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**THE TANA RIVER COUNTY VILLAGE POLYTECHNICS ACT,
2016****No. 21 of 2016***Date of Assent: 27th September, 2016**Date of Commencement: See Section 1*

AN ACT of the County Assembly of Tana River to give effect to paragraph 9 of Part II of the Fourth Schedule to the Constitution, provide a legal framework to establish and maintain village polytechnics in the County and for connected purposes

ENACTED by the County Assembly of Tana River, as follows—

PART I—PRELIMINARY**Short title and Commencement date**

1. (1) This Act may be cited as the Tana River County Village Polytechnics Act, 2016.

(2) This Act shall come into force on such date as the County Executive Committee Member shall, by notice in the Gazette, appoint, but not later than three months after publication of the Act.

Interpretation

2. In this Act unless the context otherwise dictate—

“board” means a Board of governors appointed by the appropriate authority to oversee the affairs of a polytechnic;

“county education board” means the County Education Board established by the Basic Education Act;

“county executive committee member” means the County Executive Committee Member responsible for education; and

“polytechnic” means village polytechnics established pursuant to this Act.

Object and Purpose of the Act

3. The object and purpose of this Act is to—

- (a) establish a legal framework to support the establishment of polytechnics in the County;
- (b) provide for a self-regulating framework for polytechnics established in the County; and

- (c) facilitate the implementation of County government function under the Fourth Schedule to the Constitution.

PART II—POLYTECHNICS

Autonomy and Members of a Polytechnic

4. (1) A polytechnic shall have autonomy in its internal affairs.
- (2) A polytechnic shall encompass full-time trainers, other full-time staff and full-time trainees as its members.
- (3) Determination as to who is to be regarded as full-time shall be issued by regulations.

The Mission of Polytechnics

5. The mission of a polytechnic includes—
- (a) working on research, artistic and cultural premises;
 - (b) providing education for professional expert jobs based on the requirements of working life and its development;
 - (c) supporting the professional growth of individuals; and
 - (d) carrying out applied research and development that serves polytechnic education, supports the world of work and regional development, and takes the industrial structure of the region into account.

Co-operation with the operating environment

6. In carrying out its mission, a polytechnic shall cooperate with business and industry and other sectors of the labour market, in particular within the County, and with local and foreign higher education institutions and other educational establishments.

PART III—OPERATING A POLYTECHNIC

Registration of Polytechnics

7. (1) A person or organisation shall not operate a polytechnic unless it is registered under this Act.
- (2) A person or organisation which operates a polytechnic which is not registered under this Act commits an offence.

Application for Registration of a polytechnic

8. (1) An application for registration of a polytechnic shall be in a form prescribed by the County Executive Committee Member in the regulations.

(2) An application for registration of a polytechnic shall be submitted to the County Executive Committee Member.

(3) The County Executive Committee Member shall forward a copy of the application to the County Education Board.

(4) The County Education Board shall, within fifteen working days after receiving the application—

- (a) organize an inspection of the polytechnic; and
- (b) conduct an interview with the applicant to assess the suitability of—
 - (i) the equipment of the polytechnic; and
 - (ii) the persons proposed to be employed in the polytechnic.

(5) The County Education Board shall within thirty days after the inspection and interview, forward its recommendation to the County Executive Committee Member for the registration of the polytechnic or to take such other Action as the County Executive Committee Member may deem fit.

Application to pay prescribed fee

9. A person making an application for the registration of a polytechnic shall pay the prescribed fees.

Provisional licence to operate prior to registration

10. (1) The County Executive Committee Member may issue to the applicant for registration of a polytechnic a provisional licence to operate pending the fulfilment of the conditions required by the County Executive Committee Member for the determination of the application.

(2) A provisional licence issued under subsection (1) shall cease to operate upon—

- (a) the issuance of a certificate of registration to the applicant; or
- (b) the expiry of twenty-four hours after receipt of the notice of refusal of registration or such longer period as the County Executive Committee Member may specify in the notice.

(2) As a condition of the grant of a provisional licence under this section, the County Executive Committee Member may prescribe a period within which the applicant must fulfill the conditions required by it for the improvements of the operation of the polytechnic.

(3) A provisional licence shall be in the form prescribed by the County Executive Committee Member in regulations.

(4) The holder of a provisional licence shall allow an inspector to enter the premises of the polytechnic during official working hours, for the purpose of carrying out any inspection to ascertain whether the polytechnic is in compliance with the conditions of the temporary licence.

Registration Certificate

11. (1) The County Executive Committee Member shall, on registration of a polytechnic, issue a registration certificate to the applicant.

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

(3) The County Executive Committee Member may at any time during the validity of a licence—

- (a) vary the conditions of the licence; or
- (b) impose conditions or further conditions on the licence.

Revocation of Registration and Closure of a Polytechnic

12. (1) The registration referred to in section (11) remains valid but may be revoked in the following instances—

- (a) an offence under this 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;
- (c) where the polytechnic is being managed in a manner which is, in the opinion of the County Executive Committee Member, harmful to the physical, mental or moral welfare of the students.

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

(3) Before the polytechnic is closed under subsection (2), the Principal of the polytechnic shall be given an opportunity to be heard either in person or by a legal representative.

(4) An appeal against a decision made in this section shall be lodged with the County Education Board.

Requirements to publish the registration of a polytechnic

13. The County Executive Committee Member shall, within sixty days after the registration of a polytechnic, publish the registration in the Kenya Gazette and in at least one newspaper with national circulation.

County Executive Committee Member to Register a polytechnic

14. (1) The County Executive Committee Member shall register a polytechnic if it is satisfied, based upon the written recommendation of the County Education Board, that the application is in order.

(2) The County Executive Committee Member shall, within a reasonable period after registration of a polytechnic, forward the name and all relevant information on the polytechnic to the County Education Board.

Register of Polytechnics

15. (1) The County Executive Committee Member 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 County Executive Committee Member may prescribe.

(2) The County Executive Committee Member shall forward all the particulars recorded in the register to the County Education Board.

Polytechnic Operating Licence

16. (1) After registration and upon application, the County Executive Committee Member may grant a licence to operate a polytechnic to any person after Registration and;

(2) The licence shall be granted subject to such conditions as the County Executive Committee Member may prescribe.

(3) Notwithstanding the provisions of subsection 2, 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 this Act.

(4) The licensee is entitled to operate a polytechnic which provides polytechnic education in accordance with the educational mission specified in the operating licence.

(5) The licence issued under this Act may impose development and other obligations on the polytechnic.

(6) The Executive Committee Member may cancel an operating licence in whole or in part—

- (a) if so required by fundamental changes in educational needs or for other reasons relating to the running of the polytechnic;
- (b) if the polytechnic in its operation fails to fulfil the requirements and obligations referred to in this Act; or
- (c) for any other justifiable reason.

(7) The Executive Committee Member may make regulations generally to give full effect to this section.

(8) An application made under this section shall be in accordance to a prescribed form and accompanied by such fees as the Executive Committee Member may prescribe.

Educational Mission

17. (1) Every polytechnic established under this Act shall have an educational mission.

(2) The educational mission referred to under subsection (1) shall determine its field of operation, its language of instruction and the location of its units.

(3) The Executive Committee Member shall make regulations to give effect to this section.

PART IV—STEERING AND EVALUATION OF OPERATIONS

Target Setting.

18. (1) In accordance with further provisions to be issued in the regulations, the County Government shall adopt a Development Plan for Education and Research for a specific period of time, setting out general development targets for polytechnics.

Quality Assessment

19. (1) A polytechnic shall be responsible for the quality and continuing development of the education and other activities it provides.

(2) The polytechnic shall evaluate its education and other activities and their impact.

(3) The polytechnic shall also participate in external evaluation of its operation and quality assurance system on a regular basis and publish the findings of its evaluations.

(4) The Executive Committee Member may cancel the operating licence of a polytechnic that fails to comply with this section.

PART V—POLYTECHNIC ADMINISTRATION**Internal administrative bodies**

20. (1) All polytechnics established under this Act shall have a Board of Management.

(2) The internal administration of a polytechnic shall be managed by the Board.

Board

21. (1) The board shall be presided over by a Chairperson.

(2) The board shall include the representation of the other leadership, full-time trainers, other full-time staff and full-time trainees of the polytechnic and representatives of business and industry and other sectors of the labour market.

(3) The total number of board members and the number of members belonging to the groups referred to in subsection (2) shall be determined by the person or organisation operating the polytechnic.

(4) The appointment of a chairperson and election of members shall be as provided for under the code of regulations of the polytechnic.

(5) The Principal shall be the Secretary to the Board.

(6) The code or regulations referred to under subsection (4) shall be presented to the County Executive Committee Member for approval.

Powers of the Board

22. (1) The Board shall have all powers necessary for the proper performance of the functions of the polytechnic 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) delegate any of its powers; and
- (e) undertake any activity necessary for the fulfilment of any of the functions of the Board

Duties of the Board

- 23.** (1) The Board shall oversee operations of the polytechnic.
- (2) The board shall—
- (a) submit proposals towards the action and economic plan and budget of the polytechnic to the person or organisation operating the polytechnic;
 - (b) determine the grounds for allocating the appropriations granted to the polytechnic;
 - (c) submit a proposal to the person or organisation operating the polytechnic concerning changes in the educational mission;
 - (d) appoint other multi-member administrative bodies;
 - (e) adopt certificate regulations of the polytechnic;
 - (f) adopt regulations on internal administration; and
 - (g) deliberate and resolve any other matters assigned to it by statutes or regulations, or matters which by virtue of their nature fall within its duties;
 - (h) ensure efficient management of the polytechnic;
 - (i) oversee prudent utilization of the funds allocated to the polytechnic;
 - (j) ensure that the polytechnic observes high standards of corporate and business ethics; and
 - (k) perform any other functions assigned to it under this Act or any other written law.

Requirement to consult with the County Education Board

24. The County 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;
- (b) formulate policy relating to the polytechnic; and
- (c) provide guidelines on the courses of study, their curriculum and minimum standards of the polytechnics.

PART VI—INSTRUCTION AND CERTIFICATE

Language of Instruction

25. The language of instruction of a polytechnic shall be English or Swahili.

Polytechnic Education

26. Within the scope of the educational mission assigned to it, a polytechnic shall provide education specialist training and open polytechnic instruction.

Certificates and Requirements

27. (1) The polytechnics shall confer polytechnic certificate.

(2) Provisions on the certificates conferred by a polytechnic, the objectives of the certificates and the structure of studies and other study requirements shall be issued by regulations and stipulated, by virtue thereof, in the certificate regulations of the polytechnic.

PART VII—TRAINEES

Number of Trainees

28. A polytechnic shall decide on the annual number of trainees admitted to the polytechnic.

Student Selection and Acceptance

29. (1) The admission criteria and the arrangement of entrance examinations shall be determined by the polytechnic.

(2) The applied admission criteria must be consistent with regard to all the applicants.

(3) An applicant may apply to the board of the polytechnic in writing for rectification of a decision concerning admission within 14 days of receiving the notification of the decision.

(4) The admission results may not be changed to the detriment of any other admitted person in consequence of the rectification request.

(5) Further provisions on the procedure shall be issued by regulations.

Student Registration

30. An admitted student who has notified the polytechnic of his or her acceptance of the student place shall enrol at the polytechnic in the manner stipulated by the polytechnic, whereupon he or she is registered as a student.

Forfeiture of Right to Study

31. (1) A student who has not registered in the manner provided in Section 30 shall forfeit his or her right to study.

(2) Should the student later wish to start or resume his or her studies, he or she must reapply to the polytechnic for right to study.

(3) A student who fails to complete his or her studies within the period of time laid down by the polytechnic shall forfeit his or her right to study, unless the polytechnic for a special reason grants him or her extension to finish the studies.

(4) A student may apply to the board of the polytechnic in writing for rectification of a decision concerning forfeiture of right to study within 14 days of receiving notification of the decision.

Disciplinary Action

32. (1) A student who has been found guilty of deception in the polytechnic or otherwise breached the order of the polytechnic may be punished by disciplinary action, depending on the severity of the breach, by a caution or by suspension for a period of not more than six months.

(2) Before a decision is taken on the matter, the student must be given an opportunity to be heard on the matter.

(3) The decision to caution a student shall be made by the rector and the decision on a student's suspension by the board of the polytechnic.

PART VIII—TRAINERS AND OTHER STAFF**Trainers and Other Staff**

33. (1) A polytechnic may have trainers and visiting trainers.

(2) The staff of a polytechnic shall be appointed or hired by the polytechnic.

Trainers Qualification Requirements and Duties

34. Provisions on the polytechnic trainers' qualification requirements and duties shall be issued by the polytechnics regulations.

PART IX—FINANCING**Core Funding**

35. A polytechnic established by the County Government shall be allocated core funding by the County Government on the basis of the number of polytechnic trainees and a unit cost determined per student.

Other sources of funding

36. A person or organisation operating a polytechnic may accept contributions and donations for the operations and development of the polytechnic.

PART X—MISCELLANEOUS PROVISIONS**Co-operation between Polytechnics**

37. Polytechnics may agree on joint education and research units with a view to coordinating operations of polytechnics located in the same region or to promoting joint projects, research and development cooperation or other forms of collaboration.

Appeals

38. An appeal against a decision made by a polytechnic pursuant to this Act and to a Decree issued by virtue of it shall be lodged with the administrative court within whose jurisdiction the head office of the polytechnic is located.

Trainee Body

39. (1) A polytechnic shall have a trainee body to which the full-time trainees of the polytechnic may belong.

(2) The trainee body may also admit other polytechnic trainees as members.

(3) The duties of the trainee body shall be to select trainee representatives for the polytechnic board and to participate in other polytechnic activities.

(4) The trainee body shall also otherwise contribute to preparing trainees for an active, cognizant and critical citizenship.

(5) The trainee body shall liaise between and on behalf of its members for promoting their societal, social and intellectual aspirations and those relating to studies and the status of trainees in society.

Regulations

40. (1) The County Executive Committee Member shall in consultation with the Board make regulations within ninety days from the date of enactment, generally for the better carrying into effect the provisions of this Act.

(2) The regulations under this Act shall be approved by the County Executive Committee and the County Assembly before they take effect.

Prescription of Fees

41. The County Executive Committee Member may prescribe fees required under this Act.