

19 JUL 2016 REPUBLIC OF KENYA



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to the Vice committee
Hon. Julius Maadhy
on Tuesday
19.7.2016
[Signature]

ELEVENTH PARLIAMENT – FOURTH SESSION

DEPARTMENTAL COMMITTEE ON EDUCATION, RESEARCH AND TECHNOLOGY

REPORT ON THE CONSIDERATION OF
THE KENYA NATIONAL EXAMINATIONS COUNCIL (AMENDMENT) BILL, 2016

CLERKS CHAMBERS
DIRECTORATE OF COMMITTEE SERVICES
PARLIAMENT BUILDINGS
NAIROBI

JULY, 2016

Table of Contents

- 1.0 CHAIR'S FOREWORD
- 2.0 MANDATE OF THE COMMITTEE
- 3.0 MEMBERS OF THE COMMITTEE
- 4.0 COMMITTEE SECRETARIAT
- 5.0 KENYA NATIONAL EXAMINATION COUNCIL (AMENDMENT) BILL, 2015
- 6.0 CONSIDERATION OF THE KENYA NATIONAL EXAMINATIONS COUNCIL
(AMENDMENT) BILL, 2015
- 7.0 COMMITTEE STAGE AMENDMENTS - THE KENYA NATIONAL EXAMINATIONS
COUNCIL (AMENDMENT) BILL, 2015

1.0 CHAIR'S FOREWORD

On behalf of the Departmental Committee on Education, Research and Technology and pursuant to provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Kenya National Examinations Council (Amendment) Bill, 2016. The Bill was committed to the Committee on Education, Research and Technology and it is on the basis of this that the Committee makes this report pursuant to Standing Order 127.

The Committee wishes to thank the Offices of the Speaker and Clerk of the National Assembly for providing guidance and necessary technical support without which its work would not have been possible. The Chairperson expresses gratitude to Committee Members for their devotion and commitment to duty during the consideration of this Bill.

On behalf of the Committee, I now wish to table this report for consideration and passage by the House.

HON. SABINA CHEGE, M.P

2.0 MANDATE OF THE COMMITTEE

The Committee on Education, Research and Technology is one of the Committees of the National Assembly established under Standing Order 216 and mandated:

1. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
2. To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation.
3. To study and review all legislation referred to it;
4. To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;
5. To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary and as may be referred to them by the House;
6. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments); and
7. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

3.0 MEMBERS OF THE COMMITTEE

Chairperson	Hon. Sabina Chege, M.P
Vice Chairperson	Hon. Julius Melly, MP
Members	Hon. Yusuf Chanzu, M.P
	Hon. (Dr.) Christine Ombaka, M.P
	Hon. (Dr.) Wilber Ottichillo, M.P
	Hon. (Dr.) Susan Chebet, M.P
	Hon. (Prof.) Helen Sambili, M.P
	Hon. Cecilia Ng'etich, M.P
	Hon. Muriuki Njagagua, M.P
	Hon. Eric Keter, M.P
	Hon. Joseph Meruaki, M.P
	Hon. Joseph Manje, M.P
	Hon. Kenneth Okoth, M.P
	Hon. Halima Ware Duri, M.P
	Hon. Silverse Lisamula Anami, M.P
	Hon. Richard Makenga, M.P
	Hon. Opiyo Jared Odhiambo, M.P
	Hon. Geoffrey Makokha Odanga, M.P
	Hon. Anthony Kimaru, M.P
	Hon. Banticha Abdullahi, M.P
	Hon. Moses Injendi, M.P
	Hon. Mohamed Adan Huka, M.P
	Hon. Harrison Kombe, M.P
	Hon. Kedogo Dorcas Luvalitsa, M.P
	Hon. Rose Rwamba Mitaru, M.P
	Hon. Mary Seneta, M.P

Hon. Michael Kisoï Munyao, M.P

Hon. Ibren Nasra Ibrahim, M.P

Hon. Steven Kariuki, M.P.

4.0 COMMITTEE SECRETARIAT

Ms. Leah Wanjiru	First Clerk Assistant
Mr. John Mugoma	Third Clerk Assistant
Mr. Abdiaziz Shobay	Third Clerk Assistant
Ms. Doreen Karani	Legal Officer
Ms. Annceta Gaacheri	Research Officer
Mr. Eric Kanyi	Fiscal Analyst

5.0 KENYA NATIONAL EXAMINATION COUNCIL (AMENDMENT) BILL, 2015

Background

The Kenya National Examination Council (Amendment) Bill, 2015 went through the First Reading on 17th February 2016. Subsequently, the Bill was referred to the Departmental Committee on Education, Research and Technology pursuant to the provisions of the Standing Order No. 127 of the National Assembly. The Committee facilitated public Participation by engaging the stakeholders as articulated in Article 118 of the Constitution and Standing Order.

The principal object of the Bill is to anchor the existence and practice of structural ranking of schools and candidates in statute law. Further, the Bill seeks to address the challenges facing ranking of schools and candidates like the current abolishment of the ranking system in national examinations without proper consultations.

The Bill therefore, empowers the Kenya National Examination Council to rank schools and candidates based on the national examinations conducted and administered by the Council. This will not only promote the education system in Kenya but also market our education system internationally.

The Bill is divided into four Clauses, as shown in table 3 below.

Table 1: Highlights of the Kenya National Examination Council (Amendment) Bill, 2016

CLAUSE	HIGHLIGHT
Clause 1	Provides for the preliminary provisions.
Clause 11	The Clause seeks to amend Section 10 of the Kenya National Examination Council Act, 2012; (a) in sub-section (1) by inserting the following new paragraph immediately after paragraph (b) — "(ba) rank institutions and candidates based on their performance at the national examination set and conducted by the Council at basic level in accordance with this Act."

(b) in sub-section (2) by inserting the following new paragraph immediately after paragraph (b)

— "(ba) make rules regulating the ranking of institutions and candidates based on their performance at the national examination set and conducted by the Council at basic level in accordance with this Act."

(c) by inserting the following new subsection immediately after subsection (2)

— "(3) For purposes of this section, "basic level" means examination conducted at institutions of basic education and training as defined under the Basic Education Act 2013.

Source: The Kenya National Examination Council (Amendment) Bill, 2016

6.0 CONSIDERATION OF THE KENYA NATIONAL EXAMINATIONS COUNCIL (AMENDMENT) BILL, 2015

In processing the Bill, the Committee invited comments from the public by placing advertisements in the Daily Nation and Standard newspapers on pursuant to Article 118 of the Constitution. However, by the time the Committee was considering the Bill, it had not received any representations from the general public and other stakeholders.

The Committee held two meeting on 22nd April, 2016 and 14th June, 2016 where the Bill was scrutinized in line with the provisions of the Standing Orders. In developing the Committee stage amendments, the Committee made reference to the best practices across the world. The deliberations of the meetings are as contained in the minutes attached hereto.

The Committee has proposed amendments (contained in the main body of the report) for consideration by the House during the Committee Stage of the Bill.

7.0 COMMITTEE STAGE AMENDMENTS - THE KENYA NATIONAL EXAMINATIONS
COUNCIL (AMENDMENT) BILL, 2015

The Committee agreed to the Kenya National Examination Council (Amendment) Bill, 2016 subject to the following amendments;

CLAUSE 2

~~THAT the Bill be amended by deleting clause 2 and substituting therefor the following new clause—~~

(2) The Kenya National Examinations Council Act is amended by inserting the following new section immediately after section 10—

Ranking of 10A. (1) The Cabinet Secretary shall, in every academic year, rank institutions of institutions of basic education that offer primary education or secondary basic education based on—

- education.
- (a) academic performance in national examinations; and
 - (b) performance in co-curricular activities.

(2) For purposes of ranking under subsection (1) —

- (a) the Kenya National Examinations Council shall submit to the Cabinet Secretary, data regarding the academic performance, in national examinations, of institutions of basic education that offer primary or secondary education; and
- (b) every County Director of Education shall submit the data regarding the performance, in co-curricular activities, of institutions of basic education that offer primary or secondary education to the Director-General for transmission to the Cabinet Secretary.

(3) The Cabinet Secretary shall, as soon as practicable after the receipt of the data referred under subsection (2), announce and publish the results and ranks of institutions as prescribed in subsection (1).

(4) The Cabinet Secretary may make rules for the purpose of ranking of institutions of basic education that offer primary or secondary education.

(5) Without prejudice to the generality of subsection (4) the Cabinet Secretary may provide for—

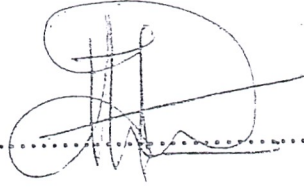
- (a) the form and method of categorization of institutions of basic education that offer primary or secondary education for ranking purposes;
- (b) the announcement and publication, of the results in national examinations and co-curricular activities, of institutions of basic education that offer primary or secondary education and their ranking;
- (c) the criteria to be used in ranking;
- (d) submission and management of data under subsection (3); and
- (e) any other matter that requires to be prescribed under this section.

(6) In this section, the words—

No. 12 of 2013

- (a) “County Director of Education”; and
- (b) “Director General”

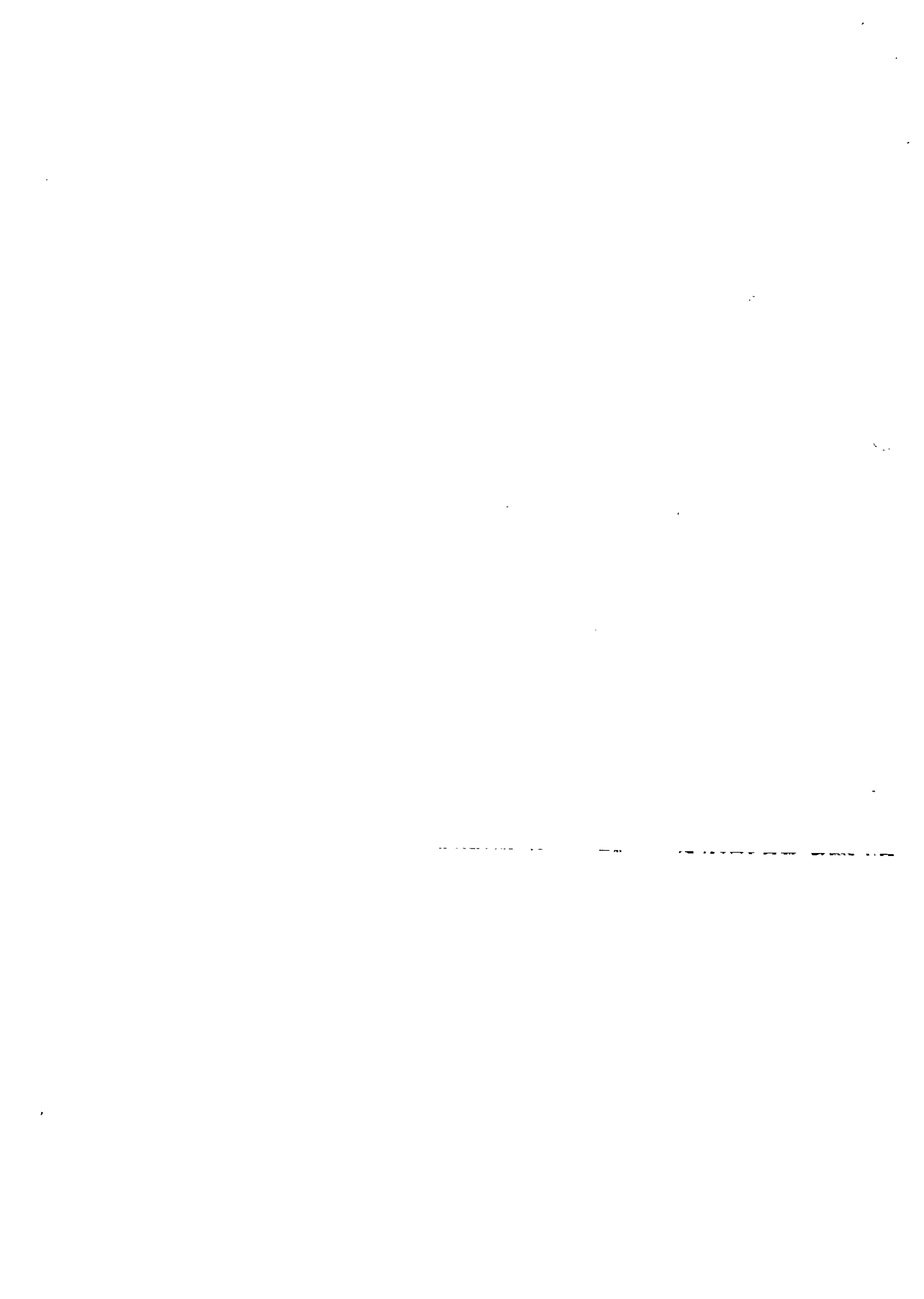
have the respective meanings assigned to them under the Basic Education Act;

Signed *for*  Date *19/7/2016*

HON. SABINA CHEGE, M.P

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON EDUCATION, RESEARCH AND TECHNOLOGY



MINUTES OF THE 35TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
EDUCATION, RESEARCH AND TECHNOLOGY HELD ON TUESDAY, 14TH JUNE,
2016 IN BOARD ROOM 11TH FLOOR, PROTECTION HOUSE PARLIAMENT
BUILDINGS AT 10:00 AM.

PRESENT

1. Hon. Julius Melly, M.P. - Chairing
2. Hon. Sabina Chege, M.P. - Chairperson
3. Hon. (Prof.) Hellen Sambili, EGH, M.P.
4. Hon. (Dr.) Wilber Ottichillo, M.P.
5. Hon. Joseph M'eruaki, M.P.
6. Hon. Dorcas Kedogo Luvalitsa, M.P.
7. Hon. Moses Injendi, M.P.
8. Hon. Silverse Anami, M.P.
9. Hon. Muriuki Njagagua, M.P.
10. Hon. Makenga Richard Katemi, M.P.
11. Hon. (Dr.) Susan Chebet, M.P.
12. Hon. (Dr.) Christine Ombaka, M.P.
13. Hon. Yusuf Chanzu, M.P.
14. Hon. Rose Mitaru, M.P.
15. Hon. Eric Keter, M.P.
16. Hon. Halima Ware Duri, M.P.
17. Hon. Cecilia Ng'etich, M.P.
18. Hon. Joseph Manje, M.P.

APOLOGY WITH APOLOGY

1. Hon. Geoffrey Makokha Odanga, M.P.
2. Hon. Mary Seneta, M.P.
3. Hon. Harrison Kombe, M.P.
4. Hon. Ibren Nasra Ibrahim, M.P.
5. Hon. Jared Opiyo Odhiambo, M.P.
6. Hon. Kenneth Okoth, M.P.
7. Hon. Michael Kisoi, M.P.
8. Hon. Mohamed Huka, M.P.

ABSENT WITHOUT APOLOGY

1. Hon. Anthony Kimaru, M.P.
2. Hon. Steven Kariuki, M.P.
3. Hon. Banticha Abdullahi, M.P.

IN ATTENDANCE

National Assembly Secretariat

1. Ms. Leah Wanjiru -First Clerk Assistant
2. Mr. Abdiaziz Shobay - Third Clerk Assistant
3. Mr. John Mugoma - Third Clerk Assistant
4. Doreen Karani -Legal Counsel

- | | |
|-------------------------|--------------------|
| 5. Mr. Eric Kanyi | -Fiscal Analyst |
| 6. Ms. Anneceta Gacheri | - Research Officer |
| 7. Mr. Rodgers Kilungya | - Audio Officer |

AGENDA

1. Preliminaries
 - (i) Prayers
 - (ii) Introductions
 - (iii) Communication from the Chair
 - (iv) Adoption of the Agenda
 - (v) Confirmation of Minutes of the previous sitting
 - (vi) Matters Arising
2. Consideration of the Amendments to Universities Amendment Bill, 2015 and the Kenya National Examination Council Amendment Bill, 2016
3. Consideration of Presidential Memorandum on the Engineering Technologists and Technicians Bill, 2015
4. Adjournment/ Date for the Next Sitting

MIN.NO.DC.D/204/2016: PRELIMINARIES

The Chairperson called the Meeting to order at 10:40am. Thereafter, prayer was read.

MIN.NO.DC.D/205/2016: ADOPTION OF THE AGENDA

The Agenda of the meeting was adopted having been proposed and seconded by Hon. Wilbur Ottichillo, M.P and seconded by Hon. Joseph M'eruaki, M.P respectively.

MIN.NO.DC.D/206/2016: CONSIDERATION OF THE AMENDMENTS TO UNIVERSITIES AMENDMENT BILL, 2015

The Committee was taken through the Universities (Amendment) Bill, 2015 and adopted the Amendments as follows: -

CLAUSE 2

THAT clause 2 of the Bill be amended—

(a) in paragraph (b) by inserting the words “and substituting therefor the following new definition” immediately after the words “programme accreditation”—

“programme accreditation” means the process by which the Commission formally recognizes an academic programme of a University, including a foreign university”;

Justification

The term “programme accreditation” is used in the Act and deleting it may create ambiguity as to the intended meaning of this term. The committee proposes to improve the definition of the term as the current interpretation of programme accreditation hinders the Commission from accrediting academic programmes of chartered universities. It implies that the academic programmes offered by the universities are not subjected to regular audit, inspection, monitoring and evaluation by the Commission compromising global competitiveness.

(b) by deleting paragraph (d)

Justification

The proposal in the Bill to delete the definition of the word "foreign university" will remove the clarity offered by the definition as to what the term means in the context of the Act. Foreign universities are provided for in the Act such as in Section 28 which deals with accreditation of foreign Universities and in section 70(2) (f) and (h) on provision for the making of regulations for registration of agents for foreign universities among other sections.

(c) by inserting the following new paragraphs immediately after paragraph (d) —

"(e) by deleting the definition of the word "quality assurance" and substituting therefor the following new definition—

"quality assurance" means the employment of various measures and mechanisms developed to assess, maintain and enhance standards"

Justification

The measure of "Quality Assurance" is subjective to the universities themselves whereas the national and international standard is that quality assurance is objective.

"(f) in the definition of the word—

(i) "sponsor" by inserting the words "including the government" immediately after the word "person" ;and

Justification

The current interpretation of "sponsor" connotes that only an individual can be a sponsor whereas the Government can also be a sponsor.

(ii) "technical university" by deleting the words "an institute of".

Justification

The definition purports to establish a Technical University as an institute within a university which contradicts the Provisions of Section 25 of the Act.

(d) by inserting the following new definitions in proper alphabetical sequence—

"academic programme" means the design of learning content which includes the intention, the structure of the content, the delivery mode, academic resources and assessment modes";

Justification

The proposed amendment is introduced to provide clarity between the core courses and programme to tally with Section 13(3) (h).

"instrument of accreditation" means the Charter or Letter of Interim Authority, accreditation report and proposal establishing the university"

Justification

The definition seeks to clarify what an "instrument of accreditation" is.

CLAUSE 3

THAT clause 3 of the Bill be deleted and substituted with the following new clause—

Amendment Section 5 of the principal Act is amended in subsection (1) by deleting of section 5 paragraph (l) and substituting therefor the following new paragraph—

of No. 42 of 2012.

- (l) accredit, approve and review academic programs mounted by universities in Kenya

Justification

The amendment is an improvement to the proposed amendment in the Bill. Accreditation of universities is already a function of the Commission as provided for under section (5) (j). Additionally, the proposal in the Bill does not provide room for regular review of academic programmes once approved by CUE.

CLAUSE 4

THAT the Bill be amended by deleting clause 4 and substituting therefor the following new clause—

“(4) Section 6 of the principal Act is amended—

(a) in subsection (1) by—

- (i) deleting the word “five” in paragraph (d) and substituting therefor the word “two”

Justification

To reduce the number of members to the Board appointed by the selection panel to two members as there are additional members proposed in the paragraph(b) below. This will ensure that even with the proposed amendment under paragraph (b) below, the number of board members is retained at 9.

- (ii) inserting the following new paragraph immediately after paragraph (d)—

“(da) three members appointed as follows—

 - (i) one Vice Chancellor representing Public Universities nominated by Vice Chancellors of public universities in a forum of the Vice Chancellors of public universities convened by the Cabinet Secretary;
 - (ii) one Vice Chancellor representing Private Universities nominated by Vice Chancellors of private universities in a forum of the Vice Chancellors of private universities convened by the Cabinet Secretary;
 - (iii) one person representing professional bodies nominated by professional bodies in a forum of the professional bodies convened by the Cabinet Secretary; and”

Justification

It is proposed that being the CEO of a university, a VC would be the most suitable representative of universities in the Commission as opposed to nominating from any person from within the council as proposed in the Bill. Additionally, it may not be possible to hold a forum of all the councils or sponsors of public or private universities in Kenya respectively as they are numerous. A representative of the professional bodies would also serve to ensure that there is no conflict in accreditation of courses by the Commission and by professional bodies

NEW CLAUSE

THAT the following new clause be inserted immediately after clause 5—

- Amendment of section 8 of No. 42 of 2012.
- 5A. Section 8 of the principal Act is amended in subsection 1 by inserting the following new paragraph immediately after paragraph (a)—
- “(aa) is absent from three consecutive meetings of the Commission without the permission of the Chairperson, or, in the case of the Chairperson, the permission of the Cabinet Secretary.”

Justification

This is to align with the State Corporations Act and the Presidential Order No. 7 of 2015 (Mwongozo).

NEW CLAUSES

THAT the following new clause be inserted immediately after clause 6—

- Amendment of section 13 of No. 42 of 2012.
- 6A. Section 13 of the principal Act is amended in subsection (1) by inserting the words “or a Letter of Interim Authority” immediately after the word “Charter”.

Justification

A Letter of Interim Authority is also considered an Instrument of Accreditation.

- Amendment of section 15 of No. 42 of 2012.
- 6B. Section 15 of the principal Act is amended in subsection (2) by deleting the words “commence or” appearing in paragraphs (b) and (c).

Justification

The Commission does not grant a Letter of Interim Authority to an institution unless it has established that the institution has adequate academic and infrastructural resources. As such an institution with a Letter of Interim Authority cannot commence but continue to develop and assemble resources.

CLAUSE 7

THAT clause 7 be deleted and substituted with the following new clause—

- Amendment of section 20 of No. 42 of 2012.
7. Section 20 of the principal Act is amended—
- (a) in subsection (1) by deleting paragraph (c) and substituting therefor the following new paragraph (c) —
- “(c) may develop its new academic programmes for approval by the

Commission in accordance with this Act”;

- (b) in subsection (1) by deleting paragraph (e) and substituting therefor the following new paragraph (e) —

“(e) may only award degrees, including postgraduate degrees and honorary degrees”.

Justification

This is to limit universities to only offer degrees including postgraduate and honorary degrees and shift focus of universities from engaging in short term courses of diplomas and certificates that should be offered by TVET institutions.

- (c) by inserting the following new subsection immediately after subsection (3) —

“(4) A Letter of Interim Authority under section 16 shall apply *mutatis mutandis* to institutions established under subsection (3)”

Justification

This is to harmonize the transitional period of a constituent college as provided under section 16 with that of an institution established vide a letter of interim authority.

CLAUSE 8

THAT clause 8 of the Bill be deleted

Justification

This proposed amendment is law. It was enacted pursuant to Statute Law (Miscellaneous) (Amendment) Act, 2015

CLAUSE 9

THAT clause 9 of the Bill be deleted

Justification

This proposed amendment is law. It was enacted pursuant to Statute Law (Miscellaneous) (Amendment) Act, 2015

CLAUSE 10

THAT clause 10 be amended by deleting paragraph (b)

Justification

Statutes are instruments developed for the internal governance of a university hence for autonomy purposes universities need not seek the approval of the Cabinet Secretary in order to make statutes and regulations as proposed in the Bill. In any case, once made, the same are forwarded to the Cabinet Secretary for Gazettement as provided in the Act.

NEW CLAUSE

THAT the following new clause be inserted immediately after clause 10—

Amendment of 10A. Section 34 of the principal Act is amended by inserting the words “or section 34 of Letter of Interim Authority” after the word “Charter”.
No. 42 of 2012.

Justification

To harmonize the instruments of governance of all universities.

NEW CLAUSES

THAT the following new clauses be inserted immediately after clause 11—

Amendment of 11A. Section 36 of the principal Act is amended —
section 36 of
No. 42 of 2012

(a) in subsection (1) by inserting the words “in such a manner as may be prescribed in guidelines issued by the Cabinet Secretary” immediately after the word “process” in paragraph (d);

(b) by inserting the following new subsections immediately after section (2)—

“(3) In making appointments under this section the appointing authority shall have regard to the objectives of the development of university education, ensuring that there are balanced competencies, gender equity, and the inclusion of stakeholders, persons with disabilities, the marginalized and other minority groups”

“(4) The provisions of section (8) relating to the vacancy of office of the chairperson and members of the Commission shall apply with necessary modifications to the chairperson and members appointed under subsection (1) (a) and (d)”

“(5) The members of the Council appointed under section 36(1) shall at their first meeting after appointment determine by lot which two of their number shall vacate office after a period of three and four years respectively to ensure continuity in the activities of the Council”

“(6) The provisions of the First Schedule shall apply with necessary modifications, to the conduct of the business and affairs of the Council”

Justification

This is to provide for alignment in the appointment of the council of a public university, matters relating to vacancy of office of the chairperson and members as well as the conduct of

affairs of the council to legal requirements under the Constitution, Mwongozo and the State Corporations Act. The proposed provisions borrow from the provisions applicable to members of the Commission.

NEW CLAUSE

Amendment of 11B. Section 38 of the principal Act is amended in subsection (5) by section 38 of inserting the words “for a period not exceeding three months” immediately No. 42 of 2012. after the word “Council”.

Justification

This is so as to limit the period of the person acting as Chancellor to allow the provisions of the second schedule to take effect.

CLAUSE 13

THAT clause 13 be amended by deleting paragraph (b) and substituting therefor the following new paragraph—

(b) by inserting the following new subsections immediately after subsection (1)

(1A) A students’ association shall be governed by a students’ council comprising of—

- (a) a Chairperson;
- (b) a Vice Chairperson who shall be of opposite gender with the Chairperson;
- (c) a Treasurer;
- (d) a Secretary-General who shall be the secretary to the Council; and
- (e) three other members to represent special interests of students.

(1B) Every students’ council shall be elected in accordance with this Act and its membership shall—

- (a) reflect national diversity; and
- (b) have not more than two-thirds of its members being of the same gender.

(1C) For purposes of conducting the election of the members of the student council referred to in subsection (1A), the students’ association shall constitute itself into electoral colleges based on either academic departments, schools or faculties, as may be appropriate.

(1D) The students of each electoral college constituted under subsection (1C) shall elect three representatives—

- (a) from amongst persons who are not candidates under subsection (1A); and

(b) of whom not more than two-thirds shall be of the same gender.

(1E) The representatives of each electoral college shall elect the members of the student council within thirty days of the election under subsection (1C).

(1F) A member of the student council shall hold office for a term of one year and may be eligible for re-election for one final term.

(1G) A person who has held office as a member of the student council of a University for two terms is disqualified from election as a member of the student council of any other University or constituent college in Kenya.

(1H) Every students' association shall, in consultation with the University, formulate and enact rules to govern the conduct of elections including regulation of campaigns, election financing, offences and penalties.

(1I) An election conducted pursuant to this section shall comply with the general principles of the Kenyan electoral system under Article 81 of the Constitution and the rules governing the election of members of the student council.

Justification

This is to provide guidance on the matter of election of officials, electoral process, guiding principles in elections and the term of office of the members of the student council.

NEW CLAUSE

THAT the following new clause be inserted immediately after clause 13—

Amendment of 13A. Section 51 of the principal Act is amended in section (2) (f) by —
section 51 of
No. 42 of 2012.

(a) inserting the words “or audit” immediately after the word “accreditation; and

Justification:

This is for purposes of ensuring the commission is able to audit private universities and check if private universities meet set national and international standards

(b) deleting the word “state” appearing immediately after the words “financial obligations”.

Justification

Grammatical correction.

CLAUSE 15

THAT clause 15 be amended—

- (a) in paragraph (b) by deleting the words “issuance of” substitute therefor the words “issue”

Justification

Grammatical correction.

- (b) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) by inserting the words “for approval by the Cabinet Secretary” immediately after the word “offered” in paragraph (d).

Justification

To enable the Cabinet Secretary to approve the maximum differentiated unit cost of programmes offered by universities so as to offer regulation and ensure the costs charged are fair and justifiable.

- (c) by inserting the following new paragraph immediately after paragraph (c) —

“(d) by deleting subsection (6); and

“(e) by deleting subsection (7).”

Justification

These provisions are deleted and proposed substantively in the next clause.

NEW CLAUSES

THAT the following new clauses be inserted immediately after clause 15—

Insertion of 15A. The principal Act is amended by inserting the following new sections
new sections immediately after section 54—
into No. 42 of
2012.

Director of the Fund. 54A. (1) There shall be a Director who shall be the chief executive officer of the Fund, appointed by the Cabinet Secretary on recommendation of the Board of Trustees of the Fund following a competitive recruitment process, and who shall serve for a term of five years, which may be renewed for one further term.

(2) The Director of the Fund shall be responsible for the day to day management of the affairs of the Fund.

(3) A person shall be qualified for appointment as a Director if such person—

- (a) is a Kenyan citizen;

- (b) holds a degree or its equivalent from a university recognized in Kenya in the field of banking, education, law, finance, economics or management;
- (c) has at least ten years' relevant professional experience in the management of a public or private institution; and
- (d) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

Staff of the Fund. 54B. (1) The Fund may employ such other officers and staff as it may deem necessary for the performance of its functions under this Act.

(2) All appointments under this section shall take into account gender equity, ethnic and regional balance in accordance with the Constitution.

Financial provisions 54C. The provisions relating to the finances of the Commission as set out in sections 31, 32 and 33 shall apply, *mutatis mutandis* to the finances of the Fund.

Justification

The office of the Director as the CEO of the fund is proposed as well as the staff of the fund. As it is Section 54(5) is not comprehensive as it merely borrows from the provisions relating to the Commission to apply with necessary modifications to the Board of trustees. The provisions are now proposed substantively as per the amendment. This ensures alignment with Mwongozo and the State Corporations Act.

Insertion of new sections into No. 42 of 2012. 15B. The principal Act is amended by inserting the following new sections immediately before section 55—

Meaning of the word “college” No. 29 of 2013 54D. In this Part “college” means an institution established under the Technical and Vocational Education and Training Act, or any other public training institution of higher learning established under an Act of Parliament”.

Justification

To offer clarity on the meaning of the word “college” within the context of Part VIII of the Act (which deals with the establishment and functions of KUCCPS).

CLAUSE 16

THAT clause 16 of the Bill be deleted and substituted with the following new clause—

“(16) Section 56 of the principal Act is amended in —

(a) subsection (1) by—

- (i) inserting the word “public” immediately before the word “Universities” appearing in paragraph (a);

Justification

This confines the function of KUPPCS to placement of government sponsored students to public Universities and colleges

(ii) deleting paragraph (e) and substituting therefor the following new paragraph —

“(e) develop career guidance programmes for the benefit of universities and students”

Justification

the word “student” is defined in Section 2 as any person who is registered in a university or an institution offering university education hence no need to have the words “enrolled in a university” after the word “student” as proposed in the Bill.

(b) subsection (3) by deleting the word “courses” and inserting the words “academic programmes”.

Justification

The word “academic programmes” is more suitable as it provides more clarity than the word “courses”. A proposed definition is in clause 2 as the term is used repeatedly in the Act.

NEW CLAUSES

THAT the following new clauses be inserted immediately after clause 16—

Insertion of new section 69A into No. 42 of 2012. 16A. The principal Act is amended by inserting the following new section immediately after section 69—

Commission notice to comply 69A. (1) The Commission may, by notice in writing, require an institution in default of any provision under this Act, regulation, standards and guidelines to comply therewith within a prescribed time and in a prescribed manner.

(2) If any institution served with a notice under subsection (1) fails to comply therewith, the Commission may close the institution either permanently or until the notice is complied with.

(3) Any person aggrieved by the decision of the

Commission under subsection (2) may appeal to the Cabinet Secretary within thirty days of the decision.

Justification

This is so as to allow the Commission to notify institutions in default of the provisions of the Law.

Amendment of 16B. Section 70 of the Principal Act is amended in—
section 70 of (a) subsection (1) by inserting the words “with relevant
No. 42 of 2012. stakeholders” immediately after the word “consultation”;

(b) subsection (2) by deleting the expression “foreign” appearing
in paragraph (a)

Justification

To provide for consultation with the relevant stakeholders (including the commission and other bodies established under the Act) during regulation making

Amendment of 16D. The principal Act is amended in the First Schedule by deleting
the First paragraph 4 and substituting therefor the following new paragraph 4—
Schedule

“(4) The quorum for a meeting of the Commission shall be five members.”

Justification

This amendment is to enable Commission to function efficiently by reducing the quorum requirement to five members in a board of nine members and further removing the requirement that quorum must include five appointed members as all members of the Board are qualified and capable of holding a meeting.

MIN.NO.DC.D/207/2016: THE KENYA NATIONAL EXAMINATION COUNCIL
(AMENDMENT) BILL, 2015

The Committee was taken through the Kenya National Examination Council (Amendment) Bill, 2015 and adopted the Amendments as follows:-

CLAUSE 2

THAT the Bill be amended in—

(a) paragraph (a) by deleting the proposed new paragraph (ba) and substituting therefor the following new paragraphs—

“(ba) rank institutions of similar category in terms of value add to students in academic and non-academic fields at basic level in accordance with this Act;

(bb) liaise with the Cabinet Secretary and institutions to obtain the necessary information for purposes of ranking under paragraph (ab);”

(b) paragraph (b) by deleting the proposed new paragraph (ba) and substituting therefor the following new paragraph—

“(ba) make rules regulating the ranking of institutions in the manner prescribed in section (1)(ba);

(c) paragraph (c) by deleting the proposed new subsection (3) and substituting therefor the following new subsection—

“(3) For purposes of this section, “academic and non-academic fields at basic level” means the academic, co-curricular or extra-curricular programmes, activities and learning experiences offered or undertaken at an institution of basic education as defined under the Basic Education Act, 2013.”

MIN.NO.DC.D/208/2016: CONSIDERATION OF THE PRESIDENTIAL MEMORANDUM ON THE ENGINEERING TECHNOLOGIST AND TECHNICIANS BILL, 2015

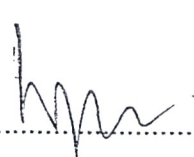
The Committee agreed with the Recommendation by the President on the Engineering Technologist and Technicians Bill, 2015 that the Bill be amended by deleting the current clause 5 and reinstating the provisions on the functions of the Board.

MIN.NO.DC.D/209/2016: ANY OTHER BUSINESS

No Any Other Business A rose

MIN.NO.DC.D/210/2016: ADJOURNMENT

The Chairperson adjourned the meeting at 12.50pm.

Signed.....

HON. SABINA CHEGE, M.P

(CHAIRPERSON)

Date.....5/7/16

MINUTES OF THE 22ND SITTING OF THE DEPARTMENTAL COMMITTEE ON
EDUCATION, RESEARCH AND TECHNOLOGY HELD ON FRIDAY, 22ND APRIL,
2016 IN MAKUTANO HALL, WHITESSANDS BEACH RESORT MOMBASA COUNTY
AT 9.30 AM

PRESENT

1. Hon. Julius Melly, MP
 2. Hon. Sabina Chege, M. P
 3. Hon. (Prof.) Hellen Sambili, EGH, M.P
 4. Hon. Yusuf Chanzu, M.P
 5. Hon. (Dr.) Susan Chebet, M.P
 6. Hon. Jacob Macharia, M.P
 7. Hon. (Dr.) Christine Ombaka, M.P
 8. Hon. Kenneth Okoth, M.P
 9. Hon. Joseph Manje, M.P
 10. Hon. Silverse Lisamula Anami, M.P
 11. Hon. Geoffrey Makokha Odanga, M.P
 12. Hon. Rose Rwamba Mitaru, M.P
 13. Hon. Halima Ware Duri, M.P
 14. Hon. Ibren Nasra Ibrahim, M.P
 15. Hon. Muriuki Njagagua, M.P
 16. Hon. Joseph M' eruaki, M.P
 17. Hon. Moses Injendi, M.P
 18. Hon. Harrison Kombe, M.P
 19. Hon. Dorcas Kedogo Luvalitsa, M.P
 20. Hon. Jared Odhiambo Opiyo, M.P
 21. Hon. Michael Kisoi Munyao, M.P
 22. Hon. Anthony Kimaru, M.P
- Vice Chairperson
- Chairperson

ABSENT WITH APOLOGY

1. Hon. (Dr.) Wilber Ottichillo, M.P
2. Hon. Mohamed Adan Huka, M.P
3. Hon. Richard Makenga, M.P
4. Hon. Cecilia Ng'etich, M.P
5. Hon. Mary Seneta, M.P
6. Hon. Steven Kariuki, M.P

ABSENT

1. Hon. Eric Keter, M.P

National Assembly Secretariat

1. Ms. Leah Wanjiru	-	First Clerk Assistant
2. Mr. Abdiaziz Shobay	-	Third Clerk Assistant
3. Mr. John Mugoma	-	Third Clerk Assistant
4. Ms. Doreen Karani	-	Legal Officer II
5. Ms. Annceta Gacheri	-	Research Officer III

AGENDA

1. Preliminaries
 - (i) Prayers
 - (ii) Introductions
 - (iii) Communication from the Chair
 - (iv) Adoption of the Agenda
 - (v) Confirmation of Minutes from the previous sittings
 - (vi) Matters Arising
2. Consideration of the Kenya National Examination (KNEC) (Amendment) Bill.
3. Any Other Business
4. Adjournment/ Date for the Next Sitting

MIN.NO.DC.D/129/2016: PRELIMINARIES

The Chairperson called the meeting to order at 10.00 am. Thereafter, prayer was read.

MIN.NO.DC.D/130/2016: ADOPTION OF THE AGENDA

The agenda of the meeting as contained in the programme was adopted having been proposed by ~~Hon. Joseph M'ernaki, M.P. and seconded by Hon. Nasra Ibrahim, M.P. respectively.~~

MIN.NO.DC.D/131/2016: CONFIRMATION OF THE MINUTES FROM THE PREVIOUS SITTINGS

Confirmation of the Minutes of the previous sitting was deferred to the next sitting.

MIN.NO.DC.D/132/2016: CONSIDERATION OF THE KENYA NATIONAL EXAMINATION COUCIL (KNEC) (AMENDMENT) BILL

The Committee was taken through the Kenya National Examination Council (Amendment), 2015 and proposed the following amendments to the Bills.

CLAUSE 2

THAT the Bill be amended in—

(a) paragraph (a) by deleting the proposed new paragraph (ba) and substituting therefor the following new paragraphs—

“(ba) rank institutions of similar category in terms of value add to students in academic and non-academic fields at basic level in accordance with this Act;

(bb) liaise with the Cabinet Secretary and institutions to obtain the necessary information for purposes of ranking under paragraph (ab);”

(b) Paragraph (b) by deleting the proposed new paragraph (ba) and substituting therefor the following new paragraph—

“(ba) make rules regulating the ranking of institutions in the manner prescribed in section (1)(ba);

(c) Paragraph (c) by deleting the proposed new subsection (3) and substituting therefor the following new subsection—

“(3) For purposes of this section, “academic and non-academic fields at basic level” means the academic, co-curricular or extra-curricular programmes, activities and learning experiences offered or undertaken at an institution of basic education as defined under the Basic Education Act, 2013.”

MIN.NO.DC.D/133/2016: ANY OTHER BUSINESS

No other business arose.

MIN.NO.DC.D/134/2016: ADJOURNMENT

The Chairperson adjourned the meeting at 12:30 pm.

Signed.....

S. Chege

Hon. Sabina Chege, M.P
(CHAIRPERSON)

Date.....

16-6-16