

Commission's
Administration
Officer.

4. (1) The Secretary shall be the Commission's responsible officer for the application of these procedures.

(2) The Secretary shall, in writing, designate the necessary officers from among the staff of the Commission to assist in the application of these procedures.

Delegated
powers and
functions.

5. (1) Where the Commission has delegated the powers and functions under section 4 of the Act, provisions of paragraph 4 of these procedures shall apply.

PART II - PROCEDURES FOR DECLARATIONS

Collection of
declaration
forms.

6. (1) Every authorized officer shall in writing request for and collect from the Commission sufficient declaration forms for use by public officers under his jurisdiction.

(2) In the case of every two-year declarations, the authorized officer shall collect the declaration forms from the Commission not later than 1st October of the year of declaration so as to be delivered to the concerned officers in time before 1st November of the year, the prescribed statement date.

(3) In the case of initial or final declaration, the authorized officer shall collect the declaration form so as to be delivered to the concerned officer in time before the statement dates of the initial or final declaration prescribed under the Act.

(4) The Secretary shall maintain a register on the number of forms collected by each authorized officer.

Delivery of
declaration
forms to the
staff.

7. The authorized officer shall deliver to each of his staff, irrespective of the rank or grade, a declaration form for the purpose of making any of the declarations prescribed under the Act.

Delivery and
confidentiality
of declarations.

8.(1) Every public officer shall deliver to his authorized officer a duly completed declaration before the lapse of the time prescribed under the Act.

(2) For public officers in job group below “H” or its equivalent, the authorized officer shall retain the duly completed declarations under his safe custody.

(3) For public officers in job group “H” and above or its equivalent, the authorized officer shall not retain the declarations but shall deliver them to the Secretary so as to reach the Secretary within thirty days from the last date for submitting the declaration in issue as prescribed in the Act.

(4) The information collected and held by the Commission or the authorized officer under this paragraph shall be kept confidential and shall not be disclosed, accessed, acquired, published or made public in any manner except in accordance with the provisions of the Act and these procedures.

9. (1) The authorized officer shall maintain, irrespective of the rank or grade of the public officer, a register indicating—

- (a) the name of the public officer;
- (b) the public officer staff personal number;
- (c) the date the declaration form was delivered to the public officer;
- (d) the signature of the public officer acknowledging receipt of the declaration form;
- (e) the date the completed declaration was delivered by the public officer;
- (f) the signature of the authorized staff acknowledging receipt of the declaration; and the relevant remarks relating to the declarations, if any.

(2) For purposes of this paragraph, the authorized officer shall maintain separate registers in respect of initial, every two-year and final declarations respectively.

Maintenance of register by the Secretary.

10. (1) For public officers in job group “H” and above or its equivalent, the Secretary shall maintain a register of the declarations delivered indicating –

- (a) the date the authorized officer delivered the declarations at the Commission;
- (b) the name of the ministry, department, local authority, state corporation or public body to which the public officers making the declarations belong; and
- (c) the number of declarations received from the authorized officer.

(2) For purposes of this paragraph, the Secretary shall maintain separate registers in respect of initial, every two-year and final declarations respectively.

Returns to the Commission

11.(1) In the case of every two-year declarations, irrespective of the rank or grade of the public officer, the authorized officer shall submit to the Secretary the following information-

- (a) the number of public officers on the payroll and public officers who are unpaid or part time or temporary as at 31st October of the year of declaration;
- (b) the certified copy of the register maintained in accordance with paragraph 9;
- (c) the total number of public officers who have submitted the declaration within the prescribed time;
- (d) the total number of public officers who have failed to submit the declaration within the prescribed time;
- (e) the action taken or report made to the Attorney- General on failure to comply with the Act by public officers in job group below “H” or its equivalent; and

- (f) the relevant remarks relating to the returns, if any.

(2) The authorized officer shall submit the returns in subparagraph (1) by 31st January following the every two-year declaration.

(3) In the case of initial and final declarations, the authorized officer shall submit to the Secretary the returns set out in subparagraph (1) in respect of every six calendar months for January to June and July to December by 31st July and 31st January respectively.

PART III – PROCEDURE FOR CLARIFICATIONS

Requests for clarifications.

12. (1) For public officers in job group “H” and above or its equivalent, requests for clarifications under section 28 of the Act may be made, on behalf of the Commission, by the Secretary or by staff of the Commission authorized in writing by the Secretary for that purpose.

(2) For public officers in job group below “H” or its equivalent, requests for clarifications under section 28 of the Act may be made, under the Commission’s delegated powers, by the concerned authorized officer or staff authorized in writing by the authorized officer for that purpose.

(3) Where a request for a clarification under this paragraph is made, it shall be made –

- (a) in writing; and
- (b) within six months from the last date of submission of the declaration,

as prescribed under section 28(1) of the Act.

Nature of clarifications.

13. (1) For public officers in job group “H” and above or its equivalent, the Secretary or the staff of the Commission authorized in writing by the Secretary for the purpose shall analyse each declaration to ascertain if, in the opinion of the Secretary or the staff, any of the following conditions exist –

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

(2) If it is ascertained that any of the conditions in subparagraph (1) exists, the public officer who submitted the declaration shall be given an opportunity to make a clarification.

(3) If, after considering any clarification the public officer who submitted the declaration may make, the Secretary is of the opinion that any of the conditions in subparagraph (1) still exists, the Secretary shall bring the matter to the attention of the Commission.

(4) The Commission may with respect to a matter brought to its attention under subparagraph (3) take such action as it considers appropriate including notifying the Attorney-General.

Powers of an authorized officer relating to clarifications.

14.(1) For public officers in job group below “H” or its equivalent, the concerned authorized officer or the staff authorized in writing by the authorized officer for that purpose shall analyse each declaration to ascertain if, in the opinion of the authorized officer or the staff, any of the conditions set out in paragraph 13 (1) exist.

(2) If it is ascertained that any of the conditions in paragraph 13 (1) still exists, the authorized officer shall give the public officer who submitted the declaration an opportunity to make a clarification.

(3) If, after considering any clarification the public officer who submitted the declaration may make, the authorized officer is of the opinion that any of the conditions in paragraph 13 (1) still exists, the authorized officer shall take such action as he considers appropriate including notifying the Attorney-General.

Action and reporting of failure to comply generally.

15. (1) For public officers in job group “H” and above or its equivalent, the Secretary shall bring to the attention of the Commission any ascertained failure to comply with relevant provisions of the Act and the Commission shall take appropriate action against the involved public officer including notifying the Attorney General.

(2) For public officers in job group below “H” or its equivalent, if in the opinion of the concerned authorized officer after giving the public officer an opportunity to make representation, there appears to exist an ascertained failure to comply with the relevant provisions of the Act, the authorized officer shall take appropriate action against the involved public officer including notifying the Attorney-General.

PART IV – PROCEDURE FOR DISCLOSURE, ACCESS, ACQUISITION OR PUBLICATION OF INFORMATION

Written request required for access, disclosure etc.

16.(1) Subject to subparagraph (4), information collected under the Act and held by the Commission or an authorized officer shall not be disclosed to, accessed or acquired by any person or authority including a law enforcement agency unless a written request is provided.

(2) For public officers in job group “H” and above or its equivalent, a request to access the information in a declaration shall be addressed to the Secretary who shall table it before the Commission for consideration in accordance with this paragraph.

(3) For public officers in job group below “H” or its equivalent, a request to access the information in a declaration shall be addressed to the concerned authorized officer.

(4) Subparagraph (1) shall not apply to the authorized staff of the Commission or the staff authorized by the authorized officer who are empowered to access the information under the provisions of these procedures.

(5) The Commission or an authorized officer shall not disclose or allow access to or acquisition of the information under this paragraph unless the person or authority applying for the information shows to the satisfaction of the Commission or the authorized officer that he has a legitimate interest and good cause in furtherance of the objectives of the Act in relation to the declaration or clarification in issue.

(6) If in the opinion of the Commission or the authorized officer, the condition set out in subparagraph (5) is satisfied by the applicant, the Commission or an authorized officer shall grant an opportunity to the affected public officer to make a representation on the question of the disclosure or access or acquisition of the information within such reasonable time as shall be deemed necessary.

(7) The Commission or an authorized officer shall not disclose to or allow access or acquisition of the information by the applicant unless the time under subparagraph (6) has lapsed and the representation by the public officer, if any, has been considered in view of the application.

(8) The Commission or the authorized officer shall maintain a register of applications and decisions made under this paragraph setting out –

- (a) the name of the applicant;
- (b) the date the application was received;
- (c) the name and staff personal number of the public officer subject of the application;
- (d) the ministry, department, local authority, state corporation or public body the public officer belongs to;
- (e) the brief description of the particulars of the information applied for; and
- (f) the brief description of the decision made on the application.

No publication
of information
without
permission etc.

17.(1) A person or public body including a law enforcement agency shall not publish or in any way make public information in a declaration held by the Commission or an authorized officer under the Act except with prior written authority of the Commission or authorized officer, as the case may be.

(2) For public officers in job group “H” and above or its equivalent, a request to publish or in any way make public the information in a declaration shall be addressed to the Secretary who shall table it for the Commission’s consideration in accordance with this paragraph.

(3) For public officers in job group below “H” or its equivalent, a request to publish or in any way make public the information in a declaration shall be addressed to the authorized officer for consideration in accordance with this paragraph.

(4) The Commission or an authorized officer shall not give permission to a request to publish or in any way make public the information held under the Act unless the person or public body requesting for the permission demonstrates to the satisfaction of the Commission or the authorized officer that he or it has a legitimate interest and good cause in furtherance of the objectives of the Act.

(5) If in the opinion of the Commission or the authorized officer, the condition set out in subparagraph (4) is satisfied by the applicant, the Commission or the authorized officer, shall not grant the permission to publish or in any way make public the information unless an opportunity is given to the affected public officer to make a representation on the question of the publication within such reasonable time as shall be deemed necessary.

(6) The Commission or the authorized officer as the case may be shall not be required to give an opportunity to the affected public officer under subparagraph (5) if, the publication or the making public of the information pursuant to the grant of permission shall in no way disclose the identity of the public officer who provided the information.

(7) Where the affected public officer has been given an opportunity to make a representation under subparagraph (5), the Commission or the authorized officer as the case may be shall not grant permission to a request to publish or in any way make public the information held under the Act unless the time under subparagraph (5) has lapsed and the representation by the public officer, if any, has been considered in view of the request.

(8) The Commission or the authorized officer shall maintain a register of requests and decisions made under this paragraph setting out –

- (a) the name of the person or public body making the request;
- (b) the date the request was received;
- (c) the name and staff personal number of the public officer subject of the request;
- (d) the ministry, department, local authority, state corporation or public body the public officer belongs to;
- (e) the brief description of the particulars of the purpose for the intended publication of the information requested for; and
- (f) the brief description of the decision made on the request.

Authenticity of public officer or representative.

18. The information collected under the Act and held by the Commission or the authorized officer shall not be disclosed to-

- (a) a public officer who provided the information under the Act unless the public officer provides documents or such other evidence verifying his identification; or
- (b) his representative unless the representative provides copies of documents that establishes the representative's authority to receive the

information.

Decision to be in public interest.

19. The Commission or an authorized officer shall take into consideration all the relevant information and circumstances before making a decision under this Part and shall in every case act in the best public interest.

Finality of the decisions made under this Part etc.

20. Except as provided under these procedures, any decision made by the Commission or an authorized officer under this Part shall be final.

PART V – MISCELLANEOUS

Cessation of retention of information etc.

21. (1) Where the retention of the information collected and held under the Act ceases to be so retained due to lapse of the prescribed period of retention, the Commission shall direct on the action to be taken.

(2) The Secretary or the authorized officer may make a request to the Commission for the purpose of directions under subparagraph (1).

Service of documents etc.

22. Where under these procedures it is required that a document or a notice be transmitted to a public officer or his authorized representative, the service shall be by personal delivery or by registered mail to the last known address.

Commission may itself act in any event.

23.(1) Nothing in these procedures empowering the Secretary or an authorized officer or any other person to perform any function vested in the Commission under the Act shall-

- (a) preclude the Commission from itself performing that function; or
- (b) on its motion or upon request, from revising the decision of the Secretary or an authorized officer or any other person.

(2) A request for revision under subparagraph (1) shall be made in writing and addressed to the Secretary.

Audit and investigation.

24. The Commission may institute an audit or investigation of the manner in which an authorized officer has discharged the duties under these procedures.

Cases not covered by procedures.

25. Any case not covered by these procedures shall be dealt with in accordance with such instructions as the Commission may, from time to time, issue.

Commission may prescribe forms.

26. The Commission may prescribe forms for the better carrying out of the provisions of these procedures.

Right of the Secretary or authorized officer to be heard.

27. The Commission shall, at the request of the Secretary or an authorized officer, hear him or his representative personally in connection with any matter he has referred to the Commission in application of these procedures.

Revocation of L.N 122 /2003.

28. The Public Service Commission Procedures for the Administration of Part IV of the Act are revoked.

Made on the...15th of May, 2009.

T.J.K. GATEERE,
Chairman,
Public Service Commission of Kenya.