corporation, to the chief executive officer of the
state corporation;

(c) in respect of lower-level public officers of a local
authority, to the clerk of the local authority.

(3) The exercise of the powers and functions delegated
under paragraph (1)(a) is subject to —

(a) the procedures for the administration of Part IV of
the Act established by the Commission under section
33 of the Act; and

(b) such instructions as the Commission may, from time
to time, issue.

(4) The exercise of the powers and functions delegated
under paragraph (1)(b) is subject to such instructions as the
Commission may, from time to time, issue.

Dated the 1st August, 2003.

A. M. H. SHARAWE,
Chairman,
Public Service Commission of Kenya.

LEGAL NOTICE NO. 124

THE PUBLIC SERVICE COMMISSION CODE OF CONDUCT AND
ETHICS

ARRANGEMENT OF CODE

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THE PUBLIC OFFICER ETHICS ACT, 2003
(No. 4 of 2003)

IN EXERCISE of the powers conferred by section 5(1) of the Public Officer Ethics Act, 2003, the Public Service Commission, establishes the following Public Service Commission Code of Conduct and Ethics:-

THE PUBLIC SERVICE COMMISSION CODE OF CONDUCT AND ETHICS

Preamble.

The ethos of the Public Service is to offer service to members of the public and support successive governments of the Republic of Kenya with loyalty, impartiality, honesty and integrity and to facilitate the objective of enhancing peace, socio-economic growth and prosperity.

In accomplishing the mission of government, public officers will be guided by a shared vision that the public service will be an efficiently and effectively performing institution, committed to serving citizens with courtesy, integrity, giving value for the tax payers money; not demanding of the citizens but anxious to be of service to them.

The Code is intended to establish standards of ethical conduct and behaviour for public officers.
This Code contains rules of conduct and ethics to be observed by public officers so as to maintain the integrity and impartiality of the public service. The Code does not in any way replace the regulations governing the discipline and general conduct of public officers. Public officers must obey those regulations and all other applicable laws.

Public officers should adhere to this Code so as not to bring the public service into disrepute.

PART I - PRELIMINARY

1. This Code may be cited as the Public Service Commission Code of Conduct and Ethics.

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

   "authorized officer" means, in relation to a public officer, the authorized officer determined in accordance with the following —

   (a) if the public officer is a public officer of a department, the appropriate authority is the Permanent Secretary who exercises supervision over the department or —

   (i) in the case of a department which is not assigned to any Minister, the head of that department;

   (ii) in the case of the Exchequer and Audit Department, the Controller and Auditor-General;

   (iii) in the case of the Kenya Police Force, the Commissioner of Police;

   (iv) in the case of the Kenya Prisons Service, the Commissioner of Prisons; or

   (v) in the case of the National Youth Service, the Director of the National Youth Service;
(b) if the public officer is a public officer of a state corporation, the appropriate authority is the chief executive officer of the state corporation;

(c) if the public officer is a public officer of a local authority, the appropriate authority is the clerk of the local authority;

(d) if the appropriate authority under this definition would be the public officer concerned, the appropriate authority is the head of the public service;

"public officer" means a public officer to whom this Code applies under rule 3.

3. This Code applies with respect to the public officers for whom the Public Service Commission is the responsible Commission under the Act.

PART II — REQUIREMENTS

4.(1) A public officer shall comply with all the requirements of the General Code of Conduct and Ethics set out in Part III of the Act.

(2) The General Code of Conduct and Ethics set out in Part III of the Act is set out in the Appendix to this Code and shall form part of this Code.

5. A public officer shall not stand for election as a member of the National Assembly or a local authority or hold a political office.

6. Regardless of his political opinions, a public officer shall serve impartially, with loyalty, honesty and objectivity.

7.(1) A public officer shall ensure that he carries out his duties in a way that is consistent with his being part of his organization.

(2) A public officer who is a member of the public service shall observe the principle that the responsibility for a
ministry lies with a Minister and shall ensure that he is not personally identified with his ministry or its policies to a degree that is inconsistent with that principle.

8. A public officer who is a member of the public service or who is in the service of a local authority —

(a) shall not make public comments that support or criticize a political party;

(b) shall not make public comments that may compromise, or may reasonably be seen to compromise, the political neutrality of his office;

(c) shall not publicly comment, except in furtherance of his official duties, on matters in relation to which he has been professionally involved;

(d) shall not, expressly or by implication, represent that any public comments he makes reflect the views or opinions of his organization if that is not the case.

9.(1) While a public officer should not be isolated from the society of which he is a part, he shall ensure that his non-official activities do not interfere with his official duties or affect the dignity of his office and that the risk of conflict with his official duties is minimized.

(2) A public officer shall not engage in private business during official working hours.

10. A public officer shall live within his means and avoid incurring any financial liability that he cannot satisfy.

11.(1) If a public officer is given a gift described in paragraph (2), then, even if the gift is not deemed, under section 11(3) of the General Code of Conduct and Ethics set out in the Appendix to this Code, to be a gift to the public officer's organization —

(a) the public officer shall report the matter to the authorized officer for the public officer who shall direct the appropriate mode of disposal of the gift; and
(b) the public officer shall comply with such direction.

(2) The gifts referred to in paragraph (1) are —

(a) a gift from a person described in subparagraph (i), (ii) or (iii) of section 11(2)(a) of the General Code of Conduct and Ethics set out in the Appendix to this Code; or

(b) a gift given to the public officer on a public or ceremonial occasion.

(3) A gift that a public officer is otherwise allowed to accept from a relative or friend because it is given on a special occasion recognized by custom shall not be accepted by the public officer in a public office.

12.(1) A public officer shall not preside over a harambee, play a central role in its organization or play the role of "guest of honour".

(2) A public officer shall not participate in a harambee in such a way as to reflect adversely on his integrity or impartiality or to interfere with the performance of his official duties.

13. A public officer shall ensure that confidential or secret information or documents entrusted to his care are adequately protected from improper or inadvertent disclosure.

14. For the purposes of section 25 of the General Code of Conduct and Ethics set out in the Appendix to this Code, the appropriate authority to whom a public officer shall report a matter under that section is the authorized officer for the public officer.

15. Where a public officer has committed a breach of this Code, appropriate action will be taken in accordance with the Act and other applicable laws.
APPENDIX (Rule 4(2))

PART III - GENERAL CODE OF CONDUCT AND ETHICS

7. This Part sets out a general Code of Conduct and Ethics for public officers.

8. A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly.

9. A public officer shall—

(a) carry out his duties in a way that maintains public confidence in the integrity of his office;

(b) treat the public and his fellow public officers with courtesy and respect;

(c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;

(d) if a member of a professional body, observe the ethical and professional requirements of that body;

(e) observe official working hours and not be absent without proper authorization or reasonable cause;

(f) maintain an appropriate standard of dress and personal hygiene; and

(g) discharge any professional responsibilities in a professional manner.

10. (1) A public officer shall carry out his duties in accordance with the law.

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.
11. (1) A public officer shall not use his office to improperly enrich himself or others.

(2) Without limiting the generality of subsection (1), a public officer shall not—

(a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who—

(i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;

(ii) carries on regulated activities with respect to which the public officer's organisation has a role; or

(iii) has a contractual or similar relationship with the public officer's organisation;

(b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or

(c) for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.

(3) A public officer may accept a gift given to him in his official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by regulation, such a gift shall be deemed to be a gift to the public officer's organisation.

(4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.
(5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

12.(1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.

(2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership of other body, directly or through another person, if holding those shares or having that interest would result in the public officer’s personal interests conflicting with his official duties.

(3) A public officer whose personal interests conflict with his official duties shall—

(a) declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict; and

(b) refrain from participating in any deliberations with respect to the matter.

(4) Notwithstanding any directions to the contrary under subsection (3)(a), a public officer shall not award a contract, or influence the award of a contract, to—

(a) himself;

(b) a spouse or relative;

(c) a business associate; or

(d) a corporation, partnership or other body in which the officer has an interest.

(5) The regulations may govern when the personal interests of a public officer conflict with his official duties for the purposes of this section.

(6) In this section, “personal interest” includes the interest of a spouse, relative or business associate.
13.(1) A public officer shall not—

(a) use his office or place of work as a venue for soliciting or collecting harambees; or

(b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

(2) In this section, "collection", "collector" and "promoter" have the same meanings as in section 2 of the Public Collections Act.

14.(1) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organisation or individual.

(2) For the purposes of this section—

(a) an individual is foreign if the individual is not a citizen of Kenya;

(b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisations or individuals.

15.(1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated.

(2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.

16.(1) A public officer shall not, in or in connection with the performance of his duties as such—

(a) act as an agent for, or so as to further the interest of, a political party; or
(b) indicate support for or opposition to any political party or candidate in an election.

(2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.

(3) This section does not apply to a member of the National Assembly or a councillor of a local authority.

17. A public officer shall not practice nepotism or favouritism.

18. A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour.

19. A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.

20. (1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.

(2) A public officer shall not evade taxes.

(3) A public officer shall not neglect his financial obligations or neglect to settle them.

21. (1) A public officer shall not sexually harass a member of the public or a fellow public officer.

(2) In subsection (1), "sexually harass" includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome —

(a) making a request or exerting pressure for sexual activity or favours;

(b) making intentional or careless physical contact that is sexual in nature; and
22. A public officer shall practice and promote the principle that public officers should be —

(a) selected on the basis of integrity, competence and suitability; or

(b) elected in fair elections.

23. A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.

24. (1) A public officer contravenes the Code of Conduct and Ethics if—

(a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or

(b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.

(2) Subsection (1)(b) does not apply with respect to anything done without the public officer's knowledge or consent if the public officer took reasonable steps to prevent it.

25. If a public officer considers that anything required of him is a contravention of the Code of Conduct and Ethics or is otherwise improper or unethical, he shall report the matter to an appropriate authority.

Dated the 1st August, 2003.

A. M. H. SHARAWE,  
Chairman,  
Public Service Commission of Kenya.