

**SPECIAL ISSUE**

*Kakamega County Gazette Supplement No. 20 (Acts No. 4)*



REPUBLIC OF KENYA

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**KAKAMEGA COUNTY GAZETTE  
SUPPLEMENT**

**ACTS, 2014**

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**NAIROBI, 8th September, 2014**

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CONTENT

Act—

Page

The Kakamega County Polytechnics Act, 2014 ..... 1

**THE KAKAMEGA COUNTY POLYTECHNICS ACT,  
2014**

**No. 4 of 2014**

*Date of Assent: 21st August, 2014*

*Date of Commencement: 8th September, 2014*

**ARRANGEMENT OF CLAUSES**

*Clause*

**PART I—PRELIMINARY**

1—Short title and commencement.

2—Interpretation.

**PART II—ESTABLISHMENT OF THE COUNTY POLYTECHNICS AND  
PROMOTION OF VOCATIONAL TRAINING**

3—Establishment of county polytechnics.

4—Powers and functions of polytechnics.

5—Guidelines on courses of study.

6—Responsibilities of Governor.

7—Role of Executive Committee Member.

8—Advisory committee.

9—Delegation of functions by the Executive Committee Member.

**PART III—REGISTRATION OF COUNTY POLYTECHNICS**

10—Polytechnics to be registered.

11—Application of registration of polytechnic.

12—Applicant to pay prescribed fee.

13—Registration of polytechnic.

14—Publication of registration.

15—Permit to operate prior to registration.

16—Registration certificate.

**PART IV—ADMINISTRATION OF COUNTY POLYTECHNICS**

17—Registration certificate to be displayed.

18—Register of polytechnics to be kept.

19—Closure of polytechnic.

**PART IV — ADMINISTRATION OF COUNTY POLYTECHNICS**

20—Establishment of County Polytechnics Council.

21—Composition of Council.

22—Vacation of office of member of Council.

23—Filling of vacancy.

24—Meetings of Council.

25—Minimum qualifications.

26—Board of Directors for a county polytechnic privately established.

27—Principal and Deputy Principal and teaching staff.

28—Other officers and staff.

29—Academic board

30—Responsibilities of academic board.

31—Committees of academic board.

**PART V — FINANCIAL PROVISIONS**

32—Funds of public county polytechnic.

33—Annual estimates.

34—Accounts and audit.

35—Annual report.

**PART VI — MISCELLANEOUS PROVISIONS**

36—Inspection of polytechnics.

37—Regulations.

38—Rules.

39—Offences and penalties.

**AN ACT of the County Assembly of Kakamega to provide for the establishment, classification, governance and management of county polytechnics offering courses in technology, applied science, management and other technical studies and vocational training, to provide for their registration and administration, and for connected purposes**

**ENACTED** by the County Assembly of Kakamega, as follows—

**PART I — PRELIMINARY**

1. This Act may be cited as the Kakamega County Polytechnics Act, 2014, and shall come into operation on a date appointed by the Executive Committee Member responsible for education by notice in the Gazette.

Short title and commencement.

2. In this Act, unless the context otherwise requires—

Interpretation.

“Board” means the Board of Directors for a county polytechnic privately established under this Act;

“Board of management” means the county Polytechnics Board of Management governing a public county polytechnic;

“Community” means administrative ward.

“county polytechnic” means those institutions referred to as county polytechnics in this Act in which not less than ten trainees receive regular instructions;

“curriculum” means all the subjects offered and all activities provided in any County polytechnic, and may include the time devoted to each subject and activity;

“Directorate” means the Directorate of Education and Training established by the County Public Service to manage all matters relating to education and training at county polytechnics;

“Director” means the County Director in Charge of Education and Training.

“Executive Committee Member” means the Executive Committee Member for the time being responsible for Education, Science and Technology and ICT;

“manager” means any person or body of persons responsible for the management and conduct of a County polytechnic and includes a Board.

“Principal” means the head of a County polytechnic;

“public funds” means funds from either the national government or county government;

“public county polytechnic” means a county polytechnic maintained or assisted out of public funds;

“trainee” means a person enrolled as a learner in a County polytechnic;

“Register” means the register of county polytechnics in the county;

“syllabus” means a concise statement of the contents of a course of instructions in a given subject or subjects;

“youth” means collectivity of all individuals in the republic who have attained the age of 18 years but have not attained the age of 35 years;

## **PART II — ESTABLISHMENT OF THE COUNTY POLYTECHNICS AND PROMOTION OF VOCATIONAL TRAINING**

**3.** (1) The Executive Committee Member may, by order in the Gazette, establish a public county polytechnic, as he or she deems necessary.

Establishment of  
county polytechnic.

(2) A person wishing to establish a polytechnic shall apply in writing to the relevant authority for registration in accordance with the provisions of this Act.

(3) An order made by the Executive Committee Member under subsection (1) may specify—

- (a) the duties, powers and functions of the county polytechnic;
- (b) the manner in which the institute is to be governed;
- (c) the constitution, duties, powers and functions of the County Polytechnic board;
- (d) such other matters with respect to the conduct and management of the county polytechnic as the Executive Committee Member may find it necessary or desirable.

4. (1) A County polytechnic established under this Act shall—

Powers and functions of a polytechnic.

- (a) provide full-time or part-time technical or vocational courses in technology, applied science, commerce, management, agri-business and other business studies;
- (b) facilitate award of diplomas and certificates in accordance with the requirement of the course and the authority responsible for higher education;
- (c) provide such relevant facilities and equipments for its trainees as it considers desirable;
- (d) establish and appoint trainee in academic and other posts and offices as it considers necessary;
- (e) fix, demand and receive fees and other charges as may be appropriate;
- (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 trainees; and
- (j) do all such things as may be necessary, incidental or conducive to the attainment of all or any of the above.

(2) A county polytechnic established under this Act shall be a body corporate with perpetual succession and a common seal and shall in its corporate 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) borrowing money;
- (d) charging for services offered, with the approval of the Executive Committee Member;
- (e) entering into contracts and;
- (f) doing or performing all other acts necessary for the proper performance of its functions under this Act which may be lawfully done or performed by a body corporate.

**5.** The County Executive Committee Member shall, in consultation with the County Education Board established under section 17(1) of the Basic Education Act, 2013—

- (a) plan, develop and co-ordinate training and research in the county polytechnics in the county;

Guidelines on  
courses of study etc.

No. 14 of 2013.

- (b) provide guidelines on the courses of study, their curriculum and minimum standards of the county polytechnics.
- (c) oversee in consultation with the county government, the operation and management of county polytechnics,
- (d) plan, promote, develop and coordinate education training and research in the county in accordance with the provision of this Act the National policy and the laws and policies of the county government.
- (e) register and maintain a data bank of all education and training institutions within the county.
- (f) co-ordinate with all relevant agencies to ensure that all the barriers to the right to quality education are removed and with National Government to facilitate realisation of the right to education within the county.
- (g) put measures in place to ensure all children and youth of school age within the county attend and stay in to complete basic education.

**6.** The Governor shall promote the establishment of county polytechnics in the county—

Responsibilities of the Governor.

- (a) for the training of young people and any other persons to acquire relevant occupational trade skills and enable them to earn a living;
- (b) to promote the exchange of knowledge and skills and enhance business and industry in the county;
- (c) to enhance research and innovations for the advancement of knowledge and its practical application; and
- (d) to organize conferences, seminars and study groups for the promotion of field learning and gaining of skills by local communities.

**7.** (1) The Executive Committee Member shall promote vocational training within the County and

Role of Executive Committee Member.



progressive development of county polytechnics or any other institution devoted to the promotion of vocational training, and shall secure the effective co-operation under his or her general direction or control, of all county polytechnics concerned with vocational training in line with the National Youth Polytechnics Policy.

(2) For the purpose of carrying out his/her duties under sub section (1) above, the Executive Committee Member may from time to time formulate a development plan for vocational training for the County consistent with any National plan for economic and social development of the County.

**8.** (1) The Executive Committee Member shall, by order, establish an advisory committee to advise him or her on any matter concerning vocational training in the county or in some part of the county, and may establish different committees for different areas or for different aspects of vocational training.

Advisory  
Committee.

(2) An advisory committee established under subsection (1) shall consist of not less than five and not more than ten persons, each appointed by the Executive Committee Member, and he or she shall appoint one member among them to be the chairperson.

(3) The Schedule shall apply with respect to advisory committees.

**9.** (1) Subject to this Act, and to any other regulation made there under, the Executive Committee Member may, by order, delegate any of his or her functions with respect to vocational training to a relevant training officer on such terms, conditions, or restrictions as in clause 7 (1).

Delegation of  
functions by the  
Executive  
Committee Member.

(2) The Executive Committee Member in consultation with advisory committee order, revoke, suspend, vary or amend an order made under subsection (1).

(3) Where a delegation of a function to the relevant Sub- County training officer is revoked or suspended under subsection (2) of this section, the Executive Committee Member may recover from the Sub-County training officer

the whole amount or part of the expenditure incurred in the performance of the functions.

### **PART III—REGISTRATION OF COUNTY POLYTECHNICS**

**10.** (1) A person shall not operate a county polytechnic unless it is registered under this Act.

Polytechnics to be registered.

(2) Any person who operates a county polytechnic which is not registered under this Act commits an offence and shall be liable to a fine or imprisonment (or both) for a term specified under section 39 of this Act.

**11.** (1) An application for registration of a polytechnic under this Act shall be in a form prescribed by the Executive Committee Member.

Application for registration of a polytechnic.

(2) An application for registration of a county polytechnic under this Act shall be submitted to the County Director of education Training who shall forward a copy of the application to the County Education Board.

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

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

(4) The County Education Board shall within a reasonable period after the inspection and interview forward its recommendation to the Director of education Training for the registration of the county polytechnic or to take such other action as may deem fit.

**12.** Any person making an application for registration of a county polytechnic shall pay the prescribed fees to the Directorate.

Applicant to pay prescribed fee.

**13.** (1) The Directorate shall register a county polytechnic if it is satisfied, based upon the written recommendation of the County Education Board, that the application meets all the requirements.

Registration of a polytechnic.

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

(3) Any 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 appeal tribunal responsible for higher education.

**14.** The Directorate shall, within seven weeks after the registration, publish the registration in the county Gazette and in at least one daily newspaper of national circulation.

Publication of the registration.

**15.** (1) The Directorate may issue to the applicant for registration of a county polytechnic an interim permit to operate pending the fulfillment of the conditions required by the Directorate for the determination of the application.

Permit to operate prior to registration.

(2) A permit issued 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 Directorate of County Training may specify in the notice.

(3) As a condition of the grant of a permit under this section, the Directorate may prescribe a period within which the applicant must fulfil the conditions required by the directorate 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 a quality assurance officer to enter the premises of the county 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.

**16.** (1) The Directorate shall, on registration of a County polytechnic issue a registration certificate to the applicant.

Registration certificate.

(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 county polytechnic in accordance with this Act.

**17.** The registration certificate issued under section 16 shall be displayed, by the operator, in a conspicuous place on the premises of the county polytechnic.

Registration certificate to be displayed.

**18.** (1) The Directorate shall keep a register of all county polytechnic operating in the county and shall include in the register names of the county polytechnics and such other particulars as the Executive Committee Member may prescribe.

Register of polytechnics to be kept.

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

**19.** (1) Where the Executive Committee Member is satisfied that a polytechnic which has been registered under this Act is objectionable because the polytechnic—

Closure of a polytechnic.

- (a) fails to comply with provisions of this Act; or
- (b) is a place in which efficient and suitable education or instruction is not being provided; or
- (c) is being conducted or managed in a manner which is, in the opinion of the Executive Committee Member, prejudicial to the physical, mental or moral welfare of the trainees of the

polytechnic, or to peace, good order or good government in Kenya; or

(d) is a place in which a person is teaching who is not qualified; or

(e) fails to conform with regulations made under this Act; or

(f) has not complied with any conditions imposed by the Executive Committee Member, the Executive Committee Member may serve the principal of the polytechnic a notice in writing specifying the respects in which the polytechnic is objectionable and requiring him or her to remedy the said matters within a specified period not exceeding six months, provided that if, in the opinion of the Executive Committee Member, there are urgent reasons for the immediate closure of the polytechnic the Executive Committee Member may order the principal of the polytechnic to close the polytechnic forthwith.

(2) If the principal of a polytechnic fails to remedy the matters specified in a notice served on him under subsection (1) of this section within the period specified therein, the Executive Committee Member shall order the manager to close the polytechnic.

(3) A polytechnic which has been ordered to be closed under this section, and any polytechnic which has remained closed for a period of six months or more, shall be removed from the register.

#### **PART IV — ADMINISTRATION OF COUNTY POLYTECHNICS**

**20.** (1) A County polytechnic established by the county government or sponsored by a religious body and aided by the county government shall have a governing body known as the County Polytechnic Board Management.

Establishment of  
County Polytechnic  
Board of  
Management.

(2) The County Polytechnic Board of Management shall be responsible for—

- (a) the education policy and mission of the county 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) preparing the annual estimates of income and expenditure of the polytechnic;
- (e) recommend disciplinary action against the Principal, the Polytechnic teaching and non-teaching staff as the may determine;
- (f) the determination of the conditions of service of the non-teaching staff of the county polytechnic with prior approval of the Executive Committee Member responsible for finance;
- (g) considering and approving of recommendations of the academic board;
- (h) the establishment of committees which may be necessary for the efficient performance of its business; and
- (i) Such other functions that are incidental to the achievement of the aims and objectives of the county polytechnic.

**21.** (1) A County Polytechnic board of management shall consist of—

Composition of  
Board of  
Management.

- (a) two community members from the ward appointed by the Executive Committee Member.
- (b) the ward administrator;

- (c) one parent of the polytechnic elected during parents meeting.
- (d) two members nominated by the sponsor or the Board of Management and appointed by the Executive Committee Member
- (e) one member representing the industry or commerce nominated by the Chamber of Commerce and Industry appointed by the Executive Committee Member;
- (f) one member representing persons with special needs nominated and appointed by the Executive Committee Member;
- (g) the Principal of the polytechnic who shall be the secretary;
- (h) a representative of the County Directorate of Youth Training as *ex-officio* member;
- (i) area ward representative as an *ex-officio* member;
- (j) the Executive Committee Member will in writing and by gazette notice appoint the persons nominated under section 21 (a) to (j).

(2) Gender balance shall be put into consideration while nominating the members to the board of management.

(3) Members of the Board of Management, other than *ex-officio* members, shall hold office for a term of three years from the date of appointment and shall be eligible for reappointment for a further term of three years.

**22.** (1) A member of the board of management shall cease to hold office if that member —

- (a) is unable to perform the functions of the office by reason of mental or physical infirmity;

Vacation of office of  
member of Board of  
Management

- (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 for three consecutive meetings of the board of management;
- (f) is found guilty of professional misconduct by the relevant professional body;
- (g) is disqualified from holding a public office under the Constitution;
- (h) engages in any gross misbehaviour or misconduct; or dies.

(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 under subsection (1).

**23.** If the office of a member of the board of management falls vacant, the Executive Committee Member in consultation with the relevant authority 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.

Filling of vacancy.

**24.** (1) The Board of management shall meet for the dispatch of business at a time in the institution that the Chairperson may determine but shall meet at least three times each academic year.

Meetings of a Board of management

(2) The Chairperson shall preside at each meeting of the board of management, in the absence of the Chairperson the Vice- Chairperson shall preside and in the absence both the Chairperson and the Vice-Chairperson, a member of the board of management elected by the other members present may preside.



(3) A meeting shall be convened if 30% of the members of the board of management sign a requisition to that effect.

(4) The quorum at a meeting of the board of management shall be half of the members of Board of Management.

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

(6) The person chairing a meeting of the Board of Management shall have an original and a casting vote.

(7) The Board of Management 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 Board of Management.

**25.** (1) A person appointed as a member of the Board of management shall be in possession of Kenya Certificate of Secondary Education certificate and shall be a person of integrity and committed to serve the community on voluntary basis.

Minimum qualification.

(2) The Chairperson to the Board Management shall possess at least a diploma certificate.

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

Board of Directors for a county polytechnic privately established.

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

- (a) the education policy and mission of the county 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 county polytechnic;
- (f) the appointment and disciplining of the Principal 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.

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

**27.** (1) The County Public Service Board shall, through an open, transparent and competitive recruitment, appoint a suitably qualified person to be the Principal of the polytechnic, deputy principal and teaching staff.

Principal and Deputy  
Principal of a  
polytechnic and  
teaching staff.

(2) A person shall be qualified for appointment as the Principal if that person—

- (a) holds a at least a diploma in technical education from a recognized institution 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 Principal shall serve on such terms and conditions as the Board of Management or Board may determine.

(4) The Principal 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 Principal shall be the chief executive and accounting officer of the county 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 county 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) The County Public Service Board in consultation with the Executive Committee member shall appoint a Deputy Principal of the polytechnic who shall deputize the Principal and perform such work as the Principal may assign.

(7) The provisions of subsection (2) (a), (c) and (d) shall apply to the appointment of a Deputy Principal.

**28.** (1) The county polytechnic teaching and non-teaching staff shall have such academic, technical and administrative officers and support staff, as may be determined by the County Public Service Board in case of teaching staff, and County Polytechnic Board of Directors in case of non-teaching staff.

Other officers and staff.

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

**29.** A county polytechnic shall have an academic board consisting of the Principal, Deputy Principal, 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.

Academic board.

**30.** The academic board shall be responsible for—

Responsibility of the academic board.

- (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 trainees; and

- (k) advising the Board of Management and the Principal on academic policy and other matters of importance to the polytechnic.

**31.** (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 Board of Management as the case may be.

Committees of academic board.

(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 with the approval of the Council or Board.

#### **PART V—FINANCIAL PROVISIONS**

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

Funds of the public county polytechnic.

- (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 county polytechnic shall be made public before use.

**33.** (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.

Annual estimates.

(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 County Polytechnic Council before the commencement of the financial year to which they relate and forwarded to the Executive Committee Member.

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

Accounts and Audit.

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

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

**35.** (1) The Board of Management shall, at the end of each financial year cause an annual report to be prepared.

Annual report.

(2) The Board of Management shall submit the annual report to the County Executive Committee 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 county 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) other statistical information relating to the its functions that the polytechnic may consider appropriate;
- (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 Board of Management considers necessary.

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

#### **PART VI – MISCELLANEOUS PROVISIONS**

**36.** The Directorate shall, in consultation with the County Education Board, inspect and monitor the standards of the county polytechnics in the county.

Inspection of polytechnics.

**37.** The Executive Committee Member may, with the approval of the County Assembly, make Regulations for the better carrying out of the purposes and provisions of this Act.

Regulations.

**38.** A County Polytechnic Board of Management may make rules not inconsistent with the provisions of this Act, generally for the better functioning of the polytechnic.

Rules.

**39.** Any person who contravenes the provisions of this Act commits an offence and is liable, on conviction, to a fine not exceeding one million shilling or to a term of imprisonment not exceeding two years, or to both.

Offences and  
penalty.