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Technical and Vocational Education and Training Act

Eldoret National Polytechnic Order

Legal Notice 114 of 2014

Legislation as at 31 December 2022

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Eldoret National Polytechnic Order (Legal Notice 114 of 2014)

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TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING ACT

ELDORET NATIONAL POLYTECHNIC ORDER LEGAL NOTICE 114 OF 2014

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1. Citation

This Order may be cited as The Eldoret National Polytechnic Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"Act" means the Technical and Vocational Education and Training Act (Cap. 210A);

"Council" means the Council for Eldoret National Polytechnic constituted under paragraph 5 of this Order;

"financial year" means the financial year of the technical trainers' National Polytechnics as provided for under paragraph 35 of this Orders;

"National Polytechnic" means the Eldoret National Polytechnic established under paragraph 3;

"member" means a member of the Council of the National Polytechnic;

"principal" means the principal of the Eldoret National Polytechnic appointed under paragraph 8;

"Sponsor" means a person who by contract with a private National Polytechnic or under any law in Kenya is the recognized sponsor of the National Polytechnic or a programme or part of a programme thereof;

"staff" means any staff of the National Polytechnic;

"student" means a person registered by the National Polytechnic for the purpose of obtaining a qualification of a programme of study approved by a recognized body;

"trainer" means a person registered under section 25 (1)(b) of the Act.

Part II – ESTABLISHMENT

3. Establishment of the National Polytechnic

- (1) There is established a National Polytechnic to be known as the Eldoret National Polytechnic.
- (2) The National Polytechnic shall be a body corporate with perpetual succession and a common seal and shall in its name, be capable of—
 - (a) suing and being sued;
 - (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of both movable and immovable property;
 - (c) borrowing money;

- (d) charging for services offered, with the approval of the Cabinet Secretary; and
 - (e) entering into contracts.
- (3) The National Polytechnic shall be the successor to the Eldoret Polytechnic existing immediately before the commencement of this Order.
- (4) All rights, liabilities and assets held by anybody on behalf of the Eldoret Polytechnic, existing at the commencement of this order, shall be automatically and fully transferred to the National Polytechnic.

4. Functions and Objects of the National Polytechnic

- (1) The objects and functions of the National Polytechnic shall be to—
- (a) provide directly, or in collaboration with other institutions of higher learning, facilities for technical trainers in technological, professional, scientific education;
 - (b) participate in technological innovation as well as in the discovery, transmission and enhancement of knowledge and to stimulate the intellectual life in the economic, social cultural, scientific, and technological development;
 - (c) contribute to industrial and technological development of Kenya in collaboration with industry and other organizations through transfer of technology;
 - (d) examine and make proposals for new diploma courses and subjects of study, institutes, departments, resource and research and innovation;
 - (e) promote and establish a culture of innovation in engineering and technology, and technology transfer amongst staff and students;
 - (f) develop an institution with excellence in teaching, training, scholarship, entrepreneurship, research, consultancy, community service, among other educational services and products, with emphasis on technology and its development, impact and application within and outside Kenya;
 - (g) provide a multi-level system of post-secondary school education and training programmes relevant to the needs of the community covering a wide range of fields and levels with provision for recognition of prior learning and flexibility of transition between programmes;
 - (h) provide high quality educational, research, residential, commercial, cultural, social, recreational, sporting and other facilities;
 - (i) advance knowledge and its practical application by research and other means, the dissemination of outcomes of research by various means, and the commercial exploitation of search results;
 - (j) promote critical enquiry within the polytechnic and in the general community;
 - (k) participate in commercial ventures and activities;
 - (l) foster the general welfare of all staff and students;
 - (m) provide opportunities for development and further training for staff of the National Polytechnic;
 - (n) develop and provide educational, cultural, professional technical and vocational services to the community and in particular the fostering of corporate social responsibility;
 - (o) provide programmes, products and services in ways that reflect the principles of equity and social justice;
 - (p) facilitate student mobility between different programmes at different technical training institutions, national polytechnics and other National Polytechnics;

- (q) conduct examinations for and grant such academic awards as provided under this Order;
 - (r) collaborate with recognized universities for the conduct and award of degree programmes in technology.
- (2) The National Polytechnic shall have powers to grant higher diplomas, diplomas, certificates, or other academic qualifications which may, for the time being, be authorized by the Academic Policy of the National Polytechnic.
- (3) Subject to this Order, the National Polytechnic may award scholarships, bursaries and prizes and make other awards which may be provided for by the Academic Policy.

Part III – THE COUNCIL

5. Composition of the Council

- (1) There shall be a Council of the National Polytechnic which shall consist of nine persons appointed by the Cabinet Secretary as follows—
- (a) Chairperson;
 - (b) the Principal Secretary in the Ministry for the time being responsible for the technical and vocational education and training;
 - (c) the Principal Secretary in the Ministry for the time being responsible for Finance;
 - (d) five members appointed by the Cabinet Secretary on the basis of their knowledge and experience in either—
 - (i) leadership and management;
 - (ii) financial management;
 - (iii) industry
 - (iv) engineering
 - (v) information communication technology; or
 - (vi) law; and
 - (e) the Principal who shall be an *ex officio* member of the Council.
- (2) Subject to the provisions of this Order, the office of a member of the Council shall become vacant if the member—
- (a) resigns by notice in writing addressed to the Cabinet Secretary;
 - (b) is unable to perform the functions of office by reason of prolonged physical or mental incapacity;
 - (c) is adjudged bankrupt by a court of competent jurisdiction or enters into a composition or scheme of arrangement for the benefit of creditors;
 - (d) is guilty of gross misconduct;
 - (e) fails to meet the requirements of Chapter Six of the Constitution; or
 - (f) is convicted of an offence and sentenced to imprisonment for a period of six months or more.
- (3) Where the office of a member of the Council becomes vacant, the Cabinet Secretary may, subject to the provisions of this Order, appoint another person to fill the vacancy for the unexpired term of such member.

- (4) Notwithstanding the generality of the foregoing, any member of the Council suspected of having contravened Chapters six or thirteen of the Constitution shall vacate office to pave way for investigations.
- (5) Where a person who has vacated office under subsection (3) is not found culpable of any unlawful act by a competent legal authority, the person shall be reinstated as a member of the Council.
- (6) Regulation 12 shall apply with respect to the conduct of the business and affairs of the Council.
- (7) Appointment of Council members shall take into account ethnic and gender balance and promote inclusion of persons with disability, minorities and the marginalized and ensure balanced core skills and competencies amongst the members.
- (8) In appointing members of the Council the Cabinet Secretary shall stagger the commencement dates of some members to maintain a proportion of new membership that ensures continuity in the services of the Councils.

6. Committees

The governing organ of the National Polytechnic may set up Com such committees as may be appropriate to perform such functions and discharge such responsibilities as it may determine, provided that the organ shall not delegate their principal mandate to the committees.

7. Functions of the Council

- (1) All documents, other than those required by law to be under seal, made on behalf of the Council, and all decisions of the Council may be signified under the hand of the Chairperson, the Principal or any other members of the Council generally or specifically authorized by the Council in that behalf.
- (2) The Council shall ensure that a proper management structure is in place and to make sure that the structure functions to maintain corporate integrity, reputation and responsibility.
- (3) The Council shall monitor and evaluate the implementation of strategies, policies, and management criteria and plans of the National Polytechnic.
- (4) The Council shall constantly review the viability and financial sustainability of the National Polytechnic once every year.
- (5) The Council shall ensure that the National Polytechnic complies with all the relevant laws, regulations, governance practices, accounting and auditing standards.

8. The Principal

- (1) There shall be a Principal of the National Polytechnic who shall be appointed by the Cabinet Secretary on the recommendation of the Council following a competitive recruitment process and who shall serve for a period of five years, which term may be renewed once.
- (2) The Principal shall be the chief executive officer of the National Polytechnic and shall—
 - (a) The Secretary to the Council;
 - (b) be the academic and administrative head of the National Polytechnic;
 - (c) have overall responsibility of the direction, organization, administration and programmes of the National Polytechnic; and
 - (d) have such powers and duties as may be provided by any written law.

9. The Deputy Principal

- (1) The Council shall appoint one or more Deputy Principals, who shall, under the general direction of the Principal, exercise such powers and perform such duties as may be provided by the statutes.
- (2) The Deputy Principal shall hold office upon such terms and for such period as may be provided by the statutes and upon expiration of that period shall be eligible for re-appointment for one more term.

10. The Academic Board

- (1) There shall be an Academic Board of the National Polytechnic which shall consist of—
 - (a) the Principal, who shall be the Chairperson;
 - (b) the Deputy Principals;
 - (c) the Deans of Students, and Directors of Institutes and Centres;
 - (d) the heads of the teaching departments of the National Polytechnic;
 - (e) the Librarian;
 - (f) two members elected by the students' organization of the National Polytechnic; except that the members of the student's organisation shall not be entitled to attend deliberations of the Academic Board on matters which are considered by the Chairperson of the Academic Board to be confidential and which relate to examinations, the general discipline of students, and other related matters.
- (2) Pursuant to the provisions of subsection 10(1), Trainers of the National Polytechnic shall be members of Academic Board and the following shall be in attendance at all meetings of Board—
 - (a) Registrars;
 - (b) Finance Officer;
 - (c) Chief Medical Officer;
 - (d) Chief Legal Officer;
 - (e) Senior Procurement Officer;
 - (f) two persons nominated by the Staff Association representing academic staff;
 - (g) two persons nominated by the Staff Associations representing administrative staff.
- (3) The Academic Board shall have the following powers and duties—
 - (a) to satisfy itself regarding the content and academic standard of any course of study in respect of any diploma, certificate or other award of the National Polytechnic and to report its findings thereon to the Council;
 - (b) to propose regulations for consideration by the Council regarding the eligibility of persons for admission to a course of study;
 - (c) to propose regulations for consideration by the Council regarding the standard of proficiency to be gained in each examination for a diploma, certificate or other award of the National Polytechnic;
 - (d) to decide which persons have attained the prescribed standard of proficiency and are otherwise fit to be granted a diploma, certificate or other award of the National Polytechnic and to report its decision thereon to the Council;

- (e) to make regulations governing such other matters as are within its powers in accordance with this Order;
- (f) to approve programmes of study, regulate admission of persons to the National Polytechnic and determine their continuance or discontinuation in such programmes and condition for qualifying for conferment of a diploma, certificate, award of various titles, distinction and other awards offered by the National Polytechnic;
- (g) to determine the academic policy of the National Polytechnic and to advise Council on the provision of facilities to carry out that policy;
- (h) to direct and regulate the teaching and instruction within the National Polytechnic and the examinations held by the National Polytechnic, subject to the powers of Council herein before defined;
- (i) to recommend to Council for approval of diplomas and certificates to be conferred by the National Polytechnic;
- (j) to approve diplomas, certificates and other academic qualifications to be awarded by the National Polytechnic; and
- (k) to consider and approve appointment of internal and external examiners.

11. Management Board

- (1) There shall be established a Management Board made up of the following persons—
 - (a) the Principal, who shall be the Chairperson;
 - (b) the Deputy Principal for the time being in charge of finance and administration, who shall be the secretary;
 - (c) the Deputy Principals;
 - (d) the Registrar in charge of administration;
 - (e) the Finance Officer; and
 - (f) such other member of the senior management as the Council may determine.
- (2) The functions of the Management Board shall include assisting the principal in the day to day management of the University National Polytechnic and shall, in this respect, be responsible for—
 - (a) the efficient management of the human, physical and financial resources of the National Polytechnic;
 - (b) making proposals to the Council and the Academic Board on policies that have application across the entire institution;
 - (c) coordination of the National Polytechnic strategic and development plans; and
 - (d) any other matters related to the management of the National Polytechnic.

Part IV – CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNCIL

12. Council Meetings

- (1) The Council shall meet as often as necessary for the transaction of business, but not more than four months shall elapse between the date of one meeting and that of the next meeting.
- (2) The Chairperson may at any time, and shall upon written request by a majority of the members, call a special meeting of the Council.

- (3) The Chairperson shall preside at every meeting of the Council at which he is present, but in the absence of the Chairperson the members present may elect one from among their number to preside.
- (4) The quorum for a meeting of the Council shall be, for a nine member Council, seven members who shall include five appointed members.
- (5) Unless a unanimous decision is reached, a decision on any matter before the Council shall be made on the basis of a simple majority of the members present, and in the case of an equality of votes, the chairperson or person presiding shall have a casting vote.
- (6) A member who has a direct or indirect interest in a matter being considered or to be considered by the Council shall, as soon as the relevant facts regarding the matter come to the knowledge of the member, disclose the nature of such interest, and shall not be present during any deliberations on the matter.
- (7) The Council shall cause the minutes of all proceedings of its meetings to be recorded and kept, and shall be signed by the chairperson or the person presiding at the meeting.
- (8) Save as provided for in this Order, the Council may regulate its own procedure.

13. The staff of National Polytechnic

- (1) The academic staff of the National Polytechnic shall consist of the Principal, the Deputy Principals, the Librarian and all members of staff who are engaged in teaching and research.
- (2) The senior management staff of the National Polytechnic shall consist of the Principal, the Deputy Principals, and the Dean of students and Directors of Institutes and such other members of staff as the Council may from time to time determine.
- (3) The administrative staff of the National Polytechnic shall consist of the Registrars, the Finance Officer and such other members of staff, not being engaged in teaching or research, as the Council may, from time to time, determine.
- (4) The technical staff of the National Polytechnic shall consist of those staff engaged in laboratory and field instruction in the teaching departments under the general direction of the heads of the teaching Departments, and as the Council may from time to time determine.
- (5) The support staff of the National Polytechnic shall consist of those staff engaged in general duties and as the Council may from time to time determine.
- (6) All members of the staff of the National Polytechnic shall, subject to this Order, be appointed either—
 - (a) in the manner and upon the terms and conditions of service prescribed by the Council; or
 - (b) in the case of a person seconded to the service of the National Polytechnic from the service of another institution, the Government or any other public service, on terms and conditions agreed upon between the Council and the seconding body.
- (7) The council may, subject to such restrictions as it may impose, delegate, either generally or specially, to any person, committee, or body, the power to appoint any member of the staff of the National Polytechnic.
- (8) All members of staff of the National Polytechnic shall—
 - (a) be subject to the general authority of the Council and of the Principal;
 - (b) be deemed to be employed in accordance with the statutes or as otherwise specifically provided by the statutes or by the terms of a particular appointment.

14. Performance of functions in the absence of the office holder

- (1) In the event of the incapacity of the Principal, the Council may appoint one of the Deputy Principals to carry out the functions of the Principal during the period of incapacity.
- (2) In the event of the simultaneous incapacity of the Principal and the Deputy Principals, the Council may appoint any member of the academic staff of the National Polytechnic to perform the functions of the Principal during the incapacity.
- (3) In the event of the incapacity of a member of staff of the National Polytechnic other than the Principal and Deputy Principals, the Principal may appoint a suitable person to perform the functions of the said officer during the incapacity.

Part V – FINANCIAL PROVISIONS**15. Financial Year**

The financial year of the National Polytechnic shall be the period of twelve months commencing on the 1st July and ending on thirtieth June in the following year.

16. Investment of funds

- (1) The Council may invest any of the funds of the National Polytechnic in securities in which for the time being trustees may, by law, invest trust funds or in any other securities which the treasury may, from time to time, approve for the purpose.
- (2) The Council may place on deposit with such banks as it may determine any moneys not immediately required for the purposes of the National Polytechnic.

17. Annual Estimates

- (1) Before the commencement of a financial year, the Council shall cause to be prepared estimates of the revenue and expenditure of the National Polytechnic for that year.
- (2) The annual estimates shall make provisions for all the estimated expenditure of the National Polytechnic for the financial year concerned, and in particular shall provide—
 - (a) for the payment of the salaries, allowances and other charges in respect of the staff of the National Polytechnic;
 - (b) for the payment of the pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the National Polytechnic;
 - (c) for the proper maintenance of the buildings and grounds of the National Polytechnic;
 - (d) for the proper maintenance, repair and replacement of equipment and other movable property of the National Polytechnic;
 - (e) for the funding of the cost of teaching, research and outreach activities of the National Polytechnic; and
 - (f) for the creation of such funds to meet future or contingent liabilities in respect of retiring benefits, insurance or replacement of building or equipment and in respect of such other matters as the Council may think fit.
- (3) In drawing its annual estimates and development Plans, the National Polytechnic shall consult with the Ministry and other Government agency responsible for Technical Institutions grants.
- (4) Annual estimates shall be approved by the Council before the commencement of the financial year to which they relate, and shall be submitted to the Cabinet Secretary for approval, and after the

Cabinet Secretary has given his approval, the Council shall not increase any sum provided in the estimates without the consent of the Cabinet Secretary.

- (5) No expenditure shall be incurred for the purpose of the National Polytechnic except in accordance with the annual estimates approved under subparagraph (4) or in pursuance of an authorization of the Council given with the prior approval of the Cabinet Secretary.

18. Accounts and Audit

- (1) The Council shall cause to be kept all proper books of accounts of the income, expenditure and assets and of the National Polytechnic.
- (2) Within a period of three months from the end of each financial year, the Council shall submit to the Auditor-General, the accounts of the National Polytechnic together with—
 - (a) a statement of income and expenditure during that year; and
 - (b) a statement of the assets and liabilities of the National Polytechnic on the last day of that year.
- (3) The accounts of the National Polytechnic shall be audited by the Auditor-General under the Public Audit Act (Cap. 412B).
- (4) The Auditor-General may transmit to the Cabinet Secretary a special report on any matters incidental to his powers under this Order, and subsections (3) and (4) of section 29 of the Public Audit Act (Cap. 412B) shall *mutatis mutandis* apply to any report made under this paragraph.

19. Common seal and signification of documents

- (1) The common seal of the National Polytechnic shall be kept in such custody as the Council directs and shall not be used except upon the order of the Council.
- (2) The common seal of the National Polytechnic shall be authenticated by the signature of the Principal or of one other member of staff duly authorized by the Council in that behalf and of a Deputy Principal.
- (3) The common seal of the National Polytechnic when affixed to any document and duly authenticated under this paragraph shall be judicially and officially noticed, and, unless and until the contrary is proved, any order or authorization of the Council under this paragraph shall be presumed to have been duly give.

Part VI – MISCELLANEOUS PROVISIONS

20. Regulations

- (1) The Council shall in the performance of its function under this Order, and, subject to this Order, make regulations generally for the governance, control and administration of the National Polytechnic and for the better carrying into effect of the purposes of this Order, and in particular for the—
 - (a) establishment of centres of excellence and institutes of the National Polytechnic;
 - (b) description of diplomas, certificates, and other academic qualifications;
 - (c) requirement for award of diplomas, certificates and other academic qualifications;
 - (d) conduct of examinations;
 - (e) prescribing fees and other charges;

- (f) setting the terms and conditions of service, including the appointment, dismissal and recommendation of retirement benefits of the members of the staff of the National Polytechnic;
 - (g) constitution and procedure of meetings of the Council, and the establishment, composition and terms of reference of committees of the Council;
 - (h) providing for or prescribing anything, which, under this Order, may be provided for or prescribed by regulation.
- (2) Notwithstanding subparagraph (1), the Council shall not make, amend or revoke any regulations relating to the functions and privileges of the Principal or Academic Board without first ascertaining the opinion of the Academic Board.
- (3) Regulations shall only be made by a resolution passed at a meeting of the Council supported by a majority of not less than three-fourths of the members present and voting, being not less than two-thirds of the total membership of the Council.

21. Protection of name

- (1) Notwithstanding the provisions of any other written law, no public officer performing functions relating to the registration of companies, business or societies shall accept for such registration any name which includes together with the word "Kisumu" together with either or all the words "National Polytechnic" unless the application for the registration is accompanied by the written consent of the Council.
- (2) Any person who except with the written consent of the Council, uses the word "Kisumu" together with either or all the words "National Polytechnic" in furtherance of, or as, or in connection with, any advertisement for any trade, business, calling, or profession, shall be guilty of an offence and liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding twelve months or both to such fine and imprisonment:

Provided that nothing in this paragraph shall be construed as preventing the *bona fide* use by any person of any title in pursuance of the grant to him of a degree, diploma or certificate by National Polytechnic.