

REPUBLIC OF KENYA



DRAFT - for public participation and receipt of Memoranda

THE PUBLIC SERVICE COMMISSION (PERFORMANCE
MANAGEMENT) REGULATIONS, 2020

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“Excellence” means performance which exceeds the standards expected from the public body or an employee.

“Indicator” means evidence of achievement of the output;

“Output” means immediate results from an activity;

“Performance Period” means the period between the first and the last date of the financial year.

“Public Body” includes—

- a) any corporation, council, board, committee or other body which has power to act under and for purposes of any written law relating to the undertakings of a public utility or otherwise to administer funds belonging to or granted by the Government or money raised by rates, taxes or charges in pursuance of any such law;
- b) a corporation, the whole or a controlling majority of shares which are owned by a person or entity that is a public body by virtue of any of paragraph (a) of this definition;
- c) statutory public bodies; or
- d) any public body brought under the jurisdiction of the Commission by an Act of Parliament for a specified function to the extent of that function;

“Secretariat” means the Performance Contracting Secretariat as established by the Commission;

“Specialized Agency” means a public body charged with oversight on a cross cutting issue or indicator.

“State Agencies” means public bodies other than Ministries;

“Supervisor” means the immediate person to whom an employee reports.

Guiding principles

4. The Commission, in ensuring efficiency and effectiveness, shall be guided by the following principles:

- a) citizen focused service delivery;
- b) service delivery that is timely, accessible, cost effective and of high quality;
- c) sustainable development;
- d) efficient, effective and economic use of resources;

- e) high standards of professional ethics and integrity;
- f) responsive, prompt, effective, impartial and equitable provision of services;
- g) involvement of the people in the process of policy making;
- h) accountability for administrative acts;
- i) transparency and provision to the public of timely and accurate information; and
- j) good governance.

Objects of the regulations

5. The objects of these regulations is to—

- (a) improve the quality of public services by focusing performance results on citizen needs;
- (b) improve on efficiency and effectiveness in service delivery;
- (c) provide means through which public institutions are held accountable for performance results;
- (d) provide guidelines for linking planning, budgeting, implementation and delivery of targeted results;
- (e) provide means for measuring performance against the set targets and publicizing the achievements;
- (f) provide a framework for development of standards to facilitate objective assessment on the achievement of results;
- (g) ensure resources are focused towards achievement of defined objectives and targets; and
- (h) ensure sustainable development.

Service delivery standards

6(1) Every public body shall develop service delivery standards that will provide for timeliness, accuracy cost effectiveness, accessibility, quantity and quality of services provided by the public body.

(2) The service delivery standards referred to in sub-regulation (1) shall be approved by the Commission before implementation.

(3) The standards shall—

- (a) provide for efficiency, impartiality and equitable provision of services;
- (b) facilitate the introduction or adoption of modern and innovative service delivery systems and procedures; and
- (c) ensure the adaptability of delivery of public services to the needs of the public; and

(4) The standards shall—

- a) include an effective feedback mechanism;
- b) provide for mechanisms for monitoring and evaluating the effectiveness of public service delivery; and
- c) specify the mechanisms or strategies to be utilized progressively to remove barriers so that access to services is increased;

(5) The standards shall inform the annual targets in the performance contract for the public body.

(6) The service delivery standards shall be the basis for which the citizens will hold a public body to account.

(7) Where a public body fails to adhere to the approved service

delivery standards, a citizen seeking services from the said public body may lodge a complaint with the Commission.

(8) The Commission shall provide mechanisms for citizens to lodge complaints on service delivery.

(9) The standards shall be reviewed at least once every two years.

PART II – ROLES AND RESPONSIBILITIES

The President

7. The President is responsible for—

- (a) setting the national vision and development agenda;
- (b) determining national government priorities;
- (c) appointing members of Independent Negotiation, Vetting and Evaluation Committee;
- (d) signing annual performance contracts with Cabinet Secretaries;
- (e) receiving and releasing annual performance management results; and
- (f) presiding over the annual honours and awards ceremony.

The Cabinet

8. The Cabinet is responsible for—

- (a) ensuring the implementation of the national government development agenda;
- (b) identifying key results areas; and
- (c) coordinating implementation of national government programmes.

The Public Service Commission

9. The Public Service Commission is responsible for the functions provided in section 62 of the Act and the Public Service Commission Regulations.

The National Treasury

10. The National Treasury shall be responsible for—

- (a) mobilizing resources for financing national government budgetary requirements;
- (b) timely release of the exchequer.

Cabinet
Secretary

- 11.** A Cabinet Secretary shall be responsible for—
- (a) providing policy and strategic direction for the Ministry;
 - (b) ensuring that their portfolios contribute to the national development agenda;
 - (c) developing a Strategic Plan aligned to the national development agenda;
 - (d) cascading implementation of the Strategic plan to State departments and State agencies;
 - (e) identifying activities to be implemented in a given financial year;
 - (f) deploying and building capacity of staff to implement the activities;
 - (g) preparing budgets to implement the planned activities;
 - (h) undertaking the planned activities;
 - (i) ensuring annual staff appraisal;
 - (j) nominating employees to be considered for annual honours and awards;
 - (k) constituting a Performance Management Committee; and
 - (l) submitting performance reports to the Public Service Commission and the secretariat as required.

Principal
Secretary

- 12.** The Principal Secretary is the responsible for administration for a State Department and in this capacity shall —
- (a) plan for the State department;
 - (b) ensure that the plan is adequately resourced;
 - (c) deliver outputs in line with the approved service delivery standards and set targets in the strategic plan;
 - (d) ensure performance by individual officers; and
 - (e) Prepare reports for the State department which will form part of the ministerial reports.

Board of State Agency

- 13.** A Board of State agency shall be responsible for—
- (a) developing strategic plans aligned to the Ministry's strategic plan and their own legislative mandates;
 - (b) implementing the strategic plan;
 - (c) preparing budgets to implement the planned activities;
 - (d) deploying and building capacity of staff to implement the activities;
 - (e) ensuring performance by individual officers;
 - (f) ensuring annual staff appraisal;
 - (g) nominating employees to be considered for annual honours and awards;
 - (h) constituting a Performance Management Committee; and
 - (i) submitting performance reports to the Public Service Commission and the secretariat as required.

Performance Contracting Secretariat

14(1) The Commission shall establish a Performance Contracting Secretariat which shall be domiciled in the Office of the President.

(2) The functions of the secretariat shall be to—

- (a) co-ordinate the process of performance contracting in the Public Service;
- (b) advise the Commission on review of guidelines, enabling legal and institutional framework to permit unfettered introduction and operation of performance contracts;
- (c) provide technical support to performance contracting parties;
- (d) monitor performance to ensure that contracting parties are within the parameters of the agreed performance targets;
- (e) build the capacity of contracting parties on the process of performance contracting;

- (f) provide logistical and technical support to the Independent Negotiation, Vetting and Evaluation Committee;
- (g) co-ordinate and work with other relevant departments both locally and internationally to ensure smooth development and implementation of the performance contracting process;
- (h) submit quarterly progress reports on development and implementation of performance contracts in the public service to the Commission;
- (i) build capacity and provide technical support to County Governments;
- (j) carry out research and development on performance contracting; and
- (k) carry out any other duties as may be prescribed by the Commission.

Performance Contracting Committee for the public body

15(1) Each public body shall establish a Performance Contracting Committee.

(2) The Performance Contracting Committee shall be made up of—

- a) in the case of a Ministry;
 - i. all Principal Secretaries one of whom shall be designated by the Cabinet Secretary to be the Chairperson of the Committee,
 - ii. a head of administration designated by the Cabinet Secretary,
 - iii. three heads of technical departments designated by the Cabinet Secretary,
 - iv. the head of the planning unit who shall be the secretary to the committee.

- b) In the case of a State Agency;
 - i. a deputy chief executive officer or a senior manager designated by the Chief Executive Officer;
 - ii. heads of departments;
 - iii. head of the planning department or equivalent as the secretary to the committee.

(3) The functions of the Performance Contracting Committee shall be to—

- a) coordinate the performance contracting process for the public body;
- b) coordinate sequencing of implementation of the public body's targets;
- c) monitor and evaluate the public body's annual performance; and
- d) prepare the public body's reports required under these regulations.

PART III- PLANNING FOR EFFICIENT AND EFFECTIVE SERVICE DELIVERY

Strategic
Planning

16(1) Every public body shall develop and implement a Strategic Plan for attainment of its objectives and legislative mandate. The Plan shall contain—

- (a) the nature and scope of the public body's Constitutional, legislative or other functional mandates;
- (b) the strategic direction for the plan period;
- (c) an overview of the operating environment;
- (d) a description of the goals, objectives and targets to be attained in the medium term;
- (e) the programmes and initiatives necessary for attaining the goals, objectives and targets;
- (f) a description of how the goals and objectives will be achieved including a description of the operational processes, skills and technology, human capital and other resources required to meet the goals and objectives; and
- (g) key challenges impacting on the institutions ability to achieve its

strategic objectives and deliver its outputs and how they will be addressed.

(2) The Public body, in developing the Strategic Plan, shall conduct stakeholder participation.

(3) The programs and activities to be included in the Plan shall be those which are in line with the mandate of the public institution and aligned to the national government development agenda and policy priorities.

(4) The Strategic plan period shall be aligned to the national medium term plan and shall be reviewed and updated as required.

Strategic plan to be published.

17. A Public Body shall after the approval of the Strategic Plan —

(1) publish it on its website within seven days; and

(2) disseminate it to its stakeholders.

Organizational Structure etc.

18. The strategic plan shall contain the organizational structure approved by the Commission.

Job descriptions and job titles

19(1) For each post or group of posts, identified as necessary for the discharge of the institution's mandate, the authorized officer shall, with the approval of the Commission establish a job title and a job description that indicates—

(a) the main duties and responsibilities of the post in question;

(b) the qualifications for the job; and

(2) the authorized officer shall ensure that each officer has a job description.

Human Resource

20. To ensure that a public body has sufficient human resource with relevant skills and competencies to implement the planned activities, the

Planning.

Authorized Officer shall develop a human resource plan aligned to the strategic plan and specifically—

- (a) assess the existing human resource to determine;
 - i. skills and competencies gap; and
 - ii. training needs;
- (b) assess the optimal staffing levels necessary for the discharge of the public body's mandate, specifically—
 - i. the skills and competencies required;
 - ii. the number of employees required based on a functional and workload analysis;
 - iii. grading structure; and
 - iv. the terms of engagement for employees;
- (c) plan within the available budgeted funds, for the recruitment, retention, deployment and development of human resources according to the institution's requirements;
- (d) establish training needs for the organization and set targets for capacity building for employees as per their occupational category and of specific employees, with specific plans to meet the training needs; and
- (e) develop a career progression and succession management strategy.

PART IV- INSTITUTIONAL PERFORMANCE MANAGEMENT

Performance contracting guidelines.

- 21 (1)** The Commission shall issue performance contracting guidelines.
- (2) The guidelines shall be reviewed at least once every two years.
 - (3) Where guidelines are reviewed, the same shall take effect the following financial year.

Annual
Performance
Contract

22(1) Every public body shall, at the commencement of each financial year, sign a performance contract. The performance contract shall—

- (a) cover programs set forth in the public body's approved strategic plan; and
- (b) be aligned to the approved budget estimates for that financial year.

(2) The performance contract, under sub-regulation (1) shall provide for—

- (a) the strategic goals and objectives of the public body;
- (b) performance outputs and indicators;
- (c) quantifiable and measurable targets for each performance indicator;
- (d) explanatory notes of the results to be achieved at the end of the contract period; and
- (e) a basis for comparing actual program result with set performance targets.

(3) A public body may aggregate, disaggregate or consolidate program activities.

(4) The aggregation, disaggregation or consolidation referred to in sub-regulation (3) should not omit or minimize the significance of any program activity constituting a major function or operation of the institution.

(5) The Commission shall issue a notice of commencement of the performance contracting process which shall commence not later than 15th June of each financial year;

(6) A public body shall, not later than 15th August of each financial

year—

- i. identify performance targets;
- ii. ensure that the performance targets are negotiated as per the guidelines;
- iii. ensure that the performance contract is vetted as per the guidelines; and
- iv. ensure that the performance contract is signed.

Objectives and Indicators

23(1) The authorized officer shall ensure that the public body's objectives—

- (a) are aligned to the government priorities for national development agenda;
- (b) have a clear and direct link with the outputs;
- (c) cover the totality of the State Department's budget;
- (d) provide clarity on—
 - i. identification of the beneficiary;
 - ii. the desired achievements;
 - iii. the desired quantity and quality of achievement; and
 - iv. a clear time frame for achievement.
- (e) relate to the functions that the State Department is funded to execute.

(2) The Authorized Officer shall ensure that the key performance indicators—

- i. indicate the impact that delivery outputs have on the citizens;
- ii. remain relevant in the medium term to facilitate tracking of results; and
- iii. provide a coherent link between the objective and supporting outputs

Performance

24(1) The Authorized Officer shall ensure—

Targets

- (a) that performance targets are aligned to the:
 - i. Legislative or functional mandate of the public body;
 - ii. National government agenda;
 - iii. Public body's goals and objectives;
 - iv. Approved service delivery standards;
 - v. Performance contract guidelines issued by the Commission;
 - vi. Strategic plan guidelines issued by the Ministry responsible for planning; and
 - vii. Public body's budget.
- (b) that for each target there is a mix of quality, quantity, timeliness and cost effectiveness;
- (c) the cost of delivering each target is identified and that departmental operational costs are allocated to the targets: and
- (d) that where there is need to vary the cost of delivering a target, the variation shall be in line with the provisions of the Public Procurement and Asset Disposal Act.

Independent Negotiation, Vetting and Evaluation Committee.

25(1) The President shall at the beginning of the performance period constitute an Independent Negotiation, Vetting and Evaluation Committee made up of a pool of not more than fifty members.

(2) Members of the committee shall have the following qualifications—

- a) a bachelor's degree; and
- b) at least 10 years' experience in a relevant field.

(3) The Committee shall perform its functions on behalf of the President.

- (4) The functions of the committee shall include—
- (a) negotiating performance targets with public bodies;
 - (b) vetting the performance contracts;
 - (c) ensuring that the performance targets and indicators are aligned to the strategic plan;
 - (d) ensuring that performance targets are aligned to the performance indicators provided in the strategic plan; and
 - (e) ensuring that the indicators are aligned to results that are citizen centric.

Negotiations **26.** Each public body shall engage in negotiation of its performance contract.

Parties to negotiations **27** (1) The negotiating parties to a performance contract for the Ministries shall be the Independent Negotiating Team made up of at least two members of the committee on one part and the Ministerial team comprising of the Cabinet Secretary, the Principal Secretary and heads of directorates on the other.

(2) For State Corporations, the parties include the Cabinet Secretary for the parent Ministry, the Principal Secretary for the relevant State Department, a representative of the National Treasury on one part and the Chairperson of the Board of the state corporation, one independent Director of the Board, the Chief Executive Officer and Heads of Departments on the other.

(3) For Public Universities, the parties include the Cabinet Secretary responsible for education, the Principal Secretary for the relevant State Department and a representative of the National Treasury on one part and the Chairperson of the University Council, an Independent Council member, the Vice Chancellor, principals, deans of faculty, heads of institutes and heads of administrative departments on the other.

(4) For tertiary institutions, the negotiating parties comprise — the Cabinet Secretary responsible for education, the Principal Secretary for the relevant State Department and a representative of the National Treasury on one part and the Chairperson of the Board, one independent Member of the Board, the Principal of the institution and heads of departments on the other.

(5) The Cabinet Secretary and the Principal Secretary may be represented by their appointed nominees who shall not be below job group CSG-5.

(6) All parties or agencies whose operations may affect achievement of the objectives should be involved in the pre-negotiation stage to ensure that there is consensus and commitments made on the nature and level of commitment from one public body to another.

Negotiation of Performance

28(1) Prior to the negotiation of a performance contract, the parties shall conduct discussions to enable the negotiating team understand, the core mandate of the institution, its operations, financial and human resources, emerging issues or external factors which may affect performance.

(2) The negotiating team shall ensure that the objectives, outputs, targets and performance indicators—

- (a) support achievement of the mandate of the public body;
- (b) are aligned to the public body's strategic plan, national development agenda and national priorities;
- (c) are aligned to the approved service delivery standards;
- (d) are catered for in the approved budget estimates for the financial year; and
- (e) contributes to sustainable development.

Vetting of performance contracts

29(1) The negotiated performance contract shall be initialled by the negotiating parties and presented to the secretariat for vetting before signing.

- (2) The secretariat shall check the contracts to ensure —
- (a) compliance with the performance contracting guidelines;
 - (b) that the contract is in line with the public body's Strategic Plan, national government development agenda and priorities;
 - (c) the performance indicators are —
 - i. in line with the public body's mandate; and
 - ii. provided for in the public body's approved budget for the financial year; and
 - iii. the performance targets are growth oriented and citizen focused.

Signing of
performance
contracts

30(1) A public body shall execute the negotiated and vetted performance contract to signify commitment to it.

(2)(a) The performance contract for a Ministry shall be signed between the President and the Cabinet Secretary for the respective Ministry at the first level.

(b) At the next level of signing, a contract shall be signed between the Cabinet Secretary and the Principal Secretary for the respective State Department.

(c) At the third level of signing, a contract shall be signed between the Principal Secretary and heads of departments.

(3)(a) The performance contract for a state agency shall at the first level be signed between the Cabinet Secretary for the parent Ministry on one part and the Chairperson of the Board and an independent director on the other. The National Treasury shall countersign the first level contract.

(b) At the second level, a contract shall be signed between the Chairperson of the Board and the Chief Executive Officer of the state agency

(c) At the third level, a contract shall be signed, between the Chief Executive Officer and the heads of departments.

(4)(a) The performance contract for a public university, shall at the first level, be signed between the Cabinet Secretary responsible for education on one part and the Chairperson of the University Council, and an independent Council member on the other part. The National Treasury shall countersign the first level contract.

(b) At the second level, a contract shall be signed between the Chairperson of the University Council and the Vice Chancellor.

(c) At the third level, a contract shall be signed between the Vice Chancellor on one part and Principals, Deans of Faculty or heads of departments as the case may be.

5(a) The performance contracts for a tertiary institution shall at the first level be signed between the Cabinet Secretary responsible for education on one part and the Chairperson of the Board and an independent director on the other.

(b) At the second level, a contract shall be signed between the Chairperson of the Board and the Principal.

(c) At the third level, a contract shall be signed between the principal and heads of departments.

(6) The second, third and other levels of contracts shall be cascaded as appropriate to the relevant signatories.

Performance contract to be published

31. The authorized officer of a public body shall cause the signed performance contract to be published in the public body's website not later than 30th of August of every year.

Annual work plans

32(1) Each public body shall develop an annual institutional work plan aligned to the approved budget estimates.

(2) The institutional work plan shall include activities necessary for achievement of targets in the performance contract and other targets in the strategic plan for that financial year.

Departmental work plans etc

33. Within fifteen days after the signing of a performance contract, every head of a department within a public body shall—

(a) develop a departmental work plan drawing performance targets from the performance contract and the strategic plan;

(b) ensure that individual annual work plans and appraisal tools are linked to the targets and deliverables in the performance contract and the strategic plan.

Service delivery improvement.

34. Pursuant to the provisions of section 62(1)(f) of the Act, the Commission may after investigations, recommend initiatives for service delivery improvement. These may include—

(a) the rapid results approach;

(b) process re-engineering; and

(c) any other initiative that the Commission may determine.

PART V – PERFORMANCE MONITORING, REPORTING AND EVALUATION

Quarterly

35(1) The Authorized Officer shall within fifteen days after the end of

reports

each quarter, submit a performance report—

- (a) In the case of Ministries, to the Secretariat established by the Commission;
- (b) In the case of state agencies, to the Inspectorate of State Corporations and the Secretariat; and
- (c) In the case of tertiary institutions, to the parent Ministry and to the Secretariat.

(2) The performance report shall be in a format prescribed in the guidelines.

(3) The secretariat or the Inspectorate of State Corporations or the parent Ministry as the case may be, shall analyse the reports and provide feedback on areas for improvement to the public body.

Mid-year review.

36(1) The committee shall undertake a mid-year review for all public bodies.

(2) The purpose of the mid-year review shall be to track progress and ensure that implementation is on course, identify challenges and propose remedial action where necessary.

(3) The Authorized Officer of a public body shall not later than 15th January of each year submit to the Secretariat the second quarter performance report.

(4) The second quarter report shall be the mid-year report and shall include the—

- (a) cumulative level of achievements on the targets;
- (b) challenges that have impacted on the achievement of the targets; and
- (c) proposed remedial actions to overcome the challenges.

(5) An evaluation committee comprised of at least two members of the Committee and the Secretariat shall—

- (a) at a meeting with the public body review the performance of the public body; and
- (b) give feedback to the public body during that meeting.

Reports to specialized agencies

37(1) For performance targets in the performance contract that relate to the mandate of specialized agencies, a public body shall submit quarterly progress reports to the specialized agencies.

(2) The specialized agencies shall analyse the reports and provide feedback on areas for improvement to the public body.

Annual Internal performance Evaluation Report

38(1) Within thirty days after the end of the performance period each public body shall conduct an annual internal performance evaluation and submit a report to the secretariat for the concluded performance period.

(2) The report shall contain the level of achievement for each performance target.

Annual evaluation

39(1) The Commission shall constitute a Performance Evaluation Team derived from the committee to evaluate performance of each public body.

(2) The evaluation shall be conducted between 1st August and 15th October of each year.

(3) The secretariat shall develop a programme providing dates for evaluation for each public body.

- (4) In conducting the evaluation the parties shall rely on—
- (a) the applicable performance contracting guidelines;
 - (b) copies of the signed performance contract;
 - (c) the approved budget estimates;
 - (d) the annual internal performance evaluation report;
 - (e) supporting documents for achievement of the targets; and
 - (f) documentation of supporting evidence for exogenous factors which may have affected achievement of performance targets.

(5) (a) The Performance Evaluation Team shall compile and submit a consolidated performance report to the Commission not later than 31st October of every year.

- (b) the consolidated performance report shall include the performance rating for each public body which shall be either; excellent, very good, good, fair or poor.

Analysis of results

40(1) The Commission shall constitute a moderation team derived from the committee to moderate the performance evaluation reports and rate the public bodies.

(2) In moderating the reports and rating the public bodies, the committee shall be assisted by the secretariat.

Complaints handling

41. The moderation team shall be responsible for receiving and addressing all complaints by public bodies arising from the process.

PART VI- EMPLOYEE PERFORMANCE MANAGEMENT

Employee performance work plan.

42(1) At beginning of the performance year every staff member shall develop a work plan derived from the departmental annual work plan.

(2) The work plan shall describe—

- (a) the performance targets or expected results on specific assignments and activities for which the employee performance will be measured;
- (b) the targets shall be set as agreed between the supervisor and the appraisee not later than 30th August of each year.

Assessment instrument etc

43(1) The Commission shall prescribe appropriate assessment instruments to be used by public bodies to assess the performance of their employees.

(2) The Authorized Officer shall at the beginning of the performance period, designate in writing—

- (a) an assessment instrument prescribed by the Commission; and
- (b) an annual date for assessment of performance.

Supervision

44(1) The supervisor shall—

- (a) be accountable for the performance of all appraisees under his or her supervision and shall ensure necessary facilitation for the appraisee to deliver on the targets;
- (b) on a regular basis meet with the appraisee to discuss the appraisee's targets;
- (c) before the assessment cycle commences or within one month after appointment or promotion to a post, explain the performance assessment procedure to the appraisee and inform the appraisee of the criteria used for the appraisee's performance assessment; and
- (d) where necessary, facilitate coaching and mentoring of an appraisee.

(2) The supervisor shall monitor the appraisee's performance on a continuous basis and give the appraisee feedback on performance—

- (a) at least once every quarter; and
- (b) at the end of the performance period.

Joint mid-year review

45(1) The supervisor and the appraisee shall conduct a joint mid-year review to determine the progress made in achieving work objectives and competencies.

(2) During the review—

- (a) the appraisee may identify any issues affecting performance;
- (b) the supervisor may review the learning and development plan with the appraisee and update it where necessary;
- (c) the supervisor and appraisee may agree to vary the initial targets if there has been significant change in the nature of functions carried out by the appraisee.
- (d) the supervisor shall, after discussions with the appraisee provide feedback, and adjust targets if required.
- (e) the supervisor may after discussions with appraisee recommend a talent management plan.

Pro-rata appraisal

46. The appraisal shall be on pro-rata basis if the appraisee is redeployed or leaves the public body.

End of year assessment

47(1) The supervisor shall, at the end of the performance period conduct a formal year-end assessment and rate appraisee's performance.

(2) The appraisal shall be conducted in a meeting held between the supervisor and the appraisee.

(3) The appraisee shall, prior to the meeting prepare a preliminary report on the extent to which set targets were achieved.

Performance management

48(1) Each public body shall establish a Performance Management Committee.

Committee

- (2) In the case of a State Department, the Committee shall consist of the—
- (a) Principal Secretaries in the Ministry one of whom shall be the chairperson;
 - (b) heads of departments; and
 - (c) the head of human resource management who shall be the secretary.
- (3) In the case of a State Agency, the Committee shall consist of the—
- (a) a Deputy Chief Executive Officer or a senior manager appointed by the
 - (b) Chief Executive Officer who shall be the chairperson;
 - (c) Heads of departments; and
 - (d) Head of human resource management who shall be the secretary.
- (4) The functions of the Performance Management Committee shall be to—
- (a) consider and moderate individual performance scores based on verifiable performance indicators and make recommendations to the authorized officer;
 - (b) make recommendations to the authorized officer on rewards or sanctions to be imposed on an employee;
 - (c) make recommendations on planned performance improvement for an employee.
- (5) Performance of members of the Performance Management Committee shall in the case of a—
- (a) Ministry be considered by the Principal Secretary who shall make recommendations to the Authorized Officer;
 - (b) State agency, be considered by the Authorized Officer who shall make a decision on either rewards, sanctions or performance improvement plans.

Communication of results 49. (1) The supervisor shall after the assessment inform the appraisee of the outcome of the assessment.

(2) Both the supervisor and the appraisee shall sign the appraisal form.

(3) An appraisee who is not satisfied with appraisal ratings may seek reasons for the rating in writing from the supervisor.

(4) An appraisee who is dissatisfied with the assessment will indicate the reasons for the dissatisfaction on the appraisal form.

(5) In the event of a dispute in the outcome of the assessment, the supervisor shall advise the appraisee to appeal to the Authorized Officer.

Performance appraisal 50(1) A duly completed Performance Assessment Instrument shall be presented to the Performance Management Committee for moderation and recommendations.

(2) The assessment shall be based only on the information contained in the designated performance assessment instrument developed by the Public Service Commission.

(3) The recommendations of the Performance Management Committee shall be submitted to the authorized officer for determination on the reward, sanction or performance improvement plan for each employee.

(4) The Authorized Officer shall consider the performance appraisal reports and make a determination regarding probation, rewards, promotion and skills development of the employee.

(5) An appraisee who is dissatisfied with the appraisal process and results may appeal to the authorized officer.

(6) (a) The authorized officer shall submit a consolidated annual performance report for the public body to the Commission.

(b) The report shall include recommendations where necessary.

PART VII-REWARDS AND SANCTIONS

Rewards

51(1) A public body shall establish an incentive scheme for employees in accordance with guidelines issued by the Commission.

(2) The incentive scheme referred to in sub-regulation (1) may include financial or non-financial incentives.

(3) Where a public body establishes a financial incentive scheme, the public body shall-

- (a) ensure that the financial incentive is provided for in the public body's budget;
- (b) determine the nature, rules and control measures of the scheme in advance;
- (c) communicate the nature and rules of the scheme equitably to all employees; and
- (d) ensure that employees who implement the quality and quantity control measures of the scheme are not entrusted with the implementation of that scheme in relation to themselves.

Managing
unsatisfactory
performance.

52(1) In the event of unsatisfactory performance, the public body may

- (a) subject an employee to a performance improvement plan where the authorized officer determines that an employee's performance may improve after remedial action is taken. The remedial action may include—
 - i. training;
 - ii. re-assignment of responsibilities;
 - iii. redeployment;
 - iv. job enrichment;
 - v. job enlargement;

- vi. job rotation;
- vii. coaching and mentoring; and
- viii. counselling;

(b) impose sanctions including, warning, deferment of increment, demotion, withholding promotion and non-renewal of contract; or

(c) where, the performance is poor and the desired improvement cannot be effected, consider steps towards termination of service.

Rewards for public bodies

53 (1) Upon receipt of the report referred to in regulation 39(5), the Commission shall —

- (a) prepare and submit a report to the President; and
- (b) in consultation with the President, organize a rewards ceremony which shall be held not later than 30th November of each year.

(2) The rewards ceremony referred to in sub regulation (1)(b) shall be for purposes of public release of the performance report and rewarding excellent performance by public bodies.

(3) A public body shall, within seven days of the release of the performance evaluation results publish the results on its website.

(4) The rewards may include a floating trophy and certificate of recognition or any other reward as the President may determine.

Sanctions to public bodies.

54. Where the performance of a public body is unsatisfactory, the President shall issue a cautionary or censure letter to the Cabinet Secretary and the Board of the public body or take such other steps as the President shall determine.

PART VIII-PUBLIC SERVICE HONOURS AND AWARDS

Public service excellence

55(1) The Commission shall establish a public service excellence awards scheme.

awards scheme.

- (2) The objective of the scheme shall be to—
 - (a) reward excellent performance by individual public officers;
 - (b) to take stock of innovations in the public service and reward innovators whose innovations have improved efficiency and effectiveness in public service delivery;
 - (c) to reward consistent ethical practices by individual public officers; and
 - (d) to reward individual public officers whose improved performance significantly impacts the citizen.

(2) Rewards to an individual public officer may include a cash award or a promotion.

(3) The Commission shall develop guidelines to manage the rewards scheme.

Excellence
Awards
Committee.

56(1) Pursuant to the provisions of section 12 of the Act the Commission shall constitute an Excellence Awards Committee.

- (2) Members of the Excellence Awards Committee shall be—
 - (a) Two Commissioners appointed by the Chairperson of the Commission one of whom shall be the chairperson of the committee;
 - (b) One person representing the Ministry responsible for Public Service;
 - (c) One person representing The National Treasury;
 - (d) Two persons from selected public bodies;
 - (e) The head of the department in the Commission responsible for performance management in the public service;
- (3) The Secretary of the Commission shall provide the secretariat.
- (4) The functions of the Committee shall be to—
 - (a) call for submission of citation of public officers whose

performance is excellent from each public body pursuant to regulation 55(2)(a);

(b) call for submissions for nominations from public bodies in respect to regulation 55(2)(b) and (c);

(c) determine a criteria for identification of nominees to be considered for an award under regulation 55(2)(d);

(d) develop a criteria for identifying awardees in each category; and

(e) make recommendations to the Commission on public bodies and public officers to be awarded.

Honours and awards

57 The Commission shall, during the rewards ceremony referred to in regulation 55(1)(b) honour and award public officers referred to in regulation 55(2).

PART IX MISCELLANEOUS

Complaints and grievance handling

58(1) The Commission may, on its own initiative or on a complaint made by any person, investigate any issue relating to these regulations.

(2) The Commission, in conducting an investigation under sub regulation (1), shall afford every relevant party an opportunity to be heard before the Commission makes a determination in the matter.

Contravention of these regulations

59(1) A public officer who contravenes any provision of these regulations shall be subject to disciplinary proceedings in accordance with his or her terms of service and liable to the penalties specified in section 68 of the Act.

(2) Where an authorised officer who is not under the jurisdiction of the Commission and to whom the Commission has delegated a power or a function contravenes any provision of these regulations, the Commission may recommend to that authorised officer's appointing authority to subject the officer to disciplinary action in accordance with his or her terms of service.

Cases not covered by regulations.

60 (1) Any matter not addressed by these regulations shall be dealt with in accordance with such special or general instructions issued by the Commission.

(2) Subject to the Constitution and any other written law, nothing in these regulations shall preclude the Commission from considering and determining any matter that is within the Commission's mandate but has not been addressed in these regulations.

Records.

61 Authorised officers shall be responsible for keeping and maintaining any records required under these regulations.

Made on the day of, 2020.

**STEPHEN KIROGO,
CHAIRPERSON,
PUBLIC SERVICE COMMISSION**

DRAFT - for public participation and receipt of Memoranda