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MERU COUNTY BILLS, 2020

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**THE MERU COUNTY VOCATIONAL EDUCATION AND
TRAINING (POLYTECHNICS) BILL, 2020**

A Bill for

AN ACT of the County Assembly of Meru to provide for the establishment, governance and regulation of Meru County Vocational Education and Training (Polytechnics); to provide for their registration and management and for connected purposes.

ENACTED by the County Assembly of Meru as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Meru County Vocational Education and Training (Polytechnics) Act, 2020 and shall come into force upon its publication in the Gazette.

Interpretation

2. In this Act—

“Board” means a Board of governors appointed by the Executive Committee member under section 4(1) to oversee the affairs of Vocational Training Centres (Polytechnics);

“Director” means the County Director heading the Directorate of Vocational Education and Training;

“Directorate” means the Directorate of Vocational Education and Training established by the County Public Service to manage all matters relating to education and training in vocational training Centres (Polytechnics);

“Executive Committee Member” means the County Executive Committee Member responsible for Education and Technology;

“Polytechnic” means Vocational Training Centre established by the local community or private entity;

“Principal” means the Principal appointed under section 27.

Objects of the Act

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

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

- (d) carrying out of research and development that serves the County.

PART I — RIGHT TO VOCATIONAL EDUCATION AND TRAINING

Right to Vocational Education and Training

4. (1) Every youth has the right to access relevant education and training.

(2) The right to vocational education and training shall be enjoyed without discrimination, exclusion or restriction on the basis of sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political or other opinion, property, disability or other status.

(3) For the enjoyment of the right to vocational education and training, the county government shall—

- (a) respect, protect, promote, improve, inform, monitor, supervise and evaluate the right to vocational education and training and guarantee mechanisms for its enforcement;
- (b) refrain from actions that undermine access, retention and completion of vocational education and training;
- (c) ensure the availability and accessibility of vocational education and training to all youth within the county by making provision of sufficient resources, funding and support; and maintaining an enabling environment in which youth can attain vocational education and training;
- (d) provide an opportunity for the public to develop their understanding on the need to support the implementation of vocational education and training and for public participation in the formulation and implementation of any service programme interventions towards vocational education and training; and
- (e) ensure the development of skills and capacity building necessary for achieving an equitable and effective vocational education and training system in the county.

Youth with special needs

5. (1) The Executive Member shall establish a mechanism for identification of youth with special needs and put in place mechanisms to ensure that such youth have access to, and are provided with vocational education and training;

(2) In performing his or her functions, The Executive Committee Member shall—

- (a) put in place the necessary facilities to ensure the production and access to affordable assistive aids and devices for the youth with special needs;

- (b) ensure that there are adequate training institutions, facilities and rehabilitation services for the youth with disabilities;
- (c) ensure that there are adequate facilities and every vocational training centre has at least one instructor to assist trainees with special needs;
- (d) conduct sensitization and awareness campaigns on learning disabilities and issues affecting youth with special needs; and
- (e) conduct training and capacity building targeting trainers who specialize in training and caring for youth with special needs.

Obligation of the executive committee member in promoting the right to vocational education and training

6. The Department responsible for Education and Technology in the County shall, in promoting the right to the vocational education and training—

- (a) formulate programmes and plans and implement policies for the realization of the right to vocational education and training;
- (b) be responsible for the training, registration, staffing and supervision of vocational education and training and development of connected personnel in the county;
- (c) identify and undertake an assessment of youth with special needs in the county and put in place special programmes targeting such youth in the provision of vocational education and training;
- (d) carry out awareness and advocacy programmes in relation to youth's development and training;
- (e) ensure the provision of and support investment in infrastructural facilities and training resources and equipment to facilitate the provision of vocational education and training;
- (f) ensure that youth belonging to marginalized, vulnerable or disadvantaged groups within the county are not discriminated against and prevented from pursuing and completing vocational education and training;
- (g) establish and maintain relationships with international, national and local institutions within the county involved in the provision of vocational education and training;
- (h) promote the circulation of and access to up-to-date and timely information on vocational education and training and development; and
- (i) provide the necessary infrastructure and funds necessary for the development of vocational training centres and for the

administration of vocational education and training within the County.

Limitation of the right to vocational education and training

7. Limitation to vocational education and training shall be to the extent that it is done in the interest of national security, public safety, public order or public health and the interest of promoting the general welfare of the society.

PART III- ESTABLISHMENT AND MANAGEMENT OF MERU COUNTY VOCATIONAL TRAINING CENTRES (POLYTECHNICS)

Establishment of a Polytechnic

8. (1) The community through public participation may, establish one or more Vocational Training Centres (Polytechnics) with approval of the County Executive Committee Member.

(2) Despite subsection (1), a person who meets the requirements set out in this Act and any other applicable law may establish one or more Vocational Training Centres (Polytechnics).

Powers of a Polytechnic

9. Every Vocational Training Centre (Polytechnic) established under this Act shall have powers necessary for the execution of its functions under this Act and any other written law.

Functions of a Polytechnic

10. (1) Every Vocational Training Centre (Polytechnic) shall —

- (a) provide full-time or part-time technical or vocational courses;
- (b) provide co- curricular activities;
- (c) ensure evaluation of the trainees;
- (d) provide such facilities for its trainees as it considers desirable;
- (e) fix, demand and receive fees and other charges as per the county harmonized fees structure guidelines;
- (f) offer technical and consultancy services as it considers appropriate;
make provision for the general welfare, recreational and social needs of its staff and trainees;
- (h) ensure trainees undertake adequate industrial attachment;
- (i) undertake any activity necessary for the fulfilment of any of the functions of the Polytechnic; and
- (j) ensure trainees showcase their skills through exhibitions, shows and other related activities.

Board of Governors

11. (1) The Executive Committee Member shall, appoint a Board of Governors of nine persons for each Polytechnic that is established under this act.

(2) The Board shall be composed of the following persons;

- (a) one person from the religious organisations in the area;
- (b) two persons from the local community;
- (c) one person from the industry;
- (d) two youth representatives from both genders;
- (e) one person from persons with disabilities;
- (f) one person with relevant technical skills;
- (g) one officer from the County Directorate of VET; and,
- (h) the principal who shall be the secretary to the board and an ex-officio member

(3) In selection of the members of the Board the County Executive Committee member will convene a selection panel, which shall consist of—

- (a) area Member of the County Assembly;
- (b) religious organization;
- (c) sub-County administrator;
- (d) area chief;
- (e) Ward administrator;
- (f) principal of the institution;
- (g) Vet Officer;

(4) The Board shall be a body corporate with a common seal and capable of suing and being sued; and acquiring assets and incurring liabilities.

(5) No person shall be appointed as a chairperson to the Board under sub-section (1) above unless, the person holds a diploma from a recognized institution with relevant management skills.

(6) For a person to be a member of the Board under sub-section 1 above, he or she must hold a KCSE certificate with relevant management skills.

(7) The appointment of every Principal shall be through a competitive recruitment process. The County Public Service Board shall forward three shortlisted candidates to the Governor for approval.

(8) The CECM shall appoint the Chairperson of the Board of Governors while the members of the board shall elect the vice-chairperson amongst themselves at the inaugural meeting.

Powers of a Board of Governors

12. (1) The Board shall have all powers necessary for the proper performance of the functions of the Polytechnics under this Act.

(2) Without prejudice to the generality of subsection (1), the Board shall have power to—

- (a) supervise the assets of the Polytechnic in such manner as best promotes the purpose for which the Polytechnic is established;
- (b) associate with any other institution so as to further the purpose for which the Polytechnic is established;
- (c) receive grants, gifts, donations or endowments and make legitimate disbursements from them;
- (d) engage the services of such personnel as will facilitate the smooth running of the institutions;
- (e) delegate any of its powers to any of its committees or employees;
- (f) undertake any activity necessary for the fulfilment of any of the functions of the Board; and
- (g) ensure annual audit of the Polytechnic's books of accounts.

Functions of a Board of Governors

13. (1) The Board shall—

- (a) formulate policy relating to the Polytechnic;
- (b) ensure efficient management of the Polytechnic;
- (c) oversee delivery of education and training in the institutions in accordance with the provisions of the relevant Act of the County Assembly and national Government policies and legislations;
- (d) administer and manage property and personnel of the institution;
- (e) oversee prudent utilization of the funds allocated to the Polytechnic;
- (f) promote and maintain standards, quality and relevance of education and training in the institutions;
- (g) regulate the admission and exclusion of trainees from the institutions in accordance with the law;
- (h) develop and implement the institution strategic plan;
- (i) approve the annual procurement plan and the budget;

- (j) mobilise resources for the institutions;
- (k) ensure that the Polytechnic observes high standards of corporate and business ethics; and
- (i) perform any other functions assigned to it under this Act.

Requirement to consult with the County Education Board

14. 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.

Term of the Board of Governors

15. The persons appointed to the Board by the Executive Committee member under section 11(1) shall, hold office for a period of three calendar years from the date of appointment, provided that a person shall be eligible for re-appointment for one further term.

Removal of a Board Member

16. (1) The Executive Committee member may remove a person appointed to the Board on the ground that the member has—

- (a) grossly violated the constitution;
- (b) demonstrated incompetency in the exercise of his or her duties as a member of the Board;
- (c) abused his or her office;
- (d) been affected by physical illness in such a manner leading to inability to his or her role as a member of the Board;
- (e) committed a crime in relation to his or her work as a member of the board; and
- (f) fails to attend three consecutive board meeting without a reasonable explanation.

(2) A person appointed to the board shall cease to be a member if he or she—

- (a) dies;
- (b) has been convicted of an offence under national or county law and imprisoned for more than six months;
- (c) has been declared mentally unsound;
- (d) has been convicted of a crime under international law; and
- (e) has been declared bankrupt by a court of law.

(3) Upon a person ceasing to be a member of the Board under sub-section 2 above, the Executive Committee member shall, appoint another person as a replacement to the board as nominated by the nominating entity to serve the remaining term.

PART IV – LICENCING, REGISTRATION AND ACCREDITATION OF MERU COUNTY VOCATIONAL, TRAINING CENTRES (POLYTECHNICS)

Registration of Polytechnics

17. (1) A person shall not operate a Polytechnic unless it is registered under TVET Act, 2013.

(2) A person who operates a Polytechnic that is not registered commits an offence.

Application for Registration of a Polytechnic

19. (1) An application for registration of a Polytechnic shall be in a form prescribed TVET authority.

(2) An application for registration of a Polytechnic shall be submitted to the County Director TVET.

(3) The Director shall forward a copy of the application to the TVET Authority through County Executive Committee member in charge of Education and Technology.

(4) The TVET Authority shall, within an appropriate time after receiving the application—

(a) organize an inspection of the Polytechnic; and

(b) to assess the suitability of—

(i) availability of public/ private land not less than 5 acres;

(ii) the equipment of the Polytechnic; and

(iii) the persons proposed to be employed in the Polytechnic.

(5) The TVET Authority shall after inspection and assessment, issue a registration and accreditation certificate and/or licence.

Applicant to pay prescribed fee

19. A person making an application for the registration of a Polytechnic shall pay the prescribed fees to the TVETA.

Registration Certificate

20. (1) The TVET Authority shall, on registration of a polytechnic, issue a registration certificate and a license.

(2) A registration certificate issued under this Act shall be subject to such conditions as the Authority may determine and as are specified in the licence.

Revocation of Registration and Closure of a Polytechnic

21. (1) The registration referred to in section (18) remains valid but may be revoked in the following instances—

- (a) an offence under TVET Act, or in respect of the licensed activity under any other written law, has been committed by the licence holder or any employee of the licence holder;
- (b) a condition of the registration licence has been contravened or not complied with; and
- (c) where the Polytechnic is being managed in a manner which is, in the opinion of the Executive Committee Member, harmful to the physical, mental or moral welfare of the trainees.

(2) Once registration of a Polytechnic is revoked, it is deemed to be closed.

(3) The TVET Authority may serve a notice, in writing, not exceeding six months directing the Principal to remedy a situation to prevent revocation of the Polytechnic's registration.

(4) Despite subsection (2), the Cabinet Secretary responsible for matters relating to security may order the immediate closure of a polytechnic, if in the Cabinet Secretary's opinion; there are compelling reasons for its immediate closure.

(5) Where a Board of Governors has not complied with a condition imposed under subsection (3) within the stipulated period, the Executive Committee Member shall revoke the registration of the Polytechnic and it shall be deemed to be closed.

(6) Before the Polytechnic is closed under subsection (3), the Board of management shall be given an opportunity to be heard either in person or by a legal representative.

(7) Despite anything contained in this section, a Polytechnic shall be deemed to be closed if it is not in operation for a continuous period of five years.

Issuance of a Licence

22. (1) A licence 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 TVET Act.

(2) The licence issued together with the certificate of registration shall remain valid until the end of the year, which it is issued.

Registration of a Village Polytechnic

23. (1) The Directorate shall, within a reasonable period after registration of a Polytechnic, formalize funding processes for the benefit of the Polytechnic.

(2) A person aggrieved by the decision of the TVET act under this section may, within thirty days of being notified of the decision, appeal against the decision.

Registration Certificate to be displayed

24. (1) The registration certificate issued under section 16 and the licence issued under section 17 shall be displayed, by the Principal, in a conspicuous place on the premises of the Polytechnic.

Register of Polytechnics

25. The Directorate 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 may prescribe.

PART V—ADMINISTRATION OF COUNTY VOCATIONAL TRAINING CENTRES (POLYTECHNICS)**Principal of a Polytechnic**

26. (1) There shall be a Principal for each Polytechnic who shall be the Chief Executive Officer.

(2) The Principal of a Polytechnic that is not publicly funded shall be appointed by the Board on such terms and conditions as may be specified in the instrument of appointment.

(3) The appointment of every Principal shall be through a competitive recruitment process. The County Public Service Board shall forward three shortlisted candidates to the Governor for approval.

(4) A person is qualified for appointment as a Principal if the person—

- (a) is a citizen of Kenya;
- (b) holds at least a degree in technical education from a recognized institution in Kenya;
- (c) has at least three years' experience at management level;
- (d) has at least five years' experience in any vocational and technical field; and
- (e) meets the requirements of leadership and integrity set out in chapter six of the Constitution.

(5) The Principal is the accounting officer of the Polytechnic and, subject to the guidance of the Board, is responsible for the—

- (a) implementation of government policies;
- (b) admission of trainees;
- (c) implementation of the decisions of the Board;
- (d) day to day management of the affairs of the Polytechnic;
- (e) supervise curriculum implementation;
- (f) organization and management of the staff;
- (g) Secretary to the Board and Parent Instructors Association; and
- (h) any other function that may be assigned by the Board.

(6) The Principal may be removed from office on the recommendation of the Board in the prescribed manner.

(7) Before the Principal is removed under subsection (6), the Principal shall be given—

- (a) sufficient notice of the allegations made against him/her; and
 - (b) an opportunity to be heard either in person or by a legal representative.
- (8) This section applies to the Deputy Principal.

Staff

27. (1) The Polytechnic teaching and non-teaching staff shall have such academic, vocational, technical and other requirements, as may be determined by the County Public Service Board for the teaching staff and the Board of management for the other staff.

(2) In addition to the staff referred to in subsection (1), the County Public Service Board may, upon request by the Polytechnic, second to the Polytechnic such number of staff as may be necessary for the performance of the functions of the Polytechnic.

(3) Staff seconded to the Polytechnic shall, during the period of secondment, be deemed to be staff of the Polytechnic and shall be subject only to the instruction of the Polytechnic.

(4) This section only applies to Polytechnics funded by public monies.

Skills Training Committee

28. A Polytechnic shall have a skills training committee consisting of the Principal, Deputy Principal, heads of departments and any other person specified by the Board.

Functions of the Skills Training Committee

29. (1) The skills training committee shall determine the—
- (a) criteria for the admission of trainees;

- (b) the training skills standards, validation and review of courses;
- (c) procedure to assess and examine trainees;
- (d) ensuring that internal assessment and examinations are done;
- (e) procedure for the award of qualifications;
- (e) development of the training activities of the Polytechnic;
- (g) establishment of links with different industries and businesses to ensure the entrepreneurial development of trainees;
- (2) The skills training committee shall also—
 - (a) advise the Board on training policy and other matters of training importance to the Polytechnic; and
 - (b) consider the resources required to support the training activities of the Polytechnic.

Sub-Committees of the Training Committee

30. (1) The Skills Training Committee may establish sub-committees for adequate administration of its functions.

(2) Every sub-committee shall, before establishment, be approved by the Board.

(3) The Training Committee may co-opt persons to sub-committees established under subsection (1) for a particular reason and such persons shall hold office for such period as the Training Committee may determine.

(4) The persons co-opted under subsection (2) shall not be more than two.

PART VI-FINANCIAL PROVISIONS

Funds of the Polytechnic

31. The funds and assets of the Polytechnic consist of—
- (a) such monies or assets as may accrue to or vest in the Polytechnic in the course of the exercise of its powers or the performance of its functions under this Act;
 - (b) such monies as may be payable to the Polytechnic pursuant to this Act or any other law;
 - (c) such monies as may be appropriated by the County Assembly for the purposes of the Polytechnic; and
 - (d) all monies from any other source provided, donated or lent to the Polytechnic.

Financial Year

32. The financial year of the Polytechnic shall be the period of twelve months ending on the thirty first of December in each year.

Annual estimates

33. (i) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Polytechnic for that financial 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 the—

- (a) payment of the salaries, allowances and other charges in respect of the Board members, staff or agents of the Polytechnic;
- (b) payment of pensions, gratuities and other charges and in respect of benefits which are payable out of the funds of the Polytechnic;
- (c) funding of the registration, monitoring and evaluation of activities of the Polytechnic;
- (d) the maintenance of the buildings and grounds of the Polytechnic;
- (e) funding of training, research and development of activities of the Polytechnic;
- (f) reserve funds to meet future or contingent liabilities in relation to retirement benefits, insurance or replacement of buildings or equipment; and
- (g) any other expenditure necessary or required for the purposes of this Act.

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

Accounts and Audit

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

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General 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) a statement of the assets and liabilities of the Polytechnic on the last day of that financial year.

(3) The annual accounts of the Polytechnic shall be prepared, audited and reported upon in accordance with the provisions of Articles 226 and 229 of the Constitution and the law relating to public audit.

Annual report

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

(2) Without limiting what may be included in the annual report, the annual report shall include—

- (a) the audited financial report of the Vocational Training Centre;
- (b) description of the activities of the Vocational Training Centre;
- (c) such other statistical information as the Polytechnic may consider appropriate relating to the Vocational Training Centre'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 of the Vocational Training Centre;
- (f) such other information as the Executive Committee Member may direct; and any other information relating to its functions that the Board considers necessary.

(3) The Board shall submit the annual report to the Executive Committee Member three months after the end of the year to which it relates.

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

PART VII—MISCELLANEOUS PROVISIONS

Collaboration

36. A Vocational Training Centre may collaborate with any other Vocational Training Centre or any other training institution, governmental and non-governmental bodies, corporate bodies, CBOs, FBOs to promote its development.

Assessment of Curriculum Implementation

Inspection of Vocational Training Centres (Polytechnics)

37. The Directorate shall, in consultation with the TVETA, inspect and monitor the standards of the Meru County vocational Training Centres in the County.

Regulations

38. (1) The Executive Committee Member may, in consultation with the TVETA, make regulations generally for the better carrying out into effect of any 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 Vocational Training Centre; and
- (c) such other matters as the Polytechnic considers necessary.

General Penalty

39. A person who contravenes any provision of this Act for which no other penalty is prescribed, commits an offence and is liable, on conviction, to a fine not exceeding one million shillings 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 skills and competencies.

The structure of the Bill is as follows:

Part I of the Bill contains preliminary provisions. Section 1 states the Title of the Bill and section 2 deals with Interpretation of terms used in the Bill. Section 3 sets out the Object of the Bill.

Part II of the Bill deals with the rights of the youth to get the education, vocational and technical skills, the obligation of the executive committee member in ensuring that these rights are not violated as well as the limitation on this right, this part also gives the functions of the parents/guardians and provides for subsidized tuition.

Part III provides for the Establishment and Management of Vocational Training Centres, sets out the powers and functions of a Polytechnic. This part of the Bill also provides for the establishment of the Board of Governors and sets out the powers and functions of a Board of Governors necessary for the proper performance of a Polytechnic under the Act, as well as setting out the term of these Boards.

PART IV of the Bill provides for the licensing, registration and accreditation of Polytechnics, as well as revocation of registration and closure of a Polytechnic and other related provisions.

PART V sets out the provisions on the administration of vocational training centres. These include provisions on the Principal for each Polytechnic, Staff of the Polytechnics and the Skills Training Committee.

PART VI sets out the financial provisions, including provisions on the funds and assets of the Polytechnic, the financial year, the requirement of annual estimates, accounts and audit of the Polytechnic and the requirement of the preparation of an annual report at the end of each financial year.

PART VII houses the Miscellaneous Provisions which include the assessment of Polytechnics, the power of the Executive Committee Member, in consultation with the Chairperson of the Board, to make regulations and a provision on a general penalty for offences committed under this Act.

Dated the 10th June, 2020.

Chairperson, Sectoral Committee on Education, Technology & Vocational Training

