

SPECIAL ISSUE

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REPUBLIC OF KENYA

**EMBU COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2015

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THE EMBU COUNTY YOUTH POLYTECHNICS ACT, 2015

A Bill for

AN ACT of the County Assembly of Embu to provide for the establishment and registration of polytechnics to offer courses in technology, applied science, management and other technical studies, to provide for their administration and for other connected purposes

ENACTED by the County Assembly of Embu as follows—

PART I — PRELIMINARY

Short title and commencement

1. This Act may be cited as Embu County Youth Polytechnics Act, 2015 and shall come into force upon publication in gazette.

Interpretation

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

“board” means the Board of Management of a polytechnic which is privately established and sponsored;

“council” means the Polytechnic Council established under section 17;

“county” means Embu County;

“department” means the Department of Education established by the County Public Service to manage all matters relating to education and training;

“executive committee member” means the County Executive Committee Member responsible for education; and

“polytechnic” means a youth polytechnic established and registered under this Act.

Object of the Act

3. The object of this Act is to promote the—

- (a) establishment and progressive development of polytechnics in the county;
- (b) acquisition of occupational trade skills by young persons through training;
- (c) exchange of knowledge and skill and, in so doing, improve the economy of the county; and

- (d) Carrying out of research and development that serves the county.

PART II—ESTABLISHMENT OF THE POLYTECHNICS

Responsibilities of the Executive Committee Member

4. The Executive Committee Member shall promote the establishment of polytechnics in the county—

- (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.

Establishment of a polytechnic

5. (1) The Executive Committee Member shall ensure the establishment of polytechnics by the County Government.

(2) Any qualified person or body may establish a polytechnic in the county.

Guidelines on courses of study etc

6. The Executive Committee Member shall, in consultation with the County Education Board established under the Basic Education Act—

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

Powers and functions of a polytechnic

7. A polytechnic established under this Act shall —

- (a) provide full-time or part-time technical or vocational courses in technology, applied science, commerce, management and other business studies;
- (b) award diplomas and certificates in accordance with the requirements 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) make provision for the general welfare, recreational and social needs of its staff and students; and
- (i) 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 POLYTECHNICS

Polytechnics to be registered

8. (1) A person shall not operate a polytechnic unless it is registered under this Act.

(2) Any person who operates a polytechnic which is not registered under this Act commits an offence.

Application for registration of a polytechnic

9. (1) An application for registration of a polytechnic under this Act shall be in a form prescribed by the Executive Member.

(2) An application for registration of a polytechnic under this Act shall be submitted to the Department of Education 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) organise an inspection of the polytechnic; and
- (b) conduct an interview with the applicant to assess the suitability of the equipment and the persons proposed to be employed in the polytechnic.

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

Applicant to pay prescribed fee

10. Any person making an application for registration of a polytechnic shall pay the prescribed fees to the department.

Publication of the application

11. The department shall, within seven days after receiving the application, publish the application in the *gazette* and in at least one daily newspaper of national circulation.

Registration of a polytechnic

12. The department shall register a polytechnic 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 polytechnic.

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

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

Permit to operate prior to registration

13. (1) The department may issue to the applicant for registration of a polytechnic a permit to operate pending the fulfillment of the conditions required by the department for the determination of the application.

(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 department of Education may specify in the notice.

(3) As a condition of the grant of a permit under this section, the department may prescribe a period within which the applicant must fulfill the conditions required by the department 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 Member.

(5) The holder of a permit under this section shall allow an inspector to enter the premises of the polytechnic at all reasonable hours, for the

purpose of carrying out any inspection to ascertain whether the polytechnic is in compliance with the conditions of the permit.

Registration certificate

14. (1) The department shall, on registration of a polytechnic issue a registration certificate to the applicant.

(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 polytechnic in accordance with this Act.

Registration certificate to be displayed

15. The registration certificate issued under section 14 shall be displayed, by the operator, in a conspicuous place on the premises of the polytechnic.

Register of polytechnics to be kept

16. (1) The department shall keep a register of all polytechnics operating in the county and shall include in the register names of the polytechnics and such other particulars as the Executive Committee Member responsible for education may prescribe.

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

PART IV — ADMINISTRATION OF POLYTECHNICS

Polytechnic Council

17. (1) The Executive Committee Member shall, by order in the Gazette, appoint a Polytechnic Council for each polytechnic established by the County Government.

(2) The council shall be the governing body of the polytechnic

(3) The Polytechnic Council is responsible for—

- (a) the education policy and mission of the polytechnic;
- (b) overseeing the activities of the polytechnic;
- (c) safeguarding the assets of the polytechnic and the effective and efficient use of its resources;
- (d) considering and approving annual estimates of income and expenditure of the polytechnic;
- (e) overseeing the activities of the polytechnic;
- (f) safeguarding the assets of the polytechnic and the effective and efficient use of its resources;

- (g) the appointment and disciplining of the Principal, the Polytechnic 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 polytechnic with prior approval of the Executive Committee Member responsible for Finance;
- (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 polytechnic.

Composition of Council

18. (1) A Polytechnic Council shall consist—

- (a) a Chairperson;
- (b) a Vice-Chairperson;
- (c) one representative of the Alumni Association;
- (d) a representative of each sub-county;
- (e) two persons representing the persons with disabilities and the disadvantaged in the community;
- (f) a representative of the County Education Board; and
- (g) The Principal of the polytechnic who shall be an *ex officio* member and secretary to the council.

Vacation of office of member of Council

19. (1) A member of the council shall cease to hold office if the member —

- (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 Member;
- (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 Executive Member may remove a member from the office if in the opinion of the Committee Member the member is unfit to continue in office on any of the grounds under subsection (1).

Filling of vacancy

20. If the office of a member of the council falls vacant, the 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.

Meetings of a Council

21. (1) The council shall meet for the dispatch of business at a time and place that the Chairperson may determine but shall meet at least three times in each academic year.

(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 at least 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 Management of a polytechnic

22. (1) There shall be a Board of Management for a polytechnic privately established and sponsored as may be determined by the promoters of the polytechnic.

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

- (a) the education policy and mission of the polytechnic;
- (b) overseeing the activities of the polytechnic;
- (c) considering and approving annual estimates of income and expenditure of the polytechnic;
- (d) safeguarding the assets of the polytechnic and the effective and efficient use of its resources;
- (e) considering and approving annual estimates of income and expenditure of the polytechnic;
- (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.

Principal and Deputy Principal of a polytechnic

23. (1) A polytechnic shall, through an open, transparent and competitive recruitment, appoint a suitably qualified person to be the Principal of the polytechnic.

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

- (a) holds a relevant degree from a university recognized in Kenya;
- (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 polytechnic and as such, shall be responsible for—

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

(6) A Polytechnic Council shall appoint a deputy principal of the polytechnic 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.

Other officers and staff

24. (1) The polytechnic shall have such academic, technical and administrative officers and support staff, as may be determined by the council or board.

(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 polytechnic such officers as may be necessary for the better performance of a polytechnic.

Academic board

25. A polytechnic 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 as the case may be.

Responsibility of the academic board

26. The academic board is responsible for—

- (a) determining the criteria for the admission of students;
- (b) issues relating to scholarships at the polytechnic 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 polytechnic;
- (i) consideration of the resources required to support the academic activities of the polytechnic;
- (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 polytechnic.

Committees of academic board

27. (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.

(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 POLYTECHNICS ESTABLISHED BY THE COUNTY GOVERNMENT

Funds of a Polytechnic

28. (1) The funds of a polytechnic established by the County Government shall consist of—

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

(2) Any funds donated, granted or lent to a polytechnic shall be made public before use.

Annual Estimates

29. (1) At least three months before the commencement of each financial year, a polytechnic shall cause to be prepared estimates of the revenue and expenditure of the polytechnic for that year.

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

- (a) payment of remuneration in respect of the members and staff of the polytechnic;
- (b) payment of pensions, gratuities and other charges in respect of benefits which are payable out of the funds of the polytechnic;
- (c) maintenance of the buildings and grounds of the Polytechnic;
- (d) funding of training, research and development of activities of the polytechnic;
- (e) creation of funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of buildings or installations, equipment and in respect of other matters that the polytechnic 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 Polytechnic Council before the commencement of the financial year to which they relate and forwarded to the Executive Committee Member responsible for education.

30. (1) The Polytechnic Council shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the polytechnic.

(2) Within a period of three months after the end of each financial year, the Polytechnic Council shall submit to the county auditor, the accounts of the polytechnic in respect of that year together with a —

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

Annual Report

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

(2) The council shall submit the annual report to the Executive Committee Member 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 polytechnic;
- (b) a description of the activities of the polytechnic;
- (c) other statistical information relating to the its functions that the polytechnic 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 polytechnic; 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**Inspection of polytechnics**

32. The department shall, in consultation with the County Education Board, inspect and monitor the standards of the polytechnics in the county.

Regulations

33. (1) The Executive Committee Member may, in consultation with the Council or the Board, make regulations for the better carrying out of the purposes and provisions of this Act.

(2) Without prejudice to the generality of subsection (1), such regulations may provide for the—

- (a) implementation of this Act;
- (b) general management of the polytechnic; and
- (c) such other matters as the Executive Committee Member considers necessary.

Rules

34. A polytechnic council or board may make rules not inconsistent with the provisions of this Act or any Regulations made under it, generally for the better functioning of the polytechnic.

General penalty

35. Any person who contravenes the provisions of this Act commits an offence and is liable, upon conviction, to a fine not exceeding five hundred thousand shilling or to a term of imprisonment not exceeding two years or to both.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to promote the establishment and progressive development of polytechnics in the county and acquisition of occupational trade skills by young persons through training as well as the exchange of knowledge and skill.

The structure of the Bill is as follows:

PART I of the Bill contains preliminary provisions. It gives the short title of the Bill, interpretation of terms as used in the Bill and sets out the object of the Bill.

PART II of the Bill deals with establishment and management of village polytechnics.

It provides for establishment of polytechnics by the County government and private organizations or individuals, powers and functions of polytechnics.

PART III provides for registration of polytechnics.

The part provides how and to whom an application for registration is made, registration fees, and issuance of permit and registration certificates to applicants. It also provides for display of registration certificate and register of registration certificate to be kept.

PART IV is on administration of polytechnics

The part provides for Polytechnic Council and Board of Management to govern county and private established polytechnics, respectively. The part also provides for Principals, Deputy Principals, academic boards and other staff of the polytechnics.

PART V sets out the financial provisions.

The part sets out the funds and assets of the polytechnic established by the County Government. It also provides the requirement of annual estimates, accounts, audit of the polytechnic and preparation and publication of annual report.

PART VI (clause 32-35) is on miscellaneous provisions.

The part provides for the inspection of polytechnics, power of the Executive Committee Member to make Regulations and provision on general penalty.

Dated the 2nd June, 2015

WINROSE NGITHI IRERI,
Chairperson Committee on Education.