

# A BILL

## FOR

AN ACT TO AMEND THE EDUCATION (NATIONAL MINIMUM STANDARDS AND ESTABLISHMENT OF INSTITUTIONS) ACT CAP E3 LFN 2004 AND OTHER RELATED MATTERS

*Sponsored by Senator Jibrin I. Barau*

[ ] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

- 1           1. The Education (National Minimum Standards and  
2 Establishment of Institutions) Act Cap E3 LFN 2004 (In this bill referred to  
3 as the Principal Act) is hereby amended as set out in this Bill. Amendment of  
the Principal Act
- 4           2. Section 1 of the Principal Act is amended by substituting: Amendment of  
Section 1
- 5                 (1) Section 1 with a new section 1 "Minimum standards for early  
6 childhood care and development centers, pre-primary and primary  
7 institutions".
- 8                 (2) Subsection 1(1) with a new subsection 1(1):
- 9                 "(1) The responsibility for the establishment and maintenance of  
10 minimum standards in early childhood care and development centers, pre-  
11 primary and primary institutions, and other similar institutions in the  
12 Federation is hereby vested in the Minister."
- 13           3. Section 2 of the Principal Act is amended by: Amendment of  
Section 2
- 14                 (1) Substituting subsection (f) with a new subsection (f)-
- 15                 "to develop social skills through team building activities;"
- 16                 (2) inserting new subsections (i) to (l) after subsection (h) -
- 17                 (i) to lay the foundation for academic, cognitive, social and  
18 emotional development;
- 19                 (ii) to promote readiness for reading, literacy and numeracy;
- 20                 (iii) to develop creativity in children; and

1 (iv) to develop a love for learning."

Amendment of  
Section 3

2 4. Section 3 of the Principal Act is amended by substituting  
3 subsection 1(g) with a new subsection 1(g):

4 "1(g) to provide basic knowledge and skills for further advancement  
5 in academic and technical education, including preparation for local trades and  
6 crafts."

Amendment of  
Section 4

7 5. Section 4 of the Principal Act is amended by-

8 (1) inserting a new subsection (3) -

9 "(3) The responsibility for the establishment and maintenance of  
10 minimum standards in the Federation in respect of teacher education carried  
11 out as part of higher education but not extending up to degree level is hereby  
12 vested in the National Commission for Colleges of Education, after obtaining  
13 prior approval therefor from the Minister."

14 (2) re-numbering the existing subsection (3) as subsection (4)

15 (3) inserting a new subsection (5) after the new subsection (4) -

16 "In prescribing the minimum standards mentioned in subsection (3),  
17 the National Commission for Colleges of Education and, as the case may be,  
18 the Minister, shall have regard to the matters mentioned in sections 7 and 11 of  
19 this Act."

Amendment of  
Section 7

20 6. Section 7 of the Principal Act is amended by inserting:

21 the phrase, "To produce highly effective classroom teachers who are equipped  
22 with the knowledge and skills to employ the best techniques to achieve  
23 optimum student learning" immediately below the phrase, "Purpose of teacher  
24 education".

25 (1) a new subsection (e) after the existing subsection (d) -

26 "(e) to institute practices that ensure the continuing education of  
27 teachers."

Amendment of  
Section 8

28 7. Section 8(3) of the Principal Act is amended by substituting the  
29 phrase, "in section 9 of this Act" with the phrase, "in section 9 and 11 of this  
30 Act".

- 1                   8. Section 9 is amended by substituting:
- 2                   (1) the words "the provision of" in subsections (a) and (c) with the  
3 words, "to produce".
- 4                   (2) the words "the provision of" in subsections (b) and (e) with the  
5 words, "to provide".
- 6                   (3) the words, "the introduction of" in subsection (i) with the  
7 words, "to introduce".
- 8                   9.-(1) The heading of sections 10-11 is hereby changed from  
9 "Higher Education" to "University and Higher Education".
- 10                  10. -(1) Section 10 of the Principal Act is amended by -
- 11                  (1) substituting subsection (1) with a new subsection (1)
- 12                  "(1) The power to lay down and enforce minimum standards for all  
13 universities and other degree-awarding institutions in the Federation,  
14 inserting a new subsection (4) after the existing subsection(3)
- 15                  "(4) The powers vested in the National Universities Commission  
16 by subsection (1) of this section shall supersede such similar powers  
17 conferred on any other body by any other Law or Act", and such similar  
18 powers shall be void to the extent of their inconsistency with those of NUC.
- 19                  11. Section 13 of the Principal Act is hereby amended by -
- 20                  (1) substituting subsection (a) with a new subsection (a) -
- 21                  "(a) to provide adequate education for all physically and mentally  
22 challenged children and adults in order to enable them to maximize their full  
23 potential and to play their roles in the development of the nation;"
- 24                  (2) inserting a new subsection (c) after the existing subsection (b) -
- 25                  "to provide the optimal education possible in the least restrictive  
26 environments for all children and adults with disabilities."
- 27                  12. Section 15 (1) of the Principal Act is amended by substituting  
28 the phrase, "keep himself or itself", with the word. "stay".
- 29                  13. Section 19 is amended by:
- 30                  (1) substituting the title of the section with a new title -
- Amendment of  
Section 9
- Amendment of  
the heading of  
Section 10-11
- Amendment of  
the heading of  
Section 10
- Amendment of  
Section 13
- Amendment of  
Section 15
- Amendment of  
Section 19

1 "19. Conditions for the establishment of government-owned  
2 institutions"

3 (2) amending subsection (1) by:

4 (a) substituting the phrase, "Any institution", with the phrase, "Any  
5 government-owned institution";

6 (b) deleting the phrase "irrespective of the ownership".

7 (3) amending subsection (2) by substituting the word, "university", in  
8 subsection (2)(a) with the word, "higher"

Amendment of  
Section 20

9 14. Section 20 is amended by:

10 (1) substituting the word, "learning" everywhere it occurs with the  
11 word, "education" deleting the phrase "and who satisfy the criteria set out in the  
12 Schedule to this Act for establishment of institutions" from subsection (b).

Amendment of  
Section 21

13 15. Section 21 of the principal Act is amended by:

14 (a) Substituting the word, "learning" with the word "education" in  
15 subsection (1);

16 (b) Substituting the phrase "tertiary institution" with the phrase  
17 "institution of higher education" everywhere it occurs in subsection (2);

18 (c) Substituting subsection (3) with a new subsection (3).

19 "(3) No person or group of persons (whether corporate or  
20 incorporate):

21 (1) shall establish or run an institution of higher education in any part  
22 of Nigeria, either independently or in conjunction with any institution of higher  
23 education within or without Nigeria, without the written approval of the  
24 appropriate authority; and

25 (2) shall be granted approval to establish an institution of higher  
26 education unless the criteria set out in the Schedule of this Act have been  
27 satisfied."

28 (3) Inserting a new subsection (4) after the new subsection (3).

29 "(4) The approval to establish an institution of higher education shall  
30 be granted in the form of license, which license shall be granted for such period,

1 and subject to such further terms and conditions, as the appropriate authority  
2 may prescribe, in consultation with the Minister."

3 16. Section 22 of the Principal Act is amended by substituting the  
4 existing Section 22 with a new Section 22 -

Amendment of  
Section 22

5 "22. Powers to enforce minimum standards in institutions of higher  
6 education.

7 (1) (a) Any person or group of persons who establishes or operates  
8 an unapproved institution of higher education, including persons acting as  
9 Principal Officers in such an institution, shall be guilty of an offence and  
10 shall be liable severally on conviction to imprisonment for a term of not less  
11 than five years and not more than ten years without an option of fine;

12 Provided that no person shall be charged under this subsection until all  
13 processes required by subsections (b) and (d) of this section have been  
14 complied with;

15 (b) Any institution of higher education established otherwise than  
16 in compliance with sections 19, 20 and 21 of this Act shall be deemed to be  
17 illegal and shall be liable to closure by the appropriate authority but before  
18 any such closure, the appropriate authority shall afford the proprietor of the  
19 institution an opportunity to make representations for consideration by the  
20 appropriate authority not later:

21 (i) The National Universities Commission, in the case of  
22 Universities and all other degree-awarding institutions or bodies;  
23 than sixty days after receipt of notice by the proprietor from such authority  
24 of its intention to close down the institution;

25 (c) Where an institution of higher education is closed down under  
26 this subsection, the appropriate authority shall appoint a qualified person, to  
27 be known as a receiver, to take charge of the assets and liability of any such  
28 institution for the purposes of winding down the operations of such  
29 institution in accordance with existing laws;

30 (d) Any person aggrieved by any decision taken under or pursuant

1 to subsections (b) and (c) of this section shall have a right to apply to court for a  
2 review of the matter;

3 (c) Where an offence under subsection (a) of this section is committed  
4 by a body corporate, firm or partnership, it shall be liable on conviction to a fine  
5 of not less than five million naira, and

6 (i) the chairman of the Board and directors of the body corporate;

7 (ii) every partner and principal officer of the firm or partnership; and

8 (iii) every person purporting to act in any such capacity shall be  
9 severally liable to be proceeded against and shall be liable on conviction to a  
10 term of not less than five years and not more than ten years imprisonment  
11 without an option of fine.

12 (f) The powers conferred under this subsection shall not be exercised  
13 by the appropriate authority in respect of any institution belonging to any  
14 government in the Federation without the prior approval of the President, or the  
15 relevant Governor or Local Government Chairman.

16 (2)(a) Unless otherwise provided by this Act, the establishment and  
17 operation of all institutions of higher education in Nigeria, irrespective of their  
18 ownership, shall be subject to, and comply with the licensing and regulatory  
19 requirements, of the appropriate authorities, namely:

20 (i) The National Universities Commission, in the case of Universities  
21 and all other degree-awarding institutions or bodies;

22 (ii) The National Board for Technical Education, in the case of  
23 Polytechnics, Colleges of Agriculture, and all other forms of technical  
24 education below degree level;

25 (iii) The National Commission for Colleges of Education, in the case  
26 of Colleges of Education and all other forms of teacher training below degree  
27 level.

28 (c) The appropriate authority shall have the power to close down any  
29 academic unit or program in any approved institution of higher education  
30 within its jurisdiction that does not meet the prescribed minimum standards

1 stipulated for it by that authority, or contravenes existing regulations of  
2 same authority;

3 (d) With regard to institutions of higher education that are privately  
4 owned, the appropriate authority shall have the power, where a breakdown  
5 of internal governance processes threatens the maintenance of minimum  
6 standards, to -

7 (i) Suspend the existing administrative structure of the affected  
8 institutions; and

9 (ii) Constitute a Caretaker Committee to temporarily oversee the  
10 affairs of that institution:

11 Provided that the appropriate authority shall, on the successful  
12 resolution of the crisis, re-establish the governance structure of the affected  
13 institution, in line with the authority's existing regulations.

14 (e) Any person or corporate body responsible for carrying out such  
15 directive that fails, refuses or neglects to carry out directives issued by the  
16 appropriate authority pursuant to the provisions of this subsection, or  
17 invites, induces or abets any other person to obstruct or interfere with such a  
18 directive shall be guilty of an offence and shall be liable on conviction to a  
19 term of not less than one year and not more than three years imprisonment  
20 without an option of fine.

21 (3) As from the commencement of this Act-

22 (a) it shall be unlawful for any University in Nigeria, whether  
23 acting individually or in conjunction with other Institution within or outside  
24 Nigeria, to establish and/or run degree programs in satellite campuses or  
25 study centers outside its primary location;

26 (b) all degree programs being run on satellite campuses and study  
27 centers shall cease to operate and all the affected students shall be at liberty  
28 to re-apply to any existing approved University running such programs with  
29 full accreditation by the National Universities Commission;

30 (c) any person or group of persons, including persons acting as

1 Principal Officers in approved institutions of higher education, who, in  
2 contravention of this subsection, approve, establish and/or operate satellite  
3 campuses, study centers, or other similar venues by whatever name called, or  
4 any other form of unapproved degree-awarding Institution, for running degree  
5 programs outside of the primary location of a University shall be liable on  
6 conviction to imprisonment for a term of not less than three years and not more  
7 than five years without an option of fine;

8 (d) Where the person, body corporate, firm or partnership convicted  
9 for operating an unapproved institution of higher education and/or for  
10 committing an offence under subsection (3) of this section is also the owner of  
11 the premises or landed property in question, such premises or landed property  
12 shall, in addition to other punishments stipulated by this Act, be forfeited to the  
13 Federal Government:

14 (i) the chairman of the Board and directors of the body corporate;

15 (ii) every partner and principal officer of the firm or partnership; and

16 (iii) every person purporting to act in any such capacity shall be  
17 severally liable to be proceeded against and shall be liable on conviction to  
18 imprisonment for a term of not less than two years and not more than five years  
19 imprisonment without an option of fine.

20 (4) (a) Any person who, knowing it is to be used for the operation of  
21 an unapproved institution of higher education and/or for purposes prohibited  
22 under subsection (3) of this section, sells, lets or otherwise makes available for  
23 use his landed property or premises shall be guilty of an offence and liable on  
24 conviction to imprisonment for a term of not less than two years and not more  
25 than five years without option of fine;

26 (b) Where an offence under this subsection is committed by a body  
27 corporate, firm or partnership, it shall be liable on conviction to a fine of not  
28 less than three million naira, and

29 (i) The chairman of the Board and directors of the body corporate;

30 (ii) Every partner and principal officer of the firm or partnership; and



1 (iii) Every person purporting to act in any such capacity shall be  
2 severally liable to be proceeded against and shall be liable on conviction to a  
3 term of not less than two years and not more than five years imprisonment  
4 without an option of fine.

5 (c) Where the person, body corporate, firm or partnership  
6 convicted for operating an unapproved institution of higher education  
7 and/or for committing an offence under subsection (3) of this section is also  
8 the owner of the premises or landed property in question, such premises or  
9 landed property shall, in addition to other punishments stipulated by this  
10 Act, be forfeited to the Federal Government.

11 (5) It shall be an offence, punishable on conviction by a fine of not  
12 less than one million naira for each person so admitted, for an institution of  
13 higher education to admit, for purposes of further education, a person that is  
14 in possession of a degree, diploma, certificate or other academic award  
15 issued by an unapproved institution of higher education.

16 (6) It shall be an offence, punishable on conviction by a fine of not  
17 less than one million naira for each person so employed, for an employer of  
18 labor, whether in the public or private sector, to recognize and, thereby, base  
19 a decision to employ, on a degree, diploma, certificate or other academic  
20 award issued by an unapproved institution of higher education.

21 (7) Subject to section 174 of the 1999 Constitution of the Federal  
22 Republic of Nigeria (as amended), any legal officer in the appropriate  
23 authority may conduct criminal proceedings in respect of offences, or  
24 regulations made, under this Act.

25 (8) The appropriate authority may, from time to time, make  
26 regulations, with the approval of the Minister, where mandated to do so by  
27 this Act or where the effective administration of this Act so requires.

28 17. Section 24 of the Principal Act is amended by inserting the  
29 word "farms," after the word, "drawing-rooms," and before the word,  
30 "typewriting rooms," in subsection (1)(g).

Amendment of  
Section 25

1 18. Section 25 of the Principal Act is amended by:

2 (1) Substituting the interpretation of the word, "Academic Unit", with  
3 a new interpretation -

4 "Academic Unit" means a College, Faculty or Department duly  
5 approved by the appropriate authority to run academic disciplines or  
6 programs".

7 (2) substituting the interpretation of the word, "Campus", with a new  
8 interpretation-

9 "Campus" means any primary location of an institution approved by  
10 the appropriate authority."

11 (3) Inserting new-subsections (c) to (e) after the existing subsection  
12 (b) in the interpretation of the word, "appropriate authority" -

13 "(c) The National Universities Commission, in the case of  
14 Universities and all other degree-awarding institutions or bodies;

15 (d) The National Board for Technical Education, in the case of  
16 Polytechnics, Colleges of Agriculture, and all other forms of technical  
17 education below degree level;

18 (e) The National Commission for Colleges of Education, in the case  
19 of Colleges of Education and all other forms of technical education below  
20 degree level.

21 (4) Substituting the interpretation of the word "technical education"  
22 with a new interpretation -

23 "technical education" means education given in institutions other  
24 than institutions of higher education, providing both the scientific knowledge  
25 and practical skills for a specific trade, employment or profession as craftsman,  
26 technician, technologist, engineer, scientist or similar levels in business, in the  
27 fields of engineering, applied science, agriculture or business."

28 (5) Inserting the interpretation of the words 'unapproved degree-  
29 awarding Institution" and "unapproved institution of higher education"

1 immediately after the interpretation of the words "technical education" as  
2 follows-

3 "unapproved degree-awarding Institution" means a degree-  
4 awarding Institution operating without the approval of the National  
5 Universities Commission first sought and obtained with requisite license."

6 "unapproved institution of higher education" means any  
7 institution of higher education operating without the approval of the  
8 appropriate authority."

9 **19. The Schedule to the Principal Act is amended by -**

10 (1) Amending Clause 2 (2) by inserting the word, "on", before the  
11 phrase, "staff ratio based on the courses contemplated."

12 (2) Amending the Clause 4 by inserting new subsections (d) and (e)  
13 immediately after the existing subsection (c).

14 "(d) the applicant has established an endowment fund for at least  
15 N250 million in a reputable bank for the University which fund shall be  
16 increased to N500 million within the first 5 years and to at least N1 billion in  
17 the next 10 years of the establishment of the University;

18 (e) where the proposed University is registered or incorporated in  
19 Nigeria as a charitable company limited by guarantee; the proprietor(s),  
20 operator(s), trustees or directors are disentitled from drawing profits from  
21 the University".

22 (3) Amending Clause 5(1) by:

23 (i) deleting the existing subsection 5(1)(b) in the Principal Act and  
24 inserting a new Subsection (b) thus:

25 "(b) the minimum land area for a University, Polytechnic,  
26 Monotechnic and College of Education shall be determined by the extant  
27 guidelines issued by the appropriate authorities.

28 (ii) Inserting a new Subsection (c):

29 "(c) The land forming part of the assets under paragraph (b) at the  
30 time of the approval contains fully developed infrastructure which in the

Amendment of  
the Schedule

1 opinion of the appropriate authority will be sufficient for the take-off of the  
2 Institution."

3 (4) Amending Clause 7 by substituting the existing Clause 7 with a  
4 new Clause 7-

5 "7. To prevent the problems of inadequate municipal facilities, the  
6 proposed institution shall have a clear policy on student and staff  
7 accommodation, catering, welfare and other municipal services."

8 (5) Amending Clause 8 by deleting the word, "mission" and  
9 substituting it with the word, "vision".

10 (6) Substituting the existing short title with a new short title-  
11 "EDUCATION (NATIONAL MINIMUM STANDARDS AND ESTABLISHMENT OF  
12 INSTITUTIONS) AMENDMENT ACT"

Citation

13 20. This Bill may be cited as the Education (National Minimum  
14 Standards and Establishment of Institutions) (Amendment) Bill, 2018.

#### EXPLANATORY MEMORANDUM

This Bill seeks to amend the Education (National Minimum Standards and Establishment of Institutions) act CAP E3 LFN 2004 to provide regulatory bodies with effective tools for enforcing national minimum standards in the educational sector.