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THE MAKUENI COUNTY TECHNICAL AND VOCATIONAL SKILLS TRAINING ACT, 2016

No. 4 of 2016

Date of Assent: 29th November, 2016

Commencement date: See Section 1

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THE MAKUENI COUNTY TECHNICAL AND VOCATIONAL SKILLS TRAINING ACT, 2016

AN ACT of the County Assembly of Makueni to provide for the establishment, governance and regulation of county technical and vocational skills training and; to provide for their registration and management and for connected purposes

ENACTED by the Makueni County Assembly as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Makueni County Technical and Vocational Skills Training Act, 2016 and shall come into force on such date as the Executive Committee Member may, by notice in the Gazette, appoint, which date shall not be later than ninety days from the date of its publication.

Interpretation

2. In this Act—

"Board" means a Board of Management appointed by the appropriate authority to oversee the affairs of a technical training institute;

“Director” means the County Director of Youth or Technical Training heading the Directorate of Youth or Technical Training;

"Directorate" means the Directorate of Youth Training established by the County Public Service to manage all matters relating to education and training in County Technical Training institutes;

“Executive Committee Member” means the County Executive Committee Member responsible for education;

“Institute” means a technical or vocational training institute established by the County Executive Committee Member”.

“industry” means organized economic activity concerned with manufacture, extraction and processing of raw materials, or construction;

"Principal" means the Principal appointed under section 22.

“technology” means the application of practical sciences to industry or commerce.

Object of the Act

3. The object of this Act is to promote the—
(a) establishment and progressive development of technical training institutes in the county;
(b) acquisition of occupational trade skills by young persons through training;
(c) exchange of knowledge and skill and, in so doing, improve the economy of the county; and
(d) Carrying out of research and development that serves the county.

PART II—ESTABLISHMENT AND MANAGEMENT OF COUNTY TECHNICAL TRAINING INSTITUTES

Establishment of a technical training institute

4. (1) The Executive Committee Member may, by order in the Gazette, establish one or more technical training institutes.

(2) Despite subsection (1), a person who meets the requirements set out in this Act and any other applicable law may establish one or more technical training institutes.

Powers of a technical training institute

5. Every technical training institutes has all powers necessary for the execution of its functions under this Act and any other written law.

Functions of a technical training institute

6. (1) Every technical training institutes shall—
(a) provide full-time or part-time technical or vocational courses;
(b) provide such facilities for its students as it considers desirable;
(c) fix, demand and receive fees and other charges as may be appropriate;
(d) offer technical and consultancy services as it considers appropriate;
(e) make provision for the general welfare, recreational and social needs of its staff and students; and
(f) undertake any activity necessary for the fulfilment of any of the functions of the technical training institutes.

Board of Management

7. (1) The Executive Committee Member shall, by order in the gazette, appoint a board of management for each technical training
institute that the Executive Committee Member establishes, comprising of not less than seven and not more than nine Members.

(2) The membership of Board of Management shall comprise:—

(a) a chairperson;

(b) a representative of the Chief Officer in the Department responsible for technical and vocational training;

(c) six other persons appointed on the basis of their knowledge and experience in—

(i) technology;

(ii) industry;

(iii) engineering;

(iv) information communication technology;

(v) leadership and management;

(vi) Financial management.

(3) The Board of Management for private institutes shall be composed of such number of members as may be determined and appointed by the sponsor or proprietor as indicated in the certificate of registration of such institution.

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

(5) A person appointed as chairperson or as a member shall hold office for a term of three years from the date of appointment and shall be eligible for re-appointment for one further term of a period not exceeding three years.

(6) A Board of Management shall meet at least once every four months.

(7) The quorum for the conduct of business at a meeting of a Board of Management shall be two-thirds of the total number of members of the Board of Management.

Powers of a Board of Management

8. (1) The Board shall have all powers necessary for the proper performance of the functions of the technical training institutes under this Act.

(2) Without prejudice to the generality of subsection (1), the Board shall have power to—
(a) supervise the assets of the technical training institute in such manner as best promotes the purpose for which the technical training institute is established;

(b) associate with any other institution so as to further the purpose for which the technical training institute 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.

**Functions of a Board of Management**

9. The Board shall—

(a) formulate policy relating to the technical training institute;

(b) ensure efficient management of the technical training institute;

(c) oversee prudent utilization of the funds allocated to the technical training institute;

(d) ensure that the technical training institute observes high standards of corporate and business ethics; and

(e) perform any other functions assigned to it under this Act.

**Requirement to consult with the County Education Board**

10. (1) The 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 technical training institutes in the county; and

(b) vide guidelines on the courses of study, their curriculum and minimum standards of the technical training institutes.

**PART III—REGISTRATION OF TECHNICAL TRAINING INSTITUTES.**

**Registration of technical training institutes**

11. (1) A person shall not operate a technical training institute unless it is registered under this Act.

(2) A person who operates a technical training institute which is not registered under this Act commits an offence.
Application for registration of a Technical Training Institute.

12. (1) An application for registration of a technical training institute shall be in a form prescribed by the Executive Committee Member in regulations.

(2) An application for registration of a technical training institute shall be submitted to the Director.

(3) The Director 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 technical training institute; and

(b) conduct an interview with the applicant to assess the suitability of—

(i) the equipment of the technical training institute; and

(ii) the skilled and technical personnel proposed to be employed in the technical training institute.

(5) The County Education Board shall within thirty days after the inspection and interview, forward its recommendation to the Director for the registration of the technical training institute or to take such other action as the Director may deem fit.

Applicant to pay prescribed fee

13. A person making an application for the registration of a technical training institute shall pay the prescribed fees to the Directorate.

Provisional licence to operate prior to registration

14. (1) The Directorate may issue to the applicant for registration of a technical training institute a provisional licence to operate pending the fulfilment of the conditions required by the Directorate 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 Directorate may specify in the notice.

(3) As a condition of the grant of a provisional licence under this section, the Directorate may prescribe a period within which the applicant
must fulfil the conditions required by it for the improvements of the operation of the technical training institute.

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

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

Registration Certificate

15. (1) The Directorate shall, on registration of a technical training institute, issue a registration certificate to the applicant.

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

(3) The Director 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 technical training institute

16. (1) The registration referred to in section (15) 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 technical training institute is being managed in a manner which is, in the opinion of the Executive Committee Member, harmful to the physical, mental or moral welfare of the students;

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

(3) The Director may serve a notice, in writing, not exceeding six months directing the Principal to remedy a situation to prevent revocation of the technical training institute’s registration.
(4) Despite subsection (2), the Cabinet Secretary responsible for matters relating to security may order the immediate closure of a technical training institute, if in the Cabinet Secretary’s opinion, there are compelling reasons for its immediate closure.

(5) Where a Principal has not complied with a condition imposed under subsection (3) within the stipulated period, the Executive Committee Member shall revoke the registration of the technical training institute and it shall be deemed to be closed.

(6) Before the technical training institute is closed under subsection (3), the Principal shall be given an opportunity to be heard either in person or by a legal representative.

(7) Despite anything contained in this section, a technical training institute shall be deemed to be closed if it is not in operation for a continuous period of five years.

Issuance of a licence

17. 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 technical training institute in accordance with this Act.

Requirement to publish the registration of a technical training institute

18. The Directorate shall, within sixty days after the registration of a technical training institute, publish the registration in the county Gazette and in at least one newspaper with national circulation.

Registration of a technical training institute

19. (1) The Directorate shall register a technical training institute if it is satisfied, based upon the written recommendation of the County Education Board, that the application is in order.

(2) The Directorate shall, within a reasonable period after registration of a technical training institute, forward the name and all relevant information on the technical training institute to the County Education Board.

(3) A person aggrieved by the decision of the Directorate under this section may, within thirty days of being notified of the decision, appeal against the decision to the authority responsible for higher education.
Registration certificate to be displayed

20. The registration certificate issued under section 16 and the licence issued under section 17 shall be displayed, by the Principal, in a conspicuous place on the premises of the technical training institute.

Register of technical training institutes

21. (1) The Directorate shall keep a register of all technical training institutes operating in the county and shall include in the register names of the technical training institutes and such other particulars as the Executive Committee Member may prescribe.

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

PART IV—ADMINISTRATION OF TECHNICAL TRAINING INSTITUTES.

Principal of a technical training institute

22. (1) There shall be a Principal for each technical training institute who shall be the chief executive officer.

(2) The Principal of a technical training institute that receives public funds shall be appointed by the County Public Service Board.

(3) The Principal of a technical training institute that is not publicly funded shall be appointed by the board on such terms and conditions as may be specified in the instrument of appointment.

(4) Despite subsections (2) and (3), the appointment of every Principal shall be through a competitive recruitment process.

(5) A person is qualified for appointment as a Principal if the person—

(a) is a citizen of Kenya;
(b) holds at least a degree in technical education from a recognized institution in Kenya;
(c) has at least three years’ experience at management level;
(d) has at least five years’ experience in any technical field; and
(e) meets the requirements of leadership and integrity set out in chapter six of the Constitution.

(6) The Principal is the accounting officer of the technical training institute and, subject to the direction of the Board, is responsible for the—

(a) implementation of the decisions of the Board;
(b) day to day management of the affairs of the technical training institute;

(c) organization and management of the staff; and

(d) any other function that may be assigned by the Board.

(7) The Principal may be removed from office on the recommendation of the Board.

(8) Before the Principal is removed under subsection (7), the Principal shall be given—

(a) sufficient notice of the allegations made against them; and

(b) an opportunity to be heard either in person or by a legal representative.

(9) This section applies to the deputy Principal.

Staff

23. (1) The technical training institute teaching and non-teaching staff shall have such academic, technical and other qualifications, as may be determined by the County Public Service Board for the teaching staff and the Board for the other staff.

(2) In addition to the staff referred to in subsection (1), the County Public Service Board may, upon request by the technical training institute, second to the technical training institute such number of staff as may be necessary for the performance of the functions of the technical training institute.

(3) Staff seconded to the technical training institute shall, during the period of secondment, be deemed to be staff of the technical training institute and shall be subject only to the direction of the technical training institute.

(4) This section only applies to technical training institutes funded by public monies.

Academic Board

24. A technical training institute shall have an academic board consisting of the Principal, Deputy Principal, heads of academic divisions, heads of academic departments and any other person specified by the board.

Functions of the Academic Board

25. (1) The Academic Board shall determine the—

(a) criteria for the admission of students;
(b) curricula, the academic standards, validation and review of courses;
(c) procedure to assess and examine students;
(d) appointment and dismissal of internal examiners;
(e) procedure for the award of qualifications;
(f) procedure for expelling students on academic grounds;
(g) development of the academic activities of the technical training institute;
(h) establishment of links with different industries and businesses to ensure the entrepreneurial development of students;

(2) The Academic Board shall also—
(a) advise the board on academic policy and other matters of academic importance to the technical training institute; and
(b) consider the resources required to support the academic activities of the technical training institute.

Committees of Academic Board

26. (1) The Academic Board may establish committees for the better carrying out of its functions.

(2) Every committee shall, before establishment, be approved by the Board.

(3) The Academic Board may co-opt persons to committees established under subsection (1) for a particular reason and such persons shall hold office for such period as the Board may determine.

(4) The persons co-opted under subsection (2) shall not be more than two.

PART V—FINANCIAL PROVISIONS

Funds of the technical training institute

27. The funds and assets of the technical training institute consist of—

(a) such monies or assets as may accrue to or vest in the technical training institute in the course of the exercise of its powers or the performance of its functions under this Act;
(b) such monies as may be payable to the technical training institute pursuant to this Act or any other law;
(c) such monies as may be appropriated by the County Assembly for the purposes of the technical training institute; and

(d) all monies from any other source provided, donated or lent to the technical training institute.

Financial year

28. The financial year of the technical training institute shall be the period of twelve months ending on the thirtieth June in each year.

Annual estimates

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

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

(a) payment of the salaries, allowances and other charges in respect of the Board members, staff or agents of the technical training institute;

(b) payment of pensions, gratuities and other charges and in respect of benefits which are payable out of the funds of the technical training institute;

(c) funding of the registration, monitoring and evaluation of activities of the technical training institute;

(d) the maintenance of the buildings and grounds of the technical training institute;

(e) funding of training, research and development of activities of the technical training institute;

(f) reserve funds to meet future or contingent liabilities in relation to retirement benefits, insurance or replacement of buildings or equipment; and

(g) any other expenditure necessary or required for the purposes of this Act.

(3) The annual estimates shall be approved by the board before the commencement of the financial year to which they relate and forwarded to the Executive Committee Member for tabling before the relevant County Assembly Committee.
Accounts and Audit

30. (1) The technical training institute shall cause to be kept proper books and records of account of the income, expenditure, assets and liabilities.

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

(a) a statement of the income and expenditure of the technical training institute during that year; and

(b) a statement of the assets and liabilities of the technical training institute on the last day of that financial year.

(3) The annual accounts of the technical training institute shall be prepared, audited and reported upon in accordance with the provisions of Articles 226 and 229 of the Constitution and the law relating to public audit.

Annual report

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

(2) Without limiting what may be included in the annual report, the annual report shall include—

(a) the audited financial report of the technical training institute;

(b) description of the activities of the technical training institute;

(c) such other statistical information as the technical training institute may consider appropriate relating to the technical training institute’s functions;

(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 technical training institute;

(f) such other information as the Executive Committee Member may direct; and any other information relating to its functions that the Board considers necessary.

(3) The Board shall submit the annual report to the Governor three months after the end of the year to which it relates.

(4) The annual report shall be published and publicized in a manner that the technical training institute may determine.
PART VI—MISCELLANEOUS PROVISIONS

Collaboration

32. A technical training institute may collaborate with any other technical training institute or any other training institution to promote its development.

Inspection of technical training institutes

33. The Directorate shall, in consultation with the County Education Board, inspect and monitor the standards of the technical training institutes in the county.

Regulations

34. (1) The Executive Committee Member may, in consultation with the Chairperson of the Board, make regulations generally for the better carrying out into effect of any provisions of this Act.

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

(a) implementation of this Act;

(b) general management of the technical training institute; and

(c) such other matters as the technical training institute considers necessary.

General Penalty

35. A person who contravenes any provision of this Act for which no other penalty is prescribed, commits an offence and is liable, on conviction, to a fine not exceeding Kenya shillings one million or to a term of imprisonment not exceeding two years or to both.