

SPECIAL ISSUE

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REPUBLIC OF KENYA

**ELGEYO MARAKWET COUNTY
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BILLS, 2016

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COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

**THE ELGEYO MARAKWET VOCATIONAL TRAINING BILL,
2016**

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THE ELGEYO MARAKWET VOCATIONAL TRAINING BILL, 2016

A Bill for

AN ACT of the County Assembly of Elgeyo/Marakwet to provide for the establishment of vocational training centres to offer courses in technology, applied science and other technical studies, to provide for their registration and administration and for other connected purposes

ENACTED by the County Assembly of Elgeyo Marakwet as follows—

PART I — PRELIMINARY

1. This Act may be cited as the Elgeyo Marakwet Vocational Training Bill, 2016, and shall come into operation on a date appointed by the executive committee member responsible for education by notice in the county and Kenya Gazette, which date shall not be later than ninety days from the date of its publication.

Citation.

2. In this Act, unless the context otherwise requires —

Interpretation.

“board” means the Board of Governors of a vocational training centre;

“council” means the Vocational Training Centre Council established under section 15;

“directorate” means the Directorate of Education and Technical Training established by the County Public Service to manage all matters relating to education and training;

“vocational training centre” means a vocational training centre established and registered under this Act.

PART II — ESTABLISHMENT OF THE VOCATIONAL TRAINING CENTRES

3. The Governor shall promote the establishment of vocational training centres in the county —

Responsibilities of the Governor.

- (a) for the training of young people to acquire relevant occupational trade skills and enable them to earn a living;
- (b) to promote the exchange of knowledge and skills and enhance business and industry in the county;

- (c) to enhance research for the advancement of knowledge and its practical application; and
- (d) to organize conferences, seminars and study groups for the promotion of field learning and gaining of skills by local communities.

4. (1) The Governor shall ensure the establishment of vocational training centres by the County Government.

Establishment of a vocational training

(2) Any qualified person or body may establish a vocational training centre in the county.

5. The County Executive Committee shall, in consultation with the County Education Board established under the Kenya Basic Education Act. No. 14 of 2013—

Guidelines on training programmes.

- (a) plan, develop and coordinate training and research in the vocational training centres in the county.
- (b) provide guidelines on the courses of study, their curriculum and minimum standards of the vocational training centres.

6. A vocational training centre established under this Act shall—

Powers and functions of a vocational training centre.

- (a) provide full-time or part-time technical or vocational courses in technology, applied science and agri-business studies;
- (b) award certificates in accordance with the requirement of the course and the authority responsible for higher education;
- (c) provide such facilities for its students as it considers desirable;
- (d) establish and appoint persons in academic and other posts and offices as it considers necessary;
- (e) fix, demand and receive fees and other charges as may be appropriate ;
- (f) provide technical and consultancy services to businesses and industries as it considers desirable;
- (g) solicit and receive donations and contributions from any source or raise funds by all lawful means;
- (h) give donations and contributions to any person or organization;

- (i) make provision for the general welfare, recreational and social needs of its staff and students; and
- (j) do all such things as may be necessary, incidental or conducive to the attainment of all or any of the above.

PART III—REGISTRATION OF VOCATIONAL TRAINING CENTRE

7. (1) A person shall not operate a vocational training centre unless it is registered under the TVET Act No. 29 of 2013.

Vocational training centre to be registered.

(2) Any person who operates a vocational training centre which is not registered under the TVET Act No. 29 of 2013 Act commits an offence.

8. (1) An application for registration of a vocational training centre under this Act shall be in a form prescribed by the Executive Committee Member responsible for education.

Application for registration of a vocational training centre.

(2) An application for registration of a vocational training centre under this Act shall be submitted to the Directorate of Education and Technical Training which shall forward a copy of the application to the County Education Board.

(3) The County Education Board shall, within fifteen working days after receiving the application—

- (a) organize an inspection of the vocational training centre; and
- (b) conduct an interview with the applicant to assess the suitability of the equipment and the persons proposed to be employed in the vocational training centre.

(4) The County Education Board shall within a reasonable period after the inspection and interview forward its recommendation to the Directorate for the registration of the vocational training centre or to take such other action as the Directorate may deem fit.

9. Any person making an application for registration of a vocational training centre shall pay the prescribed fees to the Directorate.

Applicant to pay prescribed fee.

10. The Directorate shall, within seven days after receiving the application, publish the application in the county Gazette and in at least one daily newspaper of national circulation.

Publication of the application.

11. (1) The Directorate shall register a vocational training centre if it is satisfied, based upon the written recommendation of the County Education Board that the applicant is a fit and proper person to operate the vocational training centre.

Registration of a vocational training centre.

(2) The Directorate shall, within a reasonable period after registration of a vocational training centre forward the name and all relevant information of the vocational training centre to the County Education Board.

(3) Any person aggrieved by the decision of the Directorate under this section may, within thirty days of being notified of the decision, appeal against the decision to the Authority responsible for higher education.

12. (1) The Directorate may issue to the applicant for registration of a vocational training centre a permit to operate pending the fulfilment of the conditions required by the Directorate for the determination of the application.

Permit to operate prior to registration.

(2) A permit under subsection (1) shall cease to operate upon—

- (a) the delivery of a certificate of registration to the applicant; or
- (b) the expiry of twenty-four hours after receipt of the notice of refusal of registration or such longer period as the Directorate of Education may specify in the notice.

(3) As a condition of the grant of a permit under this section, the Directorate may prescribe a period within which the applicant must fulfill the conditions required by the directorate for the improvements of the operation of the polytechnic.

(4) A permit issued under this section shall be in the form prescribed by the Executive Committee Member responsible for education.

(5) The holder of a permit under this section shall allow an inspector to enter the premises of the village

polytechnic at all reasonable hours, for the purpose of carrying out any inspection to ascertain whether the vocational training centre is in compliance with the conditions of the permit.

13. (1) The Directorate shall, on registration of a vocational training centre issue a registration certificate to the applicant.

Registration
certificate.

(2) A registration certificate shall be valid for a period of five years from the date of issue and may be renewed on application by the operator of the vocational training centre in accordance with this Act.

14. The registration certificate issued under section 12 shall be displayed, by the operator, in a conspicuous place on the premises of the vocational training centre .

Registration
certificate to be
displayed.

15. (1) The Directorate shall keep a register of all village polytechnic operating in the county and shall include in the register names of the vocational training centre and such other particulars as the Executive Committee Member responsible for education may prescribe.

Register of vocational
training centre to be
Kept.

(2) The Directorate shall forward all the particulars recorded in the register to the County Education Board.

PART IV — ADMINISTRATION OF VOCATIONAL TRAINING CENTRE

Establishment of Council for Vocational Training Centre Established by the County Government

16. (1) A vocational training centre established by the County Government shall have a governing body known as the Vocational Training Centre Council.

Vocational training
centre Council.

(2) The Vocational Training Centre Council is responsible for—

- (a) the education policy and mission of the vocational training centre ;
- (b) overseeing the activities of the vocational training centre ;
- (c) safeguarding the assets of the vocational training centre and the effective and efficient use of its resources;

- (d) considering and approving annual estimates of income and expenditure of the vocational training centre;
- (e) overseeing the activities of the vocational training centre ;
- (f) safeguarding the assets of the vocational training centre and the effective and efficient use of its resources;
- (g) the appointment and disciplining of the principal, the vocational training centre secretary and other senior officers as the Council may determine;
- (h) the determination of the conditions of service of the principal and other senior officers of the vocational training centre with prior approval of the County Executive Committee Member responsible for education;
- (i) considering and approving of recommendations of the academic board;
- (j) the establishment of committees which may be necessary for the efficient performance of its business; and
- (k) such other functions that are incidental to the achievement of the aims and objectives of the vocational training centre .

17. (1) A vocational training centre Council shall consist—

Composition of Council.

- (a) a Chairperson;
- (b) a Deputy Chairperson;
- (c) one representative of the Alumni Association;
- (d) two representatives of the industry;
- (e) one member of the academia;
- (f) one persons representing persons with disabilities and the disadvantaged community;
- (g) two persons (male and female) aged below 35yrs representing the youth;
- (h) two persons representing the community in the county, taking into consideration gender balance;

- (i) a representative of the of County Education department;
- (j) a representative of the County Education Board; and
- (k) the Principal of the vocational training centre as an *ex-officio* member.

(2) All members of the Council, other than the *ex-officio* member, shall be appointed by the Executive Committee Member responsible for education with the approval of the County Education Board.

(3) Members of the Council shall hold office for a period of five years from the date of appointment and shall be eligible for reappointment.

(4) The Council shall appoint a qualified person be the secretary to the Council.

18. (1) A member of the Council shall cease to hold office if the member—

Vacation of office of
member of Council.

- (a) is unable to perform the functions of the office by reason of mental or physical infirmity;
- (b) is declared bankrupt or becomes insolvent;
- (c) is convicted of a criminal offence and sentenced to a term of imprisonment of six months or more;
- (d) resigns in writing to the Executive Committee Member responsible for education;
- (e) without reasonable cause, is absent from three consecutive meetings of the Council;
- (f) is found guilty of professional misconduct by the relevant professional body;
- (g) is disqualified from holding a public office under the Constitution;
- (h) engages in any gross misbehaviour or misconduct; or
- (i) dies.

(2) The County Executive Committee Member responsible for education may remove a member from the office if in the opinion of the Executive Committee



Member the member is unfit to continue in office on any of the grounds under subsection (1).

19. If the office of a member of the Council falls vacant, the County Executive Committee Member may appoint another person to fill the vacancy and the person appointed shall be in office for the remainder of the term of the vacating member.

Filling of vacancy.

20. (1) The Council shall meet for the despatch of business at a time and place that the Chairperson may determine but shall meet at least three times each academic year.

Meetings of a Council.

(2) The Chairperson shall preside at each meeting of the Council, in the absence of the Chairperson the Vice-Chairperson shall preside and in the absence both the Chairperson and the Vice-Chairperson, a member of the Council elected by the other members present may preside.

(3) A meeting shall be convened if six members of the Council sign a requisition to that effect.

(4) The quorum at a meeting of the Council shall be half of the members of the Council.

(5) A decision of the Council shall be decided by consensus failing which a simple majority of votes cast shall decide the matter.

(6) The person chairing a meeting of the Council shall have an original and a casting vote.

(7) The Council may co-opt any person to attend a meeting of the Council but that person shall not vote on a matter for a decision by the Council.

***Board of Directors for a Vocational Training Centre
Privately Established***

21. (1) There shall be a board of Directors for a vocational training centre privately established and sponsored as may be determined by the promoters of the vocational training centre.

Board of Directors of a vocational training centre.

(2) The Board of Directors shall be responsible for—

- (a) the education policy and mission of the vocational training centre ;
- (b) overseeing the activities of the vocational training centre;

- (c) considering and approving annual estimates of income and expenditure of the vocational training centre;
- (d) safeguarding the assets of the vocational training centre and the effective and efficient use of its resources;
- (e) considering and approving annual estimates of income and expenditure of the vocational training centre;
- (f) the appointment and disciplining of the Principal and other senior officers;
- (g) considering and approving the recommendations of the academic board; and
- (h) overseeing the general management and administration of the polytechnic.

(2) The board may, in the exercise of its functions, ensure payment of all expenses incurred in promoting and registering the company and may exercise all such acts required to be exercised by the company subject to the provisions of this Act or any regulations made under it.

Staff of a Vocational Training Centre

22. (1) A vocational training centre shall, through an open, transparent and competitive recruitment, appoint a suitably qualified person to be the principal of a vocational training centre

Principal and Deputy
Principal of a
vocational training
centre.

(2) A person shall be qualified for appointment as the principal if the person—

- (a) holds at least, Higher Diploma in Technical Education from a recognized training institution in Kenya or accredited foreign training institution.
- (b) has at least three years proven experience at management level;
- (c) has experience in any technical field; and
- (d) meets the requirements of Chapter Six of the Constitution.

(3) The principal shall serve on such terms and conditions as the Council or board may determine.

(4) The principal shall, in the performance of the functions and duties of office, be responsible to the Council or the board as the case may be.

(5) The principal shall be the Chief Executive and accounting officer of the vocational training centre and as such, shall be responsible for—

- (a) the academic performance of the vocational training centre
- (b) carrying into effect the decisions of the Council or board;
- (c) day-to-day administration and management of the affairs of the vocational training centre ;
- (d) supervision of the academic and other staff of the vocational training centre ; and
- (e) perform such other duties as may be assigned by the Council or board.

(6) A Vocational Training Centre Council shall appoint a deputy principal of the vocational training centre who shall deputize the principal and perform such work as the Principal may assign.

(7) The provisions of subsection (2) (a), (c) and (d) shall apply to the appointment of a deputy principal.

23. (1) The vocational training centre shall have such academic, technical and administrative officers and support staff, as may be determined by the Council or board.

Other officers and staff.

(2) In addition to the staff under subsection (1), the County Government and the County Education Board may, upon request by the Council or board, second to a vocational training centre such officers as may be necessary for the better performance of vocational training centre.

Academic Board of a Vocational Training Centre

24. A vocational training centre shall have an academic board consisting of the principal, deputy principal, heads of the academic departments and any other persons specified by the Council or Board of Directors as the case may be.

Academic Board.

25. The Academic Board is responsible for—

Responsibility of the

- (a) determining the criteria for the admission of students;
- (b) issues relating to scholarships at the vocational training centre if any;
- (c) the content of curricula, the academic standards, validation and review of courses;
- (d) the procedure to assess and examine students;
- (e) the appointment and removal of internal and external examiners;
- (f) the procedure for the award of qualifications and honorary academic titles;
- (g) the procedure for expelling students on academic grounds;
- (h) the development of the academic activities of the vocational training centre;
- (i) consideration of the resources required to support the academic activities of the vocational training centre;
- (j) the establishment of links with different industries and businesses to ensure the entrepreneurial development of students; and
- (k) advising the Council or board and the principal on academic policy and other matters of importance to the vocational training centre.

Academic Board.

26. (1) The Academic Board may establish committees to perform such of its functions as it may determine but each committee shall be approved by the Council or board as the case may be.

Committees of academic board.

(2) The number of members of a committee and the terms upon which committee members are to hold office shall be determined by the academic board with the approval of the Council or board.

PART V—FINANCIAL PROVISIONS FOR VOCATIONAL TRAINING ESTABLISHED BY THE COUNTY GOVERNMENT

27. (1) The funds for vocational training established by the County Government shall consist of—

Funds for vocational training.



- (a) monies allocated by the County Government for purposes of the vocational training centres;
- (b) any grants, gifts, donations or other endowments given to the vocational training centre; and
- (c) such funds as may vest in or accrue to the vocational training centre in the performance of its functions under this Act or any other written law.

(2) Any funds donated, granted or lent to the vocational training centre shall be made public before use.

28. (1) At least three months before the commencement of each financial year, a vocational training centre shall cause to be prepared estimates of the revenue and expenditure of the vocational training centre for that year and submit the same to County Executive Member responsible for education.

Annual Estimates.

(2) The annual estimates shall make provision for all the estimated expenditure of the vocational training centre for the financial year concerned and, in particular, shall provide for—

- (a) payment of remuneration in respect of the members and staff of the vocational training centre;
- (b) payment of pensions, gratuities and other charges in respect of benefits which are payable out of the funds of the vocational training centre;
- (c) maintenance of the buildings and equipment of vocational training centre;
- (d) funding of training, research and development activities of the vocational training centre;
- (e) creation of funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of buildings or installations and equipment in respect of other matters that the vocational training centre may deem fit; and
- (f) any other expenditure necessary or required for the purposes of this Act.

(3) The annual estimates shall be approved by the vocational training centre before the commencement of the financial year to which they relate and forwarded to the Executive Committee Member responsible for education.

29. (1) The Vocational Training Centre Council shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Vocational Training Centre.

Accounts and Audit.

(2) Within a period of three months after the end of each financial year, the Vocational Training Centre Council shall submit to the county schools Auditor, the accounts of the Vocational Training Centre in respect of that year together with a—

- (a) statement of the income and expenditure of the vocational training centre during that year; and
- (b) statement of the assets and liabilities of the vocational training centre on the last day of that financial year.

30. (1) The Council shall, at the end of each financial year cause an annual report to be prepared.

Annual Report.

(2) The Council shall submit the annual report to the Governor three months after the end of the year to which it relates.

(3) The annual report shall contain in respect of the year to which it relates—

- (a) the financial statements of the vocational training centre ;
- (b) a description of the activities of the vocational training centre;
- (c) other statistical information relating to the its functions that the vocational training centre may consider appropriate;
- (d) the impact of the exercise of any of its mandate or function;
- (e) any impediments to the achievements of the objects and functions of the vocational training centre; and



- (f) any other information relating to its functions that the Council considers necessary.

(4) The annual report shall be published and publicized in a manner that the Council may determine.

PART VI — MISCELLANEOUS PROVISIONS

31. The Directorate shall, in consultation with the County Education Board, inspect and monitor the standards of the vocational training centres in the county.

Quality assurance in vocational training centres.

32. The Executive Committee Member responsible for education shall, in consultation with the County Education Board and with the approval of the County Assembly, make Regulations for the better carrying out of the purposes and provisions of this Act.

Regulations.

33. A vocational training centre Council or Board may make rules not inconsistent with the provisions of this Act, generally for the better functioning of the vocational training centre.

Rules.

34. Any person who contravenes the provisions of this Act commits an offence and is liable, on conviction, to a fine not exceeding one million shilling or to a term of imprisonment not exceeding two years or to both.

Offences and penalty.

MEMORANDUM OF OBJECTS AND REASONS

The main object of this Bill is to promote the establishment and progressive development of vocational training centres in the county and enhance acquisition of occupational trade skills by the youth through training as well as the exchange of knowledge, transfer of technology and development workplace attitudes.

This Bill is Structured as Follows:

PART I—of the bill deals with the preliminary provisions.

PART II—of the bill deals with the establishment of vocational training centres.

PART III—provides for registration and licensing of vocational training centres under the TVET Act No.29 of 2013, registration and licensing of trainers in vocational training centres and provisional permit for a vocational training centre to operate pending substantive licensing or registration by TVET Authority.

PART IV—deals with governance and management of vocational education and training.

PART V—outlines the financial provisions.

PART VI—deals with miscellaneous provisions including the transitional provisions relating to existing institutions, statutes or Regulations which are in force immediately before commencement of this Act.

Dated the 7th January, 2016.

FESTUS KIPROP,
Chairperson,
Committee on Education and Technical Training.



COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA