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***KENYA GAZETTE SUPPLEMENT***

**MACHAKOS COUNTY ACTS, 2021**

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**NAIROBI, 12th July, 2021**

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**THE MACHAKOS COUNTY TECHNICAL AND VOCATIONAL  
TRAINING CENTERS ACT, 2021**

**No. 5 of 2021**

*Date of Assent: 8th January, 2021*

*Date of Commencement: 12th July, 2021*

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**THE MACHAKOS COUNTY TECHNICAL AND VOCATIONAL  
TRAINING CENTERS ACT, 2021**

**AN ACT of the County Assembly of Machakos to give effect to section 9 of Part II of the Fourth Schedule of the Constitution; to provide for matters relating to Technical and Vocational Training Centers, the establishment of County Technical and Vocational Training Centers; and for connected purposes**

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

**PART I—PRELIMINARY**

**Short Title**

1. This Act may be cited as the Machakos County Technical and Vocational Training Centers Act, 2021.

**Interpretation.**

2. In this Act—

“Board” means the County Public Service Board established under Section 57 of the County Governments Act, 2012;

“Board of Management” refers to the entity established under Section 10 to oversee the management of a public county technical and vocational training center;

“Committee” means the Machakos County technical and vocational training Committee established under section 4;

“Community” in relation to a county technical and vocational training center means the village within which a technical and vocational training center is situated;

“Curriculum” means all the approved subjects taught or programmes offered in a county technical and vocational training center;

“county” means the County of Machakos;

“county polytechnic” means an institution registered under the Technical and Vocational Education and Training Act, 2013 to offer vocational or technical training and includes village polytechnics and training center as contemplated under section 9, part 2 of the Fourth Schedule of the Constitution;

“department” means the county department responsible for matters relating to education;

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“Executive committee member” means the County Executive committee member responsible for matters relating to education in the County;

“institution” refers to a technical and vocational training center established in accordance with Technical and Vocational Education and Training Act, 2013;

“learner” means a person enrolled as a learner in a technical and vocational training center in the County;

“Manager” means the person in-charge of a technical and vocational training center;

“register” means an inventory of technical and vocational training center in the County; and

“syllabus” means concise statement of the contents of a course of instructions in a given subject.

**Object and purpose of the Act**

**3.** The object and purpose of this Act is to make provision for the legislative and institutional framework for—

- (a) the establishment of institutions;
- (b) the registration of institutions;
- (c) cooperation and consultation between national and county governments on matters relating to institutions;
- (d) the acquisition of occupational trade skills by persons through technical and vocational training;
- (e) innovation and creativity to enhance value addition entrepreneurship in the county and employability;
- (f) the equipping of learners with practical technical skills that are relevant to the society and which are readily applicable in the job market; and
- (g) research to inform policies relating to technical and vocational training.

**PART II—MACHAKOS COUNTY TECHNICAL AND VOCATIONAL TRAINING COMMITTEE****Establishment of the Committee**

**4.** (1) There is established a Committee to be known as the Machakos County technical and Vocational Training Center Committee.

(2) The Committee shall consist of—

- (a) the Executive Committee Member responsible matters relating to education who shall be the chairperson;
  - (b) the Chief Officer responsible matters relating to education or a designate not below the level of a Director;
  - (c) one representative of principals of public institutions nominated by a forum for all public institutions principals;
  - (d) one representative of principals of private institution nominated by a forum of all private institution principals;
  - (e) three persons who ordinarily reside in the county and who have at least five years experience in any of the following fields—
    - (i) technical education;
    - (ii) social sciences; or
    - (iii) public administration;
  - (f) two persons who ordinary reside in the county being one man and one woman representing marginalized persons;
  - (g) one representative of the informal sector nominated by the largest umbrella organization representing the informal sector in the County; and
  - (h) Director recruited by the Board who shall be the Secretary to the committee and who shall be an ex official member.
- (3) The persons referred to in subsection (2) (e),(f) and (g) shall be competitively recruited by the Board and appointed by the Executive Committee Member.
- (4) In recruiting and appointing the persons in sub section (2), (e ), (f) and (g), the Board and the Executive Committee Member shall take into consideration the following—
- (a) regional, ethnic and gender diversity and representation of persons with disability; and
  - (b) compliance with the principles of public participation through extensive consultations with the relevant stakeholders, community leaders and members of the public.
- (5) In the absence of the Executive Committee member, the Committee shall appoint a Chairperson from among its members.
- (6) The members of the Committee referred to in section 4 (2) (d), (e),(f) and (g) shall hold office for a term not exceeding three years.

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**Functions of the Committee**

- 5. (1)** The functions of the Committee are to—
- (a) advise the Executive committee member on policies relating to technical and vocational training;
  - (b) promote, advance and maintain standards relevant in the quality of education relating to technical and vocational training;
  - (c) monitor and evaluate technical and vocational training programs;
  - (d) undertake regular inspection of institutions to ensure compliance with this Act.
  - (e) in consultation with institutions Boards of Management, oversee the operation and management of institutions programmes in the county;
  - (f) plan, develop and coordinate training and research in institutions in the county;
  - (g) develop linkages and collaboration with institutions of learning, professional organizations, private sector and other institutions with similar objectives;
  - (h) upon public consultation, issue guidelines on fees payable on trades offered by institutions;
  - (i) promote the uptake of technical training in the society;
  - (j) ensure that institutions are well equipped with the relevant machinery and tools;
  - (k) provide support to graduate learners in finding internships, employment and industrial attachments; and
  - (l) doing or performing all other acts necessary for the proper performance of its duties under this Act or any other written law.

**Conduct of business and affairs of the Committee**

**6. (1)** The conduct and regulation of the business and affairs of the Committee shall be as provided in the First Schedule.

(2) Except as provided in the First Schedule, the Committee may regulate its own procedure.

**Vacancy of office**

**7. (1)** The office of a member of the Committee referred to in section 4(2),(d),(e) (f) and (g) shall become vacant if the member—



- (a) resigns by notice in writing addressed to the Executive Committee Member;
- (b) is unable to perform the functions of the office by reason of prolonged physical or mental incapacity;
- (c) is adjudged bankrupt by a court of competent jurisdiction;
- (d) is guilty of gross misconduct; or
- (e) is convicted of an offence and sentenced to imprisonment for a period of six months or more.

### **Remuneration**

8. The members of the Committee shall be paid such allowances and disbursements for expenses as may be approved by the Board in consultation with the Salaries and Remuneration Commission.

## **PART III— MANAGEMENT OF TECHNICAL AND VOCATIONAL TRAINING CENTERS**

### **Establishment of a technical and vocational training centers**

9. (1) Subject to the provisions of Technical and Vocational Education Training Act, 2013, the Executive Committee Member may, by order in the Gazette and in consultation with the Committee establish a public institution.

(2) Despite sub section (1), a person who meets the requirements set out in this Act and any other applicable law may establish a private institution.

(3) The Department shall take measures in order to ensure that there is established at least one public institution in every Ward.

### **Register of technical and vocational training centers**

10. (1) The department shall keep a register of all private and public institution operating in the county and shall include in the register names of the private and public institution and such other particulars as the Executive Committee Member may prescribe.

(2) The department shall forward all the particulars recorded in the register to the Committee.

### **Board of Management**

11. (1) There shall be a Board of Management for every public institution.

(2) The Board of Management shall consist of—

- (a) two persons who ordinarily reside in the Sub-county in which the public institution is situate and who have experience in any of the following fields—
  - (i) education; or
  - (ii) public administration;
- (b) one representative of the staff of the institution elected by the instructors;
- (c) one representative of special interest groups in the community;
- (d) one person to represent persons with special needs;
- (e) a representative of the parents association of the institution;
- (f) a representative of the students' council who shall be an ex officio member; and
- (g) the principal of the institution who shall be the secretary to the Board.

(3) The members of the Board of Management shall elect the Chairperson and Vice Chairperson from amongst themselves.

(4) The Board of Management may from time to time co-opt into its membership such persons as it is satisfied possess skills and experience to assist in the discharge of the Board's functions.

(5) The number of members of the Board of Management co-opted under subsection (4) shall not exceed three at any particular time and such members do not have a right to vote at the meetings of the Board.

(6) The conduct and affairs of the Board of Management shall be as set out in the Second Schedule.

#### **Application procedure**

12. (1) The Executive Committee Member shall, for the purpose of competitive recruitment of members of Board of Management under Section 10, constitute a Selection Panel.

(2) The Selection Panel shall consist of the following persons —

- (a) a representative of the department who shall be the Chairperson;
- (b) the Ward administrator in which the institution is located;
- (c) the Chief of the area in which the institution is located;
- (d) the sponsor, if any, of the institution;
- (e) a representative of the parents association, of the institution; and

(f) the head of institution, who shall be the Secretary.

(3) In appointing persons as members of a board of management, the nominating and appointing authority shall observe and respect—

- (a) the ethnic and regional diversity of the people of Kenya;
- (b) impartiality and gender equity; and
- (c) Article 10 and Chapter Six of the Constitution.

### **Functions of Board of Management**

13. The Board of Management shall—

- (a) ensure efficient management of the institution;
- (b) promote the best interests of the institution and ensure the institution's development;
- (c) oversee prudent utilization of resources of the institution;
- (d) ensure that the institution observes high standards of corporate and business ethics;
- (e) consider and approve annual estimates of income and expenditure of the institution;
- (f) source for donations, contributions or grants or raise funds by lawful means;
- (g) make provisions for general welfare, recreational and social needs of its staff and learners; and
- (h) undertake such other functions as may be necessary for the discharge of the functions of the institution.

### **Committees**

14. The Board of Management of an institution may form such committees as may be appropriate for the performance of such functions and the discharge of such responsibilities as it may determine, provided that the Board of Management shall not delegate their principal mandate to the committees.

### **Vacancy**

15. A member of the Board of Management shall cease to hold office if the member—

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

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- (c) is convicted of a criminal offence and sentenced to a term of imprisonment of six month or more;
- (d) resigns in writing to the Executive Committee Member;
- (e) is found guilty of professional misconduct by the relevant professional body;
- (f) is disqualified from holding a public office under the Constitution;
- (g) engages in misconduct; or
- (h) dies.

#### **Filling of vacancy**

16. If a position of member of the Board of Management falls vacant, the Executive Committee Member shall appoint another person to fill the vacancy in accordance with section 12.

#### **Principal of a Village Polytechnic**

17. (1) There shall be a principal for each institution who shall be the chief Executive officer of the institution.

(2) The principal shall be competitively appointed by the Board.

(3) The Board shall exercise disciplinary control over the principal of the institution.

#### **Qualification for appointment**

18. A person is qualified for appointment as a principal if that person—

- (a) is a citizen of Kenya;
- (b) holds at least a degree in technical education from a university recognized in Kenya;
- (c) has at least three years' experience at management level;
- (d) has at least five years' experience in technical field; and
- (e) meets the requirements of chapter six of the Constitution.

#### **Functions of the principal**

19. The principal —

- (a) shall be the accounting officer of the institution;
- (b) shall be responsible for the day to day management of the institution;

- (c) shall be the team leader for the implementation of the Committee's policies and programs in the institution;
- (d) implement the decisions of the Board of Management;
- (e) shall organize and manage the staff of the institution;
- (f) may initiate policy proposals for consideration by the Committee and the Executive Committee Member;
- (g) prepare and submit regular reports to the Committee upon approval by the Board of Management; and
- (h) perform such other functions as may be assigned by Board of Management.

### **Functions of the institutions**

**20.** The institution shall—

- (a) provide full time or part technical courses;
- (b) provide such facilities for its learners as it considers desirable;
- (c) demand and collect fees and other charges as may be appropriate;
- (d) provide technical and consultancy services to business and industries as it may deem appropriate;
- (e) provide a favorable environment which offers positive health and is conducive to learning and social development without compromising diversity or disability; and
- (f) undertake any activity necessary for the fulfillment of the functions of the institution.

### **Appointment of Non-teaching Staff**

**21.** (1) Every Board of Management shall, pursuant to the provisions of this Act employ, remunerate, promote or terminate services of any of its employees.

(2) Persons belonging to a professional cadre and employed by the Board of Management shall be employed on such terms and conditions of services similar to those recommended for equivalent post in the Civil Service.

### **Parents Association**

**22.**(1) There shall be a parents association for every public institution which shall be constituted in the manner set out in the Third Schedule.

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(2) Every private institution shall establish a parents' teachers association.

### **Co-curricular Activities**

23. (1) The Committee shall promote both recreational and competitive sports and games for physical development, performing and creative arts, talent shows and congresses in institutions by ensuring that—

- (a) all learners are accorded the opportunity to participate in the those activities;
- (b) every institution has or can access adequate facilities for co-curricular activities; and
- (c) every institution puts in place measures to promote co-curricular activities and ensure that all student shall have access to suitable affordable sports kits.

## **PART V—FINANCIAL PROVISIONS**

### **Funds of the Institutions**

24. (1) The funds of the department shall consist of—

- (a) monies provided by the County Assembly for the purposes of the department;
- (b) any grants, gifts, donations or other endowments given to the department;
- (c) such funds as may vest in or accrue to the department in the performance of its functions under this Act or any other written law; and
- (d) monies from any other lawful sources.

(2) The funds shall be used to promote vocational and technical training and education within the county.

### **Annual Estimates**

25. (1) At least three months before the commencement of each financial year, the principal shall cause to be prepared estimates of the revenue and expenditure of the public institution for that year.

(i)(2) The annual estimates shall make provision for all the estimated expenditure of the public institution 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 institution;

- (b) payment of pensions, gratuities and other charges in respect of benefits which are payable out of the funds of the institution as provided by the relevant statutory provisions;
- (c) development and maintenance of the buildings and grounds of the institution;
- (d) funding of training, research and development of activities of the institution;
- (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 institution may deem fit; and
- (f) any other expenditure necessary or purposes of this Act.

(3) The annual estimates shall be approved by the Board of Management before the commencement of the financial year to which they relate.

#### **Accounts and Audit**

26. (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 institution.

(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 institution in respect of that year together with a—

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

#### **Annual Reports**

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

(2) The Board of Management shall submit the annual report to the 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 institution;

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- (b) such other statistical information as the institution may consider appropriate relating to the institution'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 Committee considers necessary.
- (4) The annual report shall be published and publicized in such other manner as the Committee may determine.

## **PART VI—MISCELLANEOUS PROVISIONS**

### **Regulations**

**28.** (1) The Executive Committee member in consultation with the Committee, may make Regulations generally for the better carrying out into effect of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1) such Regulations may make provision with respect to—

- (a) the forms to be used in connection with this Act; and
- (b) any other matter necessary for the implementation of this Act.

### **Offences**

**29.** A person who—

- (a) commits a breach of any condition imposed by any licence or permit issued under this Act;
- (b) aids or abets another person a person to commit a breach of any condition imposed by under any licence or permit issued under this Act;
- (c) forges or through fraud obtains any document with intent to have a licence or permit issued or renewed; or
- (d) obstructs an authorized officer in carrying his or her duties under this Act;

commits an offence and on conviction shall be liable to a fine of not more than shillings Five Hundred Thousand or to imprisonment for a period not exceeding two years or both such fine and imprisonment.

### **General Penalty**



30. 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.

**Transition and Savings**

31. (1) Any person who immediately before the commencement of this Act was an employee of the Board attached to the department shall, upon the commencement of this Act continue to serve in the department.

(2) Notwithstanding the provisions of this Act, any public institution existing immediately prior to this Act shall continue to operate as such subject to the standards set in this Act.

(3) Upon the coming into force of this Act, the Executive Committee Member shall by regulation, provide for the staggering of the terms of the existing staff of public institution in order to ensure compliance with the provisions of the Act.

**FIRST SCHEDULE****SECTION 6****CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMITTEE****Vice Chairperson**

1. The Committee shall, at its first meeting, elect a Vice-Chairperson of the Committee from amongst the persons appointed under section 4 (2)(d)(e),(f) and (g) of this Act.

**Meetings of the Committee**

2. The Committee shall hold such number of meetings at such places and at such times as the Committee shall consider necessary for the proper discharge of its functions.

**Special meetings**

3. The Chairperson may at any time convene a special meeting of the Committee and shall do so within fifteen days of a written requisition for the meeting signed by at least three members.

**Chairperson to preside**

4. (1) The Chairperson shall preside at all meetings of the Committee, in which the Chairperson is present and in the case of his or her absence, the Vice Chairperson shall preside.

(2) At a meeting of the Committee at which neither the Chairperson or Vice-Chairperson is present, the members of the Committee present shall elect one of their members to preside, and the person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted there at.

**Quorum**

5. The quorum for the conduct of the business of the Committee shall be more than half of all the members of the Committee .

**Voting procedure**

6. The decisions of the Committee shall be by a majority of votes, and the Chairperson of the meeting shall have an original and a casting vote.

**Validity of proceedings**

7. The validity of any proceedings of the Committee shall not be affected by any vacancy among the membership thereof, or by reason of a defect in the appointment of a member.

**Minutes of the meeting**

8. Minutes of the proceedings at meetings of the Committee shall be kept in such a manner as the Committee directs, and, on the written request of the Executive Committee Member, shall be made available to him or her or any person nominated by him or her.

**Disclosure of interest**

9. (1) If a member of the Committee is directly or indirectly interested in a contract, proposed contract or other matter before the Committee and is present at a meeting of the Committee at which the contract, proposed contract or other matter is the subject of consideration, that member shall disclose the fact as soon as is practicable after the commencement of that meeting.

(2) A member to whom subsection (1) applies shall not participate in the consideration, discussion or voting on the matter in which the member has disclosed an interest.

**Records**

10. The Secretary to the Committee shall keep a record of all proceedings and meetings of the Committee.

**SECOND SCHEDULE****SECTION 11****CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD OF MANAGEMENT****Incorporation of Board of Management**

1. The Board of Management shall be a body corporate with perpetual succession and a common seal, and shall in their corporate names, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing, lending and granting money;
- (d) entering into contracts; and
- (e) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

**Tenure**

2. (1) Unless the appointment of the chairperson or a member of the Board of Management is terminated under this Act, a person appointed as chairperson or as a member shall hold office for a term of three years from the date of appointment and shall be eligible for re-appointment for one further term of a period not exceeding three years.

(2) In reappointing members of the Boards of Management, the Executive Committee Member shall maintain a proportion of new membership that ensures continuity in the affairs of the Boards of Management.

(3) Notwithstanding the foregoing, a person who has served as a member of a Board of Management for one term at the date of the commencement of this Act may be re-appointed for a second and final term of three years.

**Resignation from the Board of Management**

3. (1) A member of a Board of Management may at any time resign by giving notice in writing to the Executive Committee Member.

(2) A person giving notice under subsection (1) shall cease to be a member of the Board of Management from the date specified in the notice or, if no date is specified, from the date of the receipt by the Executive Committee Member of the notice.

**Frequency of meetings of the Board of Management**

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

(2) Every meeting of the Board of Management shall be convened by giving at least fourteen days' notice in writing to every member unless three quarters of the total members of a Board of Management otherwise agree.

(3) Notwithstanding the provisions of subsection (1), the chairperson of a Board of Management may, on his own motion or upon requisition in writing by at least five members of the Board, convene a special meeting of the Board of Management or at any time for the transaction of specific business.

**Quorum of the Board of Management**

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

(2) Subject to the provisions of subparagraph (1), no proceedings of a Board of Management shall be invalid by reason only of a vacancy among the members thereof.

**Chairperson to preside over a meeting of Board of Management**

6. (1) The Chairperson shall preside at every meeting of the Board of Management at which the Chairperson is present and in his absence, the deputy chairperson shall preside.

(2) In the absence of both the chairperson and the deputy chairperson at any meeting, the members present shall elect one of their number to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

**Decision of the Board of Management**

7. Unless a unanimous decision is reached, a decision on any matter before a Board of Management shall be by a majority of the votes of the members present and voting and in the case of an equality of votes, the chairman or the person presiding shall have a casting vote.

**Disclosure of interest**

8. If a member is directly or indirectly interested in any contract, proposed contract or other matter before a Board of Management and is present at a meeting of the Board of Management at which the contract, propose contract or other matter is the subject of consideration, he or she

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shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) Every meeting of the Board of Management shall be conducted by giving at least fourteen days' notice in writing to every member unless three quarters of the total members of a Board of Management otherwise agree.

(3) Notwithstanding the provisions of subsection (1), the chairperson of a Board of Management may, on his own motion or upon requisition in writing by at least five members of the Board, convene a special meeting of the Board of Management or at any time for the transaction or specific business.

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**Decision of the Board of Management**

7. Unless a unanimous decision is reached, a decision on any matter before a Board of Management shall be by a majority of the votes of the members present and voting and in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

**Disinterestedness of interest**

8. If a member is directly or indirectly interested in any contract proposed or other matter before a Board of Management and is present at a meeting of the Board of Management at which the contract or other matter is the subject of consideration, he or she shall not

**THIRD SCHEDULE****SECTION 22****ESTABLISHMENT AND FUNCTIONS OF PARENTS ASSOCIATION**

1. There shall be a Parents Association for every public or private Institution consisting of—

- (a) every parent of a learner in the institution; and
- (b) a representative of the instructors in the school.

2. The Parents Association shall, at its first meeting, elect a Chairperson and Vice-Chairperson from amongst themselves.

3. The Association shall elect their representative who shall be co-opted to the Board of Management.

4. The principal shall be the Secretary to the Association.

5. The functions of the Parents Association shall be to—

- (a) promote quality care, nutritional and health status of the learners;
- (b) maintain good working relationship between instructors and parents;
- (c) discuss, explore and advise the parents on ways to raise funds for the physical development and maintenance;
- (d) explore ways to motivate the instructors and learners to improve their performance in academic and co-curricular activities;
- (e) discuss and recommend charges to be levied on learners or parents;
- (f) undertake and oversee development projects on behalf of the whole Parents Association;
- (g) assist the school management in the monitoring, guidance, counseling and disciplining of learners; and
- (h) discuss and recommend measures for the welfare of staff and learners.

6. The Parents Association shall hold such number of meetings at such places and at such times as the Association shall consider necessary for the proper discharge of its functions.

7. Subject to the provisions of this Schedule, the Parents Association shall regulate its own procedures.

