

(Legislative Supplement No. 120)

LEGAL NOTICE NO. 209

THE TECHNICAL AND VOCATIONAL EDUCATION AND  
TRAINING ACT

(No. 29 of 2013)

IN EXERCISE of the powers conferred by section 26(2) of the Technical and Vocational Education and Training Act, 2013, the Cabinet Secretary for Education makes the following Order—

THE NYANDARUA NATIONAL POLYTECHNIC ORDER, 2020

PART I—PRELIMINARY

1. This Order may be cited as the Nyandarua National Polytechnic Order, 2020.

Citation

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

Interpretation.

“Act” means the Technical and Vocational Education and Training Act, 2013;

No. 29 of 2013.

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for technical and vocational education and training;

“Council” means the Council of Nyandarua National Polytechnic constituted under paragraph 5 of this Order;

“financial year” means the financial year of the Polytechnic as provided for under paragraph 15 of this Order.

“Polytechnic” means the Nyandarua National Polytechnic established under paragraph 3 of this Order;

“member” means a member of the Council of the Polytechnic;

“Principal” means the Principal of the Polytechnic appointed under paragraph 8 of this Order;

“staff” means the staff of the Polytechnic appointed under paragraph 13 of this Order;

“student” means a person registered by the Polytechnic for the purpose of obtaining a qualification of a programme of study approved by the Council of the Polytechnic;

“trainer” means a person registered under section 25 (1) (b) of the Act.

PART II— ESTABLISHMENT OF THE POLYTECHNIC

3. (1) There is established a Polytechnic to be known as Nyandarua National Polytechnic.

Establishment of the Polytechnic.

(2) The Polytechnic shall be a body corporate with perpetual succession and a common seal and shall, in its 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 Cabinet Secretary;
- (e) entering into contracts; and
- (f) doing or performing all other acts necessary for the proper performance of its functions under the Act which may be lawfully done or performed by a body corporate.

(3) The Polytechnic shall be the successor to the Nyandarua Institute of Science and Technology existing immediately before the commencement of this Order.

4. (1) The objects and functions of the Polytechnic shall be—

Objects and  
functions of the  
Polytechnic.

- (a) providing, directly or in collaboration with other institutions of higher learning, facilities for technical training in technological, professional, scientific education;
- (b) participating in technological innovation and in the discovery, transmission and enhancement of knowledge for economic, social, cultural, scientific, and technological development;
- (c) contributing to industrial and technological development of Kenya, in collaboration with the industry and other organizations, through the transfer of technology;
- (d) promoting and establishing a culture of innovation in engineering and technology and transfer of technology amongst staff and students;
- (e) developing an institution with excellence in teaching, training, scholarship, entrepreneurship, research, consultancy, community service, among other educational services and products, with emphasis on technology and its development, impact and application within and outside Kenya;
- (f) providing a multi-level system of post-secondary school education and training programmes relevant to the needs of the community, covering a wide range of fields and levels with provision for recognition of prior learning and flexibility of transition between programmes;
- (g) providing high quality educational, research, residential, commercial, cultural, social, recreational, sporting and other facilities;

- (h) advancing knowledge and its practical application by research and other means, the disseminating outcomes of research by various means and the commercial exploitation of research results;
- (i) promoting critical inquiry within the Polytechnic and in the general community;
- (j) participating in commercial ventures and activities;
- (k) fostering the general welfare of all staff and students;
- (l) providing opportunities for development and further training for staff of the Polytechnic;
- (m) developing and providing educational, cultural, professional, technical and vocational services to the community and in particular, foster corporate social responsibility;
- (n) providing programmes, products and services in ways that reflect the principles of equity and social justice;
- (o) facilitating student mobility between different programmes at different technical training institutions and other national polytechnics;
- (p) conducting examinations and granting such academic awards as may be provided for under this Order; and
- (q) collaborating with recognized universities for the conduct and award of degree programmes in technology.

(2) The Polytechnic shall have powers to grant higher diplomas, diplomas, certificates or other academic qualifications which may, for the time being, be authorized by the academic policy of the Polytechnic.

(3) Subject to this Order, the Polytechnic may award scholarships, bursaries, prizes and any other awards which may be provided for by the academic policy.

### PART III —THE COUNCIL

5. (1) There shall be a Council of the Polytechnic which shall consist of nine persons appointed by the Cabinet Secretary as follows—

Establishment and composition of the Council.

- (a) the Chairperson;
- (b) the Principal Secretary in the Ministry for the time being responsible for matters relating to technical and vocational education and training;
- (c) the Principal Secretary in the Ministry for the time being responsible for finance;
- (d) five members appointed by the Cabinet Secretary by virtue of their knowledge and experience in—
  - (i) leadership and management;

- (ii) financial management;
  - (iii) industry;
  - (iv) engineering;
  - (v) information communication technology; or
  - (vi) law;
- (e) the Principal, who shall be an *ex-officio* member of the Council.
- (2) The appointment of the Council members shall—
  - (a) take into account ethnic and gender balance;
  - (b) promote inclusion of persons with disability, minorities and the marginalized; and
  - (c) ensure balanced core skills and competencies amongst the members.
- (3) The appointment of the members of the Council shall be staggered so as to ensure continuity in the services of the Council.
- (4) Paragraph 12 shall apply with respect to the conduct of the business and affairs of the Council.
- (5) The office of a member of the Council shall become vacant if the holder—
  - (a) dies in office;
  - (b) resigns from office by notice in writing to the Cabinet Secretary;
  - (c) is unable to perform the functions of the office by reason of prolonged physical or mental incapacity;
  - (d) is adjudged bankrupt by a court of competent jurisdiction or enters into a composition or scheme of arrangement for the benefit of creditors;
  - (e) is guilty of gross misconduct;
  - (f) fails to meet the requirements of Chapter six of the Constitution; or
  - (g) is convicted of an offence and sentenced to imprisonment for a period of six months or more.
- (6) Where the office of a member of the Council becomes vacant, the Cabinet Secretary shall, subject to the provisions of this Order, appoint another person to fill the vacancy for the unexpired term of such member.
- (7) Notwithstanding the generality of the foregoing, any member of the Council suspected of having contravened Chapter Six or Chapter Thirteen of the Constitution shall vacate office to pave way for investigations.

(8) Where a person who has vacated office under sub-paragraph (7) is found not culpable after investigations, the person shall be reinstated as a member of the Council.

6. (1) All documents made on behalf of the Council, other than those required by law to be under seal, and all decisions of the Council may be signed under the hand of the Chairperson, the Principal or any other member of the Council generally or specifically authorized by the Council in that behalf.

Functions of the Council.

(2) The Council shall ensure that a proper management structure is in place and that the management maintains the corporate integrity, reputation and responsibility of the Polytechnic.

(3) The Council shall monitor and evaluate the implementation of strategies, policies, and management plans of the Polytechnic.

(4) The Council shall constantly review the viability and financial sustainability of the Polytechnic at least once in every year.

(5) The Council shall ensure that the Polytechnic complies with all the relevant laws, regulations, governance practices and accounting and auditing standards.

7. The Council may set up such committees as may be appropriate to perform such of its functions and responsibilities as it may, from time to time, determine, provided that the Council shall not delegate its principal mandate to the committees.

Committees.

8. (1) There shall be a Principal of the Polytechnic who shall be appointed by the Cabinet Secretary in consultation with the Council after a competitive recruitment process.

The Principal.

(2) The Principal shall hold office for a term of five years and shall be eligible for re-appointment for one further term of five years.

(3) The Principal shall be the Secretary to the Council.

(4) The Principal shall be the chief executive officer of the Polytechnic and shall—

- (a) be the academic and administrative head of the Polytechnic;
- (b) have overall responsibility of the direction, organization, administration of programmes of the Polytechnic, subject to the direction of the Council; and
- (c) have such powers and duties as may be provided for by any written law.

(5) The office of the Principal shall become vacant if the holder—

- (a) dies in office;
- (b) resigns from office by notice in writing addressed to the Cabinet Secretary and copied to the Chairperson of the Council; or
- (c) is removed from office by the Cabinet Secretary on the recommendation of the Council, in which case the Principal

shall be entitled to six months' notice or six months' pay in lieu of notice.

9. (1) The Council shall appoint one or more Deputy Principals, who shall exercise such powers and perform such duties as may be provided by the Statutes subject to the general direction of the Principal.

The Deputy  
Principal.

(2) The Deputy Principal shall hold office upon such terms and for such period as may be provided for by the Statutes and shall, upon expiration of that period be eligible for re-appointment for one further term.

10. (1) There shall be an Academic Board of the Polytechnic which shall consist of—

The Academic.  
Board.

- (a) the Principal, who shall be the Chairperson;
- (b) the Deputy Principal (Academic and Student Affairs), who shall be the secretary;
- (c) the Deputy Principals;
- (d) the Dean of Students;
- (e) the Directors of Institutes and Centres;
- (f) the heads of the teaching departments of the Polytechnic;
- (g) the Librarian; and
- (h) two members elected by the students' organization of the Polytechnic;

(2) The members under subparagraph (1) (h) shall, notwithstanding any other provision of this Order, not be entitled to attend deliberations of the Academic Board on matters which are considered by the chairperson of the Academic Board to be confidential and which relate to examinations, the general discipline of students, and other related matters.

(3) The Academic Board may, at its own discretion, invite the following persons to attend the meetings of the Academic Board in an advisory capacity, provided that the persons so invited shall neither acquire membership of the Board nor have voting rights—

- (a) the Registrars;
- (b) the Finance Officer;
- (c) the Chief Medical Officer;
- (d) the Chief Legal Officer;
- (e) the Senior Procurement Officer;
- (f) two persons nominated by the Staff Association representing academic staff; and
- (g) two persons nominated by the Staff Association representing administrative staff.

(4) The Academic Board shall have the following powers and duties—

- (a) to satisfy itself regarding the content and academic standard of any course of study in respect of any diploma, certificate or other award of the Polytechnic and to report its findings thereon to the Council;
- (b) to propose regulations for consideration by the Council regarding the eligibility of persons for admission to a course of study;
- (c) to propose regulations for consideration by the Council regarding the standard of proficiency to be gained in each examination for a diploma, certificate or other award of the Polytechnic;
- (d) to decide which persons have attained the prescribed standard of proficiency and are otherwise fit to be granted a diploma, certificate or other award of the Polytechnic and to report its decision thereon to the Council;
- (e) to propose regulations governing such other matters as are within its powers in accordance with this Order;
- (f) to approve programmes of study, regulate admission of persons to the Polytechnic and determine their continuance or discontinuation in such programmes;
- (g) prescribe conditions for qualifying for conferment of a diploma, certificate, award of various titles, distinction and other awards offered by the Polytechnic;
- (h) to determine the academic policy of the Polytechnic and to advise the Council on the provision of facilities to carry out that policy;
- (i) to direct and regulate the teaching and instruction within the Polytechnic and the examinations held by the Polytechnic, subject to the powers of Council herein before defined;
- (j) to make recommendations to the Council for the diplomas and certificates to be conferred by the Polytechnic;
- (k) to approve diplomas, certificates and other academic qualifications to be awarded by the Polytechnic; and
- (l) to consider and approve the appointment of internal and external examiners.

11. (1) There shall be established a Management Board of the Polytechnic made up of the following persons—

Management  
Board.

- (a) the Principal, who shall be the chairperson;
- (b) the Deputy Principal (finance and administration), who shall be the secretary;
- (c) the Deputy Principals;

- (d) the Registrar in charge of administration;
- (e) the Finance Officer; and
- (f) such other member of the senior management as the Council may determine.

(2) The functions of the Management Board shall include assisting the Principal in the day to day management of the Polytechnic and shall, in this respect, be responsible for—

- (a) the efficient management of the human, physical and financial resources of the Polytechnic;
- (b) making proposals to the Council and the Academic Board on policies that have application across the entire institution;
- (c) coordination of the Polytechnic strategic and development plans; and
- (d) any other matters related to the management of the Polytechnic.

#### PART IV—CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNCIL

12. (1) The Council shall meet as often as necessary for the transaction of business, but not more than four months shall elapse between the date of one meeting and that of the next meeting.

Council Meetings.

(2) The Chairperson may at any time, upon written request by a majority of the members, call a special meeting of the Council.

(3) The Chairperson shall preside at every meeting of the Council at which he is present.

(4) In the absence of the Chairperson, the members present and constituting a quorum may elect a person from among themselves to preside at the meeting of the Council.

(5) At all meetings of the Council, a quorum shall be seven members who shall include five appointed members.

(6) Decisions of the Council shall be by a simple majority vote of those present and voting, provided that where there is an equality of votes, the Chairperson or person presiding shall have a casting vote.

(7) A member who has a direct or indirect interest in a matter being considered or to be considered by the Council shall, as soon as the relevant facts regarding the matter come to knowledge of the member, disclose the nature of such interest, and shall not be present during any deliberations on the matter.

(8) The Council shall cause the minutes of all proceedings of its meetings to be recorded and kept, and shall be signed by the chairperson or the person presiding at the meeting.

13. (1) The academic staff of the Polytechnic shall consist of the Principal, the Deputy Principals, the Librarian and all members of staff who are engaged in teaching and research.

Staff of the Polytechnic.

(2) The senior management staff of the Polytechnic shall consist of the Principal, the Deputy Principals, the Dean of Students, Directors of Institutes and such other members of staff as the Council may, from time to time, determine.

(3) The administrative staff of the Polytechnic shall consist of the Registrars, the Finance Officer and such other members of staff, not being engaged in teaching or research, as the Council may, from time to time, determine.

(4) The technical staff of the Polytechnic shall consist of those staff engaged in laboratory and field instruction in the teaching departments under the general direction of the heads of the teaching Departments, as the Council may, from time to time, determine.

(5) The support staff of the Polytechnic shall consist of the staff engaged in general duties and such others as the Council may, from time to time, determine.

(6) All members of the staff of the Polytechnic shall, subject to this Order, be appointed either—

- (a) in the manner and upon the terms and conditions of service prescribed by the Council; or
- (b) in the case of a person seconded to the service of the Polytechnic from the service of another institution, the Government or any other public body, on terms and conditions agreed upon between the Council and the seconding body, not being to the detriment of such person.

(7) The Council may, subject to such restrictions as it may impose, delegate either generally or specially, to any person, committee, or body, the power to appoint any member of staff of the Polytechnic.

(8) All members of staff of the Polytechnic shall—

- (a) be subject to the general authority of the Council and the Principal; and
- (b) be employed in accordance with the statutes or as otherwise specifically provided for by the instrument of appointment.

14. (1) Where the Principal is unable to perform the functions of his office, the Council shall appoint an acting Principal from among the Deputy Principals, provided that the acting Principal shall not hold office for a period longer than ninety days.

Performance of functions in the absence of an office holder.

(2) In the absence of the Principal and the Deputy Principals, the Council shall, subject to sub-paragraph (1), appoint an acting Principal from among the senior members of the academic staff of the Polytechnic.

(3) In the absence of a member of staff of the Polytechnic other than the Principal and Deputy Principal, the Principal may appoint a suitably qualified person to perform the functions of the office holder.

## PART V—FINANCIAL PROVISIONS

15. The financial year of the Polytechnic shall be the period of twelve months commencing on first July and ending on thirtieth June in the following year.

Financial year.

16. (1) The Council may invest any of the funds of the Polytechnic in securities in which for the time being trustees may, by law, invest trust funds or, in any other securities which the treasury may, from time to time, approve for the purpose.

Investment of funds.

(2) The Council may place on deposit, with such banks as it may determine, any monies not immediately required for the purposes of the Polytechnic.

17. (1) Before the commencement of a financial year, the Council 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 provisions for all the estimated expenditure of the Polytechnic for the financial year concerned, and in particular shall provide—

- (a) for payment of the salaries, allowances and other charges in respect of the staff of the Polytechnic;
- (b) for the payment of the pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the Polytechnic;
- (c) for the proper maintenance of the buildings and grounds of the Polytechnic;
- (d) for the proper maintenance, repair and replacement of equipment and other movable property of the Polytechnic;
- (e) for the funding of the cost of teaching, research and outreach activities of the Polytechnic; and
- (f) for the creation of such funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment and in respect of such other matters as the Council may think fit.

(3) In drawing its annual estimates and development Plans, the Polytechnic shall consult with the Ministry and other Government agencies responsible for technical institutions' grants.

(4) Annual estimates shall be approved by the Council before the commencement of the financial year to which they relate, and shall be submitted to the Cabinet Secretary for approval, and after the Cabinet Secretary has given his approval, the Council shall not increase any sum provided in the estimates without the consent of the Cabinet Secretary.

(5) No expenditure shall be incurred for the purpose of the Polytechnic except in accordance with the annual estimates approved under sub-paragraph (4) or in pursuance of an authorization of the Council given with the prior approval of the Cabinet Secretary.

18. (1) The Council shall cause to be kept all proper books of accounts of the income, expenditure and assets of the Polytechnic.

Accounts and  
audit.

(2) Within a period of three months from the end of each financial year, the Council shall submit to the Auditor General (State Corporations) the accounts of the Polytechnic together with—

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

(3) The accounts of the Polytechnic shall be audited in accordance with the Public Audit Act, 2015.

(4) The Auditor-General may transmit to the Cabinet Secretary a special report on any matters incidental to his powers under this Order.

19. (1) The common seal of the Polytechnic shall be kept in such custody as the Council may direct and shall not be used except upon the order of the Council.

Common seal and  
signification of  
documents.

(2) The common seal of the Polytechnic shall be authenticated by the signature of the Principal and other members of the Council duly authorized by the Council on their behalf.

(3) The common seal of the Polytechnic when affixed to any document and duly authenticated under this paragraph, any necessary order or authorization of the Council shall be deemed to have been duly given unless the contrary is proved.

#### PART VI— MISCELLANEOUS PROVISIONS

20. (1) The Council shall make statutes generally for the governance, control and administration of the Polytechnic and for the better carrying into effect of the purposes of this Order, and in particular for—

Statutes.

- (a) the establishment of centres of excellence and institutes of the Polytechnic;
- (b) the description of diplomas, certificates, and other academic qualifications;
- (c) the requirements for award of diplomas, certificates and other academic qualifications;
- (d) the conduct of examinations;
- (e) prescribing fees and other charges;
- (f) setting the terms and conditions of service including the appointment, dismissal and recommendations of retirement benefits of members of staff of the Polytechnic;
- (g) constitution and procedure of meetings of the Council, and the establishment, composition and terms of reference of committees of the Council; and
- (h) providing for or prescribing anything, which, under this Order, may be provided for or prescribed by statute.

(2) Notwithstanding sub-paragraph (1), the Council shall only initiate any action upon receipt of a report or proposal thereunder from the Academic Board, and shall not reject any such report, or amend any regulations as proposed without further reference to the Academic Board.

(3) Statutes shall only be made by a resolution passed at a meeting of the Council supported by a majority of not less than three-fourths of the members present and voting, being not less than two-thirds of the total membership of the Council.

21. (1) Notwithstanding the provisions of any other written law, no public officer performing functions relating to the registration of companies, business or societies shall accept for such registration any name which includes "Nyandarua" together with the words "National Polytechnic" unless the application for the registration is accompanied by the written consent of the Council.

Protection of  
name.

(2) Any person who, except with the written consent of the Council, uses the word "Nyandarua" together with either or all the words "National Polytechnic" in furtherance of, or as, or in connection with, any advertisement for any trade, business, calling, or profession, commits an offence and shall upon conviction be liable to the penalty prescribed under the Act:

Provided that nothing in this paragraph shall be construed as preventing the bona fide use by any person of any title in pursuance of the grant to him of a degree, diploma or certificate by Polytechnic.

22. (1) All rights, liabilities and assets held by anybody on behalf of the Nyandarua Institute of Science and Technology, hereinafter referred to as "the former Institute", shall, upon such commencement, be automatically and fully transferred to the Polytechnic.

Transitional  
provisions.

(2) The staff of the former Institute who are in office immediately before the commencement of this Order shall be deemed to be the staff of the Polytechnic.

(3) All the students of the former Institute who were pursuing courses at the Institute immediately before the commencement of this Order shall, upon such commencement, be allowed to complete such courses and be awarded the respective certificates of the Polytechnic.

Made on the 30th November, 2020.

GEORGE A. O. MAGOHA,  
*Cabinet Secretary for Education.*