

THE ISIOLO COUNTY VILLAGE POLYTECHNICS BILL, 2014

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A Bill for

AN ACT of the Isiolo County Assembly to establish and maintain village polytechnics in the county; to provide for their registration and administration and for connected purposes

ENACTED by the Isiolo County Assembly as follows—

PART I—PRELIMINARY

Short title and commencement

1. This Act may be cited as the Isiolo County Village Polytechnic Act, 2014 and shall come into operation upon publication in the county gazette.

Interpretation

2. In this Act—

“Board” means the Board of Directors of a village polytechnic which is privately established and sponsored as established under section 22;

“Council” means the Village Polytechnic Council established under section 17;

“Department” means the Department of Education in the County;

“Executive Committee Member” means the county Executive Committee Member responsible for matters relating to education and cultural services;

“Manager” means a manager of a village polytechnic appointed under section 23; and

“polytechnic” means a village polytechnic registered under this Act.

Object of the Act

3. The object of this Act is to promote the establishment of polytechnics in the county to—
 - (a) train people to acquire relevant occupational trade skills;
 - (b) promote the exchange of knowledge and skills;
 - (c) enhance business and industry in the county;
 - (d) enhance research for the advancement of knowledge and its practical application; and
 - (e) organize conferences, seminars and study groups for the

promotion of field learning and gaining of skills by local communities.

**PART II—ESTABLISHMENT OF VILLAGE
POLYTECHNICS**

Establishment of
polytechnics

4. (1) The county government shall promote the establishment of a polytechnic in the each ward.

No. 15 of 2013

(2) The county government may partner with the private sector to establish the polytechnics referred to in subsection (1) and where this is done, it shall be in accordance with the Public Private Partnership Act, 2013.

(3) Despite subsections (1) and (2), a person who fulfils the registration requirements provided in this Act may establish a polytechnic in the county.

Duties of the
Executive Committee
Member

5. The Executive Committee Member shall, in consultation with the County Education Board established under the Basic Education Act—

No. 14 of 2013

(a) plan, develop and coordinate training and research in the polytechnics in the county; and

(b) provide guidelines on the courses of study, their curriculum and minimum standards of the village polytechnics;

(c) ensure that the staff who teach in the polytechnics have the necessary qualifications; and

(d) ensure that all centres are registered and regularly inspected by inspectors for—

(i) education; and

(ii) health.

Functions of a
polytechnic

6. A polytechnic established under this Act shall—

(a) provide full-time or part-time technical or vocational courses in technology, applied science, commerce, management and other business studies;

(b) award diplomas and certificates in accordance with the requirement of the course and the authority responsible for

higher education;

- (c) provide such facilities for its students as it considers desirable;
- (d) establish and appoint persons in academic and other posts and offices as it considers necessary;
- (e) fix, demand and receive fees and other charges as may be appropriate and reasonable;
- (f) provide technical and consultancy services to businesses and industries as it considers desirable;
- (g) solicit and receive donations and contributions from any source or raise funds by all lawful means;
- (h) give donations and contributions to any person or organisation;
- (i) make provision for the general welfare, recreational and social needs of its staff and students; and
- (j) do all such things as may be necessary for the attainment of all or any of the above.

Powers of a polytechnic

7. A polytechnic has all powers necessary for the proper performance of its functions under this Act.

PART III—REGISTRATION OF VILLAGE POLYTECHNICS

Polytechnics to be registered

8. (1) A person shall not operate a polytechnic unless it is registered under this Act.
- (2) A person shall not operate a polytechnic unless the premises has undergone quality review and has been approved in accordance with the guidelines and standards issued under section 5 of this Act.
- (3) A person who operates a polytechnic which is not registered under this Act commits an offence.

Application for registration of a polytechnic

9. (1) An application for registration of a polytechnic shall be in the form prescribed by the Executive Committee Member.
- (2) The application referred to in subsection (1) shall be submitted to the Department.
- (3) The Department shall, within fifteen working days after receiving

the application—

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

(4) The Department shall, within a reasonable period after the inspection and interview, register the polytechnic or take such other action as it may deem fit.

Applicant to pay prescribed fee

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

Publication of the application

11. The Department shall, within seven days after receiving an application, publish it in the county Gazette.

Registration of a polytechnic

12. (1) The Department shall register a polytechnic if it is satisfied that the applicant is a fit and proper person to operate the polytechnic.

(2) A person aggrieved by the decision of the Department under this section may, within thirty days of being notified of the decision, appeal against the decision to the County Education Board.

Permit to operate prior to registration

13. (1) The Department may issue to the applicant for registration of a polytechnic a permit to operate pending the fulfilment of the conditions required by the Department for the determination of the application.

(2) A permit under subsection (1) shall cease to operate upon—

- (a) the delivery 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 Department may specify in the notice.

(3) As a condition of the grant of a permit under this section, the Department may prescribe a period within which the applicant must fulfil the conditions required by the Department for the improvements of the operation of the polytechnic.

(4) A permit issued under this section shall be in the form prescribed by the Executive Committee Member.

(5) The holder of a permit under this section shall allow an inspector to enter the premises of the polytechnic at all reasonable hours, for the purpose of carrying out any inspection to ascertain whether the polytechnic is in compliance with the conditions of the permit.

Registration certificate

14. (1) The Department shall, on registration of a polytechnic, issue a registration certificate to the applicant.

(2) A registration certificate 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 village polytechnic in accordance with this Act.

Registration certificate to be displayed

15. The registration certificate issued under section 14 shall be displayed, by the operator, in a conspicuous place on the premises of the polytechnic.

Register of polytechnics to be maintained

16. The Department shall keep a register of all polytechnics operating in the county and shall include in the register the names of the polytechnics and such other particulars as the Executive Committee Member may prescribe.

PART IV—ADMINISTRATION OF VILLAGE POLYTECHNICS

Establishment of a Village Polytechnic Council

17. (1) A polytechnic established by the county government shall have a governing body known as the Village Polytechnic Council.

(2) The Council is responsible for—

(a) the education policy of the polytechnic;

(b) overseeing the activities of the polytechnic;

(c) safeguarding the assets of the polytechnic and the effective and efficient use of its resources;

(d) considering and approving annual estimates of income and expenditure of the polytechnic;

(e) overseeing the activities of the polytechnic;

(f) safeguarding the assets of the polytechnic and the effective and efficient use of its resources;

(g) the appointment and discipline of the Manager and other senior officers as the Council may determine;

- (h) considering and approving of recommendations of the academic board;
- (i) the establishment of committees which may be necessary for the efficient performance of its business; and
- (j) such other functions that are incidental to the achievement of the aims and objectives of the polytechnic.

Composition of a Council

18. A Council shall be appointed through an open, transparent and competitive manner and shall comprise of—

- (a) a chairperson;
- (b) a deputy chairperson;
- (c) a representative of the County Education Board;
- (d) a representative of the education sector;
- (e) a representative of the Parents Teachers Association;
- (f) not more than three persons representing the community in the county, taking into consideration gender balance, persons with disabilities and the disadvantaged community; and
- (g) the Manager who shall be the Secretary of the Council.

(2) All members of the Council, other than the Manager, shall be appointed by the Executive Committee Member with the approval of the County Assembly.

(3) Members of the Council shall hold office for a period of five years from the date of appointment and shall be eligible for reappointment once.

Vacation of office of member of Council

19. (1) A member of the Council ceases to hold office if the member—

- (a) is unable to perform the functions of the office by reason of mental or physical infirmity;
- (b) is declared bankrupt or becomes insolvent;
- (c) is convicted of a criminal offence and sentenced to a term of imprisonment of six months or more;

- (d) resigns in writing to the Executive Committee Member;
- (e) without reasonable cause, is absent from three consecutive meetings of the Council;
- (f) is found guilty of professional misconduct by the relevant professional body;
- (g) is disqualified from holding a public office under the Constitution; or
- (h) engages in any gross misbehaviour or misconduct.

(2) The Executive Committee Member may remove a member from the office if, in the opinion of the Executive Committee Member, the member is unfit to continue in office on any of the grounds provided under subsection (1).

(3) Before the Executive Committee Member makes a decision under subsection (2), the member shall be given an opportunity to provide a defence against any of the allegations.

Filling of vacancy

20. Where an office in the Council falls vacant, the Executive Committee Member may appoint another person to fill the vacancy and the person appointed shall be in office for the remainder of the term of the vacating member.

Meetings of a Council

21. (1) The Council shall meet to conduct its business at a time and place that the chairperson may determine but shall meet at least three times in each academic year.

(2) The chairperson shall preside over all meetings of the Council and in the absence of the chairperson; the vice-chairperson shall preside over the meeting.

(3) Where both the chairperson and vice-chairperson are absent in a meeting, a member elected by the Council at the meeting for that purpose shall preside.

(4) A meeting shall be convened if five members of the Council sign a requisition to that effect.

(5) The quorum at a meeting of the Council shall be at least half of the members of the Council.

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(6) A decision of the Council shall be decided by consensus failing which a simple majority of votes cast shall decide the matter.

(7) The person chairing a meeting of the Council shall have a casting vote.

(8) The Council may co-opt any person to attend a meeting of the Council but that person shall not vote on a matter for a decision by the Council.

Board of Directors for a village polytechnic privately established

Board of Directors of a polytechnic

22. (1) There shall be a Board of Directors for a polytechnic privately established and sponsored as may be determined by the promoters of the polytechnic.

(2) The Board of Directors shall be responsible for—

(a) the education policy of the polytechnic;

(b) overseeing the activities of the polytechnic;

(c) considering and approving annual estimates of income and expenditure of the polytechnic;

(d) safeguarding the assets of the polytechnic and the effective and efficient use of its resources;

(e) considering and approving annual estimates of income and expenditure of the polytechnic;

(f) the appointment and disciplining of the manager and other senior officers;

(g) considering and approving the recommendations of the academic board; and

(h) overseeing the general management and administration of the polytechnic.

(2) The Board may, in the exercise of its functions, ensure payment of all expenses incurred in promoting and registering the company and may exercise all such acts required to be exercised by the company subject to the provisions of this Act or any regulations made under it.

Staff of a village polytechnic

Manager and deputy
manager of a
polytechnic

- 23.** (1) A polytechnic shall, through an open, transparent and competitive recruitment, appoint a suitably qualified person to be the manager of the polytechnic.
- (2) A person shall be qualified for appointment as the manager if the person—
- (a) holds a diploma in education from an institution recognized in Kenya;
 - (b) has at least three years proven experience at management level;
 - (c) has experience in any technical field; and
 - (d) meets the requirements of Chapter six of the Constitution.
- (3) The manager shall serve on such terms and conditions as the Council or Board may determine.
- (4) The manager shall, in the performance of the functions and duties of office, be responsible to the Council or the Board as the case may be.
- (5) The manager shall be the chief executive and accounting officer of the polytechnic and as such, shall be responsible for—
- (a) the academic performance of the polytechnic;
 - (b) carrying into effect the decisions of the Council or Board;
 - (c) day-to-day administration and management of the affairs of the polytechnic;
 - (d) supervision of the academic and other staff of the polytechnic; and
 - (e) perform such other duties as may be assigned by the Council or Board.
- (6) A Council shall appoint a deputy manager of the polytechnic who shall deputize the manager and perform such work as the manager may assign.
- (7) The provisions of subsection (2) (a), (c) and (d) shall apply to the appointment of a deputy manager.

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Other officers and staff

24. (1) The County Public Service shall ensure that each polytechnic has such academic, technical and administrative officers and support staff, as may be determined by the Council.

(2) In addition to the staff under subsection (1), the county government and the County Education Board may, upon request by the Council or Board, second to a polytechnic such officers as may be necessary for the better performance of polytechnic.

Academic board of a village polytechnic

Academic board

25. A polytechnic shall have an academic board consisting of the manager, vice-manager, heads of Academic Divisions, heads of the Academic Departments and any other persons specified by the Council or Board of Directors as the case may be.

Responsibilities of the academic board

26. The academic board is responsible for—

- (a) determining the criteria for the admission of students;
- (b) issues relating to scholarships at the polytechnic, if any;
- (c) the content of curricula, the academic standards, validation and review of courses;
- (d) the procedure to assess and examine students;
- (e) the appointment and removal of internal and external examiners;
- (f) the procedure for the award of qualifications and honorary academic titles;
- (g) the procedure for expelling students on academic grounds;
- (h) the development of the academic activities of the polytechnic;
- (i) consideration of the resources required to support the academic activities of the polytechnic;
- (j) the establishment of links with different industries and businesses to ensure the entrepreneurial development of students; and
- (k) advising the Council or Board and the Manager on academic

policy and other matters of importance to the polytechnic.

Committees of
academic board

27. (1) The academic board may establish committees to perform such of its functions as it may determine but each committee shall be approved by the Council or Board as the case may be.

(2) The number of members of a committee and the terms upon which committee members are to hold office shall be determined by the academic board on the recommendation of the Salaries and Remuneration Commission and with the approval of the Council.

**PART V—FINANCIAL PROVISIONS FOR VILLAGE
POLYTECHNICS ESTABLISHED BY THE COUNTY
GOVERNMENT**

Funds of a polytechnic

28. (1) The funds of a polytechnic established by the county government consist of—

- (a) monies allocated by the county government for purposes of the polytechnic;
- (b) any grants, gifts, donations or other endowments given to the polytechnic; and
- (c) such funds as may vest in or accrue to the polytechnic in the performance of its functions under this Act or any other written law.

(2) Any funds donated, granted or lent to the polytechnic shall be made public before use.

Annual estimates

29. (1) At least three months before the commencement of each financial year, a polytechnic shall cause to be prepared estimates of the revenue and expenditure of the polytechnic for that year.

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

- (a) payment of remuneration in respect of the members and staff of the polytechnic;
- (b) payment of pensions, gratuities and other charges in respect of benefits which are payable out of the funds of the polytechnic;
- (c) maintenance of the buildings and grounds of the polytechnic;

- (d) funding of training, research and development of activities of the polytechnic;
- (e) creation of funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of buildings or installations, equipment and in respect of other matters that the polytechnic may deem fit; and
- (f) any other expenditure necessary or required for the purposes of this Act.

(3) The annual estimates shall be approved by the Council before the commencement of the financial year to which they relate and forwarded to the Executive Committee Member.

Accounts and audit

30. (1) The Council shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the polytechnic.

(2) Within a period of three months after the end of each financial year, the Council shall submit to the Auditor-General, the accounts of the polytechnic in respect of that year together with a statement of the—

- (a) income and expenditure of the polytechnic during that year; and
- (b) assets and liabilities of the polytechnic on the last day of that financial year.

Annual report

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

(2) The Council shall submit the annual report to the governor three months after the end of the year to which it relates.

(3) The annual report shall contain in respect of the year to which it relates—

- (a) the financial statements of the polytechnic;
- (b) a description of the activities of the polytechnic;
- (c) other statistical information relating to the its functions that the polytechnic may consider appropriate;
- (d) the impact of the exercise of any of its mandate or function;

(e) any impediments to the achievements of the objects and functions of the polytechnic; and

(f) any other information relating to its functions that the Council considers necessary.

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

PART VI—MISCELLANEOUS PROVISIONS

Inspection of polytechnics

32. The Department shall, in consultation with the County Education Board, inspect and monitor the standards of the polytechnics in the county.

General penalty

33. A person who contravenes any provision of this Act which is expressly stated to be an offence but for which no other penalty is prescribed commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding one year, or to both.

Protection from personal liability

34. No action or omission by the Executive Committee Member or staff of the Department or any person carrying out a function under this Act shall, if the act was done in good faith for the purpose of carrying out the provision of this Act or any other law, subject the person to any liability, action, claim or demand.

Rules

35. A Council or Board may make rules not inconsistent with the provisions of this Act, generally for the better functioning of the polytechnic.

Regulations

36. The Executive Committee Member may make regulations for the better carrying into effect of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), such regulations may provide for—

(a) the application form for registration;

(b) any fees to be charged under this Act;

(c) the form of the permit to operate prior to registration;

(d) the register to be maintained by polytechnics; and

(e) any other matter the Executive Committee Member considers

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necessary for the administration of this Act

MEMORANDUM AND OBJECTS OF REASONS

The principal object of this Bill is to provide for the establishment and maintenance of village polytechnics in Isiolo County. The structure of the Bill is as follows:

Part I (clauses 1–3) of the Bill contains the preliminary provisions.

Clause 1 sets out the title of the Bill while clause 2 deals with interpretation of terms as used in the Bill. Among the terms defined are “manager” and “village polytechnic”. This part also sets out the object of the Act.

Part II (clauses 4-7) of the Bill deals with establishment of village polytechnics

Clause 4 is on the mode of establishment of village polytechnics while clause 5 provides for duties of the Executive Committee Member. Clause 6 sets out the functions of a polytechnic while clause 7 sets out its powers.

Part III (clause 8-16) of the Bill provides for the administration of village polytechnics

Clause 8 provides for the requirement of registration for each polytechnic while clause 9 is on the process of application for registration of a polytechnic. Clause 10 sets out the requirement for the applicant to the prescribed fee when applying for registration. Clause 11 is on the requirement that the Department must publish an application for registration of a village polytechnic while clause 12 provides for its registration. Clause 13 provides that a permit may be used to operate prior to registration while 14 provides for the registration certificate. Clauses 15 and 16 set out requirements that the registration certificate must be displayed and a register of polytechnics must be maintained, respectively.

Part IV (clause 17-27) of the Bill provides for the administration of village polytechnics

Clause 17 provides for the establishment of a Village Polytechnic Council while clause 18 sets out its composition. Clause 19 provides for instances when there is a vacancy in the Council’s membership with clause 20 giving the Executive Committee Member the power to fill a vacancy of the Council. Clause 21 provides for the conduct of meetings of a Council. Clause 22 provides for a Board of Directors for a village polytechnic sponsored privately

Clauses 23 and 24 provides for the manager and deputy manager of a polytechnic and other officers and staff, respectively while clause 25 establishes an academic board. Clause 26 sets out the responsibilities of the academic board with clause 27 providing for the power to establish committees by the academic board.

Part V (clause 28-31) of the Bill sets out the financial provisions for a village polytechnic established by the county government

Clause 28 states the sources of a village polytechnic’s funds while clauses 29 and 30 set out the annual estimates provision and the one on accounts and audit, respectively. Clause 31 sets out the requirement that a report must be prepared annually for each publicly funded village polytechnic and also sets out what it should contain.

Part IV (clause 28-31) of the Bill sets out the miscellaneous provisions

Clause 32 sets out the requirement of inspection of polytechnics while clause 33 provides the general penalty. Clause 34 is on protection from personal liability. Clause 35 gives the Council (for polytechnics established by the county government) or Board (for polytechnics not

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established by the county government) the power to make rules not inconsistent with the Act for the better functioning of the polytechnic while clause 36 gives the Executive Committee Member the power to make regulations for the better carrying out of the provisions of this Act.

Dated the2014

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Executive Committee Member, Education and Cultural Services