

NO. 4 OF 2003

THE PUBLIC OFFICER ETHICS ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

	<i>Page</i>
1. The National Security Intelligence Service Code of Conduct and Ethics.....	3
2. The National Security Intelligence Service Procedures for the Administration of Part IV of the Act.....	13
3. The Auditor-General Code of Conduct and Ethics.....	17
4. The Code of Conduct and Ethics for Members of the National Assembly.....	27
5. The Defence Council Procedures for the Administration of Part IV of the Act.....	35
6. The Defence Forces Code of Conduct and Ethics.....	39
7. The Electoral Commission Code of Conduct and Ethics for Local Authority Councillors.....	49
8. The Electoral Commissioners' Code of Conduct and Ethics.....	57
9. The Independent Electoral and Boundaries Commission Procedures for the Administration of Part IV of the Act.....	65
10. The Judicial Service Commission Procedures for the Administration of Part IV of the Act.....	69
11. The Parliamentary Service Code of Conduct and Ethics.....	73
12. The Powers and Privileges Committee Procedures for the Administration of Part IV of the Act.....	81
13. The Public Officer Ethics Regulations.....	85
14. The Public Service Commission Delegation of Powers and Functions under Parts IV and V of the Act.....	91
15. The Public Service Commissioners' Code of Conduct and Ethics.....	95
16. The Teachers Service Commission Code of Conduct and Ethics.....	105
17. The Teachers Service Commission Procedures for the Administration of Part IV of the Act.....	115
18. The Teachers Service Commissioners' Code of Conduct and Ethics.....	119
19. The Central Bank of Kenya Code of Conduct and Ethics.....	129
20. The Central Bank of Kenya Procedures for the Administration of Part IV of the Act.....	137
21. The Co-operative Societies Code of Conduct and Ethics.....	141
22. The Code of Conduct and Ethics for Public Universities.....	149
23. The Ethics Commission for Co-operative Societies Procedures for the Administration of Part IV of the Act.....	159
24. The Public Universities Procedures for the Administration of Part IV of the Act.....	163
25. The Code of Conduct and Ethics for the Members and Staff of the Ethics and Anti-Corruption Commission.....	167

Public Officer Ethics

[Subsidiary]

26. The Ethics and Anti-Corruption Commission Procedures for the Administration of Part IV of the Public Officer Ethics Act..... 175

27. The Public Officer Ethics (Management, Verification and Access to Financial Declarations) Regulations..... 179

28. The Public Service Code of Conduct and Ethics.....185

29. The Public Service Commission Procedure for Administration of Part IV of the Act..... 197

30. The Witness Protection Agency Procedures for the Administration of Part IV of the Act.....205

31. The Commission for University Education Procedures for Administration of Part IV of the Public Officers Ethics Act.....211

32. The Kenya National Commission on Human Rights Procedures for Administration of Part IV of the Public Officers Ethics Act..... 221

**THE NATIONAL SECURITY INTELLIGENCE
SERVICE CODE OF CONDUCT AND ETHICS**

ARRANGEMENT OF PARAGRAPHS

Paragraph

PREAMBLE

PART I – PRELIMINARY

1. Citation
2. Interpretation
3. Application of Code

PART II – REQUIREMENTS

4. Compliance with General Code
5. Faithfulness to oaths or affirmations
6. Prohibition against standing for election
7. Political neutrality
8. Canvassing for favours in Service
9. Public comments
10. Private affairs - outside activities
11. Endorsing of private activities, etc.
12. Private affairs – financial dealings
13. Potential conflicts of interest
14. Gifts
15. Harambees
16. Safeguarding of information
17. Contact with foreign governments, etc.
18. Security of premises
19. Public officer as expert witness
20. Absence from Kenya
21. Certificate if absent due to illness
22. Reporting of charges against a public officer
23. Appropriate person to whom improper orders to be reported
24. Breach of Code

SCHEDULES

GENERAL CODE OF CONDUCT AND ETHICS

THE NATIONAL SECURITY INTELLIGENCE SERVICE CODE OF CONDUCT AND ETHICS

[Legal Notice 118 of 2003]

PREAMBLE

Public service is a public trust requiring employees to place loyalty to the Constitution, other laws and ethical principles above their own personal interests.

This Code is intended to establish standards of ethical conduct and behavior for members of the National Security Intelligence Service. This Code contains rules of conduct and ethics to be observed by members of the service so as to maintain public confidence in the integrity of the Service. The Code does not in any way replace the regulations governing the discipline and general conduct of members of the Service. Members must obey those regulations and all other applicable laws.

PART I – PRELIMINARY

1. Citation

This Code may be cited as the National Security Intelligence Service Code of Conduct and Ethics.

2. Interpretation

In this Code, unless the context otherwise requires—

“Director-General” means the Director-General of the National Security Intelligence Service;

“Public officer” means a public officer to whom this code applies under rule 3.

3. Application of Code

This Code applies with respect to the members of the National Security Intelligence Service.

PART II – REQUIREMENTS

4. Compliance with General Code

(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. Faithfulness to oaths or affirmations

A public officer shall be true and faithful to the oaths or affirmations taken, as required under the National Intelligence Service Act (Cap. 206), on being appointed to the National Security Intelligence Service.

6. Prohibition against standing for election

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

7. Political neutrality

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

[Subsidiary]

8. Canvassing for favours in Service

A public officer shall not canvass or lobby, either directly or indirectly, for any favours in the National Security Intelligence Service.

9. Public comments

A public officer—

- (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 or on matters that relate to Kenya's foreign policy or national security and shall not publicly comment on such matters even in furtherance of his official duties, without the authority of the Director-General;
- (d) shall not, expressly or by implication, represent that any public comments he makes reflect the views or opinions of the National Security Intelligence Service if that is not the case.

10. Private affairs - outside activities

(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.

11. Endorsing of private activities, etc.

A public officer shall not use his position or title or any authority associated with his public office in a manner that could reasonably be construed to imply that the National Security Intelligence Service or the Government sanctions or endorses any activities, either by him or by any other person, that are not activities of the National Security Intelligence Service.

12. Private affairs – financial dealings

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

13. Potential conflicts of interest

If, because of a public officer's duties, there is a likelihood that the public officer will be assigned a matter that would result in the public officer having a conflict of interest, the public officer shall inform his superior officer of that likelihood.

14. Gifts

(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 Director-General 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.

(4) A public officer shall not—

- (a) give a gift to a superior officer;
- (b) make a contribution, or solicit contributions, for a gift to a superior; or
- (c) solicit contributions from a public officer for a gift to a superior officer of that public officer.

15. Harambees

(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.

16. Safeguarding of information

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

(2) A public officer shall follow the National Security Intelligence Service procedures and directives for safeguarding information and documents and shall not disclose any information in contravention of such procedures and directives.

17. Contact with foreign governments, etc.

A public officer shall not have contact with foreign governments or organizations in contravention of the National Security Intelligence Service procedures and directives relating to such contacts.

18. Security of premises

A public officer shall follow the National Security Intelligence Service procedures and directives for ensuring the security of National Security Intelligence Service premises.

19. Public officer as expert witness

(1) Unless authorized in writing by the Director-General, a public officer shall not agree to be an expert witness, other than on behalf of the National Security Intelligence Service or the Government, in a proceeding in which the National Security Intelligence Service or the Government is a party or has a substantial interest.

(2) Nothing in paragraph (1) prevents a public officer who has been summoned by the court or other appropriate authority from appearing as an expert witness but the public officer shall, before appearing, notify his superior that he has been so summoned.

20. Absence from Kenya

A public officer shall not leave Kenya without the permission of the Director-General.

21. Certificate if absent due to illness

A public officer who is absent because of illness shall provide a certificate from a medical practitioner with respect to his illness.

22. Reporting of charges against a public officer

(1) A public officer who is charged with an offence described in paragraph (3) shall forthwith report the matter to the Director-General.

(2) A public officer who discovers that a public officer under his supervision has been charged with an offence described in paragraph (3) shall either ensure that the matter is reported under paragraph (1) or report the matter to the Director-General directly.

[Subsidiary]

(3) An offence referred to in paragraph (1) or (2) is an offence that may be punished by imprisonment, other than in default of payment of a fine.

23. Appropriate person to whom improper orders to be reported

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 Director-General.

24. Breach of Code

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

[para. 4(2)]

GENERAL CODE OF CONDUCT AND ETHICS

(Extract from Part III of the Act)

7. Part sets out general Code

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

8. Performance of duties, general

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. Professionalism

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 authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

10. Rule of law

(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. No improper enrichment

(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. Conflict of interest

(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 or 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. Collections and harambees

(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 (Cap. 106).

[Subsidiary]

14. Acting for foreigners

(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, organisation or individuals.

15. Care of property

(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. Political neutrality

(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. Nepotism, etc.

A public officer shall not practice nepotism or favouritism.

18. Giving of advice

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

19. Misleading the public, etc.

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

20. Conduct of private affairs

(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. Sexual harassment

(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
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

22. Selection, etc., of public officers

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. Submitting of declarations, etc.

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

24. Acting through others

(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. Reporting improper orders

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.

**THE NATIONAL SECURITY INTELLIGENCE SERVICE PROCEDURES
FOR THE ADMINISTRATION OF PART IV OF THE ACT**

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation
 2. Interpretation
 3. Scope of procedures
 4. Administration officer
 5. To whom declarations submitted
 6. Who may make requests for clarifications
 7. Review of declarations, etc.
 8. Authorization of staff under Section 30(2)
 9. Condition for certain disclosures to police, etc.
 10. Condition for disclosures to representatives
 11. Administration officer to report non-compliance
-

**THE NATIONAL SECURITY INTELLIGENCE SERVICE
PROCEDURES FOR THE ADMINISTRATION OF PART IV OF THE**

[Legal Notice 117 of 2003]

1. Citation

These procedures may be cited as the National Security Intelligence Service Procedures for the Administration of Part IV of the Act.

2. Interpretation

In these Procedures, unless the context otherwise requires—

"administration officer" means the Director-General of the National Intelligence Service;

"Council" means the National Intelligence Service Council.

3. Scope of procedures

These Procedures are for the administration of Part IV of the Act with respect to the public officers for whom the Council is the responsible Commission under the Act.

4. Administration officer

The administration officer shall be responsible for the administration of Part IV of the Act by the Council.

5. To whom declarations submitted

Declarations to be submitted to the Council under Part IV of the Act shall be submitted to the administration officer.

6. Who may make requests for clarifications

Requests for clarifications under section 28 of the Act shall be made, on behalf of the Council, by the administration officer or by staff of the National Security Intelligence Service authorised in writing by him for that purpose.

7. Review of declarations, etc.

(1) The administration officer, or staff of the National Security Intelligence Service authorised by him for the purpose, shall review each declaration to ascertain if, in the opinion of the administration officer or staff, any of the following conditions are satisfied—

- (a) on the face of the declaration, or in light of any other information the Council may have, there is reason to suspect the declaration may be false or incomplete;
- (b) the assets of the person who submitted the declaration are disproportionate to his income; or
- (c) the income, assets or liabilities of the person who submitted the declaration raise concerns of impropriety or conflict of interest.

(2) If it is ascertained that any of the conditions in subparagraph (1) are satisfied, the person who submitted the declaration shall be given an opportunity to give an explanation.

(3) If, after considering any explanation the person who submitted the declaration may give, the administration officer is of the opinion that any of the conditions in subparagraph (1) are still satisfied, the administration officer shall bring the matter to the attention of the Council.

(4) The Council may, with respect to a matter brought to its attention under paragraph (3), take such action as it considers appropriate including, without limiting the generality of the foregoing, notifying the Kenya Anti-Corruption Commission and giving the Kenya Anti-Corruption Commission particulars of the condition that is satisfied and a copy of the declaration.

[Subsidiary]

8. Authorization of staff under Section 30(2)

(1) The Council or the administration officer may authorize staff of the National Security Intelligence Service for the purposes of section 30(2) of the Act.

(2) An authorization under paragraph (1) shall be in writing.

9. Condition for certain disclosures to police, etc.

Except as provided under paragraph 7(4) information shall not be disclosed, under section 30(2) of the Act, to the police or any other law enforcement agency unless a written request is provided.

10. Condition for disclosures to representatives

Information shall not be disclosed, under section 30(2) of the Act, to a representative of the person who provided the information unless the representative provides copies of documents that establish the representative's authority to receive the information.

11. Administration officer to report non-compliance

The administration officer shall ensure that failures by public officers to comply with the requirements of Part IV of the Act are brought to the attention of the Council.

THE AUDITOR-GENERAL CODE OF CONDUCT AND ETHICS

ARRANGEMENT OF PARAGRAPHS

Paragraph

PREAMBLE

PART I – PRELIMINARY

1. Citation
2. Interpretation
3. Application of Code

PART II – REQUIREMENTS

4. Compliance with General Code
5. Prohibition against standing for election
6. Independence, integrity and impartiality
7. Social and recreational activities
8. Non-discrimination
9. Civil and charitable activities
10. Private interests
11. Gifts, etc.
12. Professionalism and courtesy
13. Private agencies
14. Public statements and communication with the press
15. Breach of Code

SCHEDULES

GENERAL CODE OF CONDUCT AND ETHICS

THE AUDITOR-GENERAL CODE OF CONDUCT AND ETHICS

[Legal Notice 134 of 2003]

PREAMBLE

This Code is intended to establish standards of ethical conduct for the Auditor-General.

The duties of the Auditor-General as set out in the Constitution of Kenya are to audit the accounts of the Government of Kenya and the accounts of all its other bodies and Commissions and to report the results of that audit to Parliament. In essence, the Auditor-General is required to satisfy himself that money appropriated by Parliament is applied to the purposes for which it was appropriated. To enable him do this, the Constitution gives the Auditor-General right of access to records which he considers relevant to the performance of his work and also provides him with independence in the exercise of his functions.

It is an accepted norm in nearly all countries that an effective audit office goes a long way to encourage good governance and accountability of national resources. The very existence of an effective audit office can be a deterrent to those who might be tempted to misuse, misappropriate or use the public resources extravagantly. The office is the Parliament's watchdog on matters relating to public finance and other public resources.

PART I – PRELIMINARY**1. Citation**

This Code may be cited as the Auditor-General Code of Conduct and Ethics.

2. Interpretation

In this Code, unless the context otherwise requires—

"Auditor-General" means the person holding office as such under section 105 of the Constitution;

"family", in relation to the Auditor-General, includes his spouse, child, grandchild, parent, grandparent or other relative or person with whom he maintains a close family relationship;

"the Act" means the Public Officers Ethics Act (Cap. 185B).

3. Application of Code

This Code applies with respect to the Auditor-General.

PART II – REQUIREMENTS**4. Compliance with General Code**

(1) The Auditor General 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. Prohibition against standing for election

The Auditor General shall not stand for election as a member of the National Assembly or a local authority or hold a political office.

6. Independence, integrity and impartiality

(1) The Auditor-General shall be true to his oath of office and shall, in exercising the powers of his office, be seen to be free from external influence.

(2) The Auditor General is entitled to his own views on political matters but shall not be permitted to express those view publicly.

[Subsidiary]

7. Social and recreational activities

The Auditor-General may engage in arts, sports and other social and recreational activities if such activities do not adversely affect the dignity of his office or interfere with the performance of his public duties.

8. Non-discrimination

The Auditor-General shall treat all Kenyans with equal respect and shall not discriminate against anyone on the basis of clan, tribe, race, colour, religion, sex, age, gender or disability nor hold any office in an organisation where discrimination is practised.

9. Civil and charitable activities

(1) While the Auditor General should not be isolated from the society of which he is a part, he is expected to remain within dignified limits, and above all, he should regulate his extra-official activities to minimise the risk of conflict with his official duties.

(2) The Auditor-General shall live within his means and avoid incurring any financial liability that he cannot satisfy.

(3) The Auditor-General may contribute towards or attend a harambee but should not play a central role in its organization or preside over the same.

(4) The Auditor-General shall not use his office to solicit for funds for a harambee or any other purpose.

10. Private interests

The Auditor-General is required to observe the following requirements in relation to his private interests—

- (a) he shall ensure that he does not subordinate his official duties to his private interests or put himself in a position where there is conflict between his official duties and his private interests;
- (b) he shall not associate outside his official duties with any financial or other activities in circumstances where there could be suspicion that his official position or official information available to him was being turned to his private gain or that of his associates;
- (c) he shall not engage in any occupation or business which might prejudice his status as the Auditor-General or bring his office into dispute;
- (d) he shall maintain at all times the ethical standards which the public expects of him in transacting official business with efficiency, integrity and impartiality.

11. Gifts, etc.

(1) The Auditor-General shall neither ask for or accept any property or benefit of any kind for himself or for any person, on account of anything to be done, or omitted to be done by him in the discharge of his duties by virtue of his official position.

(2) The Auditor-General or members of his family shall not solicit or accept any gifts, gratuity, hospitality, free passages or favours from any person or any body corporate or unincorporate that might reasonably be thought to influence, or intended to influence, him in the performance of his duties.

(3) Where a gift or donation of the nature specified in subparagraph (2) is given without the knowledge of the Auditor-General or where it would be offensive to custom or good public relations to refuse the gift, the Auditor-General shall report the matter to the speaker of the National Assembly, who shall direct the appropriate mode of disposal of any such gift or donation, and the Auditor-General shall comply with such direction forthwith.

(4) When presents are exchanged between the Auditor-General acting on behalf of the Government in ceremonial intercourse with other Governments or their representatives, the presents received will be handed over to the Speaker of the National Assembly, who shall

direct the appropriate mode of disposal and any reciprocal presents will be given at the expense of the Government.

12. Professionalism and courtesy

(1) The Auditor-General shall ensure that his official and private conduct upholds, at all times, the dignity and integrity of his office by conducting himself, both officially and in private, in a dignified, honest and impeccable manner.

(2) The Auditor-General shall, at all times, be disciplined whether or not on official duty and shall in particular—

- (a) maintain a standard of dress and personal hygiene befitting the dignity and image of that office;
- (b) observe official working hours, be punctual and meet deadlines;
- (c) not be absent from duty without proper authorization or reasonable cause;
- (d) perform his duties in an efficient and competent manner;
- (e) exercise diligence, care and attention and seek to achieve high standards of professionalism in the delivery of services;
- (f) practice and promote adherence to meritocratic principles and practices in appointments to the Public Service, for which the guiding criteria shall be qualifications, merit, competence and experience; and
- (g) seek to contribute and enhance the standards of performance and level of professionalism in the Public Service.

(3) The Auditor-General shall actively and personally promote a culture in the Public Service that aims at providing fast, friendly, responsive and efficient service, and shall be courteous to all persons in the performance of his duties.

13. Private agencies

The Auditor-General shall not undertake any private agency in any matter connected with the exercise of his public duties.

14. Public statements and communication with the press

The Auditor-General—

- (a) shall not publish in any manner anything which may be reasonably regarded as of a political nature whether under his own name, by pseudonym or anonymously;
- (b) shall not allow himself to be interviewed on questions of public policy affecting Kenya or any other country; and
- (c) shall avoid situations where lack of discretion on his part is likely to embarrass the Government.

15. Breach of Code

Where the Auditor-General has committed a breach of this Code, appropriate action will be taken by the Powers and Privileges Committee of the National Assembly in accordance with the provisions of the Public Officer Ethics Act (Cap. 185B), the Constitution of the Republic and other laws.

[Subsidiary]

APPENDIX

[para. 4(2)]

GENERAL CODE OF CONDUCT AND ETHICS

*(Extract from Part III of the Act)***7. Part sets out general code**

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

8. Performance of duties, general

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. Professionalism

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 authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

10. Rule of law

(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. No improper enrichment

(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. Conflict of interest

(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 or 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. Collections and harambees

(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 (Cap. 106).

14. Acting for foreigners

(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, organisation or individuals.

15. Care of property

(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.

[Subsidiary]

16. Political neutrality

(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. Nepotism, etc.

A public officer shall not practice nepotism or favouritism.

18. Giving of advice

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

19. Misleading the public, etc.

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

20. Conduct of private affairs

(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. Sexual harassment

(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
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

22. Selection, etc. of public officers

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. Submitting of declarations, etc.

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

24. Acting through others

(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. Reporting improper orders

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.

**THE CODE OF CONDUCT AND ETHICS FOR
MEMBERS OF THE NATIONAL ASSEMBLY**

ARRANGEMENT OF PARAGRAPHS

PART I – PRELIMINARY

Paragraph

1. Citation
2. Interpretation
3. Application of Code

PART II – REQUIREMENTS

4. Compliance with General Code
5. Faithfulness to oaths or affirmations
6. Uphold Constitution and the rule of law
7. Uphold dignity, etc., of National Assembly
8. Treat other members with respect, etc.
9. Open and transparent
10. Accountability to public
11. Act in interests of entire country
12. Promotion of unity
13. Official duties to take precedence
14. Carrying out duties with integrity, etc.
15. Incurring of obligations
16. Non-parliamentary activities
17. No improper use of public property, etc.
18. No discrimination
19. Opposition to corruption
20. Breach of Code

SCHEDULES

GENERAL CODE OF CONDUCT AND ETHICS

THE CODE OF CONDUCT AND ETHICS FOR MEMBERS OF THE NATIONAL ASSEMBLY

[Legal Notice 130 of 2003]

This Code is intended to establish standards of ethical conduct and behaviour for members of the National Assembly. It shall be construed so that it does not interfere with the independence of Parliament or limit its legal rights.

This Code does not in any way replace the Laws and rules relating to the conduct of members of the National Assembly. Members must obey those laws and rules and all other applicable laws.

PART I – PRELIMINARY

1. Citation

This Code may be cited as the Code of Conduct and Ethics for Members of the National Assembly.

2. Interpretation

In this Code, unless the context otherwise requires—

“member of the National Assembly” includes, for greater certainty, the President, the Speaker and the Attorney- General.

3. Application of Code

This Code applies with respect to members of the National Assembly.

PART II – REQUIREMENTS

4. Compliance with General Code

(1) A member of the National Assembly shall comply with all the requirements imposed on a public officer under 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. Faithfulness to oaths or affirmations

A member of the National Assembly shall be true and faithful to the oaths or affirmations taken by the member as required under the Constitution or other laws.

6. Uphold Constitution and the rule of law

A member of the National Assembly shall uphold the Constitution and the rule of law.

7. Uphold dignity, etc., of National Assembly

A member of the National Assembly shall uphold the dignity and integrity of the National Assembly and shall act in a manner that promotes respect for the National Assembly and its institutions.

8. Treat other members with respect, etc.

A member of the National Assembly shall treat other members with respect and shall strive to have cordial relations with all other members.

9. Open and transparent

A member of the National Assembly shall be open and transparent in all the member's actions.

[Subsidiary]

10. Accountability to public

A member of the National Assembly shall be accountable to the public for the actions and decisions of the member and shall submit to open scrutiny, as necessary.

11. Act in interests of entire country

While a member of the National Assembly may have a special responsibility to the member's constituency, the member shall act in the interests of the entire country.

12. Promotion of unity

A member of the National Assembly shall promote unity among Kenyans, irrespective of race, tribe, clan, colour, creed or sex.

13. Official duties to take precedence

A member of the National Assembly shall ensure that the official duties of the member take precedence over the member's other activities.

14. Carrying out duties with integrity, etc.

(1) When voting, asking questions, or carrying out any other duties as a member, a member of the National Assembly shall act with integrity and objectivity.

(2) A member of the National Assembly shall not allow any personal benefit or interest, including benefits or interests of relatives or friends, to influence the carrying out of the member's duties.

15. Incurring of obligations

A member of the National Assembly shall not incur a financial or other obligation that might result in the member being unduly influenced in the performance of the member's duties.

16. Non-parliamentary activities

A member of the National Assembly shall ensure that the member's non-parliamentary activities do not interfere with or compromise the member's official duties or bring the National Assembly into disrepute.

17. No improper use of public property, etc.

(1) A member of the National Assembly shall not make improper use of public property or resources, including payments or contributions made for public purposes.

(2) A member of the National Assembly shall not make improper use of any allowance paid to the member.

18. No discrimination

A member of the National Assembly shall treat all Kenyans equally and shall not discriminate against anyone on the basis of race, tribe, clan, colour, creed, sex or disability.

19. Opposition to corruption

A member of the National Assembly shall not tolerate corruption in any form and shall fight against corruption both in the private and public sectors.

20. Breach of Code

Where a member of the National Assembly has committed a breach of this Code, appropriate action will be taken in accordance with the Act and other applicable laws.

APPENDIX

[para. 4(2)]

GENERAL CODE OF CONDUCT AND ETHICS

*(Extract from Part III of the Act)***7. Part sets out general Code**

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

8. Performance of duties, general

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. Professionalism

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 authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

10. Rule of law

(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. No improper enrichment

(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.

[Subsidiary]

(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. Conflict of interest

(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 or 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. Collections and harambees

(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 (Cap. 106).

14. Acting for foreigners

(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. Care of property

(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. Political neutrality

(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. Nepotism, etc.

A public officer shall not practice nepotism or favouritism.

18. Giving of advice

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

19. Misleading the public, etc.

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

20. Conduct of private affairs

(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. Sexual harassment

(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
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

22. Selection, etc. of public officers

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. Submitting of declarations, etc.

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

24. Acting through others

(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

[Subsidiary]

(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. Reporting improper orders

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.

**THE DEFENCE COUNCIL PROCEDURES FOR
THE ADMINISTRATION OF PART IV OF THE ACT**

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation
 2. Interpretation
 3. Scope of procedures
 4. Administration officer
 5. To whom declarations submitted
 6. Who may make requests for clarifications
 7. Review of declarations, etc.
 8. Authorization of staff under section 30(2)
 9. Condition for certain disclosures to police, *etc.*
 10. Condition for disclosures to representatives
 11. Administration officer to report non-compliance
-

**THE DEFENCE COUNCIL PROCEDURES FOR
THE ADMINISTRATION OF PART IV OF THE**

[Legal Notice 125 of 2003]

1. Citation

These procedures may be cited as the Defence Council Procedures for the Administration of Part IV of the Act.

2. Interpretation

In these procedures, unless the context otherwise requires—

"administration officer" means the Assistant Chief of General Staff in charge of personnel;

"Commission" means the Defence Council.

3. Scope of procedures

These procedures are for the administration of Part IV of the Act with respect to the members of the armed forces.

4. Administration officer

The administration officer shall be responsible, for the administration of Part IV of the Act by the Commission.

5. To whom declarations submitted

Declarations to be submitted to the Commission under Part IV of the Act shall be submitted to the administration officer.

6. Who may make requests for clarifications

Requests for clarifications under section 28 of the Act shall be made, on behalf of the Commission, by the administration officer or by staff of the Commission authorized in writing by him for that purpose.

7. Review of declarations, etc.

(1) The administration officer, or staff of the Commission authorized by him for the purpose, shall review each declaration to ascertain if, in the opinion of the administration officer or staff, any of the following conditions are satisfied—

- (a) on the face of the declaration, or in light of any other information the Commission may have, there is reason to suspect the declaration may be false or incomplete;
- (b) the assets of the person who submitted the declaration are disproportionate to his income; or
- (c) the income, assets or liabilities of the person who submitted the declaration raise concerns of impropriety or conflict of interest.

(2) If it is ascertained that any of the conditions in subparagraph (1) are satisfied, the person who submitted the declaration shall be given an opportunity to give an explanation.

(3) If, after considering any explanation the person who submitted the declaration may give, the administration officer is of the opinion that any of the conditions in subparagraph (1) are still satisfied, the administration officer shall bring the matter to the attention of the Commission.

(4) The Commission may, with respect to a matter brought to its attention under paragraph (3), take such action as it considers appropriate including, without limiting the generality of the foregoing, notifying the Kenya Anti-Corruption Commission and giving the

[Subsidiary]

Kenya Anti-Corruption Commission particulars of the condition that is satisfied and a copy of the declaration.

8. Authorization of staff under section 30(2)

(1) The Commission or the administration officer may authorize staff of the Commission for the purposes of section 30(2) of the Act.

(2) An authorization under paragraph (1) shall be in writing.

9. Condition for certain disclosures to police, etc.

Except as provided under paragraph 7(4) information shall not be disclosed, under section 30(2) of the Act, to the police or any other law enforcement agency unless a written request is provided.

10. Condition for disclosures to representatives

Information shall not be disclosed, under section 30(4)(d) of the Act, to a representative of the person who provided the information unless the representative provides copies of documents that establish the representative's authority to receive the information.

11. Administration officer to report non-compliance

The administration officer shall ensure that failures by a member of the armed forces to comply with the requirements of Part IV of the Act are brought to the attention of the Commission.

THE DEFENCE FORCES CODE OF CONDUCT AND ETHICS

ARRANGEMENT OF PARAGRAPHS

PART I – PRELIMINARY

Paragraph

1. Citation
2. Interpretation
3. Application of Code

PART II – REQUIREMENTS

4. Compliance with General Code
5. Faithfulness to oath of allegiance
6. General responsibilities of commanders
7. Obedience to orders
8. Support of superiors
9. Criticism or praise of superiors
10. Complaints about other members of the armed forces
11. Laudatory orders
12. Treatment of subordinates
13. Understanding of obligations and duties under Act, regulations and standing orders
14. Drinking of alcoholic beverages
15. Misuse of drugs
16. Lending and borrowing money
17. Gambling
18. Possession of firearms
19. Prohibition against standing for election
20. Political neutrality
21. Canvassing for favours in armed forces
22. Public comments
23. Safeguarding of information
24. Private affairs – outside activities
25. Endorsing of private activities, etc.
26. Private affairs – financial dealings
27. Potential conflicts of interest
28. Gifts
29. Harambees
30. Member of the armed forces as expert witness
31. Absence from Kenya
32. Reporting of charges against a member of the armed forces
33. Breach of Code

SCHEDULES

GENERAL CODE OF CONDUCT AND ETHICS

THE DEFENCE FORCES CODE OF CONDUCT AND ETHICS

[Legal Notice 126 of 2003]

The armed forces are a professional national defence institution. The armed forces serve the President and the Republic of Kenya in accordance with the Constitution and the laws of Kenya. They are charged with the defence of the Republic and the support of the civil power in the maintenance of order.

The valued traditions of the armed forces include honour and discipline as well as a strong sense of loyalty. Service in the armed forces places special demands on its members including unquestioning obedience to lawful orders and even the sacrifice of their lives.

This Code is intended to establish standards of ethical conduct and behaviour for members of the armed forces. This Code contains rules of conduct and ethics to be observed by members of the armed forces so as to maintain public confidence in the integrity of the armed forces. The Code does not in any way replace the laws and orders governing the discipline and general conduct of members of the armed forces. Members of the armed forces must obey those laws and orders and all other applicable laws.

PART I – PRELIMINARY

1. Citation

This Code may be cited as the Armed Forces Code of Conduct and Ethics.

2. Interpretation

In this Code, unless the context otherwise requires—

“commanding officer” means a commanding officer within the meaning of the Armed Forces Act.

3. Application of Code

This Code applies with respect to the members of the armed forces.

PART II – REQUIREMENTS

4. Compliance with General Code

(1) A member of the armed forces shall comply with all the requirements imposed on a public officer under 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. Faithfulness to oath of allegiance

A member of the armed forces shall be true and faithful to the oath of allegiance taken by the member as required under the Armed Forces Act.

6. General responsibilities of commanders

Commanding officers shall be responsible for the training, security, discipline, health, welfare, morale and general efficiency of the members of the armed forces under their command.

7. Obedience to orders

A member of the armed forces shall obey all lawful orders and directions from a superior officer.

8. Support of superiors

A member of the armed forces shall support his superior officers in the maintenance of order and discipline.

[Subsidiary]

9. Criticism or praise of superiors

A member of the armed forces shall not criticise or praise a superior officer in a way that may bring the superior officer into contempt or cause disaffection.

10. Complaints about other members of the armed forces

(1) A member of the armed forces shall not make a complaint about another member of the armed forces in relation to armed forces matters except in accordance with the procedures under the Armed Forces Act and the applicable orders and directions.

(2) A member of the armed forces shall not make a complaint described in paragraph (1) in combination with another member of the armed forces.

(3) A member of the armed forces shall not make a complaint described in paragraph (1) anonymously.

11. Laudatory orders

A member of the armed forces shall not publish or post a laudatory order.

12. Treatment of subordinates

A member of the armed forces who is an officer, warrant officer or non-commissioned officer shall adopt such methods of command and treatment of subordinates as will ensure respect for authority and foster self respect and personal honour among subordinates.

13. Understanding of obligations and duties under Act, regulations and standing orders

A member of the armed forces shall ensure that he understands his obligations and duties under the Armed Forces Act, the regulations under that Act and all standing orders or directions, including any changes made from time to time.

14. Drinking of alcoholic beverages

(1) A member of the armed forces shall not drink alcoholic beverages to an extent that may interfere with his ability to carry out his duties.

(2) A member of the armed forces shall not drink an alcoholic beverage on armed forces premises except as allowed under the applicable orders and directions.

15. Misuse of drugs

A member of the armed forces shall not misuse drugs.

16. Lending and borrowing money

A member of the armed forces shall not lend money to, or borrow money from, another member of the armed forces.

17. Gambling

A member of the armed forces shall not engage in any form of gambling or bookmaking.

18. Possession of firearms

(1) A member of the armed forces shall possess service firearms and ammunition only in accordance with his official duties and only in accordance with the applicable orders and directions.

(2) A member of the armed forces shall possess private firearms and ammunition only in accordance with the applicable laws governing private firearms and ammunition.

19. Prohibition against standing for election

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

20. Political neutrality

Regardless of his political opinions, a member of the armed forces shall serve impartially, with loyalty, honesty and objectivity.

21. Canvassing for favours in armed forces

A member of the armed forces shall not canvass or lobby, either directly or indirectly, for any favours in the armed forces.

22. Public comments

(1) A member of the armed forces—

- (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 make public comments giving his personal views or opinions about the armed forces or any matter relating to the armed forces, except as authorized by an order or direction;
- (d) shall not, expressly or by implication, represent that any public comments he makes reflect the views or opinions of the armed forces if that is not the case.

(2) For greater certainty, in this rule, “public comments” includes comments made to members of the press or other media.

23. Safeguarding of information

(1) A member of the armed forces shall not disclose any information relating to armed forces matters to a person who is not a member of the armed forces, except in furtherance of his official duties or as otherwise authorized, and shall do so only in accordance with any applicable orders or directions.

(2) A member of the armed forces shall ensure that restricted information or documents entrusted to his care are adequately protected from improper or inadvertent disclosure and shall follow the applicable orders and directions for safeguarding such information and documents.

24. Private affairs – outside activities

(1) While a member of the armed forces 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 member of the armed forces shall not engage in private business while on duty.

(3) A member of the armed forces may engage in private business or private employment only as allowed under the applicable orders and directions.

25. Endorsing of private activities, etc.

(1) A member of the armed forces shall not use his position or title or any authority associated with his office in a manner that could reasonably be construed to imply that the armed forces or the Government sanctions or endorses any activities, either by him or by any other person, that are not activities of the armed forces.

(2) A member of the armed forces shall not promote or endorse any product, service or commercial enterprise while participating in a sporting or other event if either—

- (a) the event is organized, either wholly or partly, by the armed forces; or
- (b) the member of the armed forces is participating as a member of the armed forces.

(3) A member of the armed forces shall not provide a testimonial to a person or organization in respect of goods or services supplied by that person or organization.

[Subsidiary]

(4) Paragraph (3) does not prevent a member of the armed forces from communicating directly with a person, at that person's request, about goods or services supplied by another person.

26. Private affairs – financial dealings

(1) A member of the armed forces shall live within his means and avoid incurring any financial liability that he cannot satisfy.

(2) A member of the armed forces who becomes bankrupt, becomes a judgment debtor or against whom proceedings are taken in bankruptcy shall forthwith report the matter to his commanding officer.

27. Potential conflicts of interest

If, because of the duties of a member of the armed forces, there is a likelihood that the member will be assigned a matter that would result in his having a conflict of interest, the member shall inform his commanding officer of that likelihood.

28. Gifts

(1) If a member of the armed forces 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 armed forces—

(a) the member of the armed forces shall report the matter to the Chief of General Staff who shall direct the appropriate mode of disposal of the gift; and

(b) the member of the armed forces 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 member of the armed forces on a public or ceremonial occasion.

(3) A gift that a member of the armed forces 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 member of the armed forces in a public office.

(4) A member of the armed forces shall not—

(a) give a gift to a superior officer;

(b) make a contribution, or solicit contributions, for a gift to a superior officer; or

(c) solicit contributions from a member of the armed forces for a gift to a superior officer of that member.

(5) This rule does not apply with respect to a gift that is given to a member of the armed forces by other members of the armed forces if—

(a) the gift is paid for out of a fund that is administered by members of the armed forces; and

(b) the fund does not include any contributions from members of the armed forces.

29. Harambees

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

(2) A member of the armed forces shall not participate in a harambee in such a way as to reflect adversely on the honour and dignity of the armed forces or to interfere with the performance of his official duties.

30. Member of the armed forces as expert witness

(1) Unless authorized in writing by the Chief of General Staff, a member of the armed forces shall not agree to be an expert witness, other than on behalf of the armed forces or the Government, in a proceeding in which the armed forces or the Government is a party or has a substantial interest.

(2) Nothing in paragraph (1) prevents a member of the armed forces who has been summoned by the court or other appropriate authority from appearing as an expert witness but the member shall, before appearing, notify his commanding officer that he has been so summoned.

31. Absence from Kenya

A member of the armed forces shall not leave Kenya without the permission of the Chief of General Staff.

32. Reporting of charges against a member of the armed forces

(1) A member of the armed forces who is charged with an offence described in paragraph (2) shall forthwith report the matter to his commanding officer.

(2) An offence referred to in paragraph (1) is an offence that may be punished by imprisonment, other than in default of payment of a fine.

33. Breach of Code

Where a member of the armed forces has committed a breach of this Code, appropriate action will be taken in accordance with the Act and other applicable laws.

 APPENDIX

[para. 4(2)]

GENERAL CODE OF CONDUCT AND ETHICS

(Extract of Part III of the Act)

7. Part sets out general code

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

8. Performance of duties, general

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. Professionalism

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 authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

[Subsidiary]

10. Rule of law

(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. No improper enrichment

(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. Conflict of interest

(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 or 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. Collections and harambees

(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 (Cap. 106).

14. Acting for foreigners

(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, organisation or individuals.

15. Care of property

(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. Political neutrality

(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. Nepotism, etc.

A public officer shall not practice nepotism or favouritism.

18. Giving of advice

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

19. Misleading the public, etc.

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

20. Conduct of private affairs

(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.

[Subsidiary]

21. Sexual harassment

(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
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

22. Selection, etc., of public officers

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. Submitting of declarations, etc.

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

24. Acting through others

(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. Reporting improper orders

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.

**THE ELECTORAL COMMISSION CODE OF CONDUCT
AND ETHICS FOR LOCAL AUTHORITY COUNCILLORS**

ARRANGEMENT OF PARAGRAPHS

Paragraph

PREAMBLE

PART I – PRELIMINARY

1. Citation
2. Interpretation
3. Application of Code

PART II – REQUIREMENTS

4. Compliance with General Code
5. General conduct
6. Faithfulness to declaration
7. Attendance at meetings
8. Interference with management or administration
9. Private affairs – financial dealings
10. Gifts
11. Harambees
12. Confidential or secret information
13. Appropriate person to whom improper orders to be reported
14. Breach of Code

SCHEDULES

GENERAL CODE OF CONDUCT AND ETHICS

THE ELECTORAL COMMISSION CODE OF CONDUCT AND ETHICS FOR LOCAL AUTHORITY COUNCILLORS

[Legal Notice 128 of 2003]

PREAMBLE

The local government system requires that councillors represent the interests of local communities and that they be accountable to the people they serve.

This Code contains rules of conduct and ethics to be observed by councillors. The Code does not in any way replace the laws governing the discipline and general conduct of councillors. Councillors must obey those laws and all other applicable laws.

Councillors should adhere to this Code so as not to bring themselves and other councillors into disrepute.

PART I – PRELIMINARY

1. Citation

This Code may be cited as the Electoral Commission Code of Conduct and Ethics for Local Authority Councillors.

2. Interpretation

In this Code, unless the context otherwise requires—

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

3. Application of Code

This Code applies with respect to councillors of local authorities.

PART II – REQUIREMENTS

4. Compliance with General Code

(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. General conduct

A public officer shall carry out the duties of his office in good faith, honestly and in a transparent manner.

6. Faithfulness to declaration

A public officer shall be true and faithful to the declaration made by the public officer as required under the Local Government Act (Repealed).

7. Attendance at meetings

A public officer shall attend all meetings of his local authority and all meetings of committees of which he is a member and shall be absent only if he has obtained the leave of the local authority or is otherwise justified in being absent.

8. Interference with management or administration

(1) In addition to refraining from giving any instructions to an officer or employee of a local authority which the public officer is prohibited from doing under section 86A of the Local Government Act (Repealed), a public officer shall not otherwise interfere with, or attempt to interfere with, the management or administration of the local authority.

[Subsidiary]

(2) A public officer shall not obstruct, or attempt to obstruct, the implementation by an officer or employee of the local authority, of a decision by the council of the local authority or a committee.

(3) A public officer shall not do anything, or encourage anything, that would cause or contribute to maladministration of a local authority.

9. Private affairs – financial dealings

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

10. Gifts

(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 organisation—

- (a) the public officer shall report the matter to the clerk of the local authority 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.

11. Harambees

(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.

12. Confidential or secret information

A public officer shall not disclose confidential or secret information or documents and shall ensure that any such information or documents that he acquires as a result of his duties are adequately protected from improper or inadvertent disclosure.

13. Appropriate person to whom improper orders to be reported

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 Chairman of the Electoral Commission.

14. Breach of Code

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

[para. 4(2)]

GENERAL CODE OF CONDUCT AND ETHICS

*(Extract from Part III of the Act)***7. Part sets out general Code**

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

8. Performance of duties, general

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. Professionalism

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 authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

10. Rule of law

(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. No improper enrichment

(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.

[Subsidiary]

(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. Conflict of interest

(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 or 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. Collections and harambees

(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 (Cap. 106).

14. Acting for foreigners

(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, organisation or individuals.

15. Care of property

(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. Political neutrality

(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. Nepotism, etc.

A public officer shall not practice nepotism or favouritism.

18. Giving of advice

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

19. Misleading the public, etc.

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

20. Conduct of private affairs

(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. Sexual harassment

(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
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

22. Selection, etc., of public officers

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. Submitting of declarations, etc.

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

24. Acting through others

(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

[Subsidiary]

(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. Reporting improper orders

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.

THE ELECTORAL COMMISSIONERS' CODE OF CONDUCT AND ETHICS

ARRANGEMENT OF PARAGRAPHS

PART I – PRELIMINARY

Paragraph

1. Citation
2. Interpretation
3. Application of Code
4. Action for breach of Code

PART II – REQUIREMENTS

5. Compliance with General Code
6. Independence, impartiality and integrity
7. Professionalism
8. Family and other influences
9. Precedence of official duties
10. Conflict of interest
11. Code violations
12. Social and recreational activities
13. Private interests
14. Proper conduct
15. Conduct of private affairs
16. Prohibition on contesting political office
17. Travel outside Kenya

SCHEDULES

GENERAL CODE OF CONDUCT AND ETHICS

THE ELECTORAL COMMISSIONERS' CODE OF CONDUCT AND ETHICS

[Legal Notice 129 of 2003]

The Electoral Commission is an important institution in any country. Its independence must be guaranteed and upheld at all times. Failure to do so would be the end of democracy and a recipe for anarchy and chaos. The Electoral Commission must not only be independent but must also be seen to be independent. It cannot be seen to be independent and to be fulfilling its onerous mandate if its commissioners do not uphold high standards of performance; hence the need for it to have this Code of Conduct and Ethics for its members in accordance with section 5(1) of the Act. The code is a supplement to the provisions of the Constitution of Kenya and the National Assembly and Presidential Elections Act (Cap. 7) and the rules and regulations made pursuant to that Act.

PART I – PRELIMINARY**1. Citation**

This Code may be cited as the Electoral Commissioners' Code of Conduct and Ethics.

2. Interpretation

In this Code, unless the context otherwise requires—

"Commissioner" means a person holding office as a member of the Electoral Commission under section 41 of the Constitution of Kenya, and includes the Chairman;

"Chairman" means the Chairman of the Electoral Commission of Kenya;

"family", in relation to a Commissioner, includes the Commissioner's spouse, child, grandchild, parent, grandparent or other relative or person with whom the Commissioner maintains a close family relationship;

"the Act" means the Public Officers Ethics Act (Cap. 185B).

3. Application of Code

This Code applies with respect to the Commissioners.

4. Action for breach of Code

Where a Commissioner has committed a breach of this Code, appropriate action will be taken in accordance with the provisions of the Act, the National Assembly, and Presidential Elections Act (Cap. 7) and the Constitution of Kenya.

PART II – REQUIREMENTS**5. Compliance with General Code**

(1) A Commissioner 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.

6. Independence, impartiality and integrity

Every member of the Commission shall serve impartially and independently and perform the functions of a member in good faith and without fear, favour or prejudice, and without influence from—

- (a) the Government;
- (b) any public officer;
- (c) any political party;
- (d) any candidate participating in an election; or
- (e) any other person or authority.

[Subsidiary]

7. Professionalism

(1) A Commissioner shall participate in establishing, maintaining and enforcing high standards of professionalism in the performance of his duties.

(2) A Commissioner shall actively and personally promote a culture in his work that aims at providing fast, friendly, responsive and efficient service and shall be courteous to all persons in the provision of such service.

(3) A Commissioner shall perform his duty with diligence, efficiency and fidelity.

8. Family and other influences

(1) A Commissioner shall not allow family, social, political or other relationships to influence his conduct or decision.

(2) A Commissioner shall not use or lend the prestige of his office and shall not knowingly convey or permit others to convey the impression that anyone is in a special position to influence him.

9. Precedence of official duties

(1) The official duties of a Commissioner take precedence over all his other activities.

(2) In particular, a Commissioner shall observe faithfully the electoral law, rules and regulations.

10. Conflict of interest

A Commissioner shall disqualify himself in all matters where his impartiality might reasonably be questioned including, without limitation, instances in which relatives, colleagues and former colleagues have an interest.

11. Code violations

(1) It shall be the responsibility of every Commissioner to report to the Chairman any violation of this Code:

Provided that a complaint against the Chairman may be made to the responsible Commission (or shall, if made to the Chairman, be referred to that Commission).

(2) The Chairman shall investigate any matter reported to him and shall, at a meeting of the Commission, report the action he takes (including any reference of the matter to the responsible Commission).

12. Social and recreational activities

A Commissioner may engage in recreational activities as long as they do not adversely affect the dignity and integrity of the Commission.

13. Private interests

A Commissioner shall observe the following requirements in relation to his private interests—

- (a) he shall not take any salaried employment during his service as a Commissioner or conduct private business that is likely to conflict with his official duties;
- (b) he shall not subordinate his official duties to private interest;
- (c) he shall not be associated outside his official duties with any financial or other activities in circumstances where there would be suspicion that his official position or official information available to him was being turned to his private gain or that of his associates;
- (d) he shall not engage in any occupation or business which might prejudice his status as a Commissioner, or bring the Commission into disrepute or dishonour.

14. Proper conduct

(1) For the purposes of section 25 of Appendix I, the appropriate authority to whom a Commissioner shall report the relevant matter is the Chairman.

(2) A Commissioner shall at all times conduct himself decently.

15. Conduct of private affairs

(1) A Commissioner shall conduct his private affairs in a way that maintains and enhances public confidence, integrity and dignity of his work.

(2) A Commissioner shall endeavour to manage his finances to avoid financial embarrassment to himself and the Commission.

16. Prohibition on contesting political office

A Commissioner who wishes to contest a seat in the National Assembly or local authority or any other political office shall be required to resign from his office as a Commissioner prior to doing so.

17. Travel outside Kenya

A Commissioner who at any time wishes to travel outside the country shall obtain prior permission of the Chairman in writing.

 APPENDIX

[para. 5(2)]

GENERAL CODE OF CONDUCT AND ETHICS

(Extract from Part III of the Act)

7. Part sets out general Code

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

8. Performance of duties, general

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. Professionalism

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 authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

10. Rule of law

(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.

[Subsidiary]

11. No improper enrichment

(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. Conflict of interest

(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 or 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. Collections and harambees

(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 (Cap. 106).

14. Acting for foreigners

(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. Care of property

(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. Political neutrality

(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. Nepotism, etc.

A public officer shall not practice nepotism or favouritism.

18. Giving of advice

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

19. Misleading the public, etc.

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

20. Conduct of private affairs

(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. Sexual harassment

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

[Subsidiary]

(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
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

22. Selection, etc., of public officers

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. Submitting of declarations, etc.

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

24. Acting through others

(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. Reporting improper orders

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.

**THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION
PROCEDURES FOR THE ADMINISTRATION OF PART IV OF THE ACT**

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation
 2. Interpretation
 3. Scope of procedures
 4. Administration officer
 5. To whom declarations submitted
 6. Who may make requests for clarifications
 7. Review of declarations, etc.
 8. Authorization of staff under section 30(2)
 9. Condition for certain disclosures to police, etc.
 10. Condition for disclosures to representatives
 11. Administration officer to report non-compliance
-

**THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION
PROCEDURES FOR THE ADMINISTRATION OF PART IV OF THE**

[Legal Notice 127 of 2003]

1. Citation

These procedures may be cited as the Electoral Commission Procedures for the Administration of Part IV of the Act.

2. Interpretation

In these procedures, unless the context otherwise requires —

"administration officer" means the Secretary of the Commission;

"Commission" means the Electoral Commission.

3. Scope of procedures

These procedures are for the administration of Part IV of the Act with respect to the public officers for whom the Commission is the responsible Commission under the Act.

4. Administration officer

The administration officer shall be responsible for the administration of Part IV of the Act by the Commission.

5. To whom declarations submitted

Declarations to be submitted to the Commission under Part IV of the Act shall be submitted to the administration officer.

6. Who may make requests for clarifications

Requests for clarifications under section 28 of the Act shall be made, on behalf of the Commission, by the administration officer or by staff of the Commission authorized in writing by him for that purpose.

7. Review of declarations, etc.

(1) The administration officer, or staff of the Commission authorized by him for the purpose, shall review each declaration to ascertain if, in the opinion of the administration officer or staff, any of the following conditions are satisfied—

- (a) on the face of the declaration, or in light of any other information the Commission may have, there is reason to suspect the declaration may be false or incomplete;
- (b) the assets of the person who submitted the declaration are disproportionate to his income; or
- (c) the income, assets or liabilities of the person who submitted the declaration raise concerns of impropriety or conflict of interest.

(2) If it is ascertained that any of the conditions in subparagraph (1) are satisfied, the person who submitted the declaration shall be given an opportunity to give an explanation.

(3) If, after considering any explanation the person who submitted the declaration may give, the administration officer is of the opinion that any of the conditions in subparagraph (1) are still satisfied, the administration officer shall bring the matter to the attention of the Commission.

(4) The Commission may, with respect to a matter brought to its attention under paragraph (3), take such action as it considers appropriate including, without limiting the generality of the foregoing, notifying the Kenya Anti-Corruption Commission and giving the Kenya Anti-Corruption Commission particulars of the condition that is satisfied and a copy of the declaration.

[Subsidiary]

8. Authorization of staff under section 30(2)

(1) The Commission or the administration officer may authorize staff of the Commission for the purposes of section 30(2) of the Act.

(2) An authorization under paragraph (1) shall be in writing.

9. Condition for certain disclosures to police, etc.

Except as provided under paragraph 7(4) information shall not be disclosed, under section 30(2) of the Act, to the police or any other law enforcement agency unless a written request is provided.

10. Condition for disclosures to representatives

Information shall not be disclosed, under section 30(2) of the Act, to a representative of the person who provided the information unless the representative provides copies of documents that establish the representative's authority to receive the information.

11. Administration officer to report non-compliance

The administration officer shall ensure that failures by public officers to comply with the requirements of Part IV of the Act are brought to the attention of the Commission.

**THE JUDICIAL SERVICE COMMISSION PROCEDURES
FOR THE ADMINISTRATION OF PART IV OF THE ACT**

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation
 2. Interpretation
 3. Scope of procedures
 4. Administration officer
 5. To whom declarations submitted
 6. Who may make requests for clarifications
 7. Review of declarations, etc.
 8. Authorization of staff under section 30(2)
 9. Condition for certain disclosures to police, *etc.*
 10. Condition for disclosures to representatives
 11. Administration officer to report non-compliance
-

**THE JUDICIAL SERVICE COMMISSION PROCEDURES
FOR THE ADMINISTRATION OF PART IV OF THE**

[Legal Notice 121 of 2003]

1. Citation

These procedures may be cited as the Judicial Service Commission Procedures for the Administration of Part IV of the Act.

2. Interpretation

In these procedures, unless the context otherwise requires—

"administration officer" means the Secretary of the Commission;

"Commission" means the Judicial Service Commission.

3. Scope of procedures

These procedures are for the administration of Part IV of the Act with respect to the public officers for whom the Commission is the responsible Commission under the Act.

4. Administration officer

The administration officer shall be responsible for the administration of Part IV of the Act by the Commission.

5. To whom declarations submitted

Declarations to be submitted to the Commission under Part IV of the Act shall be submitted to the administration officer.

6. Who may make requests for clarifications

Requests for clarifications under section 28 of the Act shall be made, on behalf of the Commission, by the administration officer or by staff of the Commission authorized in writing by him for that purpose.

7. Review of declarations, etc.

(1) The administration officer, or staff of the Commission authorized by him for the purpose, shall review each declaration to ascertain if, in the opinion of the administration officer or staff, any of the following conditions are satisfied—

- (a) on the face of the declaration, or in light of any other information the Commission may have, there is reason to suspect the declaration may be false or incomplete;
- (b) the assets of the person who submitted the declaration are disproportionate to his income; or
- (c) the income, assets or liabilities of the person who submitted the declaration raise concerns of impropriety or conflict of interest.

(2) If it is ascertained that any of the conditions in subparagraph (1) are satisfied, the person who submitted the declaration shall be given an opportunity to give an explanation.

(3) If, after considering any explanation the person who submitted the declaration may give, the administration officer is of the opinion that any of the conditions in subparagraph (1) are still satisfied, the administration officer shall bring the matter to the attention of the Commission.

(4) The Commission may, with respect to a matter brought to its attention under paragraph (3), take such action as it considers appropriate including, without limiting the generality of the foregoing, notifying the Kenya Anti-Corruption Commission and giving the Kenya Anti-Corruption Commission particulars of the condition that is satisfied and a copy of the declaration.

[Subsidiary]

8. Authorization of staff under section 30(2)

(1) The Commission or the administration officer may authorize staff of the Commission for the purposes of section 30(2) of the Act.

(2) An authorization under paragraph (1) shall be in writing.

9. Condition for certain disclosures to police, etc.

Except as provided under paragraph 7(4) information shall not be disclosed, under section 30(2) of the Act, to the police or any other law enforcement agency unless a written request is provided.

10. Condition for disclosures to representatives

Information shall not be disclosed, under section 30(2) of the Act, to a representative of the person who provided the information unless the representative provides copies of documents that establish the representative's authority to receive the information.

11. Administration officer to report non-compliance

The administration officer shall ensure that failures by public officers to comply with the requirements of Part IV of the Act are brought to the attention of the Commission.

THE PARLIAMENTARY SERVICE CODE OF CONDUCT AND ETHICS

ARRANGEMENT OF PARAGRAPHS

Paragraph

PREAMBLE

PART I – PRELIMINARY

1. Citation
2. Interpretation
3. Application of Code

PART II – REQUIREMENTS

4. Compliance with General Code
5. Other rules of conduct

SCHEDULES

GENERAL CODE OF CONDUCT AND ETHICS

THE PARLIAMENTARY SERVICE CODE OF CONDUCT AND ETHICS

[Legal Notice 132 of 2003]

PREAMBLE

The Parliamentary Service Commission and the Parliamentary Service were established by the Constitution (Amendment) Act, 1999. The Parliamentary Service Act, 2000 (No. 10 of 2000) (Repealed), which came into operation on 29th December, 2000, states that "the Service shall be an institution of exemplary administrative and technical competence".

Provisions governing the discipline, work ethics and general conduct of parliamentary employees, and the procedure to be followed in cases of breach of discipline, are to be found in the Parliamentary Service Commission Act, 2000 (No. 10 of 2000) (Repealed) and in subordinate legislation promulgated by the Commission from time to time. This Code is in addition to, and does not replace, those provisions. It contains general rules of conduct and ethics to be observed by all employees of the Parliamentary Service in order to maintain integrity and dignity in the performance by them of their duties in a manner consistent with the independence of Parliament as the supreme legislative body.

PART I – PRELIMINARY**1. Citation**

This Code may be cited as the Parliamentary Service Code of Conduct and Ethics.

2. Interpretation

In this Code, unless the context otherwise requires—

"Commission" means the Parliamentary Service Commission;

"employee" means a person holding or acting in any office in the Service;

"Service" means the Parliamentary Service established by section 45A of the Constitution.

3. Application of Code

This Code applies with respect to all employees.

PART II – REQUIREMENTS**4. Compliance with General Code**

(1) An employee 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. Other rules of conduct

Without prejudice to the generality of paragraph 4, an employee shall—

- (a) be patriotic and loyal to Kenya and at all times conduct himself in a manner that promotes the image and interest of the country;
- (b) conduct himself with honesty and integrity and act with care and diligence;
- (c) use the resources of the nation conscientiously and combat corruption and misuse or wastage of public property;
- (d) respect and observe the law of the land and co-operate with all lawful agencies in the maintenance of law and order;
- (e) treat all persons with respect and courtesy;
- (f) promote gender equality and respect for the rights and freedoms of others;
- (g) preserve and protect the environment and national heritage;

Public Officer Ethics

[Subsidiary]

- (h) comply with any lawful and reasonable direction given by any person in the Service having authority to give such direction;
- (i) maintain appropriate confidentiality about dealings that the employee has with the National Assembly, its committees, its members and its staff (including employees of members, if any);
- (j) not make public comments that support or criticize a political party;
- (k) not make public comments that may compromise, or may reasonably be seen to compromise, the political neutrality of his office;
- (l) not make improper use of—
 - (i) any information obtained through or in connection with the office of such employee and which is not yet made available to the public; or
 - (ii) the employee's duties, status, power or authority, in order to gain, or seek to gain, a benefit or advantage for himself or for anyone else;
- (m) conduct himself in a manner that upholds the letter and spirit of the values and the integrity and good reputation of the Service;
- (n) while on duty overseas conduct himself in a manner that promotes the good image of Kenya; and
- (o) comply with any other requirements of conduct prescribed by the Commission from time to time.

APPENDIX

[para. 4(2)]

GENERAL CODE OF CONDUCT AND ETHICS

*(Extract from Part III of the Act)***7. Part sets out general code**

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

8. Performance of duties, general

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. Professionalism

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 authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

10. Rule of law

- (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. No improper enrichment

(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. Conflict of interest

(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 or 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. Collections and harambees

(1) A public officer shall not—

[Subsidiary]

- (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 (Cap. 106).

14. Acting for foreigners

(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, organisation or individuals.

15. Care of property

(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. Political neutrality

(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. Nepotism, etc

A public officer shall not practice nepotism or favouritism.

18. Giving of advice

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

19. Misleading the public, etc

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

20. Conduct of private affairs

(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. Sexual harassment

(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
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

22. Selection, etc., of public officers

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. Submitting of declarations, etc.

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

24. Acting through others

(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. Reporting improper orders

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.

**THE POWERS AND PRIVILEGES COMMITTEE PROCEDURES
FOR THE ADMINISTRATION OF PART IV OF THE ACT**

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation
 2. Interpretation
 3. Scope of procedures
 4. Administration officer
 5. To whom declarations submitted
 6. Who may make requests for clarifications
 7. Review of declarations, etc.
 8. Authorization of staff under section 30(2)
 9. Condition for certain disclosures to police, *etc.*
 10. Condition for disclosures to representatives
 11. Administration officer to report non-compliance
-

THE POWERS AND PRIVILEGES COMMITTEE PROCEDURES FOR THE ADMINISTRATION OF PART IV OF THE

[Legal Notice 133 of 2003]

1. Citation

These procedures may be cited as the Powers and Privileges Committee Procedures for the Administration of Part IV of the Act.

2. Interpretation

In these procedures, unless the context otherwise requires—

"administration officer", in relation to a public officer for whom the Committee is the responsible Commission under the Act, means the person prescribed by section 4(2) or (3) in relation to that public officer;

"Committee" means the Powers and Privileges Committee of the National Assembly.

3. Scope of procedures

These procedures are for the administration of Part IV of the Act with respect to the public officers for whom the Committee is the responsible Commission under the Act.

4. Administration officer

(1) The administration officer shall be responsible for the administration of Part IV of the Act by the Committee.

(2) In relation to staff of the parliamentary service, the administration officer is the Clerk of the National Assembly.

(3) In relation to any other public officer for whom the Committee is the responsible Commission under the Act, the administration officer is the Speaker of the National Assembly.

5. To whom declarations submitted

Declarations to be submitted under Part IV of the Act shall be submitted to the administration officer.

6. Who may make requests for clarifications

Requests for clarifications under section 28 of the Act shall be made, on behalf of the Committee, by the administration officer or by staff of the parliamentary service authorised in writing by him for that purpose.

7. Review of declarations, etc.

(1) The administration officer, or staff of the parliamentary service authorized by him for the purpose, shall review each declaration to ascertain if, in the opinion of the administration officer or staff, any of the following conditions are satisfied—

- (a) on the face of the declaration, or in light of any other information the Committee may have, there is reason to suspect the declaration may be false or incomplete;
- (b) the assets of the person who submitted the declaration are disproportionate to his income; or
- (c) the income, assets or liabilities of the person who submitted the declaration raise concerns of impropriety or conflict of interest.

(2) If it is ascertained that any of the conditions in subparagraph (1) are satisfied, the person who submitted the declaration shall be given an opportunity to give an explanation.

(3) If, after considering any explanation the person who submitted the declaration may give, the administration officer is of the opinion that any of the conditions in subparagraph

[Subsidiary]

(1) are still satisfied, the administration officer shall bring the matter to the attention of the Committee.

(4) The Committee may, with respect to a matter brought to its attention under paragraph (3), take such action as it considers appropriate including, without limiting the generality of the foregoing, notifying the Kenya Anti-Corruption Commission and giving the Kenya Anti-Corruption Commission particulars of the condition that is satisfied and a copy of the declaration.

8. Authorization of staff under section 30(2)

(1) The Committee or the administration officer may authorize staff of the parliamentary service for the purposes of section 30(2) of the Act.

(2) An authorisation under paragraph (1) shall be in writing.

9. Condition for certain disclosures to police, etc.

Except as provided under paragraph 7(4) information shall not be disclosed, under section 30(2) of the Act, to the police or any other law enforcement agency unless a written request is provided.

10. Condition for disclosures to representatives

Information shall not be disclosed, under section 30(2) of the Act, to a representative of the person who provided the information unless the representative provides copies of documents that establish the representative's authority to receive the information.

11. Administration officer to report non-compliance

The administration officer shall ensure that failures by public officers to comply with the requirements of Part IV of the Act are brought to the attention of the Committee.

THE PUBLIC OFFICER ETHICS REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

Preliminary

1. Citation and commencement
2. Definitions

Additional Public Officers Covered by Act

3. Extension of Act to all state corporations
- Responsible Commissions*
4. Members of Teachers Service Commission
 5. Staff of Teachers Service Commission
 6. Responsible Commission for public university employees, etc.
 7. Commission for co-operative society officers, etc.
 8. Commission for government controlled bank employees, etc.
 9. Commission for others not specified

Regulations Relating to the Code of Conduct and Ethics

10. Maximum value of gifts under section 11(3) of the Act
 11. Conflict of interest under section 12 of the Act
- Regulations Relating to the Enforcement of the Code*
12. Confirmation that complaint received
 13. Publication of actions relating to discipline



THE PUBLIC OFFICER ETHICS REGULATIONS

[Legal Notice 120 of 2003, Legal Notice 64 of 2010]

Preliminary

1. Citation and commencement

(1) These Regulations may be cited as the Public Officer Ethics Regulations.

(2) Regulations 10 and 11 shall be deemed to have come into force on the 2nd May, 2003.

2. Definitions

In these Regulations—

“state corporation” means a state corporation within the meaning of the State Corporations Act (Cap. 446).

Additional Public Officers Covered by Act

3. Extension of Act to all state corporations

State corporations are prescribed for the purposes of paragraph (g) of the definition of “public officer” in section 2 of the Act.

Responsible Commissions

4. Members of Teachers Service Commission

The committee of the National Assembly responsible for the ethics of members is the responsible Commission for the members of the Teachers Service Commission.

5. Staff of Teachers Service Commission

The Teachers Service Commission is the responsible Commission for the officers and employees of the Teachers Service Commission.

6. Responsible Commission for public university employees, etc.

The Commission for University Education, established under the Universities Act (Cap. 210), is prescribed as the responsible Commission for officers and employees of a public university, including the members of a council of a public university other than members who are members of the public service for whom the Public Service Commission is the responsible Commission.

7. Commission for co-operative society officers, etc.

(1) The Ethics Commission for Co-operative Societies established in accordance with subregulation (2) is prescribed as the responsible Commission for officers of a co-operative society established under the Co-operative Societies Act (Cap. 490), including the members of the governing body of the co-operative society.

(2) An unincorporated body to be known as the Ethics Commission for Co-operative Societies is hereby established which shall consist of—

- (a) a Chairperson who shall be a person with wide experience in Co-operative business, appointed by the Cabinet Secretary for Co-operative Development;
- (b) a vice-chairperson, elected by the members of the Commission from amongst the members;
- (c) the Principal Secretary of the Ministry responsible for Cooperative Development and Marketing or his designated representative;
- (d) the Principal Secretary of the Ministry responsible for integrity issues or his designated representative;

[Subsidiary]

- (e) the Director of the Co-operative College of Kenya;
- (f) a representative of the Co-operative Alliance of Kenya;
- (g) four other persons appointed by the Cabinet Secretary for Cooperative Development to represent—
 - (i) the Institute of Certified Public Accountants of Kenya;
 - (ii) an institution of higher education (University);
 - (iii) the Kenya Bankers Association;
 - (iv) the Sacco Society Regulatory Authority.

(3) A member of the Committee appointed under paragraph (2)(a) and (g) shall hold office for a term of three years and shall be eligible for re-appointment for one further term.

[L.N. 64/2010, r. 2.]

8. Commission for government controlled bank employees, etc.

(1) The board of directors of the Central Bank of Kenya is prescribed as the responsible Commission for officers and employees of the following—

- (a) the Central Bank of Kenya; and
- (b) banks and financial institutions licensed under the Banking Act that are state corporations.

(2) For the purposes of paragraph (1), “officers”—

- (a) includes the members of the board, by whatever name called, carrying out or empowered to carry out functions relating to the overall direction and management of a bank or financial institution described in paragraph (1)(b), other than members who are members of the public service for whom the Public Service Commission is the responsible Commission; and
- (b) does not include members of the board of directors of the Central Bank of Kenya.

9. Commission for others not specified

The Public Service Commission is prescribed as the responsible Commission for officers, employees and members for whom no other responsible Commission is specified under subsections (2) to (9) of section 3 of the Act or regulations 4 to 8.

Regulations Relating to the Code of Conduct and Ethics

10. Maximum value of gifts under section 11(3) of the Act

The maximum value prescribed, for the purposes of section 11(3) of the Act, that a nonmonetary gift to a public officer may have without being deemed to be gift to the public officer's organisation is 20,000 shillings.

11. Conflict of interest under section 12 of the Act

The personal interests of a public officer do not conflict with his official duties with respect to a matter, for the purposes of section 12 of the Act, if the following are satisfied—

- (a) the personal interests of the public officer are not specific to the public officer but arise from the public officer being a member of a class of persons who all have personal interests in the matter;
- (b) it would be impractical for the public officer and all other public officers who have personal interests in the matter to refrain from participating in deliberations with respect to the matter; and
- (c) either the personal interests of the public officer are obvious or the public officer declares his personal interests to his superior or other appropriate body or person.

Regulations Relating to the Enforcement of the Code

12. Confirmation that complaint received

A responsible Commission that receives a written complaint that the Code of Conduct and Ethics has been contravened shall, within thirty days, give the complainant a written confirmation that the complaint has been received.

13. Publication of actions relating to discipline

The prescribed manner of making an action of a Commission public under section 37(1) of the Act is publication in the *Gazette*.

**THE PUBLIC SERVICE COMMISSION DELEGATION OF POWERS
AND FUNCTIONS UNDER PARTS IV AND V OF THE ACT**

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation
 2. Interpretation
 3. Delegation – Parts IV and V of the Act
-

**THE PUBLIC SERVICE COMMISSION DELEGATION OF
POWERS AND FUNCTIONS UNDER PARTS IV AND V OF THE**

[Legal Notice 123 of 2003]

1. Citation

This delegation may be cited as the Public Service Commission Delegation of Powers and Functions under Parts IV and V of the Act.

2. Interpretation

In this delegation—

"authorized officer" means the Permanent Secretary who exercises supervision over the department concerned or over the department in which the public officer concerned holds a post, as the case may be, or—

- (a) in the case of a department which is not assigned to any Minister, the head of that department;
- (b) in the case of the Exchequer and Audit Department, the Controller and Auditor-General;
- (c) in the case of the Kenya Police Force, the Inspector-General of Police;
- (d) in the case of the Kenya Prisons Service, the Commissioner of Prisons; or
- (e) in the case of the National Youth Service, the Director-General of the National Youth Service;

"Commission" means the Public Service Commission;

"lower-level public officers" means public officers in a job group below job group "H" or its equivalent.

3. Delegation – Parts IV and V of the Act

(1) The Commission delegates the following powers and functions with respect to lowerlevel public officers—

- (a) its powers and functions under Part IV of the Act, other than section 33 of the Act;
- (b) its powers and functions under Part V of the Act.

(2) The powers and functions described in paragraph (1) are delegated as follows—

- (a) in respect of lower-level public officers, other than public officers described in subparagraph (b) or (c), to the authorized officer;
- (b) in respect of lower-level public officers of a state 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.

**THE PUBLIC SERVICE COMMISSIONERS'
CODE OF CONDUCT AND ETHICS**

ARRANGEMENT OF PARAGRAPHS

Paragraph

PREAMBLE

PART I – PRELIMINARY

1. Citation
2. Interpretation
3. Application of Code

PART II – REQUIREMENT

4. Compliance with General Code
5. Prohibition against standing for election
6. Independence, integrity and impartiality
7. Social and recreational activities
8. Non-discrimination
9. Civil and charitable activities
10. Private interests
11. Gifts, etc.
12. Professionalism and courtesy
13. Private agencies
14. Public statements and communication with the press
15. Absence from Kenya
16. Breach of Code

SCHEDULES

GENERAL CODE OF CONDUCT AND ETHICS

**THE PUBLIC SERVICE COMMISSIONERS'
CODE OF CONDUCT AND ETHICS**

[Legal Notice 131 of 2003]

PREAMBLE

This Code is intended to establish standards of ethical conduct for the Public Service Commissioners.

The Public Service Commission of Kenya is committed to ensuring that the people of Kenya are served by a highly competent public service which is non-partisan and representative of the Kenyan society.

This Code contains rules of conduct and ethics to be observed by Commissioners so as to maintain the integrity and impartiality of the Commission. Public Officers look up to the Commission as a custodian of meritocracy in the public service and in furtherance of this the Commissioners, both collectively and individually, must strive to enhance public trust in the Public Service.

PART I – PRELIMINARY**1. Citation**

This Code may be cited as the public Service Commissioners' Code of Conduct and Ethics.

2. Interpretation

In this Code, unless the context otherwise requires—

"Commission" means the Public Service Commission of Kenya;

"Commissioner" means the Chairman, Deputy Chairman or a Commissioner of the Public Service Commission of Kenya holding office under section 107 of the Constitution;

"family", in relation to a Commissioner, includes his spouse, child, grandchild, parent, grandparent or other relative or person with whom he maintains a close family relationship;

"the Act" means the Public Officer Ethics Act (Cap. 185B).

3. Application of Code

This Code applies with respect to the Commissioners.

PART II – REQUIREMENT**4. Compliance with General Code**

(1) A Commissioner 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. Prohibition against standing for election

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

6. Independence, integrity and impartiality

(1) A Commissioner shall be true to his oath of office and shall, in exercising the powers of his office, be seen to be free from external influence.

(2) A Commissioner is entitled to his own views on political matters but shall not be permitted to express those view publicly.

[Subsidiary]

7. Social and recreational activities

A Commissioner may engage in arts, sports and other social and recreational activities if such activities do not adversely affect the dignity of his office or interfere with the performance of his public duties.

8. Non-discrimination

A Commissioner shall treat all Kenyans with equal respect and shall not discriminate against anyone on the basis of clan, tribe, race, colour, religion, sex, age, gender or disability nor hold any office in an organisation where discrimination is practised.

9. Civil and charitable activities

(1) While a Commissioner should not be isolated from the society of which he is a part, he is expected to remain within dignified limits, and above all, he should regulate his extraofficial activities to minimise the risk of conflict with his official duties.

(2) A Commissioner shall live within his means and avoid incurring any financial liability that he cannot satisfy.

(3) A Commissioner may contribute towards or attend a harambee but should not play a central role in its organisation or preside over the same.

(4) A Commissioner shall not use his office to solicit for funds for a harambee or any other purpose.

10. Private interests

A Commissioner is required to observe the following requirements in relation to his private interests—

- (a) he shall ensure that he does not subordinate his official duties to his private interests or put himself in a position where there is conflict between his official duties and his private interests;
- (b) he shall not associate outside his official duties with any financial or other activities in circumstances where there could be suspicion that his official position or official information available to him was being turned to his private gain or that of his associates;
- (c) he shall not engage in any occupation or business which might prejudice his status as a Commissioner or bring his office into dispute;
- (d) he shall maintain at all times the ethical standards which the public expects of him in transacting official business with efficiency, integrity and impartiality.

11. Gifts, etc.

(1) A Commissioner shall neither ask for or accept any property or benefit of any kind for himself or for any person, on account of anything to be done, or omitted to be done by him in the discharge of his duties by virtue of his official position.

(2) A Commissioner or members of his family shall not solicit or accept any gifts, gratuity, hospitality, free passages or favours from any person or any body corporate or unincorporate that might reasonably be thought to influence, or intended to influence, him in the performance of his duties.

(3) Where a gift or donation of the nature specified in subparagraph (2) is given without the knowledge of the Commissioner or where it would be offensive to custom or good public relations to refuse the gift, the Commissioner shall report the matter to the Chairman, who shall direct the appropriate mode of disposal of any such gift or donation, and the Commissioner shall comply with such direction forthwith.

(4) Where the Commissioner to whom a gift is given is the Chairman, subparagraph (3) shall operate as though a reference therein to the Chairman were a reference to the Speaker of the National Assembly.

(5) When presents are exchanged between a commissioner acting on behalf of the Government in ceremonial intercourse with other Governments or their representatives, the presents received will be handed over to the Chairman, who shall direct the appropriate mode of disposal and any reciprocal presents will be given at the expense of the Commission.

12. Professionalism and courtesy

(1) A Commissioner shall ensure that his official and private conduct upholds, at all times, the dignity and integrity of his office by conducting himself, both officially and in private, in a dignified, honest and impeccable manner.

(2) A Commissioner shall, at all times, be disciplined whether or not on official duty and shall in particular—

- (a) maintain a standard of dress and personal hygiene befitting the dignity and image of that office;
- (b) observe official working hours, be punctual and meet deadlines;
- (c) not be absent from duty without proper authorisation or reasonable cause;
- (d) perform his duties in an efficient and competent manner;
- (e) exercise diligence, care and attention and seek to achieve high standards of professionalism in the delivery of services;
- (f) practice and promote adherence to meritocratic principles and practices in appointments to the Public Service, for which the guiding criteria shall be qualifications, merit, competence and experience; and
- (g) seek to contribute and enhance the standards of performance and level of professionalism in the Public Service.

(3) A Commissioner shall actively and personally promote a culture in the Public Service that aims at providing fast, friendly, responsive and efficient service, and shall be courteous to all persons in the performance of his duties.

13. Private agencies

A Commissioner shall not undertake any private agency in any matter connected with the exercise of his public duties.

14. Public statements and communication with the press

(1) A Commissioner shall not, without the express permission of the Chairman of the Commission—

- (a) act as editor of any newspaper or take part directly or indirectly in the management thereof;
- (b) publish in any manner anything which may be reasonably regarded as of a political nature whether under his own name, by pseudonym or anonymously; or
- (c) allow himself to be interviewed on questions of public policy affecting Kenya or any other country.

(2) A Commissioner shall avoid situations where lack of discretion on his part is likely to embarrass the Government or the Public Service.

15. Absence from Kenya

A Commissioner who wishes to travel outside Kenya shall obtain the prior permission of the Chairman in writing, which permission shall not be unreasonably denied.

16. Breach of Code

(1) It shall be the responsibility of every Commissioner to report to the Chairman any violation of this Code.

[Subsidiary]

(2) The Chairman shall investigate the same and report the action he takes, including any reference to the responsible Commission, to a meeting of the Commission:

Provided that a complaint against the Chairman shall be reported to the responsible Commission.

APPENDIX

[para. 4(2)]

GENERAL CODE OF CONDUCT AND ETHICS

(Extract from Part III of the Act)

7. Part sets out general code

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

8. Performance of duties, general

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. Professionalism

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 authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

10. Rule of law

(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. No improper enrichment

(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. Conflict of interest

(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 or 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. Collections and harambees

(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 (Cap. 106).

14. Acting for foreigners

(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, organisation or individuals.

[Subsidiary]

15. Care of property

(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. Political neutrality

(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. Nepotism, etc.

A public officer shall not practice nepotism or favouritism.

18. Giving of advice

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

19. Misleading the public, etc.

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

20. Conduct of private affairs

(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. Sexual harassment

(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
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

22. Selection, etc., of public officers

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. Submitting of declarations, etc.

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

24. Acting through others

(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. Reporting improper orders

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.

**THE TEACHERS SERVICE COMMISSION
CODE OF CONDUCT AND ETHICS**

ARRANGEMENT OF PARAGRAPHS

Paragraph

PREAMBLE

PART I – PRELIMINARY

1. Citation
2. Interpretation
3. Application of Code

PART II – REQUIREMENTS

4. Compliance with General Code
5. Human rights, etc.
6. Professionalism
7. Conduct of duties
8. Evaluation of students
9. Sexual relations with students
10. Pornography
11. Illicit drugs
12. Prohibition against standing for election
13. Canvassing for favours in service
14. Private affairs – outside activities
15. Private teaching work
16. Endorsing private activities
17. Private affairs – financial dealings
18. Dealing with donations
19. Gifts
20. Appropriate person to whom improper orders to be reported
21. Reporting of charges against a public officer
22. Breach of Code, reporting
23. Breach of Code, action to be taken

SCHEDULES

GENERAL CODE OF CONDUCT AND ETHICS

THE TEACHERS SERVICE COMMISSION CODE OF CONDUCT AND ETHICS

[Legal Notice 137 of 2003]

PREAMBLE

The Education System of the Republic of Kenya is charged with the responsibility of nurturing the growth of the whole person through integrated development of physical, intellectual, moral and spiritual attributes and abilities. The teacher is a key person in imparting knowledge, skills and attitudes that are necessary for the development of the country. The Teaching Service is a noble calling which demands sacrifice and selflessness.

The Code is intended to establish standards of ethical conduct and behaviour for teachers and for the officers and employees of the Teachers Service Commission.

This Code contains rules of conduct and ethics to be observed so as to maintain the integrity, dignity and nobility of the teaching profession. The Code does not in any way replace the Code of Regulations for Teachers or the laws and rules relating to the officers and employees of the Teachers Service Commission. Those laws and rules and all other applicable laws must be obeyed.

Teachers and officers and employees of the Teachers Service Commission should adhere to this Code so as not to bring ridicule and dishonour to the Commission and the teaching profession.

PART I – PRELIMINARY

1. Citation

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

2. Interpretation

In this Code, unless the context otherwise requires—

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

"school" includes pre-primary and post-secondary institutions;

"student" includes students at pre-primary and post-secondary institutions.

3. Application of Code

(1) This Code applies with respect to—

- (a) public officers who are teachers registered under the Teachers Service Commission Act; and
- (b) officers and employees of the Teachers Service Commission.

(2) For greater certainty, the officers and employees referred to in paragraph (1)(b) do not include the members of the Teachers Service Commission.

PART II – REQUIREMENTS

4. Compliance with General Code

(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.

[Subsidiary]

5. Human rights, etc.

(1) In carrying out his duties, a public officer shall respect, protect and promote the human rights and freedoms of students without discrimination on the basis of race, tribe, political opinions, colour, creed, sex, disability, social status or culture.

(2) A public officer shall not be a member in an organisation that he knows promotes or practices discrimination on a basis set out in paragraph (1).

6. Professionalism

(1) A public officer who is in a profession shall maintain his professional competence.

(2) A public officer shall not convey, or allow others to convey, the impression that anyone is in a position to improperly influence him.

7. Conduct of duties

(1) A public officer shall be efficient and punctual and shall meet his deadlines.

(2) A public officer shall ensure that his official duties take precedence over his other activities.

(3) A public officer shall take reasonable steps to ensure that the activities he carries out or supervises are conducted in an orderly manner and with due decorum.

(4) A public officer shall be patient, dignified and courteous to students, colleagues and members of the public.

8. Evaluation of students

(1) A public officer who evaluates students shall do so honestly and only on the basis of their performance.

(2) A public officer shall use his best efforts to ensure that examinations are conducted fairly and without cheating.

9. Sexual relations with students

(1) A public officer shall not engage in any sexual activity with a student regardless of whether the student consents.

(2) A public officer shall not make a request to, or exert pressure on, a student for sexual activity or favours.

(3) A public officer shall not flirt with a student.

10. Pornography

(1) A public officer shall not supply pornography to a student, expose a student to pornography or assist a student in obtaining access to pornography.

(2) A public officer shall use his best efforts to ensure that any school he works in is free of pornography.

11. Illicit drugs

(1) A public officer shall not supply illicit drugs to a student, expose a student to illicit drugs or assist a student in obtaining access to illicit drugs.

(2) A public officer shall use his best efforts to ensure that any school he works in is free of illicit drugs.

12. Prohibition against standing for election

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

13. Canvassing for favours in service

A public officer shall not canvass or lobby, either directly or indirectly, for any favours in the Teaching Service or, if the public officer is an officer or employee of the Teachers Service Commission, for any favours relating to his employment with the Commission.

14. Private affairs – outside activities

(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.

15. Private teaching work

(1) A public officer shall not—

(a) charge or accept any fee for tuition of a student, even if the tuition is given outside official working hours; or

(b) establish or retain an interest in a private school or work at such a school.

(2) Paragraph (1)(a) does not apply with respect to tuition fees that are lawfully charged by a school.

16. Endorsing private activities

A public officer shall not use or lend the prestige of his office to sanction or endorse his own private activities or the private activities of any other person.

17. Private affairs – financial dealings

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

(2) A public officer who becomes bankrupt, becomes a judgment debtor or against whom proceedings are taken in bankruptcy shall forthwith report the matter to the Secretary of the Teachers Service Commission.

18. Dealing with donations

(1) A public officer shall, to the extent that he is involved in the receipt and administration of donations for school purposes, ensure that proper records are kept of the donations and that they are used for the purposes for which they were given.

(2) A public officer shall inform the Secretary of the Teachers Service Commission or another appropriate authority if the public officer has reasonable grounds for believing—

(a) that proper records of any donations for school purposes have not been kept; or

(b) that any donations for school purposes have not been used for the purposes for which they were given.

19. Gifts

(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 organisation—

(a) the public officer shall report the matter to the Secretary of the Teachers Service Commission 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 public officer shall not accept a gift, including a gift from his school, that is given as a reward for, or in recognition of, the performance of students unless the gift is a nonmonetary gift whose value does not exceed 5,000 shillings.

[Subsidiary]

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

20. Appropriate person to whom improper orders to be reported

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 Secretary of the Teachers Service Commission.

21. Reporting of charges against a public officer

(1) A public officer who is charged with an offence described in paragraph (3) shall forthwith report the matter to the Secretary of the Teachers Service Commission.

(2) A public officer who discovers that a public officer under his supervision has been charged with an offence described in paragraph (3) shall either ensure that the matter is reported under paragraph (1) or report the matter to the Secretary of the Teachers Service Commission directly.

(3) An offence referred to in paragraph (1) or (2) is an offence that may be punished by imprisonment, other than in default of payment of a fine.

22. Breach of Code, reporting

A public officer shall inform the Secretary of the Teachers Service Commission or another appropriate authority if the public officer knows that another public officer has breached this Code unless the public officer reasonably believes that the breach has been or will otherwise be reported.

23. Breach of Code, action to be taken

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

[para. 4(2)]

GENERAL CODE OF CONDUCT AND ETHICS

(Extract of Part III of the Act)

7. Part sets out general code

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

8. Performance of duties, general

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. Professionalism

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 authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

10. Rule of law

- (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. No improper enrichment

- (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. Conflict of interest

- (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 or 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.

[Subsidiary]

(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. Collections and harambees

(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 (Cap. 106).

14. Acting for foreigners

(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, organisation or individuals.

15. Care of property

(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. Political neutrality

(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. Nepotism, etc

A public officer shall not practice nepotism or favouritism.

18. Giving of advice

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

19. Misleading the public, etc

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

20. Conduct of private affairs

(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. Sexual harassment

(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

(c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

22. Selection, etc. of public officers

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. Submitting of declarations, etc.

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

24. Acting through others

(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. Reporting improper orders

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.

**THE TEACHERS SERVICE COMMISSION PROCEDURES
FOR THE ADMINISTRATION OF PART IV OF THE ACT**

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation
 2. Interpretation
 3. Scope of procedures
 4. Administration officer
 5. To whom declarations submitted
 6. Who may make requests for clarifications
 7. Review of declarations, *etc.*
 8. Authorization of staff under section 30(2)
 9. Condition for certain disclosures to police, *etc.*
 10. Condition for disclosures to representatives
 11. Administration officer to report non-compliance
-

THE TEACHERS SERVICE COMMISSION PROCEDURES FOR THE ADMINISTRATION OF PART IV OF THE

[Legal Notice 136 of 2003]

1. Citation

These procedures may be cited as the Teachers Service Commission Procedures for the Administration of Part IV of the Act.

2. Interpretation

In these procedures, unless the context otherwise requires—

"administration officer" means the Secretary of the Commission;

"Commission" means the Teachers Service Commission.

3. Scope of procedures

These procedures are for the administration of Part IV of the Act with respect to the public officers for whom the Commission is the responsible Commission under the Act.

4. Administration officer

The administration officer shall be responsible for the administration of Part IV of the Act by the Commission.

5. To whom declarations submitted

(1) Declarations to be submitted to the Commission under Part IV of the Act shall be submitted to the administration officer.

(2) Declarations shall be submitted in sealed envelopes and shall be submitted to the administration officer through agents of the Commission as directed by the administration officer.

6. Who may make requests for clarifications

Requests for clarifications under section 28 of the Act shall be made, on behalf of the Commission, by the administration officer or by staff of the Commission authorised in writing by him for that purpose.

7. Review of declarations, etc.

(1) The administration officer, or staff of the Commission authorized by him for the purpose, shall review each declaration to ascertain if, in the opinion of the administration officer or staff, any of the following conditions are satisfied—

- (a) on the face of the declaration, or in light of any other information the Commission may have, there is reason to suspect the declaration may be false or incomplete;
- (b) the assets of the person who submitted the declaration are disproportionate to his income; or
- (c) the income, assets or liabilities of the person who submitted the declaration raise concerns of impropriety or conflict of interest.

(2) If it is ascertained that any of the conditions in subparagraph (1) are satisfied, the person who submitted the declaration shall be given an opportunity to give an explanation.

(3) If, after considering any explanation the person who submitted the declaration may give, the administration officer is of the opinion that any of the conditions in subparagraph (1) are still satisfied, the administration officer shall bring the matter to the attention of the Commission.

(4) The Commission may, with respect to a matter brought to its attention under subparagraph (3), take such action as it considers appropriate including, without limiting the

[Subsidiary]

generality of the foregoing, notifying the Ethics and Anti-Corruption Commission and giving the Ethics and Anti-Corruption Commission particulars of the condition that is satisfied and a copy of the declaration.

8. Authorization of staff under section 30(2)

(1) The Commission or the administration officer may authorize staff of the Commission for the purposes of section 30(2) of the Act.

(2) An authorization under paragraph (1) shall be in writing.

9. Condition for certain disclosures to police, etc.

Except as provided under paragraph 7(4) information shall not be disclosed, under section 30(2) of the Act, to the police or any other law enforcement agency unless a written request is provided.

10. Condition for disclosures to representatives

Information shall not be disclosed, under section 30(2) of the Act, to a representative of the person who provided the information unless the representative provides copies of documents that establish the representative's authority to receive the information.

11. Administration officer to report non-compliance

The administration officer shall ensure that failures by public officers to comply with the requirements of Part IV of the Act are brought to the attention of the Commission.

**THE TEACHERS SERVICE COMMISSIONERS’
CODE OF CONDUCT AND ETHICS**

ARRANGEMENT OF PARAGRAPHS

Paragraph

PREAMBLE

PART I – PRELIMINARY

1. Citation
2. Interpretation
3. Application of Code

PART II – REQUIREMENT

4. Compliance with General Code
5. Prohibition against standing for election
6. Independence, integrity and impartiality
7. Social and recreational activities
8. Non-discrimination
9. Civil and charitable activities
10. Private interests
11. Gifts, etc.
12. Professionalism and courtesy
13. Private agencies
14. Public statements and communication with the press
15. Absence from Kenya
16. Breach of Code

SCHEDULES

GENERAL CODE OF CONDUCT AND ETHICS

**THE TEACHERS SERVICE COMMISSIONERS'
CODE OF CONDUCT AND ETHICS**

[Legal Notice 135 of 2003]

PREAMBLE

This code is intended to establish standards of ethical conduct for the Teachers Service Commissioners.

This Code contains rules of conduct and ethics to be observed by Commissioners so as to maintain the honour and discipline of the Commission, its integrity and impartiality, and the highest standards of the Service. Teachers look to the Commission as a custodian of meritocracy in the Teachers Service and in furtherance of this the Commissioners, both collectively and individually, must strive to enhance public trust in the Service.

PART I – PRELIMINARY**1. Citation**

This Code may be cited as the Teachers Service Commissioners' Code of Conduct and Ethics.

2. Interpretation

In this Code, unless the context otherwise requires—

"Commission" means the Teachers Service Commission established by the Teachers Service Commission Act (Cap. 212);

"Commissioner" means a person holding office as a member of the Commission;

"family", in relation to a Commissioner, includes his spouse, child, grandchild, parent, grandparent or other relative or person with whom he maintains a close family relationship;

"the Act" means the Public Officers Ethics Act (Cap. 185B).

3. Application of Code

This Code applies with respect to the Commissioners.

PART II – REQUIREMENT**4. Compliance with General Code**

(1) A Commissioner 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. Prohibition against standing for election

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

6. Independence, integrity and impartiality

(1) A Commissioner shall be true to his oath of office.

(2) A Commissioner is entitled to his own views on political matters but shall not be permitted to express those view publicly.

7. Social and recreational activities

A Commissioner may engage in arts, sports and other social and recreational activities if such activities do not adversely affect the dignity of his office or interfere with the performance of his public duties.

[Subsidiary]

8. Non-discrimination

A Commissioner shall treat all Kenyans with equal respect and shall not discriminate against anyone on the basis of clan, tribe, race, colour, religion, sex, age, gender or disability nor hold any office in an organisation where discrimination is practised.

9. Civil and charitable activities

(1) While a Commissioner should not be isolated from the society of which he is a part, he is expected to remain within dignified limits, and above all, he should regulate his extraofficial activities to minimise the risk of conflict with his official duties.

(2) A Commissioner shall live within his means and avoid incurring any financial liability that he cannot satisfy.

(3) A Commissioner may contribute towards or attend a harambee but should not play a central role in its organization or preside over the same.

(4) A Commissioner shall not use his office to solicit for funds for a harambee or any other purpose.

10. Private interests

A Commissioner is required to observe the following requirements in relation to his private interests—

- (a) he shall ensure that he does not subordinate his official duties to his private interests or put himself in a position where there is conflict between his official duties and his private interests;
- (b) he shall not associate outside his official duties with any financial or other activities in circumstances where there could be suspicion that his official position or official information available to him was being turned to his private gain or that of his associates;
- (c) he shall not to engage in any occupation or business which might prejudice his status as a Commissioner or bring his office into dispute;
- (d) he shall maintain at all times the ethical standards which the public expects of him in transacting official business with efficiency, integrity and impartiality.

11. Gifts, etc.

(1) A Commissioner shall neither ask for or accept any property or benefit of any kind for himself or for any person, on account of anything to be done, or omitted to be done by him in the discharge of his duties by virtue of his official position.

(2) A Commissioner or members of his family shall not solicit or accept any gifts, gratuity, hospitality, free passages or favours from any person or any body corporate or unincorporate that might reasonably be thought to influence, or intended to influence, him in the performance of his duties.

(3) Where a gift or donation of the nature specified in subparagraph (2) is given without the knowledge of the Commissioner or where it would be offensive to custom or good public relations to refuse the gift, the Commissioner shall report the matter to the Chairman, who shall direct the appropriate mode of disposal of any such gift or donation, and the Commissioner shall comply with such direction forthwith.

(4) Where the Commissioner to whom a gift is given is the Chairman, subparagraph (3) shall operate as though a reference therein to the Chairman were a reference to the Speaker of the National Assembly.

(5) When presents are exchanged between a Commissioner acting on behalf of the Government in ceremonial intercourse with other Governments or their representatives, the presents received will be handed over to the Chairman, who shall direct the appropriate mode of disposal and any reciprocal presents will be given at the expense of the Commission.

12. Professionalism and courtesy

(1) A Commissioner shall ensure that his official and private conduct upholds, at all times, the dignity and integrity of his office by conducting himself, both officially and in private, in a dignified, honest and impeccable manner.

(2) A Commissioner shall, at all times, be disciplined whether or not on official duty and shall in particular—

- (a) maintain a standard of dress and personal hygiene befitting the dignity and image of that office;
- (b) observe official working hours, be punctual and meet deadlines;
- (c) not be absent from duty without proper authorisation or reasonable cause;
- (d) perform his duties in an efficient and competent manner;
- (e) exercise diligence, care and attention and seek to achieve high standards of professionalism in the delivery of services;
- (f) practice and promote adherence to meritocratic principles and practices in appointments to the Teachers Service, for which the guiding criteria shall be qualifications, merit, competence and experience; and
- (g) seek to contribute and enhance the standards of performance and level of professionalism in the Teachers Service.

(3) A Commissioner shall actively and personally promote a culture in the Teachers Service that aims at providing fast, friendly, responsive and efficient service, and shall be courteous to all persons in the performance of his duties.

13. Private agencies

A Commissioner shall not undertake any private agency in any matter connected with the exercise of his public duties.

14. Public statements and communication with the press

(1) A Commissioner shall not, without the express permission of the Chairman of the Commission—

- (a) act as editor of any newspaper or take part directly or indirectly in the management thereof;
- (b) publish in any manner anything which may be reasonably regarded as of a political nature whether under his own name, by pseudonym or anonymously; or
- (c) allow himself to be interviewed on questions of public policy affecting Kenya or any other country.

(2) A Commissioner shall avoid situations where lack of discretion on his part is likely to embarrass the Government or the Teachers Service.

15. Absence from Kenya

A Commissioner who wishes to travel outside Kenya shall obtain the prior permission of the Chairman in writing, which permission shall not be unreasonably denied.

16. Breach of Code

(1) It shall be the responsibility of every Commissioner to report to the Chairman any violation of this Code.

(2) The Chairman shall investigate the same and report the action he takes, including any reference to the responsible Commission, to a meeting of the Commission:

Provided that any complaint against the Chairman shall be made to the responsible Commission.

[Subsidiary]

APPENDIX

[para. 4(2)]

GENERAL CODE OF CONDUCT AND ETHICS

*(Extract from Part III of the Act)***7. Part sets out general code**

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

8. Performance of duties, general

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. Professionalism

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 authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

10. Rule of law

(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. No improper enrichment

(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. Conflict of interest

(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 or 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. Collections and harambees

(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 (Cap. 106).

14. Acting for foreigners

(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, organisation or individuals.

15. Care of property

(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.

[Subsidiary]

16. Political neutrality

(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. Nepotism, etc

A public officer shall not practice nepotism or favouritism.

18. Giving of advice

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

19. Misleading the public, etc.

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

20. Conduct of private affairs

(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. Sexual harassment

(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
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

22. Selection, etc. of public officers

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. Submitting of declarations, etc

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

24. Acting through others

(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. Reporting improper orders

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.

THE CENTRAL BANK OF KENYA CODE OF CONDUCT AND ETHICS

ARRANGEMENT OF PARAGRAPHS

Paragraph

PREAMBLE

PART I – PRELIMINARY

1. Citation
2. Interpretation
3. Application of Code

PART II – REQUIREMENTS

4. Compliance with General Code
5. Other rules of conduct

SCHEDULES

GENERAL CODE OF CONDUCT AND ETHICS

THE CENTRAL BANK OF KENYA CODE OF CONDUCT AND ETHICS

[Legal Notice 168 of 2003]

PREAMBLE

This Code is intended to establish standards of ethical conduct and behaviour for officers and employees of the Central Bank of Kenya and of banks and financial institutions that are state corporations, so as to maintain integrity and impartiality in the provision of services to members of the public.

The Code does not in any way replace the rules and regulations of the respective banks and institutions governing the discipline and general conduct of officers and employees. The officers and employees to whom the Code applies must obey those rules and regulations and all other applicable laws.

PART I – PRELIMINARY**1. Citation**

This Code may be cited as the Central Bank of Kenya Code of Conduct and Ethics.

2. Interpretation

In this Code, unless the context otherwise requires—

"Commission" means the board of directors of the Central Bank of Kenya;

"public officer" means an officer or employee to whom this Code applies under paragraph 3 of this Code.

3. Application of Code

(1) This Code applies to officers and employees of—

- (a) the Central Bank of Kenya; and
- (b) banks and financial institutions licensed under the Banking Act (Cap. 488) that are state corporations.

(2) For the purposes of this paragraph, "officers"—

- (a) includes the members of the board, by whatever name called, carrying out or empowered to carry out functions relating to the overall direction and management of a bank or financial institution described in subparagraph (1) (b), other than members who are members of the public service for whom the Public Service Commission is the responsible Commission under the Act; and
- (b) does not include members of the board of directors of the Central Bank of Kenya.

PART II – REQUIREMENTS**4. Compliance with General Code**

(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. Other rules of conduct

Without prejudice to the generality of paragraph 4, a public officer shall—

- (a) be patriotic and loyal to Kenya and at all times conduct himself in a manner that promotes the image and interests of the country;
- (b) conduct himself with honesty and integrity and act with care and diligence;
- (c) use the resources of the nation conscientiously;

[Subsidiary]

- (d) respect and observe the law of the land and co-operate with all lawful agencies in the maintenance of law and order;
- (e) treat all persons with respect and courtesy;
- (f) promote gender equality and respect for the rights and freedoms of others;
- (g) preserve and protect the environment and national heritage;
- (h) conduct himself in a manner that upholds the letter and spirit of the values and the integrity and good reputation of the banking industry;
- (i) while on duty overseas, conduct himself in a manner that promotes the good image of Kenya; and
- (j) comply with any other requirements of conduct prescribed by the Commission from time to time.

APPENDIX

[para. 4(2)]

GENERAL CODE OF CONDUCT AND ETHICS

(Extract from Part III of the Act)

7. Part sets out general Code

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

8. Performance of duties, general

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. Professionalism

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. Rule of law

(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. No improper enrichment

(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 recognised 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. Conflict of interest

(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 or 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. Collections and harambees

(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 (Cap. 106).

[Subsidiary]

14. Acting for foreigners

(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, organizations or individuals.

15. Care of property

(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. Political neutrality

(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. Nepotism, etc

A public officer shall not practice nepotism or favouritism.

18. Giving of advice

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

19. Misleading the public, etc.

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

20. Conduct of private affairs

(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. Sexual harassment

(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
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person's sexuality.

22. Selection, etc., of public officers

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. Submitting of declarations, etc

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

24. Acting through others

(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. Reporting improper orders

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.

**THE CENTRAL BANK OF KENYA PROCEDURES FOR
THE ADMINISTRATION OF PART IV OF THE ACT**

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation
 2. Interpretation
 3. Scope of procedures
 4. Administration officer
 5. To whom declarations submitted
 6. Who may make requests for clarifications
 7. Review of declarations, etc.
 8. Authorization of staff under section 30(2)
 9. Condition for certain disclosures to police, etc.
 10. Condition for disclosures to representatives
 11. Administration officer to report non-compliance
 12. Application where powers, etc., delegated
-

**THE CENTRAL BANK OF KENYA PROCEDURES
FOR THE ADMINISTRATION OF PART IV OF THE**

[Legal Notice 169 of 2003]

1. Citation

These procedures may be cited as the Central Bank of Kenya Procedures for the Administration of Part IV of the Act.

2. Interpretation

In these procedures, unless the context otherwise requires—

"administration officer" means the Secretary of the board of Directors of the Central bank of Kenya;

"Commission" means the Board of Directors of the Central Bank of Kenya.

3. Scope of procedures

These procedures are for the administration of Part IV of the Act with respect to the public officers for whom the Commission is the responsible Commission under the Act.

4. Administration officer

The administration officer shall be responsible for the administration of Part IV of the Act by the Commission.

5. To whom declarations submitted

Declarations to be submitted to the Commission under Part IV of the Act shall be submitted to the administration officer.

6. Who may make requests for clarifications

Requests for clarifications under section 28 of the Act shall be made, on behalf of the Commission, by the administration officer or by staff of the Commission authorized in writing by him for that purpose.

7. Review of declarations, etc.

(1) The administration officer, or staff of the Commission authorized by him for the purpose, shall review each declaration to ascertain if, in the opinion of the administration officer or staff, any of the following conditions are satisfied—

- (a) on the face of the declaration, or in light of any other information the Commission may have, there is reason to suspect the declaration may be false or incomplete;
- (b) the assets of the person who submitted the declaration are disproportionate to his income; or
- (c) the income, assets or liabilities of the person who submitted the declaration raise concerns of impropriety or conflict of interest.

(2) If it is ascertained that any of the conditions in subparagraph (1) are satisfied, the person who submitted the declaration shall be given an opportunity to give an explanation.

(3) If, after considering any explanation the person who submitted the declaration may give, the administration officer is of the opinion that any of the conditions in subparagraph (1) are still satisfied, the administration officer shall bring the matter to the attention of the Commission.

(4) The Commission may, with respect to a matter brought to its attention under paragraph (3), take such action as it considers appropriate including, without limiting the generality of the foregoing, notifying the Kenya Anti-Corruption Commission and giving the

[Subsidiary]

Kenya Anti-Corruption Commission particulars of the condition that is satisfied and a copy of the declaration.

8. Authorization of staff under section 30(2)

(1) The Commission or the administration officer may authorize staff of the Commission for the purposes of section 30(2) of the Act.

(2) An authorization under subparagraph (1) shall be in writing.

9. Condition for certain disclosures to police, etc.

Except as provided under paragraph 7(4), information shall not be disclosed, under section 30(2) of the Act, to the police or any other law enforcement agency unless a written request is provided.

10. Condition for disclosures to representatives

Information shall not be disclosed, under section 30(2) of the Act, to a representative of the person who provided the information unless the representative provides copies of documents that establish the representative's authority to receive the information.

11. Administration officer to report non-compliance

The administration officer shall ensure that failures by public officers to comply with the requirements of Part IV of the Act are brought to the attention of the Commission.

12. Application where powers, etc., delegated

The following shall apply with respect to the application of these procedures by a person to whom the powers and functions of the Commission under Part IV of the Act have been delegated under section 4 of the Act—

- (a) a reference to "administration officer" shall be deemed to be a reference to the person to whom the powers and functions have been delegated;
 - (b) a reference to "staff of the Commission" shall be deemed to be a reference to staff under the authority of the person to whom the powers and functions have been delegated;
 - (c) the person to whom the powers and functions have been delegated is not required to bring matters to the attention of the Commission under paragraph 7(3) and may do anything that the Commission may do under paragraph 7(4);
 - (d) the person to whom the powers and functions have been delegated is not required to ensure that failures to comply with Part IV of the Act are brought to the attention of the Commission under paragraph 11 but may, instead, take such action as the person considers appropriate.
-

THE CO-OPERATIVE SOCIETIES CODE OF CONDUCT AND ETHICS

ARRANGEMENT OF PARAGRAPHS

Paragraph

PREAMBLE

PART I – PRELIMINARY

1. Citation
2. Interpretation
3. Application of Code

PART II – REQUIREMENTS

4. Compliance with General Code
5. Integrity and impartiality
6. Political affiliation
7. Comments
8. Responsibility to organisation
9. Efficiency
10. Canvassing for favours
11. Harambees
12. Conflict of interests
13. Gifts, etc
14. Conduct of private affairs
15. Safeguarding of information
16. Appropriate authority for reporting
17. Breach of Code

SCHEDULES

GENERAL CODE OF CONDUCT AND ETHICS

THE CO-OPERATIVE SOCIETIES CODE OF CONDUCT AND ETHICS

[Legal Notice 172 of 2003]

PREAMBLE

The co-operative movement in Kenya plays a major role in socio-economic development of the people. By definition, a co-operative society is an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly-owned and democratically-controlled enterprise. A co-operative society is based on the ethical values of self-help, self-responsibility, democracy, equality, equity and solidarity founded on the philosophy of "All for one and one for all". The management of cooperative societies is vested in the duly elected committees and officers who are expected to perform their duties prudently and diligently on behalf of the members to whom they stand accountable and responsible.

This Code is intended to establish standards of ethical conduct and behaviour for cooperative society officers, members, members of the management committee and of the supervisory committee.

This Code contains general rules of conduct and ethics to be observed by the said officers and members so as to maintain integrity and impartiality in the co-operative movement.

Officers and members should adhere to this Code in both their public and private lives so as not to bring the committee and the co-operative society into disrepute and dishonour. It is imperative, therefore, that every officer should observe this Code with scrupulous care and diligence.

PART I – PRELIMINARY**1. Citation**

This Code may be cited as the Co-operative Societies Code of Conduct and Ethics.

2. Interpretation

In this Code, unless the context otherwise requires—

"Commission" means the Ethics Commission for Co-operative Societies established under the Public Officer Ethics Regulations;

"officer" means an officer or employee to whom this Code applies under paragraph 3 of this Code.

3. Application of Code

(1) This Code applies to all officers and employees of co-operative societies.

(2) For the purposes of this section, "officer" includes any committee member, member of a supervisory committee or other person concerned in the management of a co-operative society.

PART II – REQUIREMENTS**4. Compliance with General Code**

(1) An 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. Integrity and impartiality

Regardless of his political opinions, an officer shall serve with courtesy, honesty, integrity, probity and objectivity.

[Subsidiary]

6. Political affiliation

An officer is entitled to his own views on political matters but shall not be permitted, in the course of the performance of his duties, to express those views publicly or seek to influence his colleagues or those who seek his services to subscribe to his political beliefs.

7. Comments

An officer shall not—

- (a) make public comments that support or criticise a political party;
- (b) make public comments that may compromise, or may reasonably be seen to compromise, the political neutrality of his office;
- (c) except in furtherance of official duties, publicly comment on matters in relation to which he has been professionally involved; or
- (d) expressly or by implication, represent that any public comments he makes reflect the views or opinions of his organisation if that is not the case.

8. Responsibility to organisation

An officer shall ensure that he carries out his duties in a way that is consistent with his being part of his organisation.

9. Efficiency

An officer shall perform his duties with diligence, prudence and efficiency.

10. Canvassing for favours

An officer shall not canvass either directly or indirectly for any favours in the committee or in the organisation.

11. Harambees

(1) An officer may contribute towards or attend a harambee, but shall not—

- (a) conduct himself in such a way as to reflect adversely on his integrity or impartiality or to interfere with his official duties; or
- (b) play a central role in its organization or preside over it or be its guest of honour.

(2) The Controller and Auditor-General shall not use his office to solicit for funds for a harambee or any other purpose.

12. Conflict of interests

An officer is required to observe the following requirements in relation to his private interests—

- (a) he shall ensure that he does not subordinate his official duties to his private interests or put himself in a position where there is conflict between his official duties and his private interests;
- (b) he shall not associate outside his official duties with any financial or other activities in circumstances where there could be suspicion that his official position or official information available to him was being turned to his private gain or that of his associates;
- (c) he shall not engage in any occupation or business which might prejudice his status as an officer or bring the co-operative society into dispute;
- (d) he shall maintain at all times the ethical standards which the public expects of him in transacting official business with efficiency, integrity and impartiality.

13. Gifts, etc

(1) An officer shall neither ask for or accept any property or benefit of any kind for himself or for any person, on account of anything to be done, or omitted to be done by him in the discharge of his duties by virtue of his official position.

(2) An officer who is given a gift described in section 11(2) of the Act shall, even where the gift is not deemed, by the operation of Part III of the Act, to be a gift to the organisation—

- (a) report the matter to the person who is, in accordance with the administrative procedures of the Commission, the authorised officer, who shall direct the appropriate mode of disposal of the gift; and
- (b) comply with any such direction.

(3) A gift referred to in section 11(4) of the Act shall not be accepted by an officer on the premises of the organisations.

14. Conduct of private affairs

(1) An officer shall not neglect his financial and other obligations to his family and other persons or organisations.

(2) An officer shall live within his means and avoid incurring any financial liability that he cannot satisfy.

(3) An officer shall manage his finances prudently to avoid financial embarrassment to himself and his employer.

(4) An officer shall be a role model to his colleagues and other people around him and shall therefore refrain from activities that may bring the committee into disrepute.

(5) An officer shall not engage in private business during official working hours.

15. Safeguarding of information

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

16. Appropriate authority for reporting

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 an officer shall report a matter under that section is the Administrator of the Commission.

17. Breach of Code

Where an officer has committed a breach of this Code, appropriate action will be taken in accordance with the Act and other applicable laws.

APPENDIX

[para. 4(2)]

GENERAL CODE OF CONDUCT AND ETHICS

(Extract from Part III of the Act)

7. Part sets out general Code

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

8. Performance of duties, general

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. Professionalism

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;

[Subsidiary]

- (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 authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

10. Rule of law

- (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. No improper enrichment

- (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. Conflict of interest

- (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 or 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. Collections and harambees

(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 (Cap. 106).

14. Acting for foreigners

(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, organisation or individuals.

15. Care of property

(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. Political neutrality

(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. Nepotism, etc.

A public officer shall not practice nepotism or favouritism.

18. Giving of advice

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

[Subsidiary]

19. Misleading the public, etc

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

20. Conduct of private affairs

(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. Sexual harassment

(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

(c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

22. Selection, etc., of public officers

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. Submitting of declarations, etc.

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

24. Acting through others

(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. Reporting improper orders

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.

THE CODE OF CONDUCT AND ETHICS FOR PUBLIC UNIVERSITIES

ARRANGEMENT OF PARAGRAPHS

Paragraph

PREAMBLE

PART I – PRELIMINARY

1. Citation
2. Interpretation
3. Application of Code

PART II – REQUIREMENTS

4. Compliance with General Code
5. Integrity and impartiality
6. Teaching and conduct of examinations
7. Professionalism and courtesy
8. Management of resources
9. Gifts and donations
10. Private interests
11. Conduct of private affairs
12. Contesting political office
13. Duty of disclosure
14. Action for breach of Code

SCHEDULES

GENERAL CODE OF CONDUCT AND ETHICS

THE CODE OF CONDUCT AND ETHICS FOR PUBLIC UNIVERSITIES

[Legal Notice 170 of 2003]

PREAMBLE

The Education System of the Republic of Kenya is charged with the responsibility of nurturing the growth of the whole person through integrated development of physical, intellectual, moral and spiritual attributes and abilities.

The human resource in the public universities is crucial for the development of the universities and the realisation of their mission. This human resource is expected to exhibit a high degree of maturity, integrity, trustworthiness, responsibility and accountability.

This Code contains general rules of conduct and ethics to be observed by member, officers and employees of the public universities so as to maintain the integrity, dignity and nobility of university education.

This Code is not intended to replace the terms and conditions of service of individual members, officers and employees, and is to be applied consistently with the Constitution, the Universities Act and other legislation.

Members, officers and employees should adhere to this Code both in their public and private lives so as not to bring ridicule and dishonour to the universities.

PART I – PRELIMINARY**1. Citation**

This Code may be cited as the Code of Conduct and Ethics for Public Universities.

2. Interpretation

In this Code, unless the context otherwise requires—

“chief executive” means the Vice-Chancellor or equivalent officer of a university;

“Commission” means the Commission for University Education;

“officer” means a person to whom this Code applies, as provided by paragraph 3;

“public university” or “university” means a public university within the meaning of the Universities Act (Cap. 210);

“student” means a person enrolled as a learner in a university education institution.

3. Application of Code

This Code applies to officers and employees of a public university, including the members of a council of a public university, other than members who are members of the public service for whom the Public Service Commission is the responsible commission under the Act.

PART II – REQUIREMENTS**4. Compliance with General Code**

(1) An 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. Integrity and impartiality

(1) An officer shall conduct himself in a manner that promotes the universally recognised rights and freedoms of persons in order to protect the dignity of a person that a public university seeks to serve.

[Subsidiary]

(2) An officer shall at all times uphold the dignity of the university by conducting his official duties and his private affairs with integrity and in a dignified, honest and impeccable manner.

(3) An officer shall respect, protect and promote the human rights and freedoms of everybody in the university without discrimination on the basis of race, ethnicity, sex, political opinion, disability, religion or culture.

(4) An officer shall at all times be guided by merit and sound judgement in giving any services or granting opportunities to persons who seek such services or opportunities from the universities.

(5) An officer shall participate in enhancing, maintaining and enjoying the provisions of this Code.

(6) An officer shall respect, promote and comply with the rule of law.

6. Teaching and conduct of examinations

(1) An officer who is a member of the academic staff of the university shall organise his instruction, assessment and examination in a manner that complies with all institutional requirements and expectations.

(2) An officer who is a member of the academic staff of a university shall ensure that the examinations are delivered to the students as scheduled and that the results thereof is processed without undue delay.

(3) An officer shall exercise diligence, care and attention in the performance of his duties, and shall seek to achieve high standards in teaching or administrative duties.

(4) An officer shall promote the culture of research among university students, shall assist in the overall development of the student as a scholar and a decent human being.

(5) An officer who is involved in the conduct of examinations shall ensure that the contents of the examination papers are kept secret and are only released to students when they are sitting for their particular examination.

(6) For the purposes of subparagraph (5), an officer is involved in the conduct of examinations if his duties relate to—

- (a) setting or moderating of the examination;
- (b) typing, printing, photocopying, or otherwise producing or reproducing the examination papers;
- (c) transporting examination papers;
- (d) invigilation at the examinations;
- (e) marking or entering of grades attained, or if his duties otherwise give him access to examination papers or their contents.

(7) An officer whose duties involve the grading or assessment of examination performances shall at all times be guided by the rule of merit in grading or assessing the examination candidates.

7. Professionalism and courtesy

(1) An officer shall strictly adhere to the terms of his employment contract.

(2) Breach of his employment contract shall be deemed to be a breach of this Code.

(3) An officer shall comport himself with personal decency and shall be well groomed.

(4) An officer shall not absent himself from duty without a reasonable cause.

(5) An officer shall actively and personally promote a culture in the university that aims at providing fast, friendly, responsive and efficient services and shall be courteous to all persons in the provision of such services.

8. Management of resources

(1) An officer shall not misuse the resources of a public university.

(2) An officer shall ensure that public university resources under his charge are properly utilised and fully accounted for.

(3) An officer shall not use public university resources to unjustly enrich himself.

(4) An officer who is utilising public university resources to conduct research shall disclose this fact to the chief executive of the university and his activities shall be governed by such agreement as may be made between himself and the university.

(5) An officer shall observe the principles of the law governing intellectual property, copyright and other related matters in order to promote the culture of research and to uphold the integrity and academic freedom that members and students of public universities enjoy.

(6) For the purposes of this paragraph, “the university’s resources” includes—

- (a) physical facilities including the buildings, recreational facilities, infrastructure and all moveable and immoveable assets of the university;
- (b) university funds, however obtained, including funds received from students as tuition or accommodation fees, any donations, contributions or gifts and any funds otherwise obtained for use for university education;
- (c) furniture, equipment, apparatus, stationery and research materials, whether living or dead; and
- (d) motor vehicles and transport facilities provided for the purposes of university education.

9. Gifts and donations

(1) An officer shall not solicit for any property or benefit of any kind, for himself or for any person, on account of anything to be done or omitted by him in discharge of his duties or by virtue of his official position.

(2) An officer shall ensure that no member of his family solicits or accepts any gift, money, hospitality, free passage or favours from any person or organisation that might reasonably be thought to influence or be intended to influence the officer in discharging his official duties and responsibilities.

(3) A reference in this paragraph to members of the officer’s family is a reference to any spouse, child, grandchild, parent, grandparent or other relative of the officer, and to any other person with whom the officer maintains a close relationship.

(4) Where a gift is given without the officer’s knowledge or where refusal of a gift would be offensive to custom or might amount to bad public relations, the officer shall inform the chief executive of the university who shall decide how the gift is to be disposed of.

(5) Notwithstanding any other provisions of this Code, but subject to the General Code of Conduct and Ethics set out in the Appendix, an officer may—

- (a) accept gifts which are occasional and inexpensive or in the form of a souvenir or gifts whose value does not exceed twenty thousand shillings; and
- (b) accept personal gifts or donations from relatives or friends on such special occasions as may be recognised by custom.

(6) When any gift or donation is made for the development of the university, the officer together with the university management shall—

- (a) in writing disclose to the chief executive of the university the nature of the gift or donation;
- (b) in writing inform the chief executive of the university as to how the management intends to utilise the gift or donation; and
- (c) receipt the gift or donation and fully account for its use.

(7) This rule shall does not prohibit an officer from participating in social activities and accepting gifts during social occasions if the officer is participating in such activities in his personal or private capacity.

[Subsidiary]

10. Private interests

An officer—

- (a) shall ensure that he does not subordinate his official duties to his private interests or put himself in a position where there is conflict between his official duties and his private interests;
- (b) shall not associate outside his official duties with any financial or other activities in circumstances where there could be suspicion that his official position or official information available to him was being turned to his private gain or that of his associates;
- (c) shall not engage in any occupation or business which might prejudice his status as an officer or bring his office or university education into dispute; and
- (d) shall not in any way trade with his employer or allow his spouse or relatives to do so, or trade with any other institution where he is likely to have an advantage by virtue of his office.

11. Conduct of private affairs

(1) An officer shall conduct his private affairs in a way that maintains and enhances public confidence in the integrity of the university.

(2) An officer shall not neglect his financial and other obligations to his family and other persons or organisations.

(3) An officer shall prudently manage his finances to avoid financial embarrassment to himself and his employer.

(4) An officer shall be a role model to his students, colleagues and other people around him and shall therefore refrain from engaging in activities that undermine this role or bring the university into disrepute.

12. Contesting political office

An officer who wishes to contest a seat in the National Assembly or a Local Authority or any other political office shall be required to resign his office in the university.

13. Duty of disclosure

(1) An officer is under a duty to disclose to the Secretary to the Commission or to the chief executive of the university any violation of the General Code of Conduct and Ethics as set out in the Appendix hereto or of the provisions of this Code, and in particular—

- (a) where an officer is charged with a serious offence under the Penal Code (Cap. 63) or any other law where a prison sentence may be imposed other than in default of payment of a fine;
- (b) where an officer is declared bankrupt by a court of law;
- (c) where there has been sexual harassment of an officer by another officer, or of a student by an officer;
- (d) where there has been neglect of duty;
- (e) where there has been absenteeism at the place of work;
- (f) where there has been an act of fraud or collusion to defraud;
- (g) where examination irregularities have occurred; or
- (h) where there has been any other breach of the Code or the terms and conditions of service by an officer.

(2) For the purposes of subparagraph (1)(a), reports shall not be required in respect of proceedings for minor offences under the Traffic Laws, the Local Government By-laws, or the like.

14. Action for breach of Code

(1) When an officer has committed a breach of this Code, appropriate action will be taken in accordance with the provisions of the Act and other laws, and the terms and conditions of service of the officer.

(2) The Commission shall work closely with the governing council of the respective universities, or such other bodies as the Commission may from time to time identify, to enforce this Code.

 APPENDIX

[para. 4(2)]

GENERAL CODE OF CONDUCT AND ETHICS

*(Extract from Part III of the Act)***7. Part sets out general Code**

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

8. Performance of duties, general

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. Professionalism

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 authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

10. Rule of law

(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. No improper enrichment

(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;

[Subsidiary]

- (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. Conflict of interest

(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 or 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. Collections and harambees

(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 (Cap. 106).

14. Acting for foreigners

(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, organisation or individuals.

15. Care of property

(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. Political neutrality

(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. Nepotism, etc.

A public officer shall not practice nepotism or favouritism.

18. Giving of advice

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

19. Misleading the public, etc.

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

20. Conduct of private affairs

(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. Sexual harassment

(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
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

22. Selection, etc., of public officers

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.

[Subsidiary]

23. Submitting of declarations, etc

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

24. Acting through others

(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. Reporting improper orders

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.

**THE ETHICS COMMISSION FOR CO-OPERATIVE SOCIETIES
PROCEDURES FOR THE ADMINISTRATION OF PART IV OF THE ACT**

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation
 2. Interpretation
 3. Scope of procedures
 4. Administration officer
 5. To whom declarations submitted
 6. Who may make requests for clarifications
 7. Review of declarations, etc.
 8. Authorization of staff under section 30(2)
 9. Condition for certain disclosures to police, etc.
 10. Condition for disclosures to representatives
 11. Administration officer to report non-compliance
 12. Application where powers, etc., delegated
-

**THE ETHICS COMMISSION FOR CO-OPERATIVE SOCIETIES
PROCEDURES FOR THE ADMINISTRATION OF PART IV OF THE**

[Legal Notice 173 of 2003]

1. Citation

These procedures may be cited as the Ethics Commission for Co-operative Societies Procedures for the Administration of Part IV of the Act.

2. Interpretation

In these procedures, unless the context otherwise requires—

"administration officer" means the Senior Deputy Commissioner for Co-operative Development, who shall be the secretary to the Commission;

"Commission" means the Ethics Commission for Co-operative Societies established under the Public Officer Ethics Regulations (sub. leg)

3. Scope of procedures

These Procedures are for the administration of Part IV of the Act with respect to the public officers for whom the Commission is the responsible Commission under the Act.

4. Administration officer

The administration officer shall be responsible for the administration of Part IV of the Act by the Commission.

5. To whom declarations submitted

Declarations to be submitted to the Commission under Part IV of the Act shall be submitted to the administration officer.

6. Who may make requests for clarifications

Requests for clarifications under section 28 of the Act shall be made, on behalf of the Commission, by the administration officer or by staff of the Commission authorized in writing by him for that purpose.

7. Review of declarations, etc.

(1) The administration officer, or staff of the Commission authorized by him for the purpose, shall review each declaration to ascertain if, in the opinion of the administration officer or staff, any of the following conditions are satisfied—

- (a) on the face of the declaration, or in light of any other information the Commission may have, there is reason to suspect the declaration may be false or incomplete;
- (b) the assets of the person who submitted the declaration are disproportionate to his income; or
- (c) the income, assets or liabilities of the person who submitted the declaration raise concerns of impropriety or conflict of interest.

(2) If it is ascertained that any of the conditions in subparagraph (1) are satisfied, the person who submitted the declaration shall be given an opportunity to give an explanation.

(3) If, after considering any explanation the person who submitted the declaration may give, the administration officer is of the opinion that any of the conditions in subparagraph (1) are still satisfied, the administration officer shall bring the matter to the attention of the Commission.

(4) The Commission may, with respect to a matter brought to its attention under paragraph (3), take such action as it considers appropriate including, without limiting the generality of the foregoing, notifying the Kenya Anti-corruption Commission and giving the

[Subsidiary]

Kenya Anti-corruption Commission particulars of the condition that is satisfied and a copy of the declaration.

8. Authorization of staff under section 30(2)

(1) The Commission or the administration officer may authorize staff of the Commission for the purposes of section 30(2) of the Act.

(2) An authorization under paragraph (1) shall be in writing.

9. Condition for certain disclosures to police, etc.

Except as provided under paragraph 7(4), information shall not be disclosed, under section 30(2) of the Act, to the police or any other law enforcement agency unless a written request is provided.

10. Condition for disclosures to representatives

Information shall not be disclosed, under section 30(2) of the Act, to a representative of the person who provided the information unless the representative provides copies of documents that establish the representative's authority to receive the information.

11. Administration officer to report non-compliance

The administration officer shall ensure that failures by public officers to comply with the requirements of Part IV of the Act are brought to the attention of the Commission.

12. Application where powers, etc., delegated

The following shall apply with respect to the application of these procedures by a person to whom the powers and functions of the Commission under Part IV of the Act have been delegated under section 4 of the Act—

- (a) a reference to "administration officer" shall be deemed to be a reference to the person to whom the powers and functions have been delegated;
 - (b) a reference to "staff of the Commission" shall be deemed to be a reference to staff under the authority of the person to whom the powers and functions have been delegated;
 - (c) the person to whom the powers and function have been delegated is not required to bring matters to the attention of the Commission under paragraph 7(3) and may do anything that the Commission may do under paragraph 7(4);
 - (d) the person to whom the powers and functions have been delegated is not required to ensure that failures to comply with Part IV of the Act are brought to the attention of the Commission under paragraph 11 but may, instead, take such action as the person considers appropriate.
-

**THE PUBLIC UNIVERSITIES PROCEDURES FOR
THE ADMINISTRATION OF PART IV OF THE ACT**

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation
 2. Interpretation
 3. Scope of procedures
 4. Administration officer
 5. To whom declarations submitted
 6. Who may make requests for clarifications
 7. Review of declarations, etc.
 8. Authorization of staff under Section 30(2)
 9. Condition for certain disclosures to police, etc.
 10. Condition for disclosures to representatives
 11. Administration officer to report non-compliance
-

**THE PUBLIC UNIVERSITIES PROCEDURES FOR
THE ADMINISTRATION OF PART IV OF THE**

[Legal Notice 171 of 2003]

1. Citation

These Procedures may be cited as the Public Universities Procedures for the Administration of Part IV of the Act.

2. Interpretation

In these procedures, unless the context otherwise requires—

"administration officer" means the Secretary to the Commission;

"Commission" means the Commission for University Education.

3. Scope of procedures

These Procedures are for the administration of Part IV of the Act with respect to the public officers for whom the Commission is the responsible Commission under the Act.

4. Administration officer

The administration officer shall be responsible for the administration of Part IV of the Act by the Commission.

5. To whom declarations submitted

(1) Declarations to be submitted to the Commission under Part IV of the Act shall be submitted to the person appointed by the Commission in writing for that purpose who shall be responsible to the administration officer and shall, within the time appointed by the Commission (or, in the event that no time is specified, within a reasonable time) forward the forms to the administration officer.

(2) The person appointed under subparagraph (1) shall, keep the information collected in confidence and shall not disclose the information to any other person apart from the administration officer.

6. Who may make requests for clarifications

Requests for clarifications under section 28 of the Act shall be made, on behalf of the Commission, by the administration officer or by staff of the Commission authorized in writing by him for that purpose.

7. Review of declarations, etc.

(1) The administration officer, or staff of the Commission authorized by him for the purpose, shall review each declaration to ascertain if, in the opinion of the administration officer or staff, any of the following conditions are satisfied—

- (a) on the face of the declaration, or in light of any other information the Commission may have, there is reason to suspect the declaration may be false or incomplete;
- (b) the assets of the person who submitted the declaration are disproportionate to his income; or
- (c) the income, assets or liabilities of the person who submitted the declaration raise concerns of impropriety or conflict of interest.

(2) If it is ascertained that any of the conditions in subparagraph (1) are satisfied, the person who submitted the declaration shall be given an opportunity to give an explanation.

(3) If, after considering any explanation the person who submitted the declaration may give, the administration officer is of the opinion that any of the conditions in subparagraph

[Subsidiary]

(1) are still satisfied, the administration officer shall bring the matter to the attention of the Commission.

(4) The Commission may, with respect to a matter brought to its attention under paragraph (3), take such action as it considers appropriate including, without limiting the generality of the foregoing, notifying the Kenya Anti-corruption Commission and giving the Kenya Anti-corruption Commission particulars of the condition that is satisfied and a copy of the declaration.

8. Authorization of staff under Section 30(2)

(1) The Commission or the administration officer may authorize staff of the Commission for the purposes of section 30(2) of the Act.

(2) An authorization under paragraph (1) shall be in writing.

9. Condition for certain disclosures to police, etc.

Except as provided under paragraph 7(4), information shall not be disclosed, under section 30(2) of the Act, to the police or any other law enforcement agency unless a written request is provided.

10. Condition for disclosures to representatives

Information shall not be disclosed, under section 30(2) of the Act, to a representative of the person who provided the information unless the representative provides copies of documents that establish the representative's authority to receive the information.

11. Administration officer to report non-compliance

The administration officer shall ensure that failures by public officers to comply with the requirements of Part IV of the Act are brought to the attention of the Commission.

**THE CODE OF CONDUCT AND ETHICS FOR THE MEMBERS AND
STAFF OF THE ETHICS AND ANTI-CORRUPTION COMMISSION**

ARRANGEMENT OF PARAGRAPHS

Paragraph

PREAMBLE

PART I – PRELIMINARY

1. Citation
2. Interpretation
3. Application of Code

PART II – REQUIREMENTS

4. Compliance with General Code
5. Integrity
6. Conflict of interest
7. Gifts
8. Other employment or business
9. Pecuniary embarrassment
10. Social association and recreation
11. Press statements
12. Confidentiality
13. Political association
14. Compliance with staff rules and regulations and disciplinary code

PART III – SATISFACTION OF THE REQUIREMENTS OF THE CODE

15. The Director, etc.
16. Staff

SCHEDULES

GENERAL CODE OF CONDUCT AND ETHICS

THE CODE OF CONDUCT AND ETHICS FOR THE MEMBERS AND STAFF OF THE ETHICS AND ANTI-CORRUPTION COMMISSION

[Legal Notice 74 of 2005]

PREAMBLE

The Ethics and Anti-Corruption Commission is a body corporate established by the Anti-Corruption and Economic Crimes Act (Cap. 65) The Commission is mandated by the law to spearhead the fight against corruption in Kenya through public education, prevention, and by enforcement of the law against corruption.

This Code is intended to set out the standards of conduct and ethical behaviour for members and staff of the Commission.

PART I – PRELIMINARY

1. Citation

This Code may be cited as the Code of Conduct and Ethics for the Members and Staff of the Kenya Anti-Corruption Commission.

2. Interpretation

In this Code, unless the context otherwise requires—

"the Act" means the Public Officer Ethics Act (Cap. 185B);

"Advisory Board" means the Kenya Anti-Corruption Advisory Board;

"Assistant Director" means an Assistant Director of the Kenya Anti-Corruption Commission;

"Commission" means the Ethics and Anti-Corruption Commission;

"Director" means the Director of the Ethics and Anti-Corruption Commission;

"Disciplinary Code" means the Code issued by the Director under paragraph 7 in the First Schedule of the Anti-Corruption and Economic Crimes Act (Cap. 65);

"Members" in reference to the Kenya Anti-Corruption Commission means the Director and Assistant Directors of the Commission;

"public officer" refers to members and staff of the Commission;

"staff" in reference to the Ethics and Anti-Corruption Commission means persons employed by the Commission, and includes those serving on secondment basis, but does not include the members.

3. Application of Code

This Code applies with respect to the members and staff of the Kenya Anti-Corruption Commission, who shall for that purpose be regarded as public officers.

PART II – REQUIREMENTS

4. Compliance with General Code

(1) A public officer shall comply with all the requirements 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. Integrity

A public officer shall not engage in any activities involving dishonesty, fraud or moral turpitude.

[Subsidiary]

6. Conflict of interest

A public officer—

- (a) shall not engage in any activity likely to place him/her in a position of divided loyalty between his/her private interest and official duty; and
- (b) shall declare to the Director any conflict between his/her private interest and official duty immediately such conflict arises and shall comply with any lawful direction to resolve the conflict.

7. Gifts

(1) A public officer shall not without the general permission or special permission of the Director accept or solicit any gifts, rewards, benefits or any other valuable present in any form, including free passage, hospitality and other favours, from any person who has an interest that may be affected by the officer's official duties.

(2) A public officer may accept a gift given to him/her in his/her official capacity but, unless the gift is a non-monetary gift that does not exceed Shs. 20,000 in value, the gift shall be surrendered to the Commission.

8. Other employment or business

(1) A public officer shall not take employment in any other work or business or hold any other public office.

(2) A public officer shall not engage in a business that is likely to conflict with his duties or loyalty to the Commission, or which is likely to cause a perception of such conflict.

9. Pecuniary embarrassment

A public officer shall live within his/her means and only incur financial obligations that he/she can satisfy without any form of financial hardship or embarrassment to himself/herself.

10. Social association and recreation

A public officer shall be selective in the company he/she keeps and places patronized, and shall not engage in conduct or company which is conducive to corrupt practices.

11. Press statements

Except where it is part of his/her official duties, a public officer shall not issue press statements on a matter of the Commission without the authority of the Director.

12. Confidentiality

(1) A public officer shall not, except with the authority of the Director or with other lawful excuse, disclose the details of an investigation by the Commission, including the identity of anyone being investigated.

(2) A public officer shall at all times during service and thereafter not disclose to unauthorized persons any matter that has come to his/her knowledge by virtue of employment, unless the information has already been made public.

13. Political association

A public officer shall refrain from active politics except for exercising his/her right to vote at elections. He/she shall not publicly express his/her personal views on political matters.

14. Compliance with staff rules and regulations and disciplinary code

A public officer shall adhere to the staff rules and regulations that may be issued by the Commission from time to time touching on the terms and conditions of service, and the disciplinary code that shall be issued by the Director.

PART III – SATISFACTION OF THE REQUIREMENTS OF THE CODE

15. The Director, etc.

- (1) The Director shall be responsible for the enforcement of this Code.
- (2) The Director may delegate to an Assistant Director any general or specific duties for the enforcement of this Code.

16. Staff

- (1) The staff shall be subject to the procedures prescribed in the disciplinary code and any staff rules and regulations issued by the Director.
- (2) An allegation of misconduct against staff shall be investigated, and the necessary sanction imposed, under the provisions of Part V of the Act and also in accordance with the procedures set out by the disciplinary code.
- (3) A public officer, not being an Assistant Director, may be removed from office by the Director on the ground that the officer has breached this code or the disciplinary code, or on the ground that the Director no longer has confidence in the officer's integrity.

APPENDIX

[para. 4(2)]

GENERAL CODE OF CONDUCT AND ETHICS

*(Extract from Part III of the Act)***7. Part sets out general Code**

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

8. Performance of duties, general

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. Professionalism

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 authorisation or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

10. Rule of law

- (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. No improper enrichment

- (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—

[Subsidiary]

- (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. Conflict of interest

- (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 or 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 paragraph.
- (6) In this section, "personal interest" includes the interest of a spouse, relative or business associate.

13. Collections and harambees

- (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 (Cap. 106).

14. Acting for foreigners

(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, organisation or individuals.

15. Care of property

(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. Political neutrality

(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. Nepotism, etc.

A public officer shall not practice nepotism or favouritism.

18. Giving of advice

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

19. Misleading the public, etc.

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

20. Conduct of private affairs

(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. Sexual harassment

(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
 - (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

[Subsidiary]

22. Selection, etc. of public officers

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. Submitting of declarations, etc

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

24. Acting through others

(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) Subparagraph (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. Reporting improper orders

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.

**THE ETHICS AND ANTI-CORRUPTION COMMISSION
PROCEDURES FOR THE ADMINISTRATION OF
PART IV OF THE PUBLIC OFFICER ETHICS ACT**

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation
 2. Interpretation
 3. Application of procedures
 4. Responsibility for administration
 5. To whom declarations to be submitted
 6. Who may make requests for clarifications
 7. Review of declarations, etc.
 8. Authorization of staff
 9. Condition for disclosures
-

**THE ETHICS AND ANTI-CORRUPTION COMMISSION
PROCEDURES FOR THE ADMINISTRATION
OF PART IV OF THE PUBLIC OFFICER ETHICS**

[Legal Notice 75 of 2005]

1. Citation

These procedures may be cited as the Ethics and Anti-Corruption Commission Procedures for the Administration of Part IV of the Public Officer Ethics Act.

2. Interpretation

In these procedures, unless the context otherwise requires—

"the Act" means the Public Officer Ethics Act (Cap. 185B);

"Advisory Board" means the Ethics and Anti-Corruption Advisory Board;

"Assistant Director" means an Assistant Director of the Commission;

"Commission" means the Ethics and Anti-Corruption Commission;

"Director" means the Director of the Commission.

3. Application of procedures

These procedures are for the administration of Part IV of the Act with respect to the public officers for whom the Commission is the responsible Commission under the Act.

4. Responsibility for administration

The Director, or an officer of the Commission designated by him for that purpose in writing, shall be responsible for the administration of Part IV of the Act by the Commission.

5. To whom declarations to be submitted

Declarations required to be submitted to the Commission under Part IV of the Act shall be submitted to the Director or to such officer or officers of the Commission as the Director may from time to time designate in writing for that purpose.

6. Who may make requests for clarifications

Requests for clarifications under section 28 of the Act shall be made, on behalf of the Commission, by the Director or by an Assistant Director who is expressly instructed to do so by the Director.

7. Review of declarations, etc.

(1) The Director, or an Assistant Director instructed for that purpose by the Director, shall—

- (a) ascertain that all public officers who are required to submit their declarations have done so; and
- (b) review each declaration to ascertain if any of the following conditions are satisfied—
 - (i) on the face of the declaration, or in light of any other information the Commission may have, there is reason to suspect the declaration may be false or incomplete;
 - (ii) the assets of the person who submitted the declaration appear disproportionate to his income;
 - (iii) the income, assets or liabilities of the person who submitted the declaration raise concerns of impropriety or conflict of interest.

[Subsidiary]

(2) If it is ascertained that any of the conditions in subparagraph (1)(b) are satisfied, the person who submitted the declaration shall be given an opportunity to give an explanation.

(3) If no explanation is given, or if after considering any explanation the person who submitted the declaration may give, the Director is of the opinion that the conditions in subparagraph (1)(b) are still satisfied, the Director may, in addition to any other action including investigations and civil proceedings, take disciplinary action against the officer concerned.

8. Authorization of staff

The authorized staff of the Commission for purposes of section 30(2) of the Act are the following—

- (a) the Director;
- (b) assistant Directors;
- (c) any officer or officers authorized in writing by the Director.

9. Condition for disclosures

(1) Disclosure of information contained in a declaration to any persons other than the authorized persons shall only be upon the written request of such persons addressed to the Director.

(2) The Director may decline to make a disclosure under subparagraph (1) above if he is of the opinion that such disclosure would be a violation of any written law.

(3) Nothing contained in this paragraph shall prevent an officer of the Commission from accessing the information contained in his/her own declaration.

THE PUBLIC OFFICER ETHICS (MANAGEMENT, VERIFICATION AND ACCESS TO FINANCIAL DECLARATIONS) REGULATIONS

ARRANGEMENT OF REGULATIONS

PART I – PRELIMINARY

Regulation

1. Citation
2. Interpretation

PART II – STORAGE AND ACCESS TO INFORMATION IN DECLARATIONS OF INCOME, ASSETS AND LIABILITIES

3. Storage of declaration information by commissions
4. Access to declaration information
5. Commission to respond within thirty days of application
6. Commission to notify applicant
7. Grounds in which Commission may deny access
8. Person dissatisfied with decision to appeal

PART III – MANAGEMENT OF DECLARATIONS

9. Certain functions of responsible Commissions

PART IV – GENERAL PROVISIONS

10. General provisions establishment of committee

SCHEDULES

SCHEDULE —

FORMS

THE PUBLIC OFFICER ETHICS (MANAGEMENT, VERIFICATION AND ACCESS TO FINANCIAL DECLARATIONS) REGULATIONS

[Legal Notice 179 of 2011]

PART I – PRELIMINARY

1. Citation

These Regulations may be cited as the Public Officer Ethics (Management, Verification and Access to Financial Declarations) Regulations.

2. Interpretation

In these Regulations unless the context otherwise requires—

"authorised officer" means any person authorized by the Commission generally or in relation to a particular declaration;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to integrity.

"declaration" means the declaration of income, assets and liabilities required of public officers under the Act and includes a clarification or additional information provided in respect of a declaration;

PART II – STORAGE AND ACCESS TO INFORMATION IN DECLARATIONS OF INCOME, ASSETS AND LIABILITIES

3. Storage of declaration information by commissions

A Commission may store the information contained in a declaration in electronic form, microfilm or any other form as it may consider appropriate.

4. Access to declaration information

(1) A person may access information contained in a declaration upon making an application to the authorised officer of the responsible Commission in the Form A set out in the Schedule.

(2) An application made under paragraph (1) shall provide—

- (a) full names and address of the applicant;
- (b) specific aspects of the information that is sought;
- (c) particulars on the manner and purpose for which the information is intended to be used; and
- (d) a declaration that the applicant will not publish such information unless with the written permission of the responsible Commission.

(3) Upon receipt of an application for access to information, the responsible Commission shall issue the applicant with an acknowledgement slip in the Form B set out in the Schedule.

5. Commission to respond within thirty days of application

An application for access to information contained in the declaration form shall be considered by the responsible Commission within thirty days of the date of receipt of the application and the applicant shall be notified of the responsible Commission's decision in writing.

6. Commission to notify applicant

(1) Upon receipt of an application made under regulation 4, the responsible Commission shall notify the concerned public officer of such an application in writing.

(2) The public officer shall make representations in writing to the notice within fourteen days.

[Subsidiary]

(3) Where the public officer requests the responsible Commission to deny the application, he shall state his reasons in writing.

(4) Where the public officer does not respond to the notice within fourteen days, the responsible Commission may extend the period within which the public officer may respond by up to fourteen days.

7. Grounds in which Commission may deny access

A Commission may deny in writing, access to the declaration or information contained in that declaration if, it is of the opinion that the application is frivolous, vexatious or that the disclosure of such information would be against public interest or is likely to be used in a manner that is detrimental to the security or safety of the concerned public officer.

8. Person dissatisfied with decision to appeal

A person who is dissatisfied with the decision of a Commission to allow or deny disclosure of all or part of the information requested, may within fourteen days of such decision, appeal to the Minister in writing.

PART III – MANAGEMENT OF DECLARATIONS

9. Certain functions of responsible Commissions

Every responsible Commission shall undertake the following functions relating to the declarations of public officers—

- (a) develop a uniform information management system to store and analyse the declarations;
- (b) analyse, evaluate, inspect and verify the accuracy of the income, assets and liabilities of any declaration;
- (c) compare and contrast any information obtained from other sources with the information contained in the declaration of a particular public officer or category of public officers after analysis, inspection, evaluation and verification to ensure it's authenticity;
- (d) at the request of any other commission or public body, advise and assist the Commission on ways and means of improving the administration of the declaration process;
- (e) examine it's practices, systems and procedures in order to identify weaknesses in the declaration process and make recommendations to address them;
- (f) undertake such studies or systemic audits as may be necessary for purposes of enhancing it's capacity to handle declarations;
- (g) prepare and submit to the Minister an annual report on declaration returns, trends, challenges and proposals for reform and such statistical or other information relating to declarations that the Minister may require; and
- (h) advise the Minister on policy or legislative reforms relating to the declaration process.

PART IV – GENERAL PROVISIONS

10. General provisions establishment of committee

Each responsible Commission shall establish a committee responsible to its chief executive, to oversee the management, verification, and access to declarations.

SCHEDULE

FORMS

FORM A

(r. 4(1))

REQUEST TO ACCESS WEALTH DECLARATION OR CLARIFICATION

The form is obtainable for free from any responsible Commission or may be downloaded from the Public Service Commission of Kenya website (www.publicservice.go.ke) or from the websites of other responsible Commissions.

PART I – INFORMATION ON APPLICANT

- 1. Name
- 2. National Identity Card/Passport Number
- 3. Postal Address
- 4. Physical Address
- 5. E-mail Address
- 6. Occupation

PART II – INFORMATION ON THE PERSON WHOSE DECLARATION IS SOUGHT TO BE OBTAINED:

- (a) Name
- (b) Ministry/Department/Agency
- (c) Work Station
- (d) Reason for requiring the information
 - (i) Official
 - (ii) Other reason
- (e) State precisely the purpose for which the declaration sought will be used
.....
.....

PART III – ADDITIONAL INFORMATION

Give any other information you may consider relevant and useful to your request:

.....

PART IV – DECLARATION

I,, solemnly declare that the information

I have given above is true, complete and correct to the best of my knowledge

Date

Signature of Applicant

.....

**FORM B (r. 4(3))
REQUEST TO ACCESS WEALTH DECLARATION OR CLARIFICATION
ACKNOWLEDGEMENT SLIP**

Name of Applicant

National Identity Card/Passport Number

Name of Organization (where applicable)

Postal Address

Public Officer Ethics

[Subsidiary]

Date of Application

Delivered by

Comments

Name

For: (Name of responsible Commission or agent)

Signature:

Date:

Stamp:

FOR OFFICIAL USE:

1. Date of declaration

2. Date of receipt of declaration

3. Action taken:

(a) Acknowledgement Slip issued:

(b) Filed:

(c) Sent for verification/clarification:

(d) Representations by affected public officer

(e) Decision on the Application:

(i) Application approved (unconditionally)

(ii) Application approved subject to the following conditions:

.....

(iii) Not approved due to the following reasons:

.....

Name of receiving officer

Signature

THE PUBLIC SERVICE CODE OF CONDUCT AND ETHICS

ARRANGEMENT OF PARAGRAPHS

PART I – PRELIMINARY

Paragraph

1. Citation
2. Application
3. Interpretation
4. General objective
5. Specific objectives

PART II – SPECIFIC CODE OF CONDUCT
AND ETHICS FOR PUBLIC OFFICERS

6. Professional and statutory codes to be binding
7. Rule of law
8. Responsibility and duties
9. Performance of duties
10. Professionalism
11. Conduct of private affairs
12. Financial integrity
13. Tax, financial and legal obligations
14. Moral and ethical requirements
15. Gifts and benefits in kind
16. Wrongful and unlawful acquisition of property
17. Conflict of interest
18. Participation in tenders
19. Collections and harambees
20. Bank accounts outside Kenya
21. Acting for foreigners
22. Care of property
23. Misuse of official information
24. Political neutrality
25. Impartiality
26. Gainful employment
27. Offers of future employment
28. Former public officer acting in a Government or public entity matter
29. Bullying
30. Sexual harassment
31. Submitting of declarations
32. Acting through others
33. Reporting improper orders

PART III – ENFORCEMENT OF THE CODE OF CONDUCT
AND ETHICS FOR OFFICERS IN THE PUBLIC SERVICE

34. A public officer to sign and commit to the Code
35. Disciplinary procedure, etc
36. Lodging of complaints and investigations
37. Referral for possible civil or criminal proceedings

PART IV – OFFENCES AND PENALTIES

[Subsidiary]

38. Contravention of the Code

PART V – MISCELLANEOUS MATTERS

39. Revocation of Legal Notice No. 124 of 2003

SCHEDULES

REGISTRABLE INTERESTS

REGISTER OF GIFTS

REGISTER OF DECLARATION OF CONFLICT OF INTEREST

COMMITMENT FORM

REGISTER OF COMPLAINTS

THE PUBLIC SERVICE CODE OF CONDUCT AND ETHICS

[Legal Notice 54 of 2016]

PART I – PRELIMINARY**1. Citation**

This Code of Conduct and Ethics may be cited as the Public Service Code of Conduct and Ethics, and shall come into operation on such date as the Commission may appoint by notice in the *Gazette*.

2. Application

This Code shall apply to all public officers for whom the Commission is the responsible Commission.

3. Interpretation

In this Code, unless the context otherwise requires—

"authorised officer" means an officer of a public entity responsible for the discipline of public officers serving in that public entity;

"Commission" means the Public Service Commission established under Article 233(1) of the Constitution;

"gainful employment" means employment that a public officer pursues or performs for money or for other compensation or remuneration which is incompatible with the responsibilities of his or her office or which results in the impairment of his or her judgment or results in a conflict of interest;

"harambee" means the public collection of funds;

"Member" means the Chairperson, vice-Chairperson or a Commissioner of the Commission;

"public officer" means a public officer as defined in Article 260 of the Constitution; and

"Secretary" means the Secretary and chief executive officer of the Commission.

4. General objective

The general objective of the Code is to give effect to the provisions of Chapter Six of the Constitution.

5. Specific objectives

The specific objectives of this Code shall include—

- (a) to ensure accountability by a public officer for his or her decisions or actions;
- (b) to promote discipline;
- (c) to promote honesty;
- (d) to provide mechanisms for the management of conflicts of interest;
- (e) to protect the integrity of the public service; and
- (f) to provide a framework for reporting of misconduct by a public officer.

PART II – SPECIFIC CODE OF CONDUCT AND ETHICS FOR PUBLIC OFFICERS**6. Professional and statutory codes to be binding**

A public officer, who is a professional in the public service, shall be bound by, and observe, the professional code of conduct he or she might be required to subscribe to.

[Subsidiary]

7. Rule of law

A public officer shall carry out his or her duties in accordance with the law.

8. Responsibility and duties

A public officer shall be responsible for the reasonably foreseeable consequences of any acts or omissions arising from the performance of his or her duties.

9. Performance of duties

A public officer shall—

- (a) carry out his or her duties efficiently and honestly;
- (b) carry out his or her duties in a transparent and accountable manner;
- (c) keep accurate records and documents relating to his or her duties;
- (d) not be absent from duty without official permission; and
- (e) not engage in private business during official working hours.

10. Professionalism

A public officer shall—

- (a) carry out his or her duties in a manner that protects the integrity of his or her office;
- (b) treat members of the public and other public officers with courtesy and respect;
- (c) not discriminate against any person;
- (d) ensure the efficient, effective and economic use of resources in his or her charge;
- (e) be accountable for his or her administrative acts;
- (f) maintain an appropriate standard of dress and personal hygiene;
- (g) discharge any professional responsibilities in a professional manner; and
- (h) where the public officer is a member of a professional body, observe and subscribe to the ethical and professional requirements of that body:

Provided that those ethical and professional requirements shall not contravene the Constitution, this Code or any other written law.

11. Conduct of private affairs

A public officer shall conduct private affairs in a manner that maintains public confidence in his or her integrity.

12. Financial integrity

(1) A public officer shall not use his or her office to unlawfully or wrongfully enrich himself, herself or any other person.

(2) A public officer shall not seek or accept a personal loan or benefit that may compromise his or her integrity.

(3) A public officer shall live within his or her means and shall not incur any financial liability that he or she cannot satisfy.

13. Tax, financial and legal obligations

(1) A public officer shall pay any taxes due from him or her within the prescribed period.

(2) A public officer shall not neglect his or her financial or legal obligations.

14. Moral and ethical requirements

A public officer shall—

- (a) be honest in the conduct of public affairs;

- (b) not engage in activities that amount to abuse of office;
- (c) accurately and honestly present information to the public;
- (d) not engage in wrongful conduct in furtherance of personal benefit;
- (e) not misuse public resources;
- (f) not falsify any records; and
- (g) not engage in actions that may lead to his or her removal from the membership of a professional body to which he or she may belong.

15. Gifts and benefits in kind

(1) A gift or donation given to a public officer in his or her official capacity shall be treated as a gift or donation to his or her office.

(2) Notwithstanding subparagraph (1), a public officer may receive a gift given in his or her official capacity provided that—

- (a) the gift is within the ordinary bounds of propriety;
- (b) the gift is an ordinary expression of courtesy or protocol, or within the ordinary standards of hospitality;
- (c) the gift is not in monetary form; and
- (d) the gift does not exceed such value as may be prescribed by the Ethics and Anti-Corruption Commission.

(3) Without limiting the generality of subparagraph (2), a public officer shall not—

- (a) accept or solicit gifts, hospitality or other benefits from a person who—
 - (i) has an interest that may be achieved 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 entity has a role; or
 - (iii) has a contractual or legal relationship with the public entity;
- (b) accept or offer gifts of jewelry or other gifts comprising precious metals or stones, ivory or any other animal part protected under the Convention on International Trade in Endangered Species of Wild Fauna and Flora; or
- (c) any other type of gift specified by the Ethics and Anti-Corruption Commission.

(4) A public officer shall not receive a gift which is given with an intention of compromising his or her integrity, objectivity or impartiality.

(5) Subject to subparagraph (2), a public officer who receives a gift or donation shall declare the gift or donation to the public entity.

(6) Whereas a public officer can accept gifts dictated by custom such gifts shall not be given or accepted in the public office.

(7) The public entity shall keep a register in the form set out in the Second Schedule to this Code of—

- (a) all gifts received by public officers in that public entity; and
- (b) all gifts given by the public entity.

(8) The public entity shall comply with the Ethics and Anti-Corruption Commission Regulations on the receiving and disposal of gifts.

16. Wrongful and unlawful acquisition of property

A public officer shall not use his or her office to wrongfully or unlawfully acquire or influence the acquisition of property.

17. Conflict of interest

(1) A public officer shall use the best efforts to avoid being in a situation where that public officer's personal interests conflict with or appear to conflict with the officer's official duties.

[Subsidiary]

(2) Without limiting the generality of subparagraph (1), a public officer shall not hold shares or have any other interest in a company, partnership or other body, directly or through another person, if the holding of those shares or having that interest would result in a conflict with his or her official duties.

(3) A public officer whose personal interests are or may be in conflict with his or her official duties shall declare those personal interests to the public entity.

(4) The public entity may give directions on the appropriate action to be taken by the officer to avoid the conflict of interest and the officer shall—

- (a) comply with the directions; and
- (b) refrain from participating in any deliberations with respect to the matter.

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

- (a) himself or herself;
- (b) his or her spouse or child; or
- (c) business associate or agent.

(6) In this paragraph, a "conflict of interest" includes the interest of a spouse, a child, a business associate or an agent, or any other matter in which the public officer has a direct or indirect pecuniary or non-pecuniary interest.

(7) Where a public officer is present at a meeting where an issue that is likely to result in a conflict of interest is to be discussed, he or she shall declare the interest at the beginning of the meeting or before the issue is deliberated upon.

(8) A declaration of a conflict of interest under subparagraph (7) shall be recorded in the minutes of that meeting.

(9) The public entity shall maintain a register of conflicts of interest in the form set out in the Third Schedule to this Code in which an affected officer shall register the particulars of registrable interests, stating the nature and extent of the conflict.

(10) For the purposes of subparagraph (9), the registrable interests include the interests set out in the First Schedule to this Code.

(11) The public entity shall keep the register of conflicts of interests for five years after the last entry in each volume of the register.

(12) A public officer shall amend the record of his or her registrable interest in the register maintained under subparagraph (9) whenever there is a change in those registrable interest and such an amendment shall be made within thirty days of the change in the conflict of interest.

18. Participation in tenders

A public officer shall not, in his or her private capacity, participate in a tender for the supply of goods or services to the public entity in which he/she serves.

19. Collections and harambees

(1) A public officer shall not—

- (a) use his or her office or place of work as a venue for soliciting or collecting harambees;
- (b) either as a collector or a promoter of collection harambee, obtain money or other property from a person by using his or her official position in any way to exert pressure;
- (c) preside at a harambee, or play a central role in the organization of a harambee, or appear as a guest of honour at a harambee; or
- (d) participate at a harambee in such a way as to reflect adversely on his integrity or impartiality or interfere with the performance of his or her duties.

(2) For the purposes of this rule, "collection", "collector" and "promoter" have the same meanings as are assigned to them in section 2 of the Public Collections Act (Cap. 106).

20. Bank accounts outside Kenya

A public officer shall not maintain a bank account outside Kenya except with the approval of the Ethics and Anti-Corruption Commission or in accordance with any written law.

21. Acting for foreigners

A public officer shall not be an agent of, or further the interests of a foreign government, organisation or individual in a manner that may be detrimental to the interests of Kenya.

22. Care of property

(1) A public officer shall take all reasonable steps to ensure that any public property in his or her custody, possession or control is taken care of and is in good repair and condition.

(2) A public officer shall not use public property, funds or services that are acquired in the course of, or as a result of, the official duties for activities for which they were not intended.

(3) A public officer shall return to the issuing authority all the public property in his or her custody, possession or control at the end of his or her appointment or employment.

(4) A public officer who contravenes subparagraph (2) or (3) shall, in addition to any other penalties provided for under the Constitution or any other written law, be personally liable for any loss or damage of the public property.

23. Misuse of official information

(1) A public officer shall not use or allow any person under the officer's authority to use any information obtained through or in connection with the office, which is not available to the public, for the furthering of any private interest.

(2) Subparagraph (1) shall not apply where the information is used for—

- (a) furthering the purposes of this Code; or
- (b) education, research, literary, scientific or other purposes not prohibited by law.

(3) Notwithstanding the generality of subparagraph (1), a public officer shall take all reasonable steps to ensure that confidential or secret information or documents entrusted to his or her care are adequately protected from improper or inadvertent disclosure.

24. Political neutrality

(1) A public officer shall not, in the performance of his or her duties—

- (a) act as an agent for, or further the interests of, a political party or a political candidate at an election; or
- (b) manifest support for, or opposition to, any political party or political candidate at an election.

(2) A public officer shall remain politically neutral during his or her term of employment.

(3) Without prejudice to the generality of subparagraph (2) a public officer shall not—

- (a) engage in the activities of any political party or political candidate or act as an agent of a political party or a political candidate at an election; or
- (b) publicly indicate support for or opposition against any political party or political candidate at an election.

25. Impartiality

A public officer shall—

- (a) at all times carry out his or her duties with impartiality and neutrality; and
- (b) not practice favouritism, nepotism, tribalism, cronyism, religious bias or any other kind of bias or discrimination, or engage in corrupt or unethical practices.

[Subsidiary]

26. Gainful employment

A public officer who is serving on a full-time basis shall not participate in any other gainful employment during his term of employment.

27. Offers of future employment

(1) A public officer shall not be influenced in the performance of his or her duties by plans or expectations for or offers of future employment or benefits from any person.

(2) A public officer shall disclose in writing to the public entity all offers of future employment or benefits that may place him or her in a situation of a conflict of interest.

28. Former public officer acting in a Government or public entity matter

A former public officer shall not be engaged by or act for a person or in a manner in which the former officer was originally engaged in as an officer of the public entity for at least two years after his or her employment with the public entity ends.

29. Bullying

(1) A public officer shall not bully any person.

(2) For the purposes of subparagraph (1), "bullying" shall include offensive behavior which is vindictive, cruel, malicious or humiliating and which is intended to undermine another person.

30. Sexual harassment

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

(2) For the purposes of subparagraph (1), "sexual harassment" shall include—

- (a) making a request or exerting pressure for sexual activity or favours;
- (b) making intentional or careless physical contact that is sexual in nature; or
- (c) making gestures, noises, jokes or comments including innuendos regarding another person's sexuality;
- (d) sending of sexually suggestive texts, pictures or videos.

31. Submitting of declarations

A public officer shall submit any declaration or clarification required under Part IV of the Public Officer Ethics Act (Cap. 185B).

32. Acting through others

(1) A public officer shall not—

- (a) cause anything to be done through another person that would constitute a contravention of any provision of this Code if such thing was done by the officer; or
- (b) allow or direct a person under his or her supervision or control to do anything that would be in contravention of this Code.

(2) Subparagraph (1)(b) shall not apply where anything is done without the officer's knowledge or consent, or where the officer has taken reasonable steps to prevent the doing of that thing.

(3) A public officer who acts under an unlawful direction shall be personally responsible for his or her acts.

33. Reporting improper orders

(1) Where a public officer considers that anything required of him or her is a contravention of this Code or is otherwise improper or unethical, the officer shall report the matter to the authorized officer.

(2) The authorized officer shall investigate the matter reported under subparagraph (1) and take appropriate action within ninety days of receiving the report.

PART III – ENFORCEMENT OF THE CODE OF CONDUCT
AND ETHICS FOR OFFICERS IN THE PUBLIC SERVICE

34. A public officer to sign and commit to the Code

(1) On appointment to a public entity, a public officer shall sign and commit to this Code in the form set out in the Fourth Schedule to this Code.

(2) A public officer who is in service at the time of the coming into force of this Code shall sign and commit to this Code within seven days of the coming into force of this Code.

35. Disciplinary procedure, etc

(1) Subject to subparagraph (2), a breach of this Code shall be deemed to be an act of misconduct for which the public officer may be subject to disciplinary proceedings.

(2) Where an allegation of a breach of this Code has been made against a public officer in respect of whom the Constitution or a written law provides for the procedure of removal or dismissal, the question of the removal or dismissal of the public officer shall be determined in accordance with the Constitution or that other written law.

36. Lodging of complaints and investigations

(1) A person who alleges that a public officer has committed a breach of this Code may notify the authorized officer of the public entity and the authorized officer shall register the complaint in the form set out in the Fifth Schedule to this Code and investigate the allegation.

(2) The authorized officer may assign any officer or a competent authority to inquire into the allegation and determine whether or not the public officer has contravened this Code.

(3) A public officer against whom an allegation has been made under this paragraph shall be informed of the allegation by the authorized officer and shall be given adequate opportunity to challenge the allegation.

(4) A person who makes an allegation against a public officer shall be entitled to be informed of any action taken in relation to the allegation.

(5) Where an investigation against a public officer under this paragraph has been initiated, and the public officer resigns his or her office before the investigation has been completed, the investigation may be continued even after the resignation of the public officer.

(6) Subject to any other written law, a public officer against whom an allegation has been made under this paragraph may be suspended from office while an inquiry is made regarding the allegation.

(7) The authorized officer may take disciplinary action against a public officer for the contravention of a provision of this Code.

37. Referral for possible civil or criminal proceedings

If upon investigation under this Part the authorized officer is opinion that civil or criminal proceedings should be preferred against a public officer, the authorized officer shall refer the matter to—

- (a) the Ethics and Anti-Corruption Commission;
- (b) the Attorney-General;
- (c) the Director of Public Prosecutions; or
- (d) any other competent authority.

PART IV – OFFENCES AND PENALTIES

38. Contravention of the Code

A public officer who contravenes any provision of this Code shall be liable to disciplinary action as may be prescribed in any written law.

[Subsidiary]

PART V – MISCELLANEOUS MATTERS

39. Revocation of Legal Notice No. 124 of 2003

The Public Service Commission Code of Conduct and Ethics (L.N. 124/2003), is revoked.

FIRST SCHEDULE

[para. 17(10)]

REGISTRABLE INTERESTS

1. Directorships in public or private companies, whether or not remunerated directly or indirectly.
2. Remunerated employment, including office, trade, professional, or vocational, or in which the public officer has any pecuniary interest.
3. Securities (shares, bonds, debentures or other similar holding) in a company, enterprise or undertaking the aggregate, nominal or market of a value which exceeds the value prescribed by the public entity.
4. Contracts for supply of goods and services to the public entity.
5. Offers of future employment.
6. Shareholdings in public or private companies amounting to a controlling interest.
7. Landholdings.
8. Gifts, benefits and hospitality, including to a spouse, child, partner or business associate, or other material benefit of a value prescribed by the public entity from a company, organisation or person within or outside Kenya which relates to the public office.
9. Pending civil claims against the public officer.
10. Pending criminal charges against the public officer.
11. Citizenship of another country.

SECOND SCHEDULE

[para. 15(7)]

REGISTER OF GIFTS

(TEMPLATE)

NAME OF PUBLIC ENTITY

F/Y

<i>Name of Officer</i>	<i>Name of Person or Entity Giving the Gift</i>	<i>Value and Purpose of Gift</i>	<i>Date Gift Given</i>	<i>Date Recorded in the Register</i>	<i>Decision on the Gift - for Officer Organization to Be Returned</i>
------------------------	---	----------------------------------	------------------------	--------------------------------------	---

Public Officer Ethics

[Subsidiary]

THIRD SCHEDULE

[para. 17(9)]

REGISTER OF DECLARATION OF CONFLICT OF INTEREST

(TEMPLATE)

NAME OF PUBLIC ENTITY

F/Y

<i>Name of Officer</i>	<i>Date Conflict Recorded</i>	<i>Business Under Transaction</i>	<i>Nature of Conflict</i>	<i>Decision Made on Participation of Officer</i>	<i>Signature of Officer Making Declaration</i>
------------------------	-------------------------------	-----------------------------------	---------------------------	--	--

FOURTH SCHEDULE

[para. 34(1)]

COMMITMENT FORM

Name of the Employee

Employee Number

Department:

Job Title:

I,, hereby affirm that I have read, understood, and agree to adhere to the Public Service Code of Conduct and Ethics, 2016, and further affirm that I will comply fully to the extent that it is written.

Signature

Date

FIFTH SCHEDULE

[para. 36(1)]

REGISTER OF COMPLAINTS

(TEMPLATE)

NAME OF STATE OFFICE

F/Y

<i>Name of Person Making Complaint</i>	<i>Date of Complaint</i>	<i>Particulars of Officer / Organization Complaint Against</i>	<i>Nature of Complaint</i>	<i>Decision Made on the Complaint</i>	<i>Particulars and Signature of Officer Attending to complaint</i>
--	--------------------------	--	----------------------------	---------------------------------------	--

**THE PUBLIC SERVICE COMMISSION PROCEDURE
FOR ADMINISTRATION OF PART IV OF THE ACT**

ARRANGEMENT OF PARAGRAPHS

PART I – PRELIMINARY

Paragraph

1. Citation
2. Interpretation
3. Application
4. Commission's Administration Officer
5. Delegated powers and functions

PART II – PROCEDURE IN RELATION TO DECLARATIONS

6. Declaration forms
7. Completion, return and confidentiality of declarations
8. Register of declarations
9. Returns to the Commission

PART III – PROCEDURE IN RELATION TO CLARIFICATIONS

10. Requests for clarifications
11. Nature of clarifications
12. Action and reporting of failure to comply generally

PART IV – PROCEDURE FOR THE DISCLOSURE, ACCESS,
ACQUISITION OR PUBLICATION OF INFORMATION

13. Disclosure and publication of information in a declaration
14. Access to information in a declaration
15. Decisions to be final

PART V – MISCELLANEOUS

16. Cessation of retention of information
17. Digitalisation of records
18. Commission may act in any event
19. Audit and investigation
20. Matters not covered by these Procedures
21. Right of the Secretary or authorised officer to be heard
22. Revocation of L.N. No. 76 of 2009

THE PUBLIC SERVICE COMMISSION PROCEDURE FOR ADMINISTRATION OF PART IV OF THE

[Legal Notice 53 of 2016]

PART I – PRELIMINARY

1. Citation

These Procedures may be cited as the Public Service Commission Procedures for Administering Part IV of the Act.

2. Interpretation

In these Procedures, unless the context otherwise requires—

“authorised officer” means a person to whom the Commission has delegated its powers and functions in accordance with section 4(1) of the Act;

“declaration form” means the form set out in the Schedule to the Act in accordance with section 26(2) of the Act;

“final declaration” means a declaration made in accordance with section 27(5) of the Act;

“initial declaration” means a declaration made in accordance with section 27(3) of the Act;

“two-year declaration” means a declaration made in accordance with section 26(1) of the Act; and

“Secretary” means the person appointed as the chief executive of the Commission in accordance with Article 233(5) of the Constitution.

3. Application

These Procedures shall apply to the administration of Part IV of the Act with respect to the public officers for whom the Commission is the responsible Commission.

4. Commission's Administration Officer

(1) The Secretary shall be the responsible officer of the Commission for the purpose of the application of these Procedures.

(2) The Secretary may designate in writing officers from among the staff of the Commission to assist the Secretary for the purpose of the application of these Procedures.

5. Delegated powers and functions

Where the Commission has delegated its powers and functions under section 4 of the Act to another person, the provisions of paragraph 4 of these Procedures shall apply to that other person.

PART II – PROCEDURE IN RELATION TO DECLARATIONS

6. Declaration forms

(1) The Commission or each authorised officer shall issue each public officer who is under its or his or her authority, as the case may be, with a declaration form if that public officer is required to file a declaration in accordance with the Act.

(2) Where a public officer is required to make a two-year declaration, the Commission or the authorised officer, as the case may be, shall provide that public officer with a declaration form on or before the 1st November of the year in which the two-year declaration is to be made.

(3) Where a public officer is required to make an initial declaration or a final declaration, the Commission or the authorised officer, as the case may be, shall issue that public officer with the declaration form at least thirty days before that officer is to make the declaration.

[Subsidiary]

(4) The Commission may publish the declaration form in a format that may permit the declaration form—

- (a) to be rendered in digital format on a website; or
- (b) to be downloaded from a website and printed out in paper format.

7. Completion, return and confidentiality of declarations

(1) A public officer who is in job group "M" or below, or its equivalent, shall complete and return his or her declaration to the authorised officer to whom that public officer is responsible and that authorised officer shall retain that declaration in safe custody.

(2) A public officer who is in job group "N" or above, or its equivalent, shall complete and return his or her declaration to the Secretary so that the declaration is received by the Secretary within thirty days from the date on which the declaration should have been submitted in accordance with the Act.

(3) The Commission or an authorised officer shall not disclose, access, acquire or publish the information in the declaration except as may be provided in the Act and these Procedures.

8. Register of declarations

(1) This paragraph shall apply to all public officers regardless of rank or grade.

(2) The Commission or an authorised officer shall maintain a register containing details of each public officer who is required to make a declaration in accordance with the Act including—

- (a) the name of the public officer;
- (b) the public officer's staff personal number;
- (c) the date a declaration form was delivered to the public officer;
- (d) the date the completed declaration was delivered by the public officer to the Commission or to the authorised officer, as the case may be;
- (e) the signature of the person authorised to receive the declaration on behalf of the Commission or the authorised officer;
- (f) any remarks relating to the declarations;
- (g) the date an authorised officer delivered the declarations to the Commission;
- (h) the name of the ministry, department, state corporation or public body to which the relevant public officers making the declarations belong; and
- (i) the number of declarations received from the authorised officer.

(3) The Commission or the authorised officer may maintain separate registers in respect of initial, two-year and final declarations.

9. Returns to the Commission

(1) This paragraph applies to all public officers regardless of rank or grade.

(2) An authorised officer shall submit to the Commission, by the 31st January following the submission of two-year declarations, the following information in relation to the two-year declarations by public officers under his or jurisdiction or authority—

- (a) the total number of public officers on the payroll;
- (b) the total number of public officers who are unpaid or who are working on a part time basis or who are working on a temporary basis as on the 31st October of the year of declaration;
- (c) a certified copy of the register maintained in accordance with paragraph 8;
- (d) the total number of public officers who have submitted declarations within the prescribed time;
- (e) the total number of public officers who have failed to submit declarations within the prescribed time;

- (f) any action taken by the authorised officer or report made to the Attorney-General or Director of Public Prosecutions in relation to the public officers in job group "G" and below, or its equivalent, who have failed to comply with the Act; and
- (g) any relevant remarks relating to the returns.

(3) In the case of initial and final declarations, an authorised officer shall submit to the Commission the information required in subparagraph (2) in respect of—

- (a) the six month period between January and June on the 31st July; and
- (b) the sixth month period between July and December, on the 31st January of the following year.

PART III – PROCEDURE IN RELATION TO CLARIFICATIONS

10. Requests for clarifications

(1) Where the Commission wishes to make a request for a clarification in accordance with section 28(1) of the Act in relation to a declaration made by a public officer in job group "H" and above, or its equivalent, the Commission shall make that request in writing to that public officer.

(2) Where an authorised officer wishes to make a request for a clarification in accordance with section 28(1) of the Act in relation to the declaration made by a public officer under that authorised officer's authority in job group "G" and below, or its equivalent, that authorised officer shall make the request in writing to that public officer.

11. Nature of clarifications

(1) A request for a clarification shall be made by the Commission or an authorised officer only after an analysis of the declaration has been made.

(2) In the case of a public officer in job group "H" and above, or its equivalent, and in the case of a public officer in job group "G" and below, or its equivalent, the Commission or an authorised officer, as the case may be, shall analyse the declaration to ascertain if—

- (a) the declaration by the public officer is false or incomplete;
- (b) the assets of the public officer who submitted the declaration are disproportionate to his or her known income; or
- (c) the income, assets or liabilities of the public officer who submitted the declaration raise concerns of impropriety or conflict of interest or any other breach of the Code of Conduct and Ethics.

(3) Where, after an analysis by the Commission or an authorised officer, it is ascertained that—

- (a) a declaration by a public officer is false or incomplete;
- (b) the assets of the public officer who submitted the declaration are disproportionate to his or her known income; or
- (c) the income, assets or liabilities of the public officer who submitted the declaration raise concerns of impropriety or conflict of interest or any other breach of the Code of Conduct and Ethics, that public officer shall be requested in writing by the Commission or the authorised officer, as the case may be, to make a clarification in accordance with section 28(1) of the Act.

(4) Where, after a clarification by a public servant, the Commission or an authorised officer, still finds that—

- (a) the declaration by a public officer is false or incomplete;
- (b) the assets of the public officer who submitted the declaration are disproportionate to his or her known income; or
- (c) the income, assets or liabilities of the public officer who submitted the declaration raise concerns of impropriety or conflict of interest or any other breach of the Code of Conduct and Ethics, the Commission or the authorised

[Subsidiary]

officer may take such action as the Commission or the authorised officer considers appropriate including notifying the Attorney-General, the Director of Public Prosecutions or any other competent authority.

12. Action and reporting of failure to comply generally

The Secretary shall inform the Commission of any public officer in job group "H" and above, or its equivalent, who does not comply with the provisions of the Act, and the Commission shall—

- (a) require the authorised officer to take appropriate action against that public officer in relation to any administrative disciplinary action; or
- (b) notify the Attorney-General, the Director of Public Prosecutions or any other competent authority in relation to civil or criminal action against that public officer.

PART IV – PROCEDURE FOR THE DISCLOSURE, ACCESS, ACQUISITION OR PUBLICATION OF INFORMATION

13. Disclosure and publication of information in a declaration

(1) A person who wishes to gain access or to publish information in relation to a declaration under the Act by a public officer shall—

- (a) apply in writing to the Commission or authorised officer;
- (b) demonstrate to the Commission or authorised officer that he or she has a legitimate interest in the information; and
- (c) demonstrate to the Commission or authorised officer that the access to or publication of that information shall be in furtherance of the objectives of the Act.

(2) Where a written application is in relation to a declaration made by a public officer in job group "H" and above, or its equivalent, the application shall be made to the Commission.

(3) Where a written application is in relation to a declaration made by a public officer in job group "G" and below, or its equivalent, the application shall be made to the relevant authorised officer.

(4) Subparagraph (1) shall not apply to the staff authorised by the Commission or by the authorised officer to have access to the information for the purposes of these Procedures.

(5) Where a person has made an application to the Commission or an authorised officer in accordance with this paragraph—

- (a) the Commission or the authorised officer, as the case may be, shall inform the concerned public officer of the application;
- (b) the Commission or the authorised officer, as the case may be, shall give the public officer a reasonable opportunity to make a representation in relation to the application; and
- (c) the Commission or the authorised officer, as the case may be, shall take into consideration the representation by the public officer while determining the application.

(6) The Commission or an authorised officer shall determine an application made in accordance with this paragraph within a reasonable time.

(7) The Commission or the authorised officer shall maintain a register of applications and decisions made under this paragraph setting out—

- (a) the name of each applicant;
- (b) the date each application was received;
- (c) the name and staff personal number of the public officer who was the subject of the application;
- (d) the ministry, department, state corporation or public body to which the public officer belongs;

- (e) a brief description of the information applied for; and
- (f) a brief description of the decision made in relation to the application.

14. Access to information in a declaration

The Commission or a relevant authorised officer shall not give access to the information in a declaration to—

- (a) the public officer who made the declaration unless the public officer can verify his or her identity; or
- (b) a representative of the public officer who made the declaration unless that representative—
 - (i) can provide proof of his or her authority to act as a representative of the public officer; and
 - (ii) can provide proof that shall verify the identity of the public officer.

15. Decisions to be final

Except as provided under the Act and these Procedures, the decisions of the Commission or an authorised officer in relation to a declaration by a public officer shall be final.

PART V – MISCELLANEOUS

16. Cessation of retention of information

(1) Where the period for retaining information obtained in accordance with Part IV of the Act has lapsed, the Commission shall determine what action shall be taken in relation to that information.

(2) The Secretary or an authorised officer may make a written proposal to the Commission in relation to the action to be taken by the Commission in accordance with subparagraph (1).

17. Digitalisation of records

The Secretary or the relevant authorised officer shall render the declaration records in digital formats for ease of retrieval, reference and storage.

18. Commission may act in any event

Despite a delegation by the Commission for the purposes of these Procedures, the Commission may—

- (a) exercise the delegated power or perform the delegated function; or
- (b) on its own motion, revise a decision of the Secretary or of a relevant authorised officer made for the purposes of these Procedures.

19. Audit and investigation

The Commission may audit or investigate the manner in which an authorised officer has discharged his or her duties under these Procedures.

20. Matters not covered by these Procedures

The Commission may issue written instructions in relation to any matter that has not been provided for in these Procedures in relation to the application of Part IV of the Act.

21. Right of the Secretary or authorised officer to be heard

The Commission shall, at the request of the Secretary or an authorised officer, hear him or her, or his or her representative in relation to any matter the Secretary or the authorised officer has referred to the Commission during the application of these Procedures.

[Subsidiary]

22. Revocation of L.N. No. 76 of 2009

The Public Service Commission Procedures for the Administration of Part IV of the Act of 2009 (L.N. 76/2009) are revoked

**THE WITNESS PROTECTION AGENCY PROCEDURES
FOR THE ADMINISTRATION OF PART IV OF THE ACT**

ARRANGEMENT OF PARAGRAPHS

PART I – PRELIMINARY PROVISIONS

Paragraph

1. Citation
2. Interpretation
3. Scope of procedures
4. Responsibility for administration

PART II – PROCEDURE IN RELATION TO DECLARATIONS

5. To whom declarations are to be submitted
6. Declaration forms
7. Completion return and confidentiality of declaration
8. Register of declarations

PART III – PROCEDURE IN RELATION TO CLARIFICATIONS

9. Who may make requests for clarification
10. Nature of declaration
11. Review of declarations, etc.
12. Director to report non-compliance

PART IV – PROCEDURE FOR THE ACCESS, DISCLOSURE,
ACQUISITION OR PUBLICATION OF INFORMATION

13. Access or publication to declared information
14. Condition for disclosures
15. Condition for disclosure to representatives
16. Rights of the public officer
17. Decisions to be final

PART V – MISCELLANEOUS

18. Digitization of the records
19. Matters not covered by these procedures
20. Audit and investigation

**THE WITNESS PROTECTION AGENCY PROCEDURES
FOR THE ADMINISTRATION OF PART IV OF THE**

[Legal Notice 6 of 2019]

PART I – PRELIMINARY PROVISIONS**1. Citation**

These procedures may be cited as the Witness Protection Agency Procedures for the Administration of Part IV of the Act.

2. Interpretation

In these procedures, unless the context otherwise requires—

"Act" means the Public Officer Ethics Act (Cap. 185B);

"Agency" has the meaning assigned to it under section 3A of the Witness Protection Act (Cap. 79);

"Board" means the Witness Protection Advisory Board established under section 3P of the Witness Protection Act (Cap. 79);

"Director" has the meaning assigned to it under section 2 of the Witness Protection Act;

"public officer" has the meaning assigned to it under section 2 of the Act; and

"two-year declaration" means a declaration made in accordance with section 26(1) of the Act.

3. Scope of procedures

These Procedures are for the Administration of Part IV of the Act in respect to the public officers for whom the Board is the responsible commission.

4. Responsibility for administration

(1) The Director shall be responsible for the administration of Part IV of the Act on behalf of the Board.

(2) The Director may designate in writing public officers to assist him or her for the purpose of the application of these procedures.

PART II – PROCEDURE IN RELATION TO DECLARATIONS**5. To whom declarations are to be submitted**

Declarations to be submitted to the Board under Part IV of the Act shall be submitted to the Director or the public officer designated by him or her for that purpose in writing.

6. Declaration forms

(1) The Director or a public officer designated by him or her for that purpose in writing shall issue all public officers with a declaration form if that public officer is required to file a declaration in accordance with the Act.

(2) Where a public officer is required to make a two-year declaration, the Director or a public officer designated by him or her for that purpose in writing shall provide the public officer with a declaration form before the 1st of November of the year in which the two-year declaration is to be made.

(3) Where a public officer is required to make an initial declaration or a final declaration, as the case may be, the Director or a public officer designated by him or her for that purpose in writing shall issue that public officer with the declaration form at least thirty days before that officer is to make the declaration.

[Subsidiary]

7. Completion return and confidentiality of declaration

(1) A public officer shall complete and return his or her declaration form to the Director or the public officer designated by him or her for that purpose in writing and that designated public officer shall retain that declaration in safe custody.

(2) The Director or the public officer designated by him or her for that purpose in writing shall not disclose, access, acquire or publish the information in the declaration as may be provided in the Act and these Procedures.

8. Register of declarations

(1) The Director or the public officer designated by him or her for that purpose in writing shall maintain a register containing details of each public officer who is required to make a declaration in accordance with the Act, including—

- (a) the name of the public officer;
- (b) the public officer's staff personal number;
- (c) the date a declaration form was delivered to the public officer;
- (d) the date the completed declaration was delivered by the public officer to the Director or a public officer designated by him or her for that purpose in writing;
- (e) the signature of the public officer designated by the Director to receive the declaration form on behalf of the Director;
- (f) any remarks relating to the declaration.

(2) The Director or a public officer designated by him or her for that purpose in writing may maintain separate registers in respect of initial, two-year and final declarations.

PART III – PROCEDURE IN RELATION TO CLARIFICATIONS

9. Who may make requests for clarification

Request for clarification under section 28 of the Act shall be made by the Director or the public officer designated by him or her for that purpose in writing.

10. Nature of declaration

A request for a clarification shall be made by the Director or the public officer designated by him or her for that purpose in writing only after an analysis of the declaration has been made.

11. Review of declarations, etc.

(1) The Director, or a public officer designated by her or him for that purpose in writing shall—

- (a) ascertain that all public officers who are required to submit their declarations have done so; and
- (b) review each declaration to ascertain if, in the opinion of the Director, the following conditions are satisfied—
 - (i) on the face of the declaration, or in light of any other information the Director may have, there is no reason to suspect the declaration maybe false or incomplete;
 - (ii) the assets of the person who submitted the declaration are proportionate to his or her income; or
 - (iii) the income, assets and liabilities of the person who submitted the declaration does not raise concerns of impropriety or conflict of interest.

(2) If it is ascertained that any of the conditions in subparagraph (1)(b) are not satisfied, the person who submitted the declaration shall be given an opportunity to give an explanation.

(3) If, after considering the explanation given by the person who submitted the declaration and the Director is of the opinion that any of the condition in subparagraph (1) is still not satisfied, or the Director may, in addition to any other action including investigations and civil proceedings, take disciplinary action against the officer concerned or the Director shall bring the matter to the attention of the Board.

12. Director to report non-compliance

The Director shall ensure that failures by public officers to comply with the requirements of Part IV of the Act are brought to the attention of the Board.

PART IV – PROCEDURE FOR THE ACCESS, DISCLOSURE, ACQUISITION OR PUBLICATION OF INFORMATION

13. Access or publication to declared information

(1) The Director may authorize a person to access or publish the contents of the declarations pursuant to section 30(1) of the Act and the application to access or publish the information—

- (a) shall be in writing;
- (b) shall demonstrate the legitimate interest in the information; and;
- (c) access to or publication of that information shall be in the furtherance of the objectives of the Act.

(2) Any authorization under subparagraph (1) shall be in writing.

14. Condition for disclosures

(1) Information shall not be disclosed pursuant to section 30(2) of the Act to any law enforcement agency unless a written request is provided to the Director.

(2) The Director may decline to make a disclosure under subparagraph (1) if he or she is of the opinion that such disclosure would be a violation of any written law.

15. Condition for disclosure to representatives

Information shall not be disclosed, pursuant to section 30(1) of the Act, to a representative of the person who declared unless the representative provides documents that establish the authority to receive the information.

16. Rights of the public officer

Where a person has made an application to the Director or the public officer designated by him or her for that purpose in writing in accordance with paragraph 13—

- (a) the concerned public officer shall be informed;
- (b) the Director or the public officer designated by him or her for that purpose in writing, shall give the public officer a reasonable opportunity to make a representation in relation to the application;
- (c) the Director or the public officer designated by him or her for that purpose in writing, shall take into consideration the representation by the public officer while determining the application;
- (d) the Director or the public officer designated by him or her for that purpose in writing, shall determine the application within reasonable time;
- (e) the Director or the public officer designated by him or her for that purpose in writing, shall maintain a register and decisions made under this paragraph setting out the following—
 - (i) the name of the applicant;
 - (ii) the date each application was received;
 - (iii) the name and staff personal number of the public officer who was subject of the application;

[Subsidiary]

- (iv) a brief description of the information applied for, and a brief description of the decision made in relation to the application.

17. Decisions to be final

Except as provided under the Act and these Procedures, the decision of the Board in relation to a declaration by a public officer shall be final.

PART V – MISCELLANEOUS

18. Digitization of the records

The Director or the public officer designated by him or her for that purpose in writing shall render the declaration records in digital formats for ease of retrieval, reference and storage.

19. Matters not covered by these procedures

The Director may issue written instructions in relation to any matter that has not been provided for in these Procedures in relation to the application of Part IV of the Act.

20. Audit and investigation

The Board may audit or investigate the manner in which a designated public officer has discharged his or her duties under these Procedures.

**THE COMMISSION FOR UNIVERSITY EDUCATION PROCEDURES FOR
ADMINISTRATION OF PART IV OF THE PUBLIC OFFICERS ETHICS ACT**

ARRANGEMENT OF PARAGRAPHS

PART I – PRELIMINARY

Paragraph

1. Citation
2. Interpretation
3. Scope of application
4. Commencement

PART II – PROCEDURE IN RELATION TO DECLARATIONS

5. Administration of the Procedures
6. Establishment of Committee
7. Procedure in Submitting Declarations
8. Completion and Submission of Declarations
9. Register of Declarations

PART III – PROCEDURE IN RELATION
TO VERIFICATION AND CLARIFICATION

10. Verifications of Declarations
11. Requests for Clarification

PART IV – PROCEDURE FOR THE ACCESS, ACQUISITION AND
DISCLOSURE OR PUBLICATION OF INFORMATION IN A DECLARATION

12. Access and Publication of Information in a Declaration
13. Access by a Declarant
14. Decisions of the Commission on Access
15. Review
16. Appeal

PART V – PROCEDURE IN RELATION TO STORAGE,
RETENTION AND RETRIEVAL OF DECLARATIONS

17. Mechanisms for Storage, Retention and Retrieval
18. Cessation of Retention of Information
19. Returns to Ethics and Anti-Corruption Commission

PART VII – GENERAL PROVISIONS

20. Matters not covered by these Procedure
21. Representations to the Commission
22. Review and Amendment of these procedures
23. Transition

SCHEDULES

APPENDIX I — REQUEST TO ACCESS A DECLARATION OR
CLARIFICATION

ACKNOWLEDGEMENT OF REQUEST FOR ACCESS FOR A DECLARATION OR
CLARIFICATION

REPORTING TEMPLATE ON THE SUBMISSION OF DECLARATION OF INCOME,
ASSETS AND LIABILITIES

[Subsidiary]

APPENDIX IV —

REPORTING TEMPLATE ON THE
VERIFICATION OF DECLARATION OF INCOME,
ASSETS AND LIABILITIES

**THE COMMISSION FOR UNIVERSITY EDUCATION PROCEDURES FOR
ADMINISTRATION OF PART IV OF THE PUBLIC OFFICERS ETHICS**

[Legal Notice 154 of 2019]

PART I – PRELIMINARY**1. Citation**

These Procedures may be cited as the Commission for University Education Procedures for Administration of Part IV of the Act.

2. Interpretation

In these Procedures, unless the context otherwise requires:

"Act" means the Public Officer Ethics Act (Cap. 185B);

"Committee" means the Committee established to oversee the management, verification and access to declarations pursuant to clause 10 of the Regulations

"Commission" means the Commission for University Education established under the Universities Act (Cap. 210);

"Declarant" means a person who has made a declaration under the Act;

"Declaration form" means the form set out in the Schedule to the Act in accordance with section 26(2) of the Act;

"Declaration year" means the year when the two-year declaration under the Act falls due;

"Final declaration" means a declaration made in accordance with section 27(5) of the Act;

"Initial declaration" means a declaration made in accordance with section 27(3) of the Act;

"Public Officer" has the meaning assigned to it under Article 260 of the Constitution of Kenya and includes a State Officer;

"Regulations" means the Public Officer Ethics Act (Management, Verification and Access to Financial Declarations) Regulations (sub. leg);

"Secretary" means the Secretary to the Commission for University Education appointed under section 9 of the Universities Act (Cap. 210);

"two-year declaration" means a declaration made in accordance with section 26(1) of the Act.

3. Scope of application

These Procedures shall apply to the administration of Part IV of the Act with respect to public officers for which the Commission for University Education is the Responsible Commission pursuant to Public Universities Procedures for the Administration of Part IV of the Act (sub. leg).

4. Commencement

These procedures shall come into force upon publication in the Kenya Gazette.

PART II – PROCEDURE IN RELATION TO DECLARATIONS**5. Administration of the Procedures**

The Secretary shall administer these Procedures on behalf of the Commission.

[Subsidiary]

6. Establishment of Committee

(1) The Secretary shall within thirty (30) days of commencement of these procedures establish a Committee to oversee the management, verification and access to declarations as contemplated under clause 10 of the Regulations.

(2) The Committee under subparagraph 1 shall consist of officers drawn from various departments.

(3) The membership and size shall be determined by the Secretary.

(4) The Committee shall have power to co-opt additional members to support its operations.

(5) The Commission shall determine the term of the Committee.

(6) In the discharge of its functions, the Committee shall be responsible to the Secretary pursuant to clause 10 of the Regulations;

(7) In administering these procedures, the Committee established under this part may designate sub-committees from its membership to undertake specific functions

(8) Nothing under this part shall be construed as prohibiting the Commission from designating an officer who is not a member of the Committee to undertake specified tasks in relation to any function under these Procedures provided that in the performance such tasks, the officer so designated shall be responsible to the Committee

7. Procedure in Submitting Declarations

(1) A Public Officer shall submit a declaration in the Form set out in the Schedule to the Act.

(2) The Commission may use such measures as may be appropriate to facilitate a Public Officer to acquire the form referred to in subparagraph (1).

(3) The Commission may publish the declaration form in a format that may permit the declaration form—

- (a) to be rendered in digital format; or
- (b) to be downloaded from a website and printed out in paper format.

(4) Where a Public Officer is required to make an initial, two-year or final declaration, the Secretary may issue a notification to the Public Officer not less than thirty (30) days before the due date for the declaration.

(5) Failure to provide a declaration form or to issue a notification under this paragraph shall not be construed as a waiver of the responsibility of the public officer to submit a declaration under the Act.

8. Completion and Submission of Declarations

A Public Officer shall complete and submit the declaration form to the Secretary in the form prescribed in the Schedule to the Act.

9. Register of Declarations

(1) The Commission shall maintain a register containing details of each Public Officer who is required to make a declaration under the Act. The register shall include—

- (a) Name, personal number, designation, directorate, department or unit;
- (b) date the Public Officer submitted the declaration form;
- (c) type of declaration (initial, two-year or final);
- (d) total number of Public Officers who have submitted declarations as at the due date;
- (e) total number of Public Officers required to submit declarations; and
- (f) name and signature of officer receiving the declarations;
- (g) any remarks relating to the declarations.

(2) The Secretary shall acknowledge each declaration/submissions.

(3) A register under this part may be maintained in different documents and formats.

PART III – PROCEDURE IN RELATION TO VERIFICATION AND CLARIFICATION

10. Verifications of Declarations

The Commission shall analyze, evaluate, inspect and verify each declaration to ascertain if any of the following conditions exist—

- (a) on the face of the declaration, or in light of any other information the Commission may have, there is reason to suspect the declaration is false or incomplete;
- (b) the assets of the declarant appear disproportionate to their known income;
- (c) the income, assets or liabilities of the declarant raise concerns of impropriety or conflict of interest.

11. Requests for Clarification

(1) If upon verification under paragraph 10, the Commission is of the opinion that any of the stated conditions exist, the declarant shall be given an opportunity to make clarification in accordance with section 28(1) of the Act.

(2) A request for clarification shall be made in the form prescribed in the Regulations.

(3) The Commission shall, in the register of access to declarations, document the particulars of clarification sought, the mode of communication, the time given to respond, the date and particulars of response, if any.

(4) Where no explanation is given, or after considering any explanation the declarant may give, the Commission is of the opinion that the conditions in subparagraph (1)(b) still exist, the Commission may, in addition to any other action including criminal and civil proceedings, take disciplinary or other appropriate action against the Public Officer in accordance with the relevant laws, regulations and code of conduct.

PART IV – PROCEDURE FOR THE ACCESS, ACQUISITION AND DISCLOSURE OR PUBLICATION OF INFORMATION IN A DECLARATION

12. Access and Publication of Information in a Declaration

(1) A person who wishes to access or to publish information in relation to a declaration or clarification under the Act shall—

- (a) apply to the Commission in the form set out in Appendix
- (b) demonstrate to the Commission that the applicant has a legitimate interest in the information; and
- (c) demonstrate to the Commission that the access to or publication of that information shall be for a good cause and in furtherance of the objectives of the Act.

(2) Where the information is intended to be disclosed or published, the applicant shall expressly state so in the application.

(3) Where a person has made an application to the Commission in accordance with this paragraph—

- (a) the Commission shall issue the applicant with an acknowledgement in the form set out in Appendix II;
- (b) the Commission shall inform the declarant of the application in writing;
- (c) the Commission shall give the declarant an opportunity to make a representation in writing in relation to the application within fourteen days; and
- (d) the Commission shall take into consideration the representation by the declarant when determining the application.

(4) The Commission shall determine an application made in accordance with this paragraph and communicate its decision in writing to the applicant within thirty (30) days of receipt of the application.

[Subsidiary]

(5) The Commission or any other person shall not disclose, access, acquire or publish the information in the declaration form except as may be provided in the Act, the Regulations, these Procedures, or any other written law.

(6) The Commission shall not release or part with the original declaration made by any declarant in satisfying the requirements of this paragraph, unless required under any written law.

PROVIDED that where an original declaration is released the Commission shall always retain a certified copy of the declaration.

(7) The Commission shall maintain a register of applications for access to declarations and decisions made under this part setting out—

- (a) the name of each applicant;
- (b) the date each application was received;
- (c) the name and personal number of the declarant subject of the application;
- (d) the department or other unit to which the declarant belongs;
- (e) a brief description of the information applied for;
- (f) whether the declarant accepts or opposes access to the information applied for;
- (g) a brief description of the decision made in relation to the application including reasons for denial where applicable; and
- (h) the date when decision was communicated to the applicant.

13. Access by a Declarant

(1) The provisions of paragraph 12 shall not apply where the declarant makes an application to access their own declaration;

(2) An application by a declarant to access their declaration shall be made to the Secretary;

(3) Upon receipt of an application under this paragraph, the Secretary shall avail a certified copy to the declarant within thirty 30 days.

(4) The Commission shall not give the declarant access to their declaration unless;

- (i) the declarant proves their identity; or
- (ii) in the case of a representative of the declarant, that representative provides proof of their authority to act as such.

14. Decisions of the Commission on Access

The Commission shall make a decision on an application for access in accordance with the Act, regulations and procedures, which shall be communicated to the applicant.

15. Review

(1) The applicant may request for a review of the decision in paragraph 14.

(2) Upon receipt of the request to review its decision, the Commission shall consider the request and make a determination within thirty (30) days.

16. Appeal

Any person dissatisfied with the decision of the Commission may appeal in accordance with the procedure set out in the Regulations.

PART V – PROCEDURE IN RELATION TO STORAGE, RETENTION AND RETRIEVAL OF DECLARATIONS

17. Mechanisms for Storage, Retention and Retrieval

(1) The Commission shall ensure that appropriate mechanisms are put in place for the safe and secure storage, retention and easy retrieval of the declarations and clarifications;

(2) The mechanisms established under subparagraph (1) may include manual, electronic, microfilm or any other form as the Commission may consider appropriate.

18. Cessation of Retention of Information

(1) Where the period for retaining information obtained in accordance with Part IV of the Act has lapsed, the Commission shall determine the action to be taken in relation to that information.

(2) The "Secretary" may make a written proposal to the Commission in relation to the action to be taken in accordance with subparagraph (1)(19) Returns to Ethics and Anti-Corruption Commission

19. Returns to Ethics and Anti-Corruption Commission

Pursuant to sections 4(2) and 6(3) of the Leadership and Integrity Act (Cap. 185C) the Commission shall submit to the Ethics and Anti-Corruption Commission, by the 31st July following the submission of two-year declarations, the following information:—

- (a) the number of public officers in the payroll as at 31st October of the declaration year;
- (b) the total number of public officers who have submitted declarations within the prescribed time;
- (c) the total number of public officers who have failed to submit declarations within the prescribed time;
- (d) any action taken by the Commission in relation to any public officer who has failed to comply with the Act, the regulations and/or these procedures;
- (e) number of declarations verified;
- (f) findings in respect to the verification of declarations
- (g) any action taken pursuant to the verification of the declaration
- (h) any relevant remarks relating to the returns.

(2) In the case of initial and final declarations, the Commission shall, by 31st of July each year, submit to the EACC the information required in subparagraph (1) in respect to the financial year ending on 30th June of the preceding year.

(3) The report under this part shall be in the form prescribed in Appendix III and Appendix IV.

PART VII – GENERAL PROVISIONS

20. Matters not covered by these Procedure

The Commission may subject to the Act, Regulations and these procedures, issue guidelines in writing in relation to any matter that has not been provided for in these procedure

21. Representations to the Commission

The Commission may consider representations from any person on any matter to which these Procedures apply.

22. Review and Amendment of these procedures

The Commission may from time to time review and/or amend these Procedures as may be necessary.

23. Transition

All previous administrative procedures are hereby revoked.

[Subsidiary]

APPENDIX I

REQUEST TO ACCESS A DECLARATION OR CLARIFICATION

Note: A separate form to be completed in respect of a request for information for each declarant.

PART I – Information on Applicant

- 1. Name
- 2. National Identity Card/Passport Number
- 3. Postal Address
- 4. Physical Address
- 5. E-mail Address
- 6. Occupation

PART II – Particulars of Information Applied for

- a) Nature of Information (please tick)
 - 1. Declaration ()
 - 2. Clarification ()
 - 3 Declaration and Clarification ()
- b) Declaration period

PART III – Information on the Person whose declaration is sought to be obtained:

- (a) Name
- (b) Directorate/Department (if known)
- (c) Work Station
- (d) Reason for requiring the information:—
 - (i) Official
 - (ii) Other reason
- (e) State precisely the purpose for which the declaration sought will be used

.....
.....

PART IV – Additional Information

Give any other information you may consider relevant and useful to your request

.....
.....

PART V – Declaration by Applicant

I,, solemnly declare that the information I have given above is true, complete and correct to the best of my knowledge.

Date:

Signature of Applicant

Public Officer Ethics

[Subsidiary]

APPENDIX II

[para. 12(3)(a)]

ACKNOWLEDGEMENT OF REQUEST FOR ACCESS FOR A DECLARATION OR CLARIFICATION

Name of Applicant
National Identity Card/Passport Number
Name of Organization (where applicable)
Postal Address
Date of Application
Delivered by
Signature

A response on this request will be communicated within thirty (30) days from the date of this acknowledgement.

Name of Receiving Officer
Signature
Date
Stamp:

APPENDIX III

[para. 19(3)]

REPORTING TEMPLATE ON THE SUBMISSION OF DECLARATION OF INCOME, ASSETS AND LIABILITIES

(NB: use separate forms for public officers and for state officers)

NAME OF ENTITY:
DATE OF SUBMISSION: DECLARATION YEAR:

NUMBER OF OFFICERS WITHIN JURISDICTION (differentiate for both State and Public Officers):

NUMBER OF OFFICERS WHO SUBMITTED RETURNS:
NUMBER OF OFFICERS WHO DID NOT SUBMIT RETURNS:

LIST OF OFFICERS WHO DID NOT SUBMIT DECLARATION OF INCOME, ASSETS AND LIABILITIES (DIALS)

Table with 5 columns: No, Full name, Designation/Staff File No, National Identity Card Number, Action/taken/Remarks

- 1
2
3
4
5

Compiled by:
Designation:

Public Officer Ethics

[Subsidiary]

Date:

Authorized by:

Date:

Accounting officer/CEO

Official Rubber stamp

(Completed form to be submitted to EACC)

APPENDIX IV

REPORTING TEMPLATE ON THE VERIFICATION OF DECLARATION OF INCOME, ASSETS AND LIABILITIES

(NB: use separate forms for public officers and for state officers)

NAME OF ENTITY:

DECLARATION YEAR:

NUMBER OF DECLARATIONS VERIFIED (differentiate for both State and Public Officers):

NUMBER OF DECLARATIONS NOT VERIFIED:

RETURNS OF VERIFICATION OF DECLARATION OF INCOME, ASSETS AND LIABILITIES (DIALS) THAT ARE INCOMPLETE, INCONSISTENT AND FALSIFIED

No	Full name	Designation/Staff/ File No	National Identity Card taken/ or Passport Number	Action Remarks
----	-----------	----------------------------	--	----------------

- 1
- 2
- 3
- 4
- 5

Compiled by:

Designation Date

Authorized by Date

Accounting officer/CEO

Official Rubber stamp

(Completed form to be submitted to EACC)

THE KENYA NATIONAL COMMISSION ON HUMAN RIGHTS PROCEDURES FOR ADMINISTRATION OF PART IV OF THE PUBLIC OFFICERS ETHICS ACT

ARRANGEMENT OF PARAGRAPHS

PART I – PRELIMINARY PROVISIONS

Paragraph

1. Citation
2. Interpretation
3. Application
4. Administration of the Procedures

PART II – PROCEDURE IN RELATION TO DECLARATIONS

5. Establishment of Committee
6. To whom declarations are to be submitted
7. Declaration forms
8. Procedure in submitting declarations
9. Completion return and confidentiality of declaration
10. Register of declarations

PART III – PROCEDURE IN RELATION TO VERIFICATION AND CLARIFICATION

11. Verifications of declarations
12. Requests for clarification

PART IV – PROCEDURE FOR THE ACCESS, ACQUISITION AND DISCLOSURE OR PUBLICATION OF INFORMATION IN A DECLARATION

13. Access and publication of information in a declaration
14. Access by a declarant
15. Decisions of the commission on access
16. Condition for disclosure
17. Review
18. Appeal

PART V – PROCEDURE IN RELATION TO STORAGE, RETENTION AND RETRIEVAL OF DECLARATIONS

19. Mechanisms for storage, retention and retrieval
20. Cessation of retention of information
21. Returns to Ethics and Anti-Corruption Commission

PART VI – GENERAL PROVISIONS

22. Matters not covered by these procedures
23. Representations to the Commission
24. Review and amendment of these procedures.

SCHEDULES

REQUEST TO ACCESS A DECLARATION OR CLARIFICATION

THE KENYA NATIONAL COMMISSION ON HUMAN RIGHTS PROCEDURES FOR ADMINISTRATION OF PART IV OF THE PUBLIC OFFICERS ETHICS

[Legal Notice 182 of 2019]

PART I – PRELIMINARY PROVISIONS

1. Citation

(1) These Procedures may be cited as the Kenya National Commission on Human Rights Procedures for Administration of Part IV of the Public Officer Ethics Act (Cap. 185B).

(2) These procedures shall come into force upon publication in the *Gazette*.

2. Interpretation

In these Procedures, unless the context otherwise requires—

"Act" means the Public Officer Ethics Act (Cap. 185B);

"Committee" means the Oversight Committee established under paragraph 5;

"Commission" means the Kenya National Commission on Human Rights established under Section 3 of the Kenya National Commission on Human Rights Act (Cap. 71);

"declarant" means a person who has made a declaration pursuant to section 26 of the Act;

"declaration" means the declaration of income, assets and liabilities made in accordance with section 26 of the Act;

"declaration form" means the form on declaration on income, assets and liabilities submitted in accordance with section 26 of the Act;

"declaration year" means the year when the two-year declaration under the Act is due;

"final declaration" means a declaration made in accordance with section 27(5) of the Act;

"initial declaration" means the declaration made in accordance with section 27(3) of the Act;

"public officer" has the meaning assigned to it under section 2 of the Act;

"Secretary" means the Secretary to the Commission appointed pursuant to section 21 of the Kenya National Commission on Human Rights Act (Cap. 71); and

"two-year declaration" means the declaration made in accordance with section 26(1) of the Act.

3. Application

These Procedures shall apply to the administration of Part IV of the Act with respect to public officers who the Commission is the responsible Commission for the purposes of the Act.

4. Administration of the Procedures

(1) The Secretary shall be responsible for the administration of these Procedures on behalf of the Commission.

(2) The Secretary may designate in writing public officers to assist him or her for the purpose of the application of these procedures.

[Subsidiary]

PART II – PROCEDURE IN RELATION TO DECLARATIONS

5. Establishment of Committee

(1) Pursuant to regulation 10 of the Public Officer Ethics Act (Management, Verification and Access to Financial Declarations) Regulations (sub. leg), the Secretary shall, within thirty days of commencement of these procedures, establish a Committee to oversee the management, verification and access to declarations.

(2) The Committee under subparagraph (1) shall consist of public officers drawn from various directorates, departments or units.

(3) The membership and size shall be determined by the Secretary.

(4) The Committee may co-opt additional members to support its operations.

(5) The Secretary shall determine the term of the Committee.

(6) In the discharge of its functions, the Committee shall be responsible to the Secretary pursuant to regulation 10 of the Public Officer Ethics (Management, Verification and Access to Financial Declarations) Regulations.

(7) In administering these procedures, the Committee established under this Part may designate sub-committees from its membership to undertake specific functions.

(8) Nothing in this Part shall be construed as prohibiting the Commission from designating an officer who is not a member of the Committee to undertake specified tasks in relation to any function under these Procedures provided that in the performance such tasks, the officer so designated shall be responsible to the Committee.

6. To whom declarations are to be submitted

Declarations to be submitted to the Commission under Part IV of the Act shall be submitted to the Secretary or the public officer designated by him or her for that purpose in writing.

7. Declaration forms

(1) The Secretary or a public officer designated by him or her for that purpose shall issue all public officers with a declaration form if that public officer is required to file a declaration in accordance with the Act.

(2) Where a public officer is required to make a two-year declaration, the Secretary or a public officer designated by him or her for that purpose shall provide the public officer with a declaration form before the 1st of November of the year in which the two-year declaration is to be made.

(3) Where a public officer is required to make an initial declaration or a final declaration, as the case may be, the Secretary or a public officer designated by him or her for that purpose in writing shall issue that public officer with the declaration form at least thirty days before that officer is to make the declaration.

8. Procedure in submitting declarations

(1) A public officer shall submit a declaration to the Secretary in the form set out in the Schedule to the Act.

(2) The Commission may use such measures as may be appropriate to facilitate a public officer to acquire the declaration form.

(3) The Commission may publish the declaration form in a format that permits the declaration form-

(a) to be rendered in digital format; or

(b) to be downloaded from a website and printed out in paper format.

(4) Where a public officer is required to make an initial declaration, a two-year declaration or a final declaration, the Secretary may issue a notification to the public officer not less than thirty days before the due date for the officer to make the declaration.

(5) Failure to provide a declaration form or to issue a notification under this paragraph shall not be construed as a waiver of the responsibility of the public officer to submit a declaration under the Act.

9. Completion return and confidentiality of declaration

(1) A public officer shall complete and return his or her declaration form to the Secretary or the public officer designated by him or her for that purpose in writing and that designated public officer shall retain that declaration in safe custody.

(2) The Secretary or the public officer designated by him or her for that purpose in writing shall not disclose, access, acquire or publish the information in the declaration as may be provided in the Act and these Procedures.

10. Register of declarations

(1) The Commission shall maintain a register containing details of each public officer who is required to make a declaration under the Act including—

- (a) the name, personal number, designation, directorate, department or unit;
- (b) the date the public officer submitted the declaration form;
- (c) the type of declaration (initial, two-year or final);
- (d) the total number of public officers who have submitted declarations as at the due date;
- (e) the total number of public officers required to submit declarations; and
- (f) the name and signature of officer receiving the declarations; and
- (g) Completion return and confidentiality of declaration.

(2) The Secretary shall acknowledge each declaration or submissions.

(3) The register under this Part may be maintained in different documents and formats and the Secretary or a public officer designated by him or her for that purpose may maintain separate registers in respect of initial, two-year and final declarations.

PART III – PROCEDURE IN RELATION TO VERIFICATION AND CLARIFICATION

11. Verifications of declarations

(1) A request for a clarification shall be made by the Secretary or the public officer designated by him or her for that purpose in writing only after an analysis of the declaration has been made.

(2) The Secretary shall analyse, evaluate, inspect and verify each declaration to ascertain if any of the following conditions exist—

- (a) on the face of the declaration, or in light of any other information the Commission may have, there is reason to suspect the declaration is false or incomplete;
- (b) the assets of the declarant appear disproportionate to their known income; or
- (c) the income, assets or liabilities of the declarant raise concerns of impropriety or conflict of interest.

12. Requests for clarification

(1) Where the Commission determines that any of the conditions under paragraph 11 exist, the Commission may allow the declarant to provide any clarification in accordance with section 28(1) of the Act.

(2) A request for clarification shall be made in the form prescribed in the Regulations.

(3) The Commission shall, in the register of access to declarations, detail the particulars of the clarification sought, the mode of communication, the time given to respond, the date and particulars of response, if any.

(4) Where no explanation is given or after considering any explanation provided, the Commission is of the opinion that the conditions in paragraph 11(b) still exist, the

[Subsidiary]

Commission may, in addition to any other action including criminal and civil proceedings, take disciplinary or other appropriate action against the public officer in accordance with the relevant law, regulations and the Code of Conduct.

PART IV – PROCEDURE FOR THE ACCESS, ACQUISITION AND
DISCLOSURE OR PUBLICATION OF INFORMATION IN A DECLARATION

13. Access and publication of information in a declaration

(1) A person seeking to access or to publish information relating to a declaration or clarification shall-

- (a) apply to the Commission in the form set out in Schedule;
- (b) specify whether they intend to disclose or publish the information so required;
- (c) demonstrate to the Commission that the he has a legitimate interest in the information; and
- (d) demonstrate to the Commission that the access to or publication of that information shall be for a good cause and in furtherance of the objectives of the Act.

(2) Upon receipt of the application under subparagraph (1), the Commission shall—

- (a) issue the applicant with an acknowledgement in the form set out in Schedule hereto;
- (b) inform the concerned declarant of the application in writing;
- (c) give the declarant an opportunity to make a representation in writing in relation to the application within fourteen days; and
- (d) consider the representation by the declarant when determining the application.

(3) The Commission shall determine an application under this paragraph and communicate its decision in writing to the applicant within thirty days of receipt of the application.

(4) The Commission or any other person shall not disclose, access, acquire or publish the information in the declaration form except as may be provided in the Act, these Procedures, or any other written law.

(5) The Commission shall not release or part with the original declaration made by any declarant in satisfying the requirements of this paragraph, unless required under any written law:

Provided that where an original declaration is released, the Commission shall always retain a certified copy of the declaration.

(6) The Commission shall maintain a register of applications for access to declarations and decisions made under this Part setting out—

- (a) the name of each applicant;
- (b) the date each application was received;
- (c) the name and personal number of the declarant subject of the application;
- (d) the department or other unit to which the declarant belongs;
- (e) a brief description of the information applied for;
- (f) whether the declarant accepts or opposes access to the information applied for;
- (g) a brief description of the decision made in relation to the application including reasons for denial where applicable; and
- (h) the date when decision was communicated to the applicant.

14. Access by a declarant

(1) The provisions of paragraph 13 shall not apply where the declarant makes an application to access their own declaration.

(2) An application by a declarant to access their declaration shall be made to the Secretary.

(3) Upon receipt of an application under this paragraph, the Secretary shall avail a certified copy to the declarant within thirty days.

(4) The Commission shall not give the declarant access to their declaration unless;

(a) the declarant proves their identity; or

(b) in the case of a representative of the declarant, that representative provides proof of their authority to act as such.

15. Decisions of the commission on access

The Commission shall make a decision on an application for access in accordance with the Act, Regulations and these Procedures, which decision shall be communicated, in writing, to the applicant.

16. Condition for disclosure

(1) Information shall not be disclosed pursuant section 30(2) of the Act to any law enforcement agency unless a written request is provided to the Commission.

(2) The Secretary may decline to make a disclosure under subparagraph (1) if he or she is of the opinion that such disclosure would be a violation of any written law.

17. Review

(1) The applicant may request for a review of the decision in paragraph 14.

(2) Upon receipt of the request to review its decision, the Commission shall consider the request and make a determination within thirty days.

18. Appeal

Any person dissatisfied with the decision of the Commission may appeal in accordance with the procedure set out in the Regulations.

PART V – PROCEDURE IN RELATION TO STORAGE, RETENTION AND RETRIEVAL OF DECLARATIONS

19. Mechanisms for storage, retention and retrieval

(1) The Commission shall ensure that appropriate mechanisms are put in place for the safe and secure storage, retention and easy retrieval of the declarations and clarifications.

(2) The mechanisms established under subparagraph (1) may include manual, electronic, microfilm or any other form as the Commission may consider appropriate.

20. Cessation of retention of information

(1) Where the period for retaining information obtained in accordance with Part IV of the Act has lapsed, the Commission shall determine the action to be taken in relation to that information.

(2) The Secretary may make a written proposal to the Commission in relation to the action to be taken in accordance with subparagraph (1).

21. Returns to Ethics and Anti-Corruption Commission

(1) Pursuant to sections 4(2) and 6(3) of the Leadership and Integrity Act (Cap. 185C) the Commission shall submit to the Ethics and Anti-Corruption Commission, by the 31st of July following the submission of two-year declarations, the following information—

(a) the number of public officers in the payroll as at 31st October of the declaration year;

(b) the total number of public officers who have submitted declarations within the prescribed time;

[Subsidiary]

- (c) the total number of public officers who have failed to submit declarations within the prescribed time;
- (d) any action taken by the Commission in relation to any public officer who has failed to comply with the Act or these Procedures;
- (e) number of declarations verified;
- (f) findings in respect to the verification of declarations;
- (g) any action taken pursuant to the verification of the declaration;
- (h) any relevant remarks relating to the returns.

(2) In the case of initial and final declarations, the Commission shall, by 31st of July each year, submit to the EACC the information required in subparagraph (1) in respect to the financial year ending on 30th June of the preceding year.

(3) The reports under this Part shall be in the form set in the Schedule.

PART VI – GENERAL PROVISIONS

22. Matters not covered by these procedures

The Commission may subject to the Act, Regulations and these Procedures, issue guidelines in writing in relation to any matter that has not been provided for in these procedures.

23. Representations to the Commission

The Commission may consider representations from any person on any matter to which these Procedures apply.

24. Review and amendment of these procedures.

The Commission may from time to time review or amend these Procedures as may be necessary.

SCHEDULE

[para. 13(1)]

REQUEST TO ACCESS A DECLARATION OR CLARIFICATION

Note: A separate form to be completed in respect of a request for information for each declarant.

Part I - Information on Applicant

- 1. Name
- 2. National Identity Card/Passport Number
- 3. Postal Address
- 4. Physical Address
- 5. E-mail Address
- 6. Occupation

Part II - Particulars of Information Applied for

a) Nature of Information (please tick)

- 1. Declaration ()
- 2. Clarification ()
- 3. Declaration and Clarification () b) Declaration period Part III: Information on the Person whose declaration is sought to be obtained:

Public Officer Ethics

[Subsidiary]

(a) Name

(b) Directorate/Department (if known)

(c) Work Station

(d) Reason for requiring the information: -

(i) Official

(ii) Other reason

(e) State precisely the purpose for which the declaration sought will be used

Part IV: Additional Information

Give any other information you may consider relevant and useful to your request

Part V: Declaration by Applicant

I solemnly declare that the information I have given above is true, complete and correct to the best of my knowledge.

Date:

Signature of Applicant

ACKNOWLEDGEMENT OF REQUEST FOR ACCESS TO A DECLARATION OR CLARIFICATION

Name of Applicant

National Identity Card/Passport Number

Name of Organization (where applicable)

Postal Address

Date of Application

Delivered by

Signature

A response on this request will be communicated within thirty (30) days from the date of this acknowledgement.

Name of Receiving Officer:

Signature

Date

Stamp:

REPORTING TEMPLATE ON THE SUBMISSION OF DECLARATION OF INCOME, ASSETS AND LIABILITIES

(NB: use separate forms for public officers and for state officers)

NAME OF ENTITY:

DATE OF SUBMISSION:

DECLARATION YEAR:

NUMBER OF OFFICERS WITHIN JURISDICTION (differentiate for both State and Public Officers):

NUMBER OF OFFICERS WHO DID NOT SUBMIT RETURNS:

Public Officer Ethics

[Subsidiary]

LIST OF OFFICERS WHO DID NOT SUBMIT DECLARATION OF INCOME, ASSETS AND LIABILITIES (DIALS)

No.	Full name	Designation/ Position	Staff/File No.	National Identity Card or Passport Number	Action taken/ Remarks
-----	-----------	--------------------------	----------------	--	--------------------------

- 1.
- 2.
- 3.
- 4
- 5.

Compiled by: Date:

Designation: Date

Authorized by:

Accounting officer/CEO

Official Rubber stamp

(Completed form to be submitted to EACC)

REPORTING TEMPLATE ON THE VERIFICATION OF DECLARATION OF INCOME, ASSETS AND LIABILITIES

(NB: use separate forms for public officers and for state officers)

NAME OF ENTITY:

DECLARATION YEAR:

NUMBER OF DECLARATIONS VERIFIED (differentiate for both State and Public Officers):

.....

NUMBER OF DECLARATIONS NOT VERIFIED:

RETURNS OF VERIFICIATION OF DECLARATION OF INCOME, ASSETS AND LIABILITIES (DIALS) THAT ARE INCOMPLETE, INCONSISTENT AND FALSIFIED

No	Full name	Designation/ Position	Staff/File No.	National Identity Card or Passport Number	Action taken/ Remarks
----	-----------	--------------------------	----------------	--	--------------------------

- 1.
- 2.
- 3.
- 4
- 5.

Compiled by:

Designation Date.....

Authorized by Date.....

Accounting officer/CEO

Official Rubber stamp

(Completed form to be submitted to EACC)

