KENYA GAZETTE SUPPLEMENT
NATIONAL ASSEMBLY BILLS, 2014
NAIROBI, 29th August, 2014

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THE BASIC EDUCATION (AMENDMENT) BILL, 2014

A Bill for

AN ACT of Parliament to amend the Basic Education Act

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Basic Education (Amendment) Act, 2014.

2. The Basic Education Act, (in this Act referred to as “the principal Act”), is amended in section 2—

(a) by deleting the definition of “curriculum” and substituting therefor the following new definition—

“curriculum” has the meaning assigned to it under the Kenya Institute of Curriculum Development Act.

(b) by deleting the definition of “manager” and substituting therefor the following new definition—

“manager” means a person appointed by a proprietor to coordinate and oversee the implementation of education policies and guidelines in a non-public basic education institution and may perform delegated teacher management functions;

(c) by deleting the definition of “sponsor” and substituting therefor the following new definition—

“sponsor” means a person or institution that owns land or property on which an institution of basic education is instituted, and who provides foundational objectives to the institution and ensures that the educational and non-curricular objectives of the institution of basic education are met.”

3. Section 18 of the principal Act is amended by inserting the following new paragraph immediately after paragraph “m”—

“(ma) maintain a databank of all students who are ranked in the first quartile by the Constituency in
the Kenya Certificate of Primary Education examination and who due to inability to pay school fees fail to gain entry into or complete education in a public secondary school”.

4. The principal Act is amended by deleting section 20 and replacing it with the following new section—

(1) Every County Education Board shall consist of a Chairperson and seventeen other persons appointed by the Cabinet Secretary as follows—

(a) an educationist of at least five years standing;

(b) the County Director of Education who shall be the secretary to the County Education Board;

(c) a representative of the county executive in charge of education;

(d) the county commissioner

(e) a representative of the Teachers Service Commission;

(f) where applicable, one person each representing—

(i) jointly, the National Council of Churches of Kenya and the Evangelical Fellowship of Kenya;

(ii) the Kenya Episcopal Conference; and

(iii) the Muslims Education Council;

(g) a representative of the association of private schools;

(h) two representatives of a trade union representing the interest of teachers;

(i) two representatives of parents teachers association;
(j) a representative of persons with disability;
(k) two members nominated by the following bodies—
   (i) the Primary School Head Teachers’ Association; and
   (ii) the Secondary School Principals Association.
(l) a representative of a child rights organization.

(2) In appointing persons as Chairpersons and members of the County Education Board, the Cabinet Secretary shall observe the principle of gender equity, regional, ethnic and religious balance, transparency, openness and competitiveness and shall have due regard to the principle of equal opportunities for persons with disabilities.

(3) All members of the County Education Board shall have a qualification of secondary education certificate.

(4) A Member of Parliament from the respective County may attend the meetings of the County Education Board but shall have no right to vote.

5. The principal Act is amended by inserting the following new sections immediately after section 25-

25A. (1) There is established a Sub-county Education Board.

   (2) Every Sub-county Education Board shall consist of a Chairperson and seventeen other persons appointed by the Cabinet Secretary as follows—

   (a) an educationist of at least five years standing;
(b) the Sub-county Education Officer who shall be the secretary to the Sub-county Education Board;
(c) a representative of the county executive in charge of education;
(d) the sub county commissioner;
(e) a representative of the Teachers Service Commission;
(f) where applicable, one person each representing—
   (i) jointly, the National Council of Churches of Kenya and the Evangelical Fellowship of Kenya;
   (ii) the Kenya Episcopal Conference; and
   (iii) the Muslims Education Council;
(g) a representative of the association of private schools;
(h) two representatives of a trade union representing the interest of teachers;
(i) two representatives of parents teachers association;
(j) a representative of persons with disability;
(k) two members nominated by the following bodies—
   (i) the Primary School Head Teachers’ Association; and
   (ii) the Secondary School Principals Association.
(l) a representative of a child rights organization.

(2) In appointing persons as Chairpersons and members of the Sub-County Education Board, the Cabinet Secretary shall observe the principle of gender equity, regional, ethnic and
religious balance, transparency, openness and competitiveness and shall have due regard to the principle of equal opportunities for persons with disabilities.

(3) All members of the Sub-County Education Board shall have a minimum qualification of secondary education certificate.

(4) A Member of Parliament from the respective Sub-County may attend the meetings of the Sub-County Education Board but shall have no right to vote.

25B. (1) The functions of the Sub-county Education Board shall be to –

(a) oversee in consultation with the County Education Board, the operation and management of youth polytechnics, pre-primary education including early childhood care and education programmes in the sub-county;

(b) coordinate and monitor education and training in the sub-county on behalf of the national government and the county government;

(c) interpret national policies in education based on the sub-county needs;

(d) initiate proposals for policy reforms;

(e) plan, promote, develop and coordinate education, training and research in the sub-county in accordance with the provisions of this Act, the national education policy and the law and policies of the county government;

(f) collaborate with the Board of Management, the Principal, the Head Teacher, and other appropriate authorizes in the management of basic schools;
(g) register and maintain a data bank of all education and training institutions within the sub-county;

(h) monitor curriculum implementation in basic education in the sub-county;

(i) monitor the conduct of examinations and assessments at the basic education and training levels in the sub-county in collaboration with all the relevant national bodies.

(j) collaborate with the Teachers Service Commission on teacher management within the sub-county;

(k) prepare and submit a comprehensive school termly annual report including Educational Management Information System data to the Cabinet Secretary on all areas of its mandate including education and training services, curriculum, policy implementation and school based audit report within the sub-county;

(l) coordinate with all relevant agencies to ensure that all the barriers to the right to quality education are removed and with National Government to facilitate realization of the right to education within the sub-county;

(m) put measures in place to ensure all children and youth of school going age within the sub-county attend and stay in to complete basic education;

(n) perform such other functions as may be necessary for the better carrying out of the functions of the sub-county education board under this Act or any other written law.

25C (1) The Chairperson shall serve for a term of four years renewable once.(2) The members shall serve for a renewable term of three years.
(3) The Cabinet Secretary shall by regulation, provide for the staggering of the terms of the inaugural Board members.

6. Section 26 of the principal Act is amended by inserting the following new subsection immediately after subsection (3)—

“(4) Pursuant to Articles 235 and 237 of the Constitution, the Teachers Service Commission shall assign teachers to the public institutions of basic education and training used for conducting pre-primary education, childcare facilities, home craft centers and village polytechnics”.

7. Section 27 of the principal Act is amended by—

(a) deleting the words “at their own expense” immediately after “Chaplains” appearing in paragraph (c).

(b) inserting the following new paragraphs immediately after paragraph (e)—

“(f) participate in the decision making process leading to change of status of a public sponsored school to a category of National, Extra-county or be a government school.

(g) be consulted by the Teachers Service Commission on persons to be appointed as head teachers, principals, deputy head teachers and deputy principals in public sponsored schools.

8. Section 28 of the principal Act is amended by inserting the following new subsection immediately after subsection (2)—

(3) The Cabinet Secretary, in consultation with the Cabinet Secretary responsible for the Treasury shall develop and gazette Regulations for the provision of financial assistance to children learning in non-public or sponsored schools but who, on account of financial hardship, experience difficulty in paying fees and other charges levied in such schools limited to the amount that it would cost to educate such child in a public school”. 
9. The principal Act is amended in section 32 by deleting the words “or a basic education institution” appearing immediately after the words “public school”.

10. Section 34 of the principal Act is amended by inserting the words “as long as the child meets the criteria prescribed by the Cabinet Secretary for admission to the public school.” at the end of sub-section (5).

11. The principal Act is amended in section 35 by—
   (a) by deleting sub-section (1)
   (b) in sub-section (2 ) by inserting the words “except with the concurrence of the parents or guardians” immediately after the word “class”
   (c) in sub-section 3 delete the words “ Subject to sub-section (1)”

12. Section 39 of the principal Act is amended by inserting the following new paragraphs immediately after paragraph (h)—
   “(ha) put in place measures to ensure that students who are ranked in the first quintile by the Constituency in the Kenya Certificate of Primary Education examination and are admitted to a public secondary school but fail to gain entry into or complete education in public secondary school due to inability to pay school fees are supported to complete their secondary school education”.
   “(hb) in consultation and cooperation with the County Education Board and the sub county Education Board, establish mechanisms for provision of public funds to educate bright and needy students who are ranked in the first quartile by the Constituency in the Kenya Certificate of Primary Education examination”;  

13. Section 40 of the principal Act is amended by inserting the following new subsections immediately after subsection (4) as follows—
   “(5) Every principal or head teacher of a public primary or secondary school shall, not later
than 28th February of every year develop and submit to the County Education Board a list of students who are ranked in the first quartile by the Constituency in the Kenya Certificate of Primary Education examination of the preceding year but are unable to pursue their studies owing to inability to pay school fees”.

(6) The County Education Board shall in cooperation with the Sub-county Education Board vet the students who appear in the list of students under subsection (5) and ensure that the deserving needy students are supported to complete their secondary school studies”

14. Section 43 of the principal Act is amended by-

(a) by deleting the words “and includes sponsored schools” appearing at the end of paragraph (a);

(b) by inserting the following new paragraph immediately after paragraph (b)—

“(c) “sponsored schools which are schools established, owned or operated by sponsors but which the Government supports financially, materially or through the provision of teachers from the Teachers Service Commission.”

15. Section 52 of the principal Act is amended in subsection (1) by deleting the word “the” appearing immediately after the word “follow” in paragraph (c) and substituting therefor the word “an”.

16. Section 56 (1) of the principal Act is amended by-

(a) in paragraph (a) deleting the word “six” and replacing it with “four”;

(b) deleting paragraph (c) and replacing it with “Principal of the school who shall be the secretary of the Board.”;

(c) deleting paragraph (g).

17. The principal Act is amended in section 75 by inserting the following new subsection—

“(1) A curriculum which is developed or approved for basic education in Kenya shall be
examined by the Kenya National Examinations Council or other examining body duly accredited by the Cabinet Secretary."

18. Section 84 of the principal Act is amended in subsection (1) by inserting the words “in institutions of basic education whose curriculum is registered as examinable by the Kenya National Examinations Council” immediately at the end of the sub-section.

19. Section 95 of the principal Act is amended in subsection (2) by inserting the words “in consultation with the relevant sponsors immediately after “appropriate” appearing in (c).

20. Section 100 of the principal Act is amended in subsection (1) by inserting the words “or be possessed by” immediately before the words “the respective”.

21. Paragraph 19 is amended by inserting the words “or a sponsor who was in possession of title prior to commencement of this Act” immediately after “in the name of the institution”.
MEMORANDUM OF OBJECTS AND REASONS

The principal purpose of this Bill is to make necessary amendments to the Basic Education Act, No 14 of 2013, Laws of Kenya.

Clause 2 of the Bill proposes to amend the definitions of the words firstly, curriculum in line with the Kenya Institute of Curriculum Development Act, secondly, manager to mean a person appointed by a proprietor to coordinate and oversee the implementation of education policies and guidelines in a non-public basic education institution and may perform delegated teacher management functions and lastly sponsor to mean a person or institution that owns land or property on which an institution of basic education is instituted, and who provides foundational objectives to the institution and ensures that the educational and non-curricular objectives of the institution of basic education are met.

Clause 3 proposes to provide additional functions to the County Education Board to maintain a databank of students ranked in the first quartile by the Constituency in the Kenya Certificate of Primary Education examination and who due to inability to pay school fee fail to gain entry into or complete education in a public secondary school.

Clause 4 proposes to include members of Parliament to the membership of the County Education Boards.

Clause 5 proposes to establish Sub-county Education Boards whose role is to represent the County Education Boards and co-ordinate all education related matters at sub-county level.

Clause 6 proposes to empower the Teachers Service Commission to assign teachers to institutions of basic education and training used for conducting pre-primary education, childcare facilities, home craft centers and village polytechnics.

Clause 7 proposes to remove the role of meeting the Chaplains expense from the sponsor and give additional powers to the sponsors to participate in the decision making process leading to change of status of a public sponsored schools, to be consulted by the Teachers Service Commission on persons to be appointed as head teachers, principals, deputy head teachers and deputy principals in public sponsored schools.

Clause 8 proposes to empower the Cabinet Secretary, in consultation with the Cabinet Secretary responsible for the Treasury to develop and gazette Regulations for the provision of financial assistance to children learning in non-public or sponsored schools but who, on account of financial hardship, experience difficulty in paying fees and other charges levied in such schools limited to the amount that it would cost to educate such child in a public school.
Clause 9 proposes to amend the Act to allow private schools to charge admission fee while admitting a child to a private school.

Clause 10 seeks to amend the Act to ensure that children are not denied admission to public schools as long as they meet the criteria prescribed by the Cabinet Secretary for admission to the public school.

Clause 11 proposes to delete the provision that requires pupils to be given appropriate incentives to learn and complete basic education. It further amends the Act to ensure that no pupil admitted in a school shall be held back in any class or expelled from school except with the concurrence of the parents or guardians.

Clause 12 proposes to make it a duty of the Cabinet Secretary to put in place measures to ensure that students who are ranked in the first quintile by the Constituency in the Kenya Certificate of Primary Education examination and are admitted to a public secondary school but fail to gain entry into or complete education due to inability to pay school fees are supported to complete their secondary school education.

Further the Cabinet Secretary is required to work in consultation and cooperation with the County Education Board to establish mechanisms for provision of public funds to educate bright and needy students who are ranked in the first quartile by the Constituency in the Kenya Certificate of Primary Education examination;.

Clause 13 proposes to make it a duty of a principal or head teacher of a public primary or secondary school to every year, develop and submit to the County Education Board a list of students who are ranked in the first quartile by the Constituency in the Kenya Certificate of Primary Education examination of the preceding year but are unable to pursue their studies owing to inability to pay school fees.

Further the County Education Board is required to co-operate with the Sub-County Education Board to vet students who appear in the list prepared by the principal or head teacher and ensure that the deserving needy students are supported to complete their secondary school studies.

Clause 14 proposes to amend the categorization of basic educational institutions to include sponsored schools which are schools established, owned or operated by sponsors but which the Government supports financially, materially or through the provision of teachers from the Teachers Service Commission.

Clause 15 proposes to amend the Act to enable private school to follow different curriculums and not necessarily one approved curriculum.
Clause 16 proposes to amend the composition of the Board of Management to reduce the number of persons elected to represent parents of the pupils in the schools or local community in the case of county secondary schools from six to four and replacing the representative of the teaching staff in the school elected by teachers with the Principal of the school who shall be the secretary of the Board.

Clause 17 proposes to amend the Act to ensure that a curriculum which is developed or approved for basic education in Kenya shall be examined by the Kenya National Examinations Council or other examining body duly accredited by the Cabinet Secretary.

Clause 18 proposes to amend the Act to ensure that public examinations are conducted as provided for under the Kenya National Examination Council Act only in institutions of basic education whose curriculum is registered as examinable by the Kenya National Examinations Council.

Clause 19 proposes to amend the Act to ensure that the Cabinet Secretary in making regulations for integration of the madrassa, Duksi and pastoral programmes of instructions into the formal education system as appropriate to improve access and retention consult with the relevant sponsors.

Clause 21 proposes to amend the Act to ensure movable and immovable property of a public institution be in the name of the institution or a sponsor who was in possession of title prior to commencement of this Act.

The Bill is a Bill concerning county governments.

The enactment of this Bill shall occasion additional expenditure of public funds.

JULIUS MELLY,
Ag. Chairperson,
Committee on Education, Research and Technology.
Section 2 of No 14 of 2013 which it is proposed to amend—

Interpretation

In this Act, unless the context otherwise requires—

“accreditation” means the procedure by which the accreditation agency formally recognizes the status of an institution offering basic education and confirms in writing by way of a documentation issued under this Act;

“adult” means an individual who has attained the age of eighteen years;

“adult and continuing education” means the learning processes within the perspective of lifelong learning in which an adult or out-of-school youth is granted an opportunity in an institution of basic education for purposes of developing abilities, enriching knowledge and improving skills;

“adult basic education” means basic education offered as a full-time or part-time course to a person who is above the age of eighteen years and includes education by correspondence, the media of mass communication and the use of libraries, museums, exhibitions or other means of visual or auditory communication for educational purposes and “Adult learning” shall be construed accordingly;

“basic education” means the educational programmes offered and imparted to a person in an institution of basic education and includes Adult basic education and education offered in pre-primary educational institutions and centres;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to Basic education and training;

“child” means an individual who has not attained the age of eighteen years;

“community” means persons residing in the neighbourhood of a basic education institution;

“County Director of Education” means a Director appointed under section 52;

“County Education Board” means a Board established as an agency of the national Government to serve the relevant county under section 17;

“curriculum” means all the approved subjects taught or programmes offered and includes all the activities provided at any institution of basic education;
“Director-General” means a person appointed under the Public Service Commission Act (Cap. 185) and responsible to the Cabinet Secretary;

“Duksi” means Islamic elementary institution that offers Quranic education and other related subjects;

“Education Appeals Tribunal” means the Appeals Tribunal established under section 92;

“EMIS” means Educational Management Information System;

“Education Standards and Quality Assurance Commission (ESQAC)” means the Commission established under section 62;

“formal education” means the regular education provided in the system of schools, and other formal educational institutions;

“headteacher” has the meaning assigned to it under the Teachers Service Commission Act (Cap. 212);

“ICT Integration and Education” means the seamless incorporation of information communication technologies to support and enhance the attainment of curriculum objectives, to enhance the appropriate competencies including skills, knowledge, attitudes and values and to manage education effectively and efficiently at all levels;

“institution of basic education and training” means a public or private institution or facility used wholly or partly, regularly or periodically for conducting basic education and training and includes a school, a tuition facility, an educational centre, an academy, a research institution, a school correctional facility or a borstal institution;

“Madrassa” means the structural Muslim educational institutions or schools that offer Islamic and other subjects and are laddered from primary to secondary;

“manager” means a person who has been appointed by the Cabinet Secretary in consultation with the proprietor through regulations to coordinate and oversee implementation of education policies and guidelines in non-public basic education institutions and performs delegated teacher management functions;

“mobile school” means a formal flexible institution that allows for mobility of pupils and teachers and is specifically designed to suit the needs of migrant communities;

“National Council for Marginalized and Nomadic Education” means the council provided for under section 92;
“National Education Board” means the National Board for Education and Training established under section 5 of this Act;

“non-formal education” means any organized educational activity taking place outside the framework of the formal education system and targets specific groups/categories of persons with life skills, values and attitudes for personal and community development;

“out-of-school youth” means all persons who have attained the age of eighteen years but have not attained thirty five years and who are not engaged in learning in the formal education system;

“parent” means a mother, father or guardian of a child and includes any person who is responsible under the law to maintain a child or is entitled to a child’s custody;

“parent’s association” means an association as prescribed in subsection 53(2);

“pastoral programmes” means the curriculum designed by different Christian churches;

“pre-primary education” means education offered to a child of four or five years before joining level one in a primary school;

“primary education” means education imparted to a child who has completed pre-primary education;

“Principal” has the meaning assigned to it under the Teachers Service Commission Act (Cap. 212);

“private school” means a school established, owned or operated by private individuals, entrepreneurs and institutions;

“Salaries and Remuneration Commission” has the meaning assigned to it under the Salaries and Remuneration Act (Cap. 5F);

“school” means an institution registered under this Act that meets the basic prescribed standards and includes institutions offering alternative approaches of multi-grade, double-shift, mobile schooling, out of school programmes, adult and continuing education, distance or correspondence instruction, or accelerated learning and talent based institutions, but does not include—

(a) any institution or assembly for which a Cabinet Secretary other than the Cabinet Secretary responsible for matters relating to basic education and training, is responsible;

(b) any institution or assembly in which the instruction is, in the opinion of the Cabinet Secretary, wholly or mainly of a religious character; or

(c) an institution mainly or wholly of a religious character;
“special education needs” means conditions, physical, mental or intellectual conditions with substantial and long term adverse effects on the learning ability (other than exposure) or the needs of those who learn differently or have disabilities that prevent or hinder or make it harder for them to access education or educational facilities of a kind generally provided for learners of the same age in the formal education system;

“special needs education” includes education for gifted or talented learners as well as learners with disability and includes education which provides appropriate curriculum differentiation in terms of content, pedagogy, instructional materials, alternative media of communication or duration to address the special needs of learners and to eliminate social, mental, intellectual, physical or environmental barriers to learners;

“special school” means a school established for the benefit of a particular class of children who require some special form of education, treatment or care;

“sponsor” means a person or institution who makes a significant contribution and impact on the academic, financial, infrastructural and spiritual development of an institution of basic education;

“stakeholder” means a person, a public or private institution or organization involved in an education institution and with vested interests for the benefit of such an institution;

“statutory structural adjustment” means a systematic multi-disciplinary process of collecting information about learners for the purpose of identifying and confirming the substantial and long-term impact on the learning process; abilities or educational progress so as to provide educational support based on the assessment or findings;

“teacher” has the meaning assigned to it under the Teachers Service Commission Act (Cap. 212);

“tuition fees” means fees charged to cater for instruction or instructional materials.

Section 18 of No 14 of 2013 which it is proposed to amend—

18. Functions of the County Education Boards

(1) The functions of the County Education Board shall be to—

(a) oversee in consultation with the county government, the operation and management of youth polytechnics, pre-primary education including early childhood care and education programmes in the county;
(b) coordinate and monitor education and training in the County on behalf of the national government and the county government;

(c) interpret national policies in education based on the county's needs;

(d) initiate proposals for policy reforms;

(e) plan, promote, develop, and coordinate education, training and research in the county in accordance with the provisions of this Act, the national education policy and the laws and policies of the county government;

(f) collaborate with the Board of Management, the Principal, the Head Teacher, and other appropriate authorities in the management of basic schools;

(g) register and maintain a data bank of all education and training institutions within the county;

(h) monitor curriculum implementation in basic education in the county;

(i) monitor the conduct of examinations and assessments at the basic education and training levels in the county in collaboration with all the relevant national bodies;

(j) collaborate with the Teachers Service Commission on teacher management within the county;

(k) prepare and submit a comprehensive school termly annual report including Educational Management Information System data to the Cabinet Secretary on all areas of its mandate including education and training services, curriculum, policy implementation and school based audit report within the County;

(l) coordinate with all relevant agencies to ensure that all the barriers to the right to quality education are removed and with National Government to facilitate realization of the right to education within the county;

(m) put measures in place to ensure all children and youth of school going age within the county attend and stay in to complete basic education.

(n) perform such other functions as may be necessary for the better carrying out of the functions of the county education board under this Act or any other written law.
(2) The County Education Board may in consultation with the National Education Board and relevant stakeholders appoint a sub county education office with clear functions and powers.

Section 20 of No 14 of 2013 which it is proposed to amend—

20. Composition of the County Education Boards

(1) Every County Education Board shall consist of a Chairperson, and twelve other members appointed by the Cabinet Secretary through an open and competitive process and shall include—

(a) an educationist of at least five years standing, based in the county;
(b) the County Director of Education or his or her representative who shall be the Secretary to the County Education Board;
(c) a representative of the county executive in charge of education;
(d) a representative of the Teachers Service Commission
(e) where applicable, one person each representing—
   (i) jointly, the National Council of Churches of Kenya and the Evangelical Fellowship of Kenya;
   (ii) the Kenya Episcopal Conference; and
   (iii) the Muslims Education Council;
(f) a representative of the association of private schools;
(g) two representatives of a trade union representing the interest of teachers;
(h) two representatives of parents teachers association; and
(i) two members nominated by the following bodies—
   (i) the Primary School Head Teachers’ Association; and
   (ii) the Secondary School Principals Association.

(k) a representative of a child rights organization.

(2) In appointing persons as Chairperson and members of the County Education Board, the Cabinet Secretary shall observe the principle of gender equity, regional, ethnic and religious balance, transparency, openness and competitiveness and shall have due regard to the principle of equal opportunities for persons with disabilities.

(3) All members of the County Education Board shall have a minimum qualification of secondary education certificate
Section 26 of No 14 of 2013 which it is proposed to amend—

Roles of County Government

(1) The roles of the county government shall include the provision of funds required for the development of the necessary infrastructure for institutions of basic education and training used for conducting preprimary education, childcare facilities, homecraft centres and village polytechnics.

(2) Pursuant to Article 187 of the Constitution, the national government may, upon request and with agreement between both governments, transfer its functions relating to infrastructure development of primary schools and secondary schools to a county government.

(3) Where the national government transfers its functions to a county government under subsection (2), it may also allocate conditional grants to that county government to cater for the additional responsibilities arising from the transfer.

Section 27 of No 14 of 2013 which it is proposed to amend—

Role of Sponsor

The role of the Sponsor shall be—

(a) to participate and make recommendations of review of syllabus, curriculum, books and other teaching aids;

(b) representation in the School Management Committees and Board of Management;

(c) to provide supervisory and advisory services in matters regarding spiritual development in schools including the appointment of chaplains at their own expense;

(d) maintenance of spiritual development while safeguarding the denomination or religious adherence of others;

(e) to offer financial and infrastructural support.

Section 28 of No 14 of 2013 which it is proposed to amend—

Right of child to free and compulsory

(1) The Cabinet Secretary shall implement the right of every child to free and compulsory basic education.

(2) The Cabinet Secretary shall in consultation with the National Education Board and the relevant County Education Board provide for the establishment of—
(a) pre-primary, primary and secondary schools, mobile schools, and adult and continuing education centers, within a reasonably accessible distance within a county;
(b) appropriate boarding primary schools in arid and semi-arid areas, hard-to-reach and vulnerable groups as appropriate; and
(c) academic centres, or relevant educational institutions to cater for gifted and talented learners;
(d) special and integrated schools for learners with disability.

Section 32 of No 14 of 2013 which it is proposed to amend—

No payment of fee for admission

No person shall while admitting a child to a public school or a basic education institution collect any admission fee.

Section 34 of No 14 of 2013 which it is proposed to amend—

34. No denial of admission

(1) A child shall be admitted in a school at the commencement of the academic year or within such extended period as may be prescribed.

(2) A school or person responsible for admission shall not discriminate against any child seeking admission on any ground, including ethnicity, gender, sex, religion, race, colour or social origin, age, disability, language or culture.

(3) The provisions of subsection (2) shall not apply in matters relating to gender in cases where a school is registered for a particular gender.

(4) No public school shall administer any test related to admission of a child to a public school or cause a person to administer such test unless such a test is for purposes of placing the child at an appropriate level of education.

(5) No child shall be denied admission to a public school.

(6) A parent of a child who has been denied admission to a public school may notify the County Education Board of the decision.

(7) The County Education Board shall review the decision of a school that denies a child admission.

(8) The Cabinet Secretary may by regulation prescribe criteria for the admission to a public school.

Section 35 of No 14 of 2013 which it is proposed to amend—

35. Incentives and prohibition of holding back and expulsion.

(1) Pupils shall be given appropriate incentives to learn and complete basic education.
No pupil admitted in a school, subject to subsection (3) shall be held back in any class or expelled from school.

Subject to subsection (1) the Cabinet Secretary may make regulations to prescribe expulsion or the discipline of a delinquent pupil for whom all other corrective measures have been exhausted and only after such child and parent or guardian have been afforded an opportunity of being heard:

Provided that such a pupil shall be admitted to an institution that focuses on correction in the context of education.

37. Holiday Tuition

No pupil shall be subjected to holiday tuition.

A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding one year or to both.


It shall be the duty of the Cabinet Secretary to—

(a) provide free and compulsory basic education to every child;

(b) ensure compulsory admission and attendance of children of compulsory school age at school or an institution offering basic education;

(c) ensure that children belonging to marginalized, vulnerable or disadvantaged groups are not discriminated against and prevented from pursuing and completing basic education;

(d) provide human resource including adequate teaching and non-teaching staff according to the prescribed staffing norms;

(e) provide infrastructure including schools, learning and teaching equipment and appropriate financial resources;

(f) ensure quality basic education conforming to the set standards and norms;

(g) provide special education and training facilities for talented and gifted pupils and pupils with disabilities;

(h) ensure compulsory admission, attendance and completion of basic education by every pupil;
(i) monitor functioning of schools; and
(j) advise the national government on financing of infrastructure development for basic education.

Section 40 of No 14 of 2013 which it is proposed to amend—

40. Duty of a principal or head teacher

(1) Where a pupil fails to attend school, the Head Teacher shall cause investigation of the circumstances of the child’s absence from school;

(2) Where the Headteacher finds there are no reasonable grounds for the child’s failure to attend school, the headteacher shall—

(a) issue a written notice to the parent of the child requiring that parent to comply with the provisions of this Act.

(b) submit a report on the child to the County Education Board.

(d) submit a report on the child to the County Education Board.

(4) Any parent who without a reasonable cause and after a written notice from the head teacher, fails to comply with section 38 of this Act, commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding two years or to both.

Section 43 of No 14 of 2013 which it is proposed to amend—

43. Categories of schools

(1) Basic educational institutions shall be categorised as—

(a) public schools which are schools established, owned or operated by the Government and includes sponsored schools;

(b) private schools as those established, owned or operated by private individuals, entrepreneurs and institutions.

(2) A public basic education institution shall not be converted to a private basic education institution or to any other private status without consultation with the National Education Board and approval by the Cabinet Secretary.

Section 52 of No 14 of 2013 which it is proposed to amend—

52. Duties and rights of a private school

(1) A private school shall—

(a) establish necessary educational and governance structures;

(b) recruit registered teachers;
(c) comply with and follow the approved curriculum;
(d) maintain premises that meet the requirements of the occupational health, safety regulations and building standards;
(e) maintain necessary teaching and learning materials;
(f) maintain a data bank on pupils undertaking education in the school and submit to the Cabinet Secretary;
(g) where requested by the Cabinet Secretary, provide evidence that pupils are making reasonable educational progress appropriate for their age and grade level based upon results of nationally recognized standardized achievement tests.

Section 74 of No 14 of 2013 which it is proposed to amend—

74. Curricula development

(1) There shall be a Kenya Institute of Curriculum Development whose mandate shall include curriculum development for basic education.

(2) Subject to subsection (1), the Cabinet Secretary shall accredit curriculum development agencies for all levels and programmes on the basis of approved criteria.

(3) Subject to subsection (1), the curricula shall be developed for all levels and programmes by accredited agencies in accordance with the National Qualifications Framework and the policies and guidelines developed and established under this Act.

(4) Any person or institution may propose a curriculum to an accredited curriculum agency.

(5) Any person who contravenes the provisions of this section commits an offence.

Section 75 of No 14 of 2013 which it is proposed to amend—

75. Prohibition of development and examination of own curriculum

Except as otherwise provided for under this Act, no person or institution shall combine the functions of developing and teaching and examining or assessing and issuing a certificate in respect of a curriculum without accreditation and approval in accordance with the provisions of this Act.

Section 34 of No 14 of 2013 which it is proposed to amend—

84. Examinations and assessments

(1) Public examinations shall be conducted as provided for under the Kenya National Examination Council Act (Cap. 225A).
(2) The Cabinet Secretary may make regulations prescribing—
(a) the conduct of school based assessments;
(b) conditions;
(c) the certification of school based assessments.