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Technical and Vocational Education and Training Act

The Bungoma National Polytechnic Order

Legal Notice 14 of 2024

Legislation as at 19 January 2024

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TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING ACT

THE BUNGOMA NATIONAL POLYTECHNIC ORDER LEGAL NOTICE 14 OF 2024

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Part 1 – PRELIMINARY

1. Citation

This Order may be cited as the Technical and Vocational Training (Bungoma National Polytechnic) Order, 2024.

2. Interpretation

In this Order, unless the context otherwise requires—

"Academic Board" means the Academic Board of the National Polytechnic established under paragraph 9;

"Cabinet Secretary" has the meaning assigned to it under section 2 of the Act;

"Council" means the Council of the Bungoma National Polytechnic constituted under paragraph 5;

"Management Board" means the Management Board of the National Polytechnic established under paragraph 12;

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

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

"Principal" means the principal of the National Polytechnic appointed under paragraph 9;

"staff" means any staff of the National Polytechnic; and

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

Part II – ESTABLISHMENT OF THE BUNGOMA NATIONAL POLYTECHNIC

3. Establishment of the Bungoma National Polytechnic

- (1) There is established a National Polytechnic to be known as the Bungoma 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) receiving, investing and borrowing money; and

- (d) doing or performing and such other act, including entering in 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 National Polytechnic shall be the successor to the Sang'alo Technical Training Institute existing immediately before the commencement of this Order.

4. Objects and functions 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, technological, professional, scientific education and training;
 - (b) participate in technological innovation as well as 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 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 research within the National 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 National 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 for 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 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 any other awards which may be provided for by the academic policy.

Part III – THE MANAGEMENT OF THE NATIONAL POLYTECHNIC

The Council

5. Composition of the Council

- (1) There shall be a Council of the National Polytechnic which shall consist of the following persons appointed by the Cabinet Secretary—
 - (a) the chairperson;
 - (b) the Principal Secretary for the time being responsible for matters relating to technical and vocational education and training;
 - (c) the Principal Secretary 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) The appointment of Council members shall—
 - (a) take into account ethnic and gender balance;
 - (b) promote inclusion of persons with disability, minorities and the marginalised; and
 - (c) ensure balanced core skills and competencies amongst the members.
- (3) 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.

6. Vacancy in office of member

- (1) 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) contravenes Chapter Six or Thirteen of the Constitution; or
 - (f) is convicted of an offence and sentenced to imprisonment for a period of six months or more.
- (2) 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.
- (3) 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.
- (4) Where a person who has vacated office under sub-paragraph (1)(e) is not found culpable after investigations carried out under sub-paragraph (3), the person shall be reinstated as a member of the Council.

7. Functions of the Council

- (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 structure maintains corporate integrity, reputation and responsibility of the National Polytechnic.
- (3) The Council shall monitor and evaluate the implementation of strategies, policies, and management plans of the National Polytechnic.
- (4) The Council shall constantly review the viability and financial sustainability of the National Polytechnic once in every year.
- (5) The Council shall ensure that the National Polytechnic complies with all the relevant laws, regulations, governance practices and accounting and auditing standards.

8. Committees

- (1) The Council may set up such committees as may be appropriate to perform any of its functions and responsibilities as it may determine.
- (2) Despite subparagraph (1), the Council shall not delegate its principal mandate to the committees.

The Principal

9. 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.
- (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 National Polytechnic and shall—
 - (a) be the Secretary to the Council;
 - (b) be the academic and administrative head of the National Polytechnic;
 - (c) subject to the direction of the Council, have overall responsibility of the direction, organization and administration of the programmes of the National Polytechnic; and

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

10. Deputy Principals

- (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

11. 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;
 - (d) the Directors of Institutes and Centres;
 - (e) the heads of the teaching departments of the National Polytechnic;
 - (f) the Librarian; and
 - (g) two members elected by the students' organization of the National Polytechnic.
- (2) Despite subparagraph (1)(g), the two members of the students' organisation shall not 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.
- (3) The following persons 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
 - (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 stand ard 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 for consideration by the Council the standard of proficiency to be gained in each examination for a diploma, certificate or other award of the National Polytechnic;

- (c) 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;
- (d) to approve programmes of study, regulate admission of persons to the National Polytechnic and determine their continuance or discontinuation in such programmes;
- (e) specify the conditions for qualifying for conferment of a diploma, certificate, award of various titles, distinction and other awards offered by the National Polytechnic;
- (f) to determine the academic policy of the National Polytechnic and to advise the Council on the provision of facilities to carry out that policy;
- (g) 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;
- (h) to make recommendations to the Council for the diplomas and certificates to be conferred by the National Polytechnic;
- (i) to approve diplomas, certificates, and other academic qualifications to be awarded by the National Polytechnic; and
- (j) to consider and approve appointment of internal and external examiners.

The Management Board

12. Management Board

- (1) There shall be established a Management Board of the National Polytechnic consisting of—
 - (a) the Principal, who shall be the chairperson;
 - (b) the Deputy Principal 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 Management Board shall assist the Principal in the day-to-day management of the National Polytechnic and in particular 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 apply across the entire institution;
 - (c) co-ordination of the strategic and development plans of the National Polytechnic; and
 - (d) any other matters related to the management of the National Polytechnic.

13. Performance of the functions in the absence of an 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.

Staff of the National Polytechnic

14. Staff of the 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, 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 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 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 the staff of the National Polytechnic.
- (8) Every member of staff of the National Polytechnic shall be—
 - (a) subject to the general authority of the Council and of the Principal; and
 - (b) employed in accordance with the statutes or as otherwise specifically provided by the statutes or by the terms of a particular appointment.

Part IV – CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNCIL

15. Meetings of the Council

- (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 his absence, the members present may elect one from among their number to preside.
- (4) 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.

- (5) 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.

16. Quorum

The quorum for a meeting of the Council shall be seven members who shall include the five members appointed paragraph 5.

17. Decisions of the Council

Unless a unanimous decision is reached, a decision on any matter before the Council shall be made based on 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.

18. Rules of procedure

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

Part V – FINANCIAL PROVISION

19. Financial year

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

20. 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 Cabinet Secretary for the National Treasury may, from time to time, approve for that purpose.
- (2) The Council may, subject to the approval of the Cabinet Secretary for the National Treasury, place on deposit with such banks as it may determine, any monies not immediately required for the purposes of the National Polytechnic.

21. 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 for—
 - (a) the payment of the salaries, allowances, and other charges in respect of the staff of the National Polytechnic;
 - (b) 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) the proper maintenance of the buildings and grounds of the National Polytechnic;
 - (d) the proper maintenance, repair and replacement of equipment and other movable property of the National Polytechnic;
 - (e) the funding of the cost of teaching, research, and outreach activities of the National Polytechnic; and

- (f) 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 preparing its annual estimates and development plans, the National Polytechnic shall consult with the Ministry responsible for technical institutions' grants and any other relevant Government agency.
- (4) The 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) Expenditure shall not 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.

22. 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 three months from the end of each financial year, the Council shall submit to the Auditor-General (State Corporations), 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 in accordance with Public Audit (Cap. 412B).
- (4) The Auditor-General may transmit to the Cabinet Secretary a special report on any matter's incidental to his powers under this Order, and subsections (3) and (4) of section 29 of the Public Audit Act, 2003 (No. 12 of 2003) shall, with the necessary modifications, apply to any report made under this paragraph.

Part VI – MISCELLANEOUS PROVISIONS

23. Common seal of the National Polytechnic

- (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 approved, any order or authorization of the Council under this paragraph shall be presumed to have been duly given.

24. Protection of name

- (1) Notwithstanding the provisions of any other written law, a public officer performing functions relating to the registration of companies, business or societies shall not accept for such registration

any name which includes "Bungoma" 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 expression word "Bungoma" 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 section 56 of the Act.
- (3) This paragraph shall not 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.

25. Transitional provisions

- (1) All rights, liabilities and assets held by anybody on behalf of the Sang'alo Technical Training Institute immediately before the commencement of this Order, shall upon such commencement be automatically and full transferred to the National Polytechnic.
- (2) The staff of the Sang'alo Technical Training Institute existing immediately before the commencement of this Order shall be deemed to be the staff of the National Polytechnic.
- (3) Every student of the Sang'alo Technical Training Institute who is pursuing a course at the Institute immediately before the commencement of this Order, shall upon such commencement be allowed to complete the course and be awarded the respective certificate of the National Polytechnic.