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**THE BUSIA COUNTY VOCATIONAL TRAINING CENTERS
ACT, 2021**

No. 2 of 2020

Date of Assent: 15th January, 2021

Date of Commencement: See Section 1

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**THE BUSIA COUNTY VOCATIONAL TRAINING CENTERS
ACT, 2021**

AN ACT of the County Assembly of Busia to provide for the establishment, governance and regulation of Vocational Training Centers; to provide for their registration and management and for connected purposes

ENACTED by the County Assembly of Busia, as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Busia County Vocational Training Centers Act, 2021 and shall come into effect fourteen days after publication in the *Kenya Gazette*.

Interpretation

2. In this Act unless the context otherwise requires—

“Authority” means the Technical and Vocational Educational and Training Authority established under section 6 of the Training and Vocational Education and Training Act (No. 29 of 2013);

“Board” means a Board of Governors appointed by the Executive Committee Member under Section 7 of this Act;

“Department” means the Department of Education and Vocational Training in The County Government of Busia;

“Director” means the County Director of Vocational Training heading the Directorate of Vocational Training;

“Directorate” means the Directorate of Vocational Training established by the County Public Service Board to manage all matters relating to Education and Training in Vocational Training Centers;

“Enterprise Services” means any income generating activities and includes the sale of goods and services;

“Executive Committee Member” means the County Executive Committee Member responsible for Education and Vocational Training;

“Principal” means the Principal appointed under section 12;

“Private institution” means an institution which is not a public institution;

“Public institution” means an institution established or maintained by use of public funds or by the community;

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“Trainees” means a person undertaking a course at vocational training centre;

“Training” includes technical, industrial and vocational education and training leading to an award of a certificate or Diploma;

“Vocational Training Centre” means an institution providing training leading to the awards below the level of Diploma.

Object of the Act

3. The object of this Act is to promote the—
- (a) establishment and progressive development of Vocational Training Centers in the county;
 - (b) acquisition of occupational trade skills through training;
 - (c) carrying out of research and development that serves the county;
 - (d) exchange of knowledge and skill and, in so doing, improve the economy of the county.

**PART II—ESTABLISHMENT AND MANAGEMENT OF
VOCATIONAL TRAINING CENTERS**

Establishment of a Vocational Training Center

4. (1) The Executive Committee Member may, by order in the *Kenya Gazette*, establish one or more Vocational Training Centers.

(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 Vocational Training Centers.

Powers of a Vocational Training Center

5. Every Vocational Training Centre 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.

Functions of a Vocational Training Center

6. Every Vocational Training Centre 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 and as approved by the Executive Committee Member;
 - (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 fulfillment of any of the functions of the Vocational Training Centre.

Board of Governors

7. (1) The Executive Committee Member shall, by order in the Kenya Gazette, appoint a Board of Governors for each Vocational Training Centre.

(2) The Board shall consist of not less than seven and not more than nine members for each Vocational Training Centre as described in the Second Schedule.

(3) The Board shall be a body corporate with a common seal, capable of suing and being sued; and acquiring assets and incurring liabilities.

(4) No person shall be appointed to the Board under sub-section 2 above unless the person holds an “O” level certificate and no person shall be appointed as a chairperson of the board unless a person is a holder of at least a Diploma.

(5) In constituting the pursuit to paragraph 1 (2) (d) of the second schedule, the Executive Committee Member shall ensure that there is representation from youth, persons with disabilities, women, Community Based organizations and Faith Based organization.

(6) The members of the board shall in the first sitting elect a chairperson from amongst themselves.

(7) Members of the board shall be paid in respect of their services such as remunerations or allowances as the county public service board, in consultation with the salaries and remuneration commission, shall determine.

(8) The conduct of business and affairs of the Board shall be as prescribed in the First Schedule.

Powers of a Board

8. (1) A Board shall have all powers necessary for the proper performance of the functions of the Vocational Training Centre under this Act.

(2) Without prejudice to the generality of subsection (1), the Board shall have powers to—

- (a) supervise the assets of the Vocational Training Centre in such manner as best promotes the purpose for which the Vocational Training Centre is established;
- (b) associate with any other institution so as to further the purpose for which the Vocational Training Centre is established;
- (c) receive grants, gifts, donations or endowments and make legitimate disbursements from them;
- (d) delegate any of its powers to any of its committees or employees;
- (e) undertake any activity necessary for the fulfillment of any of the functions of the Board;
- (f) manage human resources of the Vocational Training Centre; and
- (g) approve the budget of the Vocational Training Centre.

Term of the Board

9. The members appointed to the Board by the Executive Committee member under this Act shall hold office for a period of three calendar years from the date of appointment, provided that a person shall be eligible for re-appointment for one other term.

PART III—REGISTRATION AND ADMINISTRATION OF VOCATIONAL TRAINING CENTERS

Registration of Vocational Training Centers

10. (1) A person shall not operate a Vocational Training Centre unless the person or an institution has been accredited, licensed and registered under the Technical and Vocational Education and Training Act. (No. 29 of 2013).

(2) A person who operates a Vocational Training Centre which is not registered under the Act commits an offence.

(3) The procedure for registration and accreditation of Vocational Training Centers is as set out in the Technical and Vocational Education and Training Act.

Register of Vocational Training Centers

11. (1) The Directorate shall keep a register of all Vocational Training Centers operating in the county and shall include in the register names of the Vocational Training Centers 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.

Principal of a Vocational Training Center

12. (1) There shall be a Principal for each Vocational Training Centre who shall be the Chief Executive Officer.

(2) The Principal of a Public Vocational Training Centre shall be appointed by the County Public Service Board.

(3) The Principal of a Private Vocational Training Centre 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 Diploma 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 shall be the accounting officer of the Vocational Training Centre and, subject to the direction of the Board, shall be responsible for the—

- (a) implementation of the decisions of the Board;

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- (b) day to day management of the affairs of the Vocational Training Centre;
- (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—

- (a) given sufficient notice of the allegations made against him or her;
- (b) given an opportunity to be heard either in person or by a legal representative; and
- (c) subject to the Public service disciplinary procedures.

(9) There shall be a Deputy Principal for each Vocational Training Centre who shall be appointed by the County Public Service Board on such terms and conditions as may be specified in the instrument of appointment.

(10) The Deputy Principal shall deputize the Principal in all matters related with the Vocational Training Centre and shall be a member of the Vocational Training Centre academic board.

Staff

13. (1) The Vocational Training Centre teaching and non-teaching staff shall have such academic, technical and other qualifications, as may be determined by the respective Scheme of service.

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

Academic Board

14. Each Vocational Training Centre shall have an academic board consisting of the Principal, Deputy Principal, heads of academic departments and any other person specified by the Board.

Functions of the Academic Board

- 15.** (1) The academic board shall ensure compliance to—
- (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 and external examiners;
 - (e) procedure for the award of qualifications;
 - (f) development of the academic activities of the Vocational Training Centre;
 - (g) 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 Vocational Training Centre; and
 - (b) consider the resources required to support the academic activities of the Vocational Training Centre.

Committees of the Academic Board

16. (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 IV— HOME CRAFT CENTERS

Establishment of Home Craft Centers

17. (1) The Executive Committee Member shall establish county Home craft centers.

(2) The Executive Committee Member shall promote the establishment of Home craft Centers by—

- (a) religious organizations;
- (b) public benefit organizations;
- (c) an individual or group of individuals;

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(3) Home craft centers established in the County may—

- (a) provide home craft skills;
- (b) offer industrial attachment to trainees from vocational training centers
- (c) promote, protect and propagate indigenous products; and
- (d) promote home craft entrepreneurship.

(4) A home craft center established under this Act shall not be used for furtherance of any unlawful activity.

Regulation of Home craft Centers

18. (1) The Executive Committee Member may make regulations on the establishment and proper running of home craft centers.

(2) Regulations made under subsection (1) may—

- (a) prescribe standards relating to premises, facilities and programmes;
- (b) provide for the administration and management of community home craft centers;
- (c) provide for licensing and registration.

Funding and Support

19. The Executive Committee Member shall, out of money annually appropriated to the Directorate of Vocational Education and Training—

- (a) provide necessary training resources and facilities for home craft centers;
- (b) provide required facilities and infrastructure;
- (c) provide funds to cater for center operation costs.

Home craft Enterprise Services

20. (1) County home craft centers established under this Act may engage in enterprise services for the generation of income.

(2) The Executive Committee Member shall promote home craft center enterprise services

(3) The Executive Committee Member may make regulations on the management and utilization of funds from County home craft center enterprise services.

PART V—FINANCIAL PROVISIONS**Funds of the Vocational Training Center**

21. The funds and assets of Vocational Training Centre shall consist of—

- (a) such monies or assets as may accrue to or vest in the Vocational Training Centre 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 Vocational Training Centre pursuant to this Act or any other law;
- (c) such monies as may be appropriated by the County Assembly for the purposes of the Vocational Training Centre; and
- (d) all monies from any other source provided, donated or lent to the Vocational Training Centre.

Financial year

22. The financial year of Vocational Training Centers shall be the period of twelve months ending on the thirtieth June in each year.

Annual estimates

23. (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 a Vocational Training Centre for that financial year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Vocational Training Centre 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 Vocational Training Centre;
- (b) payment of pensions, gratuities and other charges and in respect of benefits which are payable out of the funds of the Vocational Training Centre;
- (c) funding of the registration, monitoring and evaluation of activities of the Vocational Training Centre;
- (d) the maintenance of the buildings and grounds of the Vocational Training Centre;
- (e) funding of training, research and development of activities of the Vocational Training Centre;

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- (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.

Accounts and Audit

24. (1) Each Vocational Training Centre 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 County Internal Auditor the accounts of the Vocational Training Centre in respect of that year together with—

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

(3) The annual accounts of the Vocational Training Centre 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

25. (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 Vocational Training Centre;
- (b) description of the activities of the Vocational Training Centre;
- (c) such other statistical information as the Vocational Training Centre may consider appropriate relating to the Vocational Training Centre'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 Vocational Training Centre;
- (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 Executive Committee Member within three months after the end of the year to which it relates for subsequent submission to the County Treasury and the County Assembly.

(4) The annual report shall be published and publicized in a manner that may be determined by the County Executive Committee.

PART VI—MISCELLANEOUS PROVISIONS

Collaboration

26. A Vocational Training Centre may collaborate with any other Vocational Training Centre or any other training institution to promote its development.

Standards and quality assurance of Vocational Training Centers

27. (1) The Department shall inspect and monitor the standards of the Vocational Training Centers in the county.

(2) The Department shall in accordance with the provisions of this Act—

- (a) adopt appropriate national and international standards in training;
- (b) establish, implement and manage credible quality assurance systems;
- (c) establish and promote appropriate collaborative arrangements with national and international agencies on standards and quality assurance; and
- (d) establish systems and processes for the continuous review and improvement of standards and quality assurance in Vocational Training Centers.

(3) Despite subsection (1) and (2) and in so far as it may be practicable the department shall adhere to the provisions of parts VI and VII of the TVET act, 2013 on standards and quality assurance in the vocational training centre

Regulations

28. (1) The Executive Committee Member may, in consultation with other stakeholders, make regulations with approval of the County Assembly generally for the better carrying out into effect of any provisions of this Act.

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(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 Vocational Training Centre; and
- (c) such other matters as the Vocational Training Centre considers necessary.

General penalty

29. 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 one million shillings or to a term of imprisonment not exceeding two years or to both.

FIRST SCHEDULE**[Section 7(6)]****PROVISIONS AS TO THE CONDUCT OF THE BUSINESS AND
AFFAIRS OF THE BOARDS OF GOVERNORS**

1. The Board 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.
2. The Chairperson may at any time, and upon written request by a majority of the members, call a special meeting of the Board.
3. The Chairperson shall preside at every meeting of the Board at which he is present, but in the absence of the Chairperson the members present may elect one from among their number to preside.
4. The quorum for a meeting of the Board shall be seven members, who shall include five appointed members.
5. Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the members present, and in the case of an equality of votes the chairperson or person presiding shall have a casting vote.
6. A member who has a direct or indirect interest in a matter being considered or to be considered by the Board 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.
7. The Board 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.
8. Save as provided in this Schedule the Board may regulate its own procedure.

SECOND SCHEDULE**[Section 7]****MEMBERSHIP AND GOVERNANCE PROCEDURES FOR
BOARDS OF GOVERNORS FOR VOCATIONAL TRAINING
CENTERS****Composition of Board of Governors for Vocational Training Centers**

1. (1) The Board of Governors of a public institution shall consist of not less than seven and not more than nine members appointed by the Executive Committee Member.

(2) The membership of the Board of Governors shall comprise—

(a) a chairperson;

(b) a representative of the Executive Committee Member in the Department responsible for vocational training;

(c) a representative of the Governor; and

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

(i) Leadership and management;

(ii) Financial management;

(iii) Technology;

(iv) Industry;

(v) Engineering;

(vi) Information communication technology.

(3) The Board of Governors for private institutions 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 that institution.

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

(5) Appointments under paragraph 1(2) shall take into account ethnic and gender balance, and promote inclusion of persons with disabilities, minorities and the marginalized, and ensure balanced competencies among the members.

Functions of the Board of Governors for Vocational Training Centers

2. In addition to the functions of the Board of Governors set out in Section 29 of the Technical and Vocational Education and Training, the Boards of Governors shall perform the following functions—

- (a) overseeing the conduct of education and training in the institutions in accordance with the provisions of this Act and any other written law;
- (b) promoting and maintaining standards, quality and relevance in education and training in the institutions in accordance with this Act and any other written law;
- (c) administering and managing the property of the institutions;
- (d) developing and implementing the institutions' strategic plan;
- (e) preparing annual estimates of revenue and expenditure for the institution and incurring expenditure on behalf of the institutions;
- (f) receiving, on behalf of the institution, fees, grants, subscriptions, donations, bequests or other moneys and to make disbursement to the institution or other bodies or persons;
- (g) determining the fees payable and prescribing conditions under which fees may be remitted in part or in whole in accordance with the guidelines developed under the provisions of this Act;
- (h) mobilizing resources for the institutions;
- (i) developing and reviewing programmes for training and to make representations thereon to the Board;
- (j) regulating the admission and exclusion of trainees from the institutions, subject to a qualifications framework and the provisions of this Act;
- (k) approving collaboration or association with other institutions and industries in and outside the county subject to prior approval by the Department of Education and Vocational Training;
- (l) recruiting and appointing trainers from among qualified professionals and practicing trades persons in relevant sectors of industry who will serve under the Board of Governors as per need basis with approval of the Department of Education and Vocational Training;
- (m) determining suitable terms and conditions of service for support staff, trainers and instructors and remunerating the staff of the institutions, in consultation with the Department of Education and Vocational Training;

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- (n) making regulations governing organization, conduct and discipline of the staff and trainees;
- (o) preparing comprehensive annual reports on all areas of their mandate, including education and training services and submit the same to the Department of Education and Vocational Training;
- (p) providing for the welfare of the trainees and staff of the institutions;
- (q) encouraging, nurturing and promoting democratic culture, dialogue and tolerance in the institutions; and
- (r) discharging all other functions conferred upon it by this Act or any other written law.

Removal of a Board member

3. (1) The Executive Committee member may remove a person appointed to the Board of Governors on the ground that the member has—

- (a) grossly violated the constitution;
- (b) demonstrated incompetency in the exercise of his or her duties as a member of the Board.
- (c) abused his or her office.
- (d) been affected by physical illness in such a manner leading to inability to perform his or her role as a member of the Board; and
- (e) committed a crime in relation to his or her work as a member of the board.

(2) A person appointed to the Board shall cease to be a member if he or she—

- (a) dies;
- (b) has been convicted of an offence under national or county law and imprisoned for more than six months;
- (c) has been declared mentally unsound; and
- (d) has been convicted of a crime under international law.

(3) Upon a person ceasing to be a member of the Board under subsection 2 above, the Executive Committee member shall, appoint another person as a replacement to the Board.