

SPECIAL ISSUE

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HOMA BAY COUNTY BILLS, 2018

NAIROBI, 13th July, 2018

CONTENT

Bill for Introduction into the County Assembly of Homa Bay —

PAGE

The Homa Bay County Education Bursary Fund (Amendment) Bill, 2018....1

**THE HOMA BAY COUNTY EDUCATION BURSARY
(AMENDMENT) FUND BILL, 2018**

A Bill for

**AN ACT of the County Assembly of Homa Bay to
amend the Homa Bay County Education Bursary
Fund Act, 2015 and for connected purposes**

ENACTED by the County Assembly of Homa Bay as follows—

PART I – PRELIMINARY PROVISIONS

1. This Act may be cited as the Homa Bay County Education Bursary Fund (Amendment) Act, 2018.

Short title

2. The Homa Bay County Education Bursary Fund Act 2015, hereinafter referred to as the principal Act, is amended Section 2 of the principal Act by inserting the following definitions in their proper alphabetical sequence-

Amendment of section 2 of the principal Act

“Children’s Officer means Children’s Officer as appointed under section 37 of the Children Act, 2012”

“Educational Assessment and Resource Centre officer means an officer who is trained in special education programs and is based in every sub county”

3. The cover title of the principal Act be amended by deleting the word “Burasary” and substituting therefore the word “Bursary” immediately after the words “ The Homa Bay County Education”

Amendment of Cover Title of the principal Act

4. Section 4 of the principal Act is amended by—

Amendment of section 4 of the principal Act

(a) deleting subsection (2) and substituting therefore with the following new subsection

(2) There shall be a steering committee for this fund to be known as the Homa Bay County Education Bursary Fund Committee which shall consist of;

(a) the County Executive Committee Member responsible for Education and ICT as the Chairperson

(b) the Chief officer in the meantime responsible for Education and ICT who shall be the secretary

(c) the Chief Officer responsible for finance and economic planning or his representative;

- (d) the Chief Officer responsible for finance and economic;
- (e) a representative of the County Education Board; and
- (f) a member of a Civil Society Organization or Non-Governmental Organization concerned with matters of education in the County nominated by the Governor
- (g) a member appointed by the Governor to represent persons with disabilities.
- (b) inserting the following new subsection immediately after subsection (2)

2A. The committee membership shall comprise of no more than two thirds of the same gender”

2B. The Committee membership must comprise of a person considered as a youth.

- (c) inserting the following new paragraph after paragraph (c)
- (d) Submitting quarterly reports to the County Assembly which shall include;
 - (i) Details of the amounts transferred to the Bursary Fund Account;
 - (ii) Details of any interests accrued;
 - (iii) The dates of submission of applications;
 - (iv) The list of all applications submitted to the ward bursary fund committee;
 - (v) The list of applications rejected and reasons thereof;
 - (vi) The list of successful applicants;
 - (vii) The institutions of the beneficiaries;
 - (viii) The amounts disbursed and date of disbursements;
 - (ix) The administrative costs incurred; and
 - (x) Any other information required by the County Assembly”

5. Section 7(2) of the principal Act be amended by deleting the word “*bans*” immediately after the words “be maintained in a separate” and replacing therefore with the word “bank”

Amendment of section 7 of the principal Act

6. Section 8 of the principal Act is amended—

Amendment of section 8 of the principal Act

(a) in subsection (2)(a) by inserting the words “who shall be the secretary and an ex-officio member” after the words “The Ward Administrator”

(b) in subsection (2)(b) by deleting the words “who shall be an ex-officio member and the secretary” after the words “the county officer in charge of education”

(c) in subsection (3) by inserting the words “and vice chairperson from amongst any of its members” immediately after the words “elect a chairperson”

(d) in subsection (6) by deleting the entire subsection and substituting therefore with the following new subsection

(6) The persons referred to in paragraphs (2) (d),(e), (f) and (g) shall serve for a fixed term of two years and they shall be eligible for nomination for one further term of two years.

7. Section 9(1)(d) of the principal Act be amended by deleting the word “ward” immediately after the words “creating awareness amongst the residence of the Ward about the” and replacing therefore with the word “fund”

Amendment of section 9 of the principal Act

8. Section 15 of the principal Act be amended by inserting the following new subsections after subsection (5)—

Amendment of section 15 of the principal Act

(6) The applications shall be submitted in duplicated to the Committee.

(7) The Officer designated to receive the applications shall ensure that each folio is stumped as received.

(8) The officer designated to receive the applications shall cause to be entered the details of the application in a register which shall be signed by the applicant.

(9) Upon receipt, the applications, the applicant shall retain a duplicate of the same.

9. Section 16 of the principal Act be amended by deleting the word “paragraph” immediately before the words “consider the applications submitted under” and replacing therefore with the word “section”

Amendment of
section 16 principal
Act

10. Section 17(4) of the Act be amended by deleting the words “The Community” at the beginning and replacing therefore with the word “committee”

Amendment of
section 17(4)
principal Act

11. Section 19 of the principal Act be amended-

Amendment of
section 19 principal
Act

(a) in subsection (1) by inserting the words “the Secretary of the” immediately before the words “committee shall”

(b) by deleting subsection (3)

(c) by deleting subsection (4) and substituting therefore with the following new subsections;

(4) The County Treasury shall make payments to the Chief Officer in charge of Education and ICT.

(5) The Chief Officer in charge of Education and ICT shall make further payments in favor of, and directly to the designated educational institutions in which the eligible students are enrolled after 30 calendar days of receiving the final list of beneficiaries.

(6) There shall be no direct payment to any eligible applicant.

(7) The Committee shall give written reasons to all unsuccessful applicants before submitting the final list of beneficiaries to the Fund Committee.

12. Section 21 of the Homa Bay County Education Bursary Fund Act, 2015 is amended by deleting section 21 and substituting therefor the new section—

Amendment of
section 21 of the
principal Act

21. (1) There is established an Appeals Committee to be known as the Bursary Appeals Committee in each Sub-County

(2) The Committee shall consist of the following persons;

- (a) the Sub County Administrator who shall be the Chair of the Committee;
- (b) Children's Officer; and
- (c) Educational Assessment and Resource Centre officer.

(3) A person who is aggrieved by the decision of the Ward Bursary Committee may appeal to the Sub-County Administrator within fourteen days from the date of its decision, who shall convene the Education Bursary Appeals Committee to hear and advise on such complaints within seven days from the date of the Notice to Appeal.

(4) An appeal shall be commenced by the aggrieved person by serving a Notice to Appeal in the form prescribed in the Second Schedule of the Act to the Appeals Committee through the Sub-County Administrator, County Executive Committee Member for the time being responsible for Education and Information and Communications Technology and the County Assembly.

(5) The decision of the Appeals Committee shall be communicated to the Ward Education Bursary Committee, County Executive Committee Member for the time being responsible for Education and Information and Communications Technology the appellant, the County Assembly and the within seven days

(section 21 (4))

SECOND SCHEDULE

**COUNTY GOVERNMENT OF HOMA BAY BURSARY NOTICE
OF APPEAL FORM**

Date:.....

Ward:.....

Sub-County:.....

Appeal No.:.....

A. STUDENT'S INFORMATION

Name:.....

Date of Birth:.....

National ID No./Passport No./Birth Certificate No:

B. PARENTS/GUARDIANS INFORMATION

Name of Father/Guardian:

National ID No./Passport No.:.....

Ward of Residence:.....

Sub-County of Residence:.....

Telephone Number:.....

Email address:.....

Postal Address:.....

Name of Mother/Guardian:.....

National ID No./Passport No.:.....

Ward of Residence:.....

Sub-County of Residence:.....

Telephone Number:.....

Email address:.....

Postal Address:.....

SCHOOL'S INFORMATION

Name of School:.....

Address of School:.....

Current year of study:.....

Annual School Fees:.....

Amount sought from Fund in Kshs:.....

C. REASONS FOR APPEAL

Appealing decision from Ward Bursary Committee issued on because of the following reasons:

Student's signature Date

Parent's/Guardian's signature Date

Bursary Appeal's Committee Use Only

Appeal has been upheld dismissed for the following reasons:

Bursary Appeal's Committee Members Signatures:

1. Name: _____

Designation: _____

Signature: _____

Date: _____

2. Name: _____
Designation: _____
Signature: _____
Date: _____

3. Name: _____
Designation: _____
Signature: _____
Date: _____

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the Homa Bay County Education Bursary Fund Act, No. 7 of 2015 to provide for the streamlining of the membership of the Ward Bursary Committee, the functions of the Ward Bursary Committee and establishment of an Appeals Committee and procedure.

The proposed amendment is intended to improve the administration of the Fund and to ensure fairness during awarding and disbursement of the Fund.

The enactment of this Bill shall be incorporated within the stipulated 3% administrative costs provided for in section 5 (1) (c) of the principal Act and shall not occasion additional expenditure of public funds

Dated the 3rd May, 2018.

JOHN MIRERI MATUNGA,
*Chairperson, County Assembly Committee on Education and Information
and Communications Technology.*

Section 2 of the principal Act which it is proposed to amend—

Interpretation

In this Act unless the context otherwise requires—

"Beneficiary" means a person who receives bursary money from the County Government through the Ward Bursary Committee;

"Chief Officer" means the County Chief Officer as appointed under section 45 of the County Government Act 2012 for the time being responsible for education;

"Committee" means the Ward Education Bursary Fund Committee established under section 7;

"Designated Educational Institutions", means such devolved post primary institutions and special needs primary and secondary schools established in the County which have been designated as such in accordance with the Education Act of 2011;

"Executive Committee Member", means the County Executive Committee Member who is for the time being is in charge of Education;

"Fund", means the Homa Bay County Education Bursary Fund established under section 4;

"Fund Committee" means the Homa Bay County Education Bursary Fund Committee established under section 4;

"Ward" has the meaning as assigned to it in section 2 of the County Government Act 2012;

"Ward Administrator" has the meaning as assigned to it in section 51 of the County Government Act 2012.

Section 4 of the principal Act which it is proposed to amend—

Establishment of the Fund

(1) There is established a fund to be known as the Homa Bay County Bursary Fund.

(2) There shall be a steering committee for this fund to be known as the Homa Bay County Education Bursary Fund Committee which shall consist of—

- (a) the Chief officer in the meantime responsible for education who shall be the secretary;
- (b) the Chief Officer responsible for finance and economic planning or his representative;

- (c) a representative of the County Education Board;
 - (d) a member of a Civil Society Organization nominated by the Governor;
 - (e) a member appointed by the Governor to represent special interest groups.
- (3) The Homa Bay County Education Bursary Fund Committee shall be responsible for—
- (a) providing policy direction for the overall management of the Fund;
 - (b) receiving and acting on complaints and recommendations for improved management of the Fund;
 - (c) mobilizing additional resources for the Fund apart from allocations through the ordinary budget.

Section 7 of the principal Act which it is proposed to amend—

Administration of the Fund

- (1) The County Executive Committee Member for finance and economic planning shall designate the Chief Officer as the person responsible for administering the Fund and who shall—
- (a) supervise and control the administration of the Fund;
 - (b) be the accounting officer of the Fund;
 - (c) prepare a budget and such plans for the administration of the Fund to be approved by the County Executive Committee;
 - (d) impose conditions and restrictions on the use of any expenditure arising from the Fund;
 - (e) ensure that the earnings of, or accruals to the Fund are retained in the fund, unless the County Executive Committee Member for Finance directs otherwise;
 - (f) ensure that money held in the Fund, including any earnings or accruals referred to in paragraph (e) is spent only for the purposes for which the Fund is established;
 - (g) prepare accounts for the Fund for each financial year;
 - (h) ensure that the accounts for the Fund and the annual financial statements relating to those accounts comply with the accounting standards prescribed and published by the Accounting Standards Board from time to time;

- (i) not later than three months after the end of each financial year, submit financial statements relating to those accounts to the Auditor-General;
- (j) furnish such additional information as may be required for examination and audit by the Auditor General or under any law;
- (k) present the financial statements to the County Assembly; and
- (l) designate such staff necessary to assist in the management of the Fund.

(2) All monies of the Fund shall be maintained in a separate bank account in the name of the Homa Bay Bursary Fund opened and administered in accordance with the provisions of the Public Finance Management Act 2012.

(3) The balance of the Fund at the close of each financial year shall be retained in the Fund for the purpose for which the fund is established.

Section 8 of the principal Act which it is proposed to amend—

Ward Education Bursary Fund Committee

(1) There is established for each Ward a Ward Bursary Fund Committee.

(2) The Committee shall consist of the following members—

- (a) the Ward Administrator;
- (b) the County Officer in charge of Education in the Ward who shall be an ex-officio member and the Secretary;
- (c) one person representing faith based organisations involved in education matters in the Ward, nominated by a joint forum of faith based organisations in the Ward;
- (d) one person representing non - governmental organisations and community based organisations involved in education matters in the Ward, nominated by a joint forum of non - governmental organisations and community based organisations in the Ward;
- (e) one person experienced in education matters representing persons living with disabilities nominated by a joint forum of organisations of persons living with disabilities in the Ward;
- (f) one person representing the youth nominated by a joint forum of youth organisations within the Ward;

- (g) one person representing women nominated by a joint forum of women organisations involved in education matters in within the Ward.

(3) The members of the Committee shall elect a chairperson at its first meeting.

(4) A person shall be qualified for appointment as a member under subsection 2 (b),(c),(d), (e), (f), and (g) if the person—

- (a) holds at least a secondary school level education certificate and some professional training;
- (b) meets the requirements of Chapter Six of the Constitution of Kenya 2010;
- (c) is experienced to matters relating to educations and community development; and
- (d) is a resident of the Ward.

(5) The organizations nominating members under subsection (d), (e), (f), and (g) shall propose three names of persons to be considered for appointment to the Executive Committee Member who shall appoint one from each category.

(6) The term of office for members appointed under subsection 2 (d), (e), (f), and (g) shall be three years which may be renewed for one further term only.

Section 9 of the principal Act which it is proposed to amend—

Functions of the Committee

- (1) The Committee shall be responsible for—
 - (m) receiving, reviewing and approving application for education bursary under this Act;
 - (n) determining the amount of education bursary to be awarded to each approved applicant;
 - (o) monitoring and evaluating the progress and performance of the eligible students supported under this Act;
 - (p) creating awareness amongst the residence of the Ward about the Ward; and
 - (q) carrying out such other roles as are necessary for the implementation of the object and purpose of this Act, and perform such other functions as may from time to time assigned by the Executive Member.

(2) The Secretary of the Committee shall provide secretarial services of the Committee.

Section 15 of the principal Act which it is proposed to amend—

Application for Education Bursary

(1) An eligible student applying for an education bursary under this Act shall apply to the Committee in the prescribed form.

(2) The Committee shall ensure that the forms are accessible in at least—

- (a) the County Government offices;
- (b) the Office of the Ward Administrator;
- (c) the Offices of the Members of the County Assembly;
- (d) the Office of the County Officer responsible for Education in the Ward;
- (e) the Office of the Officer responsible for Co-ordination of National Functions in the Ward;
- (f) the Office of the Village Administrator; and
- (g) the County Government websites.

(3) Notwithstanding sub-section 2, the Committee may partner or collaborate with education stakeholders such as schools, faith-based or non-governmental or community based organizations for the provision of the forms to eligible students.

(4) An applicant shall not be charged any fee for accessing the forms prescribed under this Act.

(5) An applicant being a new or continuing student shall submit duly filled forms as advised by the Committee—

- (a) by 31st December each year for continuing students in special schools and secondary schools;
- (b) by the last day of February of each year for the new students joining secondary schools;
- (c) by the 31st August of each year for students in devolved learning institutions.

Section 16 of the principal Act which it is proposed to amend—

Review of Application

The Committee shall review and consider the applications submitted under paragraph 15 within fourteen days after the expiry of the stipulated date of submission.

Section 17 of the principal Act which it is proposed to amend—

Award of Education Bursary

(1) The Committee may, consider an application under Section 16, award an education bursary, in accordance with the criteria set out under Sub-Section 2 and the guidelines issued by the County Executive Committee Member in regard to specific amounts that may be awarded to each category of applicant.

(2) The Committee shall consider the following categories of applicants in determining the amount of education bursary awarded—

- (a) family status ranked a total orphan, partial orphan, single parent, or of parents in financial need;
- (b) affirmative action or special circumstances such as girl-child, boy-child, children from informal settlement or marginalized areas; or children with special needs or living with disabilities;
- (c) discipline ranked as excellent, very good, good, fair or poor;
- (d) academic performance ranked as excellent, very good, good, fair or poor;
- (e) such other categories may be prescribed by regulations by the County Executive Committee member with the approval of the County Assembly.

(3) The Committee shall award scores in each category out of a possible one hundred and the amount awarded as an education bursary shall be directly proportional to the sum total scores by each applicant.

(4) The community shall ensure that proper minutes and records of all meetings are maintained.

(5) In considering the application under this section, the committee shall liaise, where applicable with other relevant public or private entities to ascertain whether an applicant has been awarded an education bursary under a similar scheme to cater for the same year and the amount awarded.

(6) Where the Committee establishes that an applicant has been awarded an education bursary under Sub-Section 5, it may award

additional education grant to the applicant to meet the remaining fees deficit.

Provided that the Committee gives priority to applicants who have not received any education bursary from any source.

Section 19 of the principal Act which it is proposed to amend—

Disbursements

(1) The Committee shall submit the list of beneficiaries and minutes of the proceedings to the Fund Committee for approval and preparation of payment for the Education Bursary.

(2) Where an applicant who is not eligible under this Act is granted a bursary by the Committee, the Fund Committee may cancel the bursary and give further directive to the Ward Committee.

(3) The Chief Officer shall submit the final list of beneficiaries to the County Treasury for the processing of the payments.

(4) The County Treasury shall make payments directly to the Chief Officer who shall make further payment in favour of, and directly to the designated educational institutions in which the eligible students are enrolled, and there shall be no payment any eligible applicant directly.

Section 21 of the principal Act which it is proposed to amend—

Appeals

(1) A person who is aggrieved by the decision of the Committee may appeal to the County Executive Committee Member who shall require the Fund Committee to hear and advise on such complaints.

(2) The Executive Committee Member may uphold the decision of the Committee, or make further recommendations on the matter within fourteen days after receiving an appeal under subsection.