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REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**KWALE COUNTY ACTS, 2017**

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ACT, 2017**

**No. 4 of 2017**

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## THE KWALE COUNTY VOCATIONAL TRAINING INSTITUTES ACT, 2017

An ACT of the County Assembly of Kwale to provide for the establishment of Vocational Training Institutes and their boards of management to provide full-time and part-time courses in technology, carpentry, masonry, tailoring, and other fields of studies in skill development and to make provisions for the general administration of such institutes; and for other connected purposes

ENACTED by the County Assembly of Kwale, as follows—

### PART I—PRELIMINARY

1. This Act maybe cited as the Kwale County Vocational Training Institutes Act, 2017 Short title.

2. In this Act— Interpretation.

“authorized officer” means a person appointed under this Act as an authorized officer;

“board of management” means a Vocational Training Institute board of management established under Part IV;

“county executive committee member” means the County Executive Committee Member responsible for Education and Human Resource development and shall be herein referred to as CECM;

“department” means the Education and Human Resources Development department in the County Government of Kwale;

“directorate” means youth training division established by the County Executive Committee Member to manage all matters relating to Education and Training in vocational training institutes;

“director” means the head of the directorate as stipulated in this Act;

“donor” means any person or institution that contributes less than 50% of the financial or material resources in a vocational training institution;

“home craft centers” means an institution that teaches household arts such as cooking, weaving, knitting, carving,

pottery bead and jewelry making, and any other craft related activities;

“institute” means a Vocational Training Institute registered and licensed under this Act;

“private institute” means an institute which is not owned or maintained by an individual, community or organization for commercial purposes;

“public institute” means an institution established and maintained by use of public funds or community;

“principal” means the lead educator or administrator in a Vocational Training Institute, appointed by the County Public Service Board and is responsible for the implementation of educational policy guidelines and professional practices of an Institute;

“sponsor” means a person who or an institution which makes significant contribution of at least 50% of financial and material resource of the institute; and

“vocational training” means a training for a specific career or trade which focuses on practical application of skills.

**3.** This Act shall apply to all institutes registered under this Act. Application.

**4.** The objects of this Act are— Objects of this Act.

- (a) to promote the advancement of knowledge by providing post primary and post-secondary education, and to create opportunities for persons living with disability and those joining home craft centres. opportunities;
- (b) to ensure quality education at vocational training institutes;
- (c) to promote the establishment of institutes that provide full-time or part-time courses of instruction and training and skill development in;
  - (i) technology, applied science, commerce, tourism, mining, mass communication, marine and shipping courses and management;

- (ii) such other fields of learning relevant to the needs of the development of the County in the area of industrial and agricultural production and distribution, and for research in the development and adaptation of techniques as may from time to time be determined;
- (d) to promote the exchange of knowledge and skills within the business and industrial sectors; and
- (e) to safeguard and promote core values of integrity and self-reliance.

## PART II—ESTABLISHMENT AND REGISTRATION OF VOCATIONAL TRAINING INSTITUTES

**5.** (1) The CECM may, by order in the County Gazette, establish one or more vocational training institutes. Registration.

(2) A person who meets the requirements set out in this Act may operate one or more vocational training institutes.

**6.** (1) A Vocational training institute is categorized as either public or private institute. Categorization.

(2) vocational training institutes are classified as follows;

- (a) Class A – 8 courses and above with an enrolment of over 400;
- (b) Class B – 5 to 7 courses enrolment of between 200 and 400;
- (c) Class C – 2 to 4 courses enrolment below 200.

(3) The minimum number of courses a vocational training institute can offer is two.

**7.** Every vocational training institute established under this Act shall— Powers of the Institutes.

- (a) be capable of suing or being sued;
- (b) be capable acquiring, purchasing, and owning items necessary for its proper functioning;
- (c) have powers of disposing disposable materials, tools and equipment;

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- (d) be capable of entering into contracts; and
- (e) be capable of doing or performing all other acts necessary for the proper performance of its functions under this Act.

8. (1) Every vocational training institute shall—

Purpose of the institute.

- (a) provide full-time or part-time technical or vocational courses;
- (b) provide such facilities for its students as it considers desirable;
- (c) offer technical and consultancy services as it considers appropriate;
- (d) make provision for the general welfare, recreational and social needs of its staff and students;
- (e) undertake any activity necessary for the fulfilment of any of the functions of the vocational training institute; and
- (f) do all such things as maybe necessary, incidental or conducive to the attainment of all or any of the above.

9. (1) A person shall not operate a vocational training institute or home craft center unless it is registered under this Act. Registration.

(2) A person who operates a vocational training institute or home craft centre which is not registered under this Act commits an offence.

10. (1) An application for registration of a vocational training institute or home craft centre shall be in a form prescribed by the CECM in regulations made under this Act. Application for registration.

- (a) an application for registration of a vocational training institute or home craft centre shall be submitted to the Director.
- (b) the Director shall forward a copy of the application to the Directorate.
- (c) the Director shall, within thirty working days after receiving the application—

- (i) organize an inspection of the vocational training institute or home craft centre; and
- (ii) conduct an interview with the applicant to assess the suitability of—
  - (i) the equipment of the vocational training institute or home craft centre; and
  - (ii) the persons proposed to be employed in the vocational training institute or home craft centre.
- (d) the Director shall within twenty working days after the inspection and interview, forward the directorate's recommendation to the CECM for the registration of the vocational training institute or home craft centre;
- (e) registering under the Directorate does not stop an institution from Registering with any other national government body responsible for vocational training;
- (f) a person making an application for the registration of a vocational training institute or home craft centre shall pay the fees prescribed by the CECM in the regulations made under this Act.

11. (1) The Director may issue to the applicant for registration of a vocational training institute or home craft centre a provisional certificate and license to operate pending the fulfilment of the conditions required by the Directorate for the determination of the application.

Provisional Certificate.

- (2) A provisional certificate 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 seven working days after receipt of the notice of refusal of registration or such longer period as the Director may specify in the notice.
- (3) As a condition of the grant of a provisional certificate under this section, the Director shall prescribe a period within which the applicant must fulfil the conditions required by it for the improvements of the operation of the



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vocational training institute or home craft centre.

(4) A provisional certificate shall be in the form prescribed by the CECM in regulations.

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

**12.** (1) The CECM shall, on registration of a vocational training institute or home craft centre, issue a registration certificate and a license for the year which the registration has been effected to the applicant. Registration Certificate.

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

(3) The CECM may at any time during the validity of a registration certificate—

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

(2) a license shall be valid for a period of three years from the date of issue and maybe renewed on application by the operator of the vocational training institute and home craft centre in accordance with this Act,

**13.** (1) A registration certificate may be revoked in the following instances— Revocation of License.

(a) an offence under this Act has been committed by the certificate holder or any employee of the certificate holder; or

(b) a condition of the registration certificate has been contravened or not complied with; or

(c) where the vocational training institute or home craft centre is being managed in a manner which is, in the opinion of the CECM, harmful to the physical, mental or moral welfare of the students.

(2) Once registration of a vocational training institute is revoked, the institute will be closed immediately.

(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 vocational training institute's or home craft centre's registration.

(4) The CECM shall close a vocational training institute which has not been in operation for a continuous period of two years.

**14.** A license shall be valid for a period of three years from the date of issue and may be renewed on application by the operator of the vocational training institute or home craft centre in accordance with this Act. Duration of License.

**15.** The registration certificate and license issued shall be displayed, by the Principal, in a conspicuous place on the premises of the vocational training institute or home craft centre. Display of License.

**16.** (1) The Directorate shall keep a register of all vocational training institutes and home craft centers operating in the county and shall include in the register names of the vocational training institutes or home craft centres and such other particulars as the CECM may prescribe. Register.

(2) The Directorate shall forward all the particulars recorded in the register to the CECM.

**17.** (1) The CECM shall establish county Home-Craft Centres through a gazette notice. Home craft centers.

(2) Home-Craft Centres established in the County shall—

- (a) provide hand craft skills;
- (b) promote and propagate indigenous technologies;  
and
- (c) promote Home-Craft entrepreneurship.

(3) The CECM may make regulations on the establishment and proper running of Home Craft Centres.

(4) The CECM shall make regulations on the management and utilization of funds in home craft centres

**PART III—ADMINISTRATION**

18. This Act shall be implemented by the CECM responsible for Vocational Training Institutes. Administration.

19. The CECM is responsible for establishing a directorate within the department that will be responsible for the day to day implementation of this Act. Establishment of a directorate.

20. (1) The CECM shall appoint members within the department to constitute a directorate under this Act. Membership of the directorate.

(2) The membership of the directorate shall consist of the following—

- (a) the Chief Officer- Education;
- (b) county Director Youth Training;
- (c) head of Quality Assurance;
- (d) the Youth training Officers from each sub County;
- (e) special needs officer.

(3) The CECM will designate one of the members to be the authorized officer to carry out functions specified in this Act.

21. It is the responsibility of the directorate to implement the objectives of this Act and to this end the directorate shall— Functions and powers of the directorate.

- (a) formulate county policy on the regulation of Institutes;
- (b) receive and oversee any grant or donation for use by the Institutes;
- (c) consider applications for the establishment of all vocational training institutes and issue, renew, suspend or revoke institute's licenses;
- (d) impose fines for breach of any conditions imposed in any license issued under this Act;
- (e) in consultation with institutes and the department, customize where necessary national curricula for various courses to be offered in the institutes;
- (f) set guidelines for charges a public institute may charge subject to other statutory laws;

- (g) monitor institutes to ensure the observation and maintenance of standards set in the regulations under this Act;
- (h) categorize the institutes with respect to the courses offered and certificates awarded; and
- (i) perform any other function, as may be directed by the County Executive Committee Member in charge of education and human resource development, for the effective implementation of this Act.

**22.** (1) The directorate may, through the authorized officer, at any reasonable time scheduled for an inspection, carry out a quality assurance inspection in any institute.

Directorate to order inspection.

(2) Where an inspection under this section indicates the owner, principal or other person in control of the institute has committed a breach of any conditions imposed on the license, the director may, after informing the Principal in writing, suspend the license until such time the breach has been rectified.

(3) Where an inspection under this section indicates the owner, principal or person in control of the institute has committed a breach of any conditions imposed on a license and such breach poses a danger to the students or the public, the directorate shall, after in writing, informing the Principal, depending on the seriousness of the danger posed—

- (a) order the immediate closure of the institute or such part as poses a danger;
- (b) suspend the license until such time the breach has been rectified and the danger no longer exists; or
- (c) cancel the license.

(4) Any person who contravenes the provisions of this section commits an offence and shall on conviction be liable to a fine not exceeding one million shillings or to a term of imprisonment not exceeding one year.

(5) The directorate may in addition to any penalty imposed under paragraph (4) demand the person repair any damage that may have occurred due to the breach committed under sub-section 3.

23. Any person preventing or obstructing an authorized officer from entering any part of an institute or carrying out an inspection in terms of this Act commits an offence, and is liable on conviction a fine not exceeding 50,000 Kenya Shillings or a term of imprisonment not exceeding one year.

Obstruction of an authorized officer an offence.

24. (1) Where an authorized officer is of the opinion that the continued use of a building or place of business in a particular institute constitutes a danger to the students or the public, the authorized officer shall in writing direct the licensee or his agent or employee in charge of the premises or place of business to take such action as the authorized officer thinks reasonably necessary to remedy the situation.

Powers of authorized officers.

(2) If the licensee or person so directed under subsection (1) fails to take that action within the time allowed for that purpose by the authorized person, the authorized person shall, by notice in writing addressed to the licensee and served personally on the licensee or his agent or employee in charge of the place business, close those premises or place of business pending the decision of the directorate.

(3) The authorized officer shall immediately inform the directorate of his or her actions giving the reasons thereof.

(4) The licence in respect of premises or place of business closed under subsection (2) shall be deemed to have been suspended until the directorate has made a decision under sub-section 5.

(5) The directorate shall, within seven days after being advised of the closure under subsection (3) consider, whether the license in respect of those premises should be re-instated, suspended, cancelled or varied and shall inform the licensee of its decision, in writing, within fourteen days.

#### **PART IV – VOCATIONAL TRAINING INSTITUTE'S BOARD OF MANAGEMENT**

25. Each institute shall have a governing body known as the Vocational Training Institute's Board of Management, herein referred to as the Board of management.

The Board of management.

**26.** (1) There shall be a Board of management which shall consist of the following persons—

Membership of the Board of management.

- (a) one person representing a sponsor of the institute or directorate;
- (b) three persons representing the community who shall be of either gender and one representative of Persons Living with Disability;
- (c) youth training officer who shall be an *ex-officio*;
- (d) the Principal of the institute who shall be the secretary to the board of management; and
- (e) a parent's representative.

(2) The persons appointed under section 26(1) shall elect among themselves the Chairperson and the Deputy Chairperson of the board of management.

(3) The principal shall forward, the names of the newly elected members of the board of management, to the CECM for endorsement.

**27.** (1) A person shall not be qualified for appointment as a chairperson or member of the board of management if the person—

Disqualification from membership.

- (a) is a serving member of a governing body or an official of a political party;
- (b) is a serving member of a governing body or an official of a political party;
- (c) has been found in accordance with any law to have misused or abused a State office or public office or in any way to have contravened Chapter six of the Constitution.

**28.** The board of management in consultation with the directorate shall be responsible for—

Functions of the board of management

- (a) the determination of the educational character, core values, objectives, vision and mission of the institute;
- (b) overseeing the activities of the institute;
- (c) safeguarding the assets of the institute for the effective and efficient use of its resources;

- (d) considering and approving annual estimates of income and expenditure of the institute;
- (e) suspension or dismissal of employees of the board of management;
- (f) the determination of the pay and conditions of service of the members of staff employed by the board of management;
- (g) the establishment of such committees as may be necessary for the efficient performance of its business;
- (h) such other things as are incidental to the achievement of the aims and objectives of the institute; and
- (i) the board of management may employ such number of employees as may deem fit.

**29.** Every member of the board of management shall hold office for a period of 3 years from the date of his appointment and shall be eligible for reappointment for one more term.

Duration in office.

**30.** (1) The board of management may request the attendance of any person to board of management meetings as it may deem fit, but the person shall not vote on a matter for decision by the board of management.

Invitation of non-members.

(2) the board of management may establish such committees as it deems necessary and shall ensure the establishment of—

- (a) an academic committee;
- (b) a budget committee; and
- (c) any other committee that the board of management may deem fit.

**31.** (1) The office of a member of the board of management shall become vacant if that member—

Vacation of office of a member of the board of management.

- (a) Dies;
- (b) becomes a bankrupt or suspends payment to, or makes any arrangement or composition with, his creditors; or

(c) has been absent, without leave of the board of management, for three termly meetings.

(2) The CECM may revoke the appointment of a member of the board of management, other than that of the Principal, if the member becomes in the opinion of the board of management unfit to continue in office or incapable of performing his duties.

(3) A member of the board of management, other than the Principal, may resign from his appointment at any time by giving written notice to the CECM.

**32.** If the office of a member of the board of management, other than that of the Principal, is vacant, the county director of education may appoint another person to fill the vacancy and the person shall be appointed for the remainder of the term of his predecessor.

Filling of vacancy in the office of a member of board of management.

**33.** (1) The board of management shall meet at such times as the Chairperson may determine for the discharge of business but shall meet not more than three times in a month and not more than four months shall elapse between one meeting and the next.

Meetings of the board of management.

(2) The Chairperson shall preside at each meeting of the board of management but in his absence the vice – chairperson or a member shall preside.

(3) A meeting shall be convened if more than half 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 not less than half of the membership of the board of management.

(5) Decisions by the board of management shall be decided by consensus failing which a simple majority of votes cast shall decide the matter.

(6) The Chairperson shall have an original and casting vote.

**34.** There shall be a Principal who shall be recruited by the County Public Service Board on competitive basis.

The principal.

**35.** A person is qualified to be a principal if that person—

Qualifications of the principal.



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- (a) holds a diploma in education, management or other related field;
- (b) has a minimum of three years of experience in his or her chosen profession; and
- (c) complies with the provisions of Chapter six of the Constitution.

36. The Principal shall be responsible for—

Functions of the Principal.

- (a) implementing lawful decisions of the board of management and the directorate ;
- (b) the day to day management of the institute;
- (c) the preparation of the annual estimates of income and expenditure for consideration by the board of management;
- (d) the management of the budget and resources of the institute within the estimates approved by the board of management;
- (e) preparation of any returns and reports which the board of management may require;
- (f) any other function the board of management and the directorate may request; and
- (g) supervise curriculum implementation.

37. (1) The Principal may only be removed from office by the County public service board with recommendations from the board of management and channeled through the directorate and CECM, for—

Removal of the Principal.

- (a) inability to perform the functions of the office arising out of physical or mental infirmity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or neglect of duty;
- (d) a violation of the Constitution; or
- (e) any other ground that would justify removal from office under the terms and conditions of service.

(2) Before the Principal is removed under subsection (1), the Principal shall be given—

- (a) sufficient written notice of the allegations made against him or her; and
- (b) an opportunity to present his or her case against the allegations, either in person or by a legal representative.

**38.** The board of management may in consultation with the directorate engage such consultants and experts, as it considers appropriate, to assist in the discharge of its functions under this Act.

Experts and consultants

### **PART V – FINANCIAL PROVISIONS**

**39.** The funds for the institute shall consist of—

Funds for the institute.

- (a) monies allocated by the County Government for purposes of the institute;
- (b) any grants, gifts, donations or other endowments given to the institute;
- (c) such funds as may vest in or accrue to the institute in the performance of its functions under this Act or any other written law;
- (d) any monies obtained by way of fees or other charges; and
- (e) loans borrowed by the institutes as guaranteed by the County treasury.

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

(3) There shall be a grant for approved operation costs in vocational training institutes at a rate of KSh. 12,000 per student per year and this figure shall be revised upwards every five years.

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

Annual estimates.

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

- (a) payment of remuneration in respect of the members and staff of the institute;

- (b) payment of pensions, gratuities and other charges in respect of benefits which are payable out of the funds of the institute as provided by the relevant statutory provision;
- (c) Development and maintenance of the buildings and grounds of the institute;
- (d) funding of training, research and development of activities of the institute;
- (e) creation of such funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of buildings or installations, equipment and in respect of such other matters as the institute may think fit; and
- (f) any other expenditure necessary for purposes of this Act.

(3) The annual estimates shall be approved by the board of management at least a month before the commencement of the financial year to which they relate.

**41.** (1) The board of management shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the institute. Accounts and audit.

(2) Within a period of three months after the end of each financial year, the board of management shall comply with the relevant audit procedures and submit the accounts of the institute in respect of that year together with a—

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

**42.** (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 Member 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 institute;

- (b) such other statistical information as the institute may consider appropriate relating to the institutes's functions;
  - (c) the impact of the exercise of any of its mandate or function;
  - (d) any impediments to the achievements of the objects and functions under the Constitution, this Act or any written law; and
  - (e) any other information relating to its functions that the board of management considers necessary.
- (4) The annual report shall be published and publicized in such other manner as the board of management may determine.

#### **PART VI—GENERAL PROVISIONS**

**43.** The CECM may make Regulations generally for the better carrying out into effect of the provisions of this Act. Regulations.

**44.** Any person who contravenes the provisions of this Act for which no other penalty has been provided, commits an offence and shall on conviction be liable, to a fine not exceeding one hundred thousand shillings or to a term of imprisonment not exceeding one year or to both. Penalty.