

LAWS OF KENYA

THE PUBLIC OFFICER ETHICS ACT

CHAPTER 183

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CHAPTER 183**THE PUBLIC OFFICER ETHICS ACT, 2003**

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CHAPTER 183
THE PUBLIC OFFICER ETHICS ACT, 2003

AN ACT of Parliament to advance the ethics of public officers by providing for a Code of Conduct and Ethics for public officers and requiring financial declarations from certain public officers and to provide for connected purposes.

ENACTED by the Parliament of Kenya as follows:-

PART I—PRELIMINARY

Short title.

1. This Act may be cited as the Public Officer Ethics Act, 2003.

Interpretation.
7 of 2007, Sch.

2. In this Act, unless the context otherwise requires-

“Code of Conduct and Ethics” means, for a public officer, the Code of Conduct and Ethics established under Part II for that public officer;

“Commission” means a commission, committee or other body having functions under this Act by virtue of section 3;

“Minister” means the Minister responsible for integrity issues;

“public officer” means any officer, employee or member, including an unpaid, part-time or temporary officer, employee or member, of any of the following-

(a) the Government or any department, service or undertaking of the Government;

(b) the National Assembly or the Parliamentary Service;

(c) a local authority;

(d) any corporation, council, board, committee or other body which has power to act under and for the purposes of any written law relating to local government, public health or undertakings of public utility or otherwise to administer funds belonging to or granted by the Government or money raised by rates, taxes or charges in pursuance of any such law;

No. 12 of 1997.

(e) a co-operative society established under the Co-operative Societies Act;

Provided that this Act shall apply to an officer of a co-operative society within the meaning of the Act.

(f) a public university;

(g) any other body prescribed by regulation for the purposes of this paragraph;

“responsible Commission”, in relation to a public officer, means the Commission determined under section 3 to be the responsible Commission in relation to that public officer.

3. (1) This section determines what body is the responsible Commission for a public officer for the purposes of this Act.

Determination
of responsible
Commission.
7 of 2007, Sch.

(2) The committee of the National Assembly responsible for the ethics of members is the responsible Commission for-

(a) members of the National Assembly including, for greater certainty, the President, the Speaker and the Attorney-General;

(b) members of the Electoral Commission and the Public Service Commission; and

(c) the Controller and Auditor-General.

(d) Directors and Assistant Directors of the Kenya Anti-Corruption Commission.

(3) The Public Service Commission is the responsible Commission for the public officers in respect of which it exercises disciplinary control and for the public officers described in paragraphs (c), (d) and (e) of section 107 (4) of the Constitution and for public officers who are officers, employees or members of state corporations that are public bodies.

(4) The Judicial Service Commission is the responsible Commission for judges, magistrates and the public officers in respect of which it exercises disciplinary control.

(5) The Parliamentary Service Commission is the responsible Commission for the public officers in respect of which it exercises disciplinary control.

(6) The Electoral Commission is the responsible Commission for

councillors of local authorities.

Cap. 212. (7) The Teachers Service Commission established under the Teachers Service Commission Act is the responsible Commission for teachers registered under that Act.

Cap. 199. (8) The Defence Council established under the Armed Forces Act is the responsible Commission for members of the armed forces, within the meaning of that Act.

No. 11 of 1998. (9) The National Security Intelligence Council established under the National Security Intelligence Service Act, 1998 is the responsible Commission for members of the National Security Intelligence Service established under that Act.

(10) The responsible Commission for a public officer for which no responsible Commission is otherwise specified under this section is the commission, committee or other body prescribed by regulation.

(11) A body that is the responsible Commission for a public officer by virtue of exercising disciplinary control over that public officer remains the responsible Commission notwithstanding the delegation of any disciplinary powers with respect to that public officer.

Certain delegations
by Public Service
Commission.
7 of 2007, Sch.

4. (1) Subject to subsection (2), the Public Service Commission may, by notice in the Gazette, delegate to another person or body any of its powers and functions under Part IV or Part V with respect to classes of public officers specified by the Public Service Commission and that person or body shall be deemed to be the responsible Commission with respect to such delegated powers and functions.

(2) The Public Service Commission may delegate powers and functions only with respect to public officers in a job group below job group “M” or its equivalent.

PART II—SPECIFIC CODES OF CONDUCT AND ETHICS

Establishment of
specific Codes.

5. (1) Each Commission shall establish a specific Code of Conduct and Ethics for the public officers for which it is the responsible Commission.

(2) The specific Code established by a Commission shall include all the requirements in the general Code of Conduct and Ethics under Part III and may-

(a) include requirements beyond what is required under the general Code of Conduct and Ethics under Part III; and

(b) set out how any requirements of the specific or general Code may be satisfied.

(3) No requirement shall be included in a specific Code that would infringe any independence of a public officer provided for by the Constitution or an Act and any requirement of the specific Code or in the general Code of Conduct and Ethics under Part III is of no effect to the extent that it would do so.

(4) Until a Commission has established a specific Code under this section, the general Code of Conduct and Ethics under Part III shall apply as though it were the specific Code established by the Commission.

6. (1) Each Commission shall publish the specific Code of Conduct and Ethics established by it in the Gazette within ninety days after the commencement of this Act. Publication of specific Codes.

(2) In relation to a Commission that is prescribed by regulation under section 3(1) as a responsible Commission, this section shall apply as though the reference in subsection (1) to the commencement of this Act were a reference to the commencement of the regulation.

PART III—GENERAL CODE OF CONDUCT AND ETHICS

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

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

9. (1) A public officer shall- Professionalism.

(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.

Rule of law.

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

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

No improper enrichment.

11. (1) A public officer shall not use his office to improperly enrich himself or others.

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

- (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who-
 - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;
 - (ii) carries on regulated activities with respect to which the public officer's organisation has a role; or
 - (iii) has a contractual or similar relationship with the public officer's organisation;
- (b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or
- (c) for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.

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

(4) Subsection (2)(a) does not prevent a public officer from

accepting a gift from a relative or friend given on a special occasion recognized by custom.

(5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

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

(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.

Collections and harambees.

13. (1) A public officer shall not-

- (a) use his office or place of work as a venue for soliciting or collecting harambees; or
- (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

Cap. 106.

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

Acting for foreigners.

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

(2) For the purposes of this section-

- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisations or individuals.

Care of property.

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

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

Political neutrality.

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

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

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

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

- 17.** A public officer shall not practice nepotism or favouritism. Nepotism, etc.
- 18.** A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour. Giving of advice.
- 19.** A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer. Misleading the public, etc.
- 20.** (1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office. Conduct of private affairs.
- (2) A public officer shall not evade taxes.
- (3) A public officer shall not neglect his financial obligations or neglect to settle them.
- 21.** (1) A public officer shall not sexually harass a member of the public or a fellow public officer. Sexual harassment.
- (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 innuendos, regarding another person’s sexuality.
- 22.** A public officer shall practice and promote the principle that public officers should be- Selection, etc. of public officers.
- (a) selected on the basis of integrity, competence and suitability; or
- (b) elected in fair elections.
- 23.** A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him. Submitting of declarations, etc.
- 24.** (1) A public officer contravenes the Code of Conduct and Ethics if- Acting through others.

- (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.

Reporting improper orders.

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

PART IV—DECLARATIONS OF INCOME, ASSETS AND LIABILITIES

Declaration required. 7 of 2007, Sch.

26. (1) Every public officer shall, once every two years prescribed by section 27, submit to the responsible Commission for the public officer a declaration of the income, assets and liabilities of himself, his spouse or spouses and his dependent children under the age of 18 years.

(2) The declaration shall be in the form set out in the Schedule and shall include the information required by the form.

When declarations must be made. 7 of 2007, Sch.

27. (1) The declaration shall be submitted in the December of every second year.

(2) The statement date of a declaration under subsection (1) shall be the first day of November of the year in which the declaration is required.

(3) Within thirty days after becoming a public officer, the public officer shall submit an initial declaration.

(4) The statement date of an initial declaration under subsection (3) shall be the date the public officer became a public officer.

(5) Within thirty days after ceasing to be a public officer, the former public officer shall submit a final declaration.

(6) The statement date of a final declaration under subsection (5) shall be the date the public officer ceased to be a public officer.

(7) The following shall apply with respect to a person who is a public officer on the day the administrative procedures relevant to that public officer are first published under section 33-

- (a) the public officer shall submit an initial declaration within sixty days after the administrative procedures are published; and
- (b) the statement date of an initial declaration under paragraph (a) shall be the date the administrative procedures are published.

28. (1) A person who has submitted a declaration to a Commission shall provide, without undue delay, any clarification requested by the Commission if the request is in writing and is made within six months after the declaration was submitted to the Commission.

Clarifications.

(2) Without limiting what a request for clarification may include, such a request may include-

- (a) a request that any information that may have been omitted be provided; or
- (b) a request that any discrepancy or inconsistency, including a discrepancy or inconsistency arising because of information other than information included on the declaration, be explained or corrected.

29. A person submitting a declaration or providing a clarification shall ensure that the declaration or clarification is correct, to the best of his knowledge.

Information to be correct.

30. (1) The contents of a declaration or clarification under this Act shall be accessible to any person upon application to the responsible Commission in the prescribed manner if the applicant shows to the satisfaction of the responsible Commission that he or she has a legitimate interest and good cause in furtherance of the objectives of this Act, in such declaration or clarification:

Access to declarations.
7 of 2007, Sch.

Provided that prior to the responsible Commission making an affirmative decision under this section, it shall grant the opportunity to the affected party to make representations on the matter.

(2) No information obtained pursuant to subsection (1) shall be published or in any way made public except with prior written authority of the responsible Commission.

(3) Any person who-

- (a) publishes or in any way makes public any information obtained under the foregoing sections without prior permission of the responsible Commission;
- (b) knowingly republishes or otherwise disseminates or discloses to another person information to which this section relates where-
 - (i) such information was disclosed to himself or to some other person; or
 - (ii) such information was obtained in contravention of this Act,

shall be guilty of an offence and liable on conviction to imprisonment for five years or to a fine not exceeding five hundred thousand shillings, or to both.

Retention of information.
7 of 2007, Sch.

31. A Commission shall keep information collected under this Part concerning a person for at least five years after the person ceased to be a public officer.

Offences.

32. A person who fails to submit a declaration or clarification as required under this Part or who submits, in such a declaration or clarification, information that he knows, or ought to know, is false or misleading, is guilty of an offence and is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both.

Administrative procedures.

33. (1) Each Commission shall establish procedures for the administration of this Part with respect to the public officers for which it is the responsible Commission.

(2) The administrative procedures shall be established and published in the Gazette within ninety days after the commencement of this Act.

(3) In relation to a Commission that is prescribed by regulation under section 3(10) to be a responsible Commission, subsection (2) shall apply as though the reference in that subsection to the commencement of this Act were a reference to the commencement of the regulation.

(4) Nothing in section 27 requires a public officer to submit a declaration before publication, under this section, of the relevant administrative procedures by the responsible Commission.

34. (1) Subject to subsection (2), the Minister may, by notice in the Gazette, amend the Schedule to this Act. Amendment of Schedule.

(2) The Minister may not amend the Schedule to this Act unless a draft of the amendment has been laid before, and has been approved by resolution of, the National Assembly.

PART V—ENFORCEMENT OF CODE OF CONDUCT AND ETHICS

35. (1) The responsible Commission for a public officer may investigate to determine whether the public officer has contravened the Code of Conduct and Ethics. Investigations.

(2) An investigation may be made on the Commission's own initiative or pursuant to a complaint by any person.

(3) The Commission may refer a matter to another appropriate body for investigation and that body shall investigate the matter within a reasonable time and submit a report to the Commission on its findings.

(4) An investigation may be conducted even if the subject of the investigation has ceased to be a public officer.

36. (1) If an investigation discloses that the public officer has contravened the Code of Conduct and Ethics, the responsible Commission shall, within the time period prescribed by subsection (2)- Disciplinary action.
7 of 2007, Sch.

(a) take the appropriate disciplinary action; or

(b) if the responsible Commission does not have the power to take the appropriate disciplinary action, refer the matter to a body or person who does have that power.

(2) The time period referred to in subsection (1) is-

(a) within thirty days after the completion of the investigation;
or

(b) if another body investigated the matter under section 35 (3), within thirty days after the responsible Commission receives the report of that body.

(3) The responsible Commission shall inform the public officer concerned of any action it takes or intends to take under subsection (1) either before it takes the action or within thirty days after it does so.

(4) Subsection (3) does not affect any legal requirement to inform a public officer earlier than is required under that subsection.

(5) The regulations made under section 42 may govern what disciplinary action is appropriate for the purposes of subsection (1).

Publications of actions.

37. (1) A Commission shall ensure that any action it takes under section 36 (1) is made public in the manner prescribed.

(2) In making its action public the Commission shall ensure that at least the following is made public-

- (a) a description of the public officer's contravention of the Code of Conduct and Ethics including the circumstances of the contravention and the degree of the public officer's culpability;
- (b) a summary of the evidence upon which the finding that there was a contravention was based; and
- (c) a description of the disciplinary action the Commission took against the public officer or, if the Commission referred the matter to another body or person, the disciplinary action the Commission considered appropriate and the disciplinary action taken by that other body or person.

Referral for possible civil or criminal proceedings.

38. If, as a result of an investigation under this Part, the Commission is of the view that civil or criminal proceedings ought to be considered, the Commission shall refer the matter to the Attorney-General or other appropriate authority.

Exceptions.

39. This Part (section 35 excepted) does not apply with respect to offices for which the Constitution provides a procedure for removal for misbehaviour.

PART VI—GENERAL

Obstructing or hindering persons under Act.

40. A person who, without lawful excuse, obstructs or hinders a person acting under this Act is guilty of an offence and is liable, on conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years or to both.

41. A person who, without lawful excuse, divulges information acquired in the course of acting under this Act is guilty of an offence and is liable, on conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years or to both.

Divulging
information acquired
under Act.

42. The Minister may make regulations for the better carrying out of the provisions of this Act.

Regulations.

SCHEDULE

(s.26)

Declaration of Income, Assets and Liabilities.

1. Name of public officer

(Surname) (First name) (Other names)

2. Birth information

(a). Date of birth:

(b). Place of birth:

3. Marital status:

4. Address

(a). Postal address:

(b). Physical address:

5. Employment information

(a). Designation:

(b). Name of employer:

(c). Nature of employment (permanent, temporary, contract, etc.):

6. Names of spouse or spouses

(Surname) (First name) (Other names)

.....

7. Names of dependent children under the age of 18 years

(Surname) (First name) (Other names)

.....

8. Financial statement for:

(A separate statement is required for the officer and each spouse and dependent child under the age of 18 years.(Additional sheets should be added as required.)

(a). Statement date: _____

(b). Income, including emoluments, for period from to

(Including, but not limited to, salary and emoluments and income from investments. The period is from the previous statement date to the current statement date. For an initial declaration, the period is the year ending on the statement date.)

<i>Description</i>	<i>Approximate amount</i>

(c). Assets (as of the statement date)

(Including, but not limited to, land, buildings, vehicles, investments and financial obligations owed to the person for whom the statement is made.)

<i>Description</i> <i>(include location of asset where applicable)</i>	<i>Approximate value</i>

(d). Liabilities (as of the statement date)

<i>Description</i>	<i>Approximate amount</i>

9. Other information that may be useful or relevant:

I solemnly declare that the information I have given in this declaration is, to the best of my knowledge, true and complete.

Signature of officer:

Date:

Witness:

Signature:

Name:

Address:

SUBSIDIARY LEGISLATION**JUDICIAL SERVICE CODE OF CONDUCT AND ETHICS**

L.N. 50/2003.

The Judicial Service Commission establishes the following Judicial Service Code of Conduct and Ethics under section 5 (1) of the Public Officer Ethics Act, 2003:

PREAMBLE

The legal system of the Republic of Kenya is based on the principle that an independent, fair and competent Judicial Service will interpret and apply the laws of the land. The role of the Judicial Service is central to the concepts of justice and the rule of law. Intrinsic to all parts of this Code are the precepts that judicial officers individually and collectively, must respect and honour the judicial office they hold as a public trust and strive to enhance and maintain public confidence in the system. A judicial officer is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the rule of law.

The Code is intended to establish standards of ethical conduct of judicial officers and to be applied consistently with constitutional requirements, statutes, court rules and legal authorities and in the context of all relevant circumstances. The Code is to be construed so as not to impinge on the essential independence of judicial officers in the making of judicial decisions or to limit their legal rights.

While regulations governing the discipline and general conduct of judicial officers and the procedure to be followed in cases of breach of discipline may be found in the Judicial Service Commission Regulations, this Code contains general rules of conduct and ethics to be observed by judicial officers so as to maintain the integrity and independence of the Judicial Service.

It should always be remembered that each judicial officer occupies a special and revered position which must be protected both in public and private life, so as not to bring the Judicial Service generally, into disrepute. It is imperative, therefore, that every judicial officer should adhere to this Code with scrupulous care.

A judicial calling is one of sacrifice and restricted lifestyle. A lifestyle which is automatically accepted on appointment to the bench.

This code may be cited as the Judicial Service Code of Conduct and Ethics. Title.

In this Code, unless the context otherwise requires—

Interpretation.

“judicial officer” shall mean and include any Judge, Magistrate, Registrar or Kadhi of all grades employed in the Judicial Service of Kenya.

Reference to the masculine gender includes females.

[Subsidiary]

Rules.

In the performance of his duties a judicial officer shall strictly observe the following Rules of this Code.

Rule 1

A judicial officer and any other officer in respect of which the Judicial Service Commission exercises disciplinary control shall comply with all the requirements of the General Code of Conduct and Ethics set out in Part III of the Public Officer Ethics Act, 2003. Those requirements are set out in Appendix 1 and form part of this Code.

Rule 2

OATH OF OFFICE

A judicial officer shall be true and faithful both to his Oath of Allegiance and the Judicial Oath, taken on appointment. He should respect and faithfully apply the laws of the land in the performance of his judicial functions.

Rule 3

INDEPENDENCE, INTEGRITY AND IMPARTIALITY

1. Due to the complexity, sensitivity and vitality of the courts' jurisdiction in both criminal and civil cases, judicial officers shall be free and seen to be free from external influence from any quarter, as everyone is equal before the law.

2. They shall not be improperly influenced by—

(a) the sex, ethnic or national origin, religious belief, or political association of the victim of a crime, witness, accused person, plaintiff or defendant;

(b) personal feelings concerning the plaintiff, defendant, victim of a crime or accused person; or

(c) pressure from any individual or group of people, claiming to have an interest in a particular case.

3. Consequently judicial officers must refrain from consulting, discussing or seeking views outside judicial circles on matters which are before them or indeed any other court.

4. An independent and honourable Judicial Service is indispensable to achieving justice in our society. A judicial officer should participate in establishing, maintaining, and enforcing high standards of judicial conduct. The provisions of this Code are intended to preserve the integrity and the independence of the Judicial Service; the Code should be construed and applied to further these objectives.

[Subsidiary]

5. In all activities, a judicial officer shall exhibit respect for the rule of law, comply with the law, avoid impropriety and the appearance of impropriety, and act in a manner that promotes public confidence in the integrity and the impartiality of the Judicial Service.

6. A judicial officer shall not allow family, social, political, or other relationships to influence his conduct or judgment. A judicial officer shall not use or lend the prestige of his judicial office to advance his private interest or those of others. A judicial officer shall not knowingly convey or permit others to convey the impression that anyone is in a special position to influence him.

7. A judicial officer shall not hold membership in any organization that he knows practises discrimination on the basis of race, sex, religion or ethnic or national origin.

8. The judicial duties of a judicial officer take precedence over all his other activities. His judicial duties include all the duties of his office prescribed by law. In the performance of these duties, the following standards shall apply—

- (a) a judicial officer shall consider and decide all matters assigned to him except those in which his disqualification is required;
- (b) a judicial officer shall maintain professional competence in the law;
- (c) a judicial officer shall be faithful to the law and shall not deviate from the law to appease public clamour, to avoid criticism, or to advance an improper interest;
- (d) a judicial officer shall take reasonable steps to maintain and ensure order and decorum in judicial proceedings before him;
- (e) a judicial officer shall be patient, dignified, and courteous to litigants, assessors, witnesses, lawyers and others with whom he deals in an official capacity, taking reasonable steps to maintain and ensure similar conduct from lawyers and from court staff and others subject to his direction and control; and
- (f) A judicial officer shall dispose of all judicial matters promptly, efficiently and fairly.

Rule 4

REPORTING RESPONSIBILITIES

1. A judicial officer having information establishing a likelihood that another judicial officer has violated this Code or reflecting the other judicial officer's lack of fitness to hold judicial office shall inform the Chief Justice unless the judicial officer reasonably believes that the misconduct or lack of fitness has been or will otherwise be reported. Conduct reflecting lack of fitness to hold judicial office includes, without limiting the generality of the foregoing, physical or mental infirmity; soliciting or accepting a bribe or otherwise acting

[Subsidiary]

dishonestly in reaching a judicial or administrative decision; improperly using or threatening to use the judicial officer's judicial power in a manner adverse to someone else's interests for the purpose of inducing that person to bestow a benefit upon the judicial officer or upon someone else pursuant to the judicial officer's wishes; or commission of a felony.

2. A judicial officer possessing non privileged information pertaining to another judicial officer's potential violation of this Code shall fully reveal this information upon proper request of the appropriate disciplinary authority or of any other tribunal empowered to investigate or act upon judicial misconduct.

Rule 5

DISQUALIFICATION

A judicial officer shall disqualify himself in proceedings where his impartiality might reasonably be questioned including but not limited to instances in which-

- (a) he has a personal bias or prejudice concerning a party or his lawyer, or personal knowledge of facts in the proceedings before him;
- (b) he has served as a lawyer in the matter in controversy;
- (c) he or his family or a close relation has a financial or any other interest that could substantially affect the outcome of the proceeding; or
- (d) he, or his spouse, or a person related to either of them or the spouse of such a person or a friend is a party to the proceedings.

Rule 6

SOCIAL AND RECREATIONAL ACTIVITIES

A judicial officer may engage in the 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 judicial duties.

Rule 7

FIDUCIARY ACTIVITIES

1. A judicial officer should not serve as administrator, executor or trustee of any estate, except for the estate or trust of a member of his family and only if such service will not interfere with the proper performance of his judicial duties.

2. A member of the family of a judicial officer includes his spouse, child, grandchild, parent, grandparent or other relative or person with whom the judicial officer maintains a close family relationship.

Rule 8

CIVIL AND CHARITABLE ACTIVITIES

1. A judicial officer is part and parcel of the society in which he lives. Whereas, he should not be isolated, he is expected to remain within dignified limits. Above all, a judicial officer should regulate his extra-judicial activities to minimize the risk of conflict with judicial duties.

2. A judicial officer may only participate in “Harambee” if the same does not reflect adversely upon his impartiality and so long as it does not interfere with the performance of his judicial duties.

3. A judicial officer may contribute towards or attend a “Harambee” but should not play a central part in its organization or preside over the same.

4. No judicial officer shall use his office to solicit for funds for a “Harambee” or any other purpose.

Rule 9

PRACTICE LAW

A judicial officer may engage in activities to improve the law, the legal system and the administration of justice. A judicial officer should, however, not practice law either by offering legal advice or drafting legal documents or pleadings to litigants or members of the public whether for a fee or free of charge.

Rule 10

PRIVATE INTEREST

Every Judicial officer and any other officer in the judicial service is required to observe the following general principles in relation to his private interests-

- (a) to ensure that he does not subordinate his judicial or administrative duties to his private interests or put himself in a position where there is a conflict between his official duties and his private interests;
- (b) to undertake not to 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) to undertake not to engage in any occupation or business which might prejudice his status as a member of the Judicial Service or bring the Judicial Service into disrepute; and
- (d) to maintain at all times the professional and ethical standards which the public expects of him in transacting official business with efficiency, integrity and impartiality.

[Subsidiary]

Rule 11

PROHIBITED CONDUCT

1. A judicial officer and any officer in the Judicial Service shall neither ask for nor accept any property or benefit of any kind, for himself or for any person, on account of anything to be done, done or omitted to be done, by him in the discharge of his duties or by virtue of his official position.

2. Subject to this Rule, a judicial officer and any officer in the Judicial Service 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 unincorporated that might reasonably be thought to influence, or intended to influence, him in the performance of his duties.

3. The provisions of Sub-Rule 2 apply not only to the judicial officer himself but also to the members of his family, and a judicial officer will be held responsible for their observance by the members of his family.

4. For the purposes of Sub-Rules 2 and 3 the members of the family of an officer shall be defined in Rule 7.2.

5. Subject to sub-rule 7 a gift or donation to a judicial officer or any other officer in the Judicial Service on any public or ceremonial occasion shall be treated as a gift to the Government.

6. Where a gift or donation of the nature specified in Sub-Rule 2 is given without the knowledge of the officer or it would be offensive to custom or good public relations to refuse the gift, such officer shall forthwith report the matter to the Chief Justice who shall direct the appropriate mode of disposal of any such gift or donation and the officer shall comply with such direction.

7. Notwithstanding any other provisions of this Rule to the contrary, but subject to Section 11(3) of the General Code of Conduct and Ethics set out in Appendix 1 an officer may-

- (a) accept gifts which are occasional and inexpensive or in the form of a souvenir; and
- (b) accept personal gifts or donations from relatives or friends on such special occasions as may be recognized by custom.

8. When presents are exchanged between officers acting on behalf of the Government in ceremonial intercourse with other Governments or their representatives, the presents received will be handed over to the Chief Justice, who shall direct the appropriate mode of disposal, and any reciprocal presents will be given at the expense of the Judicial Service.

Rule 12

PROFESSIONALISM AND COURTESY

1. A judicial officer and any other officer in the Judicial Service shall ensure that his official and private conduct upholds at all times, the dignity and

[Subsidiary]

integrity of the Judicial Service by conducting himself, both officially and in private, in a dignified, honest and impeccable manner.

2. For the purposes of section 25 of the general Code of Conduct and Ethics set out in Appendix 1, the appropriate authority to whom the officer shall report the matter under that section is the Chief Justice.

3. A judicial officer and any other officer in the Judicial Service shall, at all times, be disciplined whether or not on official duty and shall, in particular-

- (a) maintain a standard of dressing and personal hygiene befitting the dignity and image of the judicial service;
- (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 Judicial Service whereof the guiding principles shall be qualifications, merit, competence and experience; and
- (g) seek to contribute and enhance the standards of performance and level of professionalism in the Judicial Service.

4. A judicial officer and any other officer in the Judicial Service 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 provision of such service.

Rule 13

PRIVATE AGENCIES

No judicial officer may undertake any private agency in any matter connected with the exercise of his public duties.

Rule 14

PUBLIC STATEMENTS AND COMMUNICATION WITH THE PRESS

1. A judicial officer and any officer in the Judicial Service shall not make public statements on matters affecting Government programmes or policies of the Judicial Service without the specific authority of the Chief Justice. A public statement includes communicating with the press.

[Subsidiary]

2. A judicial officer shall not, without the express permission of the Chief Justice-

- (a) act as the editor of any newspaper or take part directly or indirectly in the management thereof; nor
- (b) publish in any manner anything which may be reasonably regarded as of a political or administrative nature, whether under his own name, under a pseudonym or anonymously.

3. A judicial officer, and any officer in the Judicial Service whether on duty or on leave of absence, should not allow himself to be interviewed on questions of public policy affecting Kenya or any other country without the permission of the Chief Justice.

4. Whilst it is not desired to interfere with a judicial officer's liberty of free speech, any lack of discretion on his part likely to embarrass the Government or the judicial service may result in appropriate consequences for the officer responsible.

Rule 15

PROHIBITION OF STANDING FOR ELECTION AS A MEMBER OF THE
NATIONAL ASSEMBLY OR A LOCAL AUTHORITY

A judicial officer shall not stand for election as a Member of the National Assembly or a Local Authority or hold any political office.

Rule 16

POLITICAL ACTIVITY AND ATTENDANCE AT POLITICAL MEETINGS

A judicial officer or any other officer in the Judicial Service is entitled to his own views on political matters but shall not be permitted to express those views publicly.

Rule 17

CANVASSING

Judicial officers or other officers in Judicial Service shall not canvass either directly or indirectly for any favours in the Judicial Service or in any other organization.

Rule 18

ABSENCE FROM KENYA

A judicial officer and any other officer in the Judicial Service, who at any time wishes to travel outside Kenya, shall obtain the prior permission of the Chief Justice.

Rule 19

[Subsidiary]

REPORT IN CASES OF BANKRUPTCY, JUDGMENT-DEBTORS

Deputy Registrars of the High Court and Court of Appeal and Magistrates will report to the Chief Justice every instance in which a judicial officer becomes a judgment-debtor or proceedings are taken against a judicial officer in bankruptcy.

Rule 20

DECLARATION OF INCOME, ASSETS, AND LIABILITIES

Every judicial officer and any officer in the Judicial Service shall complete the declarations of assets and liabilities form in Appendix II of this Code in accordance with the provisions of Part IV of the Public Officer Ethics Act, 2003.

Rule 21

REPORTS IN CASES OF CRIMINAL PROCEEDINGS

Deputy Registrars of the High Court and Court of Appeal and Magistrates will report to the Chief Justice every instance in which an officer is charged with a serious offence. Proceedings for minor offences under, for example, the Traffic Act and Local by-laws may be disregarded, and the report should be confined to proceedings under the Penal Code and other Acts where a prison sentence may be imposed other than in default of payment of a fine.

Rule 22

BREACH OF CODE

Where an officer has committed a breach of this Code, appropriate action will be taken in accordance with the provisions of the Public Officer Ethics Act 2003, Judicial Service Commission Regulations or the Constitution as the case may be.

APPENDIX I

THE PUBLIC OFFICER ETHICS ACT, 2003

PART III-GENERAL CODE OF CONDUCT AND ETHICS

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

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

[Subsidiary]

Professionalism

9. A public officer shall—

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organization;
- (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.

Rule of law.

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

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

No improper enrichment.

11. (1) A public officer shall not use his office to improperly enrich himself or others.

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

- (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who-
 - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;
 - (ii) carries on regulated activities with respect to which the public officer's organization has a role; or
 - (iii) has a contractual or similar relationship with the public officer's organization;
- (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

[Subsidiary]

(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 organization.

(4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.

(5) subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

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

Conflict of interest.

(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 sub-section (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.

[Subsidiary]

Collections and harambees.

13. (1) A public officer shall not-

- (a) use his office or place of work as a venue for soliciting or collecting harambees; or
- (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

Cap. 106.

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

Acting for foreigners.

14. (1) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organization 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 organization is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organizations or individuals.

Care of property.

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

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

Political neutrality.

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

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

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

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

Nepotism, etc.

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

Giving of advice.

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

<p>19. A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.</p>	<p>[Subsidiary] Misleading the public, etc.</p>
<p>20. (1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.</p>	<p>Conduct of private affairs.</p>
<p>(2) A public officer shall not evade taxes.</p>	
<p>(3) A public officer shall not neglect his financial obligations or neglect to settle them.</p>	
<p>21. (1) A public officer shall not sexually harass a member of the public or a fellow public officer.</p>	<p>Sexual harassment.</p>
<p>(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-</p>	
<p>(a) making a request or exerting pressure for sexual activity or favours;</p>	
<p>(b) making intentional or careless physical contact that is sexual in nature; and</p>	
<p>(c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.</p>	
<p>22. A public officer shall practice and promote the principle that public officers should be-</p>	<p>Selection, etc. of public officers.</p>
<p>(a) selected on the basis of integrity, competence and suitability; or</p>	
<p>(b) elected in fair elections.</p>	
<p>23. A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.</p>	<p>Submitting of declarations, etc.</p>
<p>24. (1) A public officer contravenes the Code of Conduct and Ethics if-</p>	<p>Acting through others.</p>
<p>(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</p>	
<p>(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.</p>	
<p>(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.</p>	

[Subsidiary]

Reporting improper orders.

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

APPENDIX II

THE PUBLIC OFFICER ETHICS ACT, 2003

(Section 26)

PART IV — DECLARATION OF INCOME, ASSETS AND LIABILITIES

1. Name of public officer:
 (Surname) (First name) (Other names)

2. Birth information:
 (a) Date of birth.....
 (b) Place of birth.....
3. Marital status.....
4. Address:
 (a) Postal address.....
 (b) Physical address.....
5. Employment information:
 (a) Designation
 (b) Name of employer.....
 (c) Nature of employment (permanent, temporary, contract, etc.).....
6. Names of spouse or spouses:
 (Surname) (First name) (Other names)

7. Names of dependant children under the age of 18 years.
 (Surname) (First name) (Other names)

8. Financial statement for.....
 (A separate statement is required for the officer and each spouse and dependent child under the age of 18 years. Additional sheets should be added as required.)
 (a) Statement date.....
 (b) Income, including emoluments, for period from
 to.....

[Subsidiary]

(Including, but not limited to, salary and emoluments and income from investments. The period is from the previous statement date to the current statement date. For an initial declaration, the period is the year ending on the statement date.)

<i>Description</i>	<i>Approximate amount</i>

(c) Assets (as of the statement date)

(Including, but not limited to, land, buildings, vehicles, investments and financial obligations owed to the person for whom the statement is made.)

<i>Description</i> <i>(include location of asset where applicable)</i>	<i>Approximate value</i>

(d) Liabilities (as of the statement date)

<i>Description</i>	<i>Approximate amount</i>

9. Other information that may be useful or relevant:

I solemnly declare that the information I have given in this declaration is, to the best of my knowledge, true and complete.

[Subsidiary]

Signature of officer:

Date:

WITNESS:

Signature:

Name:

Address:

THE PUBLIC OFFICER ETHICS ACT

CAP. 183

L.N. 74/2005.

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

ARRANGEMENT OF CODE

PART I—PRELIMINARY

- I—Citation.
- 2—Interpretation.
- 3—Application of Code.

PART II—REQUIREMENTS

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

PART III—SATISFACTION OF THE REQUIREMENTS OF THE CODE

- 15—The Director to enforce Code.
- 16—Staff.

Appendix—General Code of Conduct and Ethics

[Subsidiary]

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

The Kenya 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

Citation. 1. This Code may be cited as the Code of Conduct and Ethics for the Members and Staff of the Kenya Anti-Corruption Commission.

Interpretation. 2. In this Code, unless the context otherwise requires-

“the Act” means the Public Officer Ethics Act, 2003;

“Advisory Board” means the Kenya Anti-Corruption Advisory Board;

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

“Commission” means the Kenya Anti-Corruption Commission;

“Director” means the Director of the Kenya 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, No. 3 of 2003, 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 Kenya Anti-Corruption Commission means persons employed by the Commission, and includes those serving on secondment basis, but does not include the members;

Application. 3. 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

Compliance with General Code. 4. (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.

[Subsidiary]

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

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

6. A public officer— Conflict of interest.

(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. (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. Gifts..

(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. L.N. 120/2003.

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

(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. 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. Pecuniary embarrassment.

10. 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. Social association and recreation.

11. 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. Press statements.

12. (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. Confidentiality.

(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.

[Subsidiary]

Political association.

13. 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.

Compliance with staff rules and regulations and disciplinary code.

14. 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

The Director, etc.

15. (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.

Staff.

16. (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

(Rule 4 (2))

THE PUBLIC OFFICER ETHICS ACT, 2003

PART III—GENERAL CODE OF CONDUCT AND ETHICS

Part sets out general Code.

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

Performance of duties, general.

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

Professionalism.

9. A public officer shall-

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

[Subsidiary]

- (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 organization;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorization or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

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

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

11. (1) A public officer shall not use his office to improperly enrich himself or others. No improper enrichment.

(2) Without limiting the generality of subparagraph (1), a public officer shall not-

- (a) except as allowed under subparagraph (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 organization has a role; or
 - (iii) has a contractual or similar relationship with the public officer's organization;
- (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

[Subsidiary]

regulation, such a gift shall be deemed to be a gift to the public officer's organization.

(4) Subparagraph (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) Subparagraph (2) (c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

Conflict of Interest.

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

(2) Without limiting the generality of subparagraph (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 subparagraph (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 paragraph, "personal interest" includes the interest of a spouse, relative or business associate.

Collections and harambees.

13. (1) A public officer shall not-

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

[Subsidiary]

(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 paragraph, “collection”, “collector” and “promoter” have the same meanings as in section 2 of the Public Collections Act. Cap. 106.

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

(2) For the purposes of this paragraph-

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

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

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

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

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

(a) act as an agent for, or so as to further the interests 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 paragraph does not apply to a member of the National Assembly or a councillor of a local authority.

17. A public officer shall not practice nepotism or favouritism. Nepotism, etc.

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

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

Conduct of private

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affairs.

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

(2) A public officer shall not evade taxes.

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

Sexual harrasment.

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

(2) In subparagraph (1), “sexually harass” includes doing any of the following, if the person doing it knows or ought to know tht 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 innuendos, regarding another person’s sexuality.

Selection, etc. of public officers.

22. A public officer shall practice and promote the principle that public officers should be–

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

(b) elected in fair elections.

Submitting of declarations, etc.

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

Acting through others.

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

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

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

(2) 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.

Reporting improper orders.

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

[Subsidiary]

L.N. 75/2005.

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

ARRANGEMENT OF PARAGRAPHS

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

[Subsidiary]

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

- Citation. 1. These procedures may be cited as the Kenya Anti-Corruption Commission Procedures for the Administration of Part IV of the Public Officer Ethics Act.
- Interpretation. 2. In these procedures unless the context otherwise requires-
- “the Act” means the Public Officer Ethics Act, 2003;
- “Advisory Board” means the Kenya Anti-Corruption Advisory Board;
- “Assistant Director” means an Assistant Director of the Kenya Anti-Corruption Commission;
- “Commission” means the Kenya Anti-Corruption Commission;
- “Director” means the Director of the Kenya Anti-Corruption Commission;
- Application of procedures. 3. 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.
- Responsibility for administration 4. 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.
- To whom declarations to be submitted. 5. 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.
- Who may make requests for clarifications. 6. 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.
- Review of declarations, etc. 7. (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;

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(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.

(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. The authorized staff of the Commission for purposes of section 30 (4) (a) of the Act are the following— Authorization of staff.

(a) The Director,

(b) Assistant Directors;

(c) Any officer or officers authorized in writing by the Director.

9. (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. Conditions for disclosures.

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

L.N. 117/2003.

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

2. In these Procedures, unless the context otherwise requires— Interpretation

[Subsidiary]

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

“Council” means the National Security Intelligence Council.

Scope of Procedures.

3. 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.

Administration officer.

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

To whom declarations submitted.

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

Who may make requests for clarifications.

6. 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 authorized in writing by him for that purpose.

Review of declarations, etc.

7. (1) The administration officer, or staff of the National Security Intelligence 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 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.

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- [Subsidiary]
8. (1) The Council or the administration officer may authorize staff of the National Security Intelligence Service for the purposes of section 30(4)(a) of the Act. Authorization of staff under s. 30 (4)(a).
- (2) An authorization under paragraph (1) shall be in writing.
9. Except as provided under paragraph 7(4) information shall not be disclosed, under section 30(4)(b) of the Act, to the police or any other law enforcement agency unless a written request is provided. Condition for certain disclosures to police, etc.
10. 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. Condition for disclosures to representatives.
11. 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. Administration officer to report non-compliance.

[Subsidiary]
L.N. 118/2003.

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

ARRANGEMENT OF CODE

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.

Appendix—General Code of Conduct and Ethics.

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

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

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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. This Code may be cited as the National Security Intelligence Service Code of Conduct and Ethics. Citation.
- 2. In this Code, unless the context otherwise requires- Interpretation.
 - “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. This Code applies with respect to the members of the National Security Intelligence Service. Application of Code.

PART II—REQUIREMENTS

- 4. (1) A public officer shall comply with all the requirements of the General Code of Conduct and Ethics set out in Part III of the Act. Compliance with General Code.
 - (2) The General Code of Conduct and Ethics set out in Part III of the Act is set out in the Appendix to this Code and shall form part of this Code.
- 5. A public officer shall be true and faithful to the oaths or affirmations taken, as required under the National Security Intelligence Service Act, 1998, on being appointed to the National Security Intelligence Service. Faithfulness to oaths or affirmations.
- 6. A public officer shall not stand for election as a member of the National Assembly or a local authority or hold a political office. Prohibition against standing for election.
- 7. Regardless of his political opinions, a public officer shall serve impartially, with loyalty, honesty and objectivity. Political neutrality.
- 8. A public officer shall not canvass or lobby, either directly or indirectly, for any favors in the National Security Intelligence Service. Canvassing for favours in Service. Public comments.
- 9. 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

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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.

Private affairs outside activities.

10. (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 non-official duties is minimized.

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

Endorsing of private activities, etc.

11. 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.

Private affairs financial dealings.

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

Potential conflicts of interest.

13. 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.

Gifts.

14. (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 given to the 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.

[Subsidiary]

(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 officer; or
- (c) solicit contributions from a public officer for a gift to a superior officer of that public officer.

15. (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”.

Harambees.

(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. (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.

Safeguarding of information.

(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. 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.

Contact with foreign governments, etc

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

Security of premises.

19. (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.

Public officer as expert witness.

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

Absence from Kenya.

[Subsidiary]

Certificate if absent due to illness.

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

Reporting of charges against a public officer

22. (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.

(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.

Appropriate person to whom improper orders to be reported.

23. 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.

Breach of Code.

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

APPENDIX

(rule 4 (2))

PART III—GENERAL CODE OF CONDUCT AND ETHICS

Part sets out general Code.

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

Performance of duties, general.

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

Professionalism.

9. A public officer shall-

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organization;
- (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

[Subsidiary]

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

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

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the constitution.

11. (1) A public officer shall not use his office to improperly enrich himself or others. No improper enrichment.

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

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

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

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

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

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

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

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

(4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.

(5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

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

[Subsidiary]

(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.

Collections and harambees.

13. (1) A public officer shall not—

- (a) use his office or place of work as a venue for soliciting or collecting harambees; or
- (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

Cap. 106.

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

Acting for foreigners.

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

[Subsidiary]

(2) For the purposes of this section—

- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisations or individuals.

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

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

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

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

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

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

17. A public officer shall not practice nepotism or favouritism. Nepotism, etc.

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

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

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

(2) A public officer shall not evade taxes.

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

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

[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.

Selection, etc, of public officers.

22. A public officer shall practice and promote the principle that public officers should be-

- (a) selected on the basis of integrity, competence and suitability; or
- (b) elected in fair elections.

Submitting of declarations, etc.

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

Acting through others.

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

- (a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
- (b) he allows or directs a person under his supervision or control to do anything that is 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.

Reporting improper orders.

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

THE PUBLIC OFFICER ETHICS REGULATIONS, 2003[Subsidiary]
L.N. 120/2003.

ARRANGEMENT OF REGULATIONS

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 employees, 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, 2003*Preliminary*

- 1. (1) These Regulations may be cited as the Public Officer Ethics Regulations, 2003. Citation and commencement.
- (2) Regulations 10 and 11 shall be deemed to have come into force on the 2nd May, 2003.
- 2. In these Regulations— Definitions.
 - “state corporation” means a state corporation within the meaning of the State Corporations Act. Cap. 446.

[Subsidiary]

Additional public officers covered by Act

Extension of Act to all state corporations. 3. State corporations are prescribed for the purposes of paragraph (g) of the definition of “public officer” in section 2 of the Act.

Responsible Commissions

Members of Teachers Service Commission. 4. The committee of the National Assembly responsible for the ethics of members is the responsible Commission for the members of the Teachers Service Commission.

Staff of Teachers Service Commission. 5. The Teachers Service Commission is the responsible Commission for the officers and employees of the Teachers Service Commission.

Responsible Commission for public university employees, etc. 6. The Commission for Higher Education, established under the Universities Act, 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.

Commission for co-operative society employees, etc. 7. (1) The Ethics Commission for Co-operative Societies established in accordance with paragraph (2) is prescribed as the responsible Commission for officers and employees of a co-operative society established under the Co-operative Societies Act, including the members of the governing body of the co-operative society.

(2) An unincorporated body is hereby established, to be known as the Ethics Commission for Co-operative Societies, consisting of the following-

- (a) the Commissioner for Co-operative Development;
- (b) the Deputy Commissioners for Co-operative Development;
- (c) the Registrar of Co-operative Societies;
- (d) the Secretary to the Co-operative Tribunal; and
- (e) the Principal of the Co-operative College of Kenya.

Commission for government controlled bank employees, etc. 8. (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

[Subsidiary]

overall direction and management of a bank of 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. 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.

Commission for others not specified.

Regulations relating to the Code of Conduct and Ethics

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

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

11. 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-

Conflict of interest under section 12 of the Act.

- (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. 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.

Confirmation that complaint received.

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

Publication of actions relating to discipline.

[Subsidiary]

L.N. 121/2003.

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

- Citation. 1. These procedures may be cited as the Judicial Service Commission Procedures for the Administration of Part IV of the Act.
- Interpretation. 2. In these procedures, unless the context otherwise requires-
- “administration officer” means the Secretary of the Commission;
- “Commission” means the Judicial Service Commission.
- Scope of procedures. 3. 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.
- Administration officer. 4. The administration officer shall be responsible for the administration of Part IV of the Act by the Commission.
- To whom declarations submitted. 5. Declarations to be submitted to the Commission under Part IV of the Act shall be submitted to the administration officer.
- Who may make requests for clarifications. 6. 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.
- Review of declarations, etc. 7. (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.

[Subsidiary]

(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. (1) The Commission or the administration officer may authorize staff of the Commission for the purposes of section 30 (4)(a) of the Act. Authorization of staff under s. 30 (4)(a).

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

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

10. 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. Condition for disclosures to representatives.

11. 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. Administration officer to report non-compliance.

[Subsidiary]
L.N. 122/2003.

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

- Citation. 1. These procedures may be cited as the Public Service Commission Procedures for the Administration of Part IV of the Act.
- Interpretation 2. In these procedures, unless the context otherwise requires-
- “administration officer” means the Senior Deputy Secretary of the Commission;
- “Commission” means the Public Service Commission.
- Scope of procedures. 3. 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.
- Administration officer. 4. The administration officer shall be responsible for the administration of Part IV of the Act by the Commission.
- To whom declarations submitted. 5. Declarations to be submitted to the Commission under Part IV of the Act shall be submitted to the administration officer.
- Who may make requests for clarifications. 6. 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.
- Review of declarations, etc. 7. (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.

[Subsidiary]

(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. (1) The Commission or the administration officer may authorize staff of the Commission for the purposes of section 30 (4)(a) of the Act. Authorization of staff under s. 30 (4)(a).

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

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

10. 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. Condition for disclosures to representatives.

11. 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. Administration officer to report non-compliance.

12. 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:- Application where powers, etc. delegated.

- (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.

[Subsidiary]
L.N. 123/2003.

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

- Citation. 1. This delegation may be cited as the Public Service Commission Delegation of Powers and Functions under Parts IV and V of the Act.
- Interpretation. 2. 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 Commissioner 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 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.
- Delegation—Parts IV and V of the Act. 3. (1) The Commission delegates the following powers and functions with respect to lower-level 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.

[Subsidiary]

(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.

[Subsidiary]
L.N. 124/2003.

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

ARRANGEMENT OF CODE

Preamble.

PART I—PRELIMINARY

- 1—Citation.
- 2—Interpretation.
- 3—Application of Code.

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- 4—Compliance with General Code.
- 5—Prohibition against standing for election.
- 6—Political neutrality.
- 7—Responsibility to organization and Minister.
- 8—Public comments.
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- 11—Gifts.
- 12—Harambees.
- 13—Safeguarding of information.
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- 15—Breach of Code.

Appendix—General Code of Conduct and Ethics

**THE PUBLIC SERVICE COMMISSION CODE OF CONDUCT
OF ETHICS**

Preamble.

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

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

The Code is intended to establish standards of ethical conduct and behaviour for public officers.

This Code contains rules of conduct and ethics to be observed by public officers so as to maintain the integrity and impartiality of the public service. The Code does not in any way replace the regulations governing the discipline and

[Subsidiary]

general conduct of public officers. Public officers must obey those regulations and all other applicable laws.

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

PART I—PRELIMINARY

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

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

Interpretation.
L.N. 144/2003.

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

(a) if the public officer is a public officer of a department, the authorized officer is the Permanent Secretary who exercises supervision over the department or-

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

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

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

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

(v) in the case of the National Youth Service, the Director of the National Youth Service;

(b) if the public officer is a public officer of a state corporation, the authorized officer is the chief executive officer of the state corporation;

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

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

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

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

[Subsidiary]

PART II—REQUIREMENTS

- Compliance with General Code. 4. (1) A public officer shall comply with all the requirements of the General Code of Conduct and Ethics set out in Part III of the Act.
- (2) The General Code of Conduct and Ethics set out in Part III of the Act is set out in the Appendix to this Code and shall form part of this Code.
- Prohibition against standing for election. 5. A public officer shall not stand for election as a member of the National Assembly or a local authority or hold a political office.
- Political neutrality. 6. Regardless of his political opinions, a public officer shall serve impartially, with loyalty, honesty and objectivity.
- Responsibility to organization and Minister. 7. (1) A public officer shall ensure that he carries out his duties in a way that is consistent with his being part of his organization.
- (2) A public officer who is a member of the public service shall observe the principle that the responsibility for a ministry lies with a Minister and shall ensure that he is not personally identified with his ministry or its policies to a degree that is inconsistent with that principle.
- Public comments. 8. A public officer who is a member of the public service or who is in the service of a local authority-
- (a) shall not make public comments that support or criticize a political party;
- (b) shall not make public comments that may compromise, or may reasonably be seen to compromise, the political neutrality of his office;
- (c) shall not publicly comment, except in furtherance of his official duties, on matters in relation to which he has been professionally involved;
- (d) shall not, expressly or by implication, represent that any public comments he makes reflect the views or opinions of his organization if that is not the case.
- Private affairs-outside activities. 9. (1) While a public officer should not be isolated from the society of which he is a part, he shall ensure that his non-official activities do not interfere with his official duties or affect the dignity of his office and that the risk of conflict with his official duties is minimized.
- (2) A public officer shall not engage in private business during official working hours.
- Private affairs-outside activities. 10. A public officer shall live within his means and avoid incurring any financial liability that he cannot satisfy.

[Subsidiary]

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

Gifts.

(a) the public officer shall report the matter to the authorized officer for the public officer who shall direct the appropriate mode of disposal of the gift; and

(b) the public officer shall comply with such direction.

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

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

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

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

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

Harambees.

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

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

Safeguarding of information.

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

Appropriate person to whom improper orders to be reported.

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

Breach of Code.

APPENDIX

(Rule 4 (2))

PART III—GENERAL CODE OF CONDUCT AND ETHICS

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

Part sets out general Code.

[Subsidiary]

Performance of duties, general.

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

Professionalism.

9. A public officer shall-

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organization;
- (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.

Rule of law.

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

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

No improper enrichment.

11. (1) A public officer shall not use his office to improperly enrich himself or others.

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

- (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who-
 - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;
 - (ii) carries on regulated activities with respect to which the public officer's organisation has a role; or
 - (iii) has a contractual or similar relationship with the public officer's organisation;

[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. (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. Conflict of interest.

(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.

Collections and harambees.

13. (1) A public officer shall not-

- (a) use his office or place of work as a venue for soliciting or collecting harambees; or
- (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

Cap. 106.

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

Acting for foreigners.

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

(2) For the purposes of this section-

- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organizations or individuals.

Care of property.

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

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

Political neutrality.

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

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

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

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

17. A public officer shall not practice nepotism or favouritism.	[Subsidiary] Nepotism, etc.
18. A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour.	Giving of advice.
19. A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.	Misleading the public, etc.
20. (1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.	Conduct of private affairs.
(2) A public officer shall not evade taxes.	
(3) A public officer shall not neglect his financial obligations or neglect to settle them.	
21. (1) A public officer shall not sexually harass a member of the public or a fellow public officer.	Sexual harassment.
(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 innuendos, regarding another person’s sexuality.	
22. A public officer shall practice and promote the principle that public officers should be-	Selection, etc. of public officers.
(a) selected on the basis of integrity, competence and suitability; or	
(b) elected in fair elections.	
23. A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.	Submitting of declarations, etc.
24. (1) A public officer contravenes the Code of Conduct and Ethics if-	Acting through others.
(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.	

[Subsidiary]

(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.

Reporting improper orders.

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

L.N. 125/2003.

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

Citation.

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

Interpretation.

2. 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.

Scope of procedures.

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

Administration officer.

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

To whom declarations submitted.

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

Who may make requests for clarifications.

6. 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.

Review of declarations, etc.

7. (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.

[Subsidiary]

(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.

8. (1) The Commission or the administration officer may authorize staff of the Commission for the purposes of section 30(4)(a) of the Act. Authorization of staff under s. 30 (4)(a).

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

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

10. 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. Condition for disclosures to representatives.

11. 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. Administration officer to report non-compliance.

THE ARMED FORCES CODE OF CONDUCT AND ETHICS

L.N. 126/2003.

ARRANGEMENT OF CODE

Preamble.

PART I—PRELIMINARY

- 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.

[Subsidiary]

- 7—Obedience to orders.
- 8—Support of superiors.
- 9—Criticism or praise of superiors.
- 10—Complaints about the 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.

Appendix—General Code of Conduct and Ethics.

THE ARMED FORCES CODE OF CONDUCT AND ETHICS

Preamble

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.

[Subsidiary]

PART I—PRELIMINARY

1. This Code may be cited as the Armed Forces Code of Conduct and Ethics. Citation.
2. In this Code, unless the context otherwise requires- Interpretation.
“commanding officer” means a commanding officer within the meaning of the Armed Forces Act.
3. This Code applies with respect to the members of the armed forces. Application of Code.

PART II—REQUIREMENTS

4. (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. Compliance with General Code.
- (2) The General Code of Conduct and Ethics set out in Part III of the Act is set out in the Appendix to this Code and shall form part of this Code.
5. A 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. Faithfulness to oath of allegiance.
6. 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. General responsibilities of commanders.
7. A member of the armed forces shall obey all lawful orders and directions from a superior officer. Obedience to orders.
8. A member of the armed forces shall support his superior officers in the maintenance of order and discipline. Support of superiors.
9. A member of the armed forces shall not criticize or praise a superior officer in a way that may bring the superior officer into contempt or cause disaffection. Criticism or praise of superiors.
10. (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. Complaints about other members of the armed forces.
- (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. A member of the armed forces shall not publish or post a laudatory order. Laudatory orders.

[Subsidiary]

Treatment of subordinates.

12. 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.

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

13. 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.

Drinking of alcoholic beverages.

14. (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.

Misuse of drugs.

15. A member of the armed forces shall not misuse drugs.

Lending and borrowing money.

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

Gambling.

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

Possession of firearms.

18. (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.

Prohibition against standing for election.

19. 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.

Political neutrality.

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

Canvassing for favours in armed forces.

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

22. (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;

[Subsidiary]

(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.

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

23. (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. Safeguarding of information.

(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. (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. Private affairs—outside activities.

(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. (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. Endorsing of private activities, etc.

(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

[Subsidiary]

person or organization in respect of goods or services supplied by that person or organization.

(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.

Private affairs—
financial dealings.

26. (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.

Potential conflicts of
interest.

27. 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.

Gifts.

28. (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

[Subsidiary]

(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. (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”. Harambees.

(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. (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. Member of the armed forces as expert witness.

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

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

(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. 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. Breach of Code.

[Subsidiary]

APPENDIX

(Rule 4 (2))

PART III—GENERAL CODE OF CONDUCT AND ETHICS

Part sets out general Code.

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

Performance of duties, general.

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

Professionalism.

9. A public officer shall-

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorization or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

Rule of law.

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

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

No improper enrichment.

11. (1) A public officer shall not use his office to improperly enrich himself or others.

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

- (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who-
- (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;

[Subsidiary]

(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 education or literary purposes, research purposes or other similar purposes.

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

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

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

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

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

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

(a) himself;

(b) a spouse or relative;

[Subsidiary]

(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.

Collection and harambees.

13. (1) A public officer shall not-

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

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

Cap. 106

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

Acting for foreigners.

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

(2) For the purposes of this section-

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

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

Care of property.

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

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

Political neutrality.

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

(a) act as an agent for, or so as to further the interest of, a political party; or

(b) indicate support for or opposition to any political party or candidate in an election.

[Subsidiary]

(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 councilor of a local authority.

17. A public officer shall not practice nepotism or favouritism. Nepotism, etc.

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

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

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

(2) A public officer shall not evade taxes.

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

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

(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 innuendos, regarding another person’s sexuality.

22. A public officer shall practice and promote the principle that public officers should be- Selection, etc. of public officers.

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

(b) elected in fair elections.

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

24. (1) A public officer contravenes the Code of Conduct and Ethics if- Acting through others.

[Subsidiary]

(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.

Reporting improper orders.

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

THE ELECTORAL COMMISSION PROCEDURES FOR THE ADMINISTRATION OF PART IV OF THE ACT

[Subsidiary]
L.N. 127/2003.

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

2. In these procedures, unless the context otherwise requires- Interpretation.
 - “administration officer” means the Secretary of the Commission;
 - “Commission” means the Electoral Commission.

3. 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. Scope of procedures.

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

5. Declarations to be submitted to the Commission under Part IV of the Act shall be submitted to the administration officer. To whom declarations submitted.

6. 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. Who may make requests for clarifications.

7. (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- Review of declarations, etc
 - (a) on the face of 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.

[Subsidiary]

(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.

Authorization of staff under s. 30(4)(a).

8. (1) The Commission or the administration officer may authorize staff of the Commission for the purposes of section 30(4)(a) of the Act.

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

Condition for certain disclosures to police, etc.

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

Condition for disclosures to representatives.

10. 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.

Administration officer to report non-compliance.

11. 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 ELECTORAL COMMISSION CODE OF CONDUCT AND ETHICS FOR LOCAL AUTHORITY COUNCILLORS

ARRANGEMENT OF CODE

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 of administration.
- 9—Private affairs – financial dealings.
- 10—Gifts.
- 11—Harambees.

[Subsidiary]

- 12—Confidential or secret information.
- 13—Appropriate person to whom improper orders to be reported.
- 14—Breach of Code.

Appendix—General Code of Conduct and Ethics.

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

L.N. 128/2003.

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

Preamble.

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 councilors into disrepute.

PART I—PRELIMINARY

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

Citation.

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

Interpretation.

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

3. This Code applies with respect to councilors of local authorities.

Application of Code.

PART II—REQUIREMENTS

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

Compliance with General Code.

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

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

General conduct.

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

Faithfulness to declaration.

7. 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.

Attendance at meetings.

[Subsidiary]

Interference with management or administration.

8. (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, a public officer shall not otherwise interfere with, or attempt to interfere with the management or administration of the local authority.

(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.

Private affairs—financial dealings.

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

Gifts.

10. (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 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.

Harambees.

11. (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.

Confidential or secret information.

12. 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.

[Subsidiary]

13. 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. Appropriate person to whom improper orders to be reported.

14. 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. Breach of Code.

APPENDIX

(Rule 4 (2))

PART III—GENERAL CODE OF CONDUCT AND ETHICS

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

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

9. A public officer shall- Professionalism.

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorization or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

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

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

11. (1) A public officer shall not use his office to improperly enrich himself or others. No improper enrichment.

[Subsidiary]

(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 organization.

(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.

Conflict of interest.

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

(2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership 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

[Subsidiary]

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

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

(a) himself;

(b) a spouse or relative;

(c) a business associate; or

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

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

(6) In this section, “personal interest” includes the interest of a spouse, relative or business associate.

13. (1) A public officer shall not-

Collections and harambees.

(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. (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, organization or individual.

Acting for foreigners.

(2) For the purposes of this section-

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

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

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

Care of property.

[Subsidiary]

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

Political neutrality.

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

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

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

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

Nepotism, etc.

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

Giving of advice.

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

Misleading the public, etc.

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

Conduct of private affairs.

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

(2) A public officer shall not evade taxes.

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

Sexual harassment.

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

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

- (a) making a request or exerting pressure for sexual activity or favours;
- (b) making intentional or careless physical contact that is sexual in nature; and
- (c) making gestures, noises, jokes or comments, including innuendos, regarding another person’s sexuality.

Selection, etc. of public officers.

22. A public officer shall practice and promote the principle that public officers should be

[Subsidiary]

- (a) selected on the basis of integrity, competence and suitability; or
- (b) elected in fair elections.

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

24. (1) A public officer contravenes the Code of Conduct and Ethics if- Acting through others.

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

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

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

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

THE ELECTORAL COMMISSIONERS’ CODE OF CONDUCT AND ETHICS L.N. 129/2003.

ARRANGEMENT OF CODE

Preamble.

PART I—PRELIMINARY

- 1—Citation.
- 2—Interpretation.
- 3—Application of Code.

PART II—REQUIREMENTS

- 4—Compliance with General Code.
- 5—Other requirements relating to conduct.

Appendix—General Code of Conduct and Ethics.

[Subsidiary]

**THE ELECTORAL COMMISSIONERS' CODE OF CONDUCT
AND ETHICS**

Preamble. 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 and the rules and regulations made pursuant to that Act.

(Cap. 7).

PART I—PRELIMINARY

Citation. 1. This Code may be cited as the Electoral Commissioners' Code of Conduct and Ethics.

Interpretation. 2. 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 Public Officers Ethics Act, 2003.

Application of Code. 3. This Code applies with respect to the Commissioners.

Action for breach of Code. 4. 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 and the Constitution of Kenya.

Cap. 7.

PART II—REQUIREMENTS

Compliance with General Code. 5. (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 and 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. Every member of the Commission shall serve impartiality and independently and perform the functions of a member in good faith and without fair, favour or prejudice, and without influence from-

[Subsidiary]
Independence,
impartiality and
integrity.

- (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.

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

Professionalism.

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

Family and other
influences.

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

Precedence of official
duties.

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

10. 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.

Conflicts of interests.

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

Code violations.

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).

[Subsidiary]

Social and recreational activities.

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

Private interests.

13. 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.

Proper conduct.

14. (1) For the purpose 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.

Conduct of private affairs.

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

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

Prohibition on contesting political office.

16. 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.

Travel outside Kenya.

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

APPENDIX

(Rule 5 (2))

PART III—GENERAL CODE OF CONDUCT AND ETHICS

Part sets out general Code.

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

Performance of duties, general.

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

9. A public officer shall-

[Subsidiary]
Professionalism.

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorization or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

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

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

11. (1) A public officer shall not use his office to improperly enrich himself or others. No improper enrichment.

(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

[Subsidiary]

(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 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.

Conflict of interest.

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

(2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership 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. (1) A public officer shall not- Collecting [Subsidiary] harambees.
- (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. (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, organization or individual. Acting for foreigners.
- (2) For the purposes of this section-
- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisations or individuals.
15. (1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated. Care of property.
- (2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.
16. (1) A public officer shall not, in or in connection with the performance of his duties as such- Political neutrality.
- (a) act as an agent for, or so as to further the interest of, a political party; or
- (b) indicate support for or opposition to any political party or candidate in an election.
- (2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.
- (3) This section does not apply to a member of the National Assembly or a councillor of a local authority.
17. A public officer shall not practice nepotism or favouritism. Nepotism, etc.
18. A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour. Giving of advice.

[Subsidiary]

Misleading the public, etc.

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

Conduct of private affairs.

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

(2) A public officer shall not evade taxes.

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

Sexual harassment.

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

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

- (a) making a request or exerting pressure for sexual activity or favours;
- (b) making intentional or careless physical contact that is sexual in nature; and
- (c) making gestures, noises, jokes or comments, including innuendos, regarding another person’s sexuality.

Selection, etc. of public officers.

22. A public officer shall practice and promote the principle that public officers should be-

- (a) selected on the basis of integrity, competence and suitability; or
- (b) elected in fair elections.

Submitting of declarations, etc.

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

Acting through others.

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

- (a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
- (b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.

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

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

[Subsidiary]
Reporting improper
orders.

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

L.N. 130/2003.

ARRANGEMENT OF CODE

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—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 interest 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.

Appendix—General Code of Conduct and Ethics.

[Subsidiary]

L.N. 130/2003.

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

Preamble.

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

Citation.

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

Interpretation.

2. 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.

Application of Code.

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

PART II—REQUIREMENTS

Compliance with
General Code.

4. (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 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.

Faithfulness to oaths
or affirmations.

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

Uphold Constitution
and the rule of law.

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

Uphold dignity,
etc. of National
Assembly.

7. 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.

Treat other members
with respect, etc.

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

Open and
transparent.
Accountability to

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

10. 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.	[Subsidiary] public.
11. 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.	Act in interests of entire country.
12. A member of the National Assembly shall promote unity among Kenyans, irrespective of race, tribe, clan, colour, creed or sex.	Promotion of unity.
13. A member of the National Assembly shall ensure that the official duties of the member take precedence over the member's other activities.	Official duties to take precedence.
14. (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.	Carrying out duties with integrity, etc.
(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. 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.	Incurring of obligations.
16. 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.	Non-parliamentary activities.
17. (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.	No improper use of public property, etc.
(2) A member of the National Assembly shall not make improper use of any allowance paid to the member.	
18. 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.	No discrimination.
19. 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.	Opposition to corruption.
20. 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.	Breach of Code.

[Subsidiary]

APPENDIX

(Rule 4 (2))

PART III - GENERAL CODE OF CONDUCT AND ETHICS

Part sets out general Code.

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

Performance of duties, general.

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

Professionalism.

9. A public officer shall-

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorization or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

Rule of law.

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

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

No improper enrichment.

11. (1) A public officer shall not use his office to improperly enrich himself or others.

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

- (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who-
 - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;

[Subsidiary]

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

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

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

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

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

(4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.

(5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

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

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

(3) A public officer whose personal interest 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;

[Subsidiary]

(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.

Collections and harambees.

13. (1) A public officer shall not-

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

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

Cap. 106.

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

Acting for foreigners.

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

(2) For the purposes of this section-

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

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

Care of property.

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

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

Political neutrality.

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

(a) act as an agent for, or so as to further the interest of, a political party; or

(b) indicate support for or opposition to any political party or candidate in an election.

[Subsidiary]

(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 or a local authority.

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

Nepotism, etc.

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

Giving of advice.

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

Misleading the public, etc.

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

Conduct of private affairs.

(2) A public officer shall not evade taxes.

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

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

Sexual harassment.

(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 innuendos, regarding another person’s sexuality.

22. A public officer shall practice and promote the principle that public officers should be-

Selection, etc. of public officers.

- (a) selected on the basis of integrity, competence and suitability; or
- (b) elected in fair elections.

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

Submitting of declarations, etc.

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

Acting through others.

- (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.

Reporting improper orders.

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

THE PUBLIC SERVICE COMMISSIONERS' CODE OF CONDUCT AND ETHICS

ARRANGEMENT OF CODE

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—Absence from Kenya.
- 16—Breach of Code.

Appendix—General Code of Conduct and Ethics.

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

[Subsidiary]
L.N. 131/2003.

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

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

2. In this Code, unless the context otherwise requires- Interpretation.

“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 Officers Ethics Act, 2003.

3. This Code applies with respect to the Commissioners. Application of Code.

PART II - REQUIREMENTS

4. (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. Compliance with General Code.

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

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

[Subsidiary]

Independence,
integrity and
impartiality.

6. (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 views publicly.

Social and
recreational
activities.

7. 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.

Non-discrimination.

8. 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 organization where discrimination is practised.

Civil and charitable
activities.

9. (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 extra-official activities to minimize 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.

Private interests.

10. 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 disrepute;
- (d) he shall maintain at all times the ethical standards which the public experts of him in transacting official business with efficiency, integrity and impartiality.

[Subsidiary]
Gifts, etc.

11. (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 Commissioner acting on behalf of the Government in ceremonial intercourse with other Governments or the 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. (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.

Professionalism and
courtesy.

(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 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

[Subsidiary]

(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.

Private agencies.

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

Public statements and communication with the press.

14. (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

(b) 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.

Absence from Kenya.

15. 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.

Breach of Code.

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

APPENDIX

(Rule 4 (2))

PART III - GENERAL CODE OF CONDUCT AND ETHICS

Part sets out general Code.

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

Performance of duties, general.

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

9. A public officer shall-

[Subsidiary]
Professionalism.

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorization or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

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

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

11. (1) A public officer shall not use his office to improperly enrich himself or others. No improper enrichment.

(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 organization 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

[Subsidiary]

(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.

Conflict of interest.

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

(2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership 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.

- [Subsidiary]
13. (1) A public officer shall not-
- Collections and harambees.
- (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. (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. Acting for foreigners.
- (2) For the purposes of this section-
- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisations or individuals.
15. (1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated. Care of property.
- (2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.
16. (1) A public officer shall not, in or in connection with the performance of his duties as such- Political neutrality.
- (a) act as an agent for, or so as to further the interest of, a political party; or
- (b) indicate support for or opposition to any political party or candidate in an election.
- (2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.
- (3) This section does not apply to a member of the National Assembly or a councillor of a local authority.
17. A public officer shall not practice nepotism or favouritism. Nepotism, etc.
18. A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour. Giving of advice.

[Subsidiary]

Misleading the public, etc.

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

Conduct of private affairs.

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

(2) A public officer shall not evade taxes.

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

Sexual harassment.

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

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

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

(b) making intentional or careless physical contact that is sexual in nature; and

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

Selection, etc. of public officers.

22. A public officer shall practice and promote the principle that public officers should be-

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

(b) elected in fair elections.

Submitting of declarations, etc.

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

Acting through others.

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

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

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

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

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

[Subsidiary]
Reporting improper orders.

THE PARLIAMENTARY SERVICE COMMISSION CODE OF CONDUCT AND ETHICS

L.N. 132/2003.

ARRANGEMENT OF CODE

Preamble.

PART I—PRELIMINARY

- 1—Citation.
- 2—Interpretation.
- 3—Application of Code.

PART II—REQUIREMENTS

- 4—Compliance with General Code.
- 5—Other requirements relating to conduct.

Appendix—General Code of Conduct and Ethics.

THE PARLIAMENTARY SERVICE COMMISSION CODE OF CONDUCT AND ETHICS

The Parliamentary Service Commission and the Parliamentary Service were established by the Constitution (Amendment) Act, 1999. The Parliamentary Service Act, 2000, which came into operation on 29th December, 2000, states that “the Service shall be an institution of exemplary administrative and technical competence”.

Preamble.

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

Citation.

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

Interpretation.

[Subsidiary]

“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;

Application of Code. 3. This Code applies with respect to all employees.

PART II - REQUIREMENTS

Compliance with General Code. 4. (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.

Other rules of conduct. 5. 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;
- (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;

[Subsidiary]

- (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

(Rule 4 (2))

PART III - GENERAL CODE OF CONDUCT AND ETHICS

- 7. This Part sets out a general Code of Conduct and Ethics for public officers. Part sets out general Code.
- 8. A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly. Performance of duties, general.
- 9. A public officer shall- Professionalism.
 - (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;

[Subsidiary]

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

Rule of law.

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

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

No improper enrichment.

11. (1) A public officer shall not use his office to improperly enrich himself or others.

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

- (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who-
 - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;
 - (ii) carries on regulated activities with respect to which the public officer's organisation has a role; or
 - (iii) has a contractual or similar relationship with the public officer's organisation;
- (b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or
- (c) for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.

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

(4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.

(5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

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

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

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

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

13. (1) A public officer shall not-

- (a) use his office or place of work as a venue for soliciting or collecting harambees; or
- (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

Collections and harambees.

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

Cap. 106.

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

[Subsidiary]

(2) For the purposes of this section-

- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organization is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisations or individuals.

Care of property.

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

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

Political neutrality.

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

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

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

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

Nepotism, etc.

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

Giving of advice.

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

Misleading the public, etc.

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

Conduct of private affairs.

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

(2) A public officer shall not evade taxes.

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

Sexual harassment.

21. (1) A public officer 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-

[Subsidiary]

- (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 innuendos, regarding another person’s sexuality.

22. A public officer shall practice and promote the principle that public officers should be- Selection, etc. of public officers.

- (a) selected on the basis of integrity, competence and suitability; or
- (b) elected in fair elections.

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

24. (1) A public officer contravenes the Code of Conduct and Ethics if- Acting through others.

- (a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
- (b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.

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

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

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

L.N. 133/2003.

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

2. In these procedures, unless the context otherwise requires- Interpretation.

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

[Subsidiary]

“Committee” means the Powers and Privileges Committee of the National Assembly.

Scope of procedures.

3. 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.

Administration officer.

4. (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.

To whom declarations submitted.

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

Who may make requests for clarifications.

6. 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 authorized in writing by him for that purpose.

Review of declarations, etc.

7. (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 (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-

[Subsidiary]

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

8. (1) The Committee or the administration officer may authorize staff of the parliamentary service for the purposes of section 30 (4)(a) of the Act. Authorization of staff under s. 30 (4)(a).

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

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

10. 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. Condition for disclosures to representatives.

11. 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. Administration officer to report non-compliance.

THE CONTROLLER AND AUDITOR GENERAL CODE OF CONDUCT AND ETHICS

L. N.134/2003.

ARRANGEMENT OF CODE

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.

Appendix—General Code of Conduct and Ethics.

[Subsidiary]

**THE CONTROLLER AND AUDITOR GENERAL CODE OF
CONDUCT AND ETHICS**

Preamble. This Code is intended to establish standards of ethical conduct for the Controller and Auditor General.

The duties of the Controller and 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 Controller and 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 Controller and 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

Citation. 1. This Code may be cited as the Controller and Auditor General Code of Conduct and Ethics.

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

“Controller and Auditor-General” means the person holding office as such under section 105 of the Constitution;

“family”, in relation to the Controller and 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, 2003.

Application of Code. 3. This Code applies with respect to the Controller and Auditor-General.

PART II—REQUIREMENTS

Compliance with General Code. 4. (1) The Controller and 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.

[Subsidiary]

5. The Controller and Auditor General shall not stand for election as a member of the National Assembly or a local authority or hold a political office. Prohibition against standing for election.
6. (1) The Controller and 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. Independence, integrity and impartiality.
- (2) The Controller and Auditor General is entitled to his own views on political matters but shall not be permitted to express those view publicly.
7. The Controller and 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. Social and recreational activities.
8. A Controller and 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. Non-discrimination.
9. (1) While the Controller and 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 minimize the risk of conflict with his official duties. Civil and charitable activities.
- (2) The Controller and Auditor-General shall live within his means and avoid incurring any financial liability that he cannot satisfy.
- (3) The Controller and 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 Controller and Auditor-General shall not use his office to solicit for funds for a harambee or any other purpose.
10. The Controller and Auditor-General is required to observe the following requirements in relation to his private interests– 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 officials 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 Controller and Auditor-General or bring his office into dispute;

[Subsidiary]

(d) he shall maintain at all times the ethical standards which the public experts of him in transacting official business with efficiency, integrity and impartiality.

Gifts, etc.

11. (1) The Controller and 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 Controller and 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 Controller and Auditor-General or where it would be offensive to custom or good public relations to refuse the gift, the Controller and 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 Controller and Auditor-General shall comply with such direction forthwith.

(4) When presents are exchanged between the Controller and 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.

Professionalism and courtesy.

12. (1) The Controller and 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 Controller and 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;

[Subsidiary]

(f) practise 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 Controller and 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. The Controller and Auditor-General shall not undertake any private agency in any matter connected with the exercise of his public duties. Private agencies.

14. The Controller and Auditor-General-

Public statements and communication with the press.

(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. Where the Controller and 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, 2003, the Constitution of the Republic and other laws. Breach of Code.

APPENDIX

(Rule 4 (2))

PART III—GENERAL CODE OF CONDUCT AND ETHICS

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

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

9. A public officer shall-

Professionalism.

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

Rule of law.

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

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

No improper enrichment.

11. (1) A public officer shall not use his office to improperly enrich himself or others.

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

- (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who-
 - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;
 - (ii) carries on regulated activities with respect to which the public officer's organisation has a role; or
 - (iii) has a contractual or similar relationship with the public officer's organisation;
- (b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or
- (c) for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.

(3) A public officer may accept a gift 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. (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. Conflict of interest.

(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. (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.

Collections and harambees.

[Subsidiary]

Cap. 106.

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

Acting for foreigners.

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

(2) For the purposes of this section-

- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisations or individuals.

Care of property.

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

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

Political neutrality.

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

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

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

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

Nepotism, etc.

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

Giving of advice.

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

Misleading the public, etc.

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

Conduct of private affairs.

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

(2) A public officer shall not evade taxes.

[Subsidiary]

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

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

(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 innuendos, regarding another person’s sexuality.

22. A public officer shall practice and promote the principle that public officers should be- Selection, etc. of public officers.

- (a) selected on the basis of integrity, competence and suitability; or
- (b) elected in fair elections.

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

24. (1) A public officer contravenes the Code of Conduct and Ethics if- Acting through others.

- (a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
- (b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.

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

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

[Subsidiary]
L.N. 135/2003.

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

ARRANGEMENT OF CODE

Preamble.

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- 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.
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- 10—Private interests.
- 11—Gifts, etc.
- 12—Professionalism and courtesy.
- 13—Private agencies.
- 14—Public statements and communication with the press.
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**THE TEACHERS SERVICE COMMISSIONERS' CODE OF
CONDUCT AND ETHICS**

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

Citation.

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

Interpretation.

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

[Subsidiary]

“Commission” means the Teachers Service Commission established by the Teachers Service Commission Act; Cap. 212.

“Commissioner” means the 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, 2003.

3. This Code applies with respect to the Commissioners. Application of Code.

PART II—REQUIREMENTS

4. (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. Compliance with General Code.

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

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

6. (1) A Commissioner shall be true to his oath of office. Independence, integrity and impartiality.

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

7. 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. Social and recreational activities.

8. 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. Non-discrimination.

9. (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 extra-official activities to minimize the risk of conflict with his official duties. Civil and charitable activities.

(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.

[Subsidiary]

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

Private interests.

10. 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 experts of him in transacting official business with efficiency, integrity and impartiality.

Gifts, etc.

11. (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. (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.

[Subsidiary]
Professionalism and
courtesy.

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

Private agencies.

14. (1) A Commissioner shall not, without the express permission of the Chairman of the Commission-

Public statements and
communication with
the press.

- (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 Teacher Service.

[Subsidiary]

Absence from Kenya.

15. 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.

Breach of Code.

16. (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.

APPENDIX

(Rule 4(2))

PART III - GENERAL CODE OF CONDUCT AND ETHICS

Part sets out general Code.

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

Performance of duties, general.

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

Professionalism.

9. A public officer shall-

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorization or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

Rule of law.

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

[Subsidiary]

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

11. (1) A public officer shall not use his office to improperly enrich himself or others. No improper enrichment.

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

- (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who-
 - (i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;
 - (ii) carries on regulated activities with respect to which the public officer's organisation has a role; or
 - (iii) has a contractual or similar relationship with the public officer's organisation;
- (b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or
- (c) for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public.

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

(4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.

(5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

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

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

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

[Subsidiary]

(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.

Collections and harambees.

13. (1) A public officer shall not-

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

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

Cap. 106.

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

Acting for foreigners.

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

(2) For the purposes of this section-

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

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

15. (1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated. [Subsidiary] Care of property.
- (2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.
16. (1) A public officer shall not, in or in connection with the performance of his duties as such- Political neutrality.
- (a) act as an agent for, or so as to further the interest of, a political party; or
- (b) indicate support for or opposition to any political party or candidate in an election.
- (2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.
- (3) This section does not apply to a member of the National Assembly or a councillor of a local authority.
17. A public officer shall not practice nepotism or favouritism. Nepotism, etc.
18. A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour. Giving of advice.
19. A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer. Misleading the public, etc.
20. (1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office. Conduct of private affairs.
- (2) A public officer shall not evade taxes.
- (3) A public officer shall not neglect his financial obligations or neglect to settle them.
21. (1) A public officer shall not sexually harass a member of the public or a fellow public officer. Sexual harassment.
- (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 innuendos, regarding another person’s sexuality.

[Subsidiary]

Selection, etc of public officers.

22. A public officer shall practice and promote the principle that public officers should be-

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

(b) elected in fair elections.

Submitting of declarations, etc.

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

Acting through others.

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

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

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

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

Reporting improper orders.

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

L.N. 136/2003.

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

Citation.

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

Interpretation.

2. In these procedures, unless the context otherwise requires-

“administration officer” means the Secretary of the Commission;

“Commission” means the Teachers Service Commission.

Scope of procedures.

3. 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.

Administration officer.

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

[Subsidiary]

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

To whom
declarations
submitted.

(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. 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.

Who may make
requests for
clarifications.

7. (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-

Review of
declarations, etc.

(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.

8. (1) The Commission or the administration officer may authorize staff of the Commission for the purposes of section 30 (4)(a) of the Act.

Authorization of staff
under s. 30 (4)(a).

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

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

Condition for certain
disclosures to police,
etc.

[Subsidiary]

Condition for disclosures to representatives.

10. 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.

Administration officer to report non-compliance.

11. 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.

L.N. 137/2003.

THE TEACHERS SERVICE COMMISSION CODE OF CONDUCT AND ETHICS

ARRANGEMENT OF CODE

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.

Appendix—General Code of Conduct and Ethics.

[Subsidiary]

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

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. Preamble.

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

2. In this Code, unless the context otherwise requires- Interpretation.

“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. (1) This Code applies with respect to- Application of Code.

(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.

[Subsidiary]

PART II—REQUIREMENTS

Compliance with
General Code.

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

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

Human rights, etc.

5. (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).

Professionalism.

6. (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.

Conduct of duties.

7. (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.

Evaluation of
students.

8. (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.

Sexual relations with
students.

9. (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.

[Subsidiary]

10. (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. Pornography.

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

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

13. 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. Canvassing for favours in Service.

14. (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. Private affairs-outside activities.

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

15. (1) A public officer shall not- Private teaching work.

(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 the school.

16. 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. Endorsing private activities.

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

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

[Subsidiary]

Dealing with donations.

18. (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.

Gifts.

19. (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 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 non-monetary gift whose value does not exceed 5,000 shillings.

(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 recognized by custom shall not be accepted by the public officer in a public office.

Appropriate person to whom improper orders to be reported.

20. 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.

- [Subsidiary]
21. (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. Reporting of charges against a public officer.
- (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. 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. Breach of Code, reporting.
23. 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. Breach of Code, action to be taken.

APPENDIX

(Rule 4 (2))

PART III - GENERAL CODE OF CONDUCT AND ETHICS

7. This Part sets out a general Code of Conduct and Ethics for public officers. Part sets out general Code.
8. A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly. Performance of duties, general.
9. A public officer shall- Professionalism.
- (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

[Subsidiary]

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

Rule of law.

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

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

No improper enrichment.

11. (1) A public officer shall not use his office to improperly enrich himself or others.

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

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

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

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

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

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

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

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

(4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.

(5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

Conflict of interest.

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

[Subsidiary]

(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. (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.

Collections and harambees.

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

Cap. 106.

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

Acting for foreigners.

(2) For the purposes of this section-

[Subsidiary]

(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.

Care or property.

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

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

Political neutrality.

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

(a) act as an agent for, or so as to further the interest of, a political party; or

(b) indicate support for or opposition to any political party or candidate in an election.

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

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

Nepotism, etc.

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

Giving of advice.

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

Misleading the public, etc.

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

Conduct of private affairs.

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

(2) A public officer shall not evade taxes.

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

Sexual harassment.

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

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

[Subsidiary]

- (a) making a request or exerting pressure for sexual activity of favours;
- (b) making intentional or careless physical contact that is sexual in nature; and
- (c) making gestures, noises, jokes or comments, including innuendos, regarding another person's sexuality.

22. A public officer shall practice and promote the principle that public officers should be- Selection, etc of public officers.

- (a) selected on the basis of integrity, competence and suitability; or
- (b) elected in fair elections.

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

24. (1) A public officer contravenes the Code of Conduct and Ethics if- Acting through others.

- (a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
- (b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.

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

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

THE CENTRAL BANK OF KENYA CODE OF CONDUCT AND ETHICS

L.N. 168/2003.

ARRANGEMENT OF CODE

Preamble.

PART I—PRELIMINARY

- 1—Citation.
- 2—Interpretation.
- 3—Application of Code.

[Subsidiary]

PART II—REQUIREMENTS

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

Appendix—General Code of Conduct and Ethics.

THE CENTRAL BANK OF KENYA CODE OF CONDUCT AND ETHICS

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 disciplines 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

Citation.

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

Interpretation.

2. In this Code, unless the context 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.

Application of Code.

3. (1) This Code applies to officers and employees of-

(a) the Central Bank of Kenya; and

Cap. 488.

(b) banks and financial institutions licensed under the Banking Act 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

[Subsidiary]

(b) does not include members of the board of directors of the Central Bank of Kenya.

PART II—REQUIREMENTS

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

(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. Without prejudice to the generality of paragraph 4, a public officer shall- Other rules of conduct.

(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;

(d) respect and observe the law of the land and cooperate 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

(Paragraph 4 (2))

PART III—GENERAL CODE OF CONDUCT AND ETHICS

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

[Subsidiary]

Performance of duties, general.

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

Professionalism.

9. A public officer shall-

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorization or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

Rule of law.

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

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

No improper enrichment.

11. (1) A public officer shall not use his office to improperly enrich himself or others.

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

- (a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who-
 - (i) has an interest that may be affected by the carrying out, 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. (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. Conflict of interest.

(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 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;

(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.

Collections and harambees.

13. (1) A public officer shall not-

- (a) use his office or place of work as a venue for soliciting or collecting harambees; or
- (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

Cap. 106

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

Acting for foreigners.

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

(2) For the purposes of this section-

- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisations or individuals.

Care of property.

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

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

Political neutrality.

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

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

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

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

	[Subsidiary]
17. A public officer shall not practice nepotism or favouritism.	Nepotism, etc.
18. A public officer who has a duty or give advice shall give honest and impartial advice without fear or favour.	Giving of advice.
19. A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.	Misleading the public, etc.
20. (1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.	Conduct of private affairs.
(2) A public officer shall not evade taxes.	
(3) A public officer shall not neglect his financial obligations or neglect to settle them.	
21. (1) A public officer shall not sexually harass a member of the public or a fellow public officer.	Sexual harassment.
(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 innuendos, regarding another person’s sexuality.	
22. A public officer shall practice and promote the principle that public officers should be-	Selection, etc. of public officers.
(a) selected on the basis of integrity, competence and suitability; or	
(b) elected in fair elections.	
23. A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.	Submitting of declarations, etc.
24. (1) A public officer contravenes the Code of Conduct and Ethics if-	Acting through others.
(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.	

[Subsidiary]

(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.

Reporting improper orders.

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

L.N. 169/2003.

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

Citation.

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

Interpretation.

2. 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.

Scope of procedures.

3. 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.

Administration officer.

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

To whom declarations submitted.

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

Who may make requests for clarifications.

6. 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.

Review of declaration, etc.

7. (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

[Subsidiary]

(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.

8. The Commission or the administration officer may authorize staff of the Commission for the purposes of section 30 (4)(a) of the Act. Authorization of staff under s. 30 (4)(a).

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

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

10. 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. Condition for disclosures to representatives.

11. 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. Administration officer to report non-compliance.

12. 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:- Application where powers, etc. delegated.

(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);

[Subsidiary]

(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.

L.N. 170/2003.

THE CODE OF CONDUCT AND ETHICS FOR PUBLIC UNIVERSITIES

ARRANGEMENT OF CODE

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THE CODE OF CONDUCT AND ETHICS FOR PUBLIC UNIVERSITIES

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 realization of their mission. This human resource is expected to exhibit a high degree of maturity, integrity, trustworthiness, responsibility and accountability.

[Subsidiary]

This Code contains general rules of conduct and ethics to be observed by members, 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. This Code may be cited as the Code of Conduct and Ethics for Public Universities. Citation.

2. In this Code, unless the context otherwise requires- Interpretation.

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

“Commission” means the Commission for Higher 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. 210B.

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

3. 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. Application of Code.

PART II—REQUIREMENTS

4. (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. Compliance with General Code.

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

(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.

[Subsidiary]

(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.

Teaching and
conduct of
examinations.

6. (1) An officer who is a member of the academic staff of a university shall organize 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 result 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, and 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 the 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 examination;
- (e) marking or entering of grades attained,

or if his duties otherwise give him access to examination papers or their contents.

[Subsidiary]

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

(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 provisions of such services.

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

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

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

(4) An officer who is utilizing 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

[Subsidiary]

(d) motor vehicles and transport facilities provided for the purposes of university education.

Gifts and donations.

9. (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 members 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 provision 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 recognized by custom.

(6) When any gifts 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 utilize the gift or donation; and

(c) receipt the gift or donation and fully account for its use.

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

Private interests.

10. 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;

[Subsidiary]

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

(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. 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. Contesting political office.

13. (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- Duty of disclosure. .

(a) where an officer is charged with a serious offence under the Penal Code or any other law where a prison sentence may be imposed other than in default of payments of a fine; Cap. 63.

(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

[Subsidiary]

(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.

Condition for breach of Code.

14. (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

(Paragraph 4 (2))

PART III—GENERAL CODE OF CONDUCT AND ETHICS

Part sets out general Code.

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

Performance of duties, general.

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

Professionalism.

9. A public officer shall-

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

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

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

(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.

Rule of law.

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

[Subsidiary]

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

11. (1) A public officer shall not use his office to improperly enrich himself or others. No improper enrichment.

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

(4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.

(5) Subsection (2) (c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

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

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

[Subsidiary]

(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;
- (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.

Collections and harambees.

13. (1) A public officer shall not-

- (a) use his office or place of work as a venue for soliciting or collecting harambees; or
- (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

Cap. 106.

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

Acting for foreigners.

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

[Subsidiary]

15. (1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated. Care of property.
- (2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.
16. (1) A public officer shall not, in or in connection with the performance of his duties as such- Political neutrality.
- (a) act as an agent for, or so as to further the interest of, a political party; or
- (b) indicate support for or opposition to any political party or candidate in an election.
- (2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.
- (3) This section does not apply to a member of the National Assembly or a councillor of a local authority.
17. A public officer shall not practice nepotism or favouritism. Nepotism, etc.
18. A public officer who has a duty or give advice shall give honest and impartial advice without fear or favour. Giving of advice.
19. A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer. Misleading the public, etc.
20. (1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office. Conduct of private affairs.
- (2) A public officer shall not evade taxes.
- (3) A public officer shall not neglect his financial obligations or neglect to settle them.
21. (1) A public officer shall not sexually harass a member of the public or a fellow public officer. Sexual harassment.
- (2) In subsection (1), “sexually” 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 innuendos, regarding another person’s sexuality.

[Subsidiary]

Selection, etc. of public officer.

22. A public officer shall practice and promote the principle that public officers should be-

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

(b) elected in fair elections.

Submitting of declarations, etc.

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

Acting through others.

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

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

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

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

Reporting improper orders.

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

L.N. 171/2003.

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

Citation.

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

Interpretation.

2. In these procedures, unless the context otherwise requires-

“administration officer” means the Secretary to the Commission;

“Commission” means the Commission for Higher Education.

Scope of procedures.

3. 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.

Administration officer.

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

To whom declarations submitted.

5. (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.

[Subsidiary]

(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. 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.

Who may make requests for clarifications.

7. (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-

Review of declarations, etc.

- (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.

8. (1) The Commission or the administration officer may authorize staff of the Commission for the purposes of section 30(4) (a) of the Act.

Authorization of staff under s. 30 (4) (a).

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

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

Condition for certain disclosures to police, etc.

[Subsidiary]

Condition for disclosures to representatives.

10. 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.

Administration officer to report non-compliance.

11. 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.

L.N. 172/2003.

THE CO-OPERATIVE SOCIETIES CODE OF CONDUCT AND ETHICS

ARRANGEMENT OF CODE

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.

Appendix—General Code of Conduct and Ethics.

THE CO-OPERATIVE SOCIETIES CODE OF CONDUCT AND ETHICS

Preamble.

The Co-operative movement in Kenya plays a major role in the 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

[Subsidiary]

and solidarity founded on the philosophy of “All for one and one for all”. The management of co-operative 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 co-operative 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. This Code may be cited as the Co-operative Societies Code of Conduct and Ethics. Citation.
- 2. In this Code, unless the context otherwise requires- Interpretation.
 - “Commission” means the Ethics Commission for Co-operative Societies established under the Public Officer Ethics Regulations, 2003;
 - “officer” means an officer or employee to whom this Code applies under paragraph 3 of this Code.
- 3. (1) This Code applies to all officers and employees of co-operative societies. Application of Code.
- (2) For the purposes of this paragraph, “officer” includes any committee member, member of a supervisory committee or other person concerned in the management of a co-operative society. Cap. 488.

PART II—REQUIREMENTS

- 4. (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. Compliance with General Code.
- (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. Regardless of his political opinions, an officer shall serve with courtesy, honesty, integrity, probity and objectivity. Integrity and impartiality.
- 6. 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 Political affiliation.

[Subsidiary]

those views publicly or seek to influence his colleagues or those who seek his services to subscribe to his political beliefs.

Comments.

7. An officer shall not-

- (a) make public comments that support or criticize 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 organization if that is not the case.

Responsibility to organization.

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

Efficiency.

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

Canvassing for favours.

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

Harambees.

11. (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 officer to solicit for funds for a harambee or any other purpose.

Conflict of interests.

12. 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;

[Subsidiary]

(c) he shall not to 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 which efficiency, integrity and impartiality.

13. (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. Gifts, etc.

(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 organization-

(a) report the matter to the person who is, in accordance with the administrative procedures of the Commission, the authorized 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 organization.

14. (1) An officer shall not neglect his financial and other obligations to his family and other persons or organisations. Conduct of private affairs.

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

16. 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. Appropriate authority for reporting.

[Subsidiary]

Breach of Code.

17. 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

(Paragraph 4 (2))

PART III—GENERAL CODE OF CONDUCT AND ETHICS

Part sets out general Code.

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

Performance of duties, general.

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

Professionalism.

9. A public officer shall-

- (a) carry out his duties in a way that maintains public confidence in the integrity of his office;
- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorization or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

Rule of law.

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

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

No improper enrichment.

11. (1) A public officer shall not use his office to improperly enrich himself or others.

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

[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. (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. Conflict of interest.

(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

[Subsidiary]

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.

Collections and harambees.

13. (1) A public officer shall not-

- (a) use his office or place of work as a venue for soliciting or collecting harambees; or
- (b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

Cap. 106.

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

Acting for foreigners.

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

(2) For the purposes of this section-

- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisations or individuals.

Care of property.

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

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

Political neutrality.

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

[Subsidiary]

- (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 comprise or be seen to compromise the political neutrality of his office.
- (3) This section does not apply to a member of the National Assembly or a councillor of a local authority.
17. A public officer shall not practice nepotism or favouritism. Nepotism, etc.
18. A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour. Giving of advice.
19. A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer. Misleading the public, etc.
20. (1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office. Conduct of private affairs.
- (2) A public officer shall not evade taxes.
- (3) A public officer shall not neglect his financial obligations or neglect to settle them.
21. (1) A public officer shall not sexually harass a member of the public or a fellow public officer. Sexual harassment.
- (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 innuendos, regarding another person’s sexuality.
22. A public officer shall practice and promote the principle that public officers should be— Selection, etc. of public officers.
- (a) selected on the basis of integrity, competence and suitability; or
 - (b) elected in fair elections.

[Subsidiary]

Submitting of
declarations, etc.

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

Acting through
others.

24. (1) A public officer contravenes the Code of Conduct and Ethics if-
- (a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or
 - (b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.

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

Reporting improper
orders.

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

L.N. 173/2003.

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

Citation.

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

Interpretation.

2. 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, 2003.

Scope of procedures.

3. 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.

Administration
officer.

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

To whom
declarations
submitted.

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

Who may make
requests for
clarifications.

6. 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.

[Subsidiary]

7. (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-

Review of declarations, etc.

- (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.

8. (1) The Commission or the administration officer may authorize staff of the Commission for the purposes of section 30 (4)(a) of the Act.

Authorization of staff under s. 30 (4)(a).

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

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

Condition for certain disclosures to police, etc.

10. 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.

Condition for disclosures to representatives.

11. 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.

Administration officer to report non-compliance.

12. 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:-

Application where powers etc., delegated.

[Subsidiary]

- (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.