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REPUBLIC OF KENYA

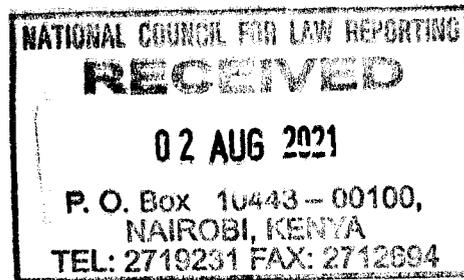
KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2021

NAIROBI, 9th July, 2021

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THE UNIVERSITIES (AMENDMENT) BILL, 2021

A Bill for

AN ACT of Parliament to amend the Universities Act, 2012 and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

- | | |
|---|---|
| <p>1. This Act may be referred to as the Universities (Amendment) Act, 2021.</p> | <p>Short title.</p> |
| <p>2. Section 2 of the Universities Act, 2012 (in this Act referred to as “the principal Act”) is amended by deleting the definition of “Trustees”.</p> | <p>Amendment of section 2 of No. 42 of 2012.</p> |
| <p>3. Section 5A of the principal Act is amended in subsection (4)(b) by deleting the word “particular” appearing immediately after the words “of a” and substituting therefor the word “public”.</p> | <p>Amendment of section 5A of No. 42 of 2012.</p> |
| <p>4. Section 10 of the principal Act is amended in subsection (1) by deleting the words “one or more” appearing immediately after the word “appoint” and substituting therefor the words “not more than two”.</p> | <p>Amendment of section 10 of No. 42 of 2012.</p> |
| <p>5. Section 19 of the principal Act is amended in subsection (1) by inserting the following proviso immediately after paragraph (b)—</p> <p style="padding-left: 40px;">Provided that the Cabinet Secretary may, upon request by a University and if satisfied that it is appropriate in the circumstances to do so, extend the Letter of Interim Authority for such further period, not exceeding four years, as the Cabinet Secretary may determine.</p> | <p>Amendment of section 19 of No. 42 of 2012.</p> |
| <p>6. Section 20 of the principal Act is amended in subsection (3) by deleting the words “in consultation with” appearing immediately after the words “Secretary may” and substituting therefor the words “upon recommendation of”.</p> | <p>Amendment of section 20 of No. 42 of 2012.</p> |
| <p>7. Section 24 of the principal Act is amended by inserting the following new subsections immediately after subsection (2)—</p> | <p>Amendment of section 24 of No. 42 of 2012.</p> |

(2A) The provisions of Part V of this Act shall apply with necessary modifications to the institutions established under this section.

(2B) A Charter granted to an institution under this section shall outline the conditions under which the institution shall operate and set out a clearly defined mandate with regard to specified academic programmes.

8. Section 25 of the principal Act is amended by deleting subsection (2) and substituting therefor the following new subsection—

Amendment of section 25 of No. 42 of 2012.

(2) Where a declaration is made in respect of a public institution, it shall only apply where the institution is or was previously a National polytechnic within the meaning of the Technical and Vocational Education and Training Act, 2013, or is an institution with the requisite physical facilities and human resource appropriate for a technical university.

9. The principal Act is amended by repealing section 26 and replacing it with the following new section—

Repeal and replacement of section 26 of No. 42 of 2012.

Universities in counties.

26. The Commission shall ensure accessibility of public universities by all counties, giving priority to viability and equitability in the distribution of public universities across the country.

10. Section 28 of the principal Act is amended in subsection (4) by deleting the words “in at least three newspapers of national circulation” appearing immediately after the word “published” and substituting therefor the words “in at least two newspapers of national circulation and on the Commission’s website,”

Amendment of section 28 of No. 42 of 2012.

11. Section 35 of the principal Act is amended—

Amendment of section 35 of No. 42 of 2012.

(a) in subsection (1)(a)(ii) by deleting the words “and cause them to be published in the

Gazette” appearing immediately after the word “University” and substituting therefor the words “and submit them to the Cabinet Secretary for publication in the *Gazette*”;

- (b) by deleting subsection (1)(a)(v).

12. Section 36 of the principal Act is amended—

Amendment of section 36 of No. 42 of 2012.

- (a) by deleting subsection (2) and substituting therefor the following new subsection—

- (2) A person shall be qualified for appointment as a Chairperson or member of the Council if—

(a) in the case of a chairperson, the person holds a Masters’ degree from a university recognized in Kenya and has at least fifteen years’ experience in a senior management position, or a bachelor’s degree from a university recognized in Kenya and has at least twenty years’ experience in a senior management position; or

(b) in the case of a member, the person holds a Masters’ degree from a university recognized in Kenya and has at least ten years’ experience in a senior management position or a bachelor’s degree from a university recognized in Kenya and has at least fifteen years’ experience in a senior management position.

- (b) by deleting subsection (5) and substituting therefor the following new subsection—

- (5) The appointment of the members of the Council under subsection (1) shall be done at different times so as to ensure that their terms of office expire at different times.

13. The principal Act is amended by inserting the following new section immediately after section 36—

Insertion of new section 36A in No. 42 of 2012.

Cabinet secretary
may revoke
appointment etc.

36A. (1) As the designated appointing authority, the Cabinet Secretary shall have power to revoke any appointment to, or transfer or otherwise deploy the chairperson or any member of any Council.

(2) Councils enjoy and exercise delegated authority from the Cabinet Secretary who reserves the right to review or vacate a Council decision.

(3) A Council seeking to meet more than four times in a year must obtain written approval from the Cabinet Secretary.

14. Section 39 of the principal Act is amended—

Amendment of
section 39 of
No. 42 of 2012.

- (a) in subsection (1) by deleting paragraph (a) and substituting therefor the following new paragraph—
- (a) in the case of a public university, by the Cabinet Secretary after a competitive process conducted in the manner provided in the Fourth Schedule.
- (b) by deleting subsection (3) and substituting therefor the following new subsection—
- (3) The Vice-Chancellor of a public university shall hold office for a term of five years and shall be eligible for a further term of five years upon satisfactory performance.
- (c) by deleting subsection (5) and substituting therefor the following new subsection—
- (5) The provisions of this section shall apply with necessary modifications to the