

**PUBLIC SERVICE COMMISSION OF KENYA**



**REPUBLIC OF KENYA**

**A PROPOSAL ON MODALITIES FOR IMPLEMENTATION  
OF THE COMMISSION'S MANDATE UNDER THE CONSTITUTION**



**PUBLIC SERVICE COMMISSION OF KENYA**

**DECEMBER 2010/ February 2011**

## **COMPOSITION OF THE SPECIAL BOARD**

The Special Board constituted to propose the modalities for implementation of the Commission's mandate under the Constitution composed of:-

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2. Comm. J.G. Kibera, OGW
3. Comm. J.K. Muketha, SS
4. Comm. J.M Otenyo, MBS

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## **PREFACE**

The birth of the Second Republic was realized in Kenya with the promulgation of the Constitution on 27th August, 2010. This ushered in a new Constitutional dispensation for the Public Service Commission of Kenya. The Constitution bestows on the Commission a re-defined mandate under Articles 155,158,171(2), 230(2) and 234(2). The functions conferred upon the Commission include those that the Commission handled under the old dispensation, those previously undertaken by other government departments and completely new functions. Essentially the functions are executive and oversight in nature. The Commission looks forward to successful consultations and co-operation with key actors in government and stakeholders for the smooth and seamless transition of functions that were previously vested in other government departments to the Commission. It is expected that the enactment of the proposed Public Service Commission Act will provide the necessary regulatory framework for effective discharge of the functions.

Apart from the express functions vested in the Commission, it is expected that the Commission will provide leadership in the drafting of the Bill relating to public service values and principles. This is in recognition of the fact that the Commission is the body mandated by the Constitution to promote the national values and principles of governance and the public service values and principles throughout the public service and to report to the President and Parliament regarding the compliance of the said values and principles.

Further the Constitution confers upon the Commission the power to hear and determine appeals from county governments' public service. In order to ensure uniformity and coherence in the discharge of this function, the Commission ought to be involved in the drafting of the national legislation that will set norms and standards for the county governments' public service.

The implementation of the re-defined mandate is a mammoth task that calls for unity of purpose, focus and commitment by the entire Commission. I therefore call upon members of the Commission and the Secretariat to individually and collectively pull efforts towards the delivery of this mandate. It will be imperative to accord priority to areas that will generate immediate gains and register the desired impact. Resource constraints notwithstanding I wish to reaffirm that the Commission is committed to discharge the new mandate as bestowed by the people of Kenya.

This report constitutes the Commission's road map in the implementation of the mandate and I wish to acknowledge the efforts of the members of the Special Board consisting of Commissioner J. K Gichuhi, Commissioner J. G. Kibera, OGW, Commissioner J. K. Muketha, SS, Commissioner J. M. Otenyo, MBS, and staff of the Secretariat appointed to assist the Special Board for the able manner in which they worked and the team spirit displayed in coming up with this report. Similarly, this report will not have been complete without the rich input and insights from the other members of the Commission in the course of its preparation and during the presentation at Green Hills Hotel, Nyeri County. In the same vein I wish to thank the Commission Secretary and her team for their support in this endeavor.

Finally let me reiterate that change is a permanent feature and when it comes it may bring with it certain discomforts, disorientation and anxiety but in the long run it is a necessary means to a better nation. Let us all accept and embrace this change at this historical moment in our lives.

Signed  
**Titus J.K. Gateere, CBS, MBS**  
**Chairperson**  
**Public Service Commission of Kenya.**

## **FOREWORD**

The Constitution promulgated on 27<sup>th</sup> August, 2010 marked a new dawn for the public service and the Commission particularly the Secretariat are no exception. The mandate of the Commission has significantly been re-defined in terms of the previous functions, those to be transferred from other government departments and new ones. These changes have far reaching implications on the structure and operations of the secretariat in the provision of technical and support services to the Commission. The successful implementation of the re-defined mandate will to a large extent depend on the competence, skills and attitudes of the staff. To effectively discharge the diverse functions there will be need to restructure the secretariat to conform to the re-defined mandate. The secretariat will need to realign its systems and processes to match the changing expectations of its clients.

The service delivery landscape is rife with challenges brought about by the provisions of the Bill of Rights, national values and principles of governance and principles and values of public service. This calls for a new way of transacting Commission's business and the inevitable change of mindsets for the proper delivery of these functions. The Commission is looked upon by the rest of the service to provide the necessary leadership and guidance which take into account the changed service delivery environment. The onus is on the staff to take it upon themselves to rise up to these challenges and become the exemplars for the rest of the public service. In the light of the changed circumstances there will be need to review the current strategic plan (2009-2012) and the citizen's service charter to incorporate the additional functions.

The envisaged change may not be easy but nevertheless necessary for the Commission to deliver on its re-defined mandate. In this respect deliberate steps will be taken to sensitize staff on this important document that forms the basis for implementation of provisions of the Constitution that relate to the Commission. High level commitment and sacrifice are expected from all members of staff towards the achievement of the task that the Constitution places upon the Commission. The implementation of the re-defined mandate poses challenges especially in the provision of adequate office accommodation and sufficient budgetary allocation. On its part the Government has pledged to avail budgetary provisions for fast tracking the implementation of the Constitution within one year.

Finally I wish to thank the Secretariat for their tireless effort in supporting the preparation of this report and all the other stakeholders who contributed during the working retreat at Green Hills Hotel in Nyeri.

Signed

**Bernadette M. Nzioki, EBS**

**Secretary**

**Public Service Commission of Kenya**

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## **LIST OF ACRONYMS**

CEDAW	Convention on Elimination of All Forms of Discrimination Against Women
IEC	Information Education and Communication
ILO	International Labour Organization
MSPS	Ministry of State for Public Service
OPM	Office of the Prime Minister
POEA	Public Officer Ethics Act
PSCK	Public Service Commission of Kenya
PWDs	Persons with Disabilities
UNCAC	Universal Declaration of Human Rights 1948
UN	United Nations

## **EXECUTIVE SUMMARY**

On coming into effect of the Constitution on 27th August 2010, the Public Service Commission is expected to start executing the new mandate. In order to prepare for this, the Commission needs analyze the functions under the new mandate and prepare implementation strategies. Towards this end, the Chairman of the Commission, Mr. Titus J.K. Gateere, CBS, MBS, constituted a Special Board consisting of four Commissioners. The Special Board commenced work on 26th July 2010 and was expected to conclude the assignment within four weeks. The terms of reference were to:

1. Identify the added responsibilities;
2. Analyze the fourth schedule in detail to determine the responsibilities that fall under national and County Governments in order to determine the responsibilities that will fall under the Commission's mandate;
3. Examine the Commission's current operating practices, assumptions and principles and determine their suitability, harmony and practicability within the revised Bill of Rights defined under the Constitution;
4. Analyze each function to establish the processes, procedures, tools and financial implications of implementing the powers and recommend on the structures and staffing levels;
5. Examine the staffing levels at the Commission to establish whether there is capacity to take on the new responsibilities;
6. Identify the legal interventions that need to be put in place;
7. Take stock of International Treaties and Conventions that Kenya is a signatory to, how they impact on the Commission's mandate and recommend strategies for implementation;
8. Identify areas of partnering and cooperation and linkages between national and County Governments;
9. Give a roadmap on the way forward; and
10. Address any other issues that may impact upon or are pertinent to the fulfillment of the mandate of the Commission under the proposed Constitution.

This report contains an analysis of the Commission's re-defined mandate, its interface with the Bill of Rights and proposals on what the Commission need to put in place in order to effectively discharge out the new mandate.

The Constitutional provisions regarding national and county governments are highlighted in the report with emphasis on the implications of the creation of devolved structures vis-à-vis the functions of the Commission. The County governments are vested with powers to manage their own human resource functions while the Commission will largely manage the human resource functions in the national government. Essentially the Commission and county governments shall relate by way of cooperation, collaboration and partnering in areas of common interest including the hearing and determining of appeals concerning County governments' Public Service.

The report also contains an analysis of the fourth schedule which assigns functions to the national and county governments. The functions of the national government are mainly on policy formulation whereas the functions of the county governments are mainly policy execution. Over and above the staff of local authorities, the bulk of officers under the Public Service Commission serving in the provinces and districts are at policy implementation level. There is therefore need for the Commission to put in place measures to protect public officers at these levels in the transition and the report contains proposals on how this can be achieved.

The Public Service Commission is established under Article 233 of the Constitution. This article sets the criteria for eligibility for appointment as a member of the Commission. Chapter fifteen of the Constitution provides for general provisions of Constitutional Commissions and Independent Offices. This chapter limits the membership of the Commission to nine inclusive of the chairperson and the vice chairperson. This reduction from the current membership of sixteen, has significant implications on the operations of the Commission in the light of the enhanced mandate. There is need, therefore, to review the current structures, systems and procedures to ensure that notwithstanding the reduced numbers the standards set by the Commission in terms of service delivery are maintained.

Issues of good governance have assumed centre stage in the management of the public service and public affairs in general. The Commission has been given added responsibilities for the promotion and institutionalization of the national values and principles of governance and values and principles of the Public Service.

This includes the requirements to monitor, evaluate and report to the President and Parliament the extent to which the values and principles are upheld in the discharge of public services.

Article 2(6) of the Constitution provides that all treaties and conventions ratified by the Kenya Government form part of the laws of Kenya. This requires that those treaties and conventions with a bearing on the Commission's mandate be identified and mainstreamed into the Commission's functions.

In order to implement the re-defined mandate, it is imperative for the Commission to accord priority to drafting of the enabling legislation. Urgent steps should therefore be taken to identify and propose amendments to the relevant Acts and regulations in the interim pending the enactment of Public Service Commission Act.

In terms of public service management, the new mandate vests in the Commission oversight powers over the state corporations and statutory boards particularly in the areas of setting of norms and standards and ensuring efficiency and effectiveness of their services. In addition, the Commission has been conferred with wide ranging powers from establishing and abolition of public offices to ensuring effectiveness and efficiency of the public service including human resource development. Some of these functions are currently undertaken by other ministries while others are new. To effectively execute the new mandate, there is need for the Commission to restructure the secretariat, enhance capacity, staffing and scale up the budget.

It is apparent that the Commission has a mammoth task of implementing the new mandate and this calls for mobilization of available skills and resources both from within and without in order to realize a timely, smooth and orderly transition. The government has given an indicative timeline of one year within which the implementation should be completed. The implementation of the Commission's re-defined mandate presents unique and exciting challenges. This report proposes concrete steps for rolling out the implementation in two phases within the set timeline.

## CHAPTER ONE – MANDATE OF THE PUBLIC SERVICE COMMISSION

### UNDER THE CONSTITUTION

#### 1.1 Background

The Public Service Commission was first set up in 1954 and subsequently enshrined in the independence Constitution in 1964 as an independent state organ. It is the oldest constitutional Commission and its mandate has expanded over the years to cover appointment of persons to hold or act in offices in the public service and the local authorities. Other powers of the Commission include: the power to confirm appointments; the power to exercise disciplinary control; retirement of public officers from the service and protection of pension benefits. Under the old Constitution, the Commission consisted of a Chairman, Deputy Chairman and fifteen (15) members, all appointed by the President. The Commission is supported by a secretariat headed by the Commission Secretary with six (6) departments namely; Administration, Recruitment and Selection, Agenda, Human Resource Audit, Discipline and Examinations.

The Service Commissions' Act Cap – 185 together with the Service Regulations prescribe the manner in which the Commission should fulfill the above mandate. The Public Officer's Ethics Act 2003 bestows on the Commission additional responsibilities concerning the enforcement of ethical standards in the public service. In the discharge of the mandate, the Commission is guided by the vision, *"to be a world class constitutional body in the provision of a globally competitive human resource that serves the needs of Kenyans"*. This is further reinforced by the mission to *"enhance excellence in public service delivery by providing the required human resource in the most effective manner"*. The core values of the Commission include: *Integrity, reliability, confidentiality, team spirit, meritocracy, fairness, transparency and accountability, equity and diversity and continuous improvement*.

#### 1.2 Establishment of the Commission

Kenyans through a referendum ratified the Constitution on 4<sup>th</sup> August 2010 which was consequently promulgated on 27<sup>th</sup> August 2010. The new Constitutional dispensation radically alters the political, economic, social, legal and governance structures. The Public Service Commission is one of the state organs affected by the changes. Article 233 of the Constitution establishes the Commission and sets the criteria for appointment of the members of the Commission.

The Article also creates the position of the Secretary to the Commission. The scope of the mandate illustrates the trust and confidence of the people of Kenya in the Commission.

### **1.3 The Mandate of the Commission under the Constitution**

Article 234 of the Constitution outlines the functions and powers of the Public Service Commission. According to the article the Commission is expected to-

- a) Establish and abolish offices in the public service;
- b) Appoint persons to hold or act in public offices, and to confirm appointments;
- c) Exercise disciplinary control over and remove persons holding or acting in those offices;
- d) Promote the values and principles referred to in Articles 10 and 232 throughout the public service;
- e) Investigate, monitor and evaluate the organization, administration and personnel practices of the public service;
- f) Ensure that the public service is efficient and effective;
- g) Develop human resources in the public service;
- h) Review and make recommendations to the national government in respect of conditions of service, code of conduct and qualifications of officers in the public service;
- i) Evaluate and report to the President and Parliament on the extent to which the values and principles referred to in Articles 10 and 232 are complied with in the public service;
- j) Hear and determine appeals in respect of county governments' public service; and
- k) Perform any other functions and exercise any other powers conferred by national legislation.

The Constitution further bestows upon the Commission other functions which include the following-

- a) Nominating persons to the Judicial Service Commission and Salaries Remuneration Commission under Articles 171(2) and 230(2){b} respectively;
- b) Recommending persons to be appointed as Principal Secretaries under Article 155 (2) (a); and
- c) Receiving petitions for the removal of the Director of Public Prosecutions and recommending appointment of a tribunal to investigate the complaints under Article 158(2) (3) and (4).

Under the previous constitution the Commission was mandated to appoint officers in the Gazetted ranks of the Kenya Police. The Commission was also responsible for appointment and discipline of officers in salary scales 1 to 9 in Local Authorities.

The Constitution has established a National Police Service which will deal with all matters relating to the Kenya police and Administration police. Legislation will also be enacted to provide for governance and management of cities and urban areas.

In the interim, pending operationalization of the National Police Service Commission and enactment of the envisaged legislations, the Public Service Commission shall continue to handle the human resource functions for the Kenya Police, Administration Police and also the Local Authorities

#### **1.4 Terms of Reference for the Special Board**

In anticipation of the endorsement and promulgation of the Constitution, the Commission constituted a Special Board to look into the modalities of implementing the mandate. The Special Board first met on 26<sup>th</sup> July 2010, deliberated on the functions affected by the changes and embarked on the exercise of analyzing the relevant functions, identifying financial and staffing implications and making proposals on the way forward. The terms of reference for the Special Board were to:

1. Identify the added responsibilities;
2. Analyze the fourth schedule in detail to determine the responsibilities that fall under National and County Governments in order to determine the responsibilities that will fall under the Commission's mandate;
3. Examine the current Commission's operating practices, assumptions and principles and determine their suitability, harmony and practicability within the revised Bill of Rights defined under the Constitution;
4. Analyze each function to establish the processes, procedures, tools and financial implications of implementing the powers and recommend on the structures and staffing levels;
5. Examine the staffing levels at the Commission to establish whether there is capacity to take on the new responsibilities;
6. Identify the legal interventions that need to be put in place;
7. Take stock of International Treaties and Conventions that Kenya is a signatory to, how they impact on the Commission's mandate and recommend strategies for implementation;

- 8.** Identify areas of partnering and cooperation and linkages between National and County Governments;
- 9.** Give a roadmap on the way forward; and
- 10.** Address any other issues that may impact upon or are pertinent to the fulfillment of the mandate of the Commission under the Constitution.

## CHAPTER TWO – FUNCTIONS IN THE FOURTH SCHEDULE OF THE CONSTITUTION APPLICABLE TO THE COMMISSION

### 2.1 Analysis of the functions of the Commission in the fourth schedule

The fourth schedule of the Constitution provides for the distribution of functions between the national and county governments. The functions of national government are mainly at policy formulation level whereas those of the county governments essentially relate to policy implementation. There are some functions that will be performed both at the national and county governments. The Commission's mandate is mainly in respect of the national government. However, the Commission will hear and determine appeals of county governments' public service. Although the Constitution provides that the county governments will be independent, the Commission and county governments, in the discharge of their respective functions, have specific areas of common interest which are also addressed below.

### 2.2 The Commission's functions relating to the national government

The Commission's functions mainly relate to national government save for hearing and determining of appeals from county governments' public service. Table 1 below, focuses on the national functions that are applicable to the Public Service Commission.

Table 1: Analysis of the Functions of the National Government under the Fourth Schedule

S/No.	National Government Functions	Cadre of Officers	Commission's Functions
1	Foreign Affairs, Foreign Policy and International Trade	Carry out all the functions set out in the corresponding column (subject to delegated powers) as relates to foreign service personnel and other support cadres except Ambassadors and High Commissioners or other diplomatic or consular representatives of the Republic of Kenya.	a) Establish and abolish offices in the public service; b) Appoint persons to hold or act in those offices; c) Exercise disciplinary control over and remove persons holding or acting in those offices;
2	The use of international waters and water resources	Water Engineers, Hydrologists, Geologists, Chemists	d) Promote the values and principles referred to in Articles 10 and 232 throughout the public service.
3	Immigration and Citizenship	Immigration officers, Registrars of Births and Deaths, Civil Registrars, National Registration Officers, Refugees personnel and support staff	e) Investigate, monitor and evaluate the organization, administration and personnel
4	National Economic Policy and Planning	Statisticians, Economists	

S/No.	National Government Functions	Cadre of Officers	Commission's Functions	
5	Monetary policy, currency, banking (including central banking), the incorporation and regulation of banking, insurance and financial corporations	Accountants, Finance/Budget officers, Economists, Investment officers, Auditors, Supply chain personnel, Pensions officers, Government clearing agents, Revenue officers	<p>practices;</p> <p>f) Ensure efficiency and effectiveness;</p> <p>g) Develop the human resource;</p> <p>h) Review and make recommendations to the national government in respect of conditions of service, code of conduct and qualifications of officers;</p> <p>i) Evaluate and report to the President and Parliament on the extent to which the values and principles referred to in Articles 10 and 232 are complied with in the public service; and</p> <p>j) Recommend persons to be appointed as Principal Secretaries.</p>	
6	Promotion of sports and sports education	Sports Personnel, Youth training and development		
7	Labour standards	Labour Officers and Inspectors, Manpower Planning and Development, Employment officers, Occupational Health and Safety officers, Enterprise Development officers, Industrial Training officers		
8	Health policy	Health and Medical personnel at policy level		
9	Education policy, standards, curricula, examinations and the granting of university charters	Education officers, Quality Assurance and Standards officers, Research officers, Technical education officers, Technical instructors, Adult Education officers		
10	Universities, tertiary educational institutions and other institutions of research and higher learning and primary schools, special education, secondary schools and special education institutions	Quality Assurance and Standards Officers, Technical Officers		As above except for Universities. For Universities - Promotion of National and public service values and principles, and ensuring efficiency and effectiveness of the public service.
11	National public works	Architects and Quantity Surveyors, Engineers, Graphic Designers, Technicians, Fire Officers,		<p>a) Establish and abolish offices in the public service;</p> <p>b) Appoint persons to hold or act in those offices;</p> <p>c) Exercise disciplinary control over and remove persons holding or acting in those offices;</p> <p>d) Promote the values and principles referred to in Articles 10 and 232 throughout the public service.</p> <p>e) Investigate, monitor and evaluate the organization, administration and personnel practices;</p> <p>f) Ensure efficiency and effectiveness;</p> <p>g) Develop the human resource;</p> <p>h) Review and make recommendations to the national government in respect of conditions of service, code of conduct and qualifications of officers;</p> <p>i) Evaluate and report to the President and Parliament on the extent to which the values</p>
12	Housing policy	Housing planning officers Estate management officers Urban Planners, Building Surveyors Land Economists/Valuers		
13	General principles of land planning and the co-ordination of planning by the counties	Physical Planners Land Surveyors Land Administration Land Adjudication and Settlement Land Registrars Cartographers		
14	Protection of the environment and natural resources with a view to establishing a durable and sustainable system of development, including, in particular- <ul style="list-style-type: none"> <li>• Fishing, hunting and gathering;</li> <li>• Protection of animals and wildlife;</li> <li>• Water protection, securing sufficient residual water, hydraulic engineering and the safety of dams; and</li> <li>• Energy policy.</li> </ul>	Fisheries personnel, Water Engineers, Energy personnel at policy level Environment Officers Forest Officers Geologists Conservationists Hydrologists, Remote Sensing Officers		

S/No.	National Government Functions	Cadre of Officers	Commission's Functions
15	Agricultural policy	Agricultural and livestock officers at policy level	and principles referred to in Articles 10 and 232 are complied with in the public service; and j) Recommend persons to be appointed as Principal Secretaries.
16	Veterinary policy	Veterinary personnel at policy level	
17	Disaster management	Peace and Conflict Management Officers	
18	National betting, casinos and other forms of gambling	Gaming personnel at policy level	
19	Tourism policy and development	Tourism personnel at policy level	
20	Transport and communications in particular- <ul style="list-style-type: none"> <li>• Road traffic;</li> <li>• The construction and operation of national trunk roads;</li> <li>• Standards for construction and maintenance of other roads by counties;</li> <li>• Railways;</li> <li>• Pipelines;</li> <li>• Marine navigation;</li> <li>• Civil aviation;</li> <li>• Space travel;</li> <li>• Postal services;</li> <li>• Telecommunications; and</li> <li>• Radio and television broadcasting.</li> </ul>	Engineers Marine navigation Officers Air transport officers Information officers Public communication officers Air Accident Investigators Pilots	As above in relation to the officers identified in the next column and promotion of National and public service values, ensuring efficiency and effectiveness of the public service.
21	Energy policy including electricity and gas reticulation and energy regulation	Energy personnel at policy level	As in 1 above and promotion of National and public service values, ensuring efficiency and effectiveness of the public service.
22	Public investments	-	
23	National statistics and data on population, the economy and society in general	Oversight function	This is carried out by the Kenya National Bureau of Statistics
24	Intellectual property rights	Oversight function	Promotion of National and public service values and principles, ensuring efficiency and effectiveness of the public service
25	National referral health facilities	Oversight function	
26	Ancient and historical monuments of national importance	Archivists; Curators ; Zoologists; Marine Scientists; Cultural Officers; and Botanists	
27	Consumer protection, including standards for social security and professional pension plans	All officers for whom the commission is responsible. Weights and measures officers.	Protection of pension benefits under the umbrella function of reviewing and making recommendations on terms and conditions of service
28	Capacity building and technical assistance to the counties	-	Training Setting standards, regulations Establishment of codes of conduct
29	Language policy and the promotion of official and local languages	-	Promotion of National and public service values and principles, ensuring efficiency and effectiveness of the public service, reviewing terms and conditions of service, human resource development

S/No.	National Government Functions	Cadre of Officers	Commission's Functions
30	Police services, including- <ul style="list-style-type: none"> <li>• The setting of standards of recruitment, training of police and use of police services;</li> <li>• Criminal law; and</li> <li>• Correctional services.</li> </ul>	Officers in Inspectorates (subject to delegation) and gazetted ranks. Prison officers from the level of Chief Officers and above.	Continue handling matters in accordance with the old constitution pending the operationalization of the National Police Service Commission. Correctional services (Prisons) will remain under the Commission and therefore the functions set out in 1 above will continue to apply.
31	Courts	-	Indirectly through the Commission representation in Judicial Service Commission
32	National defence and the use of the national defence services	-	No defined role
33	National elections	-	No defined role
34	The relationship between religion and state	-	No defined role

**NOTE:** The exercise of the functions as reflected in the table is subject to existing provisions on delegated powers to Authorized Officers.

### 2.3 Commission's functions relating to County Governments

The functions of the County Governments vis-à-vis those of the Commission within the context of the National Government relate in the following areas:

- a) Norms and Standards in respect to management of the Public Service in general as envisaged under Article 235 (1);
- b) Capacity building and technical assistance (fourth schedule – Item 22 );
- c) Hearing and determining appeals in respect of County governments' Public Service as contemplated under Article 234 {i}; and
- d) Protection of Public Officers as stipulated under Article 236.

## **CHAPTER THREE – FUNCTIONS OF THE COMMISSION**

### **3.1 Functions of the Commission under the Constitution**

The functions under the re-defined mandate fall into three categories. These include the existing functions, those currently being carried out by other government ministries/departments and completely new functions.

### **3.2 Existing Functions**

These comprise of:

- a) Appointing persons to hold or act in public offices and to confirm those appointments.
- b) Exercising disciplinary control over and removal persons holding or acting in those offices.
- c) Protection of pension benefits.
- d) Promotion of good governance, ethics and integrity in the public service.
- e) Human resource audit in the public service.
- f) Administration of civil service examinations and occupational tests.
- g) Nominating persons to the Judicial Service Commission and the Salaries Remuneration Commission under Articles 171(2) and 230(2){b} respectively.

### **3.3 Functions Currently Being Undertaken By Other Government Ministries/Departments**

The following were identified as functions currently being undertaken by other government departments:

- a) Establishment and abolishing of offices in the public service;
- b) Investigating, monitoring and evaluating the organization, administration and personnel practices of the public service;
- c) Ensuring that the public service is efficient and effective;
- d) Developing the human resource in the public service;
- e) Reviewing and making recommendations to the National Government in respect of conditions of service, codes of conduct and qualifications of officers in the public service;

It is expected that the added functions which are currently performed by other departments will be transferred either wholly or partially to the Commission. This offers an opportunity for the Commission to take stock of and tap the available skills and competencies in the Office of the Prime Minister, Ministry of State for Public Service and other relevant departments. Further the Commission may rationalize some of the functions to address overlaps. The affected departments include:

- i) Human resource development;
- ii) Management consultancy services;
- iii) Human resource management (personnel administration);
- iv) Efficiency monitoring unit;
- v) Performance contracting department;
- vi) Public Service transformation (Reform); and
- vii) Inspectorate of state corporations.

The details on the functions of these departments are annexed as Appendix one.

### **3.4 New Functions**

- a) Promotion of values and principles under Articles 10 and 232 throughout the public service;
- b) Evaluating and reporting to the President and Parliament the extent to which the national and public service values and principles in Articles 10 and 232 are complied with in the public service;
- c) Hearing and determining appeals from County Governments' public service;
- d) Recommending persons to be appointed as Principal Secretaries; and
- e) Receiving petitions for the removal of the Director of Public Prosecutions and recommending appointment of a tribunal to investigate the complaints.

### **3.5 Comparative Analysis of the Re-Defined Functions**

The Constitution gives the Commission functions under three categories as follows:

- i. Existing functions – Those already being undertaken by the Commission;
- ii. Added functions – New functions but which are currently being undertaken by other Ministries/departments; and
- iii. New Functions.

A comparative analysis of these re-defined functions is shown in Table 2 below.

**Table 2: Comparative analysis of the functions**

S/no	Function	Remarks
1.	Establish and abolish offices in the public service.	This function is <i>currently</i> undertaken by Cabinet Office and MSPS. This may entail transfer of funding and staff. It may require acquisition of additional office space.
2.	Promote the values and principles referred to in Articles 10 and 232 throughout the public service.	This is a <i>new function</i> . It will require creation of an establishment, capacity building, funding and office space.
3.	Investigate, monitor and evaluate the organization, administration and personnel practices of the public service.	This function is <i>currently</i> undertaken by PSCK, OPM and MSPS. This may entail transfer of funding and staff. It may require acquisition of additional office space.
4.	Ensure that the public service is efficient and effective.	This function is <i>currently</i> undertaken by PSCK, OPM and MSPS. This may entail transfer of funding and staff. It may require acquisition of additional office space.
5.	Develop the human resource in the public service.	This function is <i>currently</i> undertaken by OPM and MSPS. This may entail transfer of funding and staff. It may require acquisition of additional office space.
6.	Review and make recommendations to the national government in respect of conditions of service, code of conduct and qualifications of officers in the public service.	This function is <i>currently</i> undertaken by MSPS and the Commission. This may entail transfer of funding and staff.
7.	Evaluate and report to the President and Parliament on the extent to which the national and public service values and principles referred to in Articles 10 and 232 are complied with in the public service.	This is a <i>new function</i> . It will require creation of an establishment, capacity building, funding and office space.
8.	Hear and determine appeals in respect of county governments' public service.	This is a <i>new function</i> . It will require creation of an establishment, capacity building, funding and office space.
9.	Nominate persons to the Judicial Service Commission and Salaries Remuneration Commission under Articles 171(2) and 230(2){b} respectively.	This is an <i>existing</i> function.
10.	Recommend persons to be appointed as Principal Secretaries.	This is a <i>new function</i> . It will require structures, procedures and guidelines.
11.	Receive petitions on the removal of the Director of Public Prosecutions and recommend appointment of a tribunal to investigate the complaints.	This is a <i>new function</i> . It will require structures, procedures and guidelines.
12.	Appoint persons to hold or act in offices in the public service.	This is an <i>existing</i> function. Requires re-alignment to make it responsive to the new constitution.
13.	Exercise disciplinary control over and remove persons holding or acting in public offices.	This is an <i>existing</i> function. Requires re-alignment to make it responsive to the constitution.
14.	Human resource management functions for officers in Kenya Police and Administration Police.	This is an <i>existing</i> function. It has been transferred to the National Police Service Commission. In the transition the Commission will continue to handle the function.
15.	Human resource management functions for	This is an <i>existing</i> function to be exercised by the

S/no	Function	Remarks
	officers in Local Authorities.	Commission pending the enactment of legislation on cities and urban areas
16.	Human resource management functions in County Governments.	County Governments have been given the power to manage human resource under their own governments.

### 3.6 Categories of Functions Conferred Upon the Commission under the Constitution

The functions conferred upon the Commission by the Constitution fall into two categories, executive and oversight functions. Some of the functions are both executive and oversight. Article 234 (5) provides for delegation of functions with or without conditions. The classification is as reflected in the table below.

**Table 3: Categories of Functions conferred upon the Commission under the Constitution**

S/no	Function	Executive	Oversight	Residual
1.	Subject to the Constitution and legislation -			
	(i) Establish and abolish offices in the Public Service.	√	√	
	(ii) Appoint persons to hold or act in those offices and to confirm appointments.	√		
2.	Exercise disciplinary control over and remove persons holding or acting in public offices including removal of non-disciplinary grounds	√		
3.	Promote the national values and principles in Article 10 and Public Service values and principles of in Article 232 in the Public Service.	√	√	
4.	Investigate, monitor and evaluate the organization, administration and personnel practices of the public service	√	√	
5.	Ensure the public service is effective and efficient.		√	
6.	Develop human resources in the public service	√	√	
7.	Review and make recommendations to the national government in respect of conditions of service, code of conduct and qualifications of officers in the public service.	√	√	
8.	Evaluate and report to the President and Parliament on the extent to which the values and principles in Articles 10 and 232 are complied with in the public service.	√	√	
9.	Hear and determine appeals in respect of county governments' public service.	√		
10.	Nominate persons to the Judicial Service Commission and the Salaries and Remuneration Commission.	√		
11.	Recommend persons to be appointed Principal Secretaries	√		
12.	Receiving and considering petitions for the removal of the	√		

S/no	Function	Executive	Oversight	Residual
	Director of Public Prosecutions.			
13.	Perform any other functions and exercise any other powers conferred by national legislation.			√

*Note:*

*Administration of entrance and promotional examinations in the Public Service is an existing function which is not apparent in the constitution but may nonetheless be incorporated under the functions at S/no. 1(ii), 6 and 7.*

### **3.7 Analysis of the Functions of the Public Service Commission under the Constitution and Emerging Issues**

The current operating practices under each of the functions, the emerging issues, the supporting legislations, policy instruments and the implementing institutions are examined in Table 4 below.

**Table 4: An analysis of the functions of the Public Service Commission under the Constitution and emerging issues**

S/No	Mandate	Emerging Issues	Current Practice	Supporting Legislation/ Policy/Instruments	Implementing Institution [Structures]	Time frame
1	Appoint persons to hold or act in public offices and to confirm appointments.	<ol style="list-style-type: none"> <li>1. Recommend persons to be appointed as Principal Secretaries.</li> <li>2. Excludes state officers, officers in County Governments, Parliamentary Service Commission, Judicial Service Commission, Teachers Service Commission and National Police Service Commission.</li> <li>3. Delegate any of the functions in writing with / without conditions.</li> </ol>	<ol style="list-style-type: none"> <li>1. Only consulted when a person to be appointed as Permanent Secretary is from the Civil Service.</li> <li>2. Appoint persons to the rank of Assistant Inspector of Police and above.</li> <li>3. The Chairman is a member of the Judicial Service Commission.</li> <li>4. Delegates the appointment of officers between job groups A to L except new appointments for graduates and pre –service trainees at job groups H and J with the consent of the President.</li> </ol>	The Constitution, Service Commissions’ Act, Public Service Commission Regulations, Performance Appraisal Instruments. PSC 2A.	Public Service Commission Selection Boards, Recruitment and Selection Department, Agenda Department and Authorized officers.	<ol style="list-style-type: none"> <li>1. Principal Secretaries to be recommended after the first general election under this Constitution.</li> <li>2. To continue appointing persons to the rank of Assistant Inspector of Police and above until the formation of the National Police Service Commission.</li> <li>3. To continue appointing persons to hold offices in Local Authorities until the County Governments and legislation on cities and other urban areas is enacted.</li> </ol>
2	Exercise disciplinary control over and remove persons holding or acting in public offices	<ol style="list-style-type: none"> <li>1. Excludes County Governments’ public service except on appeals.</li> <li>2. Excludes officers falling under other Service Commissions and State Officers.</li> <li>3. Includes the Director of Public Prosecutions.</li> <li>4. Required to give reasons for decisions made.</li> <li>5. Required to hold public hearings on disciplinary and removal matters.</li> <li>6. Participation in political activities will no longer be a</li> </ol>	<ol style="list-style-type: none"> <li>1. Discipline officers in scales 1 to 9 for local authorities.</li> <li>2. Handles discipline cases for officers in the gazetted ranks of the Kenya Police, Administration Police and Prisons Service.</li> <li>3. Delegates disciplinary function relating to officers between job groups A to L to Authorized Officers.</li> <li>4. Communication is privileged.</li> <li>5. Participation in political activities is a ground for</li> </ol>	The Constitution, Service Commissions’ Act, Public Service Commission Regulations, The Labour Laws, The Public Officer Ethics Act, Code of Conduct and Ethics, Fiscal Management Act, Public Procurement and Disposal Act, Pensions Act, Financial Management Act,	Public Service Commission, (Discipline Boards, Ethics & Integrity Unit) Authorized Officers (MHRMAC,)	<p>The Commission to review the regulations to make them responsive to the bill of rights and International Labour Standards (ILO - conventions)</p> <p>Continue to handle disciplinary cases and appeals pending any change of the Local Government Act and establishment of the National Police Service</p>

S/No	Mandate	Emerging Issues	Current Practice	Supporting Legislation/ Policy/Instruments	Implementing Institution [Structures]	Time frame
		ground for discipline, Article 38.	discipline.			Commission
3	Retirement and removal of public officers	Processing of written petitions for the removal of the DPP. Recommending the appointment of a tribunal to inquire into the complaints.	This is a new function	No legislation in place.	Cabinet office, PSCK, State Law office (Appropriate structure to be put in place)	Within 1 year
		Strict adherence to due process of law in removal and retirement of public officers in public interest, medical grounds, compulsory, reorganization and abolition of office.	Reasons not assigned for retirement and removal except when retirement is on medical grounds.	Review the Service Commissions Act and Regulations to include the procedure for this function.	PSCK Boards, Authorized Officers	By March 2011
4	Review and make recommendations to the national government in respect of conditions of service	Review and make recommendations regarding conditions of service <ul style="list-style-type: none"> <li>Working environment and categories of appointment</li> <li>Powers of appointment and procedures</li> <li>Salary Structure and Promotions</li> <li>General conditions of employment</li> <li>Secondments and transfers</li> </ul>	Currently done by MSPS	The Constitution, Service Commissions' Act, Pensions' Act, Labour Laws Personnel Circulars and General Letters Code of Regulations PSCK – Code of Conduct and Ethics PSCK – Regulations Pay and Benefits policy	PSCK, MSPS (Permanent Public Service Remuneration Review Board)  Ministry of Labour and Human Resource Development (Industrial court)	Within 1 year
5	Review and make recommendations to the national government in respect of code of conduct	Consider enhancing the capacity of the Ethics and Integrity unit.	The Commission issues Public Officer Code of Conduct and Ethics under POEA, 2003	POEA, 2003 Administrative procedures, PSCK guidelines on declarations of incomes assets and liabilities	PSCK (Ethics and Integrity Unit)	Continuous
6	Review and make recommendations to the national government in	Previously a collaborative venture between Authorized Officers, MSPS and PSCK	Authorized Officers initiate draft schemes, MSPS moderates and standardizes	Policy guidelines and circulars from MSPS PSCK instructions	PSCK, MSPS – (Management Consultancy Services)	2 years

S/No	Mandate	Emerging Issues	Current Practice	Supporting Legislation/ Policy/Instruments	Implementing Institution [Structures]	Time frame
	respect of qualifications of officers in the public service (schemes of service)		the schemes of service and PSCK considers and approves final draft schemes which are released to the service for implementation.		and Authorized Officers	
7	Ensure the public service is effective and efficient	New function to the Commission in terms of oversight powers.	<ul style="list-style-type: none"> <li>- Monitor, evaluate and report on compliance levels and management practices.</li> <li>- Assess efficacy of policies, regulations and procedures.</li> <li>- Carry out ad hoc and regular inspections.</li> <li>- Examine organizational effectiveness.</li> <li>- Investigate and follow up public complaints.</li> <li>- Initiate and co-ordinate reforms towards improved public service performance.</li> </ul>	<ul style="list-style-type: none"> <li>- The Constitution</li> <li>- Performance instruments</li> <li>- Finance Management Acts</li> <li>- Public Procurement and Disposal Act, 2006</li> <li>- Service Regulations</li> <li>- Codes of Conduct and Ethics</li> <li>- Code of Regulations</li> <li>- POEA, 2003</li> <li>- State Corporations Act, 2004</li> </ul>	<ul style="list-style-type: none"> <li>- OPM</li> <li>- EMU</li> <li>- Inspectorate of State Corporations</li> <li>- Public Service Transformation Department</li> <li>- Performance contracting department</li> <li>- MSPS</li> <li>- Administration of staff performance appraisal</li> </ul>	Within 1 year
8	Promote the national values and principles in Article 10 and Public Service values and principles in Article 232 in the Public Service.	Partially handled under POEA and Commissions' Core values	Limited to implementation of the POEA and PSCK core values	The Constitution of Kenya, POEA, Anti Corruption and Economic Crimes Act, Public Procurement and Disposal Act, Fiscal Management Act, Witness Protection Act Privatization Act and applicable regulations, Citizens' Service Charter.	Responsible Commissions, PSCK (Ethics and Integrity Unit)	1 year
9	Evaluate and report to the President and Parliament on the extent to which the values and principles in Articles 10 and 232 are complied with in the public service	Development of reporting formats	Currently reported through Kenya Integrity Forum	The Constitution of Kenya, POEA Anti Corruption and Economics Crimes Act, Public Procurement and Disposal Act, Fiscal Management Act	Responsible Commissions, PSCK (Ethics and Integrity unit), National Integrity Programme	1 year

S/No	Mandate	Emerging Issues	Current Practice	Supporting Legislation/ Policy/Instruments	Implementing Institution [Structures]	Time frame
10	Investigate, monitor and evaluate the organization, administration and personnel practices of the public service	<p>The role of Human resource audit has been expanded.</p> <p>The personnel practices which the Commission will investigate, monitor and evaluate will include:</p> <ul style="list-style-type: none"> <li>- Recruitment</li> <li>- Promotion</li> <li>- Grading Structures</li> <li>- Job and occupational classification and grading</li> <li>- advise on remuneration and other conditions of service</li> <li>- Working environment</li> <li>- Work facilities</li> <li>- Employee performance management systems and practices</li> <li>- Transfer and secondment</li> <li>- Advice on appropriate organizational structures</li> <li>- Undertake studies to determine optimal staffing levels</li> <li>- Evaluate implementation of human resource management policies</li> </ul>	<ul style="list-style-type: none"> <li>- Monitor and advise on rules and regulations applicable to the public service as spelt out in the Constitution, Service Commissions' Act, Code of Regulation and relevant Personnel Circulars.</li> <li>- Follow up on implementation of Commission's decisions and provide feedback</li> <li>- Investigate and report on human resource management complaints/ grievance</li> <li>- Examine the effectiveness of the human resource management control systems.</li> <li>- Carry out ad hoc or special audit investigations on issues that the Commission considers necessary</li> <li>- Provide professional advisory services on human resource management to ministries/ departments and Local Authorities</li> <li>- Personnel practices include: <ul style="list-style-type: none"> <li>● Recruitment procedures, advertising and selection criteria</li> <li>● Promotion and appointments</li> <li>● Job and occupational classification and grading, remuneration and other conditions of service, redesignations, the working environment, work facilities, employee performance management systems and practices, transfer and secondment, discipline, termination of employment</li> </ul> </li> </ul>	<p>The Constitution HRA – Manual Code of Regulations Service Regulations Presidential Circular</p>	<p>PSCK</p> <ul style="list-style-type: none"> <li>- HRA – Department</li> <li>- MSPS</li> </ul> <p>OPM</p> <ul style="list-style-type: none"> <li>- EMU</li> <li>- Inspectorate of state corporations</li> <li>- State Corporations Advisory Committee</li> <li>- Performance Contracting Department</li> </ul>	1 year

S/No	Mandate	Emerging Issues	Current Practice	Supporting Legislation/ Policy/Instruments	Implementing Institution [Structures]	Time frame
11	Develop the human resource in the public service	New function Currently being carried out by MSPS. Include administration of civil service examinations and occupational tests.	<ul style="list-style-type: none"> <li>- Training Needs Assessment</li> <li>- Training projections</li> <li>- Development of skills and knowledge</li> <li>- Execution of training policy</li> <li>- Induction programmes</li> <li>- Course approvals and management of scholarships</li> <li>- Administration of bonding arrangements.</li> <li>- Revitalization and management of GTIs (KIA and GTIs).</li> <li>- Development and maintenance of skills inventory.</li> <li>- Management and coordination of training.</li> <li>- Training impact assessment.</li> <li>- Training Levy</li> </ul>	<ul style="list-style-type: none"> <li>- Recruitment and training policy.</li> <li>- Induction and training manuals.</li> <li>- Schemes of service.</li> <li>- Labour Laws</li> <li>- The Kenya Vision 2030</li> <li>- National Development Plan</li> </ul>	Authorized Officers (MTCs/DTCs), MSPS (HRD), KIA, GTIs	One year
12	Establish and abolish offices in the Public Service <i>(This function will be exercised subject to the provisions on the sixth schedule Article 2 on the suspension of the provisions of the Constitution and Article 3 on the extension of the</i>	New function Currently vested in the President but delegated to MSPS	<ul style="list-style-type: none"> <li>- MSPS in exercise of delegated powers creates and abolishes offices.</li> <li>- Establishment/ complement control.</li> <li>- Regular review of staffing levels.</li> <li>- Management of IPPD.</li> <li>- Assignment of personal numbers.</li> <li>- Work load analysis and job</li> </ul>	<ul style="list-style-type: none"> <li>- The Constitution of Kenya.</li> <li>- Service Commissions Act.</li> <li>- Pensions Act.</li> <li>- Service Regulations.</li> <li>- Administrative Circulars.</li> <li>- Presidential Circulars.</li> </ul>	Cabinet Office. MSPS (MCS). PSCK. Authorized Officers. Pensions Department	1 year.

S/No	Mandate	Emerging Issues	Current Practice	Supporting Legislation/ Policy/Instruments	Implementing Institution [Structures]	Time frame
	<i>applications and the provisions of the former Constitution)</i>		evaluation exercises. - Upgradings - Re-organization and abolition of offices.			
13	Hear and determine appeals in respect of County Governments' public service	Need to establish a linkage with county governments' public service and influence envisaged legislation on county governments' public service.	Current practice only relates appeals from decisions made by authorized officers in ministries/departments and local authorities	The Constitution Article 234 (2){i} Service Regulations	PSC(K) - Boards - Committees Counties and Liaison office (to be established)	1 year
14	Recommend persons to be appointed Principal Secretaries	Development of guidelines	Currently appointed by the President and where they are civil servants in consultation with the Chairman PSCK.	The Constitution, Service Commissions Act,	PSCK (Special Board to be constituted), Cabinet Office	1 year
15	Nominate persons to other Commissions	Nomination to: Judicial Service Commission. Salaries and Remuneration Commission.	Chairman, PSCK is a member of the JSC. The Commission Secretary sits in the PPSRRB	The Constitution Labour laws ILO conventions	PSCK (Special Board or Committee to be constituted)	1 year
16	Receive, consider and forward petitions for the removal of DPP to the President	Develop guidelines	No role in appointment and removal of DPP	The Constitution	Cabinet Office. PSCK (Constitute a Special Board or Committee). State Law Office.	6 Months
17	Perform any other functions and exercise any other powers conferred by national legislation	Restructuring of the Provincial Administration and implications of the county governments.	Established under the powers conferred to the President by the Constitution	The Constitution Provinces and District Act, 1992 Service Commissions' Act Service Regulations	PSCK. Cabinet office. Provincial Administration and Internal Security. MSPS.	Two years

The Administration of entrance and promotional examinations in the Public Service is an existing function which is not apparent in the constitution but may nonetheless be incorporated under the functions at S/no. 1 and S/no. 11.

*Note:*

*It should be noted that the Teachers Service Commission will undertake functions relating to employment and welfare of teachers while the Public Service Commission shall perform all other functions relating to the Commission's in mandate in the Ministry of Education. Education function is a national government responsibility, save for early childhood education, village polytechnics, home craft centers and child care facilities which fall under the County Governments.*

### **3.8 National Values and Principles of Governance and Public Service Values and Principles**

The Public Service Commission is required to promote throughout the public service the national values and principles of governance (Article 10) and values and principles of public service (Article 232). The national values and principles of governance under Article 10 are:

- a) Patriotism, national unity, sharing and devolution of power, the rule of law, democracy, and participation of the people;
- b) Human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized;
- c) Good governance, integrity, transparency and accountability; and
- d) Sustainable development.

The values and principles of public service under Article 232 include:

- a) High standards of professional ethics;
- b) Efficient, effective and economic use of resources;
- c) Responsive, prompt, effective, impartial and equitable provision of services;
- d) Involvement of the people in the process of policy making;
- e) Accountability for administrative acts;
- f) Transparency and provision to the public of timely and accurate information;
- g) Representation of Kenya's diverse communities; and
- h) Affording adequate and equal opportunities for appointment, training and advancement at all levels of the public service of –
  - i. Men and women;
  - ii. The members of all ethnic groups; and
  - iii. Persons with disabilities.

The Commission is expected to review and make recommendations on the codes of conduct for public officers vide Article 234(2) {g}, evaluate and report to the President and Parliament the extent to which the values and principles referred to in Articles 10 and 232 are complied with in the public service.

These functions can be given effect through the enhancement of the Public Officer Ethics Act and is properly a function of the Commission. Article 232(2) {a} and {b} provide that public service values and principles will apply to all state organs in both levels of government and all state corporations.

However, Article 234 (3) excludes the Commission from exercising this function on the State offices, Office of the High Commissioner, Ambassador or other diplomatic or consular representative of the Republic and any office or position subject to the Parliamentary Service Commission, the Judicial Service Commission, the Teachers Service Commission, the National Police Service Commission and an office in the service of a county government.

The State Corporations Act Cap 446 provides for establishment of state corporations, for control and regulation of state corporations and for connected purposes. The purpose of enacting the State Corporations Act was to encourage private investment in the public sector through reduced involvement of government. State corporations are essentially autonomous agencies with specific statutory functions. For this reason, the Commission's role over state corporations will be limited to setting of standards, promotion, monitoring and evaluation and ensuring compliance of national principles and values of governance and values and principles of public service. In addition, the Commission will ensure that state corporations are efficient and effective in the discharge of public services.

Under the proposed Public Service Commission Bill, the scope of the Commission's mandate extends to all public bodies not exempted under Article 234 (3) including the universities and state corporations. It is therefore incumbent upon the Commission to initiate the drafting of the bill on values and principles of public service. In view of the wide scope of the function concerning the promotion, monitoring and reporting on compliance levels of the national values and principles of governance and values and principles of the public service, the Commission may consider setting up of a department to handle the function.

Under the Kenya Vision 2030 First Medium Term Plan (2008 - 2012), the Kenya School of Government is to be established with the objective of inculcating public service values and ethics as well as enhancing transformative leadership.

The school will also be used to promote core competencies for personnel within the public service sector. Promotion of values and ethics including the development of human resources in the public service is the Commission's mandate. Therefore the establishment of the Kenya School of Government will be a function of the Commission. (Page 37 Kenya Vision 2030 First Medium Term Plan (2008 - 2012)).

### **3.9 Collaboration between the Commission & the Ethics and Anti-Corruption Commission (Article 79)**

#### **(a) The Public Officer Ethics Act and the United Nations Convention against Corruption**

The Public Officer Ethics Act stems from the UN Convention against Corruption ratified by the Kenya Government in 2003. Articles 7 and 8 of the Convention make provisions on the public sector which requires the prescription of codes of conduct and ethics and the making of financial disclosures.

#### **(b) The Public Service Commission and the Ethics and Anti Corruption Commission.**

The Ethics and Anti-corruption Commission envisaged in Article 79 is to be established for the purposes of ensuring compliance with and enforcement of the provisions of Chapter 6 on Leadership and Integrity. The said chapter applies to State Officers. Although the Public Service Commission has no mandate over state officers there are possible areas of collaboration with the Ethics and Anti Corruption Commission. These include -

- i) Vetting of state officers appointed from the Public Service.
- ii) Promote national values and principles of governance.
- iii) Ensure compliance with United Nations Convention against corruption.
- iv) Investigation of corruption cases.
- v) Prevention of corruption in the public service.
- vi) Capacity building and technical support.

## CHAPTER FOUR – IMPLEMENTATION OF ADDITIONAL COMMISSION FUNCTIONS

### 4.1 Introduction

Some of the functions that are now vested in the Commission are currently undertaken by other government departments. These functions are; human resource development, management consultancy services, human resource management, inspection of state corporations, performance contracting, public service transformation and efficiency monitoring unit.

Table five below is an analysis of all the functions that these departments are charged with and the functions that the Commission will undertake.

**Table 5: Proposal on the Implementation of the Additional Functions of the Commission Currently Undertaken By Other Government Departments**

DEPARTMENTS	FUNCTIONS	FUNCTIONS TO BE UNDERTAKEN BY THE COMMISSION
1. Human Resource Development	<ul style="list-style-type: none"> <li>• Development, coordination and review of public sector training policy;</li> <li>• Providing leadership in the human resource development function in the public service;</li> <li>• Facilitating training needs analysis (TNA) in Ministries/Departments, Local Authorities and State Corporations;</li> <li>• Identifying and developing suitable staff training and development programs to meet the needs of the public service;</li> <li>• Development and management of skills inventory;</li> <li>• Sourcing for scholarships for public service staff;</li> <li>• Collaboration with government training institutes (GTI) on development of training programs, training of public service staff, research and consultant services;</li> <li>• Management of human resource development, data and information;</li> <li>• Forecasting and projecting public service requirements; and</li> <li>• Administration of cost sharing and bonding policies.</li> </ul>	<ul style="list-style-type: none"> <li>• Development, coordination and review of public sector human resource development policy;</li> <li>• Providing leadership in the human resource development function in the public service;</li> </ul>
2. Management Consultancy Services	<ul style="list-style-type: none"> <li>• Developing and issuing career progression guidelines and schemes of service;</li> <li>• Providing management consultancy services to the public service particularly on appropriate organizational structures, modern management techniques, research and renovation;</li> <li>• Managing payroll and compliment policy in the public service;</li> <li>• Telephone service management in the civil service;</li> </ul>	<ul style="list-style-type: none"> <li>• Reviewing career progression guidelines and schemes of service;</li> <li>• Creation and abolition of offices based on review of organization structures;</li> <li>• Bio-data base for the civil service.</li> </ul>

	<ul style="list-style-type: none"> <li>• Regular and ad hoc management reviews control, and management personnel information systems (staff compliment control);</li> <li>• Generation of bi-products of the nominal roll; and</li> <li>• Bio-data base for the civil service.</li> </ul>	
<b>3. Human Resource Management (Personnel Administration)</b>	<ul style="list-style-type: none"> <li>• Formulating, developing and interpreting human resource policies, rules, regulations and procedures in the public service;</li> <li>• Implementing human resource policies, standards, rules and procedures;</li> <li>• Monitoring and evaluating performance of human resource units in Ministries/Departments;</li> <li>• Developing, reviewing and monitoring institutionalization of performance appraisal system (PAS) in the civil service;</li> <li>• Development and review of human resource planning, guidelines and succession; management strategy for the public service;</li> <li>• Development, management and implementation of staff guidance and counseling policy in the civil service;</li> <li>• Providing human resource management technical assistance, advice and direction to Ministries and Departments;</li> <li>• Advising on review, updating and harmonization of terms and conditions of service for public officers;</li> <li>• Coordinating human resource management units in Ministries and Departments;</li> <li>• Development and administration of schemes of service for various common cadres;</li> <li>• Administering secretarial services; and</li> <li>• Assisting the Public Service Commission in the recruitment process.</li> </ul>	<ul style="list-style-type: none"> <li>• Formulating, developing and interpreting human resource policies, rules, regulations and procedures in the public service;</li> <li>• Monitoring and evaluating performance of human resource units in Ministries/Departments;</li> <li>• Developing, reviewing and monitoring institutionalization of Performance Appraisal System (PAS) in the civil service;</li> <li>• Development and review of human resource planning, guidelines and succession; management strategy for the public service;</li> <li>• Advising on review, updating and harmonization of terms and conditions of service for public officers;</li> </ul>
<b>4. State Corporation Inspectorate</b>	<ul style="list-style-type: none"> <li>• Advising the Government on all matters affecting the effective running of state corporations;</li> <li>• Reporting periodically to the relevant arms of Government on management practices within any state corporation;</li> <li>• Reporting to the Controller and Auditor General any cases where moneys appropriated by Parliament are not being applied by State corporations for the purposes for which they were appropriated;</li> <li>• Conducting special investigations of any state corporation on behalf of the State Corporations Advisory Committee and the Controller and Auditor General;</li> <li>• Under taking surcharge action against any person who incurs or authorizes irregular expenditure of state corporation funds or any person who through negligence or misconduct causes loss of funds to the State Corporation;</li> <li>• Organizing and processing surcharge materials in terms of section 19 of the State Corporations Act, Cap 446;</li> <li>• Pursuance of surcharged monies through Courts;</li> <li>• Appearing as witnesses against surcharge appeals at the State Corporations Appeal Tribunal and at the High Court;</li> <li>• Evaluating the actual results of operations and management of State Corporations on the basis of the agreed performance targets;</li> <li>• Determining methods for evaluating performance on the basis of specified and agreed targets;</li> </ul>	<ul style="list-style-type: none"> <li>• Reviewing existing management systems, procedures and practices to improve efficiency and effectiveness.</li> <li>• Developing and disseminating guidelines and standards on good corporate governance practices.</li> <li>• Developing and implementing mechanisms for prevention of misappropriation of public resources in State Corporations.</li> <li>• Efficiency and effectiveness.</li> </ul>

	<ul style="list-style-type: none"> <li>• Developing evaluation criteria; and</li> <li>• Advising on the administration of performance contracts.</li> </ul>	
<b>5. Performance Contracting</b>	<ul style="list-style-type: none"> <li>• Formulation of policy on performance contracting;</li> <li>• Design of performance contract agreement documents;</li> <li>• Development of guidelines on performance criteria and setting of targets;</li> <li>• Incentives for achieving targets;</li> <li>• Standards for performance evaluation;</li> <li>• Development of strategic plans and citizen service charters;</li> <li>• Ranking based on composites core with range of 1-5 for best and worst performance;</li> <li>• Recognition of top performance;</li> <li>• Development of guidelines for negotiation of performance contracts;</li> <li>• Vetting of performance contracts; and</li> <li>• Promotion of efficiency and effectiveness in service delivery with emphasis on results, transparent and accountability.</li> </ul>	<ul style="list-style-type: none"> <li>• Formulation of policy on performance contracting;</li> <li>• Development and enforcement of guidelines on performance criteria and setting of targets.</li> <li>• Determining methods and standards for evaluating performance of public service organizations on the basis of agreed performance targets.</li> <li>• Ensuring recognition of good performance through an elaborate incentive system.</li> </ul>
<b>6. Public Service Transformation</b>	<ul style="list-style-type: none"> <li>• Results based management in the public service</li> <li>• Improvement of work environment</li> <li>• Results/goals driven public service</li> <li>• Restoration of citizens trust in government through citizen centred services</li> <li>• Attitudinal change</li> <li>• Timeliness and quality of public services</li> <li>• Efficient systems processes and procedures</li> <li>• Linking up of the public service</li> <li>• Cultural change</li> <li>• Use of 21<sup>st</sup> century tools and equipment (Electronic Service Delivery)</li> <li>• Institutional building</li> </ul>	<ul style="list-style-type: none"> <li>• Results based management in the public service</li> <li>• Restoration of citizens trust in government through citizen centred services</li> <li>• Timeliness and quality of public services</li> <li>• Institutional building</li> </ul>
<b>7. Efficiency Monitoring</b>	<ul style="list-style-type: none"> <li>• The function entails:</li> <li>• Monitoring and analyzing the implementation of government policies, programmes and projects</li> <li>• Advising the government on implementation challenges and remedial measures</li> <li>• Reviewing existing management systems, procedures and practices to improve efficiency and effectiveness</li> <li>• Studying implemented projects and growing practical experiences for future planning</li> <li>• Monitoring working environment in the public sector and the conditions of public officers</li> </ul>	<ul style="list-style-type: none"> <li>• Monitoring and analyzing the implementation of government policies and programmes</li> <li>• Advising the government on implementation challenges and remedial measures</li> <li>• Reviewing existing management systems, procedures and practices to improve efficiency and effectiveness</li> </ul>

## **CHAPTER FIVE – THE BILL OF RIGHTS AND INTERFACE WITH THE COMMISSIONS MANDATE**

### **5.1 The Bill of Rights**

The Bill of Rights is enshrined in chapter four of the Constitution. It is a fundamental duty of every state organ to observe, respect, protect, promote and fulfill the rights and freedoms in the Bill of rights. The Bill of Rights has provisions which impact on the Commission's mandate and therefore the Commission is expected to align its systems, processes and procedures to the Bill of Rights. The Commission may, however, limit some of the rights provided the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, and taking into account all relevant factors.

### **5.2 Implications of the Bill of Rights on the Commission's Functions**

For the Commission to be responsive to the Bill of Rights, it is expected that the Commission:

1. Will undertake its functions in an open and democratic manner that takes cognizance of and protects human dignity and promotes equality and freedom – Articles 10 (2) {b} and 20.
2. Has a duty to observe, respect, protect, promote and fulfill the rights and fundamental freedoms – Article 20.
3. Will address the needs of vulnerable groups within society, including women, persons with disability, youth, and members of minority or marginalized communities - Articles 52 - 56.
4. Will ensure that its processes are expeditious, efficient, lawful and fair and every person adversely affected by the Commission's decisions will be given written reasons - Article 47.
5. Will ensure that every person under disciplinary process is accorded fair hearing - Article 50.
6. Will ensure that women and men have the right to equal treatment including the right to equal opportunities in the public service – Article 27. There is a standing policy for recruitment of at least thirty percent of women in the public service at entrance level. The attainment of fifty percent recruitment for women can be attained progressively over time after carrying out a baseline survey to determine the ratio of men to women in the public service.
7. Shall not discriminate directly or indirectly against any person on any ground including race, sex, pregnancy, marital status, health status, ethnic or social origin, color, age, disability, religion, conscience, belief, culture, dress, language or birth – Article 27.
8. Will put in place affirmative action programmes and policies designed to redress any inequalities that may exist – Article 56.

9. Shall implement the principle that no more than two thirds of appointive bodies shall be of the same gender – Article 27 (8).
10. Shall implement the principle that at least five percent of the members of the public in elective and appointive bodies are persons with disabilities – Article 54 (2). The Commission may consider this provision when undertaking nominations for Principal Secretaries and persons to the Salaries and Remuneration Commission and Judicial Service Commission.
11. Will be required to put in place systems to respond to the citizens’ right of access to information under article 35(1). Refer to note (iii).
12. Will put in place measures to reconcile the right of public officers to engage in political activities – Article 38.
13. Will make recommendations to the Salaries and Remuneration Commission with regard to fair remuneration under article 41(1 & 2).
14. Shall make provisions for the respect and recognition of workers’ labour rights and employers’ obligations under Article 41.
15. Shall ensure that the youth have access to employment in the public service – Article 55.

Table 6 below, contains an analysis of the functions, current operating practices, principles and their applicability to the Bill of Rights

**Table 6: An Analysis of the Functions, Current Operating Practices, Principles and Their Applicability to the Bill Of Rights**

Function	Principles	Current Practices	Applicability to the Bill of Rights
1 Disciplinary Control	<ul style="list-style-type: none"> <li>- Natural Justice</li> <li>- Right of appeal</li> <li>- Right of review</li> <li>- Adjudication (committee/board)</li> <li>- Fairness</li> <li>- Expeditious disposal of discipline cases</li> </ul>	<ul style="list-style-type: none"> <li>- Preliminary investigation</li> <li>- Show cause letter.</li> <li>- Interdiction or suspension</li> <li>- Receipt of response</li> <li>- Investigation</li> <li>- Report</li> <li>- Non- assignment of reasons for decisions made</li> <li>- Non- representation of officers charged at the hearing either by the committee or board</li> <li>- Deliberation/ recommendation by committee</li> <li>- Approval/decision by authorized officer</li> <li>- Implementation of the decision if case falls under delegated powers</li> <li>- Communication of right of appeal</li> </ul>	<p>The current practices are partly in harmony with the provisions of the Bill of Rights. However there is need for the Commission to make provisions to allow:</p> <ul style="list-style-type: none"> <li>- Officers to be present or to be represented at the hearing of their cases – Article 50.</li> <li>- Assignment of written reasons for decisions – Article 47 (2).</li> <li>- Access to information relevant to the case by aggrieved parties (<i>copies of investigation reports, proceedings etc</i>) – Article 35.</li> <li>- Public hearings of disciplinary cases – Article 50</li> <li>- Expeditious disposal of cases within set time frame – Article 47</li> </ul>

Function	Principles	Current Practices	Applicability to the Bill of Rights
		<ul style="list-style-type: none"> <li>to the officer</li> <li>- Transmission to the Commission for cases falling under its purview</li> <li>- Consideration and recommendation by discipline board.</li> <li>- Decision by the Commission</li> <li>- Communication to the authorized officer with information on the decision and right of application for review</li> <li>- Reliance on documents and reports without verbal evidence</li> <li>- Officers not entitled to copies of office orders, minutes and reports.</li> </ul>	
2 Recruitment and Selection	<ul style="list-style-type: none"> <li>- Equality of opportunity</li> <li>- Regional balancing/diversity</li> <li>- Equity</li> <li>- Merit</li> <li>- Fairness</li> <li>- Expeditious disposal of advertised vacancies</li> <li>- Transparency of the process</li> <li>- Competitive filling of vacant posts</li> </ul>	<ul style="list-style-type: none"> <li>- Declaration of vacant posts by ministries through MSPS (graduate and technical entrants and promotional posts)</li> <li>- Reliance on job specifications in schemes of service</li> <li>- Vetting of indents</li> <li>- Advertisement within a reasonable period for applications and posting the adverts in the website</li> <li>- Receipt and processing of the applications (manual &amp; online)</li> <li>- Verification</li> <li>- Short listing process</li> <li>- Programming, scheduling and invitation of the shortlisted candidates including publication</li> <li>- Invitation of ministerial representatives.</li> <li>- Oral interviews</li> <li>- Selection/recommendations to the Commission</li> <li>- Appointments/decisions to the authorized officers</li> <li>- Publication and posting in the website.</li> </ul>	<p>The current practices are largely in harmony with the provisions of the Bill of Rights. However there is need for the Commission to address the following:</p> <ul style="list-style-type: none"> <li>- To enhance transparency - explore direct communication to the successful candidates expeditiously - Article 47 (1).</li> <li>- Non-discrimination against persons historically disadvantaged – Article 56 (c)</li> <li>- Right of access to information – Article 35</li> <li>- Right to equal opportunities in the public service – Article 27</li> <li>- Put in place affirmative action programmes to ensure that minorities and marginalized groups are provided with special opportunities for access to employment – Article 56 (c)</li> <li>- Advertise vacant positions so as to reach efficiently and effectively as possible the entire pool of applicants including persons with disabilities - Article 35</li> <li>- Endeavour to recruit public officers on the basis of merit, equity and aptitude which are standards set out in the United Nations conventions against corruption which the Kenya government has ratified – Article 2 (5) and (6).</li> </ul>
3 Ethics & Integrity	<ul style="list-style-type: none"> <li>- Ethical standards</li> <li>- Professionalism</li> <li>- Value addition</li> <li>- Good governance</li> <li>- Social justice</li> <li>- Efficiency &amp; effectiveness</li> <li>- Transparency and accountability</li> </ul>	<ul style="list-style-type: none"> <li>- Issuance of code of conduct and ethics for officers for whom the Commission is the responsible Commission.</li> <li>- Requirements for financial disclosures</li> <li>- Safe custody of financial declarations.</li> <li>- Analysis of the financial declarations</li> <li>- Seeking clarifications on any discrepancies</li> <li>- Investigation of complaints on alleged breach of the Public</li> </ul>	<p>The current practices under the POEA are in harmony with the provisions of the Bill of Rights and the UN Convention on prevention of corruption. However there is need for the Commission to address the following:</p> <ul style="list-style-type: none"> <li>- Promote national values – Article 234 (2) {c} and principles and values of the public service in Articles 10 and 232.</li> <li>- Monitor and evaluate levels of compliance with the values in Articles 10 and 232 &amp; 234 (2) {h}</li> <li>- Prescribe codes of conduct in the public service Articles 10 and 232.</li> </ul>

Function	Principles	Current Practices	Applicability to the Bill of Rights
		<ul style="list-style-type: none"> <li>Officers Ethics Act.</li> <li>- Recommendations to the Attorney General for prosecution.</li> <li>- Administrative sanctions by way of disciplinary process.</li> </ul>	<ul style="list-style-type: none"> <li>- Report to the President and Parliament the extent to which the values and principles set out in Articles 10 and 232 are complied with in the public service excluding state officers and officers in the County Governments – Article 234</li> </ul>
4 Agenda	<ul style="list-style-type: none"> <li>- Confidentiality</li> <li>- Timeliness</li> <li>- Team spirit</li> <li>- Accuracy</li> <li>- Fairness</li> <li>- Integrity</li> <li>- Objectivity</li> <li>- Professionalism</li> </ul>	<ul style="list-style-type: none"> <li>- Preparation of agenda items and briefs.</li> <li>- Preparation of minutes.</li> <li>- Preparation of decision letters.</li> <li>- Non- disclosure of reasons for decisions.</li> <li>- Information is privileged and restricted to Commission and Authorized Officers in line with the provisions of the Service Commission's Act.</li> </ul>	<p>The current practices are partially in harmony with the provisions of the Bill of Rights. However there is need for the Commission to address the following:</p> <ul style="list-style-type: none"> <li>- Expeditious and efficient disposal of requests – Article 47 (1)</li> <li>- Access to information – Article 35</li> <li>- Assignment of written reasons for decisions – Article 47 (2)</li> <li>- Accord right of fair hearing by way of personal appearance or representation in instances of removal on grounds of ill health or compulsory retirement – Article 50.</li> </ul>
5 Human Resource Audit	<ul style="list-style-type: none"> <li>- Expeditious decision making.</li> <li>- Timeliness in service delivery.</li> <li>- Continuous improvement in the exercise of delegated authority.</li> <li>- Effective service delivery.</li> <li>- Sound human resource management practices.</li> <li>- Impartiality.</li> <li>- Integrity, objectivity and independence.</li> <li>- Professional, proficiency and ethical conduct.</li> </ul>	<ul style="list-style-type: none"> <li>- Conduct of ad hoc and regular audits.</li> <li>- Compliance with human resource policies and practices</li> <li>- Communication of audit results/reports</li> <li>- Monitoring and evaluating compliance by management</li> <li>- Setting standards on human resource management</li> <li>- Monitor and assess discharge of delegated powers</li> <li>- Monitor implementation of the Commission's decisions</li> <li>- Investigation relating to human resource complaints or grievances.</li> <li>- Examination of the effectiveness of human resource management control systems</li> </ul>	<p>The current practices are partially in harmony with the provisions of the Bill of Rights. However there is need for the Commission to take steps to enhance monitoring of compliance with the bill of rights in exercise of delegated authority – (All the Articles in the Bill of Rights touching on the Commission's mandate)</p>
6 Examination	<ul style="list-style-type: none"> <li>- Integrity</li> <li>- Confidentiality</li> <li>- Timeliness</li> <li>- Objectivity</li> <li>- Continuous improvement</li> <li>- Meritocracy</li> </ul>	<ul style="list-style-type: none"> <li>- Administration of civil service examinations</li> <li>- Development of syllabi</li> <li>- Certification</li> </ul>	<ul style="list-style-type: none"> <li>- Right to fair administrative action within the context of the right to appeal – Article 47.</li> <li>- The selective administration of the exams is discriminatory – Article 27.</li> </ul>
7 Administration	<ul style="list-style-type: none"> <li>- Integrity</li> <li>- Confidentiality</li> <li>- Team spirit</li> <li>- Fairness</li> <li>- Continuous improvement</li> <li>- Meritocracy</li> <li>- Transparency and accountability</li> <li>- Equity and</li> </ul>	<ul style="list-style-type: none"> <li>- Management of finance</li> <li>- Management and development of human resource</li> <li>- Support services</li> <li>- Workplace environment and safety</li> <li>- Terms and conditions of service</li> <li>- ICT services</li> <li>- Supply Chain Management</li> <li>- Public Communications</li> </ul>	<ul style="list-style-type: none"> <li>- Fair administrative actions that is expeditious, efficient, lawful, reasonable and procedurally fair – Article 47</li> <li>- Access to information – Article 35</li> <li>- Right to fair hearing – Article 50</li> <li>- Right to fair remuneration – Article 41</li> </ul>

Function	Principles	Current Practices	Applicability to the Bill of Rights
	diversity - Reliability	- Legal services - Library services - Planning - Transport services - Administration of Public Officers Ethics Act	

**Note:**

- i. *There is likely to be increased litigation against the Commission on the perceived infringement of fundamental rights and freedoms such as failure to grant a public hearing. The increased litigation may take the form of:*
  - *Injunctions;*
  - *Declaration of invalidity of any law that denies, infringes or threatens rights or fundamental freedoms;*
  - *Orders for compensation; and*
  - *Judicial Review.*
- ii. *In certain circumstances the Commission may limit the rights under the Bill of Rights if there is sufficient justification – Article 24. This will have to be captured in the legislation (Public Service Commission Bill).*
- iii. *The Commission may need to categorize or classify information at its disposal and develop guidelines for the release of this information.*
- iv. *The Commission may be required to observe the provisions under Article 59 (2) by the Kenya National Human Rights and Equality Commission in the event of non - compliance or breach of fundamental rights and freedoms.*
- v. *The proposed public hearings and representations envisaged under Article 50 can be limited through legislation to provide for an administrative adjudication process.*
- vi. *The provisions in Article 38 on civil and political rights as relates to public officers' participation in political activities should be read together with Article 77 (2) on leadership and integrity and Article 24 (1) on limitation of rights and fundamental freedoms and Article 233 (3) {a}.*
- vii. *The Commission may wish to consider utilizing the government training institutes in training and certification of officers while retaining the function of quality assurance, curricula development, standardization and moderation of the relevant promotional exams.*
- viii. *The requirement by the Public Officer Ethics Act to make financial disclosures does not infringe on the rights of officers to privacy as provided for in Article 31 (c). This provision should be read with Article 10 (c) of the Constitution and the operative words in Article 31 (c) as read with Article 10 (c) is “unnecessarily required”.*

## **CHAPTER SIX – STAFFING LEVEL, BUDGET ESTIMATES AND PROPOSED COMMISSION STRUCTURE IN VIEW OF THE RE-DEFINED MANDATE**

### **6.1 Introduction**

The re-defined mandate of the Commission will affect the staffing levels, organization structure and budgetary requirements. Data on staff requirements reflect an amalgamation of the current authorized establishment, proposed staff establishment in the 2009 – 2012 strategic plan and the staff currently discharging the added functions in the Office of the Prime Minister, Ministry of State for Public Service and additional staff to undertake the new functions. The actual staffing levels will be finalized when the strategic plan is revised, workload analysis carried out and the secretariat restructured.

### **6.2 Staffing level**

The enhanced mandate makes it necessary for the Commission to review the structure of its Secretariat, staffing levels and budgetary requirements. The Commission estimated staffing levels will comprise the authorized staff in departments currently discharging the mandate. An accurate structure will be established during the revision of the strategic plan and carrying out of a workload analysis.

### **6.3 Budget**

Table 7(a) includes the clustering of the functions and also indicates the staff and budget requirements. The staffing proposals captured in the matrix are from departments in the Public Service Commission of Kenya, Office of the Prime Minister and Ministry of State for Public Service. The budget reflects the global picture on personnel emoluments and operations and maintenance requirements under the Department and Ministries respectively. The budget estimates may inform preparation of the Commission's MTEF budget for the period 2011/2012 – 2013/2014.

**Table 7 (a): Staffing Level and Budget Estimates In View of the Re-Defined Mandate (2010/2011)**

S.No	Functions	Establishment (Strategic Plan PSCK)	Approved Establishment MSPS	Approved Establishment OPM	Proposed Establishment	Total Number of Authorized Establishment	PE Estimates (Ksh Millions)	Other Costs (O&M) (Ksh Million)	Total Budget Estimate (Ksh Millions)
1.	i) Establishment and abolishing of offices in the public service. ii) Reviewing and making recommendation to the National Government in respect of conditions of service and qualifications of officers in the public service.		139			139	108.2	91	212.9
2.	i) Promotion of values and principles under Articles 10 and 232 throughout the public service. ii) Reviewing and making recommendation to the National Government in respect of codes of conduct in the public service. iii) Evaluating and reporting to the President the extent to which the values and principles under Articles 10 and 232 are complied with in the public service	9			23	32	20.4	1,340	1,360.9
3.	i) Investigating, monitoring and evaluating the organization, administration and personnel practices in the public service. ii) Ensuring that the public service is efficient and effective.	27		245		272	156.4	564.4	725.8
4.	Developing human resources in the public service	5	576				207.6	254.5	362.1
5.	i) Exercise disciplinary control over and remove persons holding or acting in public offices. ii) Hearing and determining appeals from County Government's public service.	10			22	32	20.4	20	90.4
6.	i) Appoint persons to hold or act in offices in the public service. ii) Recommending persons to be appointed as Principal Secretaries. iii) Administration of Entrance and promotional examinations in the public service. iii) Nominating persons to the Judicial Service Commission and Salaries Remuneration Commission under Articles 171(2) and 230(2){b}	63			15	78	47.4	67.4	164.8
7.	General Administration and Support Services i) Coordination and Supervision Services ii) Legal Services iii) Finance Management Services iv) Human Resource Management v) Information Communication Services vi) Supply Chain Management Services vii) Central Planning and Research Services viii) Agenda ix) Corporate Communication Services.	184	856	476		556	419.12	1,604	2,023.12
	<b>TOTALS</b>	<b>298</b>	<b>856</b>	<b>476</b>	<b>1630</b>	<b>666</b>	<b>979.52</b>	<b>3,941.3</b>	<b>4,940.02</b>

## 6.4 Proposed Commission Structure

The redefined mandate makes it necessary for the Commission to restructure the secretariat. The proposed structure may form the basis for the consultancy on the restructuring of the secretariat.

**Table 7 (b): Proposed Commission Structure**

S/No.	Proposed Directorates	Functions
1.	Public Service Establishment and appointments.	<ul style="list-style-type: none"> <li>i) Establishment and abolition of offices in the public service. (Article 234 (2)(a)(i))</li> <li>ii) Appoint persons to hold or act in offices in the public service. (Article 234 (2)(a)(ii))</li> <li>iii) Reviewing and making recommendation to the National Government in respect of conditions of service and qualifications of officers in the public service. (Article 234 (2)(g))</li> <li>iv) Recommending persons to be appointed as Principal Secretaries. (Article 155 (3)(a))</li> <li>v) Nominating persons to the Judicial Service Commission and Salaries Remuneration Commission under Articles 171(2) and 230(2){b}</li> <li>vi) Administration of entrance and promotional examinations in the public service.</li> <li>vii) <i>Reviewing career progression guidelines and Schemes of Service.</i></li> <li>viii) <i>Creation and abolition of offices based on review of organization structures.</i></li> <li>ix) <i>Bio-data base for the civil service.</i></li> </ul>
2.	Public Service Governance and Integrity	<ul style="list-style-type: none"> <li>(i) Promotion of values and principles under Articles 10 and 232 throughout the public service. (Article 234 (2)(c))</li> <li>(ii) Reviewing and making recommendation to the National Government in respect of codes of conduct in the public service. (Article 234 (2)(g))</li> <li>(iii) Evaluating and reporting to the President the extent to which the values and principles under Articles 10 and 232 are complied with in the public service. (Article 234 (2)(h))</li> <li>(iv) <i>Developing and disseminating guidelines and standards on good corporate governance practices.</i></li> <li>(v) <i>Restoration of citizens' trust in government through citizen centred services.</i></li> <li>(vi) <i>Timeliness and quality of public services.</i></li> <li>(vii) <i>Institutional building.</i></li> </ul>
3.	Public Service Performance and Human Resource audit	<ul style="list-style-type: none"> <li>i) Ensuring the Public Service is efficient and effective. (Article 234 (2)(e))</li> <li>ii) Monitoring and evaluating performance of human resource functions in Ministries/Departments.</li> <li>iii) Monitoring the implementation of Commission's decisions and the exercise of delegated functions.</li> <li>iv) <i>Developing, reviewing and monitoring institutionalization of Performance Appraisal System (PAS) in the Public Service.</i></li> <li>v) <i>Reviewing existing management systems, procedures and practices to improve efficiency and effectiveness.</i></li> <li>vi) <i>Formulation of policy on performance contracting.</i></li> <li>vii) <i>Monitoring and analyzing the implementation of government policies and programmes.</i></li> <li>viii) <i>Ensuring Results based management in the public service.</i></li> </ul>
4.	Human Resource	<ul style="list-style-type: none"> <li>i) Developing Human Resource in the Public Service. (Article 234 (2)(d))</li> <li>ii) Promotional Examinations and occupational tests.</li> </ul>

S/No.	Proposed Directorates	Functions
	Development and Management	<ul style="list-style-type: none"> <li>iii) <i>Administration of psychometric and aptitude tests.</i></li> <li>iv) <i>Development, coordination and review of public sector human resource development policy.</i></li> <li>v) <i>Providing leadership in the human resource development function in the public service.</i></li> <li>vi) <i>Development and review of human resource planning, guidelines and succession; management strategy for the public service.</i></li> <li>vii) <i>Advising on review, updating and harmonization of terms and conditions of service for public officers.</i></li> <li>viii) <i>Establishment of the Kenya School of Government.</i></li> </ul>
5.	Disciplinary Control	<ul style="list-style-type: none"> <li>i) <b>Exercise disciplinary control over and remove persons holding or acting in public offices. (Article 234 (2)(b))</b></li> <li>ii) <b>Processing Appeals from county governments' public service. (Article 234 (2)(i))</b></li> <li>iii) <b>Processing of petitions for the removal of Director of Public Prosecutions. Article 158 (2), (3)</b></li> </ul>
6.	Administration and Finance	<p>General Administration and Support Services:</p> <ul style="list-style-type: none"> <li>i) Coordination and Supervision Services;</li> <li>ii) Financial Management Services;</li> <li>iii) Human Resource Management;</li> <li>iv) Information Communication Technology;</li> <li>v) Supply Chain Management Services;</li> <li>vi) Central Planning and Research Services; and</li> <li>vii) Corporate Communication Services.</li> </ul>
7.	Legal Services	<ul style="list-style-type: none"> <li>i) Giving practical effect to constitutional and statutory provisions of public service law.</li> <li>ii) Initiating improvement of public service law including legislative drafting of Bills and regulations.</li> <li>iii) Providing advisory legal opinions in all matters touching the Commissions interest, powers and functions.</li> <li>iv) Representing the Commission in litigation, arbitration, mediation and all dispute resolution processes and proceedings.</li> <li>v) Promotion of justice and due process in the discharge of commission functions and powers.</li> <li>vi) Advising on the Commission governance issues including relationship with other government arms, departments or agencies and all other commission stakeholders.</li> <li>vii) Undertaking legal research and availing relevant legal reference materials.</li> <li>viii) Advising on commission standing orders and best secretarial practices of managing commission business.</li> <li>ix) <i>Formulating, developing and interpreting human resource policies, rules, regulations and procedures in the public service</i></li> </ul>
8.	Agenda	<ul style="list-style-type: none"> <li>i) Processing of all agenda and decisions of the Commission;</li> <li>ii) Drafting of the decision letters and orders for communication by the Commission Secretary.</li> <li>iii) Minutes of Commission meetings.</li> <li>iv) <i>Receipt and processing of appeals from County Government's public service.</i></li> </ul>

## CHAPTER SEVEN - HARMONIZATION OF THE ENABLING LEGISLATIONS WITH THE CONSTITUTIONAL MANDATE

The Constitution promulgated on 27<sup>th</sup> August 2010, bestowed upon the Commission additional functions. The duties of the Commission under each additional function need to be specified in an Act of Parliament. In this regard, the Public Service Commission Act needs to be enacted.

In the meantime, there is need to re-examine the enabling Acts and Regulations against the re-defined mandate, identify inconsistencies and propose relevant amendments to make them consistent with the Constitution as reflected in Table 8 below. The proposed amendments will apply in the interim pending the enactment of the proposed Public Service Commission Bill.

The affected legislation include:-

- Service Commissions Act, 1985.
- Service Regulations, 2005(Civil Service), 2006 (Police and Prisons), 2007 (Local Authorities) and Pension Regulations, 2006 (Now redundant).
- Public Officer Ethics Act, 2003.
- Public officers Code of Conduct and Ethics, 2003 and the administrative procedures, 2009.

**Table 8: Harmonization of the enabling legislation with the re-defined Constitutional mandate**

Applicable Acts	Sections to be Amended	Provisions Under The Constitution	Proposed Amendments
1. Service Commissions Act Cap 185	Section 2 :- <ul style="list-style-type: none"> <li>• Reference to “Chairman” and “Deputy Chairman”</li> <li>• Reference to “Public Office”. “public office” means a paid office as a civil servant of the Government, not being the office of a member of a Commission, or a part-time office, or an office the emoluments of which are payable at hourly or daily rates;</li> <li>• Reference to “Public Officer”. “public officer” means a person holding a public office otherwise than as a part-time officer</li> </ul>	Article 233 (2) – Refers to “Chairperson” and “Vice-Chairperson”. Article 260 “public office” means an office in the national government, a county government or the public service, if the remuneration and benefits paid from the exchequer. Article 260 “public officer” means - any state officer; or any person, other than a state officer, who holds a public office;	Amend Article (2) of Cap 185 accordingly to read Chairperson and Vice Chairperson. Amend Article (2) of Cap 185 accordingly to adopt the meaning contained in the Constitution. Amend Article (2) of Cap 185 accordingly to read any state officer; or any person, other than a state officer, who holds a public office;

Applicable Acts	Sections to be Amended	Provisions Under The Constitution	Proposed Amendments
2. Service Commissions' Act Cap 185	Section 7 – Provides “ No person shall in any legal proceedings be permitted or compelled to produce or disclose any communication, written or oral, which has taken place between a Commission, or any member or officer thereof, and the Government, or the President, or a Minister, or any officer of the Government, or between any member or office of a Commission and its chairman, or between any members of officers of a Commission, in exercise of, or in connection with the exercise of, the functions of a Commission, unless the President consents in writing to such production or disclosure”.	Article 10 (2) (C) provides that The national values and principles of governance include – Good governance, integrity, transparency and accountability. Article 35 provides – Every citizen has the right of access to – • Information held by the State; and • Information held by another person and required for the exercise or protection of any right or fundamental freedom. Article 232 provides for the principles and values of the public service which include – a) accountability for administrative acts (Article (e) ) and b) transparency and provision to the public of timely and accurate information. (Article (f) )	Amend Article 7 of the Service Commissions Act to be consistent with Article 10, 35 and 232.
3. Service Commissions Act Cap 185	Disclosure of Information to Unauthorized persons	Refer to Article 4 above.	Refer to Article 4 above.
4. Service Commissions Act Cap 185	First schedule – Oath of a Member of a Commission to be taken by the Chairman, Deputy Chairman and a member of the Commission.	Article 74 provides before assuming a State office, acting in a State office, or performing any functions of a State office, a person shall take and subscribe the oath or affirmation of office, in the manner and form prescribed by the Third Schedule or under an Act of Parliament. Article 260 (page 173) - A State officer means a person holding a State office. Article 233 (2) provides that the Commission will comprise of a chairperson, vice chairperson and seven other members.	Amend the Oath of a member of the Commission to be consistent with the provisions of Article 233 (2)
<b>Service Commission Regulations, Revised 2005</b>			
5. Regulation 2 (1)	Authorized Officer means – (a) the permanent secretary who exercises supervision over the ministry concerned, or over the ministry in which the public officer concerned holds an office as the case may be; or (b) in the case of a department which is not assigned to any minister, the head of that department or ; (c) in the case of national audit office, the Controller and	Article 155 provides for the establishment of the office of the Principal Secretary. Article 152 provides for the establishment of the office of the Cabinet Secretary. Article 229 establishes the office of the auditor general which is an independent office. The Commission's powers and functions do not cover independent offices	Replace the title of Permanent Secretary with Principal Secretary. Replace Minister with Cabinet Secretary.  Delete Regulation (c) – Controller and Auditor General.

Applicable Acts	Sections to be Amended	Provisions Under The Constitution	Proposed Amendments
	Auditor General; and includes any public officer appointed by the Commission to be an authorized officer for the purposes of these regulations		
6. Regulation 2 (1)	“Chairman and Deputy Chairman”	Article 233 (2) provides for “Chairperson and Vice Chairperson”	Replace the titles “Chairman and Deputy Chairman” with “Chairperson and Vice Chairperson”
7. Regulation 2 (1)	The Commission means the Public Service Commission established under section 106 (1) of the Constitution.	The Commission is established under article 233 (1)	Replace section 106 (1) with article 233 (1)
8. Regulation 2 (1)	“member” includes any person appointed as a member of the Commission or any person for the time being appointed to act as a member under section 106 (11) of the Constitution.	Article 233 establishes the Public Service Commission.	Replace section 106 (11) with article 233 (2 and 3)
9. Regulation 2 (1)	“public officer” means any person holding or acting in any public office.	Article 260 (page 172) “public officer” means – a) Any state officer; or b) Any person, other than a State Officer, who holds a public office.	Adopt definition (b)
10. Regulation 2 (1)	“the Secretary” means the person appointed as Secretary to the Commission under section 3 (1) of Cap 185.	Article 233 (5) provides for the appointment of a Secretary to the Commission.	Replace section 3 (1) of the Act with article 233 (5) of the Constitution.
11. Regulation 2 (1)	Under regulations 6 (4) the president can direct a public officer to hold information.	Article 35 provides for access to information by citizens.	Amend Regulation 6 (4) to be consistent with the provisions of Article 35 of the Constitution.
12. Regulation 7	Correspondence to the Secretary or in special cases to the Chairman.	Article 233 (2) provides for the Chairperson.	Replace Chairman with Chairperson.
13. Regulation 9 (1)	Provides for delegation with the consent of the President.	Article 234 (5) empowers the Commission to delegate without seeking the consent of the President.	Delete “With the consent of the President” and insert “with or without conditions”.
14. Regulation 13 (1)	Provides for appointment, promotion and transfer on the basis of merit, ability, seniority, experience and qualifications.	Article 27 (4) and 56 (c) requires the state and by extension the Commission to put in place affirmative action programmes designed to ensure that minorities and marginalized groups are provided with special opportunities for access to employment.	Amend to make it consistent with the provisions of Article 56 (c).
15. Regulation 18	Compulsory retirement from the service on grounds of attainment of age at which one can lawfully be called upon to retire (50 year rule as per the	Article 47 (2) requires that a person likely to be affected adversely by administrative action has the right to be given written reasons for the action.	Amend to make it consistent with the provisions of Article 47 (2).

Applicable Acts	Sections to be Amended	Provisions Under The Constitution	Proposed Amendments
	Pensions Act) without assigning reasons.		
16. Regulation 19	Retirements on grounds of ill health	Article 27 (4) prohibits discrimination on basis of ill health.	Amend to make it consistent with the provisions of Article 27 (4).
17. Regulation 20	Termination of appointment on abolition of office or on re-organization of a ministry or department.	Article 234 (2) {a} (i) The power to create and abolish offices is now vested in the Commission. Subject to the Constitution and Legislation. Article 27 prohibits discrimination and Article 56 requires affirmative action programmes to be put in place to address the needs of minorities and marginalized groups.	There is need to develop regulations and procedures for purposes of carrying out this function. The procedures and regulations should take into account the provisions of article 27 (4) and 56 (c).
18. Regulation 22	Provides for delegation with the consent of the President.	Article 234 (5) empowers the Commission to delegate without seeking the consent of the President.	Delete (“With the consent of the President”) and insert “with or without conditions”.
19. Regulation 23 & 24	Articles 23 and 24 deal with interdiction and suspension respectively. The regulations do not provide for a specific period within which the case of an officer under interdiction or suspension should be finalized.	Article 47 (1) provides that- Every person has a right to an administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.	There is need for the regulations to state specific timelines within which disciplinary cases should be concluded.
20. Regulation 27	Provides that on dismissal an officer forfeits all rights or claims to a pension, gratuity, annual allowance and any other retiring award.	Article 25 provides that the freedom from torture and cruel inhuman or degrading treatment or punishment shall not be limited.	The punishments meted out by the Commission/ authorized officer should take into account the provisions of article 25.
21. Regulation 30	Regulation 30 provides that an officer shall not be entitled to copies of office orders, minutes, reports or recorded reasons for decisions.	Article 47 (2) requires that a person likely to be affected adversely by administrative action has the right to be given written reasons for the action. Article 35 provides for access to information by citizens.	Amend regulation 30 to be inline with the provisions of Article 35.  Re-introduce regulation 31 (1 and 2) of the 1984 Service Regulations.
22. Regulation 32	Officer has a right to be informed of right of appeal. The proviso to article 32 (c) however states that failure to communicate the right of appeal shall not invalidate the findings or punishment inflicted upon an officer thus negating the right to information	Article 47 (2) requires that a person likely to be affected adversely by administrative action has the right to be given written reasons for the action.	Delete the proviso to article 32 (c)
23. Regulations 33, 34 and 35	Provides for disciplinary procedure for officers falling under job groups M and above, L and below who have not	Article 50 (1) provides that every person has the right to have any dispute that can be resolved by the application of law decided in a fair	Reinstate the provisions of Regulation 34 of 1984.

Applicable Acts	Sections to be Amended	Provisions Under The Constitution	Proposed Amendments
	qualified for pension and L or below who have qualified for pension without recourse to representation.	and public hearing before a court or, if appropriate, another independent and impartial tribunal or body.	
24. Regulation 36	Retirement in public interest is based on the Authorized officer's "opinion" which can be arbitrary, discretionary and can be subject to abuse.	Article 27 provides for non discrimination, Article 47 provides for fair administrative action which requires written reasons to be assigned to decisions and Article 50 provides for fair hearing.	Amend regulation 36 to make it consistent with Articles 27, 47 and 50. <i>In deciding what constitutes public interest consideration should be given to acts of commission or omission that offend public policy.</i>
25. Regulation 38	Provides for communication through registered mail to the last known address.	Article 35 on access to information, Article 47 on fair administrative action and Article 50 (3) on fair hearing.	Amend to include modern modes of communication and make them responsive to Article 50 (3) on fair hearing.
<b>Other Regulations</b>			
26. The Public Service Commission (Police Force) Regulations, 2006	Apply to all gazetted officers and officers in the inspectorate in the Kenya Police Force.	Article 243 establishes National Police Service consisting of Kenya Police Service and Administration Police Service and Article 246 establishes National Police Service Commission.	This function shifts to the National Police Service Commission.
27. The Public Service Commission (Local Authority Officers) Regulations, 2007	Applies to officers serving in local authorities (City Councils, Municipal Councils, Town Councils and County Councils)	Article 184 provides for enactment of legislation for urban areas and cities. Article 176 provides for creation of County governments. The sixth schedule article 18 provides for the continued existence of Local Authorities established under Cap 265 subject to any law that might be enacted.	The regulations to be amended and to continue applying until the enactment of the envisaged legislations.
28. The Public Service Commission (Prisons Service) Regulations, 2006	Apply to all officers in the Prisons Service.	Fourth schedule Part I {7} (c) provides for Correctional services under Police services. Article 243 on the National Police Service does not mention Correctional services and Article 246 on the National Police Service Commission does not contemplate Correctional services.	It is not clear whether the non-inclusion of the Correctional services in the National Police Service or National Police Service Commission places the Prison officers within the jurisdiction of the Public Service Commission. Article 247 contemplates that parliament may establish other Police Services under the supervision of the National Police Service and the command of the Inspector General of the service.
<b>The Public Officers Ethics Act, 2003</b>			
29. Section 3 (1)	Determination of responsible Commission	Article 234 (c) – Requires the Commission to promote values and principles referred to in Articles 10 and 232 throughout the Public	Amend section 3 (3) to exclude Secretary to the Cabinet, Principal Secretary, Inspector

Applicable Acts	Sections to be Amended	Provisions Under The Constitution	Proposed Amendments
		service except as exempted under 234 (3).	General, High Commissioner, Ambassador or other principal representatives of Kenya in another country.
30. Section 4	Delegations by the Public Service Commission	Article 234 (5) – Allows the Commission to delegate in writing with or without conditions any of its functions and powers under this article to any one or more of its members or to any officer, body or authority in the Public Service.	This section is consistent with the constitution.
31. Sections 5, 6,7,8,9,10,11,12,13,14,15,17, 18,19,20,21, 24,25	Establishment of specific boards	Article 234 (g) – Empowers the Commission to review and make recommendations to the National Government in respect of Code of Conduct.	This section is consistent with the constitution.
32. Section 16	On political neutrality of public officers	Article 38 on the Bill of Rights grants every citizen the right to make political choices.	This section needs to be re-visited in light of Article 38 in the Bill of Rights.
33. Section 22	On selection of public officers on the basis of integrity, competence and suitability	Article 27 on equality and freedom from discrimination, Article 56 on minority and marginalized groups and Article 232 {1} (h) and (i) on values and principles of public service and Article 2 (5) and (6) as read with Article 7 of the United Nations Conventions on Corruption.	Needs to be reviewed to reflect the shift of focus envisaged in the constitution.
34. Sections 23, 26, 27, 28, 29, 31, 32 and 33	Declarations of Incomes, Assets and Liabilities	<ul style="list-style-type: none"> <li>- Articles 10 (2){c} on National Values and Principles of Governance include good governance, integrity, transparency and accountability.</li> <li>- Articles 2 (5) makes the general rules on international law part of the Laws of Kenya and 2 (6) makes any treaty or convention ratified by Kenya part of the Laws of Kenya.</li> <li>- Articles 132 (1)(c){i} and {iii} requires the President to make a report in an address to the Nation on all the measures taken and the progress achieved in the realization of the national values referred to in Article 10 and submit a report to the National Assembly on the progress made in fulfilling the International obligations of the Republic.</li> <li>- Kenya ratified the International convention against corruption on 9<sup>th</sup> December 2003. Article 7 &amp; 8</li> </ul>	These sections are largely consistent with the provisions of the constitution and the international conventions. It might be necessary however, to re-examine the requirement in light of the Bill of Rights on protection of privacy.

Applicable Acts	Sections to be Amended	Provisions Under The Constitution	Proposed Amendments
		<p>of which makes requirements for the prescription of codes of conduct and the requirements for financial disclosures by public officials.</p> <p>- Article 31 (c) protects the privacy of individual against the requirement to have information relating to their family or private affairs unnecessarily required or revealed.</p>	
35. Section 35	Relates to investigations	Article 234 (d) and (h) empowers the Commission to investigate, monitor and evaluate the organization administration and personnel practices of the public service and evaluate and report to the president and parliament on the extent to which the values and principles refer to Articles 10 and 232 are complied with in the Public Service.	This section is consistent with the Constitution.
36. Section 36	Disciplinary action	Article 234 (2){b} empowers the Commission to exercise disciplinary control over and remove persons holding or acting in public offices.	This section is consistent with the constitution.
37. Section 37	Publication of actions	Article 10 – on the national values on principles and governance include transparency and Article 35 on access to information makes it possible for citizens to access information held by the state.	This section is consistent with the constitution.
38. Section 38	Referral for possible civil or criminal proceedings		This section is consistent with the constitution.
39. Sections 40 and 42	Obstruction or hindering persons under the Act or divulging information acquired under the Act	Article 35 on access to information makes it possible for citizens to access information held by the state.	Need to review to make it consistent with the Bill of Rights.

**Note:**

- i. *In view of the magnitude and complexity of the work involved and the limited time span, the Commission may wish to consider enhancing the capacity of the Legal Unit and engaging consultants to backstop the drafting process.*
- ii. *There may be need for the Commission to reconcile the need for detailed legislation with minimal regard to regulations on the one hand and the desire for limited legislation with greater latitude in the regulations on the other.*

## **CHAPTER EIGHT - TREATIES AND CONVENTIONS RATIFIED BY KENYA**

### **IMPACTING ON THE COMMISSION'S FUNCTIONS**

#### **8.1 Constitutional Provisions**

Article 2 (5) and (6) provide that the general rules of international law shall form part of the law of Kenya and treaties and conventions ratified by the Kenya Government shall form part of the law of Kenya under the Constitution. This therefore means that on 27<sup>th</sup> August 2010 when the Constitution came into force all the treaties that the Government has ratified automatically became part of the laws of Kenya. Where there is conflict between the domestic laws of Kenya and international treaties and conventions, the international treaties and conventions take precedence.

Under article 132 (1)(iii) the President is required to submit to the National assembly a report for debate on the progress made in fulfilling international obligations of the Republic. The Commission will therefore be expected to report to the President the extent to which conventions and treaties ratified by the Kenya Government relating to its mandate have been complied with.

#### **Ratified Treaties and Conventions**

#### **8.2 Universal Declaration of Human Rights 1948**

The Universal Declaration of Human Rights is enshrined in the Constitution. These are rights that are inherent to every human being and not granted by the state. Chapter Four of the Constitution binds all state organs and public officers, Article 21(3) specifically obligates all state organs and public officers to address the needs of the vulnerable groups within society in the discharge of their duties: The rights include: equality and freedom from discrimination, human dignity, access to information, freedom of association, right of assembly, demonstration, picketing and petition, political rights, labour protection, fair administrative action and fair hearing. The Constitution also requires the state to put in place special programmes to address the needs of-

- Persons with disabilities
- Youth
- Minorities and marginalized groups

### **8.3. United Nations Convention against Corruption (UNCAC)**

This convention was signed by Kenya on 11th December 2003

The objectives of the convention are to-

- a) promote and strengthen measures to prevent and combat corruption more efficiently and effectively;
- b) promote, facilitate and support technical assistance in the prevention and fight against corruption including asset recovery;
- c) promote integrity, accountability and proper management of public affairs;
- d) adopt, maintain and strengthen systems for the recruitment, retention, promotion and retirement of civil servants and where appropriate , other non elected public officials that are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;
- e) train individuals in public positions considered vulnerable to corruption and rotate such individuals where appropriate ;
- f) promote education and training programmes for correct, honourable and proper performance of public functions;
- g) create awareness of the risks of corruption inherent in the performance of public functions;
- h) adopt, maintain and strengthen systems that promote transparency and prevent conflict of interest and promote integrity, honesty and responsibility among public officials;
- i) issue standards of conduct for the correct, honourable and proper performance of public functions;
- j) establish measures and systems requiring public officials to make declarations to appropriate authorities, regarding inter alia their activities, employment, investments, assets and substantial gifts or benefits from which conflict of interest may result with respect to their functions as public officials;
- k) take disciplinary action against public officials who violate the established codes or standards;
- l) adopt procedures or regulations that allow members of the public to obtain, where appropriate , information on the organization, functioning and decision making processes of its public administration with due regard to protection of privacy and personal data; and
- m) simplify administrative procedures where appropriate in order to facilitate public access to the competent decision making authorities.

#### **8.4 Convention on the Rights of Persons with Disabilities**

The objective of the convention is to promote, protect and ensure full and equal enjoyment of all human rights and fundamental freedoms by persons with disabilities (PWDs) and promote respect for their inherent dignity.

State parties are required to:

- a) adopt appropriate legislative, administrative and other measures for implementation of the rights of persons with disabilities;
- b) modify or abolish laws, regulations, customs and practices that constitute discrimination against persons with disabilities;
- c) mainstream the needs of persons with disabilities in all programmes and activities;
- d) ensure that public authorities and institutions act in conformity with the convention;
- e) promote the use of new technologies including information and communication technology devices , mobility aids and assistive technologies suitable for persons with disabilities;
- f) prohibit discrimination on the basis of disability;
- g) promote the realization of the right to work by PWDs including those who acquire disability in the course of employment;
- h) employ persons with disabilities in the public sector; and
- i) promote vocational and professional rehabilitation, job retention and return to work programmes for persons with disabilities.

#### **8.5 Discrimination (Employment and Occupation) Convention 1958**

The purpose of the convention is to promote equality of opportunity and treatment in respect of employment and occupation with a view to eliminating any discrimination.

Obligations of state parties are to:

- (a) seek the cooperation of employers' and workers' organizations and other appropriate bodies in promoting the acceptance of the policy;
- (b) enact legislation that promotes such educational programmes calculated to ensure observance of the policy;
- (c) repeal any statutory provisions and modify any administrative instructions that are inconsistent with the policy;
- (d) ensure compliance with the policy in respect of employment under the direct control of a national authority;

- (e) ensure the observance of the policy in the activities of vocational training and placement services under the direction of a national authority and;
- (f) Indicate in its annual reports the application of the convention and the action taken in pursuance of the policy and the results secured by such action.

## **8.6 Convention on Elimination of All Forms of Discrimination against Women (CEDAW)**

This convention is based on the conviction that full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields.

State parties are obligated to:

- a) embody the principle of equality of men and women in their constitutions or other appropriate legislation;
- b) adopt appropriate legislative or other measures including sanctions where appropriate to prohibit all forms of discrimination against women;
- c) establish legal protection of the rights of women on equal basis with men;
- d) ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- e) refrain from engaging in acts or practices that discriminate against women;
- f) ensure that public authorities and institutions shall act in conformity with this obligation;
- g) modify or abolish existing laws , regulations, customs and practices which constitute discrimination;
- h) take appropriate measures to ensure, on the basis of equality of men and women, the same rights, in particular -
  - The right to work as an inalienable right to all human beings;
  - The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
  - The right to free choice of employment, the right to promotion, job security and all benefits and conditions of service, and the right to receive vocational training and retraining;
  - The right to equal remuneration including benefits, and equal treatment in respect of work of equal value as well as equality of treatment in evaluation of the quality of work;

- i) ensure the right to social security, particularly in cases of retirement, unemployment, sickness, old age and other incapacity to work, as well as the right to paid leave;
- j) ensure that women, on equal terms with men, have the right to participate in the formulation of government policy and implementation thereof and to hold public office and perform all public functions at all levels of government; and
- k) ensure men and women have the same opportunities to benefit from scholarships and other study grants.

### **8.7 Maternity Protection Convention**

This convention obligates state parties to adopt measures to ensure pregnant or breastfeeding women are not obliged to perform work which has been determined by a competent authority to be prejudicial to the health of the mother or child.

A woman to whom the convention applies is entitled to 14 weeks maternity leave. Breastfeeding mothers shall be entitled to one or more daily breaks or a daily reduction of hours of work to breastfeed. The period during which nursing breaks or reduction of daily hours of work are allowed, their number, the duration of nursing breaks and the duration shall be determined by national law. The breaks and reduction of daily hours are to be counted as working time and remunerated accordingly.

### **8.8 Industrial Relations Charter**

This was ratified by the Government on the eve of independence.

It provides for: -

- Respect for each others right to freedom of association
- Workers not to be penalized on account of trade union membership; and
- Commitment to collective bargaining

### **8.9 Declaration on Fundamental Rights and Freedoms at Work, 1998**

The four fundamental principles and rights provided for under this declaration include-

- Elimination of all forms of forced or compulsory labour;
- Freedom of association and the effective recognition of the right to collective bargaining;
- Effective abolition of child labour; and
- Elimination of discrimination in respect of employment and occupation.

### **8.10 Progress Made By the Government towards Implementing International Treaties and Conventions**

The Constitution has addressed human rights issues with special attention to vulnerable groups, persons with disabilities, women, the youth, older members of society, and members from minority and marginalized communities

The five labour laws enacted in 2007 domesticated most of the International Labour Organization conventions. These include the Employment Act 2007, Labour Relations Act, Labour Institutions Act, Occupational Health & Safety Act and the Work Injury Benefits Act, all of 2007. The Employment Act also domesticated the Maternity protection Convention, now maternity leave is three months, excluding annual leave.

Enactment of the Public Officer Ethics Act, 2003 and the Anti Corruption and Economic Crimes Act, 2003 domesticated the UNCAC; The Persons with Disabilities Act, 2003 domesticated the UN Convention on the Rights of Persons with Disabilities; National Commission on Gender and Development Act, 2003 domesticated CEDAW. In addition the President issued a directive requiring that 30% of appointments in the public service should comprise of women in the public service.

### **8.11 Progress Made By the Public Service Commission towards Implementing International Treaties**

The Commission has implemented most of the requirements of the international treaties and conventions. In recruitment of public officers, the Commission applies the criteria set out under UNCAC. Meritocracy and transparency are some of the Commission's core values. Further officers are selected based on aptitude.

The Commission has also:

- a) Issued PSC Code of Conduct and Ethics;
- b) Revised and issued regulations under the Public Officer Ethics Act, 2003 to allow for access to information contained in the wealth declaration forms;
- c) Developed and issued simplified guidelines for financial declarations;
- d) Issued an internal Code of Conduct and Ethics;
- e) Developed the Internal Corruption Prevention Plan and Policy; and
- f) The Public Service Commission Code of Practice on Mainstreaming Disability at the Work Place.

In order to domesticate the United Nations Convention on the rights of persons with disabilities and the ILO Code of Practice on the rights of persons with disabilities at the workplace, the Commission incorporated in its strategic plan 2009-2012 the objective to mainstream gender issues and concerns of the vulnerable groups in the discharge of the Commission's mandate. In order to meet this objective, the Commission issued the Public Service Commission Code of Practice on Mainstreaming Disability. Further in order to implement CEDAW and Maternity Protection Convention, the Commission has developed a draft policy on gender mainstreaming.

### **8.12 Recommendations**

The Commission will be expected in its annual report to the President and Parliament to indicate the extent to which international conventions and treaties have been complied with. In this regard, the Commission may wish to-

- Carry out a baseline survey to determine the ratio of men to women in the service and their grades with a view to redressing the imbalances, if any, to ensure compliance with CEDAW;
- Carry out a baseline survey in the service to establish the number of persons with disabilities and representation of persons from marginalized and minority groups in the service for purposes of ensuring compliance with the United Nations Convention on the Rights of Persons with Disabilities and the Convention on the Rights of Minorities. ;
- Put in place programmes designed to ensure that persons with disabilities, women, Persons from minority and marginalized groups are provided with special opportunities to employment in line with the provisions of the Constitution,
- Put in place measures to ensure that data relating to compliance with the international conventions is well maintained for purposes of reporting;
- Issue the Public Service Commission Code of Practice on mainstreaming disability to the service; and
- Finalize and issue the Public Service Commission Gender Mainstreaming Policy.

*NOTE: The information on treaties ratified by the Government of Kenya is not exhaustive. There will be need to update the Commission from time to time as and when information on other treaties ratified is obtained.*

## **CHAPTER NINE - AREAS OF PARTNERING AND CO-OPERATION BETWEEN THE COMMISSION AND COUNTY GOVERNMENTS**

### **9.1 Constitutional Provisions**

The Constitution provides that the national and county governments are distinct and interdependent and they shall conduct their mutual relations on the basis of consultation and cooperation. The identified areas for cooperation and consultation include:

- a. Establishment of norms and standards through legislation - Article 235. By virtue of the mandate in respect to the public service, the Commission will be a key stakeholder in legislation relating to county governments – public service;
- b. Capacity building and technical support (**fourth schedule**) & (Article 189). The Commission may participate in capacity building at the county level through secondment of officers, training, attachment and transfer of service from national government to county government among others;
- c. Exchange of information and knowledge, best practices on recruitment and discipline, ethics and integrity and sharing of experiences and innovations which are citizen centered (Article 189);
- d. Coordination of human resource management policies and practices (Article 189);
- e. Arbitration of labour and industrial disputes (Article 189);
- f. Joint committees/authorities (Article 189) on matters of mutual interest such as public service values and principles;
- g. Appeals relating to recruitment, selection, appointment, promotion, re-designation, deployment, remuneration, disciplinary control, national values and principles, retirement, pension benefits and any other decision the Commission considers to fall within its constitutional mandate (Article 234 {i});
- h. Proximity and accessibility of services throughout Kenya (Articles 6(3) and 174). The Commission may cluster the counties and assign Commissioners to handle issues arising from specific clusters, establish a circuit system, use ICT to reach wide coverage and create awareness through information education and communication (IEC) materials;

- i. Transfer of power and functions between levels of government by agreement (Article 187). A function may be transferred to a different level of government by agreement if the function would be performed in a manner that is economical and efficient by the recipient tier of government. However, the constitutional responsibility remains with the government to which it is assigned;
- j. Norms and standards (schemes of service, job groups and salary scales, terms and conditions of service, establishment of posts, recruitment and selection of staff); and
- k. Harmonization of provident and superannuation funds in the local authorities with the proposed contributory pension scheme for civil servants in order to protect pensions earned by officers who may wish to transfer from national to county governments and vice versa and from one county to another.

These areas of partnering and cooperation can be actualized through legislation, memoranda of understanding and agreements.

### **9.2 Local Authorities Staff within the Constitutional Dispensation**

In the interim the Public Service Commission will continue to exercise its powers of appointment and removal over the staff of Local Authorities pending enactment of legislation contemplated in the 6<sup>th</sup> schedule clause 18. It is apparent that even when the County Governments come into place, it may be necessary to consider recommending the officers (Scales 20 - 10 estimated at 30,000) who are employees of local authorities for absorption in the County Governments' public service where legislation contemplated in the 6<sup>th</sup> schedule Article 18 may not provide for alternative placement. For officers within the mandate of the Public Service Commission and serving in Local Authorities (Scales 9 - 1 estimated at 2,000), it is recommended that they be given priority for deployment to County Governments under the provisions envisaged in (fourth schedule) & (Article 189), (Article 6 {2}), (Article 184). In the event that excess local authority staff cannot be absorbed in the county governments or redeployed to the national government, there may be need for contingency plans for management of early exit.

### **9.3 Civil Servants in the Provinces and Districts within the Constitutional Dispensation**

Most of the officers serving in the field services in the provinces and districts fall within job groups A-N estimated at 190,000. This includes officers in the regular police, administration police and prison service. In the Constitution the power to create and abolish offices, make appointments and removal are vested in the county governments.

The delineation of functions specified in the fourth schedule determines the functions at county level to be mostly implementation of policies and at national level to be policy formulation.

The bulk of officers (190,000 are at Job Group N and below) and therefore fall within the policy implementation level hence within the jurisdiction of the counties. The officers at policy formulation level (at job groups P and above are estimated at 4,000). In addition there are 66,296 officers serving in state corporations (at the equivalent of job groups H and above whose numbers are estimated at 25,715 and those in G and below estimated at 40,581).

In view of the above, the Commission in consultation with the government may consider taking advantage of the Articles providing for collaboration and co-operation between the two levels of government as provided for under the envisaged legislation in Article 235 and Article 187; and surrender both the functions and the staff to the counties for continuity in service delivery.

In the event that the County Governments decline to accommodate the estimated 190,000 officers currently within the civil service (this will exclude the estimated 80,000 police officers to whom a Service Commission has been prescribed and 19,000 prison officers who will remain under the national government) and the 30,000 officers serving in the local authorities if this places a strain on their capacity to absorb them, the Commission may propose to the national government to explore other options. These may include re-deployment, re-designation and early retirement among others. Further, the Commission from its vantage position can play a critical role in influencing the anticipated legislation to operationalize the county governments in a manner that safeguards the public officers within the context of Article 10 – National Values and Principles of Governance (inclusiveness) and Articles 27 on Equality and Freedom from Discrimination. The legislation may provide for diversity, quotas and affirmative action.

The Commission's function of protection of Pension Benefits is not provided for in the Constitution. The Constitution only offers protection of Pensions Benefits in respect of Constitutional office holders (transitional and consequential Clauses 32). It might, therefore, be urgent in light of the foregoing, for the Commission to entrench in the PSCK Bill to make provisions under Article 234 (2){g}, for the protection of pension benefits for public officers who seem to have been left out in the sixth schedule Article 32.

If the numbers retained under national government will be at policy formulation level as envisaged in the allocation of functions in the fourth schedule, then the Commission may deal with an estimated 5,000 officers in job groups P and above and an estimated 20,000 officers in job groups N and below in the civil service, 2,000 officers in the local authorities and 19,000 officers in the prisons service.

#### **9.4 Restructuring of Provincial Administration**

Restructuring of Provincial Administration envisaged in the sixth schedule Clause 17 may accommodate the officers from the field and any other officers who may not fit into the new national and county governments' structures. Article 234 (2){a} on establishment and abolition of offices and appointment of persons to hold or act in those offices and to confirm appointments in the national government vests in the Commission enormous leverage in this respect. The Commission will therefore, play a critical role in the restructuring, deployment, transfer, re-designation and removal of officers where appropriate. Devolution notwithstanding, Kenya is still a unitary state and the national government will still need to coordinate its activities at the county level since national functions are not confined to the capital city.

#### **9.5 Protection of Public Officers**

The Constitution under Article 236 provides safeguards for protection of public officers against victimization, discrimination, dismissal or demotion in rank without due process of the law. On this premise, the Commission should set standards which will be legislated. The standards should ensure equity and non-discrimination in employment by County Governments. The legislation should provide for the protection envisaged in Articles 10 on national values and principles of governance, Article 232 on values and principles of the public service, Articles 27 on equality and freedom from discrimination, Article 47 on fair administrative action, Article 56 (c) on minorities and marginalized groups and Article 54 on persons with disability.

Protection can be provided for under legislations contemplated in Articles:

- a) 236, on protection of public officers;
- b) 232, on the values and principles of public service;
- c) 184 (2), urban areas and cities;
- d) 190 (1), support for county governments;
- e) 191 (2) and (4), conflict of Laws;
- f) 196 (3), on powers and privileges and immunities of county assemblies;

- g) 197 (2), community and culture diversity;
- h) 200 (1), governance of the capital city, other cities and urban areas;
- i) 234 (2){i}, establishing and abolition of offices and appointment to those offices; and
- j) 235 (1), norms and standards.

The Commission will play a critical role in the anticipated change of designation for the officers in the in local authorities and other officers in provinces and districts and may deploy, transfer, re-designate and second officers where appropriate. In the interim period state departments may be required to retain officers who are currently deployed within the county jurisdiction until such a time when the counties will have developed capacity to discharge their functions.

## **CHAPTER TEN - ISSUES RELEVANT TO THE FULFILLMENT OF THE RE-DEFINED MANDATE**

Over and above the contents of the preceding chapters, there are other issues which will impact on the discharge of the re-defined mandate of the Commission under the Constitution. It is therefore imperative that they are accorded consideration. The issues include:

### **10.1 Review of Key Documents**

In view of the re-defined mandate of the Commission, there is need to review the 2009 – 2012 Strategic Plan, the Citizens Service Charter, Human Resource Audit Manual, Code of Conduct and Ethics, Discipline Manual, Internal Corruption Prevention Plan and Policy and the Public Service Commission Code of Practice on Mainstreaming Disability to accommodate the additional functions. The Citizens' Service Charter will be re-focused to be responsive to the bill of rights and the national values and principles of governance and public service values and principles.

### **10.2 Reduced membership of the Commission**

Under the Constitution, the membership of the Commission has reduced from 17 members to 9 members. Currently 85% of the civil service (job groups A - L) fall within the purview of powers delegated to Authorized officers. It may therefore be necessary for the Commission, in the discharge of its re-defined mandate to consider the following:

- a) Exploring further delegation under Article 234 (5);
  - Promotional appointments Job groups A – N,
  - Initial appointment for all non-graduate cadres (Job group H and below) including technical staff (pre-service trainees),
  - Disciplinary control for officers on Job groups A – N, excluding those who are qualified for pension,
  - Establish guidelines for the discharge of delegated functions,
  - Promotion of values and principles , and
  - Initial action on condition of service, code of conduct and qualifications for officers among others.
- b) Introduction of entrance examinations for new entrants while taking into consideration issues of merit, equity, aptitude and affirmative action for minorities and marginalized groups as provided for under Article 56 (c);

- c) Re-engineer the recruitment and selection processes to include administration of psychometric and aptitude tests;
- d) Clustering of counties and ministries with Commissioners handling specific clusters;
- e) Need to benchmark with other jurisdictions handling wide ranging functions with fewer numbers of Commissioners;
- f) Create capacity at the secretariat level to cope with the challenges posed by reduced membership; and
- g) Improvement of the Online Recruitment and Selection Database System.

### **10.3 Appointment of Commissioners**

The Commissioners will be appointed according to the provisions of the national legislation to be enacted under article 250 (2) (a). There may be need for the Commission to develop a position paper on standard criteria to be used in the appointment of Commissioners for presentation to the Commission on Implementation of the Constitution to inform legislation.

### **10.4 The effect of the reduction of ministries on the Commission's mandate**

Currently there are forty two (42) ministries and departments. In the Constitution there will be a minimum of Fourteen (14) and a maximum of twenty two (22) state departments (formerly ministries). This therefore means:

- i) The number of authorized officers will reduce;
- ii) There may be need for staff rationalization;
- iii) The review of terms and conditions of service will be necessary;
- iv) That contingency plans should be put in place in the event of early exits;
- v) There will be general re-organization of the public service; and
- vi) That staff re-training and re-orientation will be vital.

### **10.5 Labour Relations**

The Commission is obliged to recognize the right of public officers as provided under Article 41 to form, join or participate in the activities and programs of a trade union. In this respect the rights, obligations between employees and employers are sufficiently catered for.

## CHAPTER ELEVEN - PHASED IMPLEMENTATION OF THE FUNCTIONS

The Government has through the Cabinet, the Commission for Implementation of the Constitution and the Parliament are committed to the implementation of the Constitution as provided for in the sixth schedule on transitional and consequential provisions. Upon the promulgation of the Constitution, the Commission was expected to assume the new functions inline with the sixth schedule. In this regard, it is important that the Commission establishes a clear road map on how this will be achieved. The proposed implementation matrices document specific steps to be undertaken immediately and in the short term by the Commission for purposes of giving effect to the re-defined mandate of the Commission in the Constitution. In order to realize the objectives set out in the matrices, it is vital for the Commission to shift focus from routine matters, embark for requisition for more resources, and lay emphasis on activities geared towards re-alignment of the functions to the provisions of the Constitution.

Most of the activities on the re-defined mandate of the Commission will need to be fully implemented on or before the first general election under the Constitution. Table 9 shows the Implementation matrix for phase one, dedicated to activities to be undertaken within the financial year 2010/2011. Table 10 shows the implementation matrix for phase two for the activities to be undertaken within the first half of the financial year 2011/2012. Table 11 shows the activities to be undertaken within the second half of the financial year 2011/2012. For each objective; activities, sub-activities, outputs, performance indicators, time frame, resource requirements (budget), actors and outcomes have been identified as shown in appendices 2, 3, and 4.

The objectives for phase one include the following:

1. Develop a policy framework for the implementation of the Constitution.
2. Develop a legislative framework for the Commission's re-defined Mandate;

The objectives for phase two include the following:

1. Develop a policy framework for the implementation of the Constitution.
2. Develop a legislative framework for the Commission's re-defined Mandate;
3. To review guidelines for recommendation on the terms and conditions of service in the public service
4. Review and streamline the existing practices on evaluation and reporting in the public service.
5. Develop guidelines for nomination of persons to the:
  - a)Judicial Service Commission
  - b)Salaries and Remuneration Commission

6. Develop guidelines and procedures for receiving, investigating, analyzing and making recommendations for the removal of the Director of Public Prosecutions
7. Prepare a draft Bill on Values and Principles of Public Service.
8. Establish structures and enhance capacity in the Commission for the promotion of national and public service principles and value
9. Review guidelines and systems for investigation, monitoring and evaluation of the organization, administration and personnel practices of the public service
10. Review PSCK strategic plan 2009 - 2012 to accommodate the re-defined mandate of the Commission
11. Ensure Compliance with the provisions of the Bill of Rights
12. Development of entrance and promotional Examinations in the Public Service
13. Re-orientation of Public Officers on the new-look Public Service.
14. Perform any other functions and exercise any other powers conferred by national legislation.
15. Enhance capacity for delivery of the enhanced mandate.

The objectives for phase three include the following:

1. To review guidelines for recommendation on the terms and conditions of service in the public service
2. Development of human resource in the public service for effective and efficient service delivery.
3. Develop guidelines for preparation of reports to the President and parliament
4. Nomination of persons to be appointed as Principal Secretaries
5. Prepare a draft Bill on Values and Principles of Public Service
6. Develop guidelines for the making and reviewing of Codes of Conduct
7. Harmonize and update existing guidelines and standards in respect of qualifications of officers in the public service (Schemes of Service)
8. Ensuring effectiveness and efficiency in the Public Service.
9. Establish structures and enhance capacity in the Commission for the promotion of national and public service principles and values
10. Develop procedures, structures and regulations for hearing and determining appeals from the County Governments
11. Review PSCK strategic plan 2009 - 2012 to accommodate the re-defined mandate of the Commission.
12. Review the Citizen Service Charter

13. Ensure Compliance with the provisions of the Bill of Rights

14. Development of entrance and promotional Examinations in the Public Service

**Table 9: Implementation Matrix for Phase One (Within Six Months from Promulgation Date)**

S.No.	Objective	Activity	Time Frame	Resource Requirement	Actors	
1	Ensure smooth transfer of the added functions to the Commission	<ol style="list-style-type: none"> <li>1 Consultation and engagement with the Ministries/ Departments currently performing the functions</li> <li>2 Transfer of the functions</li> <li>3 Communication to the Service (Circular)</li> </ol>	October 2010	8M	PSCK	
2	Develop a legislative framework for the Commission's re-defined Mandate	Propose amendments to the Service Commissions Act	August 2010	0.2 M	PSCK, Kenya Law Reform Commission, State Law Office and Consultants, MOJNCCA	
		Review the Service Regulations	November 2010			
		Draft the Public Service Commission Bill	October 2010	4 M		
		Commissioners retreat on the implementation report and PSCK draft bill	Sep 2010	4.4 M		
		Inter - ministerial task force	Jan 2011	3 M		PSCK, Kenya Law Reform Commission, State Law Office and Consultants, MSPS, MOJNCCA
		<ul style="list-style-type: none"> <li>• Stakeholders forum on the PSCK draft bill</li> <li>• Forward the PSCK draft bill to Attorney General Office.</li> </ul>	Feb 2011	12 M		
		<ul style="list-style-type: none"> <li>• Development of regulations under PSCK Act</li> </ul>	April 2011	3 M		
		<ul style="list-style-type: none"> <li>• Gazettement and printing of PSCK Regulations</li> </ul>	May 2011	3 M		
<ul style="list-style-type: none"> <li>• Dissemination to the service of PSCK Act and Regulations.</li> </ul>	May 2011	2 M				
3	To review guidelines for recommendation on the terms and conditions of service in the public service	<ul style="list-style-type: none"> <li>• Review and update the guidelines on the terms and conditions of service</li> <li>• Prepare guidelines and put measures in place to recognize trade unions in the service through consultative meetings</li> </ul>	Jan 2011	3.5 M	PSCK, MSPS <i>Ministry of Labour</i>	
4	Development of human resource in the public service for effective and efficient service delivery	Review the training and human resource development policies in view of the Bill of Rights	April 2011	1M	OPM, PSCK, MSPS, Ministry of planning and vision 2030	

S.No.	Objective	Activity	Time Frame	Resource Requirement	Actors
		Set training standards	April 2011	3.5M	
		Capacity building in the Commission for the discharge of the redefined mandate	March 2011	10M	PSCK, Commissioners and Staff
5	Review and streamline the existing practices of creation and abolition of offices in the public service.	<ul style="list-style-type: none"> <li>Review the existing practices</li> <li>Formulate guidelines.</li> </ul>	Feb 2011	3.5M 5M	Cabinet Office MSPS PSCK
6	Develop guidelines for nomination of persons to the <ul style="list-style-type: none"> <li>Judicial Service Commission</li> <li>Salaries and Remuneration Commission</li> </ul>	Develop guidelines	January 2011	0.7 M	PSCK
7	Develop guidelines and procedures for receiving, investigating, analyzing and making recommendations for the removal of the Director of Public Prosecutions	Develop systems and procedures for removal of DPP	April 2011	5 M 3.5M	PSCK, State Law office, MOJCA, MSPS
8	Develop guidelines for preparation of reports to the President and parliament	Review Service Regulations to require authorized officers to be submitting reports on delegated functions at the end of every financial year. Develop a standard format for reporting.	January 2011	3.5 M	PSCK
9	Nomination of persons to be appointed as principal secretaries	Develop guidelines for the nomination of Principal Secretaries Establish Special Board (ad-hoc)	January 2011	1M	Cabinet office, PSCK, MSPS
10	Prepare a draft bill on values and principles of public service.	Benchmarking with best practices. Baseline survey. Contracting of professional services Stakeholders validation forum	March to May 2011	110M	PSCK
<b>PHASE ONE TOTAL</b>				<b>181.6</b>	

**The Objectives for Phase Two include the following:**

1. Develop guidelines for the making and reviewing of Codes of Conduct;
2. Harmonize and update existing guidelines and standards in respect of qualifications of officers in the public service (Schemes of Service);
3. Ensuring effectiveness and efficiency of the public service;
4. Establish structures and enhance capacity in the Commission for the promotion of national and public service principles and values;
5. Review guidelines and systems for investigation, monitoring and evaluation of the organization, administration and personnel practices of the public service;
6. Develop procedures, structures and regulations for hearing and determining appeals from the County Governments;
7. Review PSCK strategic plan 2009 - 2012 to accommodate the redefined mandate of the Commission;
8. Review the citizen service charter;
9. Ensure compliance with the provisions of the Bill of Rights;
10. Development of entrance and promotional Examinations in the Public Service;
11. Harmonize the Code of Regulations with the Constitutional provisions;
12. Re-orientation of Public Officers on the new-look Public Service; and
13. Perform any other functions and exercise any other powers conferred by national legislation.

**Table 10: Implementation Matrix for Phase Two (Within One Year from Promulgation Date)**

S.NO.	Objective	Activity	Time Frame	Resource Requirement	Actors
1.	Develop guidelines for the making and reviewing of Codes of Conduct	Develop guidelines for making codes of conduct	June 2011	4.5M	PSCK
2.	Harmonize and update existing guidelines and standards in respect of qualifications of officers in the public service (Schemes of Service)	Develop guidelines on the Schemes of Service Develop standards for uniformity Develop and revise/ update schemes of service Review training policy in view of promotional courses	June 2011  continuous	9.0M	PSCK, MSPS

S.NO.	Objective	Activity	Time Frame	Resource Requirement	Actors
3.	Ensuring effectiveness and efficiency of the public service	Review the Performance contracting system, performance appraisal instruments	August 2011	5.0M	OPM, PSCK, MSPS
		Efficiency monitoring and evaluation instruments inspection instruments	August 2011	12.0M	
		Public service transformation guidelines	August 2011	12.0M	
		Train relevant personnel Develop standards and norms for discharge of human resource functions in the public service including county governments and state corporations	August 2011 August 2011	9.0M	
4.	Establish structures and enhance capacity in the Commission for the promotion of national and public service principles and values	Creation of department Benchmark on best practices Integrate into the Public Officer Code of Conduct and Ethics	February 2011	20.0M	OPM, PSCK, MSPS
		Develop structures	April 2011	2M	
		Enhance capacity	June 2011	5M	
		Develop a reporting format on compliance with the national values and principles and values of the public service	July 2011	1M	Cabinet Office, PSCK, State Law office, MSPS
		Develop systems for monitoring and evaluating compliance	July 2011	2M	
		Sensitization of staff	Continuous	10.0M	
		<i>Initiate the development of the Kenya School of Government</i>	September 2011	1 B	
5.	Review guidelines and systems for investigation, monitoring and evaluation of the organization, administration and personnel practices of the public service	Enhance capacity of Human Resource Audit Department. Review guidelines, policies and standards for personnel practices.	July 2011	10.0M	OPM, PSCK, MSPS, Ministry of Planning and Vision 2030
		Review investigation guidelines Evaluate effectiveness of PAS instrument Introduce management audits	July 2011	7.0M	
		Review monitoring and evaluation instruments	July 2011	9.0M	
		Develop procedures, structures and regulations for hearing and determining appeals from the County Governments	February 2011	10M	
6.	Develop procedures, structures and regulations for hearing and determining appeals from the County Governments	Develop regulations, structures, systems and procedures ( <i>format of appeal, who may appeal, what decisions may be appealed against, representation on appeals,</i>	February 2011	10M	PSCK

S.NO.	Objective	Activity	Time Frame	Resource Requirement	Actors
		<i>lapse of appeal, criteria for appeal, re-opening decided appeals, timelines for appeals etc)</i>			
		Develop uniform norms and standards	May 2011	2M	PSCK, MSPS and MOLG
7.	Review PSCK strategic plan 2009 - 2012 to accommodate the redefined mandate of the Commission	Revise strategic plan to incorporate the added functions	February 2011	24.0M	OPM, PSCK, MSPS, Ministry of Planning & Vision 2030
8.	Review the citizen service charter	Review citizen service charter to make it responsive to the Bill of Rights and National Values and Principles and Values of Public Service	February 2011	2 M	PSCK
9.	Ensure compliance with the provisions of the Bill of Rights	To put in place measures for compliance with the Bill of Rights. (Note: <i>Other Articles in the Bill of Rights which have a bearing on the Commissions' mandate have been addressed in the envisaged Public Service Commission Bill and Regulations</i> )	March 2011	15M	PSCK, Ministry of Public Works, Ministry of Finance, Ministry of Lands
10.	Development of entrance and promotional Examinations in the Public Service	Develop a concept paper Develop Policy Framework Printing and Dissemination	May 2011 May 2011 May 2011	14 M	PSCK, KIE, KNEC and Consultants
11.	Harmonize the Code of Regulations with the Constitutional provisions	Review the Code of Regulations	July 2011	19.0 M	PSCK, MSPS, Min. of Labour, State Law Office, MoF – Pensions Department
12.	Re-orientation of Public Officers on the new-look Public Service	Intensification of IEC and sensitization on the re-defined mandate of the Public Service Commission	Continuous	36M	PSCK

S.NO.	Objective	Activity	Time Frame	Resource Requirement	Actors
13.	Perform any other functions and exercise any other powers conferred by national legislation.	Take stock of and follow up on proposed legislation envisaged in the 5 <sup>th</sup> Schedule with a bearing on the Commissions mandate and functions.  <i>(This will include:- Development of uniform norms and standards for public service and County Governments, engagement and involvement in setting up public service, public service values and principles, legislation for urban areas and cities, legislation on fair administrative action Article 47, fair hearing Article 50)</i>	June 2011	10M	PSCK, Kenya Law Reform Commission, State Law Office
PHASE TWO TOTAL				249.5M	
GRAND TOTAL				1,329.3 B	

**NOTE:**

**Detailed Implementation Matrices for Phase One and Phase Two are given in Appendix Two and Three respectively.**

## CHAPTER TWELVE - CHECKLIST OF PERTINENT ISSUES AND

### THE WAY FORWARD

#### 12.0 Key Issues

**These include:**

1. Issue instructions to the service in light of the re-defined mandate;
2. Analyze each of the functions, processes, procedures, tools and the financial implication of implementing the re-defined mandate;
3. Review the current budget to reflect the requirements for the implementation of the re-defined mandate;
4. Prepare a budget to cater for the activities and programmes aimed at implementing the Constitution and follow up closely with the Treasury;
5. Review the strategic plan and the Citizen Service Charter to reflect the re-defined mandate;
6. Develop strategies for the protection and accommodation of public officers in the transition;
7. Initiate relevant processes for restructuring of the provincial administration;
8. Restructure the Secretariat to enhance capacity to undertake the functions under the re-defined mandate;
9. Recommend amendments to the enabling legislations, regulations and policies to make them consistent with the new Constitution;
10. Initiate the drafting of the Public Service Commission Bill to provide for a legislative framework for the discharge of the mandate.
11. Take stock of the applicable conventions and treaties and put in place strategies for their immediate implementation;
12. Sensitize public officers on the re-defined mandate of the Commission;
13. Acquire additional office space and equipment to accommodate and cater for the additional staff under the re-defined mandate;
14. Contract consultancy services to back stop the implementation of the re-defined mandate;
15. Explore areas of co-operation, collaboration and partnering with the county governments in human resource functions;
16. Review guidelines for development of the human resource in the public service;

17. Mount Commission retreats, conferences, seminars and meetings on the implementation of the new Constitution;
18. Organize stakeholders consultative forums;
19. Organize for the launch of Commission's Act, regulations, guidelines and policies;
20. Develop guidelines for nomination of persons to the Judicial Service Commission and Salaries and Remuneration Commission;
21. Put in place systems and procedures for receiving, investigating, analyzing and making recommendations for the removal of the Director of Public Prosecutions;
22. Develop guidelines for preparation of annual reports;
23. Formulate and issue guidelines for nomination of persons to be appointed as principal secretaries;
24. Develop guidelines for the making and reviewing of Codes of Conduct;
25. Set guidelines in respect of qualifications of officers in the public service (Schemes of Service);
26. Design instruments for ensuring efficient and effective delivery of the public services;
27. Establish structures and enhance capacity for the promotion of national values and principles of governance and values and principles of the public service;
28. Design a reporting format on compliance with the national values and principles of governance and values and principles of the public service;
29. Establish structures for monitoring and evaluating compliance with national values and principles of governance and values and principles of the public service;
30. Review guidelines and systems for investigation, monitoring and evaluation of the organization, administration and personnel practices of the public service;
31. Develop procedures, structures and regulations for hearing and determining appeals from the County Governments;
32. Develop guidelines and policies for the administration of entrance and promotional examinations in the Public Service;
33. Build/acquire an ultra modern building;
34. Scale up the budget to match the magnitude of the activities to be undertaken towards implementation of the re-defined mandate;
35. The need to determine how to handle other government departments that deal with the functions that have now been transferred to the Commission;
36. Determine the services/activities to be contracted out to consultants;
37. Develop clear procedures to ensure compliance with the Bill of Rights;
38. Develop a communication strategy; and

**39.** Make a distinction between the executive and oversight functions to determine the scope of delegation.

## **12.1 The Way Forward**

- 1.** Immediately consult and engage the Office of the President (Cabinet office), Office of the Prime Minister and the Ministry of State for Public Service to set in motion smooth transfer of the added functions without disruption of service delivery;
- 2.** Develop a budget on implementation of the re-defined mandate and negotiate funding with Treasury;
- 3.** Identify and prioritize activities that require contracted professional services (consultancy);
- 4.** Constitute a committee of Commissioners to spearhead implementation of the activities detailed in the matrices;
- 5.** Identify areas for further delegation of powers;
- 6.** Establish modalities for absorption of staff currently performing the added functions and recruitment of new staff to enhance capacity in the secretariat;
- 7.** Improve the terms and conditions of service of the Commission secretariat to competitive levels;
- 8.** Initiate action for benchmarking on best practices in identified areas;
- 9.** Fast track the drafting of the Public Service Commission Bill and its enactment;
- 10.** Forward to the Attorney General areas identified for amendment in respect to Service Commissions Act, Regulations and Public Officer Ethics Act, 2003.
- 11.** Assess office space requirements and equipment.
- 12.** Restructure the secretariat to enhance capacity.
- 13.** Fast track finalization of the Commission's Communication Strategy.
- 14.** Initiate the process of developing the Bill on public service values and principles.

## **Appendix One: Functions of Departments Currently Undertaking Functions Now Vested in the Commission**

### **Human Resource Development**

#### **Core functions**

- Development, coordination and review of public sector training policy;
- Providing leadership in the human resource development function in the public service;
- Facilitating training needs analysis (TNA) in Ministries/Departments, Local Authorities and State Corporations;
- Identifying and developing suitable staff training and development programs to meet the needs of the public service;
- Development and management of skills inventory;
- Sourcing for scholarships for public service staff;
- Collaboration with government training institutes (GTI) on development of training programs, training of public service staff, research and consultant services;
- Management of human resource development, data and information;
- Forecasting and projecting public service requirements; and
- Administration of cost sharing and bonding policies.

#### **Management Consultancy Services**

- Developing and issuing career progression guidelines and schemes of service;
- Providing management consultancy services to the public service particularly on appropriate organizational structures, modern management techniques, research and renovation;
- Managing payroll and compliment policy in the public service;
- Telephone service management in the civil service;
- Regular and ad hoc management reviews control, and management personnel information systems (staff compliment control);
- Generation of bi-products of the nominal roll; and
- Bio-data base for the civil service.

### **Human Resource Management (Personnel Administration)**

- Formulating, developing and interpreting human resource policies, rules, regulations and procedures in the public service;
- Implementing human resource policies, standards, rules and procedures;
- Monitoring and evaluating performance of human resource units in Ministries/Departments;
- Developing, reviewing and monitoring institutionalization of performance appraisal system (PAS) in the civil service;
- Development and review of human resource planning, guidelines and succession; management strategy for the public service;
- Development, management and implementation of staff guidance and counseling policy in the civil service;
- Providing human resource management technical assistance, advice and direction to Ministries and Departments;
- Advising on review, updating and harmonization of terms and conditions of service for public officers;
- Coordinating human resource management units in Ministries and Departments;
- Development and administration of schemes of service for various common cadres;
- Administering secretarial services; and
- Assisting the Public Service Commission in the recruitment process.

### **State Corporation Inspectorate**

- Advising the Government on all matters affecting the effective running of state corporations;
- Reporting periodically to the relevant arms of Government on management practices within any state corporation;
- Reporting to the Controller and Auditor General any cases where moneys appropriated by Parliament are not being applied by State corporations for the purposes for which they were appropriated;
- Conducting special investigations of any state corporation on behalf of the State Corporations Advisory Committee and the Controller and Auditor General;
- Under taking surcharge action against any person who incurs or authorizes irregular expenditure of state corporation funds or any person who through negligence or misconduct causes loss of funds to the State Corporation;

- Organizing and processing surcharge materials in terms of section 19 of the State Corporations Act, Cap 446;
- Pursuance of surcharged monies through Courts;
- Appearing as witnesses against surcharge appeals at the State Corporations Appeal Tribunal and at the High Court;
- Evaluating the actual results of operations and management of State Corporations on the basis of the agreed performance targets;
- Determining methods for evaluating performance on the basis of specified and agreed targets;
- Developing evaluation criteria; and
- Advising on the administration of performance contracts.

### **Performance Contracting**

- Formulation of policy on performance contracting;
- Design of performance contract agreement documents;
- Development of guidelines on performance criteria and setting of targets;
- Incentives for achieving targets;
- Standards for performance evaluation;
- Development of strategic plans and citizen service charters;
- Ranking based on composites core with range of 1-5 for best and worst performance;
- Recognition of top performance;
- Development of guidelines for negotiation of performance contracts;
- Vetting of performance contracts; and
- Promotion of efficiency and effectiveness in service delivery with emphasis on results, transparent and accountability.

### **Public Service Transformation**

- Results based management in the public service
- Improvement of work environment
- Results/goals driven public service
- Restoration of citizens trust in government through citizen centred services
- Attitudinal change
- Timeliness and quality of public services

- Efficient systems processes and procedures
- Linking up of the public service
- Cultural change
- Use of 21<sup>st</sup> century tools and equipment (Electronic Service Delivery)
- Institutional building

### **Efficiency Monitoring**

- The function entails:
- Monitoring and analyzing the implementation of government policies, programmes and projects
- Advising the government on implementation challenges and remedial measures
- Reviewing existing management systems, procedures and practices to improve efficiency and effectiveness
- Studying implemented projects and growing practical experiences for future planning
- Monitoring working environment in the public sector and the conditions of public officers

**Appendix Two – Table 9: Implementation Matrix Phase One (from Promulgation Date to 31<sup>st</sup> December 2011)**

S/No.	Objective	Activity	Sub - Activities	Output	Performance Indicator	Time Frame	Resource requirement	Actors	Outcome
1	Ensure smooth transfer of the added functions to the Commission	<ul style="list-style-type: none"> <li>Consultation and engagement with Cabinet office and the Ministries/ Departments currently performing the functions (this may inform content of Circular on Organization of Government)</li> <li>Transfer of the functions</li> <li>Communication to the Service (Circular)</li> </ul>	<p><b>Work out modalities for transfer and implementation of the functions assigned to the Commission (Stock taking of institutions, personnel and equipment).</b></p> <p><b>Determine the additional resources required (personnel, finance and equipments)</b></p> <p><b>Prepare an instruction letter</b></p> <p><b>Induction of new officers</b></p> <p><b>Two (2) Stakeholders fora</b></p>	Instruction letter	Draft instruction letter	<p><b>August 2011</b></p> <p><b>September 2011</b></p> <p><b>September 2011</b></p> <p><b>September 2011</b></p>	<p>2 M</p> <p>6 M</p>	PSCK, Cabinet office, OPM, MSPS	<b>Discharge of all the functions conferred to the Commission under the Constitution.</b>
2	Develop a legislative framework for the Commission's re-defined Mandate	<p>Propose amendments to the Service Commissions Act</p> <p>Review the Service Regulations and propose amendments</p>	Three days technical retreat	<p>Identified areas to be amended forwarded to the Attorney General.</p> <p>Reviewed Service Regulations.</p> <p>Proposed amendments identified.</p>	<p>Identified and forwarded amendments</p> <p>Catalogue of areas identified for amendments.</p>	<p><b>22nd - 24th August 2010</b></p> <p><b>November 2010</b></p>	0.2 M	PSCK, Kenya Law Reform Commission, State Law Office and Consultants, MOJNCCA	Legislative framework developed

S/No.	Objective	Activity	Sub - Activities	Output	Performance Indicator	Time Frame	Resource requirement	Actors	Outcome
		Forward to the Attorney General's Office proposed amendments to the Service Commission's Act, Service Regulations and Public Officer Ethics Act.		Forwarded proposed amendments.	Proposed amendments Forwarding note.	<b>November 2010</b>			
		Draft the Public Service Commission Bill	Ten days technical retreat Contract professional services	Draft PSCK Bill Professionals Contracted	Draft Bill Contract documents	<b>October 2010</b>	4 M		
		Commissioners retreat on the implementation report and PSCK draft bill	Four days Commission retreat Contracted Professional services	Retreat Report Professionals Contracted	Report	<b>15th - 18th Sep 2010</b>	4.4 M	PSCK, Kenya Law Reform Commission, State Law Office and Consultants, MOJNCCA	Legislative framework developed
		Inter - ministerial task force	Carry out studies and propose appropriate structures Contracted Professional services	Task Force Report Professionals Contracted	Report	<b>August 2011</b>	3 M	PSCK, Kenya Law Reform Commission, State Law Office and Consultants, MSPS, MOJNCCA	Legislative framework developed
		Stakeholders forum on the PSCK draft bill	Two - day consultative workshop Three - day technical Retreat Contracted professionals	<b>Workshop report</b>  <b>Stakeholders views incorporated</b>	<b>Draft Bill</b>  <b>Enhanced Draft Bill</b>  <b>Draft bill</b>	<b>30th and 31st May 2011</b>   <b>June 2011</b>	1 M  1 M	<b>PSCK, OPM, MSPS, CIC, KLRC, AG, MOJNCCA</b>	<b>Legislative framework developed</b>
		Forward the PSCK draft bill to Attorney General Office.							

S/No.	Objective	Activity	Sub - Activities	Output	Performance Indicator	Time Frame	Resource requirement	Actors	Outcome
				<b>Forwarded Draft Bill</b>					
		Development of regulations under PSCK Act	Contract professional services Ten days technical retreat	<b>Draft Regulations 2011</b>	Draft Regulations	<b>September 2011</b>	3 M	<b>PSCK, Kenya Law Reform Commission, State Law Office and Consultants, MSPS, MOJNCCA</b>	Regulations developed
		Gazettement and printing of PSCK Regulations	Print 100 copies	Printed copies	Gazette Notice	<b>October 2011</b>	<b>0.15 M</b>	<b>PSCK, AG, Government Printer</b>	<b>Gazetted Regulations</b>
		Dissemination to the service of PSCK Act and Regulations.	Print 2000 copies	Gazetted Regulations 2011		<b>October 2011</b>	2 M		<b>Gazetted Regulations</b>
			Twelve regional workshops	Workshop reports	Number of workshops held	<b>Continuous from November 2011</b>	12.5 M	<b>PSCK, Stakeholders</b>	<b>Reviewed Regulations disseminated</b>
				Dissemination report	Report	<b>Continuous</b>	1 M		
3	To review guidelines for recommendation on the terms and conditions of service in the public service	Review and update the guidelines on the terms and conditions of service.  <b>Prepare guidelines and put measures in place for engagement with trade unions in the service.</b>	Research on current practices  Four (4)day Technical retreat to develop the guidelines on the terms and conditions of service  10 day technical retreat to develop guidelines	Guidelines developed  Guidelines and measures	Guidelines on the terms and conditions of service  Guidelines and measures	<b>November 2011</b>  <b>January 2012</b>	3.5 M	PSCK, MSPS	Modalities for review of terms and conditions in place.  Reduced labour disputes in the Public Service

S/No.	Objective	Activity	Sub - Activities	Output	Performance Indicator	Time Frame	Resource requirement	Actors	Outcome
4	Development of human resource in the public service for effective and efficient service delivery.	<b>Review the training and human resource development policies.</b>	Collate and synchronize existing practices and standards	Report on existing practices	Research report on existing practices	<b>April 2012</b>	1M	OPM, PSCK, MSPS, Ministry of planning and vision 2030, ML & HRD	Human resource developed for effective service delivery
		Set training standards	7 – day technical retreat	<b>Report on new standards</b>	<b>Research report on new standards</b>	<b>April 2012</b>	3.5M		Best practices adapted
		Capacity building in the Commission for the discharge of the re-defined mandate	<ul style="list-style-type: none"> <li>Benchmarking</li> <li>Training</li> <li>Sensitization of Commissioners and Commission Staff on the new functions</li> </ul>	Benchmarking reports  Trained Commissioners and Staff	Best practices identified  Commissioners and Staff trained	<b>March 2012</b>	10M	PSCK, Commissioners and Staff	Trained Commissioners and staff
5	Review and streamline the existing practices on evaluation and reporting in the public service.	<ul style="list-style-type: none"> <li>Review the existing practices</li> <li>Formulate guidelines.</li> </ul> <p><b>Develop a monitoring and evaluation framework.</b></p>	<ul style="list-style-type: none"> <li>Research on best practices.</li> <li>– day technical retreat</li> <li>Approval of guidelines by the Commission.</li> <li>Printing and internal dissemination of the developed guidelines.</li> </ul> <p><b>Contract professional services</b></p> <p><b>10 - day technical retreat</b></p>	Reviewed guidelines and practices in place	Research report on existing practices and proposed best practices	<b>December 2011</b>	3.5M  5 M	Cabinet Office  PSCK  KNBS	Reviewed guidelines and practices in place          <b>Monitoring &amp; Evaluation Framework in place</b>

S/No.	Objective	Activity	Sub - Activities	Output	Performance Indicator	Time Frame	Resource requirement	Actors	Outcome
6	Develop guidelines for nomination of persons to the a) Judicial Service Commission b) Salaries and Remuneration Commission	Develop guidelines	<i>Note: Under transitional clause 20(4) the person nominated by the PSCK under section 106 of the former Constitution shall continue to serve</i>  3 – day technical retreat  <i>Preparation of guidelines</i>  <i>Approval of guidelines by the Commission</i>	Nomination guidelines developed	Nomination guidelines	<b>August 2011</b>	0.7 M	PSCK	Nomination guidelines in place
7	Develop guidelines and procedures for receiving, investigating, analyzing and making recommendations for the removal of the Director of Public Prosecutions	Develop systems and procedures for removal of DPP	Research and benchmark on best practices and procedures used in progressive democracies e.g. India, Australia, Canada, South Africa,  Five - day Technical retreat to develop guidelines and procedures  <b>Publication and Gazettement of guidelines and procedures</b>	Approved Systems and procedures in place	Draft Systems and procedures	<b>August 2011</b>	5 M  3.5M	PSCK, State Law office, MONJCA, MSPS.	Guidelines and procedures in place.
8	Develop guidelines for preparation of reports to the President and parliament.	<ul style="list-style-type: none"> <li>Review Service Regulations to require authorized officers to be submitting reports on delegated functions at the end of every financial year.</li> <li>Develop a standard format for reporting.</li> </ul>	5 day technical – retreat to develop a standard format for reporting.  Printing and publicizing	Reporting guidelines and format.	Draft guidelines and format.	<b>January 2012</b>	3.5 M	PSCK	<b>Reporting Format in Place</b>

S/No.	Objective	Activity	Sub - Activities	Output	Performance Indicator	Time Frame	Resource requirement	Actors	Outcome
.	Nomination of persons to be appointed as Principal Secretaries	<ul style="list-style-type: none"> <li>Develop guidelines for the nomination of Principal Secretaries</li> <li>Establish Special Board (ad-hoc)</li> </ul>	5 days Technical retreat to develop the guidelines	Nomination guidelines	Draft guidelines developed	<b>May 2012</b>	1M	Cabinet office, PSCK, MSPS, <b>OPM.</b>	Nomination guidelines developed
10.	Prepare a draft Bill on Values and Principles of Public Service.	Benchmarking with best practices.	Identify countries with relevant best practices.	Benchmarking reports.	Number of Countries visited.	<b>August 2011</b>	50 M	PSCK	Bill on Values and Principles of Public Service in Place
		Baseline survey to establish compliance with the following values equity, gender, inclusiveness, regional balance and ethnic diversity.	Engage consultants for baseline survey.	Baseline survey reports.	Consultant contracted.	<b>November 2011</b>	25 M		
		Contracting of professional services.	<ul style="list-style-type: none"> <li>30 days staggered technical retreats.</li> <li><b>Publication of the proposed Bill in the media to invite public views</b></li> <li><b>Ten – day retreat to input public views</b></li> </ul>	Draft Bill on Public Service values and principles.	Professional engaged.	<b>February 2012</b>  <b>February 2012</b>  <b>March 2012</b>	15 M		
		Stakeholders' validation forum.	4 stakeholders' validation meetings.	Stakeholders' validation reports.	Stakeholders' forum recommendations.	<ul style="list-style-type: none"> <li><b>April 2012</b></li> </ul>	20 M		
				<ul style="list-style-type: none"> <li><b>Submission of draft Bill to Attorney General/KLR</b></li> </ul>					

S/No.	Objective	Activity	Sub - Activities	Output	Performance Indicator	<i>Time Frame</i>	Resource requirement	Actors	Outcome
				<i>C/CIC</i>					
							<b>182.25 M</b>		

**Appendix Three - Table 10: Implementation Matrix Phase Two (Within One Year from Promulgation Date)**

S/No.	Objective	Activity	Sub- Activities	Output	Performance Indicator	Time Frame	Resource requirement	Actors	Outcome
1.	Develop guidelines for the making and reviewing of Codes of Conduct	Develop guidelines for making codes of conduct	5 days Technical retreat to develop guidelines  Printing and Dissemination	Developed guidelines	Draft guidelines	<b>February 2012</b>	1.5M  3.0M	PSCK	Harmonized codes of conduct in the public service
2.	Harmonize and update existing guidelines and standards in respect of qualifications of officers in the public service (Schemes of Service)	Develop guidelines on the Schemes of Service  Develop standards for uniformity  Develop and revise/ update schemes of service  Review training policy in view of promotional courses	Carry out research on existing guidelines  10 day Technical retreat to develop guidelines  <b>Printing and Dissemination of the guidelines and standards.</b>	Guidelines on the schemes of service in place	Draft guidelines prepared	<b>April 2012</b>   continuous	2M  2M  5M	PSCK, MSPS	Guidelines in respect of qualifications of officers in the public service
3.	Ensuring effectiveness and efficiency in the Public Service.	Review the Performance contracting system, performance appraisal instruments.    Review existing management systems, procedures and practices.  Review and disseminate guidelines and standards on good corporate governance.   Review the policy on performance contracting.	10 day Technical retreat to review instruments  Draft instruments  Approval by the Commission  Printing and Dissemination   10 day technical retreat.   10 day technical retreat.   10 day technical retreat.  Contract professional services.	Reviewed instruments and guidelines       Reviewed management systems  Reviewed guidelines and standards on good corporate governance   Policy on performance contracting reviewed. Contracted	<b>Draft instruments and guidelines developed.</b>      Reports in place  Guidelines in place.  Policy in place Reports in place.	<b>April 2012</b>      <b>April 2012</b>      <b>May 2012</b>	2 M  3 M  7 M  3 M  3 M  3 M 7 M	OPM, PSCK, MSPS	Improved systems and structures and guidelines in place.

S/No.	Objective	Activity	Sub- Activities	Output	Performance Indicator	Time Frame	Resource requirement	Actors	Outcome
				professional services.					
		Efficiency monitoring and evaluation instruments inspection instruments	10 day Technical retreat to review instruments Contracted professional services Printing and Dissemination	Reviewed instruments and guidelines	<b>Draft instruments and guidelines developed.</b>	<b>May 2012</b>		OPM, PSCK, MSPS	Improved systems and structures in place
		Public Service Transformation guidelines	10 day Technical retreat to develop guidelines Contracted professional services Printing and Dissemination	Reviewed instruments and guidelines	<b>Draft instruments and guidelines developed.</b>	<b>June 2012</b>		OPM, PSCK, MSPS	Improved systems and structures in place
		Train relevant personnel  Develop standards and norms for discharge of human resource functions in the public service including county governments and state corporations	Organize local and external courses  10 day technical retreat  Contracted professional services	Trained personnel  Harmonized norms and standards of public service	Number of personnel trained locally and externally  Standards and norms identified	<b>June 2012</b>	2M  7M	OPM, PSCK, MSPS	Enhanced capacity for efficient and effective service delivery
4.	Establish structures and enhance capacity in the Commission for the promotion of national and public service principles and values	Elevate Ethics and Integrity unit to status of a department  <b>Liaise with the Kenya School of Government to develop training programmes on Public Service Principles and Values of the Public Service</b>  Benchmark on best	Restructure Commission Secretariat  <b>Develop Curriculum on values and principles for the various levels of the public service.</b>	Creation of department  <b>Curriculum developed</b>  Best practices adopted	<b>Curriculum in use</b>  Benchmarking	July 2011 – June 2012  July 2011 – June 2012	10M	OPM, PSCK, MSPS  PSCK, KIA, MSPS	Structures and capacity in place  Kenya School of Government in place  Best practices adopted

S/No.	Objective	Activity	Sub- Activities	Output	Performance Indicator	Time Frame	Resource requirement	Actors	Outcome
		practices Integrate into the Public Officer Code of Conduct and Ethics	Benchmarking tours to public services carrying out similar functions Contracted professional services		reports.		2M 5M		
		Develop structures	10 day Technical retreat to develop structures	Structures developed	New structures in place	<b>March 2012</b>		OPM, PSCK, MSPS	Structures in place
		Enhance capacity	Training	Trained personnel	Number of trained personnel Annual reports	<b>June 2012</b>		OPM, PSCK, MSPS	Enhanced capacity for efficient and effective service delivery
		Develop a reporting format on compliance with the National Values and Principles and Values of the Public Service	5 day Technical retreat for designing a reporting format to the President and Parliament	Reporting formats developed	Reporting formats	<b>January 2012</b>	1M	Cabinet Office, PSCK, State Law office, MSPS, OPM	Reporting format developed
		Develop systems for monitoring and evaluating compliance	10 day Technical retreat	Systems and structures established	Monitoring and evaluating structures and systems	<b>January 2012</b>	2M	Cabinet Office, PSCK, State Law office, MSPS, OPM	Monitoring and evaluation systems for compliance developed
		Sensitization of staff	Regional seminars	Sensitized personnel	Number of personnel sensitized Sensitization reports	<b>March 2012</b>	10M	Cabinet Office, PSCK, State Law office, MSPS, OPM	Knowledgeable personnel

S/No.	Objective	Activity	Sub- Activities	Output	Performance Indicator	Time Frame	Resource requirement	Actors	Outcome	
5.	Review guidelines and systems for investigation, monitoring and evaluation of the organization, administration and personnel practices of the public service	Enhance capacity of Human resource audit department.	Research on existing best practices Printing and Dissemination	Report on existing policies, standards and practices	Research reports	<b>September 2011</b>	5M	OPM, PSCK, MSPS, <b>KNBS.</b>	Guidelines and systems for investigation, monitoring and evaluation of the organization, administration and personnel practices of the public service in place	
		Review guidelines, policies and standards for personnel practices.					5M			
		Review investigation guidelines					2M			
		Evaluate effectiveness of PAS instrument	10 day Technical retreat to develop guidelines Printing and Dissemination Develop PAS instruments	Investigation guidelines	Guidelines	<b>November 2011</b>	5M			OPM, PSCK, MSPS, <b>KNBS.</b>
		Introduce management audits					2M			
		Review monitoring and evaluation instruments	10 day Technical retreat to develop M&E instruments Contracted professional services Printing and Dissemination	monitoring and evaluation instruments	monitoring and evaluation instruments	<b>December 2011</b>	5M			OPM, PSCK, MSPS, <b>KNBS.</b>
	2M									
6.	Develop procedures, structures and regulations for hearing and	Develop regulations, structures, systems and procedures ( <i>format of appeal, who may appeal,</i>	<b>Stakeholders engagement and benchmark on best practices.</b>	Identified best practices	Benchmarking reports	<b>March – June 2012</b>	10M	PSCK	Best practices adapted.	



S/No.	Objective	Activity	Sub- Activities	Output	Performance Indicator	Time Frame	Resource requirement	Actors	Outcome
			strategic plan.						
8.	Review the Citizen Service Charter.	Review citizen service charter to make it responsive to the Bill of Rights and National Values and Principles and Values of Public Service	5– day technical retreat Prepare draft service charter Stakeholders' forum, printing and publicity. Approval by Commission Dissemination	Reviewed Citizens Service Charter	Draft Citizens Service Charter in place	<b>February 2012 – May 2012</b>	<b>To be done alongside with the Strategic Plan</b>	PSCK	Responsive Citizens Service Charter
9.	Ensure Compliance with the provisions of the Bill of Rights	To put in place measures for compliance with the Bill of Rights  <i>Note: Other Articles in the Bill of Rights which have a bearing on the Commissions' mandate have been addressed in the envisaged Public Service Commission Bill and Regulations</i>	Customize Commission premises to make them conducive for use by persons with disabilities and persons with special needs.	Customized Commission premises	Premises responsive to special needs	<b>July 2011 – June 2012.</b>	<b>18.6 M</b>	PSCK, Ministry of Public Works, Ministry of Finance, Ministry of Lands	Existing building responsive to the needs of persons with special needs.

S/No.	Objective	Activity	Sub- Activities	Output	Performance Indicator	Time Frame	Resource requirement	Actors	Outcome
10.	Development of entrance and promotional Examinations in the Public Service	Develop a concept paper  Develop Policy Framework  Printing and Dissemination	Benchmark with other Public Services  5 day technical – retreat  Curriculum Development  Capacity Building on the policy and Curriculum.	Concept paper Developed  Policy Framework Document  Curricula  Trained Personnel	Number and reports of Public Service Commissions Visited.  Draft Policy report  Number and type of Curricula Developed  Number of personnel Trained	<b>September 2011</b>  <b>September 2011</b>  <b>April 2012</b>  <b>May 2012</b>	14 M	PSCK, KIE, KNEC and Consultants	Entrance and promotional exams introduced
11.	Harmonize the Code of Regulations with the Constitutional provisions.	Review the Code of Regulations	10 days technical retreat.  Printing and dissemination of the reviewed Code of Regulations  12 dissemination workshops  Stakeholders forum	Reviewed code of regulations    Report on the stakeholders forum	Draft code of regulation	May 2012	<b>3 M</b>  <b>3 M</b>  <b>8 M</b>	PSCK, MSPS, Min. of Labour, State Law Office, MoF – Pensions Department	Code of Regulations responsive to the provisions of the constitution
12.	Re-orientation of Public Officers on the new–look Public Service.	<b>Develop IEC materials on the public service under the new constitutional dispensation.</b>  <b>Dissemination</b> of IEC and sensitization on the re-defined mandate of the Public Service	<b>Workshops for senior managers in the Public Service both at national and county levels.</b>	Workshop reports	Number of regional workshops held	<b>July 2011 to June 2012</b>	36M	PSCK	A re-oriented Public Service

S/No.	Objective	Activity	Sub- Activities	Output	Performance Indicator	Time Frame	Resource requirement	Actors	Outcome
		Commission							
13.	Perform any other functions and exercise any other powers conferred by national legislation.	Take stock of and follow up on proposed legislation envisaged in the 5 <sup>th</sup> Schedule with a bearing on the Commissions mandate and functions. <i>(This will include:- Development of uniform norms and standards for public service and County Governments, engagement and involvement in setting up public service, public service values and principles, legislation for urban areas and cities, legislation on fair administrative action Article 47, fair hearing Article 50)</i>	<p><b>Implement the Public Officer Ethics Act, 2003 especially the declaration of incomes, assets and liabilities and compliance with the public officer's code of conduct.</b></p> <p><b>Implement functions of the Commission under the NSIS Act.</b></p> <p><b>Implement functions under the Public Audit Act, 2003.</b></p> <p><b>Implement the Local Government Act.</b></p> <p><b>Service Commissions Act, Cap 185.</b></p> <p><b>Commission for Implementation of the Commission Act</b></p> <p><b>Vetting of Judges and Magistrates Act.</b></p> <p><b>Judicial Service Commission Act.</b></p>	Feedback reports.	Reports	<b>July 2011 to June 2012</b>	10M	PSCK, Kenya Law Reform Commission, State Law Office	Harmonized legislation

S/No.	Objective	Activity	Sub- Activities	Output	Performance Indicator	Time Frame	Resource requirement	Actors	Outcome
			<p>Identify the specific legislation and timelines for enactment</p> <p>Set up a liaison office with the Commission on Implementation for the Constitution on provisions relating to the Commission's (PSCK) functions</p>						
14.	Enhance capacity for delivery of the enhanced mandate.	Restructure the Secretariat.	<p>Bench- Mark on best practices.</p> <p>Contract professional services.</p> <p>Review terms and conditions. <b>(10 days technical retreat)</b></p>	<p>Best practices adopted.</p> <p>Contracted professional services.</p> <p>Proposed structure</p> <p><b>Number of staff recruited/re-deployed</b></p> <p>Proposed terms and conditions</p>	<p>Benchmarking reports.</p> <p>Consultants report on proposed structure of the Commission secretariat.</p>	<p><b>July 2011</b></p> <p><b>August 2011</b></p> <p><b>October 2011</b></p> <p><b>June 2011</b></p>	<p><b>9.6 Million</b></p> <p><b>10 Million</b></p> <p><b>2 Million</b></p>	<p>OPM, Treasury, PSCK, MSPS, Salaries and Remuneration Commission,</p>	<p>Appropriate structures and capacity in place.</p> <p>Reviewed terms and conditions of service.</p>
SUB TOTAL							268.5M		
GRAND TOTAL							1,476.3 B		

### Appendix Four: The Authorized and Proposed Establishment

S/No	DESIGNATION	JOB GROUP	AUTHORIZED POSTS	IN-POST	PROPOSED EST.
1.	SECRETARY	U	1	1	1
2.	DEPUTY COMMISSION SECRETARY	T	1	1	1
3.	DIRECTOR (HR AUDIT)	S	1	1	1
4.	DIRECTOR (AGENDA	S	1	1	1
5.	DIRECTOR (R & S)	S	1	1	1
6.	DIRECTOR (INTEGRITY & ETHICS)	S	0	0	1
7.	DEPUTY DIRECTOR HRM/(ADMIN)	R	1	1	1
8.	SNR. DEPUTY SECRETARY	R	1	1	1
9.	DEPUTY DIRECTOR (R & S)	R	1	0	1
10.	DEPUTY DIRECTOR (DISCIPLINE)	R	1	0	1
11.	DEPUTY DIRECTOR (AGENDA)	R	0	0	1
12.	DEPUTY DIRECTOR EXAMINATION)	R	1	0	1
13.	DEPUTY DIRECTOR (HR AUDIT)	R	2	1	1
14.	CHIEF ECONOMIST	R	0	1	1
15.	DEPUTY DIRECTOR (INTEGRITY & ETHICS	R	0	0	1
16.	DEPUTY CHIEF LEGAL COUNSEL III/I	R/Q	1	1	1
17.	DEPUTY SECRETARY (ADMIN)	Q	3	4	4
18.	DEPUTY/PRINCIPAL ECONOMIST	Q/P	1	0	1
19.	DEPUTY CHIEF/SENIOR PRINCIPAL FINANCE OFFICER	Q/P	1	0	1
20.	PRINCIPAL/EXECUTIVE SECRETARY	N/P	2	2	2
21.	SNR. ASST/ASST. DIRECTOR HRM/(R&S)	Q/P	2	1	2
22.	SNR.ASST/ASST.DIRECTOR (AGENDA)	Q/P	2	2	2
23.	SNR.ASST/ASST.DIRECTOR(DISCIPLINE)	Q/P	1	1	2
24.	SNR.ASST/DIRECTOR HRM(ADMIN)	Q/P	2	2	2
25.	SNR.PRINCIPAL/PRINCIPAL INTERNAL AUDITOR	Q/P	0	0	1
26.	SNR.ASST/ASST.DIRECTOR HRA	Q/P	3	3	6
27.	SNR.ASST/ASST. DIRECTOR INFORMATION/(PRO)	Q/P	0	0	1
28.	SNR.ASST/ASST. DIRECTOR OF EXAMINATIONS	Q/P	2	1	2
29.	SNR ASST/ASST. DIRECTOR (ICT)	P/Q	0	1	2

S/No	DESIGNATION	JOB GROUP	AUTHORIZED POSTS	IN-POST	PROPOSED EST.
30.	ASST/SNR ASST DIRECTOR INTEGRITY & ETHICS	P/Q	0	0	2
31.	SNR.PRINCIPAL LEGAL COUNSEL	P	0	1	1
32.	UNDER SECRETARY	P	2	2	3
33.	PRINCIPAL ACCOUNTANT III/I	P/N	1	1	2
34.	SENIOR PRINCIPAL/PRINCIPAL/ PROCUREMENT OFFICER	P/N	0	1	1
35.	SENIOR PRINCIPAL/PRINCIPAL RECORDS MANAGEMENT OFFICER	P/N	0	0	1
36.	PRINCIPAL LITIGATION COUNSEL	N	1	0	1
37.	ASST.DIRECTOR/PRINCIPAL HUMAN RESOURCE DEVE. OFFICER	P/N	1	0	1
38.	PRINCIPAL ICT OFFICER	N	1	0	1
39.	PRINCIPAL EXAMINATIONS OFFICER	N	1	1	1
40.	PRINCIPAL/CHIEF INFORMATION OFFICER (PRO)	N	1	0	1
41.	PRINCIPAL/SENIOR FINANCE OFFICER	M/N	1	1	1
42.	PRINCIPAL LIBRARIAN	N	0	1	1
43.	CHIEF ACCOUNTANT	M	1	0	1
44.	CHIEF RECORDS MANAGEMENT OFFICER	M	0	0	4
45.	COMPLIANCE OFFICER INTEGRITY & ETHICS	M/L	0	0	3
46.	CHIEF/SNR.EXAMINATIONS OFFICER	M/L	3	2	5
47.	CHIEF PROCUREMENT OFFICER	M	1	1	1
48.	BOARD OFFICERS	L/M/N	0	0	15
49.	FINANCIAL ANALYST INTEGRITY & ETHICS	L/M/N	0	0	3
50.	ASST. SECRETARY/II/SNR.(ADMIN)	L/M/N	9	1	4
51.	ASST. SECRETARY/II/SNR.(INTEGRITY & ETHICS)	L/M/N	0	0	3
52.	CHIEF/PRINCIPAL HRM OFFICER	M/N	7	6	10
53.	SNR/CHIEF/PRINCIPAL HUMAN RESOURCE AUDITOR	L/M/N	13	9	15
54.	SNR/CHIEF ICT OFFICER	L/M	2	0	5
55.	HRM ASST.I/SNR/CHIEF	K/L/M	4	3	4
56.	PERSONAL SECRETARY II.I/SNR/EXE	K/L/M	23	27	30
57.	SENIOR HUMAN RESOURCE AUDITOR	L	6	0	6
58.	LITIGATION COUNSEL	L	1	0	1

S/No	DESIGNATION	JOB GROUP	AUTHORIZED POSTS	IN-POST	PROPOSED EST.
59.	SENIOR HRMO	L	8	1	8
60.	SENIOR LIBRARIAN ASST. OFFICER	L	2	1	2
61.	SENIOR ICT OFFICER	L	1	0	1
62.	SNR. LIBRARIAN OFFICER	L	0	1	1
63.	SNR. RECORDS MANAGEMENT OFFICER	L	1	0	3
64.	FINANCE OFFICER II/I	K/L	2	0	1
65.	INFORMATION OFFICER I/SNR.	K/L	1	1	1
66.	SENIOR ASST. HUMAN RESOURCE ASST. II	J	4	3	2
67.	RECORDS MANAGEMENT OFFICER I/II	J/K	2	2	6
68.	PROCUREMENT OFFICER I/SNR.	K/L	2	1	2
69.	INFORMATION OFFICER I	K	1	0	1
70.	ACCOUNTANT I/SNR	K/L	3	4	5
71.	ICT OFFICER III/I	J/K	7	9	4
72.	HRM OFFICER III/I	J/K	17	10	20
73.	TELEPHONE SUPERVISOR II	J/K/L	3	2	2
74.	SNR. LIBRARIAN ASST. I	H/J	3	0	3
75.	PERSONAL SECRETARY III/II	H/J	15	12	15
76.	PROCUREMENT OFFICER II/ASSISTANT	H/J	1	1	2
77.	ACCOUNTANT II	J	2	5	8
78.	RECEPTION OFFICER III/II	J/K	0	0	3
79.	ICT III	H	4	0	4
80.	RECORDS MANAGEMENT OFFICER III	H	3	1	6
81.	SECRETARIAL ASST. III/SNR.	G/H/J	7	7	10
82.	DRIVERS III/II/SENIOR/CHIEF	F/G/H/J	8	7	10
83.	ACCOUNTS ASSISTANT I/II	G/H	5	0	0
84.	RECEPTION ASST./SNR	E/F/G/H	5	5	5
85.	SUPPORT STAFF III/II/SNR	E/F/G/H	20	13	20
86.	STOREKEEPER	F/G/H	1	1	3
87.	TELEPHONE OPERATOR II/SNR	E/F/G	5	4	4
88.	CLERICAL OFFICER III/SNR.	F/G/H	30	29	35
89.	LIBRARY ASST.	F/G	1	0	0
90.	OFFICE MACHINE OPERATOR	D/E/F/G	2	1	2
	<b>TOTAL</b>		<b>278</b>	<b>206</b>	<b>360</b>

## Appendix five: List of International Labour Organization Conventions ratified by Kenya

Member since 1964	49 Conventions ratified (43 in force)
<u>C. 2</u>	Unemployment Convention, 1919 (No. 2) 13.01.1964
<u>C. 11</u>	Right of Association (Agriculture) Convention, 1921 (No. 11) 13.01.1964
<u>C. 12</u>	Workmen's Compensation (Agriculture) Convention, 1921 (No. 12) 13.01.1964
<u>C. 14</u>	Weekly Rest (Industry) Convention, 1921 (No. 14) 13.01.1964
<u>C. 16</u>	Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16) 9.02.1971
<u>C. 17</u>	Workmen's Compensation (Accidents) Convention, 1925 (No. 17) 13.01.1964
<u>C. 19</u>	Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) 13.01.1964
<u>C. 26</u>	Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) 13.01.1964
<u>C. 27</u>	Marking of Weight (Packages Transported by Vessels) Convention, 1929 (No. 27) 9.02.1971
<u>C. 29</u>	Forced Labour Convention, 1930 (No. 29) 13.01.1964
<u>C. 32</u>	Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32) 13.01.1964
<u>C. 45</u>	Underground Work (Women) Convention, 1935 (No. 45) 13.01.1964
<u>C. 50</u>	Recruiting of Indigenous Workers Convention, 1936 (No. 50) 13.01.1964
<u>C. 63</u>	Convention concerning Statistics of Wages and Hours of Work, 1938 (No. 63) 13.01.1964
<u>C. 64</u>	Contracts of Employment (Indigenous Workers) Convention, 1939 (No. 64) 13.01.1964
<u>C. 65</u>	Penal Sanctions (Indigenous Workers) Convention, 1939 (No. 65) 13.01.1964
<u>C. 81</u>	Labour Inspection Convention, 1947 (No. 81) 13.01.1964
<u>C. 86</u>	Contracts of Employment (Indigenous Workers) Convention, 1947 (No. 86) 13.01.1964
<u>C. 88</u>	Employment Service Convention, 1948 (No. 88) 13.01.1964
<u>C. 89</u>	Night Work (Women) Convention (Revised), 1948 (No. 89) 30.11.1965
<u>C. 94</u>	Labour Clauses (Public Contracts) Convention, 1949 (No. 94) 13.01.1964
<u>C. 97</u>	Migration for Employment Convention (Revised), 1949 (No. 97) 30.11.1965 <i>Has excluded the provisions of Annexes I to III</i>
<u>C. 98</u>	Right to Organise and Collective Bargaining Convention, 1949 (No. 98) 13.01.1964
<u>C. 99</u>	Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99) 9.02.1971
<u>C. 100</u>	Equal Remuneration Convention, 1951 (No. 100) 7.05.2001
<u>C. 105</u>	Abolition of Forced Labour Convention, 1957 (No. 105) 13.01.1964
<u>C. 111</u>	Discrimination (Employment and Occupation) Convention, 1958 7.05.2001

(No. 111)

C. 118 Equality of Treatment (Social Security) Convention, 1962 (No. 118) 9.02.1971

C. 129 Labour Inspection (Agriculture) Convention, 1969 (No. 129) 9.04.1979

C. 131 Minimum Wage Fixing Convention, 1970 (No. 131) 9.04.1979

C. 132 Holidays with Pay Convention (Revised), 1970 (No. 132) 9.04.1979  
*Length of holiday specified: 21 working days. Has accepted the provisions of Article 15, paragraph 1(a) and (b).*

C. 134 Prevention of Accidents (Seafarers) Convention, 1970 (No. 134) 6.06.1990

C. 135 Workers' Representatives Convention, 1971 (No. 135) 9.04.1979

C. 137 Dock Work Convention, 1973 (No. 137) 9.04.1979

C. 138 Minimum Age Convention, 1973 (No. 138) 9.04.1979  
*Minimum age specified: 16 years*

C. 140 Paid Educational Leave Convention, 1974 (No. 140) 9.04.1979

C. 141 Rural Workers' Organisations Convention, 1975 (No. 141) 9.04.1979

C. 142 Human Resources Development Convention, 1975 (No. 142) 9.04.1979

C. 143 Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) 9.04.1979

C. 144 Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) 6.06.1990

C. 146 Seafarers' Annual Leave with Pay Convention, 1976 (No. 146) 14.09.1990  
*Length of annual leave specified: 30 days*

C. 149 Nursing Personnel Convention, 1977 (No. 149) 6.06.1990

C. 182 Worst Forms of Child Labour Convention, 1999 (No. 182) 7.05.2001

#### Denunciation (as a result of the ratification of Convention No. 138)

C. 5 Minimum Age (Industry) Convention, 1919 (No. 5) 13.01.1964  
Denounced on 9.04.1979

C. 15 Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15) 13.01.1964  
Denounced on 9.04.1979

C. 58 Minimum Age (Sea) Convention (Revised), 1936 (No. 58) 13.01.1964  
Denounced on 9.04.1979

C. 59 Minimum Age (Industry) Convention (Revised), 1937 (No. 59) 13.01.1964  
Denounced on 9.04.1979

C. 112 Minimum Age (Fishermen) Convention, 1959 (No. 112) 9.02.1971  
Denounced on 9.04.1979

C. 123 Minimum Age (Underground Work) Convention, 1965 (No. 123) 20.06.1968  
Denounced on 9.04.1979

## References

1. The Constitution of Kenya
2. Service Commissions' Act
3. Service Regulations
4. Kenya Vision 2030 (the Medium Term Development Plan 2008 - 2012)
5. Public Service Commission Strategic Plan (2009-2012)
6. Public Officer Ethics Act
7. Former Constitution
8. Recruitment and Training Policy
9. United Nations Convention Against Corruption
10. Convention on Elimination of all forms of Discrimination against Women
11. United Nations Convention on the Rights of Persons with Disability
12. Maternity Protection Convention
13. International Labour Organization Conventions
14. Ministry of State for Public Service Strategic Plan
15. Organization of the Government of the Republic of Kenya (May 2008)
16. Office of the Prime Minister Strategic Plan (2009-2012)