

REPUBLIC OF KENYA



ELEVENTH PARLIAMENT - THIRD SESSION - 2015



THE NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON EDUCATION, RESEARCH AND TECHNOLOGY

REPORT ON THE CONSIDERATION OF THE ENGINEERING TECHNOLOGIST AND
TECHNICIANS BILL, 2015

Directorate of Committee Services

NOVEMBER, 2015

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1.0 PREFACE

Hon Speaker,

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 Engineering Technologist and Technicians Bill, 2015. 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.

1.1 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 to:-

- (i) 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;
- (ii) To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation.
- (iii) To study and review all legislation referred to it;**
- (iv) 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;
- (v) 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;
- (vi) 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
- (vii) Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

1.2 Committee membership

The Committee comprises of the following Members: -

1. Hon. Sabina Chege, M. P - Chairperson
2. Hon. Julius Melly, MP - Vice Chairperson
3. Hon. (Dr.) Wilber Ottichillo, M.P
4. Hon. (Dr.) Christine Ombaka, M.P
5. Hon. (Prof.) Helen Sambili, M.P
6. Hon. (Dr.) Susan Chebet, M.P
7. Hon. Yusuf Chanzu, M.P
8. Hon. Mary Seneta, M.P
9. Hon. Eric Keter, M.P
10. Hon. Muriuki Njagagua, M.P
11. Hon. Jacob Macharia, M.P
12. Hon. Joseph Meruaki, M.P
13. Hon. Rose Rwamba Mitaru, M.P
14. Hon. Cecilia Ng'etich, M.P
15. Hon. Joseph Manje, M.P
16. Hon. Silverse Lisamula Anami, M.P
17. Hon. Dorcas Kedogo Luvalitsa, M.P
18. Hon. Richard Makenga, M.P
19. Hon. Kenneth Okoth, M.P
20. Hon. Moses Injendi, M.P
21. Hon. Geoffrey Makokha Odanga, M.P
22. Hon. Halima Ware Duri, M.P
23. Hon. Anthony Kimaru, M.P
24. Hon. Mohamed Adan Huka, M.P
25. Hon. Jared Opiyo, M.P
26. Hon. Harrison Kombe, M.P
27. Hon. Michael Kisoi, M.P
28. Hon. Ibren Nasra Ibrahim, M.P
29. Hon. Steven Kariuki, M.P.

1.3 Consideration of the Bill

Invitation to submit Memoranda

The Engineering Technologist and Technicians Bill, 2015 was published and read a first time in March 18th, 2015 and thereafter committed to the Departmental Committee on Education, Research and Technology for consideration pursuant to Standing Order 127.

In processing the Bill, the Committee invited comments from the public by placing advertisements in the Daily Nation and Standard newspapers pursuant to Article 118 of the Constitution. The Committee also met with the Sponsor of the Bill, officers from the Engineering Board of Kenya (EBK), Multimedia University of Kenya, Technical University of Kenya, Technical University of Mombasa, Commission for University of Education (CUE), Technical Vocational Educational Authority (TVETA) and several stakeholders whose views are captured and contained in the body of the Report.

The Committee having held meetings with the various stakeholders, analyzed submissions from the public observed that the bill is critical in the regulation of practice of engineering by the technologist, technicians and artisans. The Committee will be proposing amendments as contained in the Report during the Committee Stage of the Bill.

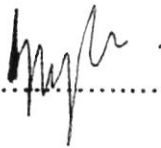
1.4 Acknowledgment

Mr. Speaker, Sir,

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee wishes to thank all the stakeholders for their participation in scrutinizing the Bill.

Finally, I wish to express my appreciation to the Honourable Members of the Committee who sacrificed their time to participate in the activities of the Committee and preparation of this report.

It is my pleasant duty and privilege, on behalf of the Departmental Committee on Education, Research and Technology to table its Report on the consideration of the Engineering Technologist and Technicians Bill, 2015 in the House pursuant to Standing Order 127(4)

Signed  Date..... 18/11/15

HON. SABINA CHEGE, MP

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON EDUCATION, COMMITTEE RESEARCH
AND TECHNOLOGY

2.0 BACKGROUND

The Engineering Technologist and Technicians Bill, 2015 (ETTB) was first introduced to the House during the 10th Parliament, however due to the dissolution of the Parliament the Bill did not proceed to second reading. The Bill was later reintroduced by Hon. Cecilia Ngetich, M.P and it underwent the first reading on 18th March, 2015. The Bill was subsequently committed to the Departmental Committee on Education, Research and Technology for consideration and preparation of a report to the House.

The ETTB is seeking to provide a legal framework on the regulation, practice and standards of engineering technologists and Technicians. In terms of policy, the Bill will actualize the aspirations of the Sessional paper no. 14 of 2012 on education and training where one of key sectors that will drive Kenya in its achievement of vision 2030 is the TVET Sector. According to the policy, it is envisaged that in order to make Kenya “a newly industrializing, middle-income country, providing high quality life for all its citizens, by the year 2030” TVET sector will play a critical role. For Kenya to be able to have capacity to produce goods and service of industrial in nature, the country has to invest in the Human Resource capacity by training and regulation of technologists, technicians and artisans. Countries like Singapore and Malaysia have been able to register considerable growth in their economy due to high investment in technological innovation; economy that is technology driven.

To quote from the policy “**An innovative economy on the other hand is to be realized through technological innovation. Any country that intends to make a breakthrough in industrialization and technological development must begin by ensuring that it has a critical mass of well qualified technologists and engineers.**”

2.1 Bill Analysis

- (i) Part I of the Bill Contains its preliminary provisions.
- (ii) Part II contains provisions on the establishment, powers and functions of the Engineering Technologist and Technicians Board as the body responsible for the coordination and regulation of the engineering technologists and technicians. The part also sets out the functions of the Board, among which is to ensure that high standards

are maintained both in training , performance and rendering of engineering technology professional services.

- (iii) Part III contains provisions on registration of engineering technologists and technicians. It among other things set out the qualification requisite for registration to practice as an engineering technologist or technician. Although registration is open to persons who are Kenyan citizens or have permanent resident status, a window has been provided for registration of foreigners in specified circumstances.
- (iv) Part IV Contains provisions relating to the licensing and practicing of registered engineering technologist and technicians. it makes it mandatory for a person to be licensed before such person can practice as an engineering technologist. It further lays down the requirements to be fulfilled when applying for a practicing license.
- (v) Parts V, VI and VII contain provisions relating to finances, the offences and penalties and the disciplinary procedure to be followed in the case of misapplication of the license to practice.

3.0 CONSIDERATION OF THE ENGINEERING TECHNOLOGISTS AND TECHNICIANS BILL, 2015

3.1 Stakeholder Views on the Bill

Pursuant to the provisions Article 118(b) of the Constitution of Kenya, Parliament shall facilitate public participation and involvement in legislative and other business of Parliament and its Committees. In pursuit of this, the Clerk of the National published memorandum through the local dailies i.e. Daily Nation and Standard newspapers inviting members of the public and all relevant stakeholders to submit their views on the Bill. The Committee received comments and view on the Bill from the following, but not limited to, the Attorney General Office, the Engineers Board of Kenya, Technical and Vocational Education and Training Authority, Institution of Engineers of Kenya, Association of consulting Engineers of Kenya, Technical Universities of Kenya and Mombasa and Hon. Eng. Nicolas Gumbo, M.P.

3.2 COMMENTS FROM THE STAKEHOLDERS

3.2.1 Comments from Attorney General's Office

The Attorney submitted his comments on the Bill vide his letter date 21st April, 2015. He noted that the contents of the Bill was similar to an existing legislation, the Engineers Act, 2011 which similarly provided for the regulation , practice and standards of engineering but in this instance for engineers.

He further noted that the Bill was purporting to establish a parallel authority for engineering services yet there was an existing regulatory authority -EBK. He observed that the Bill will be a duplication of functions within the industry thus leading to confusion. As such establishment of a parallel authority would flout constitutional principles such as good governance and the prudent and responsible use of public money.

In addition, the Bill authorizes engineering technologists to undertake certain responsibilities meant for the engineers. Further. he observed that the Bill did not clearly state the specific

functions that the engineering technologist and technicians will undertake. He also observed that the chronology of events in the Bill also need to be relooked into so that Clause 5 of the Bill precede clause 4 since the Board should ordinarily be constituted before the functions are assigned.

He finally pleaded for consultation within the industry with the ultimate aim of amending the engineers Act in order to incorporate provisions on the regulation of engineering technologists and technicians . He noted that the prudent course of action would be to provide a regulatory framework for all practitioners of engineering under the same statute with an overarching regulator to oversee activities.

3.2.2 Comments from Engineers Board of Kenya

The Engineers Board of Kenya submitted their comment/ views on the Bill vide letter Ref. No. EBK/ COMP/ EA/ 2397 dated 13th April, 2015.

The Board was established through an enactment of the Engineers Act, 2011 with the objective of overseeing the training, registration and licensing of engineers, engineering firms and the regulation and development of general practice of engineering profession and services, among other functions.

The Board through their memorandum raised several concerns objecting to the enactment of the Bill because: -

- (i) The Bill had not made any provisions in relation to the qualification of an engineering technologist and technicians. As such it was not clear on the criteria to be used in determining the minimum qualification of the proposed categories i.e technologists, technicians and artisans. The Board further notes that the Bill has defined a craftsman and artisan as an engineering technician.
- (ii) The subject of design in engineering practice is the domain of an engineer derived from specific training and development. Technologist and technicians on the other

hand are largely responsible for the implementation of the design. The Bill therefore does not appreciate this fundamental principle, as enumerated below: -

- a) Creation of an accredited checker, who is basically a senior engineer with a wealth of experience, knowledge and practice of engineering who may be called upon to carry out peer review of engineering designs and works. From best practice in other jurisdiction, there is not evidence of an accredited checker who is not a qualified senior engineer.
 - b) Creation of the category of engineering technologist and engineering technology consulting firm; The Bill does not provide for the qualification of the consulting engineering technologist, whereas in engineering practice, a consulting firm is largely a design and supervision oriented hub.
- (iii) The Bill has made provisions in relation to engineering technology professional services and works but it does not define what constitutes the engineering technology professional services and works. It is therefore not clear what works and engineering services will be provided by technologist on one hand and those provided by professional engineers as contained in the Engineers Act, 2011.
- (iv) EBK drew comparisons across several other jurisdictions for instance UK where they have the Engineering Council that registers chartered engineers, incorporated engineers, information and Technology Technicians, Engineering Technician. Equally, the Engineering Council for South Africa registers professional engineers, professional engineer technologist, professional certified engineer and professional engineer technician.
- (v) The non inclusion of the technologist, technicians and artisans in the EBK Act, 2011 was not in line with the global benchmarks. As such EBK would propose the amendment of the EBK Act as follows: - Section 18 – 18A, 18B, 18C, 18D, Section 19, 49, 60(4) to ensure that the anomaly is rectified. This will prevent the creation of two parallel regulatory institutions in the same industry that would lead to duplication of mandate/power/ functions, wastage of resources and confusion in the industry.

3.2.3 Comments from Technical Vocational Education and Training Authority (TVETA)

TVETA presented their memorandum by forwarding amendments to the Bill in Clause on the definitions. They further propose amendments in Clause 4 (c) (i), 31 (4) 32 (a) and 42 (8).

3.2.4 Comments from Hon. Eng. Nicolas Gumbo, M.P

Hon. Engineer Nicholas Gumbo, M.P raised his objection to the Bill by stating that the Bill was purporting to provide a legal framework for the regulation, practice and standards of engineering technologist and technicians. He further observed that the Bill was creating a parallel regulatory body in the engineering professional. He noted that the Bill does not define the qualifications necessary for a person to be registered as an engineering technician/technologist. He further notes that several sections of the Bill were similar to the Engineers Act, 2011. He concluded by noting that if the Bill is passed it would open a “floodgate” of other professionals to seek establishment of board to regulate their practice.

3.2.5 Comments from Hon. Cecilia Ngetich, M.P

Hon. Cecilia wrote in response to Hon. Eng. Nicholas Gumbo comments to the ETTB. On claims of the Bill infringing on the role of the EBK Act, she noted that regulation of engineering technologist, engineering technician, engineering craftsperson and engineering artisan would be in line with the global benchmarks similar to the medical profession, where doctors, nurses, clinicians have different regulatory bodies. She emphasized the fact that the engineering profession is divided into two main parts namely the engineering and engineering technology. She observed that lack of clear qualifications and other deficiencies in the Bill could be rectified by making amendments during the consideration of the Bill. As far as the issue of similarity in clause, she noted that it was common practice for regulatory bodies to have more or less functions but for distinct professions. As such the issue of plagiarism did not arise. The Bill also seeks to bring social justice to a professional cadre previously left out in the Engineers Act, 2011. By regulating the technologists, technicians and craftsperson it would ensure that the professions remain accountable by adhering to laid down code of ethics.

3.2.6 Comments from the Association of Consulting Engineers of Kenya

The Association of Consulting Engineering of Kenya had similar sentiments as presented by the EBK. He cited Section 48 of the Engineers Act that prohibited on provision of professional engineering services, in that only an entity with a professional engineer can carry on the business of engineering. The association further noted that an attempt to authorize technologists/ technicians to render engineering services was illegal under the Engineers Act, 2011. They conclude by noting that the mechanism for regulating engineering services had already been provided by the Engineers Act, 2011.

3.2.7 Comments from Technical University of Kenya

The Vice Chancellor stated that Technical University has encountered numerous challenges in trying to achieve its mandate of training technologists and technicians mainly due to lack of a professional body to recognize, register and regulate them. He further noted that most of the students who are admitted for a Bachelor of Technology end up opting to pursue Bachelor of Engineering because Bachelor of Technology is not recognized, registered and regulated by Engineers Board of Kenya. As such it was important to have a regulatory body for the engineering technologists and technicians. He further stated that registration of the engineering technologists, technicians and craftsperson would ensure that the professional remain accountable for the works rendered on engineering services.

3.2.8 Way forward

Having considered the views from all the Stakeholders, the Committee resolved to invite all the stakeholders for a meeting to discuss the concerns by each of them. In addition, the Committee resolved to constitute a Technical Committee (representative from all the stakeholders) whose duty was to iron out the contentious issues. The sub committee met and went through the contentious clauses and made a way recommendations on the Bill and later presented their findings to the Committee.

4.0 PROPOSED AMENDMENTS

Having received the views of the Technical Committee, the Committee considered the Bill Clause by Clause and proposed the following amendments : -

1. Clause 1

That Clause 1 is amended by deleting the words Engineering Technologists and replacing therefor the words "Engineering Technology Act, 2015

Justification: In order to incorporate all other cadres of the engineering technology i.e artisans and craft persons. Initially, the title of the Bill was only making a mention of the technologists while the lower cadre of the engineering professional consisted of technologists, technicians, artisans and craft persons.

2. Clause 2

That Clause 2 is amended by: -

- (i) Deleting the definition of the word accredited checker

Justification: The word applies only to engineers hence in appropriate with the technologists and technicians.

- (ii) Replacing the definition of the term board and replacing therefor "the Kenya Engineering Technology Board"

Justification: The term is appropriate since the Bill is intended to regulate the practice of engineering technology

- (iii) Deleting the term word Technology appearing immediately after the term Engineering in the definition for the term Cabinet Secretary.

Justification: To make it clear that the Cabinet Secretary being referred to in the Bill is the Cabinet Secretary responsible for the engineering professional and for purposes making delegated laws or regulations in the practice of engineering and to make it clear

that the Board does not work in isolation and it is under the direction of the Cabinet Secretary responsible for engineering.

- (iv) Deleting the words “this Act” appearing immediately after the word “under” in the definition of the term “engineering technology consulting firms” and replacing therefor with “engineering technology consulting firm registered under “a new phrase – “clause 15 (A) (3)”

Justification: To provide for precise cross referencing

- (v) Deleting the words “means a person registered under this Act as such, and includes a craft person or artisan” and replace therefor with the words “means a person registered under section 15(A)-(1)”.

Justification: To provide for precise cross referencing

- (vi) Deleting the definition of the term engineering technology as defined in the Bill and replacing therefor with the new definition as follows: -

is part of the engineering profession in which knowledge of applied mathematical and natural science gained by higher education, experience and practice is devoted to application of engineering principles and the implementation of technology education for the professional focusing primarily on analyzing, applying, implementing and improving existing technologies and is aimed at preparing graduates for the purpose of engineering technology practices closest to the product improvement, manufacturing and engineering operational functions”

Justification: To make a comprehensive, clearer definition of the term engineering technology.

- (vii) Inserting new definitions as follows: -

- a) “candidate” refers to any person registered in any of the categories in sub-section 15A (1)(b) of the Engineering Technology Act, 2015”

Justification: The usage of the term in the Bill ought to be clearly defined to avoid ambiguity.

- b) “Engineering Technology Personnel” means any person registered under section 15 (A)(1) of this Act, as an Engineering Technologist or Technician.

Justification: The usage of the term in the Bill ought to be clearly defined to avoid ambiguity.

- c) *“Foreign national” as defined in section 2 of Kenya Citizenship and Immigration Act, No. 12 of 2011*

Justification: The usage of the term in the Bill ought to be clearly defined to avoid ambiguity.

- d) *“Certified engineering technician” means a person registered as such under Section 15 (A)(1) (ii) of this Act*

Justification: The usage of the term in the Bill ought to be clearly defined to avoid ambiguity.

- e) *“professional engineering technologist” means a person registered as such under Section 15(A) (1)(i) of this Act*

Justification: For proper and clear cross referencing.

- f) *“professional engineering technology service” means an engineering technology service that requires, or is based on, the application of engineering principles and data to a development, implementation, construction and production activity, relating to engineering technology and does not include an engineering service that is provided only in accordance with a prescriptive standard.*

Justification: The usage of the term in the Bill ought to be clearly defined to avoid ambiguity.

- g) *“prescriptive standard” means a document that states procedures or criteria for carrying out a design, or a construction or production activity, relating to engineering; and the application of which, to the carrying out of the design, or the construction or production activity, does not require advanced scientifically based calculations.*

Justification: The usage of the term in the Bill ought to be clearly defined to avoid ambiguity.

h) "Professional engineering technology works" includes professional service, consultation, investigation, evaluation, planning, designing or responsibility for supervision of construction or operation and maintenance in connection with any public or privately owned public utilities, building, machines, equipment, processes, works or projects that requires application of engineering principles and data.

Justification: The usage of the term in the Bill ought to be clearly defined to avoid ambiguity.

3. Clause 3

That the Bill be amended in Clause 3 replacing therefor the title of the Board in Part II with the following new title "Kenya Engineering Technology Board".

Justification: The term has been clearly spell out in clause 2 of the Bill

4. Clause 4

That the Bill be amended in Clause 4 by -

(i) Renumber the Clause to be Clause 5

Justification: To ensure that the assigning of functions of the Board as per the Bill come immediately after the setting up of the Board

(ii) Deleting and replacing therefor with the new clause 5 -

(1) The functions of the board shall be to-

- a) recognize and register engineering Technology Personnel as professionals;
- b) keep and maintain the Register under section 23;
- c) provide facilities for the promotion of education and training and to hold or cause to be held, professional development programmes for registered persons to further enhance their knowledge relating to their professions;
- d) conduct assessments or to cause assessments to be conducted by an institution approved by the Board for the purpose of admission to the profession;
- e) determine and regulate the conduct and ethics of the engineering technology profession;

- f) issue licenses to qualified persons under the provisions of this Act;
- g) take disciplinary measures in accordance with the provisions of this Act;
- h) enter and inspect sites where construction, installation, erection, alteration, renovation, maintenance, processing or manufacturing works are in progress for the purpose of verifying that—
 - (i) professional engineering technology services and works are undertaken by registered persons under this Act;
 - (ii) standards and professional ethics and relevant health and safety aspects are observed, in line with Occupational Safety and Health Act, 2007;
- (i) Assess, approve or reject engineering technology qualifications of foreign persons intending to offer professional engineering technology services or works in Kenya;
- (j) enter and inspect business premises for verification purposes or for monitoring works, services and goods rendered by consulting engineering technologists or professional engineering technologists or certified engineering technicians;
- (k) recommend for the suspension of any engineering technology professional services, works, projects, installation process or any other engineering technology works, which are done without meeting the set out standards;
- l) participate, as a stakeholder in formulating engineering technology programmes in public and private universities and other tertiary level educational institutions offering education in engineering technology for the purposes of registration of engineering technology personnel;
- (m) (a) Set standards for practicing engineering technology personnel in management, marketing, professional ethics, environmental issues, safety, legal matters or any other relevant field;
 - (b) Develop Code of Ethics/conduct for practicing engineering technology personnel;
- (n) conduct professional examinations for the purposes of registration;
- (o) plan, arrange, co-ordinate and oversee the professional training and facilitate internship of engineering technology personnel;
- (p) Collaborate with engineering technology training institutions and organizations, professional associations and other relevant bodies in matters relating to training, professional development of Engineering Technology Personnel;

- (q) Determine the fees to be charged by practicing engineering technology personnel and firms for professional services rendered from time to time;
- r) Hear and determine such disputes relating to professional conduct or ethics of practicing engineering technology personnel;
- (s) issue, maintain and enforce the code of ethics for practicing engineering technology personnel and regulate the conduct and ethics of engineering technology profession in general;
- (t) determine disciplines of engineering technology under this Act;
- (u) generally, to carry out all such acts and do all such things as may appear to the Board necessary to carry out the provisions of this Act; and
- (v) do anything incidental or conducive to the performance of any of the preceding functions.

5. Clause 5

That the Bill be amended in Clause 5 by –

- (i) Renumbering the Clause to be the new Clause 4

Justification. To ensure that the Board is set up before the functions are assigned in the Bill.

- (ii) Deleting subsection (1) and replace therefor -

(1) The Board shall consist of–

- a) The Chairperson who shall be appointed by the Cabinet Secretary from amongst the members appointed under paragraph (e);
- b) The Principal Secretary in the Ministry for the time being responsible for matters relating to Engineering Technology;
- c) Eight persons appointed by the Cabinet Secretary as follows—
 - (i) The chairperson of the Institutions of engineering technologists and technicians;
 - (ii) The Director General of Technical and Vocational Education and Training Authority (TVETA);

- (iii) The Technical and Vocational Education and Training-Curriculum Development, Assessment and Certification Council Secretary;
 - (iv) one person who shall be a public officer from a public corporation involved in offering engineering technology services and/or products;
 - (v) one person who shall be a representative of Technical Universities offering engineering technology programmes in Kenya;
 - (vi) one person who shall be a representative of Technical Training Institutions offering engineering technology programmes in Kenya; and
 - (vii) One person each from the private sector representing registered professional technologist and certified technician.
- (d) The Registrar of the Board;

Justification: to remove ambiguity in terms of the persons to sit in the board. To provide explicitly in the Bill.

6. Clause 6

That the Bill be amended in Clause 6 by

- (i) inserting new sub clauses immediately before clause 6 (a) as follows -
 - (a) approve or reject applications for registration under this Act or approve any such applications subject to such conditions or restrictions as it deems fit to impose;
 - (b) impose as it deems fit fees or any other charges as prescribed by the regulations in the performance of its functions and the exercise of its powers;
 - (c) pay allowances and other expenses of the members of the Board, council and committees;
 - (d) employ such number of employees as the Board thinks necessary upon such terms and conditions of service as may be determined by the Board for carrying out the purposes of this Act;
 - (e) pay remuneration, allowances and other benefits to the employees;
 - (f) appoint committees consisting of persons to be determined by the Board to assist it in carrying out its functions;

(ii) Inserting new sub clauses immediately after clause 6 (h) as follows-

(o) establish councils to evaluate the quality assurance of the programme in the field of technology;

(p) appoint any registered member with relevant expertise to represent the Board in any committee, panel or institution where that member would subsequently make recommendations to the Board on all matters relating to qualifications for admission to the profession;

(q) determine, subject to section 25 (A) the requirements with which professional society/association must comply to qualify for recognition by the Board; and

(r) cancel the registration of any registered person or remove from the Register, or reinstate into the Register, the name of any registered person.

Justification: To provide clearer functions to be undertaken by the Board.

7. Clause 8

That the Bill be amended in Clause 8 by deleting the words “salaries and remuneration commission” and replace with the guidelines used to remunerate Members of the Boards of State Corporations.

Justification: To ensure that the remuneration of the members of the Board is done in line with the State Corporations Act and the attendant regulations of the Act. This is similar to other Boards.

8. Clause 9

That the Bill be amended in Clause 9 by: -

(i) deleting the words “at any meeting of the Board” appearing immediately after the word “vote” in subsection (3)

Justification: The amendment has been introduced for consistency since it is clear that under no circumstances is the registrar expected to take a vote on a matter being deliberated by the Board. He or she is merely there for the effective carrying out of

the functions of the Board. This is the tradition in several other Boards with more or less similar functions.

- (ii) inserting a new clause 9A providing for qualifications of a registrar

Be at least a professional Technologist with a Masters degree in Engineering Technology

Justification: The Bill has not provided for the qualifications of the Registrar which is necessary for the identification of the candidate to hold the office. Such a candidate should have a higher qualification in engineering technology.

9. Clause 11

That the Bill be amended in Clause 11 by inserting the phrase “through a competitive process” immediately after the word “staff”, so as to go in line with the Constitution of Kenya

Justification: For consistency and to make it clear on the procedure of appointment of officers to weed off instances of appointment who do not merit the positions.

10. Clause 14

That the Bill be amended in Clause 14 by deleting the words “chief executive officer” appearing in subsections (2) and (3) and replace with the word “registrar”

Justification: The term that properly applies in this case is the registrar and not the Chief Executive Officer.

11. Clause 15

That the Bill be amended in Clause 15 by inserting the following new clauses immediately before clause 15.

Categorization of registration

15A. (1) A person may be registered in the engineering technology profession as—

(a) Professional, which is divided into—

(i) Professional Engineering Technologist; or

(ii) Certified Engineering Technician

(b) Candidate, which is divided into—

(i) Candidate Engineering Technologist; or

(ii) Candidate Engineering Technician

(2) A person may not practice in any of the categories contemplated in subsection (1), unless he or she is registered in that category.

(3) A person may only

practice in a consulting capacity if registered in the category of consulting engineering technologist.

(4) A person who is registered in the category of candidate must perform work in the engineering technology profession only under the supervision and control of a professional of any category as prescribed.

Justification: The amendments are necessary for making clear provisions for the categories of persons to be registered by the Board within the engineering technology profession.

Application for registration

15B.(1) (a) A person must apply, in the prescribed application form, to the Board for registration in a category referred to in 15 (A)(1)

(b) The application form referred to in paragraph (a) must be accompanied by the prescribed fee.

(2) The Board must register the applicant in the relevant category and issue a registration certificate to the successful applicant in the prescribed form if, after consideration of an application, the Board is satisfied that the applicant—

- (a) In the case of a person applying for registration as a professional—
 - (i) Has demonstrated his or her competence as measured against standards determined by the Board for the relevant category of registration; and
 - (ii) Has passed any professional examinations determined by the Board;

- (b) In the case of a person applying for registration as a candidate or a candidate in a specified category, has satisfied the relevant educational outcomes determined by the Board for this purpose, by—
 - (i) Having passed accredited or recognized examinations at any educational institution offering educational programmes in engineering technology; and
 - (ii) Having passed professional examination determined by the Board; or
 - (iii) Presenting evidence of prior learning in engineering technology.

- (c) In the case of a person applying for registration as a consulting engineering technologist in a specified category, that person must—
 - (i) have practiced in a specialized engineering technology field as a professional for at least five years or any period determined by the Board; and
 - (ii) have achieved a standard of competence to enable him/her to practice as a consulting engineering technologist personnel in that particular specialization.

Justification: The amendments are necessary for making clear provisions for the procedure of the application for the process of applying for registration with the Board.

15C. Refusal for registration

- (a) The Board may refuse to register an applicant—
 - (i) If the applicant has been removed from an office of trust on account of improper conduct;
 - (ii) Has been convicted of an offence and was sentenced to imprisonment without an option of a fine, or, in the case of fraud, to a fine or imprisonment or both;

(iii) If the applicant has, subject to paragraph (b), been convicted of an offence in a foreign country and was sentenced to imprisonment without an option of a fine, or, in the case of fraud, to a fine or imprisonment or both;

(iv) If the applicant is declared by the High Court to be of unsound mind or mentally disordered, or is detained under the Mental Health Act;

(v) If the applicant is an un-rehabilitated insolvent whose insolvency was caused by his or her negligence or incompetence in performing work falling within the scope of the category in respect of which he or she is applying for registration;

(b) For the purposes of paragraph (a) (iii), the Board must take cognizance of the prevailing circumstances in a foreign country relating to a conviction.

(c) The Board must provide the applicant with a notice of a refusal referred to in paragraph (a).

Justification: The amendments are necessary for making clear provisions for the circumstances for the refusal or denial for registration of persons by the Board.

15D. Qualification for individual registration

(1) Subject to the provisions of this Act, a person shall be eligible for registration under this Act if—

(a) for a professional engineering technologist, that person—

(i) is registered as a candidate engineering technologist and has obtained practical experience of at least three years for the degree holder or at least four years for the Higher Diploma holder in the relevant area;

(ii) has passed professional examination conducted by the Board; and

(iii) is a full member of a professional society/association recognized by the Board;

(b) for a consulting engineering technologist, that person—

- (i) holds a Master's degree in the relevant discipline from a recognized University or Institute or first degree with outstanding contributions to engineering technology,
 - (ii) has practiced in a specialized engineering technology field as a professional engineering technologist for a period of at least five years; and
 - (iii) has achieved a standard of competence to enable him/her to practice as a consulting engineering technologist in that particular specialization.
- (c) for a certified engineering technician, that person—
- (i) is registered as a candidate engineering technician and has obtained practical experience of at least two years in the relevant area;
 - (ii) has passed professional examination conducted by the Board; and
 - (iii) is a full member of a professional society/association recognized by the Board;
- (2) Subject to the provisions of this Act, a person shall be eligible for registration under this Act as a candidate engineering technology personnel if—
- (a) for a candidate engineering technologist, that person is a holder of a bachelor of technology degree or higher diploma or its equivalent from a university, polytechnic, institute, college or school of engineering and technology or any other institution recognized by the Board.
 - (b) for a candidate engineering technician, that person is a holder of diploma in engineering or its equivalent from a university, polytechnic, institute, college or school of engineering and technology or any other institution recognized by the Board; and
- (3) the persons referred to in subsections (1) and (2) must be Kenyan citizen or permanent residents of Kenya.

Justification: To provide explicitly in the Bill for the minimum qualification required for persons desiring to be registered by the Board must possess.

Clause 15 & 16 to be merged to read as clause 15E as follows:

15E. Registration of an engineering technology consulting firm

Subject to the provision of this Act, a person may register an engineering technology consulting firm if—

- (a) the firm is a legal entity registered or incorporated under the written Kenyan law for the time being in force;
- (b) the firm has at least one partner or principal shareholder who is registered as a consulting engineering technologist and who has a valid license in a specified discipline;
- (c) at least fifty one percent of the shares in the firm are held by Kenya citizens; and
- (d) fulfills any other condition as may be stipulated by the Board.

2) The Board may register engineering technology consulting firms in different categories and disciplines based on criteria as shall be established by the Board.

(3) A person intending to register an engineering technology consulting firm under this Act shall apply to the Registrar in the prescribed manner.

(4) An application under subsection (3) shall—

(a) be accompanied with—

(i) such documents as are necessary to prove qualification for registration and any other document that the Board may prescribe;

(ii) the curriculum vitae of the partners or directors of the firm;

(iii) a written commitment that the Board shall be allowed to verify the suitability of the firm for the purposes of registration;

(b) list the firm's profile of activities;

(c) be accompanied by the prescribed fee.

(5) The Board may register engineering technology consulting firms in different categories and disciplines based on such criteria as the Board may establish.

(6) The Board may require the applicant to furnish such further information or evidence of eligibility for registration as it may consider necessary and may require the applicant to appear in person for an interview before it.

Justification: To make clear provisions in the Bill on the registration of the Engineering Consulting Firm.

17. **Clause 18** – That the Bill be amended in Clause 18 by deleting Clause 18 and introducing a new clause 18 as follows-

18. (1) A foreign person or a body shall not be registered as professionals **in any categories in section 18 (1) or engineering technology firm in section 20B unless—**

(a) in the case of a natural person—

(i) that person possesses the necessary qualifications recognized for the practice of engineering technology as a professional **in any category in section 18 (1)** in the country where he or she normally practices, and that immediately before entering Kenya, he or she was practicing as a professional **in any category in section 18 (1)** and holds a valid license; and

(ii) he or she is a resident of Kenya with a valid working permit;

(b) in the case of a firm, the firm is incorporated in Kenya and a minimum of **fifty-one percent of its shares** are held by a citizen or citizens of Kenya.

(2) If the conditions stipulated in subsection (1) are not fulfilled, the person or firm applying for registration may be considered for temporary registration under section 23.

Justification: For purpose of clarity

19. **Clause 20**

That the Bill be amended in Clause 20 by deletion of the entire clause.

Justification: The term has already been deleted in clause 2 on the definitions.

20. **Clause 25**

That the Bill be amended by inserting the following new Clause

Clause 25A - Recognition of professional societies / associations

25A. (1) The Board must outline in the regulations the framework for the requirements for recognition of a professional society/association.

(2) Any professional society/association may apply to the Board to be recognized as such.

(3) The Board may, if the professional society/association complies with the requirements determined in terms of section 7(q), recognize that society/association and issue it with a certificate of recognition.

(4) A certificate of recognition is valid for a period of five years from the date of issue.

(5) A professional society/association must display its certificate of recognition in a prominent place at its head office.

(6) The recognition of a professional society/association lapses—

(a) if that professional society/association no longer complies with the requirements contemplated in section 7(q); or

(b) at the expiry of the five-year period referred to in subsection (4).

(7) A professional society/association must, at least three months prior to the expiry of its recognition, apply in the prescribed manner to the Board for the renewal thereof.

(8) A professional society/association whose recognition has lapsed must, within 30 days from the date on which it is so directed in writing by the Board, return its certificate of recognition.

Justification: To provide for the establishment of the professional society, a platform where these professionals have a forum for peer review and other matters that will be beneficial for the growth of the professional.

Clause 25B - Identification of work to be undertaken by the various registered categories.

(1) The Board must consult with—

- (a) all professional societies/associations;
- (b) any person;
- (c) anybody; or
- (d) any industry,

that may be affected by any laws regulating the engineering profession regarding the identification of the type of engineering work which may be performed by persons registered in any of the categories referred to in section 18, including work which may fall within the scope of any other regulated profession.

(2) After the process of consultation the Board must consider and make a decision regarding the work identified in terms of subsection (1).

(3) A person who is not registered in terms of this Act may not—

- (a) perform any kind of work identified for any category of registered persons;
- (b) pretend to be, or in any manner hold or allow himself or herself to be held out as a person registered in terms of this Act;
- (c) use the name of any registered person or any name or title referred to in section 18 or 19; or
- (d) perform any act indicating, or calculated to lead persons to believe, that he or she is registered in terms of this Act.

(4) Subsection (3)(a) may not be construed as prohibiting any person from performing work identified in terms of this section, if such work is performed in the service of or by order of and under the direction, control, supervision of or in association with a registered person entitled to perform the work identified and who must assume responsibility for any work so performed.

Justification:

Justification: To allow for healthy consultation between the Board and the relevant stakeholders namely the professionals, professional associations.

31. Clause 31 –

That the Bill be amended in Clause 31 by insert the word “name” immediately after the words “removal of a person’s” in subsection (4)

Justification: For consistency purposes.

32. Clause 32

That the Bill be amended in Clause 32 by deleting the words “and the Cabinet Secretary for the time being responsible for matters relating to finance” in subsection (1) (a)

Justification: For consistency

33. Clause 34

That the Bill amended in Clause 34 by deleting the words “members and” in subsection (2) (a)

Justification: Members of the board are not salaried.

34. Clause 36

That the Bill be amended in Clause 36 by deleting the words “and the Treasury” and replacing therefor with “Cabinet Secretary for Finance for the time being responsible for matters relating to finance” in subsection (1)

Justification: For consistency

35. Clause 38

That the Bill be amended in Clause 38 by insert the word “or” after the word rights in paragraph (c) (iv)

Justification: Typographical error

36. Clause 40

That the Bill be amended in Clause 40 by inserting a provision on transitional period of six months for a person to comply with the Act in subsection (2)

Justification: Provide for a transitional clause to give adequate time for compliance.

37. Clause 42

That the Bill be amended in Clause 42 by -

- (i) deleting the word "minister" and replacing therefor with the word "administer" in subsection (3)
- (ii) insert the word "thousand" after the word "fifty" subsection (8)
- (iii) Inserting a new Clause 42A -

Establish a Disciplinary Tribunal composed of:

- (a) a person who specializes in the professional field concerning the charge;
- (b) a professional who has appropriate experience; and
- (c) a person qualified in law and who has appropriate experience.

Justification: For consistency

38. Clause 44 -That the Bill be amended in Clause 44 by deleting the entire Clause

Justification: For consistency

39. Clause 47

That Clause 47 be amended by deleting paragraph (g)

Justification: For consistency

SCHEDULE

That the Bill be amended in Subparagraph (5) by -

- (i) deleting the words "at which he is present but," and replacing therefor with the word "and" immediately after the word "Board"
- (ii) deleting the word "numbers" and replace with the word "members"

Justification: For consistency

5.0 COMMITTEE RECOMMENDATION

Having held meetings with the Stakeholders, and through its analysis of the bill, the Committee will be introducing amendments for consideration during the Committee Stage of the Bill.

ANNEXTURES

MINUTES

MINUTES OF THE 45TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
EDUCATION, RESEARCH AND TECHNOLOGY HELD ON TUESDAY, 14TH JULY,
2015 IN COMMITTEE ROOM, 2ND FLOOR, PROTECTION HOUSE, PARLIAMENT
BUILDINGS AT 10:30 AM.

PRESENT

- | | |
|---------------------------------------|--------------------|
| 1. Hon. Sabina Chege, M.P | - Chairperson |
| 2. Hon. Julius Melly, MP | - Vice Chairperson |
| 3. Hon. Opiyo Jared Odhiambo, M.P | (Chairing) |
| 4. Hon. Yusuf Chanzu, M.P | |
| 5. Hon. (Prof.) Helen Sambili, M.P | |
| 6. Hon. Mohamed Adan Huka, M.P | |
| 7. Hon. Rose Rwamba Mitaru, M.P | |
| 8. Hon. (Dr.) Christine Ombaka, M.P | |
| 9. Hon. (Dr.) Wilber Ottichillo, M.P | |
| 10. Hon. Muriuki Njagagua, M.P | |
| 11. Hon. Moses Injendi, M.P | |
| 12. Hon. Cecilia Ng'etich, M.P | |
| 13. Hon. Joseph Meruaki, M.P | |
| 14. Hon. Joseph Manje, M.P | |
| 15. Hon. Halima Ware Duri, M.P | |
| 16. Hon. Geoffrey Makokha Odanga, M.P | |
| 17. Hon. Jacob Macharia, M.P | |
| 18. Hon. Steven Kariuki, M.P. | |
| 19. Hon. Richard Makenga, M.P | |
| 20. Hon. Kedogo Dorcas Luvalitsa, M.P | |

ABSENT WITH APOLOGY

1. Hon. Ibren Nasra Ibrahim, M.P
2. Hon. Kenneth Okoth, M.P
3. Hon. Eric Keter, M.P

ABSENT

1. Hon. Mary Seneta, M.P
2. Hon. (Dr.) Susan Chebet, M.P
3. Hon. Michael Kisoi Munyao, M.P
4. Hon. Silverse Lisamula Anami, M.P
5. Hon. Anthony Kimaru, M.P
6. Hon. Harrison Kombe, M.P

IN ATTENDANCE

National Assembly

1. Ms. Leah Wanjiru - First Clerk Assistant
2. Mr. Mugoma John - Third Clerk Assistant
3. Mr. Jimale Mohamed - Third Clerk Assistant
4. Ms. Colletah Sigilai - Legal Counsel II
5. Ms. Caroline Njue - Research officer III
6. Ms. Winnie Atieno - Audio Officer

Technical University of Kenya

1. Mr. C.T Akumu Owuor - Director, TVET
2. Dr. C.M.M Ondieki - Senior Lecturer, Chairman TVET, CDACC
3. Mr. Alex Mwangi Mururi - Lecturer
4. Mr. Papa Ragot Raphael - Chairperson, Students Council
5. Mr. Atieng J. Atieng - Academic Secretary

Jomo Kenyatta University of Agriculture and Technology

1. Dr. Stephen Wanji - Senior Lecturer, Mechanical Engineering

AGENDA

1. Prayers
2. Preliminaries/Introductions
3. Communication from the Chair
4. Confirmation of Minutes
5. Matters Arising
6. Substantive Agenda – Consideration of the Engineering Technologists and Technicians Bill, 2015
7. Bills: -
 - (i) The HELB (Amendment) Bill by Hon. Irungu Kang'ata
 - (ii) Basic Education (Amendment) Legislative Proposal, 2015 by Hon. Grace Jemutai Kiptui, M.P- Prepublication Scrutiny
8. Petitions:-
 - (i) Petition by residents of Murang'a County on the Gross Mismanagement of Murang'a University College
 - (ii) Petition by Hon. Abdullswamad Nassir, M.P, regarding alleged mistreatment of Bura Girls High School Students
9. Statutory Instruments
10. Papers
11. Statements
12. Consideration/Adoption of Reports/Inquiries
13. Any Other Business
14. Date for the Next Sitting

MIN.NO.DC.D/219/2015: ADOPTION OF THE AGENDA

The agenda of the meeting were adopted having been proposed by the Hon. Rose Rwamba Mitaru, M.P and seconded by the Hon. (Dr.) Christine Ombaka, M.P. respectively.

MIN.NO.DC.D/220/2015: PRELIMINARIES

The meeting was called to order at 11:00 a.m and thereafter prayer was said. The Chairperson informed Members that the meeting was to deliberate on the

MIN.NO.DC.D/221/2015: CONSIDERATION OF THE ENGINEERING TECHNOLOGISTS AND TECHNICIANS BILL, 2015

The Committee was taken through the Bill with respect to policy as follows: -

A. Bill Analysis

The Committee was informed that: -

I. Preamble

The Bill was making provision for the regulation, practice and standards of engineering technologists and technicians. It was providing for the establishment, powers, composition and functions of the Engineering Technologists and Technicians Registration Board.

II. Situational Review

Regulating Engineering as a Profession

1. Engineering can be divided into broad specializations which can then be subdivided into hundreds of sub-categories with overlaps between specializations of engineering practitioners. Professional engineering, engineering technologist and engineering associates come together to undertake engineering services. The activities and competencies of these sub-categories are often closely related and hence sometimes it's artificial to draw the line between one category and another.
2. Professional bodies are regulated for various reasons among them:
 - i. To promote the public welfare by safeguarding their health and even property;
 - ii. To protect the public from harm and exploitation;
 - iii. To provide for uniformity in content, practice, standards, practice and procedures.Additionally, a profession can be regulated if:
 - a. The profession has a distinct area of practice;
 - b. There exists an objective basis for assessing the competence of members of the profession;

- c. Significant training and education is needed to become a competent member of the profession.

In terms of the current Practice in Kenya, the Committee was informed that:-

In Kenya the practice is that of dual accreditation where Commission for University Education (CUE) accredits universities and programs while professional bodies accredits the practice based on fulfillment of all certain requirements.

With regards to best Practice Regulatory Model, the Committee was informed that: -

All Professional registration systems have the same basic characteristics in that standards must be set, courses accredited, candidates examined and register maintained. Performance must be monitored and failures disciplined. However, best practice provides for the registration of the broad engineering disciplines or specificities by the same statutory body. Further it supports a co-regulatory system involving statutory bodies and professional associations undertaking different roles. For example;-

Relating to the Role of the Professional Association, the Committee learnt that: -
Professional Association set qualifications, experience and competency standards;
Assess applicants in accordance with the standards; develop and disseminate standards and audit compliance.

In terms of a Statutory Body, the Committee was informed that: -

A statutory body maintains an open and up to date register; responds to complaints from consumers; undertake inquiries among others. This means that the industry and the professional association is allowed to control the qualifications, experience and competency standards applied to a practitioner, but allows Government to oversee the assessment and monitoring systems and standards applied to practitioners.

As far as Regulating Engineering Professionals was concerned, the Committee was informed that: -

Engineering in Kenya is a key contributor to the Kenyan economy. In Kenya, the Engineering profession is currently regulated by the Engineers Board of Kenya (EBK) under the Engineers Act, 2011. Prior to the establishment of the EBK, The Kenya Engineers Registration Board (ERB) was a statutory body established through an Act of Parliament in 1969. The Board is responsible for the registration of Engineers and consulting firms, regulation of engineering professional services, accrediting engineering courses in the institutions of higher learning, setting of standards, development and general practice of engineering.

III. Comparative analysis: Regulation of Engineering Profession

The Committee was informed that: -

Majority of Countries have regulations that safeguard the practice of Engineering. Several legislations have been put in place to create Boards that serve as the regulatory authorities in matters concerning training, registration and licensing of the Engineering technologists. Some of the countries include:-

A. United Kingdom: Engineering Council

The engineering profession in the United Kingdom is regulated by the Engineering Council through engineering institutions that are licensed to put suitably qualified persons on the Engineering Council's Register of Engineers. The Register has three sections or cadres, Chartered Engineer (CEng), Incorporated Engineer (Engineering Technologist) (IEng), and Engineering Technician (EngTech).

B. Nigeria: Council for the Regulation of Engineering in Nigeria (COREN)

In Nigeria, there is established the Council for the Regulation of Engineering in Nigeria which is mandated to register, Registered engineers (Engr); Registered engineering technologists (Engn. Tech); registered engineering technicians (Tech); and Registered engineering craftsmen (A registered engineering craftsmen shall use his full title with his trade in bracket under his name).

C. South Africa: Engineering Council of South Africa (ECSA)

The establishment of the Engineering Council of South Africa; a statutory body established in terms of the Engineering Profession Act, 2000. Some of the categories of Engineers registered by the council include the professionals and candidates.

D. Canada:

Engineering Technology ACT of 1973 registers two categories; the Engineering technician and Engineering technologist while there exists a separate Act for professional engineers.

E. New Zealand: Chartered Professional Engineers of New Zealand Act of 2002

IPENZ is the Registration Authority under the Chartered Professional Engineers of New Zealand Act of 2002. IPENZ also operates registers for Professional Engineers, Engineering Technologists and Engineering Technicians.

IV. Policy Implication

The Committee was informed that:-

1. Best practices show that there is a direct relationship between the different specializations of Engineers and as such most are regulated under the same statutory bodies;
2. The proposed Bill if enacted will form a parallel regulatory framework of engineering services and works;
The current existence of the Engineering Act 2011 and the establishment of the EBK was therein meant to offer a strong regulatory framework for registration, training and development for the engineering profession and practice.
3. There was a risk of having an additional piece of legislation regulating a specialization in the Profession this was likely to compromise standards. Further there was likely to be minimal value addition.
4. The Proposed Engineering and Technologies and Technician Bill was duplication of the Engineers Act 2011 and as such additional consultations was required.

V. Salient issues to interrogate in the Bill

The Committee was informed that: -

1. **The Functions of the Board;** as provided in the Engineering Act of 2011 and the Role of the Board in the proposed. For example Article 4(c) (i) made provision for engineering technology professional services and works; this was superfluous considering that the Engineering Act 2011 provides the same.
2. **The Bill does not make reference to the Engineering Board of Kenya** yet these are professions that complement each other. This was likely to result to implementation challenge.
3. **The Composition of the Board;** The composition of the Board as constituted was bloated and was likely to hamper decision making.
Best practice is that the composition of the board ought to be as lean and representative as possible to provide the requisite leadership without compromising efficiency. For example for case of Constitutional offices, the Constitution provides for a membership of at least nine.

Views from the Sponsor of the Bill, Hon. Cecilia Ng'etich, M.P

The Hon. Member informed the Committee that:-

- I. The technicians and technologists were removed from the Act when Engineers Act was repealed in 2012, and therefore they don't have any regulatory body;
- II. The Technologists and Technicians believe puts emphasis on the TVET training which is not under Basic Education and therefore the Bill is important in realization of vision 2030;
- III. Most leading countries in technology have different bodies that regulate engineers and technicians for example North Korea, Japan, Malaysia and Canada;
- IV. Just like in medical field, engineers and technicians should also have different bodies to regulate them hence the need to have the Engineering Technologists and Technicians Bill in place;

- V. Kenya is a signatory to both the Sydney and Dublin accord which recognizes the technicians and technologists and therefore, it would be prudent if a law was put in place to recognize and regulate the technicians.
- VI. The TTB is not a duplication of the Engineers Bill though some words have been borrowed from the Engineers Bill.

Committee's observations and Recommendations

The Committee observed that;

- I. There was need for adequate consultation with the Engineers Board of Kenya on Regulations and if agreement is reached, amendments should be made to the Engineers Act so as to accommodate the technicians and the technologists.
- II. The Engineers Act doesn't recognize the Technicians and the Technologists and therefore there was need for them to be recognized in the law since currently there is no body that regulates them.
- III. The Bill should clearly indicate the regulator of the technicians and technologists who will regulate the technicians and technologists in terms of competence, workmanship and ethics.
- IV. The Engineers Board has not been able to register thousands of Engineers who have graduated from universities and it would be therefore prudent for the technicians and technologists to have their own registration and regulatory body.

B. Consideration of Memoranda

1. Attorney General

The Attorney General observed that the contents of the legislative proposal are similar to an already existing legislation, the Engineers Act.

That the Bill authorizes engineering technologists to undertake certain responsibilities meant for the engineers.

The Association of Consulting Engineers expressed concern on the danger of passing the bill in its current form as the quality as well as safety and durability of the designs would be compromised.

The Attorney General therefore requested the sponsor to withdraw the Bill to pave way for further consultation with the industry with ultimate aim of amending the Engineers Act.

2. Hon. Eng. Nicolas Gumbo, Eng, FIEK. MP

The Member of Parliament objected the passage of The Engineering Technologist and Technicians Bill, 2015 for the following reasons;

- I. The Bill aimed to undertake what the Engineers Act was already doing.

- II. The first attempt to introduce the Bill in the 10th Parliament failed as drew the attention of the speaker of the above facts and he agreed.
- III. The Bill does not outline the qualifications necessary for engineering technicians/technologist.
- IV. Part II of the Bill was a copy paste of the Engineers Act with similar functions.
- V. The professional functions to be offered by the technologists and technicians not defined.
- VI. The Bill was contrary to S. 48 of the Engineers Act as it provides who can offer professional engineering services in Kenya
- VII. To allow the Bill would open a floodgate for other technicians eg court clerks to seek to have a board to regulate their profession.

Hon. Eng. Nicolas Gumbo, MP appealed to the sponsor of the Bill Hon. Cecilia Ngetich to withdraw so that the Bill can be properly re-drafted.

3. Technical University of Kenya

The Vice Chancellor Technical University of Kenya proposed the enactment of the Bill into Law. The mandate of the Technical University of Kenya is to train Technologist and Technicians.

4. Institution of Engineers of Kenya

The Institute of Engineers of Kenya Proposed that;

- i. The proposed Engineering Technologist and Technicians Bill, 2015 be recalled and in its place consideration be given to amending the Engineers Act 2011 as per the proposals of Engineers Board of Kenya .
- ii. Sufficient time be allowed to give a wider range of stakeholders tome to study the current legislation and make proposals to seal gaps that may be existing in the Engineers Act 2011.

5. Association of Consulting Engineers of Kenya

The Association proposed that the Bill be rejected on the basis that the Bill proposes a body to undertake duties legally constituted body EBK , the Bill does not define a technologist/technician, does not provide necessary qualifications and S. 48 of Engineers Act provides for prohibition on provision of professional engineering services hence the Bill would infringe on the Engineers Act.

6. Engineers Board of Kenya

The body proposed to Amend the following sections of the Engineers Act, 2011:-

Clause 18 – 18A, 18B, 18C, 18D

Clause 19

Clause 49

Clause 60(4)

Recommendations

- a) The proposal Amendment to Engineers Act, 2011 be given a chance to be introduced to parliament to help in addressing regulation of the engineering services, work and practice of technologist and technicians industry. This would prevent the creation of two parallel regulatory institutions in the same industry that would lead to duplication of mandate/power/ functions, wastage of resources and confusion in the industry.
- b) The Bill should be recalled as the legal gap it intends to address the aspects of engineering works, services and practices in the industry.

7. Mr. Andrew Malakwen

The two proposal submitted by Mr. Andrew Malakwen were not in the form of Memoranda. A memorandum contains the Amendments of the proposal and justification/rationale. The way they were presented didn't meet the threshold.

8. Robert Pakia Ipu

The proposal submitted by Mr. Robert Pakia Ipu was not in the form of a well-placed Memorandum. A memorandum contains the Amendments of the proposal and justification/rationale. The way it's presented was a kind of new Bill.

9. Andrew Tonui

He proposed regulations hence was disregarded.

10. Fredrick Erick Amirah

Mr. Fredrick Amirah supported the Bill. The idea of the Engineering Technologist and Technicians Board would help solve the problem and bring the industry to order.

Committee's observations and Recommendations

Members observed that;

1. From the Memoranda submitted, there was need for stakeholders forum on the way forward;
2. The Committee on Education, Research and Technology should organize for a joint meeting with Transport and Infrastructure Committee so as to come up with common stand on the Bill;
3. The Engineers Board should not regulate Commission of University Education, CUE should accredit the courses and Engineers Board regulates the Engineers.
4. The Memorandum from the Engineers Board of Kenya was outside what was being considered since they were proposing amendment to Engineers Act.
5. Attorney Generals views on the Bill were advisory and therefore not binding

6. The Technical Education and Vocational Training Authority should be the regulatory body to both the technicians and technologists.
7. Engineers Regulatory Board had a clause recognizing the Technicians and technologists until when the Act was repealed and therefore they are not currently recognized and therefore review of the ERB won't change much since there are more than 10,000 engineering graduates but only 1500 are registered
8. There was great need to relook at the activities of EBK since Universities (Amendment) Act gives the accreditation mandate to CUE and not EBK.

Way forward

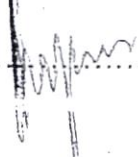
Observing that there were divergent views on the Bill, the Committee agreed to hold a stakeholders forum to discuss the Bill and bring out consensus.

MIN.NO.DC.D/222/2015: ANY OTHER BUSINESS

- (i) The Committee was informed that the United Nations Children's Fund through the Ministry of Education, Science and Technology had invited the Chairperson of the Committee and one Member of the Committee for a Curriculum Review Conference in Naivasha from 15th to 17th July, 2015.
- (ii) The Committee was informed that the report on Basic Education (Amendment) Bill, 2014 was ready for tabling.
- (iii) The Committee was further informed that the Ministry of Information Communications and Technology was proposing to invite Committee Members for a breakfast meeting to discuss the ICT integration project. The date and venue of the breakfast meeting will be communicated to Members once they resume from recess.
- (iv) The Committee should move with speed and conclude on the pending matters of University of Eldoret.
- (v) The Committee was informed that the Ministry of Education, Science and Technology was proposing to amend the Universities Act, 2012 and once the proposals were ready they would be submitted to the Committee. The Committee observed that there was need to fast track the proposals in order to bring harmony in the university education sector.

MIN.NO.DC.D/223/2015: ADJOURNMENT

The chairperson adjourned the meeting at 1.45pm.

Signed.....

Hon. Sabina Chege, M.P

(CHAIRPERSON)

Date..... 6/10/15

**MINUTES OF THE 49TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
EDUCATION, RESEARCH AND TECHNOLOGY HELD ON TUESDAY, 4TH AUGUST,
2015 IN COMMITTEE ROOM 7, PARLIAMENT BUILDINGS AT 10:30 AM.**

PRESENT

- | | | |
|---------------------------------------|---|------------------|
| 1. Hon. Sabina Chege, M.P | - | Chairperson |
| 2. Hon. Julius Melly, MP | - | Vice Chairperson |
| 3. Hon. Opiyo Jared Odhiambo, M.P | | |
| 4. Hon. Yusuf Chanzu, M.P | | |
| 5. Hon. (Prof.) Helen Sambili, M.P | | |
| 6. Hon. Mohamed Adan Huka, M.P | | |
| 7. Hon. Mary Seneta, M.P | | |
| 8. Hon. (Dr.) Susan Chebet, M.P | | |
| 9. Hon. Michael Kisoi Munyao, M.P | | |
| 10. Hon. Silverse Lisamula Anami, M.P | | |
| 11. Hon. Eric Keter, M.P | | |
| 12. Hon. Harrison Kombe, M.P | | |
| 13. Hon. (Dr.) Wilber Ottichillo, M.P | | |
| 14. Hon. Muriuki Njagagua, M.P | | |
| 15. Hon. Moses Injendi, M.P | | |
| 16. Hon. Cecilia Ng'etich, M.P | | |
| 17. Hon. Joseph Meruaki, M.P | | |
| 18. Hon. Geoffrey Makokha Odanga, M.P | | |
| 19. Hon. Jacob Macharia, M.P | | |
| 20. Hon. Richard Makenga, M.P | | |
| 21. Hon. Kedogo Dorcas Luvalitsa, M.P | | |
| 22. Hon. Rose Rwamba Mitaru, M.P | | |

ABSENT WITH APOLOGY

1. Hon. Ibren Nasra Ibrahim, M.P
2. Hon. Halima Ware Duri, M.P
3. Hon. Kenneth Okoth, M.P
4. Hon. Steven Kariuki, M.P.

ABSENT

1. Hon. (Dr.) Christine Ombaka, M.P
2. Hon. Anthony Kimaru, M.P
3. Hon. Joseph Manje, M.P

IN ATTENDANCE

National Assembly

- | | | |
|-----------------------|---|-----------------------|
| 1. Ms. Leah Wanjiru | - | First Clerk Assistant |
| 2. Mr. Mugoma John | - | Third Clerk Assistant |
| 3. Mr. Jimale Mohamed | - | Third Clerk Assistant |

4. Ms. Colletah Sigilai - Legal Counsel II
5. Mr. Stanley Lagat - Sergeant-At-Arms
6. Ms. Winnie Atieno - Audio Officer

Technical and Vocational Education Training Institutions

1. Prof. Francis W.O Aduol - Vice-Chancellor, Technical University of Kenya
2. Dr. C.M.M Ondieki - Senior Lecturer, Chairman TVET, CDACC
3. Mr. Alex Mwangi Mururi - Lecturer
4. Prof. Josphar Mwatelah - Vice Chancellor, Technical University of Mombasa
5. Prof. F. Kaberia - Vice Chancellor, Multimedia University of Kenya
6. Prof. Eng. P. Ndirangu Kioni - Vice Chancellor, Dedan Kimathi University of Technology

Engineers Board of Kenya

1. Eng. D.M Wanjau - Chairperson, EBK
2. Eng. Prof. F.J Gichaga - Vice Chairperson
3. Eng. Nicholas Musuni - Registrar
4. Eng. Julius M. Riungu - Board Member

Ministry Of Education, Science and Technology

1. Eng. Prof. D.K Some - Secretary, Commission for University Education
2. Mr. Lumbasi Bartholomew - Assistant Director of Education
3. Dr. Kipkirui Lagat, - Director General/CEO, TVETA

Institution of Engineers of Kenya

1. Eng. Reuben Kosgei - Chairperson, IEK
2. Eng. Rosemary Kung'u - Vice Chairperson

AGENDA

1. Prayers
2. Preliminaries/Introductions
3. Communication from the Chair
4. Confirmation of Minutes
5. Matters Arising
6. **SUBSTANTIVE AGENDA** -Stakeholders forum to discuss the Engineering Technologists and Technicians Bill, 2015;
7. Bills: -
 - i. Engineering Technologist and Technicians Bill, 2015 by Hon. Cecilia Ng'etich, M.P
 - ii. The HELB (Amendment) Bill by Hon. Irungu Kang'ata
 - iii. Basic Education (Amendment) Legislative Proposal, 2015 by Hon. Grace Jemutai Kiptui, M.P- Prepublication Scrutiny
 - iv. Kenya School of Law (Amendment) Legislative Proposal, 2015 by Hon. Irungu Kangata, M.P - Prepublication Scrutiny
 - v. Basic Education (Amendment) Bill, 2015 by Hon. Eng. James Rege, M.P - Prepublication Scrutiny
 - vi. Basic Education (Amendment) Bill, 2015 by Hon. Irungu Kangata, M.P - Prepublication Scrutiny

- vii. Basic Education (Amendment) Legislative Proposal, 2015 by Hon. Mary Seneta, M.P- Prepublication Scrutiny
- 8. Petitions:-
 - i. Petition by residents of Murang'a County on the Gross Mismanagement of Murang'a University College
 - ii. Petition by Hon. Abdullswamad Nassir, M.P, regarding alleged mistreatment of Bura Girls High School Students
 - iii. Petition by Retired (Major) Joel Kiprono Rop, Regarding development of Kiswahili as a National Language.
- 9. Statutory Instruments
- 10. Papers
- 11. Statements
- 12. Consideration/Adoption of Reports/Inquiries
- 13. Any Other Business
- 14. Date for the Next Sitting

MIN.NO.DC.D/239/2015: ADOPTION OF THE AGENDA

The agenda of the meeting were adopted having been proposed by the Hon. Eric Keter, M.P and Seconded by the Hon. Richard Makenga, M.P respectively.

MIN.NO.DC.D/240/2015: PRELIMINARIES

The meeting was called to order at 10:40a.m and thereafter prayer was said. The Chairperson then proceeded to welcome all stakeholders present to the meeting. She further informed the Committee that the purpose of the meeting was to deliberate on the Engineering Technologists and Technicians Bill and thereafter come up with the possible solutions to unlock the standoff between the Engineers and the Technologists.

MIN.NO.DC.D/241/2015: THE ENGINEERING TECHNOLOGISTS AND TECHNICIANS BILL, 2015

The meeting had been convened to bring together all the stakeholders who had submitted their concerns on the aforesaid Bill. The Stakeholders had been drawn from Engineers Board of Kenya, TVETA, Commission for University Education, Technical University of Kenya, Technical University of Mombasa, among others.

The Chairperson thereafter invited Hon. Cecilia Ngetich, M.P to make a presentation on the objective and memorandum of the proposed Bill. She informed the Committee that: -

- (i) The Bill was seeking to establish a board that would recognize and register the Engineering Technologists and Technicians since they had not been recognized in the Engineers Act as presently enacted.
- (ii) The failure to recognize and accredit courses offered by some of the Technical institutions had been a major cause of unrest in the technical universities in the country. The negative perceptions created by the non-recognition had impacted the

- TVET Sector negatively, with the number of students interested in undertaking TVET Courses being on the decline.
- (iii) Regulation of the Technologists and Technicians would bring sanity into the Engineering field and going by the best practices worldwide, the graduates of the Engineering Technology would be accepted worldwide.
 - (iv) In developed Countries, Engineering profession had different registration bodies. However, in some Countries, the profession was regulated under one umbrella.
 - (v) The Bill was not intended to bring confusion as to the demarcation of roles of engineers and technologists/ technicians/ artisans. Each cadre of engineering would have its roles clearly spelt out in the Bill.

Submission from the Commission of University Education (CUE)

The Secretary, CUE informed the meeting that: -

- (i) Engineering Profession has two main categories namely:- Engineering and Engineering Technology.
- (ii) The training required for Engineering Technologists is obtained through Bachelor of Technology for Technologists, Diploma for Technicians, Craft Certificate for Vocational Technicians and Trade Test for Artisans.
- (iii) The Engineers Act of 2012 did not recognize the Technologists and Technicians. TVET Act was enacted for the purposes of demand driven and for the realization of the vision 2030.
- (iv) The Technologists were not recognized by employment institutions since they did not belong to any professional body. The Bill would support the TVET graduates in a number of Technical Training Institutions in the country to acquire national and international recognition, thereby increasing the employability of the graduates nationally, regionally and internationally.
- (v) Kenyans had shied away from the profession because of the negative publicity given to it.
- (vi) The Bill would give Engineers an avenue for engaging with the Technologists and the Technicians.
- (vii) Professional bodies were involved in the accreditation process which brought about the standoff witnessed in the education sector. This should be streamlined to avoid overlapping of functions.
- (viii) Kenya has nineteen pieces of legislations for nineteen professions which need to be harmonized.
- (ix) There was need to establish a professional school for engineers where graduates would be taken through the standards similar to Kenya School of law.
- (x) The intention of the Engineering Technologists and Technicians Bill, 2015 was to make it possible for every qualified engineering professional to register and bring into perspective all other levels of Engineering practice to international recognition as per the Washington Accord for Engineers, Sydney Accord for technologists and Dublin Accord for Technicians.

- (xi) The new Bill if it became law would help in the creation of an inventory of professionals who are accountable for their professional actions to the professional body and consumer protection.
- (xii) If the Bill is enacted, would bring to a reduction incidences of collapse of buildings since all the persons involved in the construction would be regulated on their code of conduct and professional ethics and could easily be held to account for their acts of omission and or commission.
- (xiii) The enactment of the Bill will boost the number of trained and qualified engineering technology personnel that will result in reduction of the importation of engineering labour.

Joint Submission from the Vice Chancellors, Technical University of Kenya and Technical University of Mombasa

The Committee was informed that: -

- (i) Universities and TVET institutions were offering courses in Engineering, Engineering Technology and Diploma in Engineering and that technologists are hands-on persons.
- (ii) As per the requirement, the country was in need of the engineering technologists and technicians hence there was an urgent need to establish the regulatory body.
- (iii) Technical University of Kenya had problems retaining students to study Bachelors of Technology Degree Courses since the student had fears that they would not be able to seek employment upon completion of studies and there was no professional body to regulate them.
- (iv) If enacted, the Bill shall recognize all emerging engineering courses like Telecommunication Engineering, Computer Engineering, Medical Engineering, Aeronautical Engineering, Aviation Engineering, Irrigation Engineering, Environmental Engineering, Software Engineering etc which were critical for economic development but were not being recognized by the EBK.
- (v) Technical University of Mombasa was to introduce four new courses in Engineering Technology but that could only happen if the graduates of Engineering Technology were recognized and therefore there was need to fasten the process of enacting proper legislations that will recognize them.

Submission from the Engineers Board of Kenya

The Committee was informed that: -

- (i) There was need to recognize professionals and assign roles to different professions.
- (ii) The Board was not opposed to the regulation of the technologists and technicians but the same could be done through an amendment to the Engineers Act, 2011 professions.
- (iii) In conformity with the international standards, there was need for one regulatory body.
- (iv) The Engineering Technologist and Technicians Bill was a duplication of the Engineers Bill and if passed to law, it would usurp the powers of Engineers Board of Kenya since the Act gives the same roles performed by Engineers to Technologists and Technicians.

- (v) The Engineers Board held two meetings with the Vice Chancellors of universities and took them through the process of accreditation of engineering courses and programmes.
- (vi) Universities failed to cooperate and most of the universities had poor facilities that could not produce a well trained engineer.
- (vii) The Engineering Board was in the process of starting up apprentice programme which would be helpful to nurture young graduate engineers.
- (viii) The Engineering Technologists and Technicians Bill could benchmark with the the Malaysian Technologists and Technicians Act, so as to have distinct differentiation between the two bodies.
- (ix) Registration with EBK was voluntary and therefore students were requested to register with the Board upon graduating with a degree in accredited engineering course.
- (x) The Engineers Board of Kenya had been registering emerging courses like the Telecommunications Engineering.

Submission from the Institution of Engineers of Kenya (IEK)

The Committee was informed that: -

- (i) The Engineers Technologists and Technicians Bill, 2015 was similar to the Engineers Act 2011 and therefore the shortcomings in the ETT Bill, 2015 could be addressed by amending the existing legislation. The passing of EET Bill, 2015 would lead to two regulatory bodies with one regulating the Engineers while the other regulates the Technologists and the Technicians. This could cause confusion and lead to unnecessary additional expenditure.
- (ii) Stakeholders should be given sufficient time to study the existing legislations and make proposals to seal gaps that might be existing in the Engineers Act, 2011
- (iii) If the Technicians and Technologists must have their own Act, then it should be similar to the Malaysian Technologists and Technicians Bill, 2015 where technical and Technologists services are well defined and do not overlap the Engineers Act.

Concerns

The Committee was concerned that the disharmony in the sector was not healthy hence the need to resolve the impasse.

Way forward

In order to harmonise the varying opinions from the two divides, the Committee resolved to constitute a technical team to relook into the Bill and report back to the Committee on the way forward in two week's time.

The team consisted of the following Members: -

- (i) Hon. Cecilia Ng'etich, M.P
- (ii) Hon. Wilber Ottichillo, M.P
- (iii) Hon. Julius Melly, M.P
- (iv) Hon. Harrison Kombe, M.P

- (v) Hon. Michael Kisoi, M.P
- (vi) Prof. Francis W.O Aduol - Vice-Chancellor, Technical University of Kenya
- (vii) Dr. C.M.M Ondieki - Senior Lecturer, Chairman TVET
- (viii) Prof. Eng. P. Ndirangu Kioni - Vice Chancellor, Dedan Kimathi University
- (ix) Eng. Prof. F.J Gichaga - Vice Chairperson, EBK
- (x) Eng. Nicholas Musuni - Registrar, EBK
- (xi) Eng. Julius M. Riungu - Board Member, EBK
- (xii) Eng. Prof. D.K Some - Secretary, Commission for University Education
- (xiii) Mr. Lumbasi Bartholomew - Assistant Director of Education
- (xiv) Dr. Kipkirui Lagat,- Director General/CEO, TVETA

MIN.NO.DC.D/242/2015: ANY OTHER BUSINESS

Visit to Stephjoy Secondary School

The Committee was informed that the visit to Stephjoy High School could not take place as scheduled since the notice was too short and the Management of the school had not been informed on time.

In-Country Biotechnology Travelling Workshop

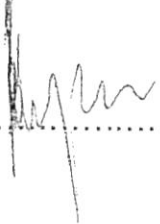
The following Members confirmed participation in the Biotechnology traveling workshop which was scheduled to take place on 6th August, 2015;

1. Hon. Sabina Chege, M.P
2. Hon. Wilber Ottichillo, M.P
3. Hon. Rose Mitaru, M.P
4. Hon. Joseph M'eruaki, M.P

The workshop was to be attended by five Members each from five Departmental Committees namely; Agriculture, Livestock and Cooperatives, Education, Research and Technology, Health, Environment and Natural Resources, Finance, Planning and Trade Committees.

MIN.NO.DC.D/243/2015: ADJOURNMENT

The chairperson adjourned the meeting at 1.23pm.

Signed 
Hon. Sabina Chege, M.P
(CHAIRPERSON)

Date 6/10/15

MINUTES OF THE 53RD SITTING OF THE DEPARTMENTAL COMMITTEE ON EDUCATION, RESEARCH AND TECHNOLOGY HELD ON TUESDAY, 20TH AUGUST, 2015 IN THE SMALL DINING, PARLIAMENT BUILDING AT 10:30 AM.

PRESENT

1. Hon. Sabina Chege, M.P - Chairperson
2. Hon. Julius Melly, MP - Vice Chairperson
3. Hon. Yusuf Chanzu, M.P
4. Hon. (Prof.) Helen Sambili, M.P
5. Hon. Mohamed Adan Huka, M.P
6. Hon. Rose Rwamba Mitaru, M.P
7. Hon. (Dr.) Christine Ombaka, M.P
8. Hon. (Dr.) Wilber Ottichillo, M.P
9. Hon. Muriuki Njagagua, M.P
10. Hon. Cecilia Ng'etich, M.P
11. Hon. Joseph Meruaki, M.P
12. Hon. Joseph Manje, M.P
13. Hon. Halima Ware Duri, M.P
14. Hon. Jacob Macharia, M.P
15. Hon. Steven Kariuki, M.P.
16. Hon. Kedogo Dorcas Luvalitsa, M.P
17. Hon. Mary Seneta, M.P
18. Hon. Silverse Lisamula Anami, M.P
19. Hon. Harrison Kombe, M.P
20. Hon. Ibren Nasra Ibrahim, M.P
21. Hon. Eric Keter, M.P

ABSENT WITH APOLOGY

1. Hon. Opiyo Jared Odhiambo, M.P
2. Hon. Moses Injendi, M.P
3. Hon. Geoffrey Makokha Odanga, M.P
4. Hon. Kenneth Okoth, M.P

ABSENT

1. Hon. Richard Makenga, M.P
2. Hon. (Dr.) Susan Chebet, M.P
3. Hon. Michael Kisoi Munyao, M.P
4. Hon. Anthony Kimaru, M.P

IN ATTENDANCE

National Assembly

1. Ms. Leah Wanjiru - First Clerk Assistant
2. Mr. Mugoma John - Third Clerk Assistant
3. Ms. Colletah Sigilai - Legal Counsel II

4. Ms. Winnie Atieno - Audio Officer

AGENDA

1. Prayers
2. Preliminaries/Introductions
3. Communication from the Chair
4. Confirmation of Minutes
5. Matters Arising
6. **SUBSTANTIVE AGENDA – Meeting to consider the Engineering Technologist and Technicians Bill, 2015 by Hon. Cecilia Ng’etich, M.P (Report of the Technical Committee)**
7. Bills: -
 - (i) Engineering Technologist and Technicians Bill, 2015 by Hon. Cecilia Ng’etich, M.P
 - (ii) Basic Education (Amendment) Legislative Proposal, 2015 by Hon. Grace Jemutai Kiptui, M.P- Prepublication Scrutiny
 - (iii) Kenya School of Law (Amendment) Legislative Proposal, 2015 by Hon. Irungu Kangata, M.P - Prepublication Scrutiny
 - (iv) Basic Education (Amendment) Bill, 2015 by Hon. Eng. James Rege, M.P - Prepublication Scrutiny
 - (v) Basic Education (Amendment) Bill, 2015 by Hon. Irungu Kangata, M.P – Prepublication Scrutiny
 - (vi) Basic Education (Amendment) Legislative Proposal, 2015 by Hon. Mary Seneta, M.P- Prepublication Scrutiny
8. Petitions: -
 - (i) Petition by residents of Murang’a County on the Gross Mismanagement of Murang’a University College
 - (ii) Petition by Hon. Abdullswamad Nassir, M.P, regarding alleged mistreatment of Bura Girls High School Students
 - (iii) Petition by Retired (Major) Joel Kiprono Rop, Regarding development of Kiswahili as a National Language.
 - (iv) Petition on discrimination of Akorino students in some public secondary schools for wearing head scarves
9. Statutory Instruments
10. Papers
11. Statements
12. Consideration/Adoption of Reports/Inquiries
13. Any Other Business
14. Date for the Next Sitting

MIN.NO.DC.D/257/2015: ADOPTION OF THE AGENDA

The agenda of the meeting were adopted having been proposed by the Hon. Cecilia Ng’etich, M.P and seconded by the Hon. (Dr.) Christine Ombaka, M.P. respectively.

MIN.NO.DC.D/258/2015: PRELIMINARIES

The meeting was called to order at 10:40 a.m and thereafter prayer was said.

Communication from the Chairperson

The Chairperson made his Communication as follows: -

1. Proposed Amendments to the Universities Act, 2012

The Chairperson informed the Committee that he was intending to move amendments to the Universities Act, 2012. He tabled the amendments and directed the Secretariat to forward them to the Legal Services Department for drafting. He further urged Members of the Committee to familiarize themselves with all the legislations within the education sector.

2. Sub Committees

The Chairperson informed the Committee that plans had been put in place to reactivate the subcommittees namely the Basic Education, Teachers Service Commission, Science, Technology and Innovation and University Education. Members were briefed on the assignments allocated to the four sub committees. They were further urged to immediately commence their meetings with a view to finalizing on the pending issues.

MIN.NO.DC.D/259/2015: CONSIDERATION OF THE ENGINEERING TECHNOLOGISTS AND TECHNICIANS BILL, 2015

Hon. Cecilia Ng'etich, M.P informed the Committee that: -

- i. The Technical Committee on Engineering Technologists and Technicians Bill agreed on some clauses while on other clause, there was need for amendments.
- ii. On Clause 2, the following was agreed on;
 - a. Deletion of the term "Accredited checker"
 - b. Deletion of the term technology in the definition of cabinet Secretary
 - c. Delete and replace the definition of the term of the "engineering technology" as follows-

" is part of the engineering profession in which knowledge of the applied mathematical and natural science gained by higher education, experience, and practice is devoted to application of engineering principles and the implementation of technological advances for the benefit of humanity; engineering technology education for the professional focuses primarily on analyzing, applying, implementing, and improving existing technologies and is aimed at preparing graduates for the practice of engineering closest to the product improvement, manufacturing, and engineering operational functions."

- iii. Engineers Board of Kenya contested clauses 8, 10, 11, 12, 13, 17 and 19
- iv. The technical committee went through the Sessional Paper No. 14 of 2012 and noted that the policy had acknowledged the fact that the engineering profession had identified the different cadres in the sector.
- v. The technical committee agreed that there was need to regulate all the cadres of engineering profession;
- vi. On policy, the technical committee noted that there were clear reforms that should be undertaken in the Ministry especially in the line of TVET in order to achieve industrialization and achieve vision 2030 especially on areas to do with rebranding of TVET Sector to encourage more students to take up TVET courses;
- vii. Areas of concerns were addressed through the consideration of the Bill Clause by Clause. The roles of Board members, technicians and technologists were clarified.
- viii. The technical committee observed that there were three available options as follows: -
 - a. Move with the Bill as it is and then make amendments to it
 - b. Amend the Engineers Act and Incorporate the Technicians and the Technologist to be under the Engineers Act.
 - c. Draft a new Bill and incorporate all the concerns.

Members observations and Recommendations

- i. The Committee should consider the Bill clause by clause and then come up with amendments. Contentious clauses should also be analyzed and harmonized;
- ii. Both the TVET institutions and the EBK should seek to strike a compromise since some universities were in crisis because students were unwilling to take courses in Engineering technology and therefore drafting a new Bill would not be the best option because of the amount of time required to do so.
- iii. Members were urged to apprise themselves with the provisions of the Sessional Paper No. 14 of 2012.

Way forward

Observing that there was an urgent need to conclude on the Bill to avert the current crisis in the Universities and the Technical Institutions the Committee agreed to hold a retreat to discuss the Bill and come out with a report on the areas that should be amended.

MIN.NO.DC.D/260/2015: ANY OTHER BUSINESS

Report Writing Retreat

Members present agreed to conduct a reporting writing retreat from 10th to 13th September, 2015 when the House will be on recess.

Upcoming International Conferences

The Committee was informed that there were upcoming International Conferences on Education in the Months of September 2015, October 2015 and February 2016. The Conferences were as follows: -

1. South Africa from 21st to 23rd September, 2015;
2. In Quito, Ecuador from 20th to 22nd October, 2015 and;
3. In Montreal, Canada from 15th – 18th February, 2016.

It was agreed that Members who were to travel to USA in June, 2015 but failed due to Visa hitch should be given the first priority. The following Members were therefore nominated to attend the Conference in South Africa;

1. Hon. Halima Ware, M.P
2. Hon. Rose Mitaru, M.P
3. Hon. Michael Kiso, M.P
4. Hon. Kenneth Okoth, M.P
5. Hon. Moses Injendi, M.P
6. Hon. Jacob Macharia, M.P
7. Hon. Ibren Nasra M.P

The delegation of Hon. Members who will travel to Ecuador and Canada will be discussed during the next Meeting.

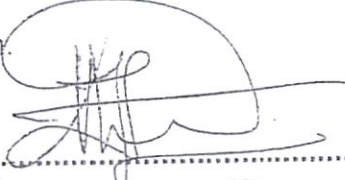
MIN.NO.DC.D/261/2015: ADJOURNMENT

The chairperson adjourned the meeting at 12.25pm.

Signed.....


Hon. Sabina Chege, M.P
(CHAIRPERSON)

Date.....


12/15/2015

**MINUTES OF THE 56TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
EDUCATION, RESEARCH AND TECHNOLOGY HELD ON WEDNESDAY, 23RD
SEPTEMBER, 2015 IN SERENA BEACH HOTEL BOARD ROOM 10:00 AM**

PRESENT

1. Hon. Sabina Chege, M.P - Chairperson
2. Hon. Julius Melly, MP - Vice Chairperson
3. Hon. (Dr.) Christine Ombaka, M.P
4. Hon. Muriuki Njagagua, M.P
5. Hon. Jacob Macharia, M.P
6. Hon. Joseph Meruaki, M.P
7. Hon. Rose Rwamba Mitaru, M.P
8. HonHon. Cecilia Ng'etich, M.P
9. Hon. Joseph Manje, M.P
10. Hon. Silverse Lisamula Anami, M.P
11. Hon. Kedogo Dorcas Luvalitsa, M.P
12. Hon. Richard Makenga, M.P
13. Hon. Kenneth Okoth, M.P
14. Hon. Steven Kariuki, M.P.

ABSENT WITH APOLOGY

1. Hon. (Prof.) Helen Sambili, M.P
2. Hon. (Dr.) Susan Chebet, M.P
3. Hon. Yusuf Chanzu, M.P
4. Hon. Mary Seneta, M.P
5. Hon. Eric Keter, M.P
6. Hon. Moses Injendi, M.P
7. Hon. Geoffrey Makokha Odanga, M.P
8. Hon. Halima Ware Duri, M.P
9. Hon. Anthony Kimaru, M.P
10. Hon. (Dr.) Wilber Ottichillo, M.P
11. Hon. Mohamed Adan Huka, M.P
12. Hon. Opiyo Jared Odhiambo, M.P
13. Hon. Harrison Kombe, M.P
14. Hon. Michael Kisoi Munyao, M.P
15. Hon. Ibren Nasra Ibrahim, M.P

IN ATTENDANCE

National Assembly

- | | |
|-------------------------|-----------------------|
| 1. Mr. Jimale Mohamed - | Third Clerk Assistant |
| 2. Mr. Nebert Ikai - | Third Clerk Assistant |
| 3. Ms. Emma Otiende - | Legal Counsel |
| 4. Mr. Abdi Ahmed - | Fiscal Analyst |
| 5. Ms. Winnie Onyango - | Hansard Officer |

AGENDA

1. Preliminaries
 - i. Prayers
 - ii. Chairperson Remarks
 - iii. Adoption of the agenda
2. Prayers
3. Preliminaries/Introductions
4. Communication from the Chair
5. Confirmation of Minutes
6. Matters Arising
7. Consideration of the Clause by Clause Analysis of the Engineering Technologist and Technicians Bill 2015
8. Any Other Business
9. Date for the Next Sitting

MIN.NO.DC.D/271/2015: ADOPTION OF THE AGENDA

The Agenda was adopted unanimously by the honorable Members present.

MIN.NO.DC.D/272/2015: PRELIMINARIES

MIN.NO.DC.D/273/2015: CONSIDERATION OF THE BASIC EDUCATION (AMENDMENT) BILL, 2015

The Committee considered the Bill clause by clause as follows:-

Part I – Preliminary

Clause 1 - Delete “Engineering Technologists and Technicians Act, 2015” and insert “Engineering Technology and Technicians Act, 2015”

Clause 2 - “Accredited checker” –

Recommendation: delete

Justification: not appropriate terms in the Bill

“Board” –

Recommendation: delete “Engineering Technologists and Technicians Registration Board” and replace with “The Kenya Engineering Technology Registration Board”

▪ “Cabinet Secretary” –

Recommendation: delete the word “Technology” after “Engineering”

Justification: to read “The Cabinet Secretary for the time being responsible for matters relating to engineering”

▪ “consulting engineering technologist”

Recommendation: agreed to

Justification: Appropriate

▪ “consulting engineering technology services”

Recommendation: agreed to

Justification: Appropriate

▪ “continuing professional development”

Recommendation: agreed to

Justification: Appropriate

▪ “engineering technology consulting firm”

▪ **Recommendation:** – delete the words “this Act” and

▪ **Justification:** to read ‘ engineering technology consulting firm registered under “ a new phrase – “clause 15 ”

▪ “engineering technician”

Recommendation – delete the words “means a person registered under this Act as such, and includes a craft person or artisan” and replace with the words “means a person registered under section”

Justification: Subcommittee (Technical Committee) definition appropriate

▪ “engineering technologist”

Recommendation: – Agreed with an amendment by inserting the words “and includes a degree of technology or higher national diploma holder”

Justification: TVETA definition appropriate

- “engineering technology”

Recommendation – delete and replace with “is part of the engineering profession in which knowledge of applied mathematical and natural science gained by higher education, experience and practice is devoted to application of engineering principles and the implementation of technology education for the professional focus primarily on analyzing, applying, implementing and improving existing technologies and is aimed at preparing graduates for the purpose of engineering, closest to the product improvement, manufacturing and engineering operational functions”

Justification: Subcommittee definition appropriate

- “licence”

Recommendation – agreed to

- “misconduct”

Recommendation – agreed to

- “register”

Recommendation – agreed to

- “Registrar”

Recommendation: agreed to

The following new definitions were included immediately after the word “Registrar” as per the Subcommittee;-

- “candidate” refers to any person registered in any of the categories in sub-section 18(1)(b) of the Engineering Technology Act, 2015”
- “Engineering Technology Personnel” means any person registered under section 18(1) of this Act, as an Engineering Technologist or Technician.
- “Foreign national” as defined in section 2 of Kenya Citizenship and Immigration Act, No. 12 of 2011
- “Certified engineering technician” means a person registered as such under this Act
- “professional engineering technologist” means a person registered as such under this Act

- “professional engineering technology service” means engineering technology service that requires, or is based on, the application of engineering principles and data to a design or to a construction or production activity, relating to engineering, and does not include an engineering service that is provided only in accordance with a prescriptive standard.
- “prescriptive standard” means a document that states procedures or criteria for carrying out a design, or a construction or production activity, relating to engineering; and the application of which, to the carrying out of the design, or the construction or production activity, does not require advanced scientifically based calculations.
- “Professional engineering technology works” includes professional service, consultation, investigation, evaluation, planning, designing or responsibility for supervision of construction or operation and maintenance in connection with any public or privately owned public utilities, building, machines, equipment, processes, works or projects that requires application of engineering principles and data.

Part II

Title

“Engineering Technologist and Technicians Registration Board

Recommendation: -Delete the phrase and replace with “Kenya Engineering Technology Registration Board”

Justification: Appropriate

Clause 3 – subsection (1)

Recommendation: - delete “technologist and technicians” and replace with “Kenya Engineering Technology Registration Board”

Clause 4 –

Recommendation: Delete the number (1)

Interchange to be clause 5. Delete and insert a new clause 5 as follows

- (1) The functions of the board shall be to–
- a) recognize and register engineering Technology Personnel as professionals;
 - b) keep and maintain the Register under section 26;
 - c) provide facilities for the promotion of education and training and to hold or cause to be

- held, professional development programmes for registered persons to further enhance their knowledge relating to their professions;
- d) conduct assessments or to cause assessments to be conducted by an institution approved by the Board for the purpose of admission to the profession;
 - e) determine and regulate the conduct and ethics of the engineering technology profession;
 - f) issue licenses to qualified persons under the provisions of this Act;
 - g) take disciplinary measures in accordance with the provisions of this Act;
 - h) enter and inspect sites where construction, installation, erection, alteration, renovation, maintenance, processing or manufacturing works are in progress for the purpose of verifying that—
 - (i) professional engineering technology services and works are undertaken by registered persons under this Act;
 - (ii) standards and professional ethics and relevant health and safety aspects are observed, in line with Occupational Safety and Health Act, 2007;
 - (i) assess, approve or reject engineering technology qualifications of foreign persons intending to offer professional engineering technology services or works in Kenya;
 - (j) enter and inspect business premises for verification purposes or for monitoring works, services and goods rendered by consulting engineering technologists or professional engineering technologists or professional engineering technicians;
 - (k) recommend for the suspension of any engineering technology professional services, works, projects, installation process or any other engineering technology works, which are done without meeting the set out standards;
 - l) participate, as a stakeholder in formulating engineering technology programmes in public and private universities and other tertiary level educational institutions offering education in engineering technology for the purposes of registration of engineering technology personnel;
 - (m) (a) Set standards for practicing engineering technology personnel in management, marketing, professional ethics, environmental issues, safety, legal matters or any other relevant field;
 - (b) Develop Code of Ethics/conduct for practicing engineering technology personnel;
 - (n) conduct professional examinations for the purposes of registration where applicable;
 - (o) plan, arrange, co-ordinate and oversee the professional training and facilitate internship of engineering technology personnel;
 - (p) Collaborate with engineering technology training institutions and organizations, professional associations and other relevant bodies in matters relating to training, professional development of Engineering Technology Personnel;
 - (q) Determine the fees to be charged by practicing engineering technology personnel and firms for professional services rendered from time to time;
 - r) Hear and determine such disputes relating to professional conduct or ethics of practicing engineering technology personnel;
 - (s) issue, maintain and enforce the code of ethics for practicing engineering technology personnel and regulate the conduct and ethics of engineering technology profession in general;
 - (t) determine disciplines of engineering technology under this Act;
 - (u) generally, to carry out all such acts and do all such things as may appear to the Board necessary to carry out the provisions of this Act; and
 - (v) do anything incidental or conducive to the performance of any of the preceding functions.

Justification: go by the recommendation of the Subcommittee (Technical Committee)

Clause 5 –

Recommendation: Interchange to be clause 4.

Delete subsection (1) and replace with:

(1) The Board shall consist of—

- a) The Chairperson who shall be appointed by the Cabinet Secretary from amongst the members appointed under paragraph (c);
- b) The Principal Secretary in the Ministry for the time being responsible for matters relating to Engineering;
- c) Eight persons appointed by the Cabinet Secretary as follows—
 - (i) one chairperson from any of the recognized professional institutions responsible for engineering technologists and technicians;
 - (ii) one person representing Technical and Vocational Education and Training Authority (TVETA);
 - (iii) one person who shall be a public officer from a public corporation responsible for engineering technology curriculum development;
 - (iv) one person who shall be a public officer from a public corporation involved in offering engineering technology services and/or products;
 - (v) one person who shall be a representative of Technical Universities offering engineering technology programmes in Kenya;
 - (vi) one person who shall be a representative of Technical Training Institutions offering engineering technology programmes in Kenya; and
 - (vii) one person who shall be from the private sector dealing with matters related to engineering technology;
- (d) The Registrar of the Board;

Justification: go by the recommendation of the Subcommittee (Technical Committee) with amendments

Clause 6 - Delete and replace with:

“The Board shall have all powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to—

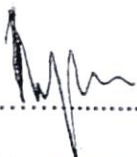
- (a) approve or reject applications for registration under this Act or approve any such applications subject to such conditions or restrictions as it deems fit to impose;
- (b) impose as it deems fit fees or any other charges as prescribed by the regulations in the performance of its functions and the exercise of its powers;
- (c) pay allowances and other expenses of the members of the Board, council and committees;
- (d) employ such number of employees as the Board thinks necessary upon such terms and conditions of service as may be determined by the Board for carrying out the purposes of this Act;
- (e) pay remuneration, allowances and other benefits to the employees;

- (f) appoint committees consisting of persons to be determined by the Board to assist it in carrying out its functions;
- (g) enter into contracts;
- (h) manage, control and administer its assets in such manner and for such purposes as best promote the purpose for which the Board is established;
- (i) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Board;
- (j) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;
- (k) enter into association with such other bodies or organizations within or outside Kenya as it may consider desirable or appropriate and in furtherance of the purposes for which the Board is established;
- (l) open such banking accounts for its funds as may be necessary;
- (m) invest any funds of the Board not immediately required for its purposes;
- (n) undertake any activity necessary for the fulfillment of any of its functions.
- (o) establish councils to evaluate the quality assurance of the programme in the field of technology;
- (p) appoint any person to represent the Board in any committee, panel or institution where that person would subsequently make recommendations to the Board on all matters relating to qualifications for admission to the profession;
- (q) determine, subject to section 29, the requirements with which professional society/association must comply to qualify for recognition by the Board; and
- (r) cancel the registration of any registered person or remove from the Register, or reinstate into the Register, the name of any registered person."

Justification: go by the recommendation of the Subcommittee (Technical Committee) with amendments as these powers need to be vetted so that there is no duplication in the Act and any unnecessary functions are removed.

MIN.NO.DC.D/274/2015: ADJORNMENT

There being no other business the meeting was adjourned at 2.20 p.m.

SIGNED.....


HON. SABINA CHEGE, M.P
 (CHAIRPERSON)

DATE..... 17/11/15

MINUTES OF THE 57TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
EDUCATION, RESEARCH AND TECHNOLOGY HELD ON WEDNESDAY, 23RD
SEPTEMBER, 2015 IN SERENA BEACH HOTEL AT 3:00 PM

PRESENT

1. Hon. Sabina Chege, M.P - Chairperson
2. Hon. Julius Melly, MP - Vice Chairperson
3. Hon. (Dr.) Christine Ombaka, M.P
4. Hon. Muriuki Njagagua, M.P
5. Hon. Jacob Macharia, M.P
6. Hon. Joseph Meruaki, M.P
7. Hon. Rose Rwamba Mitaru, M.P
8. HonHon. Cecilia Ng'etich, M.P
9. Hon. Joseph Manje, M.P
10. Hon. Silverse Lisamula Anami, M.P
11. Hon. Kedogo Dorcas Luvalitsa, M.P
12. Hon. Richard Makenga, M.P
13. Hon. Kenneth Okoth, M.P
14. Hon. Steven Kariuki, M.P.

ABSENT WITH APOLOGY

1. Hon. (Prof.) Helen Sambili, M.P
2. Hon. (Dr.) Susan Chebet, M.P
3. Hon. Yusuf Chanzu, M.P
4. Hon. Mary Seneta, M.P
5. Hon. Eric Keter, M.P
6. . Moses Injendi, M.P
7. Hon. Geoffrey Makokha Odanga, M.P
8. Hon. Halima Ware Duri, M.P
9. Hon. Anthony Kimaru, M.P
10. Hon. (Dr.) Wilber Ottichillo, M.P
11. Hon. Mohamed Adan Huka, M.P
12. Hon. Opiyo Jared Odhiambo, M.P
13. Hon. Harrison Kombe, M.P
14. Hon. Michael Kisoi Munyao, M.P
15. Hon. Ibren Nasra Ibrahim, M.P

IN ATTENDANCE

National Assembly

- | | |
|-------------------------|-----------------------|
| 1. Mr. Jimale Mohamed - | Third Clerk Assistant |
| 2. Mr. Nebert Ikai - | Third Clerk Assistant |
| 3. Ms. Emma Otiende - | Legal Counsel |
| 4. Mr. Abdi Ahmed - | Fiscal Analyst |
| 5. Ms. Winnie Onyango - | Hansard Officer |

AGENDA

1. Preliminaries
 - i. Prayers
 - ii. Chairperson Remarks
 - iii. Adoption of the agenda
2. Prayers
3. Preliminaries/Introductions
4. Communication from the Chair
5. Confirmation of Minutes
6. Matters Arising
7. **Consideration of the Clause by Clause Analysis of the Engineering Technologist and Technicians Bill 2015**
8. Any Other Business
9. Date for the Next Sitting

MIN.NO.DC.D/275/2015: ADOPTION OF THE AGENDA

The Agenda was adopted unanimously by the honorable Members present.

MIN.NO.DC.D/276/2015: PRELIMINARIES

The Chairperson called the meeting to order at 3.30 p.m followed by a word of prayer. In her opening remarks, the Chairperson welcomed Members to the meeting and notified that Member to fully contribute to Bill.

The Committee's further proposed the following amendments into the Bill

Clause 7

Recommendation: – agreed to

Justification: appropriate

Clause 8

Recommendation: – delete the words “salaries and remuneration commission”

Justification: it is not clear and do research on which guidelines are used to pay Board members and replace with the appropriate guidelines.

Clause 9

Recommendation: – delete the words “at any meeting of the Board” appearing after the word “vote” in subsection (3)

Justification: - introduce a new clause 9A providing for qualifications of a registrar

Clause 10

Recommendation: - agreed

Clause 11

Recommendation: - agreed

Justification: – insert a phrase “through a competitive process” after the word “staff”, so as to go in line with the Constitution of Kenya

Clause 12

Recommendation: – agreed

Clause 13

Recommendation – agreed

Clause 14

Recommendation: Agreed to with amendment – delete the words “chief executive officer” appearing in subsections (2) and (3) and replace with the word “registrar”

Justification: Registrar is the officer in charge of the running of the Board and the amendment by the Subcommittee (technical Committee) was dropped as it does not add any value.

PART III

Insert the following new clauses immediately before clause 15.

Clause 15

Recommendations: – delete and replace with a new clause as follows:

Categorization of registration

15A. (1) A person may be registered in the engineering technology profession as—

(a) Professional, which is divided into—

- (i) Professional Engineering Technologist; or
- (ii) Certified Engineering Technician

(b) Candidate, which is divided into—

- (i) Candidate Engineering Technologist; or
- (ii) Candidate Engineering Technician

(2) A person may not practice in any of the categories contemplated in subsection (1), unless he or she is registered in that category.

(3) A person may only

practice in a consulting capacity if registered in the category of consulting engineering technologist.

(4) A person who is registered in the category of candidate must perform work in the engineering technology profession only under the supervision and control of a professional of any category as prescribed.

Application for registration

15B. (1) (a) A person must apply, in the prescribed application form, to the Board for registration in a category referred to in 18 (1)

(provide a schedule of the form)

(b) The application form referred to in paragraph (a) must be accompanied by the prescribed fee.

(2) The Board must register the applicant in the relevant category and issue a registration certificate to the successful applicant in the prescribed form if, after consideration of an application, the Board is satisfied that the applicant—

(a) In the case of a person applying for registration as a professional—

- (i) Has demonstrated his or her competence as measured against standards determined by the Board for the relevant category of registration; and
- (ii) Has passed any additional examinations that may be determined by the Board;

(b) In the case of a person applying for registration as a candidate or a candidate in a specified category, has satisfied the relevant educational outcomes determined by the Board for this purpose, by—

- (i) Having passed accredited or recognized examinations at any educational institution offering educational programmes in engineering technology; and

- (ii) Having passed any other examination that may be determined by the Board; or
- (iii) Presenting evidence of prior learning in engineering technology.

(c) In the case of a person applying for registration as a consulting engineering technologist in a specified category, that person must—

- (i) have practiced in a specialized engineering technology field as a professional for at least five years or any period determined by the Board; and
- (ii) have achieved a standard of competence to enable him/her to practice as a consulting engineering technologist personnel in that particular specialization.

15C. Refusal for registration

The Board may refuse to register an applicant—

- (i) If the applicant has been removed from an office of trust on account of improper conduct;
- (ii) Has been convicted of an offence and was sentenced to imprisonment without an option of a fine, or, in the case of fraud, to a fine or imprisonment or both;
- (iii) If the applicant has, subject to paragraph (b), been convicted of an offence in a foreign country and was sentenced to imprisonment without an option of a fine, or, in the case of fraud, to a fine or imprisonment or both;
- (iv) If the applicant is declared by the High Court to be of unsound mind or mentally disordered, or is detained under the Mental Health Act;
- (v) If the applicant is an un-rehabilitated insolvent whose insolvency was caused by his or her negligence or incompetence in performing work falling within the scope of the category in respect of which he or she is applying for registration;

(b) For the purposes of paragraph (a) (iii), the Board must take cognizance of the prevailing circumstances in a foreign country relating to a conviction.

(c) The Board must provide the applicant with a notice of a refusal referred to in paragraph (a).

15D. Qualification for individual registration

(1) Subject to the provisions of this Act, a person shall be eligible for registration under this Act if—

(a) for a professional engineering technologist, that person—

(i) is registered as a candidate engineering technologist and has obtained practical experience of at least three years for the degree holder or at least four years for the Higher Diploma holder in the relevant area;

(ii) has passed professional assessment examination conducted by the Board; and

(iii) is a full member of a professional society/association recognized by the Board;

(b) for a consulting engineering technologist, that person—

(i) holds a Master's degree in the relevant discipline from a recognized University or Institute or first degree with outstanding contributions to engineering technology,

- (ii) has practiced in a specialized engineering technology field as a professional engineering technologist for a period of at least five years; and
 - (iii) has achieved a standard of competence to enable him/her to practice as a consulting engineering technologist in that particular specialization.
- (c) for a certified engineering technician, that person—
- (i) is registered as a candidate engineering technician and has obtained practical experience of at least two years in the relevant area;
 - (ii) has passed professional assessment examination conducted by the Board; and
 - (iii) is a full member of a professional society/association recognized by the Board;
- (2) Subject to the provisions of this Act, a person shall be eligible for registration under this Act as a candidate engineering technology personnel if—
- (a) for a candidate engineering technologist, that person is a holder of a bachelor of technology degree or higher diploma or its equivalent from a university, polytechnic, institute, college or school of engineering and technology or any other institution recognized by the Board.
 - (b) for a candidate engineering technician, that person is a holder of diploma in engineering or its equivalent from a university, polytechnic, institute, college or school of engineering and technology or any other institution recognized by the Board; and
- (3) the persons referred to in subsections (1) and (2) must be Kenyan citizen or permanent residents of Kenya.

Clause 15 & 16 to be merged to read as clause 15E as follows:

15E. Registration of an engineering technology consulting firm

Subject to the provision of this Act, a person may register an engineering technology consulting firm if—

- (a) the firm is a legal person duly registered or incorporated under the written law for the time being in force;
 - (b) the firm has at least one partner or principal shareholder who is registered as a consulting engineering technologist and who has a valid license in a specified discipline;
 - (c) at least **fifty one percent** of the shares in the firm are held by Kenya citizens; and
(need to confirm whether the provisions of the Companies Act, 2015 concerning shareholding apply to this subsection)
 - (d) fulfills any other condition as may be stipulated by the Board.
- 2) The Board may register engineering technology consulting firms in different categories and disciplines based on criteria as shall be established by the Board.
- (3) A person intending to register an engineering technology consulting firm under this Act shall apply to the Registrar in the prescribed manner.
- (4) An application under subsection (3) shall—
- (a) be accompanied with—

- (i) such documents as are necessary to prove qualification for registration and any other document that the Board may prescribe;
- (ii) the curriculum vitae of the partners or directors of the firm;
- (iii) a written commitment that the Board shall be allowed to verify the suitability of the firm for the purposes of registration;
- (b) list the firm's profile of activities;
- (c) be accompanied by the prescribed fee.

(5) The Board may require the applicant to furnish such further information or evidence of eligibility for registration as it may consider necessary and may require the applicant to appear in person for an interview before it.

Justification: the amendment is as per the Technical Committee

Clause 17

Recommendation: – agreed to

Clause 18

Recommendation – delete and introduce a new clause 18 as follows;

18. (1) A foreign person or body of foreigners shall not be registered as professionals **in any categories in section 18 (1) or engineering technology firm in section 20B unless—**

(a) in the case of a natural person—

- (i) that person possesses the necessary qualifications recognized for the practice of engineering technology as a professional **in any category in section 18 (1)** in the country where he or she normally practices, and that immediately before entering Kenya, he or she was practicing as a professional **in any category in section 18 (1)** and holds a valid license; and
- (ii) he or she is a resident of Kenya with a valid working permit;

(b) in the case of a firm, the firm is incorporated in Kenya and a minimum of **fifty-one percent of its shares** are held by a citizen or citizens of Kenya.

(need to confirm whether the provisions of the Companies Act, 2015 concerning shareholding apply to this subsection)

(2) If the conditions stipulated in subsection (1) are not fulfilled, the person or firm applying for registration may be considered for temporary registration under section 23.

Justification: the amendment is as per the Technical Committee

Clause 19,

Recommendation: – agreed to

Clause 20

Recommendation – delete

Clauses 21, 22, 23, 24, & 25

Justifications: the Clauses Appropriate have no controversy

The following new clauses to be inserted after section 25 after consultation by the Legal Department (clause 25A) and Member (Clauses 25B and 25C)

Clause 25A - Recognition of professional societies / associations

25A. (1) The Board must outline in the regulations the framework for the requirements for recognition of a professional society/association.

(2) Any professional society/association may apply to the Board to be recognized as such.

(3) The Board may, if the professional society/association complies with the requirements determined in terms of section 7(q), recognize that society/association and issue it with a certificate of recognition.

(4) A certificate of recognition is valid for a period of five years from the date of issue.

(5) A professional society/association must display its certificate of recognition in a prominent place at its head office.

(6) The recognition of a professional society/association lapses—

(a) if that professional society/association no longer complies with the requirements contemplated in section 7(q); or

(b) at the expiry of the five-year period referred to in subsection (4).

(7) A professional society/association must, at least three months prior to the expiry of its recognition, apply in the prescribed manner to the Board for the renewal thereof.

(8) A professional society/association whose recognition has lapsed must, within 30 days from the date on which it is so directed in writing by the Board, return its certificate of recognition.

Clause 25B - Identification of work to be undertaken by the various registered categories.

(1) The Board must consult with—

(a) all professional societies/associations;

(b) any person;

(c) anybody; or

(d) any industry,

that may be affected by any laws regulating the engineering profession regarding the identification of the type of engineering work which may be performed by persons

registered in any of the categories referred to in section 18, including work which may fall within the scope of any other regulated profession.

(2) After the process of consultation the Board must consider and make a decision regarding the work identified in terms of subsection (1).

(3) A person who is not registered in terms of this Act may not—

(a) perform any kind of work identified for any category of registered persons;

(b) pretend to be, or in any manner hold or allow himself or herself to be held out as a person registered in terms of this Act;

(c) use the name of any registered person or any name or title referred to in section 18 or 19; or

(d) perform any act indicating, or calculated to lead persons to believe, that he or she is registered in terms of this Act.

(4) Subsection (3)(a) may not be construed as prohibiting any person from performing work identified in terms of this section, if such work is performed in the service of or by order of and under the direction, control, supervision of or in association with a registered person entitled to perform the work identified and who must assume responsibility for any work so performed.

31. Clause 31 –insert the word “name” immediately after the words “removal of a person’s” in subsection (4)

Justification: For consistency purposes.

32. Clause 32 -delete the words “and the Cabinet Secretary for the time being responsible for matters relating to finance” in subsection (1) (a)

Justification: For consistency

33. Clause 34 - delete the words “members and” in subsection (2) (a)

Justification: Members of the board are not salaried.

34. Clause 36 - delete the words “and the Treasury” and replacing therefor with “Cabinet Secretary for Finance for the time being responsible for matters relating to finance” in subsection (1)

Justification: For consistency

35. Clause 38 - insert the word “or” after the word rights in paragraph (c) (iv)

Justification: Typographical error

36. **Clause 40** - insert a provision on transitional period of six months for a person to comply with the Act in subsection (2)

Justification: Provide for a transitional clause to give adequate time for compliance.

37. Clause 42

- (i) delete the word "minister" and replacing therefor with the word "administer" in subsection (3)
- (ii) insert the word "thousand" after the word "fifty" subsection (8)
- (iii) Insert a new Clause 42A -

Establish a Disciplinary Tribunal composed of:

- (a) a person who specializes in the professional field concerning the charge;
- (b) a professional who has appropriate experience; and
- (c) a person qualified in law and who has appropriate experience.

Justification: For consistency

38. Clause 44 - delete the entire Clause

Justification: For consistency

39. Clause 47 - delete paragraph (g)

Justification: For consistency

SCHEDULE - amended in Subparagraph (5) by -

- (i) deleting the words "at which he is present but," and replacing therefor with the word "and" immediately after the word "Board"
- (ii) deleting the word "numbers" and replace with the word "members"

Justification: For consistency

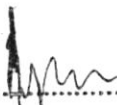
MIN.NO.DC.D/277/2015: ANY OTHER BUSINESS

No other business arose.

MIN.NO.DC.D/278/2015: ADJOURNMENT

There being no other business the meeting was adjourned at 4.45 p.m.

SIGNED.....



HON. SABINA CHERGE, M.P

(CHAIRPERSON)

DATE.....

17/11/15

MINUTES OF THE 69TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
EDUCATION, RESEARCH AND TECHNOLOGY HELD ON TUESDAY, 27TH
OCTOBER, 2015 IN THE MINI CHAMBER, COUNTY HALL, PARLIAMENT
BUILDINGS AT 10:00 AM

PRESENT

1. Hon. Sabina Chege, M.P - Chairperson
2. Hon. Julius Melly, MP - Vice Chairperson
3. Hon. (Dr.) Susan Chebet, M.P
4. Hon. Mary Seneta, M.P
5. Hon. Yusuf Chanzu, M.P
6. Hon. Moses Injendi, M.P
7. Hon. Cecilia Ng'etich, M.P
8. Hon. Michael Kisoi Munyao, M.P
9. Hon. Eric Keter, M.P
10. Hon. Halima Ware Duri, M.P
11. Hon. Kedogo Dorcas Luvalitsa, M.P
12. Hon. Kenneth Okoth, M.P
13. Hon. Richard Makenga, M.P
14. Hon. Geoffrey Makokha Odanga, M.P
15. Hon. Opiyo Jared Odhiambo, M.P
16. Hon. Steven Kariuki, M.P.
17. Hon. Muriuki Njagua, M.P
18. Hon. Ibren Nasra Ibrahim, M.P
19. Hon. Anthony Kimaru, M.P
20. Hon. (Dr.) Wilber Ottichillo, M.P
21. Hon. Rose Rwamba Mitaru, M.P
22. Hon. Silverse Lisamula Anami, M.P
23. Hon. Mohamed Adan Huka, M.P
24. Hon. (Dr.) Christine Ombaka, M.P

ABSENT

1. Hon. Joseph Mianje, M.P
2. Hon. Joseph Meruaki, M.P
3. Hon. Jacob Macharia, M.P
4. Hon. Harrison Kombe, M.P
5. Hon. (Prof.) Helen Sambili, M.P

IN ATTENDANCE

National Assembly

1. Ms. Leah Wanjiru - First Clerk Assistant
2. Mr. John Mugoma - Third Clerk Assistant
3. Mr. Jimale Mohamed - Third Clerk Assistant
4. Ms. Colletah Sigilai - Legal Counsel
5. Ms. Caroline Njue - Research officer III
6. Ms. Winnie Atieno - Audio Officer

MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY

- | | |
|----------------------------|-----------------------------------|
| 1. Prof. Jacob T Kaimenyi | - Cabinet Secretary |
| 2. Mrs. Khaoya E.A.M | - Senior. Deputy Secretary |
| 3. Mr. Johnstone Nyaumba | - Under Secretary |
| 4. Mr. Gitahi Thuita | - Ag. DDE – DBE |
| 5. Mr. Paul Mwangi | - Assistant Director of Education |
| 6. Mrs. Catherine G. Maina | - Ag. Deputy Secretary – KNEC |
| 7. Mrs. Dinah Mwaita | - Senior Deputy Director - TSC |

AGENDA

1. Preliminaries
 - (i) Prayers
 - (ii) Introductions
 - (iii) Communication from the Chair
 - (iv) Adoption of the Agenda

2. SUBSTANTIVE AGENDA – Meeting with the Cabinet Secretary, Ministry of Education, Science and Technology regarding responses to the following Questions;
 - i. Question No. 065/2015 by the Member for Sirisia Constituency (Hon. John Waluke Koyi, MP):
 - ii. Question No. 107/2015 by the Member for Kesses Constituency (Hon. James Kimaru Bett, MP):
 - iii. Question No. 108/2015 by the Member for Ndhiwa Constituency (Hon. Agostinho Neto, MP):
 - iv. Question No. 109/2015 by the Member for Eldama Ravine Constituency (Hon. Moses K. Lessonet, MP):
 - v. Question No. 110/2015 by the Member for Garissa County (Hon. Shukran Hussein Gure, MP):
 - vi. Question No. 111/2015 by the Member for Kandara Constituency (Hon. Alice Wahome, MP):

3. Consideration of Report on ETT Bill, 2015
4. Bills: -
 - (i) Kenya School of Law (Amendment) Legislative Proposal, 2015 by Hon. Irungu Kangata, M.P - Prepublication Scrutiny
 - (ii) Basic Education (Amendment) Bill, 2015 by Hon. Eng. James Rege, M.P - Prepublication Scrutiny
 - (iii) Basic Education (Amendment) Bill, 2015 by Hon. Irungu Kangata, M.P – Prepublication Scrutiny
 - (iv) Statute Law (Miscellaneous Amendments) NO.2, 2015 – Kenya School of Law Act, 2014, Universities Act, 2012 & Kenya Institute of Curriculum Development (KICD), 2012
 - (v) Kenya National Examination Council (Amendment) Bill, 2015 by Hon. Chris Wamalwa, M.P

5. Petitions

- (i) Petition by residents of Murang'a County on the Gross Mismanagement of Murang'a University College
- (ii) Petition by Hon. Abdullswamad Nassir, M.P, regarding alleged mistreatment of Bura Girls High School Students
- (iii) Petition on discrimination of Akorino students in some public secondary schools for wearing head scarves
- (iv) Petition by Hon. Abdikadir Ore, M.P on behalf of seven (7) citizens of the Republic of Kenya, regarding education crisis in Garissa, Wajir and Mandera Counties
- (v) Petition by Hon. Richard Makenga , M.P on behalf of candidates of the Foundation Institute of Africa regarding release of 2014 EC.D.E results by KNEC

6.Papers

7.Statements

8.Consideration/Adoption of Reports/Inquiries

9.Any Other Business

10. Date for the Next Sitting

MIN.NO.DC.D/323/2015: PRELIMINARIES

The Chairperson called the meeting to order at 10.15a.m and thereafter a prayer was said. The Chairperson then proceeded to welcome the Cabinet Secretary and his team to the meeting. She further informed the Committee that the purpose of the meeting was for the Cabinet Secretary to response to the Questions asked by Hon. Members.

MIN.NO.DC.D/324/2015: ADOPTION OF THE AGENDA

The agenda of the meeting were adopted having been proposed by the Hon. Rose Rwamba Mitaru, M.P and seconded by the Hon. Eric Keter, M.P respectively.

MIN.NO.DC.D/325/2015: MEETING WITH MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY REGARDING RESPONSES TO THE QUESTIONS BY HON. MEMBERS

- I. Question No. 065/2015 by the Member for Sirisia Constituency, Hon. John Waluke Koyi, MP Regarding the Criteria used to appoint and promote academic staff at the University of Eldoret, allegation that ethnicity is a factor as seen but lecturers seeking support of local politicians for promotion which led to the recent violent protest by students and the Community leading to the closure of the institution. Did the Chaos target other ethnic communities as well as leading to ejection of the Vice Chancellor, Prof. Teresa Akenga from office and whether the due process was followed in the recent appointments?

The above question was dropped since the school has since reopened and issues raised in the question were overtaken by events. However, the response to above question was tabled.

- II. Question No. 107/2015 by the Member for Kesses Constituency, Hon. James Kimaru Bett, MP regarding the closure of Garissa University, Garissa Medical Training Institute, Garissa Technical Training Institute and other institutions that failed to reopen following the April 2015 terrorists attack and whether the situation on the ground provides guarantee of resumption of learning without endangering the lives of students and tutors; the rationale behind Garissa University inviting students to report back despite the current concerns in the area; the measures in place to secure both the students and institutions and plans to transfer students especially those from Kesses Constituency bearing in mind that they are still traumatized.

The question was deferred since the Hon. Member who asked the question was outside the Country on official Parliamentary duty. However the response to the question was tabled.

- III. Question No. 110/2015 by the Member for Garissa County, Hon. Shukran Hussein Gure, MP regarding the indefinite Closure of public learning in institutions in Garissa County including the Kenya Medical Training College (KMTC) and the North Eastern Provincial Technical College, the timelines within which the institutions shall be reopened.

The Hon. Hussein Gure, M.P didn't turn up for the meeting. The question was dropped. However, in the written response that was tabled, the Cabinet Secretary noted that the North Eastern Province Technical and Training Institution was operating smoothly. He informed the Committee that Kenya Medical Training College was under the Ministry of Health and therefore the concerns raised by the Hon. Member can be referred to them for appropriate response.

- IV. Question No. 109/2015 by the Member for Eldama Ravine Constituency, Hon. Moses K. Lessonet, MP regarding the general deployment policy of the TSC and the reasons behind the continued discrimination against schools in Eldama Ravine Constituency and why the Constituency has fewer TSC teachers compared to other parts of Baringo County which have smaller population sizes and some of whose schools have been in operation for less than four years.

The Cabinet Secretary informed the Committee that;

1. Staffing of schools is done as per the established staffing norms, existing vacancies and the availability of teachers. It is in line with this that the Commission deploys teachers to institutions from time to time.
2. Similarly, teachers existing service through natural attrition are replaced in their respective stations.

3. For the purposes of equitable distribution of teachers, allocation to counties is done proportionate to county and overall national shortage. The Commission does not discriminate any institutions or region when deploying teachers. It is worth noting that the Commission staff schools through recruitment and other deployment such as transfers and postings.
4. Baringo County has 146 secondary schools with a total teacher shortage of 831.
5. Koibatek Sub-County has 29 secondary schools, with a shortage of 180 teachers.
6. The teacher shortage experienced at koibatek, like othe sub-counties was not unique to the sub-county as it was a country-wide problem.
7. During the 2015 recruitment of additional teachers, Koibatek Sub-County (Eldama Ravine Constituency) was allocated a total of 10 teachers who were distributed as follows;

School	Subject	No. Of Teachers
Arama	Bio/Agric	1
Poror	Maths/Geog	1
Mumberes	Hsc	1
Timboroa	Eng/Lit	1
Tugumoi	Chem/Maths	1
Torongo Girls	CRE/Maths	1
St. Mary's Boito	Chem/Phy	1
Uhuru Kabiyet	Eng/Lit	2
Maji Mazuri	Bio/Chem	1
Total		10

8. Some the listed schools like Timboroa and Poror secondary schools benefited. Kabimoi benefitted from the replacement that was done by TSC
9. The Other teacher distribution in Koibatek compared to other sub-counties of Baringo County was as shown below;

Sub-county	No. of Schools	Size	No. of Classes	Enrolment	C.B. E	TOD	TOTAL SHORTAGE
Baringo Central	37	65	248	10399	578	364	214
Baringo North	30	46	171	6406	392	212	180
East Kot	6	9	36	1333	83	32	51
Marigat	18	23	81	2938	185	94	91

koibatek	29	50	195	8215	452	272	180
logotio	26	37	137	4975	315	210	105
total	146	230	869	34266	2005	1184	8211
mortgage							

Members Observations and Recommendations

From the above response, Members observed that;

- i. There were 36 and not 29 sec schools in Koibatek registered by the Ministry. Timboroa Secondary has three TSC teachers despite the fact that it was started in 1977
- ii. The TSC should establish staffing norms, some schools are overstaffed while others are understaffed.

From the above response, TSC didn't give the specific schools that were being compared and they should therefore provide the information within one week.

- V. Question No. 111/2015 by the Member for Kandara Constituency, Hon. Alice Wahome, MP regarding whether County Governments have authority to convert public primary schools into boarding primary schools, and more so without feasible sustainability programs in place and without the authority from the Ministry of Education, Science and Technology and whether the Cabinet Secretary was aware that the County Government of Murang'a was converting two primary schools per sub-county (constituency) in Murang'a County into public boarding schools including Gakarara and Githunguri Primary schools in kandara constituency and the policies, if any, that addresses such conversions; measures the Ministry has in place to either prevent or sustain the conversions.

In his response, the Cabinet Secretary informed the Committee that;

- a. The County government has no authority to convert a public primary school into a boarding school. However, if the community requests that the school change its status to address specific challenges with regard to access to quality education, then the proposal would require exhaustive discussion within the school fraternity.
- b. Once it is agreed in principle that the school's status should be changed, the school then applies for re-registration to the County Education Board to acquire the new status.
- c. The changing of status should not be to the detriment of the day scholars who should equally benefit from the school. The final decision on the school status lies with the Cabinet Secretary.
- d. The Cabinet Secretary was not aware of such a request and in particular; that Gakarara and Githunguri Primary Schools in Kandara Constituency.
- e. There was no objection to change of school status so long as due process is followed.

Members Observations and Recommendations

- (i) The County government didn't consult the County Director of Education and the Ministry of Education. Sustaining fourteen boarding schools would be a challenge to the County government.
- (ii) The County Government should follow the Constitution as it relates to the functions of the County Governments in the education sector.
- (iii) The Cabinet Secretary should follow up on the attempted irregular regarding conversion of day schools to boarding schools and also taking land that belongs to public primary schools and setting up polytechnics. These actions would be tantamount to bringing disorder in learning institutions.
- (iv) There was need for the Ministry to give specific guidelines; the County Governments are only in charge of early childhood and village polytechnics as per Constitution on the Fourth Schedule. Such anomalies should be corrected before they affect other Counties.
- (v) Schools should have infrastructure development plan. The Ministry should carry out an audit on the same.
- (vi) The ESQAC should carry out an investigation and report back to the Committee in three weeks time.

VI. Question No. 108/2015 by the Member for Ndhiwa Constituency, Hon. Agostinho Neto, MP regarding the number of times that the KCSE results for Obera Boys Secondary School in Ndhiwa Constituency have been withheld over the last five years, the reasons behind the withholding decisions; measures, if any, either disciplinary or otherwise that was taken to remedy and secure the rights of the boys and girls who have been constantly affected by the situation.

On the number of times that KCSE result for Obera Boys Secondary School and Magina Girls Secondary School have been withheld for the last five years, the Cabinet informed the Committee that;

1. The number of candidates in Obera Boys and Magina girls whose results were cancelled in the last five years was occasioned by involvement of specific candidates in examination irregularities.
2. The number of candidates in Obera Boys involved were as shown below;

Year of Examination	No. of Candidates involved	Total Candidature	Percentage of individuals involved	Nature of Irregularity
2010	00	91	0.00%	None

2011	125	138	90.58%	Collusion
2012	00	309	0.00%	None
2013	114	149	76.51%	Collusion
2014	04	244	1.64%	Pre-prepared notes

3. The number of Magina Girls involved were as shown below;

Year of Examination	No. of Candidates involved	Total Candidature	Percentage of individuals involved	Nature of Irregularity
2010	00	41	0.00%	None
2011	00	59	0.00%	None
2012	00	40	0.00%	None
2013	130	131	99.24%	Collusion
2014	269	315	85.40%	Collusion

4. During the release of KCSE results for 2014, the Kenya National Examinations Council withheld results for all the two hundred and forty four candidates from Obera Boys Secondary School to enable KNEC undertake thorough investigations into the alleged examination irregularities that occurred at the examination centre during the year 2014 KCSE Examinations.
5. The findings of the investigations showed that some candidates had been involved in examination irregularities, leading to the cancellation of results for two candidates in geography and two other candidates in Agriculture.
6. The withheld results for all other candidates in the examination centre were released on completion of the investigations. This was to confirm whether or not all the students were involved in cheating.

On the disciplinary action taken against individuals found culpable, the Cabinet Secretary informed the Committee that;

1. Kenya National Examinations Council has no powers to punish any party involved in abetting or assisting the candidate(s) to commit examination irregularities but do

recommend to the relevant authorities and law enforcing agencies for action after conducting investigations. This includes prosecution of those found culpable.

2. In the case of school Principals, teachers, supervisors and invigilators that were involved in KCSE examination irregularities in 2011 at Obera Boys Secondary School and Magina Girls Secondary School in the year 2014 KCSE; they were referred to TSC for appropriate disciplinary action.

On measures put in place by the Ministry and KNEC to remedy and secure the rights of the boys and girls who have been constantly affected by the situation, the Cabinet Secretary informed the Committee that;

1. The Ministry and KNEC were enforcing the KNEC Act of 2012 with regard to candidature an persons who involve themselves in examination irregularities;
2. KNEC banned entry into examination rooms by candidates with Mathematical tables and calculators for the papers for which they were not required. This was as a result of the increase in number of candidates caught with pre-prepared notes scribbled on Mathematical tables and calculators.
3. KNEC discouraged the use of clipboards for all KNEC examinations save for KCPE examinations. Thos was as a result of candidates caught with pre-pared notes scribbled on clip boards in previous years.
4. KNEC do organize annual briefings and sensitization of field officers; County Directors of Education, TSC County Directors, Sub County Education Officers, Supervisors and Head teachers.
5. MOEST and KNEC have enhanced monitoring of the conduct of the 2015 KCSE examinations all over Kenya. Monitoring of examinations by KNEC is important because it enables KNEC to assess compliance of rules and regulations by field officers involved in the administration of examinations and assists in deterring occurrence of examination irregularities.
6. TSC nominates persons of integrity to be supervisors and invigilators during administration of national examinations.
7. Security Agencies do ensure adequate security for examination materials once they are delivered to the distribution centres.
8. School heads do ensure that candidates are provided with appropriate and adequate examination facilities as per KNEC specifications.
9. KNEC also provides candidates with examination timetable that details the dos and donts during the examinations. The timetable further details the consequences for involvement in examination malpractices.
10. School heads do identify candidates at the start of every paper to deter impersonation.
11. Supervisors and invigilators usually search candidates before the start of every examination paper to guard against candidates getting into examination rooms with unauthorized materials.

Members Observations and Recommendations

- i. The Kenya National Examinations Council should name the individuals who were involved in the examinations irregularities and action that was taken against them. KNEC should provide documentation to show that a follow up was done for example prosecution and court records.
- ii. The Kenya National examinations council should take the integrity of examinations with a lot of seriousness.
- iii. KNEC assured Members that they were prepared to administer the 2015 examinations.
- iv. Examination leakage was likely to affect the integrity of the examination results.
- v. There was no enhanced monitoring of the conduct of the KCSE examinations. KNEC ought to have employed different strategies to curb the leakage.
- vi. KNEC should in future consider contracting private companies to deliver examinations effectively in case police officers were not up to the task.
- vii. There was a possibility that teachers were involved in the examination leakage as a sabotage having been denied the September salary.
- viii. Kenya National Examinations Council should annex the prepared notes as evidences incase students are caught cheating.
- ix. The KNEC CEO should take responsibility. There was need to boost the integrity of examinations in Kenya.
- x. In future, the government should consider having emergency papers so as to curb against such vices.
- xi. The Ministry should take stringent measures against the top management of KNEC since it failed to uphold the integrity of examinations both locally and internationally.

MIN.NO.DC.D/326/2015: CONSIDERATION AND ADOPTION OF THE REPORT ON ENGINEERING TECHNOLOGIST AND TECHNICIANS BILL, 2015

Members considered and adopted the report on Engineering Technologist and Technicians Bill, 2015 with the following amendments;

The Committee will be introducing the following amendments for consideration.

1. Clause 1

That Clause 1 is amended by deleting the word "Technology" immediately after the word "Engineering"

2. Clause 2

That Clause 2 is amended by: -

- (i) Deleting the word "Registration" immediately after the word "Technology"

- (ii) Deleting the words “this Act” appearing immediately after the word “under” in the definition of the term “engineering technology consulting firms” and replacing therefor with “engineering technology consulting firm registered under “a new phrase – “clause 15 (A)(3)”
- (iii) Deleting the words “means a person registered under this Act as such, and includes a craft person or artisan” and replace therefor with the words “means a person registered under section 15(A)(1)
- (iv) Insert the following words immediately after the words “*technology education*” “*of technological advances for the benefit of humanity, engineering technology education*” f
- (v) Inserting new definitions as follows: -
 - a) Delete “in sub-section 18(1)(b)” of the Engineering Technology Act, 2015” and replace it with “in sub-section 15(A)
 - b) Delete “under section 18(1)” and replace with, “under section 15(A)(1)
 - c) Insert the following, “Section 15(A)(1)(ii) of” immediately after the words “such under”
 - d) Insert the following, “Section 15(A)(1)(i) of” immediately after the words “such under”
 - e) Insert the article “an” immediately after the word “means”, delete “a design or to” and replace it with “development, implementation”, insert the word “technology” immediately after the words “relating to engineering”.

3. Clause 3

Delete the word “Registration” as it appears on the title

4. Clause 4

- a) Under the functions of the Board, Delete “Register under section 26” and replace it with, “Register under section 23”;
- (j) Delete the word “professional” and replace it with “cetified” immediately after the words “professional engineering technologists or”
- (n) Delete the phrase “where applicable” immediately after the word “registration”

5. Clause 5

Composition of the Board;

(c) Eight persons appointed by the Cabinet Secretary as follows—

- (i) The chairperson of the institution of engineering technologists and technicians;

- (ii) The Director General of Technical and Vocational Education and Training Authority (TVETA);
 - (iii) The Technical and Vocational Education and Training – Curriculum Development, Assessment and Certification Council Secretary;
 - (iv) One person who shall be a public officer from a public corporation involved in offering engineering technology services and/or products;
 - (v) One person who shall be a representative of Technical Universities offering engineering technology programmes in Kenya;
 - (vi) One person who shall be a representative of Technical Training Institutions offering engineering technology programmes in Kenya; and
 - (vii) One person from the private sector representing registered professional technologist and certified technicians
- (d) The Registrar of the Board;

6. Clause 6

- (p) Delete “any person” and replace it with “registered member with relevant expertise”
- (q) Delete “subject to section 29” and replace it with, “subject to section 25(A)”

Clause 9

That the Bill be amended in Clause 9 by

- (i) inserting a new clause 9A providing for qualifications of a registrar,
“Be at least a professional Technologist with a Masters Degree in Engineering Technology”

Application for registration

15B. (1) (a) Replace “referred to in 18 (1)” with “referred to in 15 (A)”

- (a) In the case of a person applying for registration as a professional—
- (ii) Replace “additional” with “professional” and delete, “that may be” immediately after “examinations”

(b) In the case of a person applying for registration as a candidate or a candidate in a specified category, has satisfied the relevant educational outcomes determined by the Board for this purpose, by—

- (ii) Replace “any other” examination with “professional” and delete “that may be” immediately after examinations.

15E. Registration of an engineering technology consulting firm

Subject to the provision of this Act, a person may register an engineering technology consulting firm if—

(a) Delete "person" immediately after the word "legal" and replace it with "entity", insert the word "Kenyan" immediately after the word "written"

Insert the following;

"(5) The Board may register engineering technology consulting firms in different categories and disciplines based on such criteria as the Board may establish.

Clause 18 – That Clause 18 be amended by deleting 18 and introduce a new clause 18 as follows;

18. (1) Delete "of foreigners"

Clause 25B - Categorization of engineering work for Engineering Technology Professionals.

25B. (1) Broadly-defined activities and problem solving is to be reserved for Professional Engineering Technologists; Broadly-defined engineering work is characterized by:

(c) Insert the proposition "of" immediately after the word "use"

MIN.NO.DC.D 327/2015: Any Other Business

No any other business arose.

MIN.NO.DC.D/328/2015: ADJOURNMENT AND DATE OF NEXT SITTING

The Chairperson adjourned the meeting at 1.30pm

Signed.....

HON. SABINA CHEGE, M.P
(CHAIRPERSON)

Date.....

The Need for enactment of The Engineering Technologists and Technician Bill, 2015

The Technical University of
Kenya
Perspective

1. Background

The Technical University of Kenya (TUK) seeks to make a difference in the education and training of competent manpower for the public and private sector in Kenya and the East Africa region. This is pursuant to the knowledge that economic development of a nation is achievable fundamentally through technological advancement. Such technological progress is only feasible through a strong industrial base which enhances production of competitive goods and services for both the local and external markets. This requires a critical mass of personnel with requisite technological skills for production of goods and services. In order to produce these personnel, the education and training process must be competency based and anchored on solid cognitive foundations.

Kenya, as most African countries, has been left behind in the economic transformation, mainly due to slow pace of industrialization, unlike the countries popularly known as the "Asian Tigers" which were at par 50 years ago. The lag in industrialization can be attributed largely to the lack of skilled manpower. The pioneer universities in the region have been producing engineers and scientists with Bachelor of Science or Bachelor of Engineering Degrees which focus on conceptualization and design but not on production of goods and provision of services. The professionals who translate the designs and concepts into practical products and services, known as technologists, have largely been lacking in our education and training system.

For developing economies to achieve industrialization, the desired ratio of engineers to technologists is one to three, i.e. for every one engineer 3 technologists are required. In Kenya, the few technologists available were trained to the Higher National Diploma qualification level mainly from Kenya Polytechnic (now TUK) and Mombasa Polytechnic (now Technical University of Mombasa). The number of technicians and technologists is too small to impact on technological transformation and hence the low level of Kenya's industrial development. However this cadre of professionals having adequate higher technical training and education and serve the Kenyan industry well, face challenges of professional recognition with negative consequences on their upward mobility.

In implementing the government policy and in fulfillment of its mandate, TUK takes departure from the traditional universities to address the manpower development challenges cited herein and hence remains a center of excellence in training these professionals and providing them with the requisite skills and expertise in technology, creative arts, business and management. The university has created the Bachelor of Technology programs as the vehicle through which this goal will be achieved. The Bachelor of Technology programs emphasize competency-based training that improves the capacity of

personnel to produce high quality products and services. Through this approach, a sizeable number of technologists will be trained. For a critical mass of technologists to be attained quickly, TUK will work in partnership with other technical and vocational education and training (TVET) institutions which share the vision of training for technological innovation required for the achievement of Kenya's Vision 2030 goals.

However, TUK has encountered numerous challenges in trying to achieve its mandate of training Technologists and Technicians largely due to lack of a professional body to recognize, register and regulate them like other professionals. Most of the students who are admitted for Bachelor of Technology end up opting to pursue Bachelor Engineering because the latter is recognized, registered and regulated by Engineers Board of Kenya (EBK). It is therefore important to have a professional body for Engineering Technologists and Technicians.

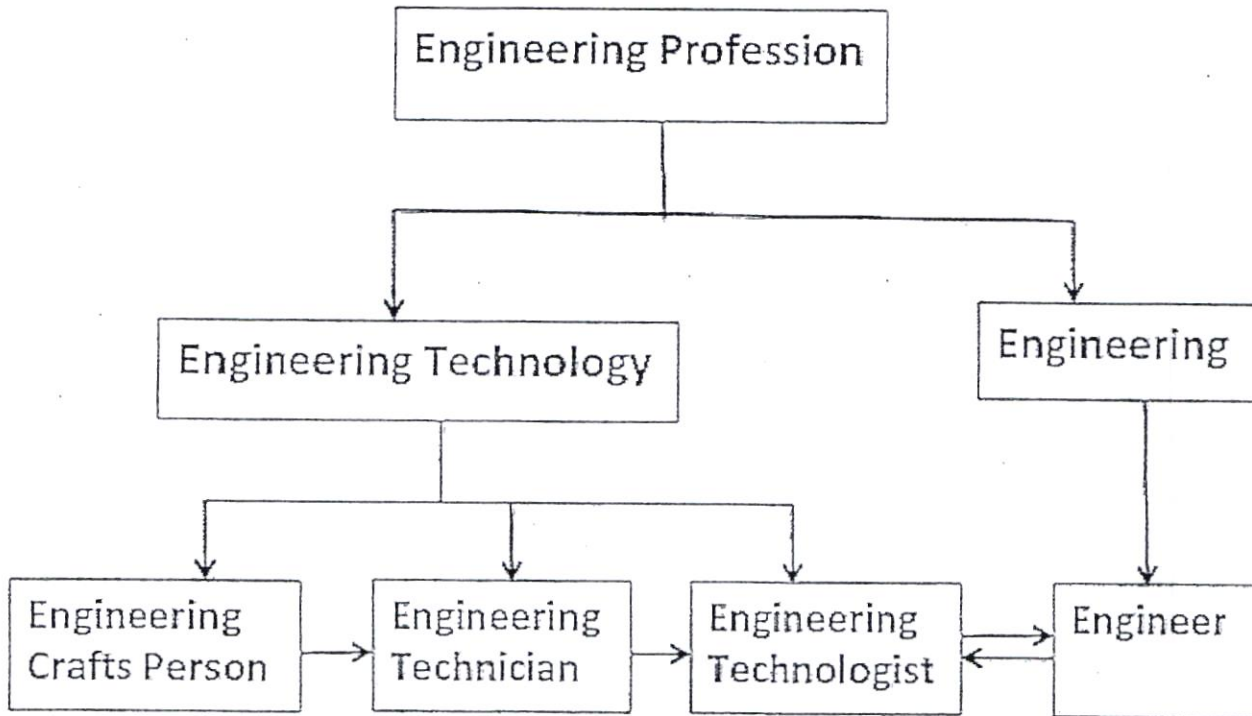
2. Regulation of Engineering Profession

In order for Kenya to make a breakthrough in industrialisation and technological development it must ensure that it has a critical mass of well trained and qualified Scientists, Engineers, Engineering Technologists, Engineering Technicians and Engineering Craft persons/artisans who comprise the **Engineering Team**. The recommended ratio for the Engineers, Engineering Technologists, Engineering Technicians and Engineering Craft persons/artisans is **1:3:12:60**.

Regulation of any Profession that touches on the Safety and Health, and Welfare of the public is mandatory worldwide. The most notable ones are the **Engineering and Medical Professions**. The Engineering Team has five cadres (Engineering Scientists, Engineers, Engineering Technologists, Engineering Technicians and craft persons/artisans), but *only one cadre (Engineer) is being registered and recognized* in Kenya by EBK; the Medical team also has five cadres (Medical scientists, Doctors/Dentists, Medical Clinical Officers, Medical Nurses and Lab. Technologists) but unlike the Engineering Team all the cadres in the Medical Team are regulated by ACTS of Parliament and all the personnel are registered and therefore accountable for their actions.

The engineering profession in Kenya is regulated by the Engineers Board of Kenya (EBK) Act, 2011, while the other cadres of engineering team are not registered or regulated although they do more than 98% of the engineering activities in Kenya. This, therefore, means that these cadres are not

accountable for their actions as their counterparts in the Medical Team. Each individual in the Engineering team contributes different knowledge and skills gained from their educational preparation and experience.



Engineering Crafts person: A person who practices or is highly skilled in a craft; artisan capable of dealing with specific and well-defined engineering problems and activities	Engineering Technician: Capable of dealing with well-defined engineering problems and activities	Engineering Technologist: Capable of dealing with broadly-defined engineering problems and activities	Professional Engineer: Capable of dealing with complex engineering problems and activities
<i>If enacted the Engineering Technologists and Technicians Bill will deal with these three cadres</i>			<i>Presently EBK only deals with this cadre</i>

3. The Registration of Engineering Professionals in other Countries

Most countries, and more especially the industrialized and newly industrialized countries, have enacted laws that govern the Engineering profession (i.e. both engineering and engineering technology). Some examples are given below:

a) United Kingdom: Engineering Council

The engineering profession in the United Kingdom is regulated by the Engineering Council through engineering institutions that are licensed to put suitably qualified persons on the Engineering Council's Register of Engineers. The Register has three sections or cadres:

- i) Chartered Engineer (CEng),
- ii) Incorporated Engineer (Engineering Technologist) (IEng), and

iii) Engineering Technician (EngTech).

b) Nigeria: Council for the Regulation of Engineering in Nigeria (COREN)

The engineering profession in Nigeria is regulated by the Council for the Regulation of Engineering in Nigeria (COREN) Act of No. 27 of 1992. The Council registers four categories or cadres:

- (i) Registered engineers (Engr);
- (ii) Registered engineering technologists (Engr. Tech);
- (iii) Registered engineering technicians (Tech); and
- (iv) Registered engineering crafts persons.

c) South Africa: Engineering Council of South Africa (ECSA)

The engineering profession in South Africa is regulated by the Engineering Council of South Africa enacted as Engineering Profession Act 46 of 2000. The Council registers four categories or cadres:

- i) Professional Engineer (Pr Eng),
- ii) Professional Engineering Technologist (PrTechEng),
- iii) Professional Engineering Technician (PrTechniEng), and
- iv) Professional Certificated Engineer (Pr Cert Eng).

d) Canada: Engineering Technology ACT of 1973

The act registers two categories: Engineering technician and Engineering technologist. Canada has a separate Act for professional engineers called Professional Engineers Act of 1922.

e) Australia: Engineers Australia

Engineers Australia administers three National Engineering Registers on advice from a board established to ensure the registers operate with integrity and in the public interest. Registration on the National Engineering Registers is available in three occupational categories:

- i) National Professional Engineers Register (NPER),
- ii) National Engineering Technologists Register (NETR), and
- iii) National Engineering Associates (Technicians) Register (NEAR)

f) New Zealand: Chartered Professional Engineers of New Zealand Act of 2002

IPENZ is the Registration Authority under the Chartered Professional Engineers of New Zealand Act of 2002. IPENZ also operates registers of current competence for Professional Engineers, Engineering Technologists and Engineering Technicians. IPENZ operates the national registers of current competence-based registers for:

- i) Professional Engineers,
- ii) Engineering Technologists, and
- iii) Engineering Technicians.

4. Reasons for the Enactment of the Engineering Technologists and Technician Act

- a) Engineering technologists, engineering technicians and Crafts persons are not presently registered and therefore are not accountable for the work they do concerning engineering activities. Almost all engineering activities in Kenya are carried out by these people. [*cf. in the medical profession in Kenya all cadres of personnel – doctors/ dentists, nurses, clinical officers and lab. technologists- are all registered and therefore are accountable for the work they do*]
- b) While degree courses have to be approved by EBK, the technical courses have no professional body to oversee its approval and implementation. In almost all countries worldwide – more so the most developed countries (UK, USA, Australia, New Zealand, Singapore, India, Malaysia, South Korea, South Africa, Nigeria, etc.,) - all cadres are registered and governed by Acts of Parliament as mentioned above.
- c) Any engineering activity is likely to *affect the safety and/or health and/or wellbeing of humanity*. All engineering activities require the input of the roles of all the engineering team members (the scientist, the engineer, the technologists, the technician and the crafts person), they all have a role to play and therefore each must be accountable through an act of parliament.
- d) Part VI of the Engineers Board of Kenya (EBK) Act 2011 Articles 48(1) and 49), prohibits any unlicensed person from engaging in the practice of engineering activities. Since the Engineering Technology Cadres are not catered for in the EBK Act, they are not allowed to do any engineering work in Kenya. But the fact remains that almost all engineering activities in Kenya are carried out by the Engineering Technology Personnel, non-recognition by EBK notwithstanding. In fact the EBK Act is not in line with other international Engineering professional bodies

Once the institution is established by law, it shall seek affiliation and recognition by the following international educational accords for international membership recognition: Sydney Accord and Dublin Accord. The registration of all the engineering technology personnel will deter them from engaging in the construction of buildings that are not approved and this will result in a reduction of the number of buildings that collapse in Kenya.

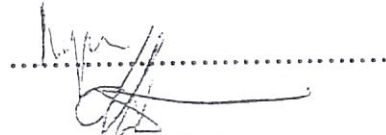
4.1 Adoption of the Report

We the members of the Departmental Committee on Education, Research and Technology have pursuant to Standing Order 199 adopted this Report on the Engineering Technologist and Technicians Bill, 2015 and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity today 17th November, 2015 :-

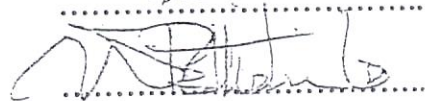
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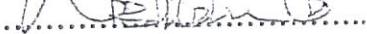
1. Hon. Sabina Chege, M.P (Chairperson)



2. Hon. Julius Melly, MP (Vice Chairperson)



3. Hon. (Dr.) Wilber Ottichillo, M.P



4. Hon. (Dr.) Christine Ombaka, M.P



5. Hon. (Prof.) Helen Sambili, E.G.H,M.P



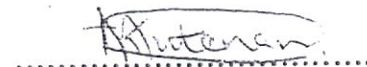
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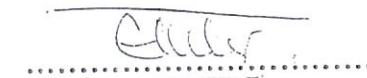
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8. Hon. Mary Seneta, M.P



9. Hon. Eric Keter, M.P



10. Hon. Muriuki Njagagua, M.P



11. Hon. Jacob Macharia, M.P



12. Hon. Joseph Meruaki, M.P



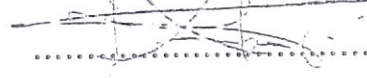
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14. Hon. Cecilia Ng'etich, M.P




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16. Hon. Silverse Lisamula Anami, M.P



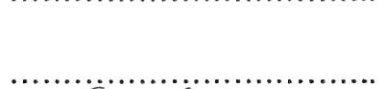
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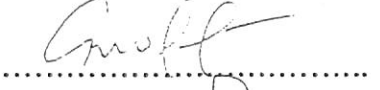
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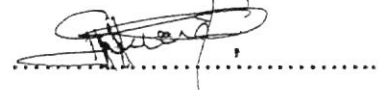
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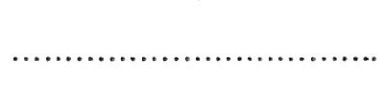
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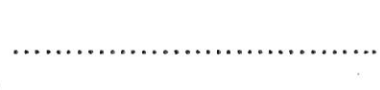
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22. Hon. Halima Ware Duri, M.P

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23. Hon. Anthony Kimaru, M.P

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24. Hon. Mohamed Adan Huka, M.P

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25. Hon. Opiyo Jared Odhiambo, M.P

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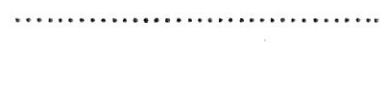
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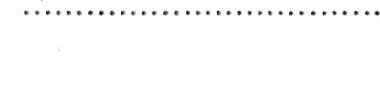
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27. Hon. Michael Kisoi Munyao, M.P

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28. Hon. Ibren Nasra Ibrahim, M.P

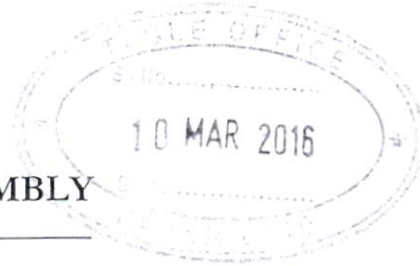
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29. Hon. Steven Kariuki, M.P.

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REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT

(FOURTH SESSION)

NA.L&P.2016/COMM (016)

March 8, 2016

PAPER LAID

Hon. Speaker, I beg to lay the following Paper on the Table of the House, today Thursday, March 10, 2016:

REPORT OF THE JOINT COMMITTEE ON PARLIAMENTARY
BROADCASTING & LIBRARY ON PROPOSED AMENDMENTS TO
THE STANDING ORDERS OF BOTH HOUSES REGARDING MEDIA-
RELATED ACTIVITIES IN THE PRECINCTS OF PARLIAMENT
BUILDINGS

(MEMBER, JOINT COMMITTEE ON PARLIAMENTARY
BROADCASTING & LIBRARY)

Copies to:

- The Speaker
- Deputy Speaker
- The Leader of the Majority Party
- The Leader of the Minority Party
- The Clerk
- Hansard Editor
- Hansard Reporters
- The Press

*Paper Laid
By Hon. Wesley Koini
On Thurs. March 10, 2016 (pm)*

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT

(FOURTH SESSION)

NA.L&P.2016/COMM (016)

March 8, 2016

PAPER LAID

Hon. Speaker, I beg to lay the following Paper on the Table of the House, today Wednesday, March 9, 2016:

REPORT OF THE JOINT PARLIAMENTARY BROADCASTING &
LIBRARY COMMITTEE ON PROPOSED AMENDMENTS TO THE
STANDING ORDERS OF BOTH HOUSES REGARDING MEDIA-
RELATED ACTIVITIES IN THE PRECINCTS OF PARLIAMENT
BUILDINGS

(MEMBER, JOINT PARLIAMENTARY BROADCASTING & LIBRARY
COMMITTEE)

Copies to:

The Speaker

Deputy Speaker

The Leader of the Majority Party

The Leader of the Minority Party

The Clerk

Hansard Editor

Hansard Reporters

The Press

Approved
SNA
9/3/16

Approved for tabling
Bat
SNA
9/3/16

REPUBLIC OF KENYA



PARLIAMENT

ELEVENTH PARLIAMENT – THIRD SESSION

REPORT OF THE JOINT PARLIAMENARY COMMITTEE ON
BROADCASTING & LIBRARY ON PROPOSED AMENDMENTS TO
THE STANDING ORDERS OF BOTH HOUSES REGARDING THE
ACTIVITIES OF THE MEDIA RELATED ACTIVITIES IN THE
PRECINTS OF THE PARLIAMENT BUILDINGS

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PREFACE

Mr. Speaker Sir,

The Joint Committee on Parliamentary Broadcasting and Library is established pursuant to Article 124(2) of the Constitution which states inter alia that-

124(2) Parliament may establish joint committees consisting of members of both Houses and may jointly regulate the procedure of those committees.

The Joint Parliamentary Committee on Broadcasting and Library as per the Senate and National Assembly Standing Orders 218 and 215 respectively outlines the Committee's mandate as-

- (a) consider and report on all matters relating to Joint Broadcasting of Parliamentary proceedings;
- (b) advise the House of Parliament on matters related to public participation in Parliament;
- (c) make reports and recommendations to the House of Parliament, including proposed legislation on matters relating to Broadcasting of Parliamentary proceedings and matters related thereof;
- (d) recommend to and advise the Houses of Parliament on matters related to provision of Library, publications and research services in Parliament, including improvement of the library and research services; and
- (e) assist members of parliament in utilizing the facilities provided by the Joint Library and Research Services, including use of information and communication technology.

Mr. Speaker Sir,

The Committee visited the Parliament of Australia for benchmarking between the dates of 28th November to 6th December 2014.

During the visit the Committee held several meetings with Australian Parliamentary officers among them Mr. James Catchpole, Deputy Serjeant-At-Arms of House of Representatives who appraised members on matters regarding the roles and responsibilities of the Serjeant-at-Arms in the outreach process and key among them being the management of the Conduct of Media Houses within Precincts of Parliament.

Upon arrival in Kenya the Committee formulated and tabled a report with among other recommendations that, "...the Rules on the Conduct of the Media Houses while in the precincts of the Parliament be formulated to guide proper broadcasting in the Parliament".

Mr. Speaker Sir,

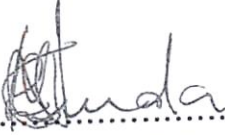
The Committee has on several occasions expressed its concerns over limitations of its operations by the Standing Orders of both Houses to precincts of Parliament only. Consequently, in this report are amendments proposed by the Committee to facilitate expansion of the Committee's mandate on oversight roles.

Mr. Speaker Sir,

The Committee profoundly extends its appreciation to the Offices of the Speaker and Clerk for the support accorded it was according during execution of its mandate.

On behalf of the Joint Parliamentary Committee on Broadcasting and Library, I now have the honour to present the amendments as proposed by the Joint Parliamentary Committee on Broadcasting and Library to the House for adoption.

Thank You,

SIGNED.....

SEN. NAISULA LESUUDA, M.P
CHAIRPERSON & LEADER OF DELEGATION

DATE:.....18-02-2016.....

PROPOSED NEW RULES ON MEDIA ACTIVITIES

1). AMENDMENTS TO THE FIRST SCHEDULE OF THE STANDING ORDERS IN BOTH HOUSES

The Committee recommends that the First Schedule of the Standing Orders in both Houses be amended by introducing the following-

NEW RULE 1A

In these rules-

“accredited media house ” refers to a media house that has been authorized to carry out media related activity by the Speaker of the Senate/National Assembly;

“approval of media related activity” is the formal permission granted by the Speaker of the Senate/National Assembly to engage in media related activity;

“external media house” refers to any media house other than the Parliamentary Broadcasting Unit;

“media related activity” refers to still photography or audio visual recording within the precincts of Parliament;

“non-accredited media house ” refers to a media house that has not been authorized by the Speaker of the Senate/ National Assembly;

“passholder” means a person who has been issued with a security pass;

The Members however deliberated and amended the passholder to mean “a person who has been issued with a pass to access designated areas within the precincts of parliament.”

“security pass” means an identification card issued to a visitor at an entry point before accessing the precincts of Parliament;

“work of Parliament” means an activity carried out either by a member of Parliament, Parliamentary staff or a visitor with an aim of fulfilling the mandate of Parliament; and

“visitor” is any person who is neither a member of Parliament nor an officer of the Parliamentary Service Commission.

NEW RULE 1B

Guiding Principles

The rules are underpinned by the following guiding principles-

- (1) openness and accessibility of the Parliament of Kenya;
- (2) facilitation of fair and accurate reporting by the external media of Parliamentary proceedings;
- (3) respect for the privacy of Members of Parliament, parliamentary staff and visitors ; and
- (4) non-interference with the operations of the Parliament of Kenya or the ability of Members of Parliament, Parliamentary staff and security passholders to fulfill their duties.

NEW RULE 1C

Roles and Responsibilities

- (1) All security pass holders shall comply with these rules.
- (2) Senators and employees of the Parliamentary Service Commission shall not carry out or encourage media related activity that is in breach of these rules.

RULE 6

THAT Rule 6 be amended by deleting sub rule (1).

NEW RULES

THAT the following new rules be inserted immediately after Rule 6-

NEW RULE 6A

6A. Approval to access Parliament for media related activity

- (1) All requests to conduct media related activity shall be channeled through the Speaker of the Senate/ National Assembly.
- (2) In making a decision whether to grant an approval for media related activity, the Speaker of the Senate/National Assembly shall ensure that the activity-
 - (a) complies with these rules, particularly the guiding principles ; and
 - (b) serves an educational, cultural or news purpose.

NEW RULE 6B

6B.Approval of media related activity

- (1) All requests to conduct media related activity in Parliament shall be submitted-
 - (a) to the Speaker of the Senate/National Assembly in writing; and
 - (b) not less than fourteen days before the date of the intended media related activity.

Deliberations ensued and members recommended that (a) be joined with (1) above and (b) be deleted.

- (2) Upon receipt of the application, the Speaker of the Senate/National Assembly may grant a written notice of approval within seven days.
- (3) If approval is granted, a written notice shall be issued, containing such conditions or restrictions as the Speaker of the Senate/National Assembly may find necessary.
- (4) Approval for media related activity within the precincts of Parliaments shall be subject to the Constitution and other applicable laws.

NEW RULE 6C

6C. Media related activity within the Precincts of Parliament

Media related activity shall be permitted-

- (a) where the media related activity does not interfere with the work of Parliament ;
- (b) within the press gallery;
- (c) within committee rooms, when invited to attend a press conference or committee hearings ; or
- (d) within a designated area within the precincts of Parliament as directed by the Speaker of the Senate/National Assembly.

NEW RULE 6D

6D. Penalties for non-compliance

A Speaker of the Senate/National Assembly may apply the following penalties for the violation of these rules-

- (a) denial of access during a sitting day;

- (b) suspension of an individual security pass holder during a sitting day;
- (c) denial of access to all chamber galleries for three sitting days in the case of a media house; or
- (d) any other penalty with the Speaker of the Senate/National Assembly may deem fit.

NEW RULE 6E

6E. Penalties for sustained breaches

Subject to rule 6D, the following penalties shall apply for sustained breaches of these rules-

- (1) suspension of security passes for all personnel working for the relevant media house for a period of one month;
- (2) suspension of an individual's security pass for a month;
- (3) any other penalty as the Speaker of the Senate/National Assembly may determine on recommendation by the Joint Committee on Parliamentary Broadcasting and Library.

RULE 7

Rule 7 is amended by-

- (a) deleting the sub-heading and inserting therefor the following new sub-heading-

7. Enforcement of Broadcasting Rules

- (b) deleting sub rule (1)

The Members directed that the prescribed form of approval be inserted to be as follow-

APPLICATION TO FILM AND PHOTOGRAPH

Please complete and return in typed word Doc. Format. All requests will be acknowledged within 3 working days

I have read and understand the Rules for *Media Related Activity in Parliament House and its Precincts* prior to submitting this form.

ORGANIZATION NAME	
EVENT NAME	
EVENT DATE	
TIME Start-Finish	
EVENT CONTACT Name/Email/Mobile No.	
LOCATION OF FILMING OR PHOTOGRAPHY	
PURPOSE OF FILMING/PHOTOGRAPHY (INCLUDING ANY PUBLICATION/PRINTING OF IMAGERY)	
NUMBER OF PEOPLE INVOLVED	
EQUIPMENT TO BE USED	
RESTRICTIONS	OFFICIAL USE ONLY

SPECIAL CONDITIONS

- When filming or photography is approved for internal areas of Parliament House, you must enter the building through the Main Parliament Public Entrance. All your Filming and photography equipment must be screened by the security prior to entry.
- Report to the Security Team Leader before commencing filming or photography
- Where the terms 'film' or 'filming' appear in this application and the Guidelines, they encompass video recording, other filming technologies and still photography including the use of digital technology.
- The privacy of Members of Parliament, staff and visitors to the building should be protected and the specific permission of any person being filmed should be sought.
- Filming should not interfere with the operations of the Parliament and/or the people who work in the building.
- No filming is to be conducted in Private areas unless prior approval has been granted.
- Security facilities and arrangement must not be filmed (i.e. the screening processes at entrances)
- Approval given subject to filming/photography being confined to the function, its participants and identified area only.

OFFICIAL USE ONLY:

APROVED/DECLINED

Date.....

Approval granted in accordance with Rules for Media Related Activity in Parliament House and its Precincts

Approved by:.....

.....

PROPOSED AMENDMENTS TO THE STANDING ORDERS 218(1) OF THE SENATE AND 215(1) OF THE NATIONAL ASSEMBLY

The Committee further proposes that the Standing Orders of Senate and National Assembly as follows-

- (i). **THAT**, Standing Order 218(1) of the Senate Standing Orders be amended by inserting the following new paragraph immediately after paragraph (b)-

(ba) liaise with county assemblies on the establishment of standards and best practices in order to enhance effective public participation in the Legislatures.

- (ii). **THAT**, Standing Order 215(1) of the National Assembly Standing Orders be amended be amended by inserting the following new paragraph immediately after paragraph (b)-

(ba) liaise with county assemblies on the establishment of standards and best practices in order to enhance effective public participation in the Legislatures.

RECOMMENDATION

The Committee requests both Houses to consider and adopt the amendments as proposed to be included during amendment of Standing Orders of both Houses.

