

LEGAL NOTICE NO. 54

THE PUBLIC OFFICER ETHICS ACT, 2003

(No. 4 of 2003)

THE PUBLIC SERVICE CODE OF CONDUCT AND ETHICS, 2016

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## THE PUBLIC OFFICER ETHICS ACT

(No. 4 of 2003)

IN EXERCISE of powers conferred by section 5(1) of the Public Officer Ethics Act, 2003, the Public Service Commission makes the following Code of Conduct and Ethics:—

## THE PUBLIC SERVICE CODE OF CONDUCT AND ETHICS, 2016

## PART I—PRELIMINARY

1. This Code of Conduct and Ethics may be cited as the Public Service Code of Conduct and Ethics, 2016, and shall come into operation on such date as the Commission may appoint by notice in the *Gazette*.

Citation.

2. This Code shall apply to all public officers for whom the Commission is the responsible Commission.

Application.

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

Interpretation.

“authorised officer” means an officer of a public entity responsible for the discipline of public officers serving in that public entity;

“Commission” means the Public Service Commission established under Article 233(1) of the Constitution;

“gainful employment” means employment that a public officer pursues or performs for money or for other compensation or remuneration which is incompatible with the responsibilities of his or her office or which results in the impairment of his or her judgment or results in a conflict of interest;

“harambee” means the public collection of funds;

“Member” means the Chairperson, Vice-chairperson or a Commissioner of the Commission;

“public officer” means a public officer as defined in Article 260 of the Constitution; and

“Secretary” means the Secretary and chief executive officer of the Commission.

4. The general objective of the Code is to give effect to the provisions of Chapter Six of the Constitution.

General objective.

5. The specific objectives of this Code shall include—

Specific objectives.

- (a) to ensure accountability by a public officer for his or her decisions or actions;
- (b) to promote discipline;
- (c) to promote honesty;
- (d) to provide mechanisms for the management of conflicts of interest;

- (e) to protect the integrity of the public service; and
- (f) to provide a framework for reporting of misconduct by a public officer.

## PART II—SPECIFIC CODE OF CONDUCT AND ETHICS FOR PUBLIC OFFICERS

6. A public officer, who is a professional in the public service, shall be bound by, and observe, the professional code of conduct he or she might be required to subscribe to.

Professional and statutory codes to be binding.

7. A public officer shall carry out his or her duties in accordance with the law.

Rule of law.

8. A public officer shall be responsible for the reasonably foreseeable consequences of any acts or omissions arising from the performance of his or her duties.

Responsibility and duties.

9. A public officer shall—

Performance of duties.

- (a) carry out his or her duties efficiently and honestly;
- (b) carry out his or her duties in a transparent and accountable manner;
- (c) keep accurate records and documents relating to his or her duties;
- (d) not be absent from duty without official permission; and
- (e) not engage in private business during official working hours.

10. A public officer shall—

Professionalism.

- (a) carry out his or her duties in a manner that protects the integrity of his or her office;
- (b) treat members of the public and other public officers with courtesy and respect;
- (c) not discriminate against any person;
- (d) ensure the efficient, effective and economic use of resources in his or her charge;
- (e) be accountable for his or her administrative acts;
- (f) maintain an appropriate standard of dress and personal hygiene;
- (g) discharge any professional responsibilities in a professional manner; and
- (h) where the public officer is a member of a professional body, observe and subscribe to the ethical and professional requirements of that body:

Provided that those ethical and professional requirements shall not contravene the Constitution, this Code or any other written law.

11. A public officer shall conduct private affairs in a manner that maintains public confidence in his or her integrity.

Conduct of private affairs.

12. (1) A public officer shall not use his or her office to unlawfully or wrongfully enrich himself, herself or any other person.

Financial integrity.

(2) A public officer shall not seek or accept a personal loan or benefit that may compromise his or her integrity.

(3) A public officer shall live within his or her means and shall not incur any financial liability that he or she cannot satisfy.

13. (1) A public officer shall pay any taxes due from him or her within the prescribed period.

Tax, financial and legal obligations.

(2) A public officer shall not neglect his or her financial or legal obligations.

14. A public officer shall—

Moral and ethical requirements.

- (a) be honest in the conduct of public affairs;
- (b) not engage in activities that amount to abuse of office;
- (c) accurately and honestly present information to the public;
- (d) not engage in wrongful conduct in furtherance of personal benefit;
- (e) not misuse public resources;
- (f) not falsify any records; and
- (g) not engage in actions that may lead to his or her removal from the membership of a professional body to which he or she may belong.

15. (1) A gift or donation given to a public officer in his or her official capacity shall be treated as a gift or donation to his or her office.

Gifts and benefits in kind.

(2) Notwithstanding sub-paragraph (1), a public officer may receive a gift given in his or her official capacity provided that—

- (a) the gift is within the ordinary bounds of propriety;
- (b) the gift is an ordinary expression of courtesy or protocol, or within the ordinary standards of hospitality;
- (c) the gift is not in monetary form; and
- (d) the gift does not exceed such value as may be prescribed by the Ethics and Anti-Corruption Commission.

(3) Without limiting the generality of sub-paragraph (2), a public officer shall not—

- (a) accept or solicit gifts, hospitality or other benefits from a person who—
  - (i) has an interest that may be achieved by the carrying out or not carrying out of the public officer's duties;
  - (ii) carries on regulated activities with respect to which the public entity has a role; or