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**THE HIGHER EDUCATION LOANS BOARD
(AMENDMENT) BILL, 2020**

A Bill for

**AN ACT of Parliament to amend the Higher
Education Loans Board Act.**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Higher Education Loans Board (Amendment) Act, 2020. Short title.

2. Section 2 of the Higher Education Loans Board Act, 1995 (hereinafter referred to as the principal Act) is amended by inserting the following new paragraphs in their proper alphabetical sequence—

“disability” includes any physical, sensory, mental, psychological or other impairment, condition or illness that has, or is perceived by significant sectors of the community to have, a substantial or long-term effect on an individual's ability to carry out ordinary day-to-day activities;

“youth” means a person who—

- (a) has attained the age of eighteen years; but
- (b) has not attained the age of thirty-five years.

3. Section 6 of the Higher Education Loans Board Act, 1995 (hereinafter referred to as the principal Act) is amended in paragraph (c) by deleting the words “rate of interest and” appearing immediately before the word “recovery”.

Amendment of section 6 of No. 3 of 1995.

4. Section 15 of the principal Act is amended –

- (a) by inserting the following new subsection immediately after subsection (1) –

“(1A) Notwithstanding the provisions of subsection (1) (b), no interest shall be charged on the principal amount advanced to the youth and persons with disabilities until they have secured their first employment upon completion of studies”;

Amendment of section 15 of No. 3 of 1995.

(b) in subsection (2) by deleting the words “within the stipulated time” appearing immediately after the words “subsection (1)” where they first appear and substituting therefor the words “upon securing employment or within five years after completion of his studies”.

5. The principal Act is amended by inserting the following new section immediately after section 14—

Insertion of new section in No. 3 of 1995.

Interest rate.

14A. The maximum interest rate to be charged by the Board on the principal amount advanced to a loanee shall not be more than three per cent per annum.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the Higher Education Loans Board Act to waive the imposition of interest on the principal amount of a loan advanced to the youth and person with disabilities until such time as they have secured their first employment. Secondly, it sets the percentage of interest that may be charged on the loan advanced at three per cent. It also provides that the penalty charged on defaulting of the loan shall be charged after securing employment or five years after completion of studies. The aim of these proposals is to reduce the financial burden on recent graduates who are expected to pay large sums of money to the Higher Education Loans Board even before securing employment or becoming financially stable.

Clause 1 of the Bill provides for the short title.

Clause 2 of the Bill provides for the amendment of section 2 of the Act to insert the definitions for the terms “disability” and “youth” which are used in the proposed amendments.

Clause 3 of the Bill provides for the amendment of section 6 of the Act to remove the function of setting the rate of interest from the Board.

Clause 4 of the Bill provides for the amendment of section 15 of the Act by inserting a new subsection that provides that interest in the case of the youth and persons with disabilities shall become due upon them securing employment after completion of their studies.

Clause 5 of the Bill provides for the insertion of a new section that sets the rate of interest charged on the loans at a maximum of three per cent per annum. It also provides that the penalty charged on defaulting of the loan shall be charged after securing employment or five years after completion of studies

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

The Bill does not limit any fundamental rights and freedoms as provided under the Constitution.

Statement that the Bill concerns county governments

The Bill does not affect the functions of the county governments and is therefore not a Bill concerning counties for purposes of the Standing Orders.

Statement that the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill shall vary the charges of a public fund.

Dated the 23rd September, 2020.

GIDEON KETER,
Member of Parliament.

Section 6 of the Higher Education Loans Board Act which it is proposed to amend—

Functions of the Board

The functions of the Board shall be—

- (a) to formulate sound policies for regulating the management of the Fund;
- (b) to solicit for funds and other assistance to promote the functions of the Board;
- (c) to set the criteria and conditions governing the granting of loans including the rate of interest and recovery of loans;
- (d) to receive any gifts, donations, grants or endowments made to the Board, and to make legitimate disbursements therefrom;
- (e) to establish and maintain links with other persons, bodies or organizations within or outside Kenya, as the Board may consider appropriate for the furtherance of the purposes for which the Board is established;
- (f) to enter into contracts with financial institutions for the purpose of loans disbursement and recovery;
- (g) to grant loans out of the Fund either with or without security, as the Board may deem fit, to any eligible person to enable him, or assist any student, to meet the cost of higher education;
- (h) to determine the maximum number of eligible persons or students to be granted loans in any one particular year;
- (i) to invest any surplus funds not currently required for the purpose of the Board in any investment authorized by law for the investment of trust funds with power from time to time to vary or realize those investments;
- (j) with the consent of the Minister, to set up and expend such other funds as may from time to time be required;
- (k) to receive and consider all loan applications from eligible persons or students wishing to be considered for the award of higher education loans, and to approve, withhold or reject such requests in accordance with the provisions of this Act;
- (l) to borrow such monies from such sources and in such amounts as may be approved by the Minister with the concurrence of the Treasury and to secure such loans in such manner as they deem fit;
- (m) to take out insurance cover for risky loans such as death, incapacity or inability to pay, as the Board deems fit;

(n) to establish and award bursaries and scholarships which it may consider necessary for the promotion of the objectives and functions of the Board;

(o) to perform any other functions relating to the granting of students' loans in accordance with the provisions of this Act; and

(p) to perform and exercise all other functions and powers conferred on the Board by this Act.

Section 15 of the Higher Education Loans Board Act which it is proposed to amend—

Obligations of the loanees

(1) A loanee shall be required, subject to and in accordance with this Act or any regulations made thereunder, within one year of completion of his studies or within such a period as the Board decides to recall its loan whichever is the earlier—

(a) to inform the Board of his contact address;

(b) to begin repayment of his loan together with any interest accrued thereon;

(c) if he is in formal employment, to authorize his employer to deduct the loan repayment and to remit it to the Board in such manner as the Board may direct.

(2) Any loanee who fails or neglects to satisfy the requirements of subsection (1) within the stipulated time shall, in addition to any other action that the Board may take against him, be guilty of an offence and liable to a fine of not less than five thousand shillings in respect of each loan deduction that remains unpaid in accordance with provisions of subsection (1), and such fine shall be payable to the Board.

