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THE KISII COUNTY VILLAGE POLYTECHNICS ACT, 2015

No. 4 of 2015

Date of Assent: 27th July, 2015

Date of Commencement: 17th August, 2015

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**THE KISII COUNTY VILLAGE POLYTECHNICS
ACT, 2015**

AN ACT of the County Assembly of Kisii to provide for the establishment of Village Polytechnics and their Councils to provide full-time and part-time courses in Technology, Applied Science Management and other fields of studies and to make provisions for the general administration of such Polytechnics and for other connected purposes

ENACTED by the County Assembly of Kisii as follows—

PART I—PRELIMINARY

1. This Act may be cited as Kisii County Village Polytechnics Act, 2015. Short title

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

“authorized officer” means a person appointed under this Act as an authorized officer;

“council” means a village polytechnic council established under Part III;

“County Executive Committee Member” means the county executive committee member responsible for matters relating to village polytechnics;

“Department” means the department responsible for village polytechnics

“Polytechnic” means a village polytechnics registered and licensed under this Act;

3. This Act shall apply to all Village Polytechnics registered under this Act. Applications.

4. The objects of this Act are— Object of this Act.

- (a) to promote the advancement of knowledge by providing middle level education opportunities;
- (b) to ensure quality education at polytechnics.
- (c) to promote the establishment of Polytechnics that provide full-time or part-time courses of instruction and training—
 - (i) in technology, applied science, commerce and management; and

- (ii) in such other fields of applied learning relevant to the needs of the development of the counties in the area of industrial and agricultural production and distribution and for research in the development and adaptation of techniques as may from time to time be determined;
- (d) to promote the exchange of knowledge and skills with business and industry.

PART II—ADMINISTRATION OF THIS ACT

5. This Act shall be administered by the department responsible for village polytechnics which shall have such powers and exercise such functions as are specified in this Act.

Administration of the Act.

6. It is the responsibility of the Department to implement the objectives of this Act and to this end the Department shall—

Functions and powers of the Department.

- (a) formulate county policy and legislation on Polytechnics;
- (b) subject to relevant legislation, receive any grant or donation;
- (c) consider applications for the establishment of Polytechnics and issue, renew, suspend or revoke Polytechnic licenses;
- (d) impose fines for breach of any conditions imposed in any license issued under this Act;
- (e) in consultation with a Polytechnic and the department responsible for matters relating to education, develop curricula for various courses
- (f) set guidelines for charges a Polytechnic may charge;
- (g) monitor polytechnics to ensure the observation and maintenance of standards set under the Regulations to this Act;
- (h) categorize polytechnics with respect to the courses offered and certificates awarded;
- (i) perform any other function, as may be directed by the County Executive Committee Member, for the effective implementation of this Act.

7. (1) The Department may, through an authorized officer, at any reasonable time carry out the inspection of a Polytechnic including—

Department to
order inspection

- (a) classrooms;
- (b) laboratories;
- (c) kitchen and dining hall;
- (d) hostels or living quarters;
- (e) any other part of a polytechnic;

(2) Where an inspection under this section indicates the owner, principal or other person in control of the polytechnic has committed a breach of any conditions imposed on the license, the Department may, after informing the Principal, suspend the license until such time the breach has been rectified.

(3) Where an inspection under this section indicates the owner, principal or person in control of the Polytechnic has committed a breach of any conditions imposed on the license and such breach poses a danger to the Students or the public, the Department shall, after informing the Principal, depending on the seriousness of the danger posed —

- (a) order the immediate closure of the Polytechnic or such part as poses a danger; and
- (b) suspend the license until such time the breach has been rectified and the danger no longer exists; or
- (c) cancel the license.

(4) Any person who contravenes the provisions of this section commits an offence and shall on conviction be liable to a fine not exceeding Five Hundred Thousand shillings or to a term of imprisonment not exceeding two years.

(5) The Department may in addition to any penalty imposed under sub-section (4) demand the person repair any damage that may have occurred due to the breach committed under sub-section (3).

8. Any person preventing or obstructing an authorized officer from entering any part of a Polytechnic or carrying out an inspection in terms of this Act commits an offence.

Obstruction of
authorized officer
an offence.

9. (1) Where an authorized officer is of the opinion that the continued use of a building or place of business in a particular constitutes a danger to the students or the public, the authorized officer shall direct the licensee or his agent or employee in charge of the premises or place of business to take such action as the authorized officer thinks reasonably necessary to remedy the situation.

Powers of
authorized officers.

(2) If the licensee or person so directed under sub-section (1) fails to take that action within the time allowed for that purpose by the authorized person, the authorized person shall, by notice in writing addressed to the licensee and served personally on the licensee or his agent or employee in charge of the place business, close those premises or place of business pending the decision of the Department.

(3) The authorized officer shall immediately inform the Department of his actions giving the reasons thereof

(4) The licence in respect of premises or place of business closed under sub-section (2) shall be deemed to have been suspended until the Department has made a decision under section 6.

(5) The Department shall, within seven days after being advised of the closure under sub-section (3) consider whether the licence in respect of those premises should be re-instated, suspended, cancelled or varied and shall inform the licensee of its decision, in writing, within fourteen days.

PART III—VILLAGE POLYTECHNIC

10. (1) Each polytechnic shall have a governing body known as the Village Polytechnic Council.

Polytechnic
Council.

(2) The Council is responsible for—

- (a) the determination of the educational character and mission of the polytechnic;
- (b) overseeing the activities of the polytechnic;
- (c) safeguarding the assets of the polytechnic for the effective and efficient use of its resources;
- (d) considering and approving annual estimates of income and expenditure of the polytechnic;
- (e) the appointment, suspension or dismissal of the Vice-Principal, the Polytechnic Secretary and the

appointment, suspension or dismissal of such other senior office holders as the Council may determine;

- (f) the determination of the pay and conditions of service of the Vice-Principal, the Polytechnic Secretary and such other senior office holders as the Council may determine with prior approval of the Secretary for Finance;
- (g) the establishment of such committees as may be necessary for the efficient performance of its business; and
- (h) such things as are incidental to the achievement of the aims and objectives of the Polytechnic.

11. (1) A Council shall consist of the following persons appointed by the County Education Board—

Composition of the Council.

- (a) a Chairperson;
- (b) a Deputy Chairperson;
- (c) a representative of the County Education Board;
- (d) two persons representing the local communities who shall be of either gender;
- (e) such other persons, not being more than 5 as the County Executive Committee Member may from time to time determine;
- (f) the Principal of the Polytechnic who shall be the Secretary to the Council.

(2) In appointing persons under (e) the County Executive Committee Member shall observe the provisions of the Constitution regarding gender balance, marginalized persons, minorities and the youth and ensure that the persons appointed have expertise in at least one of the following areas—

- (a) a degree or extensive experience in courses relevant to the Polytechnics Management;
- (b) Financial Management;
- (c) Culture;
- (d) Institutional Management;

(e) Entrepreneurship.

(3) Every member of the Council shall hold office for a period of 3 years from the date of his or her appointment and shall be eligible for reappointment for one more term.

(4) The Council may request the attendance of any person to Council meetings as it may deem fit.

(5) The Council may establish such committees as it deems necessary and shall ensure the establishment of—

(a) an academic committee;

(b) a budget committee.

12. (1) The office of a member of the Council shall become vacant if that member — Vacation of office of a member of Council.

(a) becomes a bankrupt or suspends payment to, or makes any arrangement or composition with, his creditors; or

(b) has been absent, without leave of the Council, from 3 consecutive meetings.

(2) The County Executive Committee Member may revoke the appointment of a member of the Council, other than that of the Principal, if the member becomes in the opinion of the county executive committee member unfit to continue in office or incapable of performing his duties.

(3) A member of the Council, other than the Principal, may resign from his appointment at any time by giving written notice to the county executive committee member.

13. If the office of a member of the Council, other than that of the Principal, is vacant, the County Executive Committee Member may appoint any person to fill the vacancy and the person shall be appointed for the remainder of the term of his predecessor. Filling of vacancy in the office of a member of Council.

14. (1) The Council shall meet at such times as the Chairperson may determine for the discharge of business but shall meet not more than three times in a month and not more than four months shall elapse between one meeting and the next. Meetings of a Polytechnic Council.

(2) The Chairperson shall preside at each meeting of the Council but in his absence a member of the Vice – Chairperson shall preside.

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

(4) The quorum at a meeting of the Council shall be not less than half of the membership of the Council.

(5) Decisions by the Council shall be decided by consensus failure of which a simple majority of votes cast shall decide the issue.

(6) The Chairperson shall have an original and casting vote.

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

15. (1) There shall be a Principal who shall be appointed by the County Public Service Board on competitive basis. A person is qualified to be a Principal if that person — The Principal.

- (a) holds a degree in education, management or other related field;
 - (b) has a minimum of fifteen years experience in his or her chosen profession;
 - (c) complies with the provisions of Chapter Six of the Constitution.
- (2) The Principal shall be responsible for—
- (a) implementing the decisions of the Council;
 - (b) the day to day management of the Polytechnic;
 - (c) the preparation of the annual estimates of income and expenditure for consideration by the Council;
 - (d) the management of the budget and resources of the polytechnic within the estimates approved by the Council;
 - (e) preparation of any returns and reports which the Council may require; and
 - (f) any other thing the Council may request.

16. The Council may engage such consultants and experts, as it considers appropriate, to assist in the discharge of its functions under this Act. Experts and Consultants.

PART IV—FINANCIAL PROVISIONS

17. (1) The funds of the Village Polytechnic shall consist of— Funds of the Village Polytechnic.

- (a) monies allocated by the National or County Government for purposes of the Polytechnic;
- (b) any grants, gifts, donations or other endowments given to the Polytechnic;
- (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;
- (d) any monies obtained by way of fees or other charges.

(2) Any funds donated or lent to, or gift made to the Polytechnic shall be made public before use.

18. (1) At least three months before the commencement of each financial year, the Polytechnic shall cause to be prepared estimates of the revenue and expenditure of the Polytechnic for that year. Annual Estimates.

(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 the—

- (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 as provided by the relevant statutory proviso;
- (c) development and maintenance of the buildings and grounds of the Polytechnic;
- (d) funding of training, research and development of activities of the Polytechnic;
- (e) creation of such funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of buildings or installations, equipment and in respect of such other matters as the Polytechnic may think fit; and

(f) any other expenditure necessary or purposes of this Act.

(3) The annual estimates shall be approved by the Council before the commencement of the financial year to which they relate.

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

(2) Within a period of three months after the end of each financial year, the Council shall comply with the relevant audit procedures and submit 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 of that financial year.

20. (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 County 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 the activities of the Polytechnic;
- (c) such other statistical information as the Polytechnic may consider appropriate relating to the Polytechnic's functions;
- (d) the impact of the exercise of any of its mandate or function;
- (e) any impediments to the achievements of the objects and functions under the Constitution, this Act or any written law; and
- (f) any other information relating to its functions that the Council considers necessary.

(4) The annual report shall be published and publicized in such other manner as the Council may determine.

PART V—GENERAL PROVISIONS

21. The Council may make Regulations generally for the better carrying out into effect of the provisions of this Act. Regulations.

22. A person who— Offences.

- (a) commits a breach of any condition imposed by any licence or permit issued under this Act;
- (b) aids or abets another person to commit a breach of any condition imposed under any licence or permit issued under this Act;
- (c) forges or through fraud obtains any document with intent to have a licence or permit issued or renewed;
- (d) obstructs an authorized officer in carrying his or her duties under this Act

commits an offence and on conviction shall be liable to a fine of not more than Kenya Shillings Five Hundred Thousand or to imprisonment for a period not exceeding two years or to both.

23. Any person who contravenes the provisions of this Act for which no other penalty has been provided, commits an offence and shall on conviction be liable, to a fine not exceeding Kenya Shillings one hundred thousand or to a term of imprisonment not exceeding one year or to both. General Penalty.

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