



PUBLIC SERVICE COMMISSION

**POLICY ON CONTRACT EMPLOYMENT
IN THE PUBLIC SERVICE**

JANUARY 2020



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FOREWORD

The Public Service Commission under Article 234 (2) (a) (i) and (ii), (c), and (e) of the Constitution is mandated to establish and abolish offices in the public service, appoint persons to hold or act in those offices, promote the values and principles mentioned in Articles 10 and 232 throughout the public service, ensure that the public service is efficient, effective and productive. To effectively carry out this mandate, the Commission provides leadership in public sector reforms, driven by the desire to make public service more efficient, productive, responsive and performance-oriented.

The effectiveness of any government depends on the efficiency of the public service and its ability to respond in practical terms to its policy decisions. The current model of employing public servants on permanent and pensionable terms of service, has had weaknesses, which have inhibited performance, productivity and efficient service delivery to the Kenya Citizenry. This has had adverse effects on efforts by successive governments to meet both their agenda and National Development Goals.

In view of the above, the Commission rolls out this contract employment policy, to provide direction on appointment of persons to hold offices in the public service among other human resource functions. Implementation of the policy is in line with the changing management practices and aims to achieve the goals of a high performing public service and service delivery effectiveness.

It is anticipated that the policy shift from appointing public servants on Permanent and Pensionable Terms of Service to the Contract Terms of appointment, will address some of the prevailing challenges. The policy seeks to: address the need for enhanced public service performance and productivity; create an enabling environment to enhance youth participation and inclusion in public service, attract and retain the best skills and competencies.

Further, the Policy will help the Government to effectively respond to prevailing Public Service management concerns including fiscal sustainability, the aging work force, low youth representation, rigidity in tenure, low levels of innovation and creativity, disconnect in performance and rewards and sanctions, and achieving desired levels of compliance to values and principle of public service.

This policy applies to all employees appointed on contracts terms, both in the civil service and the wider public service, with exception of the uniformed officers who fall under the mandate of the Commission.

MR. STEPHEN K. KIROGO, CBS
CHAIRMAN
PUBLIC SERVICE COMMISSION

PREFACE

The Constitution of Kenya envisages a public service that is professional, responsive, accountable, productive, efficient and effective in serving the Kenyan Citizenry. Continuous review of the policies in place in tandem with the changes in Government agenda for Economic Development, goals, plans and work dynamics is necessary for a sustained efficiency and effective public service. Review of recruitment and appointment policies ensures appointment and retention of the most suitable and most qualified public servants. This policy is necessitated by the need to address weaknesses exhibited by the current model of employing public servants on permanent and pensionable terms of service including general apathy and under performance of the public servants, low productivity and inefficient service delivery to the Kenya Citizenry.

The policy is premised on the need to transform the Public Service for efficient and effective Service Delivery through a Citizen-Centric focus approach as opposed to the current approach where civil servants are focused more on self-development and career growth. The policy provides for appointment of persons on contract basis, including their induction, mentorship, training and development, career management, performance management, terms and conditions of service, disciplinary control, tenure reform models across the world, the challenges of the current model.

The policy also outlines roles and responsibilities of various actors in its implementation and takes cognizance of the various legal and policy provisions on which the contract employment is premised. The institutions identified in this policy are expected to effectively discharge their assigned roles in order to achieve the objectives for which the policy is developed. It is expected that the institutions will forward to the Commission any challenges encountered during implementation of the policy for further policy improvement.

I am confident that, implementation of this policy will lead to a new era of highly competent and ethical public servants who are passionate for a Citizen-Centric Service and are results oriented. The policy when implemented will also accelerate Government's realization of its strategic goal of transforming Kenya into a newly industrializing, "*middle income country providing a high-quality life to all its citizens by the year 2030*".

SIMON K. ROTICH, CBS
SECRETARY/CEO

ACRONYMS

CSG	Civil Service Grade
MDA	Ministries, Department and Agencies
M&E	Monitoring and Evaluation
PC	Performance Contract
PC	Performance Contract
PIP	Performance Improvement plan
P&P	Probation and Pensionable
PSC	Public Service Commission
SPAS	Staff Performance Appraisal System
SCAC	State Corporations Advisory Committee

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DEFINITION OF TERMS

“Appointment”	Includes appointment, acting appointment, re-appointment, and promotion and re- designation;
“Authorized Officer”	Means any officer, body or authority appointed by the Commission to perform its delegated functions in a Ministry, State Department or Agency. The term also refers to any member of the Commission;
“Capacity building”	Is the process by which individuals and organizations obtain, improve, and retain the skills, knowledge, tools, equipment, and other resources needed to do their jobs competently;
“Career Guidance and Counselling”	A comprehensive developmental program designed to assist an individual make informed training and occupational choices;
“Career management”	Is the provision of opportunities for employees to develop their abilities and careers in order to ensure that the organization has the flow of talent it needs and to satisfy its own aspirations;
“Coaching”	A development process through which an individual is supported while achieving a specific personal or professional competence and organizational goals;
“Commission”	Means the Public Service Commission established under Article 233 of the Constitution;
“Competency Framework”	Is a structure that sets out and defines competencies required by individuals working in an organization or part of an organization;
“Competency”	Is the ability to apply a set of related knowledge, skills, and attitudes required to successfully perform a task in a defined work setting;
“Contract Appointment”	Appointment in a position established with a definite end date and terms of employment clearly and formally stated;
“Critical Competencies”	Competencies that are core and technical in realizing an organization’s agenda and success in carrying out its mandate;
“Evaluation”	A process of gathering data and information on the value and effectiveness of a training programme;
“Induction”	The process of receiving and orientating/familiarizing a new employee to an organization’s work procedures and environment;

“Knowledge”	Refers to education and experience that an individual need in order to be successful in a particular job;
“Long Course”	A training program lasting six (6) months or longer;
“MDAs”	Public bodies that are fully or partially funded by the exchequer and exist to provide services to the public;
“Mentoring”	A relationship in which a more experienced and knowledgeable person guides another person to develop professionally;
“Monitoring and Evaluation”	Mechanisms put in place to ensure adherence to quality, Standards, cost effectiveness and relevance of the policy;
“Performance Management”	A strategic and integrated approach to delivering sustained success to organizations through feedback, accountability and documentation for performance outcomes;
“Performance Targets”	The specific and measurable planned level of result to be achieved within an explicit timeframe with given level of resources;
“Policy”	A framework that provides broad guidelines;
“Prorated”	Computation for the period served;
“Public Service”	Means the collectivity of all individuals, other than State Officers, performing a function within a state organ;
“Re-designation”	Means the movement of a public officer from one career path or cadre to another at a grade equal to or substantially equal to the one held before the movement, to facilitate the public officer's horizontal mobility;
“Retirement”	Means the exit of an officer from the public service with full separation benefits, including pension benefits as may be provided for in the applicable law, contract of service or a special retirement scheme agreed upon between the public officer and the relevant lawful authority;
“Secondment”	Means an arrangement in which a pensionable employee is temporarily released from an organisation within the public service to another organisation which does not have reciprocal pension arrangements, to provide critical skills or acquire new skills while

preserving the pension rights of the employee;

“Short Course”	A training program lasting less than six (6) months;
“Skills”	Are those practical and technical abilities required to do a job well;
“Succession Management”	The process of ensuring that pools of skilled employees are trained and available to meet strategic objectives of an organization;
“Talent Management”	The process of identifying and developing individuals with unique qualities and abilities and for the benefit of the individual and the organization;
“Terms and conditions of service”	Means any right or obligation relating to a public officer including appointment; standards of conduct; removal; working hours; leave; grievances; disciplinary control; medical care; water; welfare; working environment; housing; and pension benefits;
“Training”	Deliberate and systematic learning experience designed to provide skills, knowledge and appropriate attitudes to an employee for performance of a particular job;
“Youth”	The collectivity of all individuals in the Republic of Kenya in the 18 - 35-year age bracket;

CHAPTER 1 INTRODUCTION

- 1.1 This Chapter presents brief background information on the constitutional mandate of the Public Service Commission in relation to human resource development and efficient and effective public service, public concerns on the current standards of public service delivery and the need for policy shift; policy objectives; rationale; legal framework; and scope of application.

BACKGROUND

- 1.2 The Public Service Commission is the Constitutional body charged with the responsibility of Human Resource Management and Development in the Public Service. This responsibility includes leadership in public sector reforms, driven by the desire to make public service more efficient, productive, responsive and performance-oriented. In this regard, the Commission provides policy direction on appointment of persons to hold offices in the public service among other human resource functions.
- 1.3 Performance and productivity in the public service remain a major concern, partly, due to the comfort that the traditional permanent and pensionable terms afford public servants. The effectiveness of any government depends on the efficiency of the public service and its ability to respond, in practical terms, to its policy decisions. It is therefore imperative for the country to have a robust, efficient and effective public service that facilitates government to meet its development agenda/goals.
- 1.4 Appointment into the public service is traditionally on permanent and pensionable basis, save for a few positions where appointments are tenable only on contract terms. These include top management positions in state corporations, officers appointed on Civil Service Grade 5 (CSG5) or its equivalent, personal staff and advisors, staff appointed for specific projects and officers appointed upon retirement.
- 1.5 The Government, through the implementation of this Policy, seeks to shift from the permanent and pensionable model of appointment to the contract model, in view of the changing management practices and to achieve the goals of good governance in public sector ministries, departments and agencies as well as at state agencies. This policy introduces appointments in the Public Service on contract terms renewable subject to satisfactory performance, to support performance and productivity improvement goals that underpin the public service reform agenda.
- 1.6 The policy creates uniformity in contract appointment in the public service and regulates the management of these contracts including their termination. Specifically, this policy regulates the appointment of persons on contract basis, including their induction, mentorship, training and development, career

management, performance management, terms and conditions of service and disciplinary control.

- 1.7 This policy is anchored on the Values and Principles of Public Service as enshrined in the Constitution and the norms and standards that guide public service. The Policy further ensures that the principle of non-discrimination applies to employees on contract terms in relation to terms and conditions of employment.

POLICY OBJECTIVES

- 1.8 The main objective of this policy is to provide a framework to regulate and standardise contract employment in the public service. The specific objectives are to:
- i. Enhance public service performance and productivity based on a robust rewards and sanctions framework;
 - ii. Create an enabling public service environment to enhance youth participation and inclusion in public service;
 - iii. Introduce new innovative employment approaches and flexible tenure models that attract and retain the best skills and competencies in the market;
 - iv. Regulate the hiring of public servants on contract by the Government; and
 - v. Adopt a tenure model that promotes overall public service efficiency and effectiveness.

RATIONALE

- 1.9 The rationale for the policy shift in the model of employment in the public service is the need to: -
- a. Objectively distinguish between performers and non-performers;
 - b. Address the entitlement, implied job security and poor performance that comes with permanent and pensionable terms of service;
 - c. Provide flexibility in tapping the best human resources available in the market;
 - d. Provide flexibility in the job market especially for the youth and at the same time help harness new ideas;
 - e. Create vibrancy in employment and help provide experience to new graduates;
 - f. Attract and retain the right skill-set required by an evolving service.
 - g. Enhance continual human resource performance accountability;
 - h. Establish a fit for purpose public service with high performing personnel;

- i. Encourage critical thinking and innovative ideas;
- j. Address the succession gaps that have arisen in the service due to previous new employment freeze; and
- k. Adopt a new remuneration and benefits model that addresses the sustainability of the Government's pension liability.

LEGAL FRAMEWORK

- 1.10 Employment on contract, long term or short term, is a form of employment recognized by law. Both the Public Service Commission Act, 2017, and the Employment Act, 2007, at Sections 45 and 7 respectively, recognize contracts of service as a form of employment.
- 1.11 The Employment Act, 2007, provides the form of contracts, the terms and conditions of service and exit clauses.
- 1.12 The basic terms of a contract are negotiated and can be expressly agreed or implied. Implied terms to an employment contract are imposed by Acts of Parliament and any rules and regulations made thereunder, while other terms are based on common law, and industry practices.
- 1.13 The type of employment contract envisaged under Section 45 of the PSC Act, is however different from that in Section 7 of the Employment Act, in that one of the conditions one must meet to be employed on contractual terms is that the person does not qualify to be employed under any other terms of service.
- 1.14 This policy recognizes that persons employed on contractual terms have similar rights under the Constitution and the Law as those on permanent and pensionable terms of service, such as the right to fair labour relations under Article 41 of constitution. This group of employees thus can go participate in industrial action and can join or participate in the activities and programmes of a trade union.
- 1.15 Under this policy, termination of contracts shall be in accordance with the provisions of Article 47 of the Constitution and the Fair Administrative Actions Act, similar to their counter parts in permanent employment.

SCOPE OF APPLICATION

- 1.16 This policy shall apply to all employees appointed on contracts terms, both in the civil service and the wider public service, with the exception uniformed officers who fall under the mandate of the Commission.

CHAPTER 2 SITUATIONAL ANALYSIS

PREAMBLE

This chapter provides situational analysis of the current Permanent and Pensionable (P&P) model of employment in relation to its evolution and its weaknesses in addressing challenges currently experienced in the management of the Public Service and service delivery to the Kenya Citizenry, thus justifying the need for the policy shift. The chapter provides background information on the P&P Model of employment, tenure reforms, public service wage bill, and challenges of the current tenure system including Performance and Productivity in the Public Service, Fiscal Sustainability, Succession management, and Adherence to Value and principle of Public Service.

2.1 *BACKGROUND* During the colonial period, Kenya's public service was mainly an instrument for enforcement off law and order and collection of taxes. These characteristics were inherited by the government upon attainment of independence. Appointments into the public service were oriented to the fulfilment of the expectations of the government agenda.

2.2 Since independence, appointments in the Public Service have been in three (3) categories; permanent, contract and casual. Appointment to the permanent and pensionable establishment has taken prominence and is restricted to officers who will be in a position to complete a qualifying period necessary for the grant of a pension in accordance to regulations of the respective pension scheme. On the other hand, appointment on contract is provided for a period of at least twelve (12) months but not exceeding five (5) years for persons who could not be in a position to serve the requisite period for grant of a pension, or appointments to supernumerary and fixed tenure positions.

2.3 Public service structures have evolved around the idea that public employment is different from other types of work and therefore require a special employment system and has traditionally offered a high job security with special set of employment regulations. The current public service pension regime includes a defined non-contributory pension for most employees of the public sector. Under Cap 189 of the Pensions Act, the state corporations sector has contributory schemes under the Retirement Benefits Act. It is noteworthy that the Public Service Superannuation Act 2012 has not been operationalized to entrench contributory pension for the Civil Service.

2.4 In order to cope with changing dynamics in public service operations, the government has undertaken major reforms in the area of human resource management which include modes of appointment, staff rationalization programmes, performance management, human resource development and pensions reforms.

These are meant to make the service fit-for-purpose and improve service delivery to the citizenry.

2.5 In line with the public service reform agenda, the Commission is spearheading a policy shift from guaranteed permanent and pensionable tenure to contract employment, which will also entail reforming the current pension regime to be more responsive to the dynamics of the work environment and sustainability. Contract Employment seeks to promote public service efficiency and effectiveness, while ensuring retention of the best performing employees.

TENURE REFORMS

2.6 In the recent past doubt has been cast on the effectiveness of the Career Service Model of Public Service administration. The model has been criticized for not being responsive to emerging issues and trends in the labour market. The career service model provides for lifelong employment with initial entry based on academic credentials. Promotion is based on a defined system of progression grades with emphasis on career development. It implies exit of employees upon attainment of a defined retirement age. Further, career paths for public servants are characterized by elongated grading structures that focus on vertical mobility. This model does not take cognizance of the performance of an employee.

2.7 The Public Service has been undergoing reforms since independence with a number of policy interventions put in place. In the 1990s public service restructuring reforms saw the privatization of some government services and operations that were deemed not core and could be performed effectively by other players. The reforms therefore led to a notable shift by Governments to outsource non-core functions, recruit staff on contract, and orient Human resource management practices to private sector models, among other reforms.

2.8 The trend of outsourcing non-core functions and recruitment of staff on contract has gained traction in jurisdictions like the United States of America, India, Ireland and Canada among others. In India, the Gratuity Act of 1972 was amended to ensure that workers hired through a fixed-term contract enjoy all the statutory benefits that permanent workers in the same establishment are entitled to. In Australia, New Zealand, and Sweden, the move has been towards recruitment of senior civil servants on contract. In Canada, there has been unprecedented gravitation towards temporary and contract jobs.

2.9 In order to cope with changing dynamics in public service operations, address efficiency concerns and align the staff with changing nature of the jobs, it has become necessary to come up with innovative ways of engaging employees in the Public Service. Consequently, the Government is increasingly recruiting more staff on contract to address these concerns.

PUBLIC SERVICE WAGE BILL

- 2.10 Public Service reform measures are expected to keep the expenditure levels on employment in the public sector in balance with economic development. This is aimed at ensuring that there is return on investment through improved productivity for government and service delivery for the public, while according adequate funding for economic development.
- 2.11 Statistics indicate that Kenya's wage bill stood at Ksh. 795 billion for the financial year ending June 2019. Kenya, with about 800,000 public servants, has seen its wage bill rise from approximately Ksh. 500 billion in the 2013/14 financial year to Ksh. 795 billion currently. In FY 2019/20, it is projected to hit Ksh. 800 billion. The annual pension bill has also been on the rise with more public servants reaching the 60-years mandatory retirement age, increasing from Ksh. 27 billion in 2013/14 to Ksh. 63 billion in 2017/18 and is expected to hit Ksh. 100 billion in 2019/20 financial year. This has been compounded by public service tenure models that have noncontributory pensions.

CHALLENGES OF THE CURRENT TENURE SYSTEM

Performance and Productivity in the Public Service

- 2.12 Performance and productivity in the public service remain major concerns partly due to the 'comfort' afforded to personnel by the traditional permanent and pensionable terms. The current performance management system needs review so as to effectively address performance management needs of the public service, for effective utilization as the basis for renewal of contracts, and rewards and sanctions. Research suggests that that productivity gains from contract employment models can be as large as between 20% to 30%.

Fiscal Sustainability

- 2.13 The current defined noncontributory pension system under the permanent and pensionable terms of employment has become a major fiscal sustainability concern. Pension costs rose by 163% from Ksh.24 billion during the 2011/12 FY to Ksh.63 billion by the 2017/18 FY, for over 261,000 retirees.

Succession management

- 2.14 According to the Integrated Personal Payroll Data of May 2018, the youth (35 years and below) comprise only 19% and 35% of the workforce at the National Government and County Government levels respectively. This portrays an ageing workforce therefore posing a challenge for succession management.
- 2.15 Due to recruitment embargo in the public service over the years, MDAs have not been able to recruit and therefore the youth are only 19% of the total establishment. This has not only led succession management challenges but has also prevented the tapping of new ideas and the embracing of new technology.

Adherence to Value and principle of Public Service

2.16 Article 234 (c) of the Constitution mandates the Commission to promote the values and principles mentioned in Articles 10 and 232 throughout the public service. This requires adherence to fair competition and merit as the basis of appointment and promotion across the Public Service. Adherence to this principle is often affected by political patronage.

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CHAPTER 3 THE POLICY PROVISIONS

PREAMBLE

- 3.1 The policy provisions contained herein should be read together with relevant laws, policies, regulations and guidelines. The chapter provides policy provisions on human resource aspects that have implications on Contract Employment including human resource planning, career management, induction, training and development, contract appointment, terms of contract service, and performance management.

HUMAN RESOURCE PLANNING

- 3.2 The Ministries, Departments and Agencies (MDAs) shall develop human resource plans aligned to their strategic plan with specific requirements for contract employment. The Human Resource Plans shall have Three (3) years human resource projections.
- 3.3 Ministries, Departments and Agencies shall be required to develop annual recruitment plans for contract employment on the basis of the human resource plans and forward them to the Public service Commission for consideration and approval.
- 3.4 Ministries, Departments and Agencies shall ensure that posts for contract employment are factored in their respective authorized establishment. An HR database for all employees on contract shall be maintained by each MDA indicating dates of commencement and lapse of the contracts.
- 3.5 All entry positions for graduate employees, with the exception of the uniformed officers in the Prisons Service, shall be on contract terms, renewable subject to satisfactory performance and in compliance with other relevant guidelines. The employees will automatically join the superannuation scheme for pension purposes.
- 3.6 HR planning for contract positions shall be undertaken in accordance with the prevailing policies and guidelines of the Public Service Commission.

CAREER MANAGEMENT

- 3.7 Employees on contract shall be encouraged to develop their abilities and careers to improve on their skills and competencies.
- 3.8 Ministries, Departments and Agencies shall facilitate career planning, pathing and development for employees on contract employment through guidance, training, counselling, mentorship and coaching programmes.

Career Progression

3.9 Career progression for contract employees in the Service will be based on performance, qualifications and other requirements as provided in the prevailing career progression guidelines.

- (i) On appointment, employees on contract shall be placed in respective cadres within the Job family on probationary terms of Service for a period of Six (6) months following which they will be confirmed in appointment.
- (ii) Employees may progress vertically within the cadre or horizontally within cadres in the same Job Family on demonstration of high performance, acquisition of relevant qualifications depending on availability of opportunities, employee's interest and abilities.
- (iii) The Commission shall place, promote, transfer and/or re-designate employees with a view to ensuring that the Public Service attracts and retains competent and committed employees.
- (iv) Renewal of contract shall be based on employee performance existence of a vacancy, required skills and competencies.
- (v) Promotion for contract employees shall be handled in the same way as comparable permanent employees, provided they meet all eligibility requirements.
- (vi) Contract employees shall not be eligible for other positions until they have served for the initial contract
- (vii) The MDAs shall submit quarterly reports on all employees on contracts and the dates of end of contract in each case.

Succession Management

3.10 MDAs shall be responsible for the institutionalization of succession management planning aligned to their strategic plans, in line with the prevailing regulations and guidelines, by developing, from among the contract employees, a pool of potential successors to support knowledge transfer and employee development.

Job Descriptions and Specifications

3.11 To attract and retain suitable and competent personnel, clear job descriptions and specifications for the various contract positions shall be developed in accordance with the prevailing career progression guidelines. The Job description shall contain the requisite requirements for the position and the personal attributes of the potential employee.

INDUCTION

3.12 Induction shall be mandatory for officers joining the organization on contract appointment. MDAs shall be responsible for availability of funds for induction. Induction training shall be carried within the first three (3) months of appointment.

Induction Curriculum

3.13 The Commission shall develop Induction Curriculum designed to equip employees appointed on contract with knowledge, skills, attitudes, desired work ethics, and values and principles of public service. To achieve this objective, the curriculum will seek to equip the employee with the following:

- i. Adapt easily and acquaint self with the position/job descriptions, organizational/work environment and public service culture;
- ii. Ethical conduct, professionalism, commitment, values and principles of public service as enshrined in the constitution;
- iii. Positive mindset for the desired reforms, performance and transformation for the desired tranquillity and posterity for the nation; and
- iv. Make inductees highly qualified, flexible and able to respond to the changes in work environment.

TRAINING AND DEVELOPMENT

3.14 Training and development for employees shall be carried out in accordance with the prevailing legislations, service regulations, policies and guidelines.

Long term and short term Programs

3.15 Training Programmes shall include short and long-term, local and foreign courses, and work-related in-house group training programmes. Both long term and short term training programs will be approved subject to fulfilment of the requirements as stipulated in prevailing legislation, service regulations and policy guidelines.

Training and Development for Critical Cadres/Competencies

3.16 Training and development for specific critical cadres, and competencies shall continue in order to ensure efficient and effective public service management, and sustained pool of critical and technical competences.

Continuous Learning and Development

3.17 The Public Service Commission shall ensure that at entry-level employees, are qualified and competent to perform their job by virtue of their knowledge, skills and competences. However, for continued learning and development:

- i. Employees will be expected to maintain and upgrade their knowledge and competence through personal sponsorship for professional programs offered by the respective professional bodies;

- ii. Respective professional bodies will be expected to prepare and submit to the Government Employing Agencies their members' competency profiles whenever required; and
- iii. MDAs shall ensure that professional members maintain technical competence in all areas of their professional services.

Continuous Capacity Building

3.18 In line with service norms, standards and guidelines, and for efficient and effective service, the Government shall continue to provide a structured way of coaching and mentoring, role modelling, guidance, training, counselling, talent management, research, innovation and creativity with a view to continuously developing employee's intellectual, moral, psychological and inherent potentialities for the country's development goals.

Masters and PhD Programmes

3.19 The officers who transit from contract to P&P terms of employment shall be encouraged to self-sponsor for master's and PhD Programmes that are geared to performance improvement and career advancement. However, the Government shall continuously train its employees in identified special and critical skills, which are technical, and core to the delivery of the organizational mandate and national development goals.

CONTRACT APPOINTMENT

3.20 Contract appointments shall be guided by the prevailing Service legislations, regulations, and Policies. However, persons appointed on contract basis shall be primarily regulated by the terms and conditions of their contract.

3.21 Appointment on P&P terms for specific critical cadres, competencies shall be continued with to ensure stability in Government and public service management, and sustained pool of critical and technical competences.

3.22 The contract shall be generally for a period of at least three (3) years, renewable subject to demonstrable individual performance and ethical conduct.

3.23 The initial six (6) months shall be treated as probation period. However, the period may vary under the following circumstances:

- i. Where the post exists for a lesser period, - for instance, a 'Project Post'; and
- ii. Where the tenure of post is fixed as per provisions of law.

3.24 The following conditions and criteria shall guide in the contract appointment:

- i. HR Plans;

- ii. Job Descriptions and Person Specifications;
- iii. Level of entry;
- iv. Merit, Constitutional requirements including gender, disability, ethnicity and regional balance as stipulated in Article 232 of the Constitution;
- v. Period of Availability of Post: Appointment for the posts created for a specific period including project posts shall be made on contract basis. Appointment to post(s) created for an indefinite period or permanent basis, will be considered for appointment on either contract or P&P Terms of Service; and
- vi. Eligibility to P&P Terms: After the successful completion of the three (3) years initial service on contract, a confirmed public servant shall, based on performance, be eligible to apply for appointment on P&P against a vacant post in the public service.

TERMS OF CONTRACT SERVICE

Remuneration

3.25 Remuneration refers to basic salary and all other benefits in cash or in kind as provided by the employer. Contract employees shall be entitled to the same remuneration as comparable permanent employees in similar grades. Persons appointed to Civil Service grades on contract shall be placed on the same pay scale as the comparable permanent employee.

3.26 Remuneration payable to contract employees, including salary reviews, shall be based on existing guidelines issued by the Government from time to time.

Incremental progression

3.27 Contract employees shall be treated as comparable permanent employees for the purposes of incremental progression. The annual increment will normally be paid on the anniversary of appointment provided performance during the year is satisfactory.

Allowances

3.28 A person appointed on contract shall draw allowances as per the terms and conditions of the contract. Such allowances shall include House and Commuter allowances at the existing service rates.

Benefits

3.29 Contract employees shall qualify for benefits payable to permanent employees, subject to the terms of the contract. Such benefits include Car Loan and Mortgage facilities, subject to the conditions governing such schemes.

Medical benefits

3.30 Medical benefits applicable to permanent employees shall apply to contract employees during the duration of the contract.

Period of Contract

3.31 The period of initial contract appointment shall be for a period of at least three(3) to five(5) years.

3.32 Where a contract post has been created for a specific period or project, the period of initial contract appointment shall be equivalent to the term of the project.

3.33 Extension or renewal of contracts shall be made based on demonstrable performance and only for employees who meet the set performance standards, ethical conduct and other approved requirements. The employer shall, within three (3) months before the expiry of the contract , inform the employee, in writing, of the intention to renew the contract, or otherwise.

3.34 Requests for extension or renewal of contracts shall be made to the Commission, at least 3 months before the expiry of the contract.

3.35 Where extension or renewal of contract is not granted, on expiry of the contract, the Authorized Officer shall ensure that the contract employee does not continue service beyond the term of contract.

3.36 On expiry of the contract, employees on contract shall be entitled to a gratuity at the prevailing rate.

3.37 A contract can be varied, where circumstances warrant, only with the approval of the Public service Commission.

Termination of contract

3.38 A contract shall be terminated in accordance with the existing Labour laws, guidelines and policies subject to the terms and conditions of the contract. Such termination shall require either party giving a one-months' notice, or one month's salary in lieu of notice.

3.39 Upon termination of contract, an employee shall be entitled to:

- i. Service pay for every year worked on pro-rata basis; and
- ii. Certificate of service.

Termination of Contract on disciplinary grounds

3.40 An employer may terminate the employment of an employee without notice or with less notice than that to which the employee is entitled by any statutory

provision or contractual term, on account of fundamental breach of obligations arising under the contract of service.

- 3.41 Contract appointments shall not be generally terminated before the expiry of contract unless it is clearly determined that performance of a contract employee is unsatisfactory, or he is guilty of inefficiency, misconduct or corruption.

Transfer of service

- 3.42 A contract service of an employee shall be transferable to another public service jurisdiction for pension purposes.

Leave

- 3.43 Contract employees shall be entitled to annual leave, maternity, paternity and other recuperative leaves as per the prevailing guidelines.

Secondment

- 3.44 Contract employees may be eligible for secondment to other public service organizations provided that they have completed three years of service.

Re-designation

- 3.45 Employees on contract service can be considered for re-designation, only to posts relevant to their experience and qualifications. Only employees who have served for at least one contract of not less than three years shall, in addition to requisite experience and qualifications, be eligible for re-designation.

- 3.46 Other prevailing guidelines on re-designation shall apply.

Disciplinary Control

- 3.47 The disciplinary procedure applicable to permanent employees shall be applicable to contract employees, subject to fair administrative action.

- 3.48 Termination of a contract under this policy shall not preclude other forms of disciplinary procedures or related legal action.

Code of Conduct

- 3.49 Contract employees shall be subject to the code of conduct applicable in the public service. The Public Officers Ethics Act, 2003, shall apply.

- 3.50 Contract employees shall adhere to rules governing the public service regarding political neutrality.

- 3.51 Employees on contract shall be subject to vetting and rules governing handling of government information.

Transfer

- 3.52 Transfer of employees on contract across Ministries, Departments and Agencies shall be undertaken with the approval of the Commission, and only in circumstances that warrant such transfer.
- 3.53 Authorized officers shall continue to internally assign, reassign and transfer employees serving on contract, in accordance with the prevailing guidelines.

PERFORMANCE MANAGEMENT

Introduction

- 3.54 This section outlines policy provisions on work planning, target setting, performance monitoring and evaluation, performance improvement, and rewards and sanctions.
- 3.55 In view of the paradigm shift from permanent and pensionable employment to contract employment, the government is committed to revamping and leveraging on performance management to enhance the capacity of the public servants to the full potential towards the achievement of organization goals.
- 3.56 Performance management will define the expectations in terms of roles, responsibilities and accountabilities, required competencies, expected behaviours and results.
- 3.57 Performance management under this policy will be the primary basis for performance improvement planning, promotions, continuous sustainability in organizations, expected rewards and sanctions.

Work Planning

- 3.58 Work planning shall be the basis for setting performance targets for individual staff. These targets will, in turn, inform the metrics against which the performance of employees under contract will be objectively measured.
- 3.59 Individual public servants on contract employment shall be required to prepare work plans that are aligned to departmental/directorates performance targets, organizational strategic plans and ultimately to the national development plans.

Purpose for target setting

- 3.60 Target setting in line with performance management under this policy shall be based on an establishment of the baseline conditions within the organization, the expected results the organization has set for its staff and determining the strategy and supporting resources needed to achieve the organizational goals.

3.61 Performance targets for employees on contract shall be aligned to clear job descriptions, as issued at the time of appointment or as may be varied during the life of the contract.

Timing for Target Setting

3.62 Performance targets in the work plans and performance contracts for contract employees shall be clearly set out at the start of each financial year. For cases of new contract employees, such targets shall be set at the commencement of the contract.

Performance Targets Levels

3.63 The performance management process under this policy shall be anchored on three levels of target setting: Individual employee performance targets, departmental/ directorate targets and organizational level targets.

3.64 Individual level targets shall be integrated in the work plans, performance contracts, and the staff performance appraisal instrument while departmental/ directorate targets and organizational level targets will be included in the departmental / directorate work plans and the organizational plan, respectively.

3.65 Performance targets shall be based on smart indicators and metrics; that are specific, measurable, achievable, realistic and time bound. This is supportive of validity and reliability in performance measurement.

Performance Monitoring and Evaluation

Purpose and Objectives

3.66 Performance monitoring and evaluation is a key pillar of performance management and a determinant for performance rewards and sanctions.

3.67 Performance Monitoring and evaluation are critical for building strong and objective evidence on staff capacity to deliver on results and informing the range of interventions to be deployed to address underperformance. At the organizational level, it is a tool for identifying and documenting staff performance success factors and tracking their progress toward indicators and targets set in work plans and performance contracts.

3.68 Performance monitoring and evaluation forms the basis of understanding multi-layered factors underlying staff performance, and the effectiveness of the responses designed to promote improvements.

3.69 The performance M&E process under this policy requires MDAs to review, revamp or where none exists, develop comprehensive performance monitoring and evaluation systems aligned to the SPAS.

Performance M&E Tools

3.70 Key performance M&E tools anticipated under this policy include work plans, Performance Contracts (PC) and Staff Performance Appraisal System (SPAS). In addition, MDAs may develop other internal tools for the performance M&E process.

Appraisal Period

3.71 The performance appraisal period shall cover one (1) year with effect from 1st July to 30th June of the following year. The Performance Appraisal of employees shall reflect the summation of the year's performance.

3.72 New employees coming into service after July 1st shall be placed on performance contracts for the remainder of the appraisal period.

Continuous Performance Appraisal

3.73 Performance appraisal shall be an on-going process throughout the contract period. Milestones over the review period shall be documented and maintained in the Appraisee's personal file.

Performance Reviews

3.74 Staff Performance Appraisal under this policy shall be undertaken bi-annually. Specially, the first appraisal shall be done by the end of the first half of the financial year (31st December, Mid-Year). The second appraisal shall take place by the end of the financial year (30th June, End Year).

3.75 Performance appraisal under this policy shall be undertaken in accordance with guidelines issued by the PSC, the ministry responsible for performance management and other relevant lead government agencies.

Performance Improvement

3.76 A performance improvement plan (PIP) defines areas of concern, gaps and expectations in work performance and provide for an opportunity to demonstrate improvement and commitment.

The Basis of performance improvement planning

3.77 MDAs shall be required to carry out mid-year and end-year review of individual staff performance. Concerns, gaps, deficiencies identified during the review shall form the basis of the performance improvement plan for individual staff.

Application of the PIP

3.78 The performance levels within which a staff may be placed under a performance plan shall be determined by the MDA but must be aligned to the Public Service Commission and the Ministry responsible for Performance Management guidelines.

3.79 The minimum PIP period shall be six (6) months but may be varied in accordance with the policy of the individual MDA.

3.80 Where no improvement in performance is demonstrated at the end of the PIP period, the affected staff shall be sanctioned in accordance with the relevant rewards and sanctions policy.

Rewards and Sanctions

3.81 There shall be rewards and sanctions schemes under contract employment policy to: entrench performance reward and sanction in the public service, reinforce, motivate and reward public servants for upholding the values and principles of public service; and inculcate service delivery excellence attitude, behaviour and passion among public servants.

Basis of rewards

3.82 The reward system for all public servants under the contract employment scheme shall be based on an objective performance appraisal process as guided by the existing Staff Performance Appraisal System (SPAS).

Types of rewards

3.83 For the purposes of this policy, public servants on contract employment may, upon assessment of their performance and subject to relevant organizational policies, be rewarded through the following schemes: Contract renewal; Promotions; Bonus payment graduated as per individual score; Nomination for National Honours and Awards; Letters of commendation; Distinguished long service awards; gift vouchers; Roll of honour; and Employee of the year award.

Incentive Scheme

3.84 All MDAs shall develop, and document incentive schemes aimed at rewarding contract staff based on their performance, experience and professional skills and competence. Incentives under this policy may include: graduation to permanent and pensionable terms; two salary increments; annual bonuses; and excellence awards.

Basis of Sanctions

3.85 The sanction system for all public servants under the contract employment scheme shall be based on an objective performance appraisal process as guided by the existing Staff Performance Appraisal System (SPAS).

Types of Sanctions

3.86 For the purposes of this policy, public servants on contract employment may, upon assessment of their performance and subject to relevant organizational policies, be sanctioned through the following: placement on performance improvement plan;

warning letters; demotions; separation; withheld annual increment; non-or renewal of contracts.

Link to MDA Rewards and Sanctions policies

3.87 In line with the provisions of this policy, Ministries, Departments and Agencies are expected to review or develop new rewards and sanctions policies that align to the PSC rewards and sanctions framework.

DRAFT - updated 6.02.2020

CHAPTER 4 INSTITUTIONAL FRAMEWORK

PREAMBLE

4.1 This Chapter provides the institutional framework for the implementation of this Policy. The responsible institutions include the Public Service Commission, Ministry responsible for the Public Service, MDAs, State Corporations Advisory Committee, the National Treasury, and Office of the Attorney General.

PUBLIC SERVICE COMMISSION

4.2 For purposes of the implementation of the policy, the Public Service Commission shall be responsible for the recruitment and selection of all entry level positions under contract employment, preparation of employment contracts, and performance management oversight.

4.3 PSC shall ensure this policy is adequately disseminated across the public service. The Commission shall also be responsible for audits to enforce full compliance with the provisions of the policy.

4.4 As the government agency responsible for human resource management and development in the public Service, PSC shall be responsible for the development of standardised performance management tools for all contract employees.

4.5 The power to monitor, evaluate, report and initiate the review of this policy shall vest in the Public Service Commission.

4.6 The power to establish such proposed offices, however, vests with the Public Service Commission upon justification by ministries, departments and agencies.

MINISTRY RESPONSIBLE FOR PUBLIC SERVICE

4.7 The Ministry responsible for public service shall be responsible for implementation effectiveness of performance contracting including cascading of PCs in MDAs.

4.8 The Ministry shall in addition be responsible for effective management of the payroll including payroll audit for employees under contract employment.

MINISTRIES, DEPARTMENTS AND AGENCIES

4.9 Ministries and Departments shall, with the authorization of PSC, identify positions for which contract employment terms apply.

4.10 Ministries, Departments and Agencies shall be responsible for the effective management of human resource database for the contract employees.

4.11 For each office to be established under this policy, MDAs shall seek express authorization of the National Treasury for availability of budget for the positions and the envisaged functions.

4.12 State Corporations shall be responsible for establishment of offices, recruitment and selection, performance management, and overall administration of contracts for employees engaged under this policy.

4.13 Under this policy, MDAs shall be responsible for the management of performance of contract personnel and determine appropriate rewards and sanctions based on performance of individual employees.

STATE CORPORATIONS ADVISORY COMMITTEE

4.14 State Corporations Advisory Committee (SCAC) shall, in consultation with the responsible Ministry, advise State Corporations on management of all appointments

on contract, including establishment, appointment, removal, deployment and terms of service of staff in State Corporations.

THE NATIONAL TREASURY

4.15 The National Treasury shall, in consultation with the public service Commission and upon confirmation of availability of budgets grant authorization to MDAs for the recruitment and selection of personnel under this policy.

4.16 The National Treasury shall be responsible for the efficiency in the budget facilitation process for the terms and conditions of contract employment including payment of salaries, allowances, gratuity, pensions and related financial benefits due to contract employees.

OFFICE OF THE ATTORNEY GENERAL

4.17 The power to arbitrate or litigate any legal issues arising from contract employment terms under this policy shall vest in the office of the attorney general.

CHAPTER 5 MONITORING AND EVALUATION

PREAMBLE

5.1 This Chapter provides the highlights for tracking the implementation of this policy, ensuring compliance and reporting on the levels of success, challenges, solution to the challenges and best practices to inform policy review. The Chapter outlines processes and areas of focus, framework for monitoring and evaluation of the policy, and timelines for review of the policy.

PROCESSES AND AREAS OF FOCUS

5.2 Review of policy effectiveness and impacts will be based on both continuous and periodic monitoring and evaluation of the policy implementation and results.

5.3 The monitoring and evaluation process shall be the primary source of data and evidence for necessary adjustments and improvements on the provisions of this policy.

5.4 Monitoring and evaluation of the policy, outputs, results, outcomes and impacts shall focus on following aspects of the policy:

- (i) Monitoring of policy uptake levels among MDAs;
- (ii) Establishing the extent to which policy objectives will have been achieved;
- (iii) Determining the level of MDA compliance with the provisions of this policy;
- (iv) Establishing stakeholder feedback on the appropriateness of the policy; and
- (v) Determining policy outcomes and impacts to inform review.

FRAMEWORK FOR MONITORING AND EVALUATION OF THE POLICY

5.5 The overall responsibility for M&E under this policy vests in the public service commission.

5.6 Individual MDAs shall be charged with M&E of policy processes that are internal to them.

5.7 A systematic reporting mechanism and framework shall be developed by PSC to ensure continuous M&E reports are centrally compiled.

5.8 Based on the M&E reports from MDAs, PSC shall be responsible for the identification of implementation constraints and devising timely responses to support policy implementation effectiveness in MDAs.

REVIEW OF THE POLICY

5.9 This policy will be reviewed every three years or as need arises in order to address emerging issues.

5.10 Periodic review of policy shall be undertaken in a participatory manner in line with the principles of public service.

APPENDICES

- 1. Performance Management**
 - i. Appraisal Templates
 - ii. Balanced Score Card
- 2. Career Progression Guidelines**
- 3. Human Resource Plan Template**
- 4. Succession Management Template**
- 5. Incentive Schemes**
- 6. Reward and Sanctions Policy**

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