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THE PUBLIC SERVICE (VALUES AND PRINCIPLES) ACT

CHAPTER 185A

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CHAPTER 185A

PUBLIC SERVICE (VALUES AND PRINCIPLES) ACT

ARRANGEMENT OF SECTIONS

PART I – PRELIMINARY

Section

1. Short title
2. Interpretation
3. Objects of the Act
4. Application of the Act

PART II – VALUES AND PRINCIPLES OF PUBLIC SERVICE

5. High standards of professional ethics
6. Efficient, effective and economic use of resources
7. Responsive, prompt, effective, impartial and equitable provision of services
8. Transparency and provision to the public of timely, accurate information
9. Accountability for administrative acts
10. Fair competition and merit as the basis of appointments and promotions

**PART III – PUBLIC PARTICIPATION,
COMPLAINTS, REGISTER AND REPORTING**

11. Public participation in promotion of values and principles of public service
12. Public participation in policy-making
13. Complaints
14. Maintenance of register
15. Compliments, commendations, honours, rewards, etc.
16. Reports

PART IV – GENERAL PROVISIONS

17. Regulations
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CHAPTER 185A

PUBLIC SERVICE (VALUES AND PRINCIPLES) ACT

[Date of assent: 14th May, 2015.]

[Date of commencement: 4th June, 2015.]

An Act of Parliament to give effect to the provisions of Article 232 of the Constitution regarding the values and principles of public service and for connected purposes

[Act No. 1a of 2015.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Public Service (Values and Principles) Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"code of ethics" means a code of practice adopted by a profession to regulate that profession;

"continuing professional development" means the means by which a professional maintains their knowledge and skills related to their professional lives;

"professional association" means a non-profit organization seeking to further a particular profession, the interests of individuals engaged in that profession, and the public interest;

"professional in good standing" means a member of a professional association who has no pending matter of professional misconduct against them;

"professional in the public service" means a public officer who is or should be a member of a professional association;

"professional misconduct" means a violation of the code of ethics of a professional association by a member of that professional association;

"public officer" has the meaning assigned to it in Article 260 of the Constitution;

"public service" has the meaning assigned to it in Article 260 of the Constitution; and

"service Commission" means a constitutional Commission or independent office provided for in Chapter Fifteen of the Constitution, and includes—

- (a) a County Public Service Board; and
- (b) a County Assembly Service Board.

3. Objects of the Act

The objects of this Act are to provide for—

- (a) a general code on the values and principles of public service;
- (b) public participation in the promotion of the values and principles of, and policy making by, the public service; and

- (c) reporting on the status of the promotion of values and principles of public service.

4. Application of the Act

This Act applies to the public service in—

- (a) all State organs in the national and county governments; and
- (b) all State corporations.

PART II – VALUES AND PRINCIPLES OF PUBLIC SERVICE

5. High standards of professional ethics

(1) Every public officer shall maintain high standards of professional ethics.

(2) For the purposes of subsection (1), a public officer maintains high standards of professional ethics if that public officer—

- (a) is honest;
- (b) displays high standards of integrity in that officer's dealings;
- (c) is transparent when executing that officer's functions;
- (d) can account for that officer's actions;
- (e) is respectful towards others;
- (f) is objective;
- (g) is patriotic; and
- (h) observes the rule of law.

(3) Despite the provisions of this section, a professional in the public service shall—

- (a) comply with the provisions of the relevant professional association regarding registration and continuing professional development;
- (b) be bound by the code of ethics of the relevant professional association; and
- (c) undergo such disciplinary action of the relevant professional association for any act of professional misconduct in addition to undergoing any disciplinary action of the public service for such act of professional misconduct.

(4) Where necessary, the public service, a public institution or an authorised officer may require a professional association to inform the public service, public institution or authorised officer whether or not a professional in the public service has committed an act of professional misconduct.

6. Efficient, effective and economic use of resources

(1) A public officer shall use public resources in an efficient, effective and economic manner.

(2) For the purposes of subsection (1), a public officer fails to use public resources in an efficient, effective and economic manner if, in the process of their usage—

- (a) the public officer has used the public resources in a manner that is not prudent;
- (b) there is unreasonable loss;
- (c) there is deliberate destruction; or

- (d) the effect is to reduce the effectiveness of the public service.

7. Responsive, prompt, effective, impartial and equitable provision of services

- (1) The public service shall ensure that public services are provided—

- (a) promptly;
- (b) effectively;
- (c) impartially; and
- (d) equitably.

- (2) The provision of public services is not prompt where there is unreasonable delay.

(3) For the purposes of this section, "unreasonable delay" includes failure by a public officer to provide a public service within the period that may be provided for in the service charter of the public institution in which he or she is serving.

- (4) The provision of public services is ineffective if—

- (a) there is unreasonable loss;
- (b) public complaints against a public officer are made regarding the provision of public services; or
- (c) public grievances against a public institution are made regarding the quality of its services,

and a public officer is found culpable of the loss, or the complaint or grievance against the officer is found valid, upon complaint pursuant to section 13 of this Act.

- (5) The provision of public services is not impartial or equitable if—

- (a) a public officer discriminates against a person or a community during the provision of public services; or
- (b) a public officer refuses or fails to give accurate information during the provision of public services.

- (6) Every public institution shall—

- (a) develop standards for the responsive, prompt, effective, impartial and equitable provision of services;
- (b) facilitate the introduction of modern and innovative procedures, technologies and systems for the delivery of its services;
- (c) simplify its procedures and ease formalities related to access and delivery of its services;
- (d) ensure the adaptability of public services to the needs of the public;
- (e) ensure that its services are delivered closer to the users of the services; and
- (f) develop mechanisms for monitoring and evaluating the effectiveness of public service delivery.

8. Transparency and provision to the public of timely, accurate information

- (1) A public officer shall not—

- (a) give information that the public officer knows or ought to know to be inaccurate; or
- (b) unduly delay the provision of any information where required to provide that information.

(2) The public service, a public institution or, where permitted, an authorised officer shall develop guidelines for the provision to the public of timely and accurate information, and the promotion of transparency and accountability.

(3) For the purposes of this section, "undue delay" includes a failure by a public officer to provide information within the time required in accordance with the guidelines of the public institution in which he or she serves.

9. Accountability for administrative acts

(1) Every public officer shall be accountable for his or her administrative acts.

(2) The public service, a public institution or an authorised officer shall ensure the accountability of a public officer by—

- (a) keeping an accurate record of administrative acts of public servants in each public institution;
- (b) requiring every public officer to maintain an accurate record of their administrative acts;
- (c) maintaining a record of relevant documents prepared by a public officer; and
- (d) establishing a mechanism to address complaints arising out of the administrative acts of a public officer.

10. Fair competition and merit as the basis of appointments and promotions

(1) The public service, a public institution or an authorised officer shall ensure that public officers are appointed and promoted on the basis of fair competition and merit.

(2) Despite subsection (1), the public service may appoint or promote public officers without undue reliance on fair competition or merit if—

- (a) a community in Kenya is not adequately represented in appointments to or promotions in the public service or in a public institution;
- (b) the balance of gender in the public service or in a public institution is biased towards one gender;
- (c) an ethnic group is disproportionately represented in the public service or in a public institution; or
- (d) persons with disabilities are not adequately represented in the public service or in a public institution.

(3) Each public institution or each authorised officer shall develop a system for the provision of relevant information that promotes fairness and merit in appointments and promotions.

PART III – PUBLIC PARTICIPATION, COMPLAINTS, REGISTER AND REPORTING

11. Public participation in promotion of values and principles of public service

(1) The public service shall facilitate public participation and involvement in the promotion of values and principles of public service.

(2) Public participation and involvement may be through—

- (a) citizens' fora;
- (b) the village councils established under section 53 of the County Governments Act (Cap. 265); or

(c) elected leaders

(3) The citizens' fora referred to in subsection (2) shall include—

- (a) faith-based organisations or groups;
- (b) boards of management of learning institutions, however organised;
- (c) welfare associations;
- (d) residents' associations;
- (e) market-users' committees;
- (f) self-help groups; and
- (g) such other registered or unregistered groups organised at the sub-county level.

(4) Despite the provisions of this section, the rights and duties of residents specified in the Second Schedule to the Urban Areas and Cities Act (Cap. 275) shall be applicable for the purposes of this Act with the necessary modifications.

12. Public participation in policy-making

(1) The public service shall develop guidelines for the involvement of the people in policy-making.

(2) The guidelines developed under subsection (1) shall ensure that the public is given—

- (a) adequate opportunity to review a draft policy;
- (b) adequate opportunity to make comments on a draft policy;
- (c) an opportunity to be heard by the makers of a policy; and
- (d) notification of the final draft of the policy and whether or not it incorporates their views.

13. Complaints

(1) Where a person alleges the violation of the values and principles of public service by a public officer, that person may complain to—

- (a) the supervisor of that public officer;
- (b) the head of the department or institution in which that public officer serves;
- (c) the department in charge of public complaints of the relevant service Commission;
- (d) the department in charge of public complaints of the relevant commission; or
- (e) the person in charge of the values and principles committee of the public institution, where established.

(2) A person who makes a complaint under this section against a public officer may do so—

- (a) in person;
- (b) through a relative or personal representative;
- (c) through a legal representative;
- (d) through a citizens' forum;
- (e) through a village council;
- (f) through the relevant member of a county assembly; or

(g) through the relevant member of Parliament.

(3) Where a person makes a complaint to a service Commission, that service Commission shall—

- (a) receive and record in a register the details of the complaint;
- (b) investigate and determine the complaint expeditiously but in any case in not more than three months from the date of receipt of the complaint; and
- (c) set down the reasons for its determination in writing and provide it to the complainant, the public officer concerned and to that public officer's supervisor, head of department or head of the institution.

(4) If after three months a service commission has not investigated and determined a complaint, the officer responsible for handling the complaint shall give the complainant satisfactory reasons, in writing, for non-compliance.

(5) Appropriate disciplinary action shall be taken against any officer who is found to have unreasonably delayed in handling a complaint made to the service commission.

(6) A person aggrieved by the decision of a service Commission may seek judicial redress.

14. Maintenance of register

(1) Each service Commission shall keep and maintain a register of complaints made against public officers and shall, upon request by a complainant, allow the complainant to inspect the register to verify details relating to his or her complaint.

(2) A register of complaints shall contain the details of the complaint including the name and designation of the officer complained against and the action taken by the responsible commission.

(3) The service Commission may, on the request of a complainant, omit the identity of the complainant from the register of complaints.

15. Compliments, commendations, honours, rewards, etc.

(1) Where a person considers the quality of public service offered by a public officer to be exemplary, outstanding, or innovative, that person may inform the public officer's supervisor or head of the institution.

(2) For the purposes of subsection (1), each public institution shall make guidelines to provide for—

- (a) the receiving and recording of information; and
- (b) recognising, commending and rewarding public officers who offer exemplary, outstanding or innovative services or who perform their duties exceptionally well.

16. Reports

(1) Once in every year, each service Commission shall prepare a report on the status of the promotion of the values and principles of public service.

(2) Each service Commission shall submit the report prepared under subsection (1) to the President and Parliament, and the Governor and county assembly, where relevant, by 31st of December of each year.

(3) The report under this section shall provide information on—

- (a) the measures taken to promote the values and principles of public service;
- (b) the progress achieved in the promotion of values and principles of public service;
- (c) the challenges faced in the promotion of values and principles of public service;
- (d) any recommendations for the progressive realisation of values and principles of public service; and
- (e) any other matter that may be relevant to the realisation of the values and principles of public service.

PART IV – GENERAL PROVISIONS

17. Regulations

(1) Each service Commission may make regulations for the better carrying into effect of this Act.

(2) Despite the generality of subsection (1), a service Commission may make regulations regarding—

- (a) high standards of professional ethics;
 - (b) determination of any disciplinary matter in relation to a violation of a value or principle under this Act;
 - (c) the responsive, prompt, effective, impartial or equitable of public services;
 - (d) the efficient, effective and economic use of public resources;
 - (e) transparency;
 - (f) the provision to the public of timely and accurate information;
 - (g) public participation;
 - (h) accountability of public officers;
 - (i) the application of fair competition or merit in appointments or promotions;
 - (j) service delivery;
 - (k) performance management;
 - (l) access to information by the public; and
 - (m) the provision of adequate and equal training opportunities for training.
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