

SPECIAL ISSUE

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REPUBLIC OF KENYA

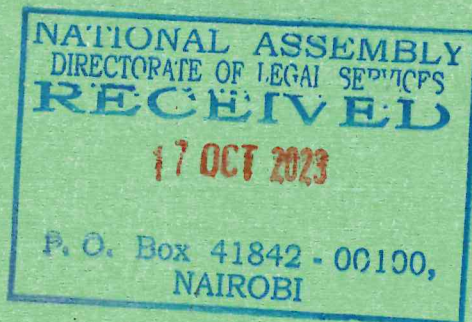
KENYA GAZETTE SUPPLEMENT

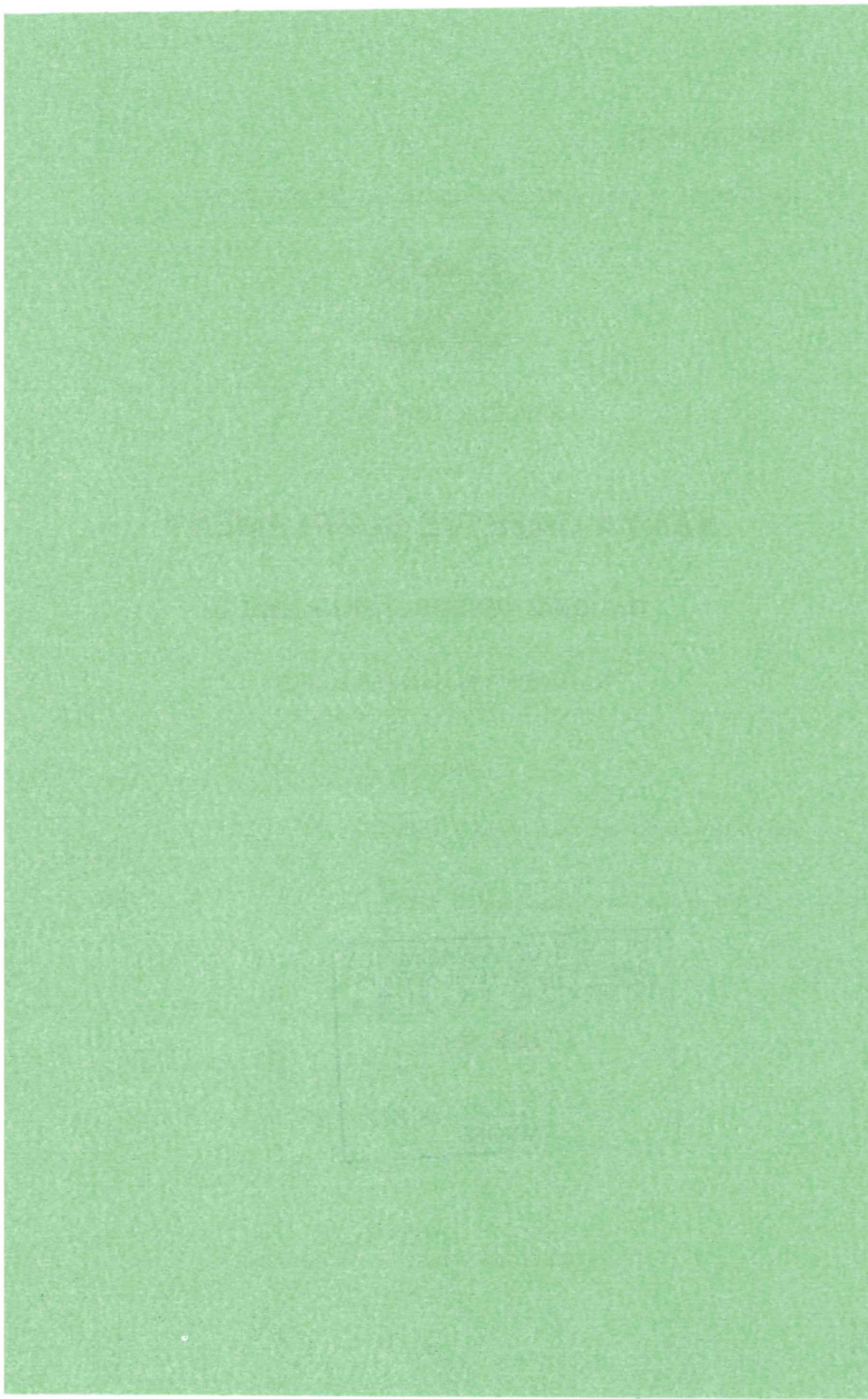
NATIONAL ASSEMBLY BILLS, 2023

NAIROBI, 13th September, 2023

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**THE BASIC EDUCATION (AMENDMENT) BILL,
2023**

A Bill for

AN ACT of Parliament to amend the Basic Education Act and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Basic Education (Amendment) Act, 2023.

Short title.

2. Section 18 of the Basic Education Act is amended by—

Amendment of section 18 of No. 14 of 2013.

(a) deleting subsection (2); and

(b) inserting the following new sections immediately after section 18—

The Sub-county Education Board.

18A. (1) A County Education Board shall, in consultation with the National Education Board and relevant stakeholders, establish a Sub-county Education Board for every Sub-county in the respective county.

(2) The Sub-county Education Board shall be an agent of the County Education Board.

(3) The Sub-county Education Board shall—

- (a) register and establish a data bank of all education and training institutions in the Sub-county;
- (b) in consultation with residents of the Sub-county, recommend institutions that may receive funding for infrastructural development funding;
- (c) review the Board of Management reports of the respective schools within the Sub-county and, submit the reports to the County Education Board;
- (d) assess the budgetary requirements of learning institutions in the Sub-county

and develop allocation programmes, including programmes on allocation of institutional lunch; and

- (e) perform any other function that may be assigned by the County Education Board under this Act.

Consultation with the County Education Board.

18B. (1) The Sub-county Education Board shall consult with the County Education Board in the performance its functions.

(2) Despite the provisions of subsection (1), the Cabinet Secretary shall in consultation with National Education Board, through the existing mechanisms for coordination of inter-governmental relations, make regulations prescribing the coordination between the National Education Board, the County Education Boards and the Sub-county Education Boards.

Composition of Sub-county Education Boards.

18C. (1) Every Sub-county Education Board shall consist of a Chairperson and six other members appointed by the Cabinet Secretary through an open and competitive process.

(2) The Board members under subsection (1) shall include—

- (a) the Member of Parliament for each of the constituencies within the Sub-county who shall be an ex-officio member of the Board;
- (b) the Sub-county Director of Education or a designate of the Sub-county Director of Education;
- (c) the County Executive in charge of Education or a designate of the County Executive in charge of Education;
- (d) one person designated by the Teachers

Service Commission;

- (e) two persons nominated by the Teachers Trade Union; and
- (f) two educationists of at least five years standing based in the Sub-county nominated by Parents Teachers' Association in the Sub-county;

(3) In appointing the Chairperson and members of the Board, the Cabinet Secretary shall ensure—

- (a) that not more than two-thirds of the members are of the same gender;
- (b) equal opportunities for persons with disabilities and other marginalized groups; and
- (c) that the appointees to the Board reflect the interests of all sections of the society.

(4) The Chairperson of a Sub-county Education Board shall possess a minimum qualification of a degree and the members shall possess a minimum qualification of secondary education with post-secondary certificate as an added advantage.

(5) The Board Member appointed under subsection (2) (b) shall be the Secretary to the Sub-county Education Board.

(6) The staff of the Sub-county Education Board shall be persons serving under the County Public Service Board of the respective County.

(7) The Second Schedule shall apply to the conduct of the business and affairs of a Sub-county Education Board with necessary modification and, except as provided in the Second Schedule, a Sub County Education Board may regulate its own procedure.

Tenure.

18D. The Chairperson and members of a

Sub-county Education Board shall be appointed for a term of five years and be eligible for re-appointment for one further term.

Meetings of the Sub-county Education Board.

18E. (1) A Sub-county Education Board shall hold meetings on a need basis at such places and at such times as the County Education Board shall consider necessary for the proper discharge of its functions.

(2) Notwithstanding subsection (1), the Sub-county Education Board shall not meet more than four times in each financial year.

Remuneration of the Sub-county Education Board.

18F. The members of the Sub-county Education Board shall be paid by the organisations they represent in the Board such allowances and disbursements for expenses as may be approved by Cabinet Secretary in consultation with the Salaries and Remuneration Commission.

Co-option.

18G. A Sub-county Education Board may from time to time co-opt into its membership such persons not being more than three as it is satisfied that possess skills and experience necessary in the discharge of the functions of the Sub-county Education Board.

MEMORANDUM OF OBJECTS AND REASONS

Statement of Objects and Reasons for the Bill

The principal object of this Bill is to amend the Basic Education Act, *No. 14 of 2013* to provide for the establishment of Sub-county Education Boards in every sub-county.

The functions of the Sub-county Education Board shall include, the establishment of a data bank of all education and training institutions in the sub-county and assessment of the budgetary requirements of all education and training institutions in the sub-county and developing allocation programmes including programmes for allocation to institutional lunch programmes.

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

The Bill delegates legislative powers to the Cabinet Secretary to make regulations prescribing the coordination between the National Education Board, the County Education Boards and the Sub-county Education Boards but it does not limit fundamental rights and freedoms.

Statement on how the Bill affects county governments

This Bill concerns county governments in terms of Article 110 (1) of the Constitution as it affects the functions and powers of county governments as set out in the Fourth Schedule to the Constitution.

Statement as to whether the Bill is a money Bill, within the meaning of Article 114 of the Constitution

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

Date the 17th August, 2023.

MARY WAMAUA,
Member of Parliament.

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

Functions of the
County Education
Boards

18 (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) co-ordinate 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 co-ordinate 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; collaborate with the

Teachers Service Commission on teacher management within the county;

- (j) 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;
- (k) co-ordinate 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;
- (l) 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; and
- (m) 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.

