERS	6
CHAPTER 2: DELIBERATIONS & UNDERTAKINGS OF THE COMMITTEE	7
2.1 COMMITTEE UNDERTAKINGS	7
2.2 SUMMARY OF THE MEETING DELIBERATIONS	7
2.2.1 Presentation by Petitioners.....	9
2.2.2 Ethics and Anti-Corruption Commission (EACC)	7
2.2.3 Kenya Revenue Authority (KRA).....	7
2.2.4 Central Bank of Kenya (CBK)	7
2.2.5 Directorate of Criminal Investigations (DCI).....	8
2.2.6 Higher Education Loans Board (HELB).....	8
2.2.7 Public Service Commission (PSC)	8
2.2.8 Immediate gains from the meetings.....	9
CHAPTER 3: COMMITTEES' OBSERVATIONS & RECOMMENDATIONS	10
3.1 COMMITTEES' OBSERVATIONS.....	10
3.2 COMMITTEES' RECOMMENDATIONS.....	10

Appendices

1. Copy of the Petition
2. Minutes of the sittings of the Committee
3. Response by the Ethics and Anti-Corruption Commission
4. Response by the Kenya Revenue Authority
5. Response by the Central bank of Kenya
6. Response by the Directorate of Criminal Investigations
7. Response by the Higher Education Loans Board

Abbreviations and Acronyms

CBK	-	Central Bank of Kenya
CBS	-	Chief of the Order of the Burning Spear
CRB	-	Credit Reference Bureaus
DCI	-	Directorate of Criminal Investigations
Dr.	-	Doctor
EACC	-	Ethics and Anti-Corruption Commission
EGH	-	Elder of the Order of the Golden Heart of Kenya
HELB	-	Higher Education Loans Board
KRA	-	Kenya Revenue Authority
MP	-	Member of Parliament
PIN	-	Personal Identification Number
PSC	-	Public Service Commission
Sen.	-	Senator
TVET	-	Technical and Vocational Education and Training
VAT	-	Value Added Tax

PREFACE

Mr. Speaker, Sir

1. The Standing Committee on Labour and Social Welfare was constituted in December, 2017 during the First Session of the Twelfth (12th) Parliament pursuant to the provisions of Senate standing order 187.

The Committee is mandated to consider all matters related to: *manpower and human resources planning, pension, gender, culture and social welfare, youth, National Youth Service, children's welfare; national heritage, betting, lotteries and sports, public entertainment, public amenities and recreation.*

2. In executing its mandate, the Committee oversees -:
 - a) Ministry of Labour and Social Protection;
 - b) Ministry of Public Service, Youth and Gender Affairs; and
 - c) Ministry Sports and Heritage.
3. The Committee comprises the following Members:

1. Sen. Sakaja Johnson Arthur, CBS	-Chairperson
2. Sen. (Dr.) Milgo Alice Chepkorir	-Vice Chairperson
3. Sen. Madzayo Stewart Mwachiru	-Member
4. Sen. Poghisio Samuel Losuron, EGH	-Member
5. Sen. (Dr.) Mwaura Isaac, CBS	-Member
6. Sen. Cherarkey Samson Kiprotich	-Member
7. Sen. Makori Beatrice Kwamboka	-Member
8. Sen. (Dr.) Inimah Gertrude Musuruve	-Member
9. Sen. Lokorio Petronilla Were	-Member
4. The petition concerning clearances required by public bodies on application for jobs in Kenya was presented to the Senate on Tuesday, 23rd October, 2018 by Senator Isaac Mwaura, MP. – Nominated Senator representing for Persons with Disabilities. The Speaker of the Senate then directed that the petition be dealt by the Standing Committee on Labour and Social Welfare.
5. The Committee held eight (8) sittings on the matter.
6. The Committee has also written to the institutions involved on the matter and received written submissions.
7. The Committee met the petitioners and institutions concerned.

ACKNOWLEDGEMENT

Mr. Speaker Sir,

The Committee wishes to acknowledge the time and considerable effort made by all parties who volunteered information before it. I also wish to express my gratitude to my colleagues for their thoughtful input and engaged contributions to the matter. Further, the Committee is indebted to the Office of the Speaker and the Clerk of the Senate for facilitating all the actions that led to the production of this report. The Committee also wishes to recognize the commitment and dedication of the staff of the committee that made the work of the Committee and the production of this report possible.

Mr. Speaker Sir,

It is now my pleasant duty, pursuant to Standing Order 232 to table the report of the Standing Committees of Labour and Social Welfare in relation to the Petition concerning clearance required by public bodies on application for jobs in Kenya.



SIGNATURE.....
(CHAIRPERSON: SEN. JOHNSON SAKAJA)
STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

DATE..... Tuesday, 19th November, 2019.....

CHAPTER 1: INTRODUCTION

1.1 Emerging Issues from the Petition

1. THAT, unemployment in Kenya is one of the biggest challenges facing youths which is estimated to have risen up to 35 per cent. Unemployment rates in Kenya refer to the number of persons who are unemployed as a percentage of the total number of employed and unemployed persons aged 15 years and above;
2. THAT, education is regularly considered a key element for better employment opportunities and Kenya has made progress in recent years with enrolment numbers for tertiary, technical and universities increasing drastically;
3. THAT, efforts to seek jobs are rendered difficult due to the various clearances by many applicants that the youth have to fulfill before getting the job;
4. THAT, apart from academic certificates, parastatals and county employers require the applicants to provide clearances before getting jobs;
5. THAT, youth, especially the fresh graduates, from both tertiary, technical and universities have an uphill task to get clearances from -
 - a. the Higher Education Loans Board (HELB);
 - b. the Kenya Revenue Authority (KRA);
 - c. the Credit Reference Bureau (CRB);
 - d. the Ethics and Anti-corruption Commission (EACC); and
 - e. the Directorate of Criminal Investigation (DCI).
6. THAT, these clearances require the youth to commute and pay an average of Kshs 6,000 as follows -
 - a. DCI -Kshs1,050 for withdrawal.
 - b. HELB -Kshs1,000
 - c. KRA -Kshs1,200
 - d. EACC -Kshs1,000
 - e. CRB -Kshs2,000
7. THAT, majority of the youth seeking jobs cannot afford these costs especially during the transition from colleges and universities to the job market;
8. THAT, we have made the best efforts to have these matters addressed by the relevant authorities, all of which have failed to give a satisfactory response; and
9. THAT, the issues raised in this Petition are not pending in any court of law, constitutional or legal body.

1.2 The Petitioners Prayers

The Petitioners prayers were that the Senate –

1. Investigates the need to have clearances by public service boards scrapped off;
2. Ensures that all Government job applications are done for free;
3. Ensures that the Government increases efforts to enhance employment of youth including doing away with the 16 per cent Value Added Tax (VAT) on fuel to increase manufacturing in line with the presidential agenda on the Big Four;
4. Mandate the Government to focus on vocational and technical training which are in line with Vision 2030 rather academic degrees; and
5. Reduce the retirement age from 60 to 55 years.

CHAPTER 2: DELIBERATIONS & UNDERTAKINGS OF THE COMMITTEE

This section contains the deliberations that the Committee made and the presentations that were made by the Petitioners.

2.1 Committee Undertakings

The Committee first considered the Petition on 14th November, 2018 where it resolved to write to the concerned institutions first to seek clarifications on the fees charged. The Committee then held subsequent meetings on 28th November, 2018, 27th February, 2019 and 3rd March, 2019.

The Committee resolved to invite the Institutions and the petitioners on 3rd October 2019 and it met with the Ethics and Anti-Corruption Commission and the Kenya Revenue Authority on 23rd October, 2019. On 5th November, 2019, the Committee met with the Central Bank of Kenya, the Directorate of Criminal Investigations, the Higher Education Loans Board and the Public Service Commission. The Petitioners were present in both meetings.

2.2 Summary of the Meeting Deliberations

2.2.1 Ethics and Anti-Corruption Commission (EACC)

The following emerged during the meeting –

- i. The Commission does not charge any fees for integrity verification/ clearance pursuant to Chapter 6 of the Constitution;
- ii. The self- declaration forms requires to be filled by individuals seeking appointment/election to public office has a provision for attestation by a commissioner for oaths or Magistrate who levy such fees; and
- iii. The Commission informed Senate that it is in the process of automating the system to enable online submission of self- declaration form which will be free of charge.

2.2.2 Kenya Revenue Authority (KRA)

- i. KRA does not charge for Tax Compliance Certificates; and
- ii. On the 16% VAT charged on fuel, KRA is only complying on what the Parliament Passed in the Finance Act.

2.2.3 Central Bank of Kenya (CBK)

- i. Central Bank of Kenya is the regulator of the Credit Reference Bureaus (CRBs);

- ii. Regulation 31 of the CRB regulations, 2013 allows CRBs to charge fees for services rendered. Central Bank assesses and approves the fees;
- iii. Regulation 35 (3) of CRB regulations states that a customer is entitled to a free copy of his credit report once a year; and
- iv. Credit reports are primarily for lenders for Credit Appraisal purposes, it's the Public Service Commission and other employers that use this at their discretion.

2.2.4 Directorate of Criminal Investigations (DCI)

- i. The Directorate charges Kshs. 1050 per clearance certificate of which Kshs. 1,000 goes to Treasury and Kshs. 50 is left with the Directorate for services provided like messaging, calling etc. The procedure of producing a clearance certificate is long and involves unquantifiable labour and equipment like finger print slab and roller, forensic fingerprint ink and forensic magnifying glasses which require regular servicing. The amount paid by the applicants enables the Directorate to sustain these operations;
- ii. The Directorate use to issue a certificate of good conduct but after 2010, it started offering a Certificate of Clearance;
- iii. The DCI receives between 5 to 20,000 applications daily. It uses a system called Automated Identification System which is maintained yearly;
- iv. The DCI also receives about 2,00 criminal records daily; and
- v. The DCI processed about 800,000 applications in 2018.

2.2.5 Higher Education Loans Board (HELB)

- i. HELB charges 1,000 for those who did not benefit from the fund to meet the operational costs of the service;
- ii. Any HELB beneficiary does not pay for clearance certificate because they pay a subsidized interest of 4% and ledger fees of Kshs. 1,000 annually;
- iii. Currently reviewing an online portal which will bring down the costs of Ksh. 1,000;
- iv. Courts have upheld that clearance certificates are in line with chapter 6 of the Constitution; and
- v. Government has ensured that TVET Trainees can apply for HELB loans up to a maximum of Kshs. 40,000 per annum.

2.2.6 Public Service Commission (PSC)

The Public Service Commission asserted that it does not request job applicants for clearance certificates. The Commission gets the clearances from the government agencies once it has recruited the successful applicants.

2.2.7 Presentation by Petitioners

- i. Though KRA does not charge for tax compliance certificate directly, there are other underlying issues. For example, a student needs a KRA Pin to access HELB Loan or open a bank account and the Penalty for not filing a tax return, even a NIL one is Kshs. 20,000;
- ii. The KRA website is also very complex and time consuming necessitating people to spend money on brokers and middlemen who will help them navigate through the system;
- iii. Most companies have started laying off their employees partly because of the 16% VAT on fuel that has raised the cost of doing business. The Government should create a favourable environment for businesses to thrive;
- iv. The Higher Education Loans Board requires students to start paying off their student loans after a year, regardless of whether they have secured employment or not. Failure to start paying attracts a monthly penalty of Kshs. 5,000 which further hurts the job seekers;
- v. Request that HELB should stop charging for the clearance certificate;
- vi. For the Directorate of Criminal Investigations, the Kshs. 1,050 is too much for a job seeker to pay yearly; and
- vii. The process of getting the EACC self-declaration forms stamped is long and tedious.

2.2.8 Immediate gains from the meetings

The institutions committed to the following to ease the process of job applications for young job seekers -

- i. EACC will have an online system of submission by January, 2020 which will greatly reduce the costs of getting a self-declaration form;
- ii. KRA will enable students who need to open bank accounts and access their bank loans, but have no income, to apply for PIN and dormancy, and therefore will not incur any tax obligations;
- iii. KRA will enable job seekers to also apply for clearance for tax obligations that were erroneously put;
- iv. CBK will push for first timers to get free clearance certificates;
- v. HELB and DCI, if adequately funded are ready to process clearance certificates for free;
- vi. HELB, in the third quarter will automate its system, leading to reduction in cost of clearance certificate to less than Kshs. 200;
- vii. HELB has made a deliberate shift from social sciences to skill based courses having noted that skill based courses have an over 98% absorption rate in the job market; and
- viii. All institutions have committed to create public awareness on their services and processes to prevent middlemen from exploiting citizens.

CHAPTER 3: COMMITTEES' OBSERVATIONS & RECOMMENDATIONS

3.1 Committees' Observations

- i. The Public, especially students from the universities and TVET institutions do not seem to be aware of the services offered by the Institutions. Civic education and public sensitisation of services offered by KRA, EACC, HELB, DCI and CBK need to be scaled up.
- ii. The Committee also noted that for school leavers, the school leaving certificate should be enough and should not be required to provide a self-declaration form or a tax clearance certificate;
- iii. There should be an integrated system between the government agencies and the Public Service Commission and public service boards where document verification is shared among institutions upon request by the agency;

3.2 Committees' Recommendations

In response to the prayers by the petitioner, the Committee resolved that –

1. Investigates the need to have clearances by public service boards scrapped off;

The Committee notes that Public Service Commission does not request job applicants for clearance certificates. The Commission gets the clearances from the government agencies once it has recruited the successful applicants.

The Committee therefore recommends that the County Public Service Boards and the County Assemblies County Service Boards ape the Public Service Commission's example as a best practise and source for the clearances directly from the government agencies for the successful applicants.

2. Ensures that all Government job applications are done for free;

As far as the Committee is aware, all government job applications are free of charge and costs are incurred when looking for clearances. Committee's first recommendation will automatically implement the petitioners' second prayer.

3. Ensures that the Government increases efforts to enhance employment of youth including doing away with the 16 per cent Value Added Tax (VAT) on fuel to increase manufacturing in line with the presidential agenda on the Big Four;

This requires an amendment to the Finance Act.

4. Mandate the Government to focus on vocational and technical training which are in line with Vision 2030 rather academic degrees;

The Government is already focusing on vocational and technical training by offering scholarships and loans though HELB. There are challenges in the uptake of courses and the Committee recommends that HELB together with other educational institutions conduct a sensitization program that would change the mindsets of the youth towards technical skills.

5. Reduce the retirement age from 60 to 55 years.

This requires a policy shift.

PETITION TO THE SENATE CONCERNING CLEARANCES REQUIRED BY PUBLIC BODIES AND PUBLIC SERVICE BOARDS ON APPLICATION FOR JOBS IN KENYA.

[After the Order for Petitions is read, Sen. (Dr.) Isaac Mwaura, will rise and present the petition before the House, pursuant to Standing Order 230(2)(a)]

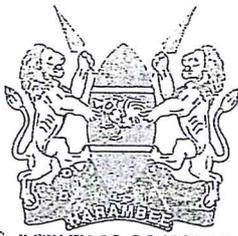
1. Honourable Senators, pursuant to standing order 231, I shall now allow comments, observations or clarifications in relation to the petition for not more than thirty minutes.

[after comments by Senators]

2. Honourable Senators, pursuant to standing order 232(1), the Petition stands committed to the Standing Committee on Labour and Social Welfare.

3. In terms of standing order 232(2), the Committee is required, in not more than sixty days from the time of reading the Prayer, to respond to the Petitioner by way of a Report addressed to the Petitioner, and laid on the Table of the Senate.

4. I thank you.



Mr. Mager

ps process

Handwritten notes and dates

21 OCT 2018 REPUBLIC OF KENYA THE SENATE

Hon. Sen. (Dr.) Mwaura Maigua Isaac, CBS., MP. (Senator for Person's with Disabilities)

Parliament Buildings Tel: +254 20 2221291 P. O. Box 41842 00100 Nairobi, Kenya

K.I.C.C 3rd Flr. Rm 304 Mobile: +254 721 864 949 Email: hon.mwauraoffice@gmail.com

SIM/OL/05/09/2018



18th Sep. 2018

THE CLERK OF THE SENATE

Parliament Buildings, P.O Box 41842-00100, NAIROBI.

Handwritten notes: DHPs, Please deal, 21/9/18

RE: PETITION TO THE SENATE CONCERNING CLEARANCES REQUIRED BY THE PUBLIC SERVICE BOARDS ON APPLICATION FOR JOBS IN KENYA

I/We the undersigned citizens of Kenya AND in particular the YOUTH of Kenya, DRAW the attention of the house to the following.

i) THAT, employment in Kenya is one of the biggest challenges facing youth which is estimated to have risen upto 35%.

Unemployment rates in Kenya refers to the number of persons who are unemployed as a per cent of the total number of employed and unemployed persons (age 15 and older)

ii) THAT, education is regularly considered a key element for better employment opportunities, and Kenya has made progress in recent years with enrolment numbers for tertiary, technical and universities increasing drastically.

iii) THAT, efforts to seek jobs are rendered difficult due to the various clearances any applicant has to fulfil before getting the job.

iv) THAT, apart from academic certificates, parastatals and county employers require the applicants to provide clearances before getting jobs.

v) THAT, youth especially the fresh graduates from both tertiary, technical and universities have an uphill task to get clearances from: Higher Education Loans Board (HELB), Kenya Revenue

PETITION TO THE SENATE CONCERNING CLEARANCES REQUIRED BY THE PUBLIC SERVICE BOARDS ON APPLICATION FOR JOBS IN KENYA

Handwritten note: Mr. Mwaura please process

Handwritten note: Mager

Authority (KRA), Credit Reference Bureau (CRB), Ethics and Anti-corruption commission (EACC) and Criminal Investigation Department (CID)

vi) THAT, these clearances require the youth to commute, and pay an average of Ksh.6000 as follows:

- a) CID-KSH.1050
- b) HELB-Ksh.1000
- c) KRA-Ksh.1200
- d) EACC-Ksh.1000
- e) CRB- Ksh.2000

vii) THAT, majority of the youth seeking jobs can not afford ~~to afford~~ these costs especially during the transition from college/university to job market.

viii) THAT, I/we have made the best efforts to have these matters addressed by the relevant authorities all of which have failed to give a satisfactory response.

ix) THAT, the issues raised in this petition are not pending in any Court of Law, Constitutional or legal body

WHEREFORE, your humble petitioners pray that the Senate-

i) Investigates the need to have clearances by Public Service Board scrapped off.

ii) Ensures that all government job applications are done for free

iii) Ensures the Government increases efforts to enhance employment of youth including doing away with 16% VAT on fuel to increase manufacturing in line with the President's agenda on the BIG FOUR.

iv) Emphasis on the need for the Government to focus on vocational and technical training which are in line with vision 2030 rather than academic degrees.

And your PETITIONERS will ever Pray

Dated this.....^{1st}.....day of.....^{SEP}.....2018.

No	NAME	ADDRESS	I.D. No.	SIGNATURE
i.	SAMUEL MAINA KARIUKI	0726475079	25870492	
2 nd	FELICIA KARIUKI	0700020846	28602992	

Counter signed by Senator (Dr.) Isaac M. Mwaura, CBS, MP,



HON. SEN (DR.) ISAAC M. MWAURA CBS, MP
SENATOR FOR PERSON'S WITH DISABILITIES

MINUTES OF THE 51ST MEETING OF THE STANDING COMMITTEE ON LABOUR & SOCIAL WELFARE HELD ON TUESDAY, 19TH NOVEMBER, 2019 IN THE GROUND FLOOR BOARDROOM, RED CROSS BUILDING FROM 10.00 AM.

MEMBERS PRESENT

- | | |
|--|-------------------|
| 1. Sen. Sakaja Johnson Arthur, CBS | -Chairperson |
| 2. Sen. (Dr.) Milgo Alice Chepkorir | -Vice Chairperson |
| 3. Sen. Madzayo Stewart Mwachiru | - Member |
| 4. Sen. Poghio Samuel Losuron, EGH | -Member |
| 5. Sen. Cherarkey Samson Kiprotich | -Member |
| 6. Sen. (Dr.) Inimah Gertrude Musuruve | -Member |

ABSENT WITH APOLOGIES

- | | |
|----------------------------------|---------|
| 1. Sen. Makori Beatrice Kwamboka | -Member |
| 2. Sen. (Dr.) Mwaura Isaac, CBS | -Member |
| 3. Sen. Lokorio Petronila Were | -Member |

SENATE SECRETARIAT

- | | |
|------------------------|-------------------|
| 1. Ms. Mwanate Shaban | - Clerk Assistant |
| 2. Mr. Jeremy Chabari | - Legal Counsel |
| 3. Mr. Philemon Okinda | - SAA |

MINUTE SEN/SCLSW/244/2019: PRELIMINARIES

The Chairperson called the meeting to order at 10.00 am with a word of prayer.

MINUTE SEN/SCLSW/245/2019: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after being proposed by Sen. (Dr.) Alice Milgo and seconded by Sen. Stewart Madzayo as follows –

AGENDA

1. Preliminaries (Prayers)
2. Adoption of the Agenda;
3. **Consideration and Adoption of the Report on the Petition concerning clearance required by job applicants by public service bodies on application for jobs;**
4. **Consideration and Adoption of the Report on the Petition concerning rounding up and dumping of street children by the Nakuru County government; and**
9. Any Other Business & Adjournment

MINUTE SEN/SCLSW/246/2019: CONSIDERATION AND ADOPTION OF THE REPORT ON THE PETITION CONCERNING CLEARANCE REQUIRED BY JOB APPLICANTS BY PUBLIC SERVICE BODIES ON APPLICATION FOR JOBS;

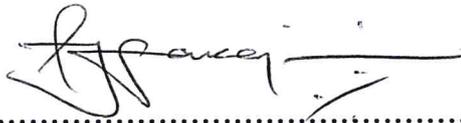
The Committee considered the report on the Petition concerning clearance required by job applicants by public service bodies on application for jobs and adopted it after it was proposed by Sen. Gertrude Musuruve and seconded by Sen. Stewart Madzayo.

MINUTE SEN/SCLSW/247/2019: CONSIDERATION AND ADOPTION OF THE REPORT ON THE PETITION CONCERNING ROUNDING UP AND DUMPING OF STREET CHILDREN BY THE NAKURU COUNTY GOVERNMENT;

The Committee considered the report on the Petition concerning rounding up and dumping of street children by the Nakuru County government and unanimously resolved that the Chair should table it as an interim report and inform the House that a full report of the Petition will be tabled after the Committee conducts a county visit to Nakuru where it will investigate the violation of children rights under Article 53.

SEN/SCLSW/248/2019: ANY OTHER BUSINESS AND ADJOURNMENT

The Chairperson thanked the Commission and there being no other business the meeting was adjourned at 11.45am.



SIGNATURE.....
(CHAIRPERSON: SEN. JOHNSON SAKAJA, CBS)

DATE..... 27th November, 2019

THE SENATE

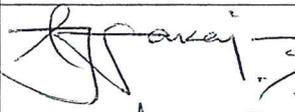
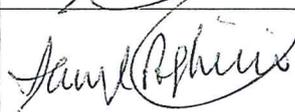
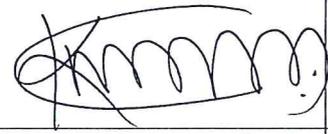
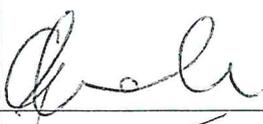
ATTENDANCE REGISTER

STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

Purpose.....In House Meeting - Adoption of Report on Petition concerning clearance required by public service jobs on application for jobs in Kenya.

Venue.....Ground Floor boardroom - Red Cross Building.

Date.....Tuesday 19th November, 2019 **Time**.....10:00 am.

No.	NAME	SIGNATURE	REMARKS
1.	Sen. Sakaja Johnson Arthur, CBS		Chair
2.	Sen. (Dr.) Milgo Alice Chepkorir		Vice Chair
3.	Sen. Madzayo Stewart Mwachiru		
4.	Sen. Poghisio Samuel Losuron, EGH		Member
5.	Sen. (Dr.) Mwaura Isaac, CBS		
6.	Sen. Cherarkey Samson Kiprotich		member.
7.	Sen. Makori Beatrice Kwamboka		
8.	Sen. (Dr.) Inimah Gertrude Musuruve		member
9.	Sen. Lokorio Petronila Were		

Committee Clerk

Ms. Mwanate Shaban



MINUTES OF THE 49TH MEETING OF THE STANDING COMMITTEE ON LABOUR & SOCIAL WELFARE HELD ON TUESDAY, 5TH NOVEMBER, 2019 AT SHIMBA HILL HALL, KICC BUILDINGS FROM 9.30 AM.

MEMBERS PRESENT

- | | |
|--|-------------------|
| 1. Sen. Sakaja Johnson Arthur, CBS | -Chairperson |
| 2. Sen. (Dr.) Milgo Alice Chepkorir | -Vice Chairperson |
| 3. Sen. Madzayo Stewart Mwachiru | - Member |
| 4. Sen. (Dr.) Mwaura Isaac, CBS | -Member |
| 5. Sen. Makori Beatrice Kwamboka | -Member |
| 6. Sen. (Dr.) Inimah Gertrude Musuruve | -Member |

ABSENT WITH APOLOGIES

- | | |
|------------------------------------|---------|
| 1. Sen. Poghio Samuel Losuron, EGH | -Member |
| 2. Sen. Cherarkey Samson Kiprotich | -Member |
| 3. Sen. Lokorio Petronila Were | -Member |

SENATE SECRETARIAT

- | | |
|------------------------|-------------------|
| 1. Ms. Mwanate Shaban | - Clerk Assistant |
| 2. Mr. Jeremy Chabari | - Legal Counsel |
| 3. Mr. Philemon Okinda | - SAA |
| 4. Ms. Julia Gachohi | - SAA |

IN ATTENDANCE

1. Central Bank of Kenya
2. Directorate of Criminal Investigations
3. Higher Education Loans Board
4. Public Service Commission

MINUTE SEN/SCLSW/236/2019: PRELIMINARIES

The Chairperson called the meeting to order at 10.00 am with a word of prayer.

MINUTE SEN/SCLSW/237/2019: ADOPTION OF THE AGENDA

The agenda of the meeting was unanimously adopted as follows –

AGENDA

1. Preliminaries (Prayers & Introductions)
2. Adoption of the Agenda;
3. **Meeting Stakeholders on the Petition concerning Clearance required by public bodies on Application for Jobs in Kenya;**
4. Any Other Business & Adjournment

MINUTE SEN/SCLSW/238/2019: MEETING STAKEHOLDERS ON PETITION CONCERNING CLEARANCE REQUIRED BY PUBLIC BODIES ON APPLICATION FOR JOBS IN KENYA;

a) Briefing by the Chair

The Chairperson welcomed all present and after introductions by all present, gave a brief on the status of the petition. He mentioned that the Committee had written to the Ethics and Anti-Corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Central Bank of Kenya (CBK), The Directorate of Criminal Investigations (DCI) and the Higher Education Loans Board (HELB) regarding the petition and had received responses from all parties. He added that the Committee had met the EACC and KRA in the previous meeting. He then invited Sen. Mwaura, the sponsor of the petition to comment.

b) Submissions by Sen. Mwaura

Sen. Mwaura began by thanking the organizations present for honouring the Committee's invite and stated that charging job seekers clearance fees is a big disincentive to young unemployed people.

He wondered why public institutions (which receive money from the exchequer) should charge fees.

c) Presentation by Dr. Patrick Njoroge, CBK Governor

1. The CBK was a regulator of credit reference bureaus who are allowed by regulations to charge for the credit certificate;
2. The requirement for clearance certificate are not placed by the bureaus or the CBK but the prospective employers;
3. The Central Bank supports the background check on potential employees but advises prospective employees to find ways to improve the recruitment framework;
4. CBK notes that employees will ask for the certificate of clearance which is obtained at a charge of Kshs. 2,000, while CRBs are mandated by law to give a free credit report once a year. This provides much more information and Employers can request for the report and once they have employed the person, they can then ask the employee to get a certificate of clearance;
5. CRBs have this information on their website and is very easy to obtain by use of phone through subscription; and
6. CBK is trying to improve the way the CRBS operate.

d) Members' interjections

1. CBK should publicize awareness of the credit report;
2. Kshs. 2,000 – 2,500 is a lot of money for an unemployed youth;
3. Many of the youth are committing suicide; partly due to the un-favourable environment that government institutions are creating for them;
4. A credit report is detailed and may have information that the applicant deems confidential; a certificate is still more convenient;
5. Can CBK look into ways to waive fees for the initial report or make it entirely free?
6. What is CBK doing to ensure that the lowest or most vulnerable members of our society are not paying the highest interest – ie regulating the mobile loans; and

7. When do we have a minimum threshold for payments commitments?

e) CBK Response

1. CBK has noted that CRBs are quick to blacklist but slow to rectify when the situation changes and has observed that the problem starts with the banks;
2. CBK is currently reviewing CRB 2.0 regulations, taking in concerns of the public and looking at the best practices to ensure that CRBs work for Kenyans. These regulations will consider
 - i) The validity of the certificate;
 - ii) The need to assess young people correctly; and
 - iii) The cost of the certificate.
3. Upon the release of regulations 2.2, they will conduct awareness programs; and
4. With Stawi loan, banks have found a way to assess the risk of the borrower.

f) Way forward

1. CBK will push for first timers to get free clearance certificates. The timing was right because the review of regulations is within the next three months;
2. There is need to inform Kenyans of the benefits of CRBs and who can list Kenyans on the Credit list; and
3. Currently looking into the issues of the new currency raised by the PWDs

g) Presentation by Mr. Dunda, Directorate of Criminal Investigations (DCI)

1. The Directorate charges Kshs. 1050 per clearance certificate of which Kshs. 1,000 goes to Treasury and Kshs. 50 is left with the Directorate for services provided like messaging, calling etc.
2. The Directorate use to issue a certificate of good conduct but after 2010, it started offering a Certificate of Clearance.
3. The DCI receives between 5 to 20,000 applications daily. It uses a system called Automated Identification System which is maintained yearly;
4. The DCI also receives about 2,00 criminal records daily;
5. The DCI processed about 800,00 applications in 2018;
6. The Directorate has also decentralized and is found in other cities;
7. Parliament should fund the Directorate so that they may issue the certificates for free.

h) Interjections by the Petitioners

1. Can the public service bodies request for information directly from the DCI for the applicants who have been successful;
2. Can the DCI maintain and update its records regularly so that applicants do not have to be finger printed every time they request for a clearance certificate;

The DCI responded by saying they are updating the system to enable one to fingerprinted only once.

i) Presentation by the Higher Education Loans Board (HELB)

1. HELB processed 25,000 applications in 2018/ 2019 Financial year;
2. The budget was Kshs. 13,082,164.26 of which 57% was funded by the exchequer while 35% was internally generated resources through -

3. miscellaneous income – 2%
4. loan recoveries - 33%.
5. The internally generated funds are built up from clearance certificates. In case the funding lines are withdrawn, the exchequer has to scale its funding to HELB with equal compensation;
6. HELB charges Kshs, 1,000 for clearance certificates from those who did not benefit from the fund because it is a service given which incurs operational costs;
7. Beneficiaries of HELB Loan do not pay for the clearance certificates because they pay a subsidized interest of 4% and ledger fee of Kshs. 1,000 annually as prescribed by the HELB Act;
8. HELB shall be reviewing the amount charges to non-loanees downwards after a new online portal currently being developed is fully implemented; and
9. HELB also offers loans for TVET educational courses.

j) Members interjections

- 1) Could HELB look at the start of the repayment period – should the loan be repaid after graduation or once the graduate has found a job; and
- 2) HELB should also address the issue of penalties and involving the police to pay the loan.

h) Responses by HELB

1. HELB is using social media, huduma mashinani and other sources to catch defaulters; and
2. HELB is also making a deliberate shift from social sciences to skill based courses having noted that skill based courses have an over 98% absorption rate in the job market.

1) Public Service Commission

The Public Service Commission asserted that it does not request job applicants for clearance certificates. The Commission gets the clearances from the government agencies once it has recruited the successful applicants.

SEN/SCLSW/239/2019: ANY OTHER BUSINESS AND ADJOURNMENT

The Chairperson thanked the institutions for meeting the Committee and there being no other business the meeting was adjourned at 11.58 am.



SIGNATURE.....
(CHAIRPERSON: SEN. JOHNSON SAKAJA)

DATE..... Tuesday, 19th November, 2019.....

MINUTES OF THE 47TH MEETING OF THE STANDING COMMITTEE ON LABOUR & SOCIAL WELFARE HELD ON WEDNESDAY, 23RD OCTOBER, 2019 AT THE GROUND FLOOR BOARDROOM, RED CROSS BUILDINGS FROM 11.00 AM.

MEMBERS PRESENT

- | | |
|--|-------------------|
| 1. Sen. Sakaja Johnson Arthur, CBS | -Chairperson |
| 2. Sen. (Dr.) Milgo Alice Chepkorir | -Vice Chairperson |
| 3. Sen. Madzayo Stewart Mwachiru | - Member |
| 4. Sen. Cherarkey Samson Kiprotich | -Member |
| 5. Sen. (Dr.) Mwaura Isaac, CBS | -Member |
| 6. Sen. (Dr.) Inimah Gertrude Musuruve | -Member |
| 7. Sen. Lokorio Petronila Were | -Member |

ABSENT WITH APOLOGIES

- | | |
|------------------------------------|---------|
| 1. Sen. Poghio Samuel Losuron, EGH | -Member |
| 2. Sen. Makori Beatrice Kwamboka | -Member |

SENATE SECRETARIAT

- | | |
|------------------------|-------------------|
| 1. Ms. Mwanate Shaban | - Clerk Assistant |
| 2. Mr. Jeremy Chabari | - Legal Counsel |
| 3. Mr. Philemon Okinda | - SAA |
| 4. Mr. Robert Rop | - Audio Officer |

MINUTE SEN/SCLSW/225/2019: PRELIMINARIES

The Chairperson called the meeting to order at 11.20 am with a word of prayer.

MINUTE SEN/SCLSW/226/2019: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Gertrude Musuruve and seconded by Sen. Petronila Were as follows –

1. Preliminaries (Prayers)
2. Adoption of the Agenda;
3. **Meeting Stakeholders on the Petition concerning Clearance required by public bodies on Application for Jobs in Kenya;**
4. Any Other Business & Adjournment

MINUTE SEN/SCLSW/227/2019: MEETING STAKEHOLDERS ON THE PETITION CONCERNING CLEARANCE REQUIRED BY PUBLIC BODIES ON APPLICATION FOR JOBS IN KENYA;

The Chairperson welcomed the guests and after a self-introductory session, requested them to make their presentations.

a) Presentation by Kenya Revenue Authority

1. KRA does not charge for Tax Compliance Certificates; and
2. On the 16% VAT charged on fuel, KRA is only complying on what the Parliament Passed in the Finance Act.

b) Presentation by Mr. Twalib Mbarak – Chief Executive Officer, Ethics and Anti-corruption Commission

1. EACC does not charge any fees but citizens may be charged by the middlemen they seek to assist them in filling the form;
2. The forms has a provision for attestation by a Commissioner for oaths or magistrate who levy such fees; and
3. EACC is planning to roll out online submission of Self declaration forms by January 2020.

c) Presentation by Petitioners

1. Agreed that KRA does not charge for tax compliance certificate directly but there are other underlying issues. A student needs a KRA Pin to access HELB Loan or open a bank account. The Penalty for not filing a tax return, even a NIL one is Kshs. 20,000.
2. The KRA website is also very complex and time consuming necessitating people to spend money on brokers and middlemen who will help them navigate through the system;
3. KRA needs to make the information available to the public and also sensitise the public on how to work around the tax filing system;
4. For school leavers, the school leaving certificate should be enough and should not be required to provide a self-declaration form or the a tax clearance certificate;
5. Most companies have started laying off their employees partly because of the 16% VAT on fuel that has raised the cost of doing business. The Government should create a favourable environment for businesses to thrive.
6. The Higher Education Loans Board wants students to start paying off their student loans after a year regardless of whether they have secured employment or not. Failure to start paying attracts a monthly penalty of Kshs. 5,000 which hurts the job seekers further;
7. Request that HELB should stop charging for the clearance certificate;
8. For the Directorate of Criminal Investigations, the Kshs. 1,000 is too much for a job seeker to pay yearly;

9. The process of getting the EACC self-declaration forms stamped is long and tedious;
10. There should be an integrated system between the government agencies and the Public Service Commission and public service boards where document verification is shared among institutions upon request by the agency;

d) Response by Members

1. Can the institutions put disclaimers in their forms to inform the public that the forms are free;
2. Does the Private sector come to EACC and KRA when recruiting;
3. EACC and KRA should do a sensitization program;
4. There seems to be a cartel that is taking advantage of the unemployment situation in the country because the KRA website is so unfriendly that one is forced to pay auditors and accountants to file the returns and also pay magistrates to stamp the self-declaration forms;
5. EACC, KRA, DCI, CBK and HELB are all public institutions that are funded by the public and it therefore makes no sense to request the public to pay for getting services; and
6. It is not right to penalize a young job seeker for not filing NIL Returns.

e) Clarifications by KRA and EACC

1. Students can apply for PIN and dormancy when they do not have an income, and therefore no tax obligations but need a PIN for other reasons;
2. Job seekers can also apply for clearance for tax obligations that were erroneously put;
3. KRA has a way of detecting tax payers once they acquire some income;
4. EACC will have an online system of submission by January, 2020;
5. The Public Service Commission and other public bodies can directly request for verification from the institutions for the people that have been successful in a job interview; and
6. Parliament can enact a law that will segregate who is to fill which forms and at what stage.

SEN/SCLSW/228/2019: ANY OTHER BUSINESS AND ADJOURNMENT

There being no other business the meeting was adjourned at 13.20 pm and the date of the next meeting scheduled for Thursday, 24th October, 2019.

SIGNATURE.....

(CHAIRPERSON: SEN. JOHNSON SAKAJA)

DATE.....

24th October 2019.

REPORT BY THE ETHICS AND ANTI-CORRUPTION COMMISSION (EACC) TO THE SENATE DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE ON PETITION CONCERNING CLEARANCES REQUIRED BY PUBLIC SERVICE BOARDS ON APPLICATIONS FOR JOBS IN KENYA

1.0 BACKGROUND

The Ethics and Anti-Corruption Commission (EACC) is a statutory body established under the Ethics and Anti-Corruption Commission Act of 2011. The Act was enacted pursuant to the requirements under Article 79 of the Constitution. The mandate of the Commission; is to combat corruption and economic crime in Kenya through law enforcement, prevention, public education and promotion of ethical standards and practices. Besides the provisions of the EACC Act, 2011 which bestows on the Commission the responsibility of ensuring law enforcement and compliance with Chapter Six of the Constitution, the Commission also derives its statutory mandate from a number of other statutes namely; the Anti-Corruption and Economic Crimes Act (ACECA) of 2003, the Leadership and Integrity Act (LIA), 2012 and the Public Officer Ethics Act (POEA), 2003.

This is a Report by the Ethics and Anti-Corruption Commission to the the Senate Departmental Committee on Labour and Social Welfare on a “petition concerning clearances required by Public Service Boards on applications for jobs in Kenya”. The report is submitted pursuant to a written request by the Departmental Committee vide letter Ref: SEN/SCLSW/CORR/2018/99 dated 15th November, 2018.

The EACC had earlier submitted its response to the Petition vide a letter Ref: EACC.7/10/5 Vol. X (30) dated 15th July, 2019. Subsequently, the Committee vide a letter Ref: SEN/SCLSW/2019/62 dated 7th October, 2019 invited the Commission for a meeting to discuss the Petition.

2.0 THE ROLE OF ETHICS AND ANTI-CORRUPTION COMMISSION (EACC) IN ENFORCEMENT OF CHAPTER SIX OF THE CONSTITUTION

The Leadership and Integrity Act, 2012 (LIA) was enacted pursuant to Article 80 of the Constitution to provide mechanisms and procedures for the administration and enforcement of Chapter Six of the Constitution on leadership and integrity. The Act seeks to ensure that State and Public Officers uphold and respect the values, principles and requirements of the Constitution while discharging public duty so as to foster and promote

integrity and good governance in the management of public affairs. Under Section 4 of LIA, the Commission is mandated to oversee and enforce implementation of the Act.

Section 12A of LIA makes it mandatory for any person intending to be appointed to a State Office to submit to the EACC a Self-Declaration Form set out in the **First Schedule of the Act**.

Section 52 of LIA provides that the provisions of Chapter Six of the Constitution and Part II of the LIA except Section 18 shall **apply to all Public Officers as if they were State Officers**. Consequently, the data in the Self-Declaration Form submitted provides baseline information for integrity verification.

2.1 CONSTITUTIONAL AND STATUTORY FOUNDATION

a. Constitutional Requirements

The Constitutional underpinning on ethics and integrity is provided in Articles 10(2) (c), 73(2) (a) of the Constitution and Section 12A of the Leadership and Integrity Act. The provisions are outlined as follows:

Article 10(2) (c) of the Constitution states that: *The national values and principles of governance include good governance, integrity, transparency and accountability.*

Article 73(2) (a) of the Constitution states that: *The guiding principles of leadership and integrity include - selection on the basis of personal integrity, competence and suitability.*

b. Statutory Requirements

The requirement for compliance with ethics and integrity is also provided in the:

- i. County Government Act, 2012 and;
- ii. Public Appointments (*County Assemblies*) Approval Act, 2017 requires that persons of integrity are appointed to County public offices. This role is vested on the Governor, County Public Service Boards and the County Assemblies mandated to vet the nominees.

Section 35(3) (c) of the County Government Act provides that: A person may be appointed as a member of the County Executive Committee if that person; **satisfies the requirements of Chapter Six of the Constitution.**

Section 8 (1) (a) of the County Government Act, 2012 mandates the County Assemblies to: **vet and approve nominees for appointment to County Public offices as may be provided for in the Act or any other law.**

Sections 4 and 7(8), respectively of **Public Appointments (County Assemblies) Approval Act, 2017**, requires an approval hearing to focus on a candidate's academic credentials, professional training and experience, **personal integrity** and background.

From the foregoing both the County Government Act 2012 and Public Appointments (*County Assemblies*) Approval Act, 2017 requires that persons of integrity are appointed to County Public Offices.

c. Implementation of the Integrity Verification(vetting) Process

The requirements **envisaged in Chapter Six of the Constitution and Leadership and Integrity Act are on: moral, ethical and financial probity** of candidates.

The process of determining suitability consists of background verification to determine whether an applicant seeking public office meets the moral and ethical requirements and is of good integrity standing.

The Commission implements the above requirement as follows:

- i. Any person seeking appointment to public office has to fill in the self-declaration form. The Self-Declaration Form provides biodata of the declarant;*
- ii. The declarant is required to attach copies of identity card and or passport, KRA pin and academic certificates;*
- iii. The filled Self-Declaration Form is submitted to the Commission Offices and or any Huduma Centers;*
- iv. The Commission captures the data received from the submitted declaration forms;*
- v. Recruiting public entities at National and County Governments submit to the Commission the list of shortlisted candidates for integrity verification;*

- vi. *The Commission undertakes verification to determine if there are outstanding integrity matters against the list of submitted candidates and prepares a report to the requesting entity;*
- vii. *The self-declaration has a provision for **commissioning by a Commissioner for Oaths and or Magistrate***
- viii. *The Commission **does not charge any fees** for clearance/integrity verification or submission of the form. The self-declaration form has a provision for attestation by a Commissioner for Oaths or Magistrate, hence the fees being charged by courts and or Commissioners for Oaths (which vary) are professional fees.*

2.2 EXECUTIVE ORDER NO. 6 OF 2015

The Executive Order No. 6 of 2015 required all public entities to implement urgent and decisive measures to combat and prevent corruption and unethical conduct in the management of public affairs. Implementation of **Section 12A of LIA** is one such mechanism that all public entities must enforce and/or comply with this requirement of the law, so as not to reverse the efforts and gains of the Government in the war against corruption and unethical conduct in public service.

3.0 CONCLUSION

Compliance with the aforementioned provisions of the law on integrity verification is a mechanism for ensuring that those seeking appointment to public office and individuals charged with key responsibilities are people of integrity.

Information provided in the Self-Declaration Form provides primary data for a person joining public service. The information **provides baseline data for monitoring the conduct and integrity of the officer while in public office.**

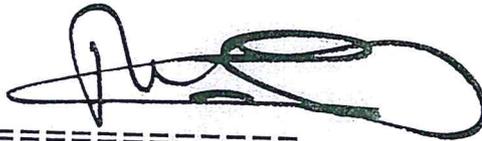
The strategy is a best practice and is a basis for inculcating a culture of integrity for all persons joining public service. Indeed, there are instances where some applicants/candidates have declined to pursue public appointment based on the fact that one is required to submit a Self-Declaration Form and undergo integrity verification pursuant to Chapter Six of the Constitution.

4.0 WAY FORWARD

EACC does not charge **any fees** for integrity verification/clearance pursuant to Chapter Six of the Constitution. However, the Self-Declaration Form filled by individuals seeking appointment/election to public office has a provision for attestation by a Commissioner for oaths or Magistrate who levy fees for such services. To address the challenge, we propose as follows:

- The Commission will consider an administrative arrangement to allow for youth seeking first-time appointment in public service to use a Self-Declaration Form for a duration of one calendar year before renewal;
- The Commission is automating the process to enable online submission of self-declaration form. This will make the service more readily available, effective and efficient.

DATED at Nairobi this 23rd day of October 2019



=====

TWALIB MBARAK
SECRETARY/CHIEF EXECUTIVE OFFICER



FIRST SCHEDULE (S.13) / TARATIBU YA KWANZA (S.13)**SELF-DECLARATION FORM / FOMU YA KUJITANGAZA**

1. GENERAL INFORMATION / TAARIFA YA JUMLA				
Title / <i>Cheo</i>	Surname / <i>Jina la ukoo</i>	First Name / <i>Jina la Kwanza</i>	Middle Name / <i>Jina la Katikati</i>	Other Names / <i>Majina Mengine</i>
Mr/Mrs/Prof/ Miss/Ms/Dr Bw/Bi/Prof/ Binti/Bibi/Dkt				
ID CARD No. <i>Na. ya Kitambulisho</i>	PASSPORT NO. <i>NA. ya PASIPOTI</i>	EXPIRY DATE OF PASSPORT <i>TAREHE YA MUDA WA PASIPOTI KUISHA</i>	PIN NO. <i>NA. ya PIN</i>	
SEX (Tick) <i>JINSIA (Weka Alama)</i>	Occupation: <i>Kazi:</i>			
Male <input type="checkbox"/> <i>Kiume</i>	E-Mail Address: <i>Anwani ya Barua pepe:</i>			
Female <input type="checkbox"/> <i>Kike</i>	Postal Address: PO Box <i>Anwani ya Posta: SL Posta:</i>			Code: <i>Msimbo:</i>
	Other Addresses: <i>Anwani Nyingine:</i>			
Telephone No. <i>Na. ya Simu</i>	Mobile No. <i>Na. ya Rununu</i>	Other Numbers <i>Nambari Nyingine</i>		
RESIDENCE <i>MAKAZI</i>	ESTATE/TOWN/LOCATION <i>MTAA/MJI/LOKESHENI</i>			
	DISTRICT <i>WILAYA</i>			
	COUNTY <i>KAUNTI</i>			
	TOWN/CITY <i>MJI/JIJI</i>			
	COUNTRY <i>NCHI</i>			
2. BIRTH INFORMATION / TAARIFA YA KUZALIWA				
DATE OF BIRTH / <i>TAREHE YA KUZALIWA</i>				

BIRTH CERTIFICATE NO. / NA. YA CHETI CHA KUZALIWA		
PLACE OF BIRTH / MAHALI PA KUZALIWA		
DISTRICT OF BIRTH / WILAYA YA KUZALIWA		
COUNTY OF BIRTH / KAUNTI YA KUZALIWA		
COUNTRY OF BIRTH / NCHI YA KUZALIWA		
3. NATIONALITY /UTAIFA		
Kenyan <input type="checkbox"/> <i>Mkenya</i>	Dual <input type="checkbox"/> <i>Kotekote</i> (Provide details _____) (Toa maelezo _____)	
4. MARITAL STATUS / HALI YA NDOA		
SINGLE <input type="checkbox"/> <i>NINGALI SIJAOA/SIJAOLEWA</i>	MARRIED <input type="checkbox"/> <i>NIMEOA/NIMEOLEWA</i>	SEPARATED <input type="checkbox"/> <i>NIMETENGANA</i>
DIVORCED <input type="checkbox"/> <i>NIMETALAKIANA</i>	WIDOWED <input type="checkbox"/> <i>NIMEFIWA</i>	
IF MARRIED GIVE NAMES OF THE SPOUSE(S) (Surname, First Name, middle name, others) <i>KAMA UMEMEA TOA MAJINA YA MUME/MKE(Wa) WAKO (Jina la ukoo, Jina la Kwanza, jina la kati, mengine)</i>		
NATIONALITY OF SPOUSE <i>UTAIFA WA MKE/MUME</i>		
NAME OF CHILDREN UNDER THE AGE OF 18 YEARS <i>JINA LA WATOTO WALIO CHINI YA UMRI WA MIAKA 18</i>		
5. EDUCATIONAL QUALIFICATIONS / KUFUZU KWA KIELIMU		
PRIMARY CERTIFICATE <input type="checkbox"/> <i>CHETI CHA MSINGI</i>	SECONDARY <input type="checkbox"/> <i>SHULE YA UPILI</i>	'A' LEVEL <input type="checkbox"/> <i>KIWANGO CHA 'A'</i>
DIPLOMA <input type="checkbox"/> <i>STASHAHADA</i>	DEGREE <input type="checkbox"/> <i>SHAHADA</i>	MASTERS <input type="checkbox"/> <i>UZAMILI</i>
		PHD <input type="checkbox"/> <i>UZAMIFU</i>
OTHERS <i>VINGINE</i>		

HIGHEST ACADEMIC QUALIFICATION OBTAINED
KUFUZU KWA JUU ZAIDI KWA KIAKADEMIA ULIKOPATA

Qualification / Kufuzu	Institution / Taasisi	Year /Mwaka

6. LANGUAGE SPOKEN / LUGHA UNAZOZUNGUMZA

First Language Lugha ya Kwanza	Second Language Lugha ya Pili	Others Nyingine

7. MEMBERSHIP OF PROFESSIONAL ORGANISATION(S) (If any)

UANACHAMA WA SHIRIKA(MA) YA KITAALAMU (Kama yapo)

Name of Organization Jina la Shirika	Date of Admission Tarehe ya Kuandikishwa	Membership No. Na. ya Uanachama

8. REASON(S) FOR DECLARATION / SABABU ZA KUJITANGAZA

Purpose for which declaration is required / Kusudio la kuhitajika kwa kujitangaza huku

Election Employment
Upigaji kura Kuajiriwa

Others (Specify) _____
Nyingine (Bainisha)

State office for which the declaration is being submitted
Ofisi ya serikali ambayo kujitangaza huku kunawasilishwa

9. MORAL AND ETHICAL QUESTIONS / MASWALI YA NIDHAMU NA KIMAADILI

Answers to the following questions are mandatory. If YES to any question you must provide additional information on a supplementary sheet.

Majibu kwa maswali yafuatayo ni lazima. Kama NDIYO katika swali lolote lazima utoe taarifa ya ziada kwenye karatasi nyingine.

	YES	NO
a) Have you ever engaged in any form of dishonesty in the conduct of public affairs a) Umewahi kujihusisha na hali yoyote ya kutokuwa mwaminifu katika kazi zako na shughuli za umma		
b) Have you ever abused a public office? b) Umewahi kutumia vibaya ofisi ya umma?		
c) Have you ever misrepresented information to the public? c) Umewahi kuwakilisha kwa njia isiyofaataarifa kwa umma?		
d) Have you ever engaged in wrongful conduct whilst in the furtherance of personal benefit?		

d) Umewahi kujihusisha katika tabia mbaya huku ukitaka kujinufaisha kibinafsi?		
e) Have you ever misused public resources? e) Umewahi kutumia vibaya rasilimali za umma?		
f) Have you ever discriminated against anyone of any grounds other than as provided for under the Constitution or any other law? f) Umewahi kubagua yeyote kwa misingi yoyote mbali na vile ilivyoelezwa katika Katiba au sheria yoyote nyingine?		
g) Have you ever falsified official or personal records? g) Je, umewahi kudanganya katika rekodi rasmi au za kibinafsi?		
h) Have you ever been debarred or removed from the Register of Members of your professional organization? h) Umewahi kupigwa teke au kuondolewa kutoka kwenye Rejista ya Wanachama wa shirika lako la kitaalamu?		
i) Have you ever had any occupational or vocational license revoked and/or otherwise subjected to any other disciplinary action for cause in Kenya or any other country i) Umewahi kujipata katika hali ya leseni yako ya kikazi au ya kiufundi kutupiliwa mbali na/au vinginevyo kuchukuliwa hatua nyingine ya kinidhamu katika nchi ya Kenya au nchi yoyote nyingine		
j) Have you ever dismissed from employment on account of lack of integrity? j) Umewahi kufutwa kazi katika ajira kutokana na ukosefu wa uadilifu?		
k) If you have been a public officer, have you ever failed to declare your Income, Assets and Liabilities as required under the Public Officer Ethics Act, 2003? k) Kama umewahi kuwa ofisa wa umma, umewahi kushindwa kutangaza Mapato yako, Mali na Gharama kama unavyohitajika katika Kifungu cha sheria cha Maadili ya Ofisa wa Umma, 2003?		
l) Have you ever been the subject of disciplinary or criminal proceedings for breach of the Public Officer Ethics Act, 2003 or a Code prescribed thereunder? l) Umewahi kuwa mada katika taratibu za kinidhamu au kihalifu kwa kuvunja kifungu cha sheria cha Maadili ya Ofisa wa Umma 2003, au Msimbo ulioainishwa hapo chini?		
m) Have you ever been convicted of any offence and sentenced to serve imprisonment for a period of at least six months? m) Umewahi kushtakiwa kwa kosa lolote na kuhukumiwa kifungo gerezani kwa kipindi kipatacho miezi sita?		
n) Have you ever had an application for a Certificate of Clearance or a Certificate of Good Conduct or for a visa or other document authorizing work in a public office denied and/or rejected for cause in Kenya or any other country?		

n) Umewahi kutuma ombi la Cheti cha kuondolewa Hatia au Cheti cha Kinidhamu au cha visa au nyaraka nyingine zinazoidhinisha kazi katika ofisi ya umma na hivyo basi wewe kunyimwa na/ au kukataliwa kwa sababu yoyote nchini Kenya au nchi yoyote nyingine?

10. EMPLOYMENT INFORMATION / TAARIFA YA KUAJIRIWA

NAME OF EMPLOYER <i>JINA LA MWAJIRI</i>	POSITION/RANK <i>CHEO/WADHIFA</i>	DATE OF FIRST APPOINTMENT <i>TAREHE YA KUAJIRIWA KWA KWANZA</i>	DATE OF PRESENT APPOINTMENT <i>TAREHE YA KUAJIRIWA KWA SASA</i>
WORKSTATION <i>KITUO CHA KAZI</i>	NATURE OF EMPLOYMENT (Constitutional/Elective/Permanent/Contractual/Other) AINA YA KUAJIRIWA (Kikatiba/Kuteuliwa/Kudumu/Kikandarasi/Nyingine)		

OATH AND AFFIRMATION / KIAPO NA UTHIBITISHWAJI

I solemnly swear (or affirm) and certify, under penalty of false declaration under the Oaths and Statutory Declarations Act (Cap 15 of the Laws of Kenya), that all the foregoing statements in this declaration are true and correct to the best of my knowledge.

Ninaapa ya kwamba (ninathibitisha) na kuidhinisha, katika adhabu ya kujitangaza kwa uongo chini ya kifungu cha sheria cha Viapo na Kujitangaza Kisheria(Ibara 15 ya Sheria za Kenya), kwamba kauli zote zilizotajwa katika kujitangaza huku ni za kweli na sahihi kwa kadri ninavyojua.

Dated at / Mnamo tarehe, this / kwenye.....

day of / siku hii ya

SIGNATURE OF DECLARANT:
SAINI YA ANAYEJITANGAZA:

SWORN/DECLARED BEFORE ME / ALIYELISHWA KIAPO/TANGAZWA MBELE YANGU

This / Mnamo day of / siku hii ya, 20,

at / katika mahali hapa.....

COMMISSIONER FOR OATH/MAGISTRATE
KAMISHNA WA KIAPO/ HAKIMU



KENYA REVENUE
AUTHORITY

ISO 9001:2015 CERTIFIED

**KENYA REVENUE AUTHORITY'S RESPONSE TO THE PETITION ON
CLEARANCES REQUIRED BY THE PUBLIC SERVICE BOARDS ON
APPLICATIONS FOR JOBS IN KENYA PRESENTED BEFORE THE
SENATE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE.**

28TH NOVEMBER, 2018

1 | Page

KENYA REVENUE AUTHORITY
Confirmed
P. O. Box 48740/00100, NAIROBI
Date: 27/11/18
Sign: 
Mr. D. G. M. M. C.



KENYA REVENUE AUTHORITY

ISO 9001:2015 CERTIFIED

1.0 INTRODUCTION

The Senate Standing Committee on Labour and Social Welfare through their letter SEN/SCLSW/CORR/2018/99 dated 15th November, 2018 invited Kenya Revenue Authority among other government corporations to appear before it to respond to a petition concerning *Clearances required by the Public Service Boards on Applications for Jobs in Kenya*.

In particular, the Committee wanted KRA to respond to the following two issues raised in the petition:

- i. Fees charged (KES 1,200) to taxpayers to acquire a Tax Compliance Certificate (TCC).
- ii. Petitioners wish for the government to do away with 16% VAT charged on fuel to increase manufacturing in line with the BIG FOUR Agenda.

2.0 RESPONSES TO THE PETITION BY THE COMMITTEE

2.1 Fees Charged (KES 1,200) to Taxpayers to Acquire a Tax Compliance Certificate (TCC).

Section 1 of the Tax Procedures Act (TPA), describes a 'Tax Compliance Certificate' as a certificate issued by the Commissioner, if satisfied that the person has complied with the tax law in respect of filing returns and has paid all the tax due based on self-assessment or has made an arrangement with the Commissioner to pay any tax due.

Section 72 of the Tax Procedures Act, highlights the conditions for issuance of a Tax Compliance Certificate as follows:

- i. Any person may apply to the Commissioner for a Tax Compliance Certificate.
- ii. The Commissioner may issue a Tax Compliance Certificate, which shall be valid for the period specified in the certificate, upon the applicant fulfilling conditions that the Commissioner may impose.
- iii. The Commissioner may revoke a Tax Compliance Certificate issued under sub-section (2) if the Commissioner finds that the person has failed to honour a demand for tax issued by the Commissioner or has violated the provisions of a tax law.

Kenya Revenue Authority, therefore, **does not charge** taxpayers for the issuance of a Tax Compliance Certificate.

2.2 The Petitioners' wish for the Government to do away with 16% VAT charged on fuel to increase manufacturing in line with the BIG FOUR Agenda.

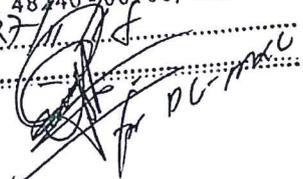
The Finance Act, 2018 introduced a concessionary 8% VAT rate on petroleum products which over the transition period from September 2013 to August 2018, were previously exempt. The effective date of application of the 8% rate as provided in the Act, is 21st September, 2018.

It should be noted that the applicable rate on petroleum products is **8% and not 16%** as indicated in the petition.

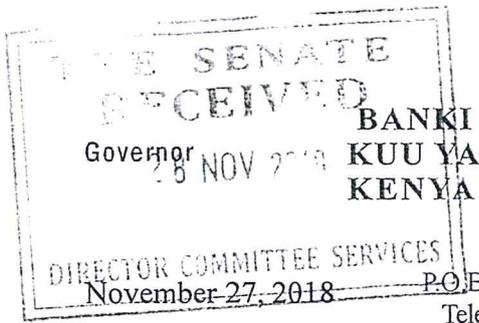
KRA is only implementing what is provided for in the Finance Act 2018, which was passed by Parliament and assented to by the President. Therefore, the request by the petitioners for the government to "do away with 16% VAT charged on fuel to increase manufacturing in line with the BIG FOUR Agenda," is a policy issue which will be best handled by The National Treasury.

3.0 CONCLUSION

Kenya Revenue Authority is committed to engaging its stakeholders to effectively and fairly drive tax compliance and by providing an opportunity for all to contribute to tax policies and process.

KENYA REVENUE AUTHORITY
Confirmed
P. O. Box 48240-00100, NAIROBI
Date: 27/11/18
Signature: 

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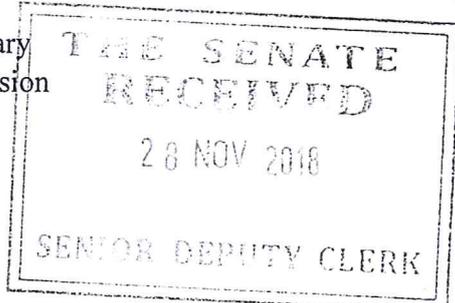
CENTRAL BANK OF KENYA

Haile Selassie Avenue
P.O. Box 60000 - 00200, Nairobi, Kenya.
Telephone: 2861003/24 Fax: 2716556

(2) CAJ - Labour & S-welfare
Please bring to the committee
of the committee
28/11/18



Mr. J. M. Nyengene, CBS
The Clerk of the Senate/Secretary
Parliamentary Service Commission
Clerk's Chambers, The Senate
P.O. Box 41842 - 00100
NAIROBI



D. Nam
For the Committee.

28/11/18

Dear Mr. Nyengene,

PETITION CONCERNING CLEARANCE REQUIRED BY THE PUBLIC SERVICE BOARDS ON APPLICATION FOR JOBS IN KENYA

Thank you for your letter of November 15, 2018, requesting for our views, among others, on the petition by Hon. Dr. Isaac Mwaura. In addition to inviting us for a meeting with the Senate Standing Committee on Labour and Social Welfare on November 28, 2018. I appreciate the invitation to appear before the Senate Committee, however due to the prior planned Monetary Policy Committee meetings on November 27 - 28 which I chair, I am unable to attend the meeting as invited. Nonetheless, we have reviewed the petition and note that it raises the following issues:

- i) Efforts to seek jobs in Kenya have been rendered difficult due to various clearances that are required before an applicant is employed.
- ii) Youths have difficulty obtaining clearances from the Higher Education Loans Board, Kenya Revenue Authority, credit reference bureaus, Ethics and Anti-Corruption Commission and Criminal Investigations Department. This is because the youth are unable to afford the costs of the clearances.
- iii) The Senator has therefore invited the Senate to investigate the matter and among others, ensure that government job applications are done for free.

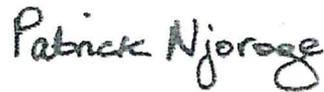
We wish to comment as follows:-

- 1. The Petitioner has not taken issue with the amount of fees charged by credit reference bureaus or the conduct of the sector in general. The Petitioner's main grievance is that the collective requirement for clearances from various institutions is expensive for government job applicants.
- 2. Regulation 31 of the Credit Reference Bureau Regulations, 2013 allows the credit reference bureaus to charge fees for the services rendered. These fees are usually assessed and approved by CBK.
- 3. Under Regulation 35(3) of the Credit Reference Bureau Regulations, 2013, a customer is entitled to a free copy of his credit report once a year. The prospective employees should take advantage of this provision to access their one free credit report every year.

4. Credit reports are primarily used by lenders for credit appraisal of borrowers. However, the Public Service Commission and other employers have put in place policies for fit-and-proper vetting of their prospective employees that involve submission of credit reports. CBK has not mandated the submission of credit reports/clearance from credit reference bureaus for employment purposes. This discretion is exercised by the Public Service Commission and other employers on their own motion.
5. CBK is alive to the fact it is critical to any employer to on-board employees of high integrity and financial probity. Accordingly, prospective employers ordinarily include clearances from Higher Education Loans Board, Kenya Revenue Authority, credit reference bureaus, Ethics and Anti-Corruption Commission and Criminal Investigations Department as part of due diligence on their potential employees.
6. In order to mitigate the expenses incurred by youth during government job applications, we would encourage other sustainable approaches be considered, e.g., involving suitable arrangements with their prospective employers.

We trust that the information we have provided above will be useful to the Committee in its deliberations.

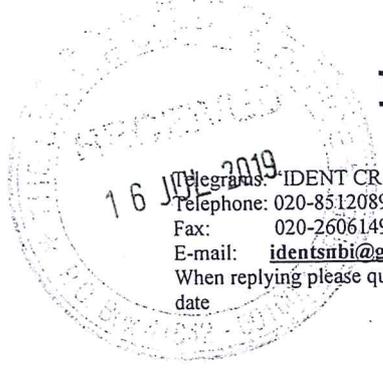
Sincerely,



Dr. Patrick Njoroge



NATIONAL POLICE SERVICE



Telegrams: "IDENT CRIMINAL". Nairobi
Telephone: 020-8512089 /98
Fax: 020-2606149
E-mail: identsnbi@gmail.com
When replying please quote ref No. and date



CRIMINAL RECORDS OFFICE,
P.O. Box 30460 - 00100 GPO,
NAIROBI.

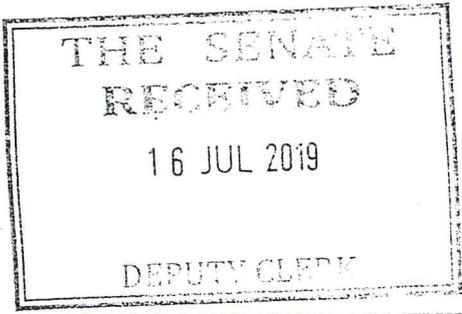
① DCom
For the Committee.

DIRECTORATE OF CRIMINAL INVESTIGATIONS

DCI/CRO/SEC/6/7/2/A/VOL.VII/153

15th July, 2019

The Clerk of Senate/Secretary
Parliamentary Service Commission
P O Box 41842-00100
NAIROBI



Eg
12/07/19
② C-AI - Lab
For the Committee
17/07/19

Dear Sir

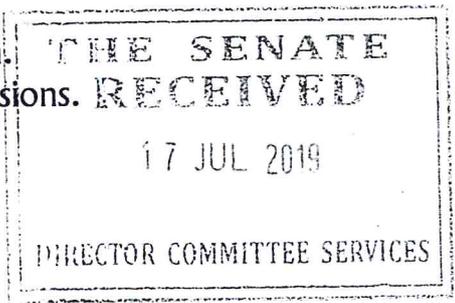
RE: **PETITION CONCERNING CLEARANCES REQUIRED BY THE PUBLIC SERVICE BOARDS ON APPLICATIONS FOR JOBS IN KENYA**

Reference is made to your correspondence SEN/SCLSW/2019/32 dated 4th July, 2019 regarding the above matter.

The Criminal Identification Bureau which is a section in of Directorate of Criminal Investigations draws its mandate from Cap 80 Sec 48 of the Evidence Act, Cap 75 Sec 142 CPC and Cap 15 Appendix 15 (a) of 550 Cap 85 Sec 55 of the National Police Act of 2011.

The core functions include the following:

- a) Custody and maintenance of Criminal Records
- b) Application of Forensic Fingerprints Science Technology, foot and toe impressions for purpose of:
 - i) Issuance of Police Clearance Certificate.
 - ii) Issuance of Certificate of Previous conviction.
 - iii) Linking the criminal with crime scene impressions.
 - iv) Identification of unknown bodies.



OUR VISION: To be the best forensic science laboratory with emphasis on continual linkage of the Crime, the Crime -Scene and the Criminal.
FACES CAN LIE, FINGERPRINTS NEVER.

Currently the criminal data of active criminal record is 5 (five) million and 4(four) million non-active records. Every day over 2,000 (two thousand) slips of fingerprints from Police Stations countrywide and 4,000(four thousand) application of Police Clearance are received.

For many years, the Directorate Fingerprint Experts used manual process to analyze fingerprints and crime scene marks which was laborious and tedious. To circumvent the above process for analyzing fingerprints, the Government invested in modern technology of fingerprints identification system.

The Automated Palm and Fingerprints Identification System (APFIS) analyses four (4) thousand applications daily and it is very accurate. The system is maintained by the supplier and Government of Kenya pays for it. The cost of one Police Clearance Certificate with security features is Kshs300/- plus tax, the process of preparing one Police Clearance is long and involving. It involves unquantifiable labour and equipment which includes:

- Fingerprint slab and roller
- Forensic fingerprint ink
- Forensic magnifying glasses which require regular servicing.

It is in regard of the above that we believe that if the fee for application of Police Clearance is waived, it will be a huge wage bill to the Government unless funds are allocated every financial year for servicing and maintenance of the machines.

Yours faithfully,



P. NDUNDA
FOR: DIRECTOR OF CRIMINAL INVESTIGATIONS



HIGHER EDUCATION LOANS BOARD

Tel: 0711052000
E-mail: contactcentre@helb.co.ke
Website: www.helb.co.ke

Anniversary Towers
University Way
P.O Box 69489-00400
Nairobi, Kenya

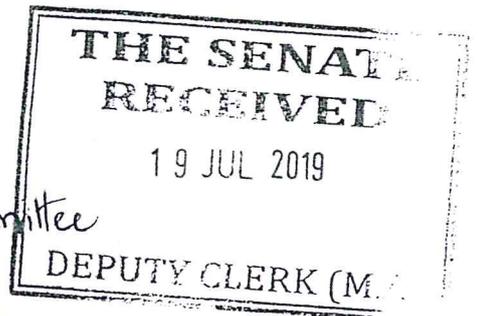
HELB/43/001/VOL.6/15

19 JUL 2019

15th July 2019

Mr. J.M. Nyegenye, CBS
Clerk of the Senate/Secretary
Parliamentary Service Commission
The Senate
Parliament Buildings
P.O. Box 41842
NAIRBOI

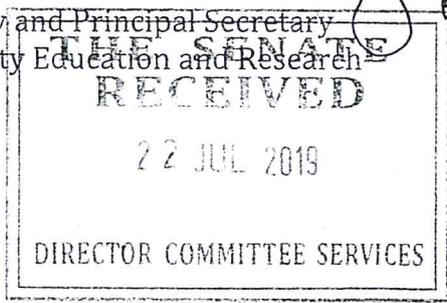
(2) Dlom
→
For the Committee



Thro'

Prof. Collette A. Suda, PhD, FKNAS, CBS
Chief Administrative Secretary and Principal Secretary
State Department for University Education and Research
Ministry of Education
P. O. Box 9583-00200
NAIROBI

eg 19/07/19
DCCE
Please deal.
MORR
19/7/19



Dear *Jeremiah,*

PETITION CONCERNING CLEARANCE REQUIREMENT BY THE PUBLIC SERVICE BOARDS ON APPLICATION FOR JOBS IN KENYA

Kindly find below response to the petition on clearance requirement by the public service boards on application for jobs in Kenya.

Introduction

The Higher Education Loans Board (HELB) was established in 1995 by an Act of Parliament, the Higher Education Loans Board Act, CAP 213A of the Laws of Kenya. The mandate of HELB is to finance needy Kenyan students pursuing higher education. The philosophy behind this is to create a revolving fund from which future generations can borrow in pursuit of higher education.

(3) C-AI - Labour
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For the Committee

22/07/19



ISO 9001:2015 Certified.



Background

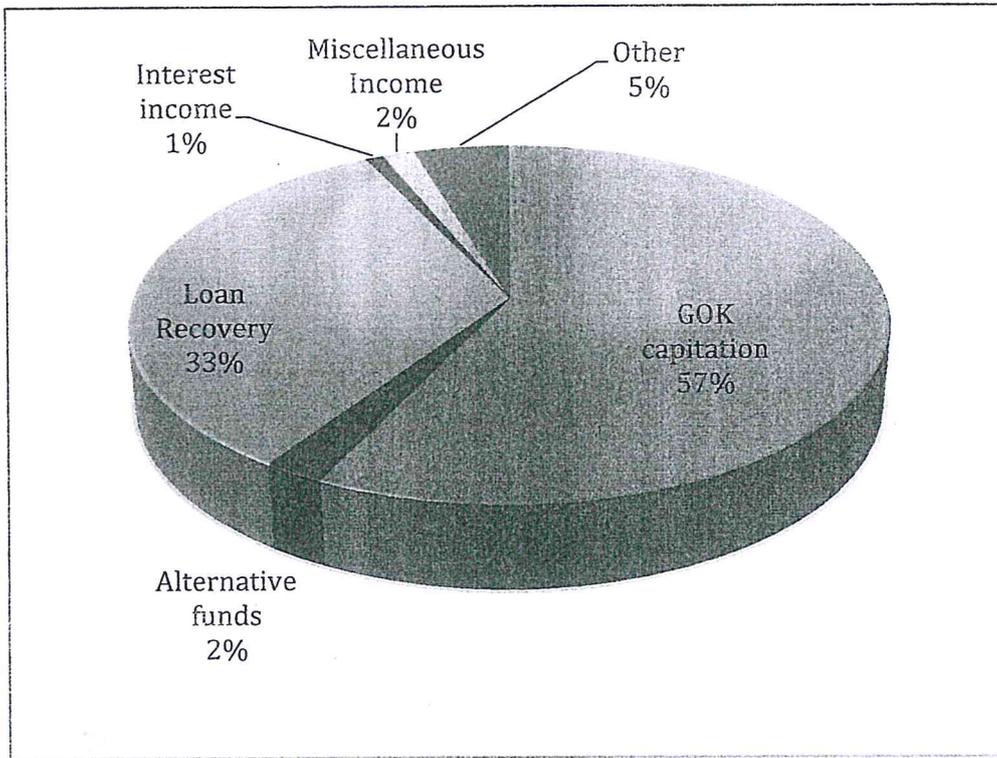
For the last 24 years, HELB has empowered the dreams of more than **837,965** students and disbursed over **92B** Kenya Shillings. As at 30th June 2019, there were **436,892** mature loan accounts worth **Kshs. 52.1B** as compared to **396,329** mature loans holding **Kshs. 46.9B** in the last financial year 2017/2018. A total of **401,073** loanees holding **Kshs. 39.9B** had not matured. Out of the mature loans, **160,076** accounts valued at **Kshs. 24.5B** are repaying their loans compared to **144,075** loanees holding **22.15B** who were in repayment at the end of the last Financial Year. A total of **61,038** loanees holding **Kshs. 6.1B** are in default as compared to **61,700** holding **Kshs. 6.55B** in a similar period, last financial year (June 2018). A total of **215,778** loanees have cleared their loans worth **Kshs. 21.5B** as compared to **190,554** cleared loanees holding **Kshs.18.2B** in June 2018. The loan book performance at the close of the fourth quarter was **72.4%** against a performance target of **72%** by 30th June 2019. Compared to last year, the loan book performance has increased by **2.4%** from **70%** in June 2018.

HELB Funding

In 2018/19 Financial here, HELB Students Budget was as follows;

No.	Application Category	Number of Students	Allocated Amount (KSh)
	Students Loans		
1	University Students	230,089	9,844,842,685
2	TVET Students	58,468	1,712,476,975
3	Continuing Education (<i>Jielimishe</i>)	2,500	321,582,556
4	Bursaries (Universities and TVET)	37,125	236,345,000
5	Postgraduate Scholarships	105	30,850,000
	Sub-Total	348,287	12,146,097,216
	Operating Expenses		
6	Staff expenses		441,535,441
7	Operating expenses		403,414,781
8	Capital expenditure		64,205,524
9	Staff loans		26,911,274
	Sub-Total		936,067,020
			13,082,164,236

Sources of Funds



Of the total spend of **Kshs. 13.082B**, 57% was Exchequer funded while 35% internally generated resources through - Miscellaneous income (2%) and loan recoveries (33%). Those Internally generated funds are built up from clearance certificates. In case of the funding lines are withdrawn the Exchequer has to scale its funding to HELB with equal compensation.

Clearance by HELB and Other Bodies

The current requirement is that those seeking employment in the public sector should get clearance from KRA, CID, EACC, CRB and HELB. HELB charges **Kshs.1,000** for those who did not benefit from the fund because it is a service given by the Board and operational costs are incurred. Any beneficiary of HELB loan does not pay for the clearance certificate because they pay a subsidized interest of 4% and ledger fee of **Kshs.1000/-** annually as prescribed by the HELB Act.

HELB shall be reviewing the amount charged to non-loanees after a new online portal currently being developed is fully implemented. Once we are able to offer this service fully electronically which the development path we have taken, the cost should substantially come down from the current **Kshs. 1,000.00**.

Justification for the Need for Clearance

Provision of Article 10 (1) of the Constitution on the National Values and Principles of Governance bind all State organs, State officers and public officers to observe good governance, integrity, transparency and accountability and sustainable development.

Chapter 6 of the Constitution under Article 73 which addresses responsibilities of leadership provides: -

Authority assigned to a State officer is a public trust to be exercised in a manner that—

- (i) is consistent with the purposes and objects of this Constitution;*
- (ii) Demonstrates respect for the people;*
- (iii) Brings honour to the nation and dignity to the office; and*
- (iv) promotes public confidence in the integrity of the office;*

The Leadership and Integrity Act which operationalizes Chapter 6 of the Constitution, wholly incorporates the provisions of Public Officer Ethics Act 2003.

In light of the Constitutional and statutory provisions above, clearance certificates for purpose of seeking employment are meant to determine the applicant's integrity which according to Section 13 of the Leadership and integrity Act encompasses demonstrable consistent history of honesty and high moral character in professional and personal life; Respect for professional duties arising under the codes of professional and judicial conduct; and ability to understand the need to maintain propriety and the appearance of propriety.

Courts Position on Clearance by the Various Bodies.

The High Court of Kenya at Nairobi- Constitutional, Human Rights and Judicial Review Division in Petition No. 314 of 2016 (Consolidated with Judicial Review No. 306 of 2016), Trusted Society of Human Rights Alliance and 3 Others Versus Judicial Service Commission, Attorney General, Law Society of Kenya (Interested Party) and Article 19- Eastern Africa (Amicus Curiae), Justice G. V. Odunga held that requirement for clearance certificates by the various bodies was part of requirement of chapter 6 of the Constitution hence it cannot be dealt away with. The only adjustment was that it cannot be used in first or primary instance, at the application level and therefore fail to shortlist someone on the basis that they do not have the clearances. It has to be dealt with at the secondary level, probably at the interview level or thereafter as one wishes.

HELB's Opinion

In the presence of the unchallenged Court decision, HELB is of the opinion that the requirement for clearance certificate is not unreasonable or unjustified. HELB clearance is proof that a prospective candidate has not only honoured their obligation to pay their education loan but that they have reinvested in the education of other deserving Kenyans. This is in keeping with the Constitutional guarantee to Right to Education as provided in Article 43 of the Constitution. For those who did not benefit, the clearance is proof that they do not have a public liability that they are not honouring.

It is the prayer of the Board that this strategy remains in force for the Board to effectively collect loans to enable other Kenyans pursuing Higher Education realize their dreams.

Focus on TVET

TVET is one of the key Education subsectors that is key to all our national growth and development. Provision of TVET skills to our ever-increasing number of youth from basic education level will prepare them for self and gainful employment from our growing infrastructure and manufacturing sectors. The Government is alive to the importance of

this sub-sector and therefore it is ensuring that each of our 290 constituencies has at least one TVET institution. The Government has further ensured that the curriculum is reformed from the supply based to the demand – based Competency Based Education and Training (CBET) which is flexible and developed in liaison with industry to ensure that it is relevant. The annual cost of training has been reduced from **Kshs. 92,000** to **Kshs. 56,420** per annum and provided a grant of Ksh. 30,000 per year per trainee in order to make TVET affordable. The Government has also ensured that the TVET trainees can apply for HELB loans to a maximum of Ksh. 40,000 per annum to further supplement their cost of training. Out of the loan provided **Kshs. 26,240** will be paid directly to the TVET institutions as tuition fees and **Kshs. 13,760** as upkeep allowance. An average of **Ksh.5,000** will be awarded as bursary to verified needy cases.

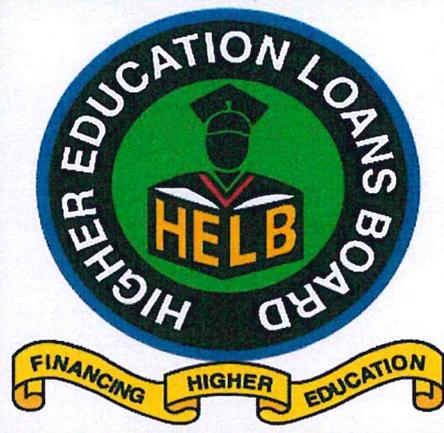
With the huge financial requirement that HELB requires today and the declining Exchequer support pushing HELB more towards External Resource Mobilization part of which is the clearance fees. It is also a good way for both beneficiaries and non-beneficiaries to contribute toward the revolving fund hence support future generations.

Yours



CHARLES M. RINGERA
CHIEF EXECUTIVE OFFICER

C.C. Rt. Hon. Ekwere Ethuro, EGH
Board Chairman
Higher Education Loans Board
P.O. Box 69489-00400
NAIROBI.



HIGHER EDUCATION LOANS BOARD

**CLEARANCE REQUIREMENT BY THE PUBLIC SERVICE BOARDS
ON APPLICATION FOR JOBS IN KENYA**



**PETITION CONCERNING CLEARANCE REQUIREMENT BY THE
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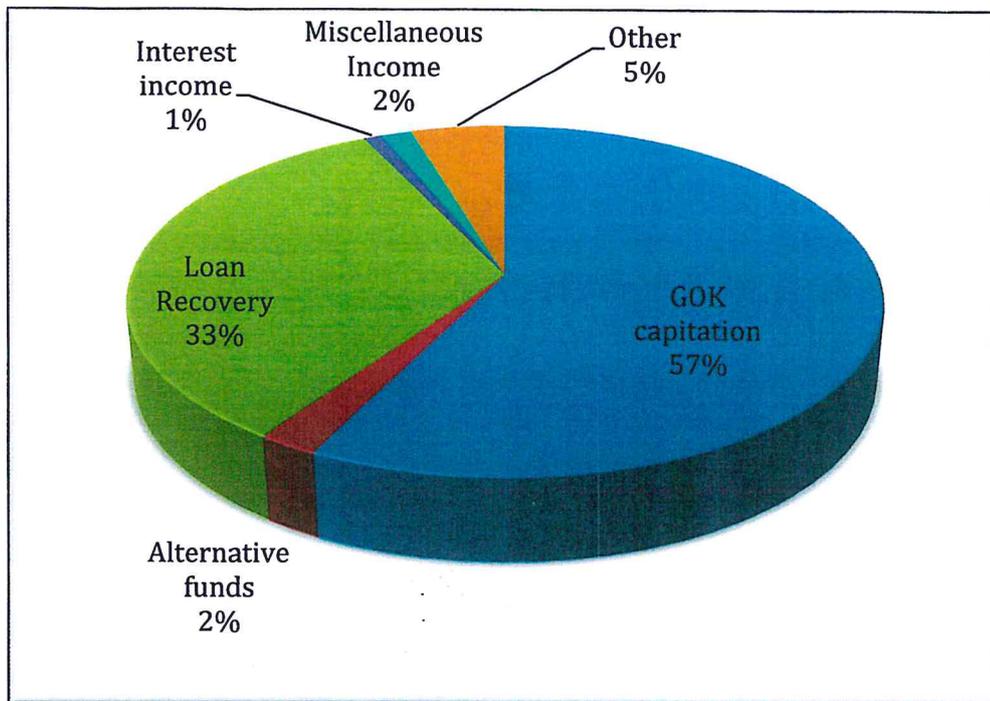
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