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LEGAL NOTICE NO. 92

THE TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING ACT

(No. 29 of 2013)

IN EXERCISE of the powers conferred by section 26 (2) of the Technical and Vocational Education and Training Act 2013, the Cabinet Secretary for Education Science and Technology makes the following Order—

THE KABETE NATIONAL POLYTECHNIC ORDER, 2016

PART 1—PRELIMINARY

1. This Order may be cited as the Kabete National Polytechnic Order, 2016. Citation.

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

"Act" means the Technical and Vocational Education and Training Act, 2013;

"Cabinet Secretary'' means the Cabinet Secretary for the time being responsible for technical and vocational education and training;

"Council" means the council of Kabete National Polytechnic constituted under paragraph 5 of this Order;

"financial year'' means the financial year of the Polytechnic as provided for under paragraph 15 of this Order.

"Polytechnic'' means the Kabete National Polytechnic established under paragraph 3 of this Order;

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

"Principal'' means the principal of the Polytechnic appointed under paragraph 8 of this Order;

"staff'' means any staff of the Polytechnic;

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

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

PART II—ESTABLISHMENT OF THE POLYTECHNIC

3. (1) There is established a Polytechnic to be known as Kabete National Polytechnic. Establishment of the Polytechnic.

(2) The 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) receiving, investing and borrowing money; and

(d) doing or performing any such other acts, including entering into such contracts, as may be necessary or expedient for the furtherance of the provisions of this Order, and which may lawfully be done by a body corporate.

(3) The Polytechnic shall be the successor to the Kabete Technical Training Institute existing immediately before the commencement of this Order.

Objects and functions of the Polytechnic.

4. (1) The objects and functions of the 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 and in the discovery, transmission and enhancement of knowledge for economic, social, cultural, scientific, and technological development;

(c) contribute to industrial and technological development of Kenya, in collaboration with the industry and other organizations, through transfer of technology;

(d) promote and establish a culture of innovation in engineering and technology and technology transfer amongst staff and students;

(e) 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;

(f) 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;

(g) provide high quality educational, research, residential, commercial, cultural, social, recreational, sporting and other facilities;

(h) 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 research results;

(i) promote critical inquiry within the Polytechnic and in the general community;

(j) participate in commercial ventures and activities;

(k) foster the general welfare of all staff and students;

(l) provide opportunities for development and further training for staff of the Polytechnic;

(m) develop and provide educational, cultural, professional, technical and vocational services to the community and in particular, foster corporate social responsibility;

(n) provide programmes, products and services in ways that reflect the principles of equity and social justice;

(o) facilitate student mobility between different programmes at different technical training institutions and other national polytechnics;

(p) conduct examinations and grant such academic awards as may be provided under this Order; and

(q) collaborate with recognized universities for the conduct and award of degree programmes in technology.

(2) The 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 Polytechnic.

(3) Subject to this Order, the Polytechnic may award scholarships, bursaries, prizes and any other awards which may be provided for by the academic policy.

PART III—THE COUNCIL

Composition of the Council.

5. (1) There shall be a Council of the Polytechnic which shall consist of nine persons appointed by the Cabinet Secretary as follows—

(a) the chairperson;

(b) the Principal Secretary in the Ministry for the time being responsible for matters relating to 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 by virtue of their knowledge and experience in—

(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 chapter six or chapter thirteen of the Constitution shall vacate office to pave way for investigations.

(5) Where a person who has vacated office under sub-paragraph (3) is not found culpable after investigations carried out under sub-paragraph (5), the person shall be reinstated as a member of the Council.

(6) Paragraph 12 shall apply with respect to the conduct of the business and affairs of the Council.

(7) The appointment of Council members shall—

(a) take into account ethnic and gender balance;

(b) promote inclusion of persons with disability, minorities and the marginalized; and

(c) ensure balanced core skills and competencies amongst the members.

(8) In appointing members of the Council, the Cabinet Secretary shall stagger the appointment of some members to maintain a proportion of new membership that ensures continuity in the services of the Council.

Functions of the Council.

6. (1) All documents made on behalf of the Council, other than those required by law to be under seal, 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 that the management maintains the corporate integrity, reputation and responsibility of the Polytechnic.

(3) The Council shall monitor and evaluate the implementation of strategies, policies, and management plans of the Polytechnic.

(4) The Council shall constantly review the viability and financial sustainability of the Polytechnic at least once in every year.

(5) The Council shall ensure that the Polytechnic complies with all the relevant laws, regulations, governance practices and accounting and auditing standards.

Committees.

7. The Council may set up such committees as may be appropriate to perform such of its functions and responsibilities as it may determine, provided that the Council shall not delegate their principal mandate to the committees.

The Principal.

8. (1) There shall be a Principal of the Polytechnic who shall be appointed by the Cabinet Secretary on the recommendation of the Council following a competitive recruitment process.

(2) The Principal shall serve for a term of five years, which term may be renewed once.

(3) The Principal shall be the chief executive officer of the Polytechnic and shall—

(a) be the Secretary to the Council;

(b) be the academic and administrative head of the Polytechnic;

(c) subject to the direction of Council, have overall responsibility of the direction, organization, administration of programmes of the Polytechnic; and

(d) have such powers and duties as may be provided by any written law.

The Deputy Principal.

9. (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.

The Academic Board.

10. (1) There shall be an Academic Board of the Polytechnic which shall consist of —

(a) the Principal, who shall be the Chairperson;

(b) the Deputy Principals;

(c) the Dean of Students;

(d) the Directors of Institutes and Centres;

(e) the heads of the teaching departments of the Polytechnic;

(f) the Librarian; and

(g) two members elected by the students' organization of the Polytechnic, who shall however 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) The following may, upon invitation by the Chairperson, attend the meetings of the Academic Board—

(a) the Registrars;

(b) the Finance Officer;

(c) the Chief Medical Officer;

(d) the Chief Legal Officer;

(e) the Senior Procurement Officer;

(f) two persons nominated by the Staff Association representing academic staff; and

(h) two persons nominated by the Staff Association 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 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 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 Polytechnic and to report its decision thereon to the Council;

(e) to propose 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 Polytechnic and determine their continuance or discontinuation in such programmes;

(g) prescribe conditions for qualifying for conferment of a diploma, certificate, award of various titles, distinction and other awards offered by the Polytechnic;

(i) to determine the academic policy of the Polytechnic and to advise the Council on the provision of facilities to carry out that policy;

(j) to direct and regulate the teaching and instruction within the Polytechnic and the examinations held by the Polytechnic, subject to the powers of Council herein before defined;

(k) to make recommendations to the Council for the diplomas and certificates to be conferred by the Polytechnic; to approve diplomas, certificates and other academic qualifications to be awarded by the Polytechnic; and

(l) to consider and approve the appointment of internal and external examiners.

Management Board.

11. (1) There shall be established a Management Board of the Polytechnic 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 Polytechnic and shall, in this respect, be responsible for—

(a) the efficient management of the human, physical and financial resources of the Polytechnic;

(b) making proposals to the Council and the Academic Board on policies that have application across the entire institution;

(c) coordination of the Polytechnic strategic and development plans; and

(d) any other matters related to the management of the Polytechnic.

PART IV: CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNCIL

Council Meetings.

12. (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, 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 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 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) Subject to this Order, the Council may regulate its own procedure.

Staff of the Polytechnic

13. (1) The academic staff of the 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 Polytechnic shall consist of the Principal, the Deputy Principals, the Dean of Students, Directors of Institutes and such other members of staff as the Council may from time to time determine.

(3) The administrative staff of the 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 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, as the Council may from time to time determine.

(5) The support staff of the 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 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 Polytechnic from the service of another institution, the Government or any other public body, 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 staff of the Polytechnic.

(8) All members of staff of the Polytechnic shall—

(a) be subject to the general authority of the Council and the Principal; and

(b) be employed in accordance with the statutes or as otherwise specifically provided by the terms of a particular appointment.

Performance of functions in the absence of an office holder.

14. (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 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 Polytechnic other than the Principal and Deputy Principal, the Principal may appoint a suitable person to perform the functions of the said officer during the incapacity.

PART V – FINANCIAL PROVISIONS

Financial year.

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

Investment of funds.

16. (1) The Council may invest any of the funds of the 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 monies not immediately required for the purposes of the Polytechnic.

Annual estimates.

17. (1) Before the commencement of a financial year, the Council shall cause to be prepared estimates of the revenue and expenditure of the Polytechnic for that year.

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

(a) for payment of the salaries, allowances and other charges in respect of the staff of the 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 Polytechnic;

(c) for the proper maintenance of the buildings and grounds of the Polytechnic;

(d) for the proper maintenance, repair and replacement of equipment and other movable property of the Polytechnic;

(e) for the funding of the cost of teaching, research and outreach activities of the Polytechnic; and

(f) for the creation of such funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings 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 Polytechnic shall consult with the Ministry and other Government agencies 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 Polytechnic except in accordance with the annual estimates approved under sub-paragraph (4) or in pursuance of an authorization of the Council given with the prior approval of the Cabinet Secretary.

Accounts and audit.

18. (1) The Council shall cause to be kept all proper books of accounts of the income, expenditure and assets and of the Polytechnic.

(2) Within a period of three months from the end of each financial year, the Council shall submit to the Auditor General (State Corporations) the accounts of the Polytechnic together with—

(a) a statement of income and expenditure during that year; and

(b) a statement of the assets and liabilities of the Polytechnic on the last day of the year.

(3) The accounts of the Polytechnic shall be audited in accordance with the Public Audit Act, 2003.

(4) The Auditor-General may transmit to the Cabinet Secretary a special report on any matters incidental to his powers under this Order, and sub-sections (3) and (4) of section 29 of the Public Audit Act, 2003 shall apply *mutatis mutandis* to any report made under this paragraph.

Common seal and signification of documents.

19. (1) The common seal of the 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 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 Polytechnic when affixed to any document and duly authenticated under this paragraph shall be

judicially and officially noticed and, unless the contrary is proved, any order or authorization of the Council under this paragraph shall be presumed to have been duly given.

PART VI – MISCELLANEOUS PROVISIONS

Statutes.

20. (1) The Council shall in the performance of its functions under this Order and subject to this Order, make statutes generally for the governance, control and administration of the Polytechnic and for the better carrying into effect of the purposes of this Order, and in particular for—

(a) the establishment of centres of excellence and institutes of the Polytechnic;

(b) the description of diplomas, certificates, and other academic qualifications;

(c) the requirements 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 recommendations of retirement benefits of members of staff of the 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 statute.

(2) Notwithstanding sub-paragraph (1), the Council shall not make or amend any statutes relating to the functions and privileges of the Principal or the Academic Board without first ascertaining the opinion of the Academic Board.

(3) Statutes 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.

Protection of name.

21. (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 "Kabete" together with 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 "Kabete'' 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, commits an offence and shall upon conviction be liable to the penalty prescribed under the Act:

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 Polytechnic.

Transitional provisions.

22. (1) All rights, liabilities and assets held by anybody on behalf of the Kabete Technical Training Institute immediately before the commencement of this Order, shall upon such commencement be automatically and fully transferred to the Polytechnic.

(2) The staff of the Kabete Technical Training Institute existing immediately before the commencement of this Order shall be deemed to be the staff of the Polytechnic.

(3) All the students of the Kabete Technical Training Institute who were pursuing courses at the institute immediately before the commencement of this Order, shall upon such commencement be allowed to complete such courses and be awarded the respective certificates of the Polytechnic.

Dated the 30th May, 2016.

FRED MATIANG'I,
Cabinet Secretary, Education Science and Technology.

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