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26/4/23

REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – SECOND SESSION

DEPARTMENTAL COMMITTEE ON LABOUR

REPORT ON THE CONSIDERATION OF THE PUBLIC SERVICE (VALUES AND PRINCIPLES)
(AMENDMENT) BILL, 2022 (NATIONAL ASSEMBLY BILL NO. 46 of 2022)

		CLERK-AT THE-TABLE:	
THE NATIONAL ASSEMBLY PAPERS LAID		BY:	
DATE: 26 APR 2023		DATE: 26 APR 2023	
TABLED BY:	Hon. Karemba Muchangi, MP CHAIRPERSON, LABOUR committee	THE NATIONAL ASSEMBLY PAPERS LAID	
CLERK-AT THE-TABLE:	CHRISTINE MDIRITU		

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CHAIRPERSON'S FOREWORD

The Public Service (Values and Principles)(Amendment) Bill, 2022 (National Assembly Bill No. 46) was read a first time on Thursday 16th February 2023 and was subsequently committed to the Departmental Committee on Labour for consideration and advertising for public participation pursuant to Standing Order 127. The Bill seeks to amend the Public Service (Values and Principles) Act, 2015 (No. 1 of 2015).

The Clerk of the National Assembly facilitated the placement of adverts in the print media on 23rd February, 2023 seeking for comments from the public on the Bill pursuant to Article 118 of the Constitution. The Committee received written memoranda from nine (9) stakeholders.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during the consideration of the Bill. Finally, I wish to express my appreciation to the Honorable Members of the Committee, Committee Secretariat and all those who responded to the National Assembly's advert inviting the public to present their views on the Bill.

On behalf of the Committee and pursuant to provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the report of the Committee on its consideration of the Public Service (Values and Principles)(Amendment) Bill, (National Assembly Bill No. 46)

HON. ERIC MUCHANGI KAREMBA, M.P.

CHAIRPERSON, THE DEPARTMENTAL COMMITTEE ON LABOUR

PART I

1.0 PREFACE

1.1 Mandate of the Committee

The Departmental Committee on Labour was constituted on 27th October, 2022 and is established under provisions of S.O 216. Standing Order No. 216(5) grants the Committee amongst other functions to:

- a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- b) study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
- (ba) on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;
- c) study and review all legislation referred to it;
- d) study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
- e) investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
- f) vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);
- (fa) examine treaties, agreements and conventions;
- g) make reports and recommendations to the House as often as possible, including recommendation of propose legislation;
- h) consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
- i) examine any questions raised by Members on a matter within its mandate.

Further, the Second Schedule to the Standing Orders mandates the Committee to consider matters relating to Labour, human capital and remuneration, trade union relations and public service.

1.2 Oversight

In line with the assigned subject matter, and in executing this mandate, the Committee oversees the following Ministries, Departments and Agencies (MDAs):

- 1) The State Department for Public Service and its Autonomous and Semi-Autonomous Government Agencies which include;
 - a) Huduma Kenya
 - b) Kenya School of Government; and
 - c) Institute of Human Resource Management
- 2) The State Department for Labour and Skills Development and its Autonomous and Semi-Autonomous Government Agencies which include;
 - a) National Industrial Training Authority (NITA);
 - b) National Productivity and Competitiveness Centre (NPCC);
 - c) Kenya National Labour Board and the Wages Council;
 - d) National Employment Authority (NEA);

2.0 CONSIDERATION OF PUBLIC SERVICE (VALUES AND PRINCIPLES) (AMENDMENT) (NATIONAL ASSEMBLY BILL NO. 46), 2022

2.1 Background Information

1. The Public Service (Values and Principles) (Amendment) (NA No. 46) 2022 seeks to amend the Public Service (Values and Principles) Act, No. 1A of 2015.

2.2 Summary of the Bill

2. The Bill seeks to amend the Public Service (Values and Principles) Act, No. 1A of 2015 to require all state organs and state corporations to submit annual reports on details of the human resource in constitutional commissions, independent offices and County public service boards and County Assembly service boards. The Reports should contain details outlining the total number of employees and highlighting their gender, age, county of birth and county of residence.
3. The justification is that it will facilitate the public service values and principles that require the public service to reflect Kenya's diverse communities and afford adequate and equal opportunities for appointment of women and men, members of all ethnic groups and persons with disabilities pursuant to Article 232 of the Constitution. By receiving annual reports, legislatures can discharge the oversight role bestowed upon them as they will be able to analyze and query non-compliant state organs.

Proposed amendment to s.16 of No. 1A of 2015

4. The Proposed amendments are:-
 - i. In sub-clause (3) by inserting the following paragraph immediately after paragraph (d)-
"(da) details on the human resource establishment within the Service Commission outlining the total number of employees and highlighting their gender, age, county of birth, county of residence, ethnicity and whether they are persons living with disabilities."
 - ii. by inserting the following new subsection immediately after subsection (3)-
(4) An authorized officer who fails to prepare a report under subsection (1) may be subjected to disciplinary action in accordance with the laid out procedures

2.3 Public Participation in the Review of the Bill

5. Article 118 (1) (b) of the Constitution of Kenya provides as follows: -
"Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees"

Standing Order 127(3) provides as follows-

"The Departmental Committee to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the Committee makes its recommendations to the House"

6. In line with the Constitution and Standing Orders, the National Assembly in the local daily newspapers of 23rd February, 2023 invited the public to make representations on the proposed amendments in the Bill as per annexure 2 of the report. The Committee received written submissions on the proposed amendments to the Public Service (Values and Principles) Act, No. 1A of 2015.
7. The following Stakeholders were requested to submit their views to the Committee:

1.4 Committee Secretariat

The Committee has the following technical staff, representing the Office of the Clerk:

Ms. Rose M. Wanjohi
Senior Clerk Assistant /Head of Secretariat

Mr. Samuel Wanjiru
Clerk Assistant III

Ms. Christine Odhiambo
Senior Legal Counsel

Mr. Fredrick Muthengi
Chief Fiscal Analyst

Ms. Wambui Nyachae
Research Officer III

Mr. Timothy C. Tsungulah
Research Officer III

Ms. Rehema Koech
Audio Officer III

Ms. Zainab Wario
Serjeant-At-Arms II

Mr. Alex Amwata
Hansard Officer III

Mr. Alan Gituko
Serjeant-At-Arms III

1.3 Committee Composition

1. The Departmental Committee on Labour was constituted by the House on 27th October 2022 and comprises of the following Members:

Chairperson

Hon. Eric Muchangi Karemba, MP
Runyenjes Constituency

UDA Party

Vice-Chairperson

Hon. Fabian Kyule Muli, MP
Kangundo Constituency

GDDP

Members

Hon. James Onyango K'Oyoo, MP
Muhoroni Constituency

ODM Party

Hon. Richard Kiti Chonga, MP
Kilifi South Constituency

ODM Party

Hon. George Aladwa Omwera,
Makadara Constituency

ODM Party

Hon. Amina Dika Abdullahi, MP
Tana River Constituency

KANU

Hon. Patrick Simiyu Barasa, MP
Cherangany Constituency

DAP-K Party

Hon. Peter Irungu Kihungi, MP
Kangema Constituency

UDA Party

Hon. Lilian Chebet Siyoi, MP
Trans Nzoia County

UDA Party

Hon. Ernest Ogesi Kivai Kagesi, MP
Vihiga Constituency

ANC Party

Hon. Joseph Samal Lomwa, MP
Isiolo North Constituency

Jubilee Party

MP Hon. Catherine Wambiliaga, MP
Bungoma County

FORD-K

Hon. Dorice Aburi Donya, MP
Kisii County

WDM-K

Hon. Mangale Munga Chiforomodo, MP
Lunga Lunga Constituency

UDM Party

Hon. Leah Sopiato Sankaire, MP
Kajiado County

UDA Party

- e) Migrant Workers Welfare Fund
- f) Department of Labour Migration Management;
- 3) Public Service Commission;
- 4) Salaries and Remuneration Commission;

- i. Office of the Attorney General
 - ii. The Public Service Commission
 - iii. The Kenya Law Reform Commission
 - iv. The Law Society of Kenya
 - v. The Katiba Institute
 - vi. The Office of the Data Commissioner
 - vii. The Salaries and Remuneration Commission
 - viii. The Kenya National Human Rights and Equality Commission
 - ix. The National Lands Commission
 - x. The Independent Electoral and Boundaries Commission
 - xi. The Judicial Service Commission
 - xii. Commission on Revenue Allocation
 - xiii. The Teachers Service Commission
 - xiv. The National Police Service Commission
 - xv. The Office of Auditor General
 - xvi. Controller of Budget
8. The following stakeholders submitted their memoranda to the Committee:-
- i. The Public Service Commission
 - ii. The Kenya Law Reform Commission
 - iii. The Law Society of Kenya
 - iv. The Office of the Data Commissioner
 - v. The Teachers Service Commission
 - vi. Commission on Revenue Allocation
 - vii. The National Police Commission
 - viii. The Salaries and Remuneration Commission
 - ix. The Office of the Attorney General

3.0 Submissions from Stakeholders

3.1 Hon. Abdul Rahim Dawood, MP, Sponsor of the Bill

9. Hon. Dawood, MP submitted that the term “authorized officer” as mentioned in the Bill refers to the definition as contained in the Public Service Commission Act, 2017. However, there may be need to amend the definition as the other commissions and independent offices may not prescribe to the same definition nor have a definition of an authorized officer for the purpose of the proposed Bill.
10. He informed the committee that the inclusion of the two parameters, county of birth and county of residence in the report, would prevent persons being disadvantaged during job searches. Where you were born and what ethnicity you belong to may not collate to where you are residing or where you may eventually be employed, especially for public servants.
11. On the issue of data privacy, the Member advised that the advice of the data commissioner should be sought to confirm what data requested in parameters proposed in the bill could be deemed privilege/sensitive. He is willing to have any of the reporting parameters proposed in the bill that is classified as privilege or private be deleted from the Bill. He conceded that the Public Service Commission Act 2017 in section 55 provides for a review of qualifications of public servants.
12. He conceded that he had not been aware that there was a difference in the naming of “persons living with disabilities” and “persons with disabilities”. The constitution in Article 54 identifies “persons with disabilities”.

3.2 The Public Service Commission

13. The Commission agrees with the introduction of parameters for measurement of inclusivity in terms of gender, ethnicity, disability, status and age.
14. However, the Commission noted that there is no justification for the inclusion of county of birth and county of residence as there is no requirement for this parameter under the Constitution.
15. The Commission raised concerns on the inclusion of academic qualifications given the provision for a review of the same in sect 55 of the PSC Act. The Commission stated that the report presents total numbers of each of the parameters listed and not to each individual persons. This would make the exercise unrealistic and cumbersome given the time constraints and purpose of the report.
16. The Commission also noted that as a commission it has no issue with the definition of “authorized officer” since it’s as contained in the Public Service Commission Act. However, the other independent offices and commissions may wish to expand or further define the term “authorized officer” as it pertains to them.
17. The Commission did not make a presentation of the term “persons living with disabilities”.

Committee Observation

18. **The Committee agreed that the inclusion of parameter of “county of birth and county of residence” may be discriminatory and offend Article 27(4) of the Constitution and therefore should be deleted from the Bill.**

3.3 The Kenya Law Reform Commission

19. The Commission noted that the term “authorized officer” which is used in the new subsection (4) and in other sections of the Act is not defined in the Public Service (Values and Principles) Act, 2015.
20. The justification for having a definition is for clarity purposes.

Committee Observation

21. **The Committee agreed that the term “authorized officer” should be defined in the Bill to include other commissions and independent offices in addition to what it is defined as in the Public Service Commission Act.**

3.4 The Law Society of Kenya

22. They presented that the word “living” be deleted from the Bill and it remains “persons with disabilities” as provided in Article 54 of the Constitution. It is offensive to refer to disabled persons as persons living with disabilities.
23. They agreed with the inclusion of academic and professional qualifications since it gives effect to the goal of merit based recruitment as provided in Article 232(1) of the Constitution.
24. The Law Society of Kenya noted that the enactment and implementation of the Bill may conflict with the Data Protection Act since the annual reports are considered public documents, in particular in conflict with Article 31 of the Constitution which guarantees the right to privacy. Further they noted that section 25 of the Data Protection Act mandates the data controller to ensure that personal data is collected for explicit, specified and legitimate purposes and not processed in a manner incompatible with those purposes; and further that such personal data is adequate, relevant, limited to what is necessary in relation to the purposes for which it is processed. The collection and recording of employee data will therefore be regulated by the provisions of the Data Protection Act, which allows for the collection of personal information.

Committee’s Observation

25. **The Committee agreed to the deletion of the word” living” so that it reads “persons with disabilities”.**

The following institutions made written submissions to the Committee

3.5 National Police Service Commission

26. The National Police Service Commission submitted THAT

- i. On the definition of the term “authorized officer”, the National Police Service Commission has no definition in the National Police Service Act, 2011 but has is a definition in their Human Resource Manual.

The NPSC proposed an amendment to define “authorized officer” to mean “*the Commission Secretary or officer appointed and exercising the powers, performing similar duties and functions for or on behalf of the Commission for purposes of preparing the Statutory Annual reports to Parliament and the President*”

- ii. Section 26(3)(i) of the NPSC mirrors the proposed section 3(da) of the proposed Bill as it provides that
S.26 (3) Annual Report- “the Annual report shall contain, in respect of the year to which it relates-
(i) the gender, county, regional and ethnic diversity of the service”
- iii. Deletion of proposed introduction of sub-clause 3(da) on the parameter of county of residence.

The justification is that the NPSC has members who serve duties at National Level and operationalized countrywide. The force is dynamic due to the nature and exigencies of work and county of residence may not be a good indicator in its annual report.

NPSC further proposed that the reporting on the categories outlined in the proposed amendments be in a summary version as reporting subheadings for over 100,000 staff in a dynamic work environment may not be practicable within the timelines every year.

- iv. On proposed amendment (4) in the Bill, the NPSC proposes that the disciplinary action should be specific and proposes an amendment to insert “*of the Service Commission*” immediately after procedures.

The justification is that the authorized officers have a right to fair hearing and Fair administrative action. In addition, different services have different disciplinary procedures.

3.6 The Salaries and Remuneration Commission

27. The Salaries and Remuneration concurs with the proposed amendments

3.7 The Office of the Data Commission

28. Section 2 of the amendment of section 10 of No. 1A of 2015 seeks to collate and process among other employee details, **employee ethnicity**, which as part of the data to be collected, is deemed “**sensitive personal data “under Section 2 of the Data Protection Act (DPA)**. The DPA provides that where personal data is to be processed, a Data Protection Impact Assessment (DPIA) MUST precede the processing of such employee data, to identify and mitigate any potential risks. The data processing is to adhere to the principles set out under section 25 of the DPA. The employee of whom the data is being sought should be informed why the data is required, purpose, any third parties who may receive the data, protection of their data including security and integrity and whether their compliance is voluntary or mandatory.

29. The Office of the Data Commission recommends addition of a proviso” (da) *details on the Human resource establishment, within the service commissioning outlining the total number of employees and highlighting their*

gender, age, county of birth, county of residence, ethnicity, whether they are persons with disabilities, their academic qualifications and their professional qualifications, provided that the information in question is processed in accordance with the Data Protection Act, No. 24 of 2019."

3.8 Commission of Revenue Allocation

30. The Commission of Revenue Allocation submitted that

- i. "Authorized Officer"- amend the proposed definition under section 2 to mean *"the head of the secretariat or person charged with the day to day administration and management of the affairs of a government entity"*.

Justification

The phrase is currently not defined

- ii. **Clause 16 Reports-** insert new sub clause 93) to section 16 immediately after paragraph (d)- (da) immediately after persons living with disabilities.." *religion, employment terms i.e. permanent or contractual and level of education "*.

Justification

The criteria to be part of the report content. It will align with the constitutional provisions on inclusivity e.g. Article 27 and to foster diversity.

- iii. **Clause 2(b)** - recommend that it specifies where the *"laid out procedures"* lie e.g. the specific law or if the same are as per the administrative policies of the institutions they serve.

Justification

To offer clarity to the provision and make it implementable.

3.9 Office of the Attorney General

31. The Office of the Attorney General submitted that it had no objections to the proposed amendments to the Public Service (Values and Principles) Act. However, they presented that as contained in the memorandum objects and reasons for the Bill, instead of the amendment to facilitate equal opportunities among other things, the objective should be aimed at facilitating equity rather than equality.

4.0 COMMITTEE OBSERVATIONS

The Committee while considering the Bill made the following key observations;

1. The term “persons living with disabilities” is offensive and has a negative connotation and should be amended in the bill and be defined as is contained in the Constitution;
2. To include the county of residence and that of birth is not provided for in the constitution, it may be deemed discriminatory offending article 27 (4) and will make the reporting exercise cumbersome since the totals of each parameter is what is required;
3. The matter of what data is private or privileged as has been proposed to be contained in the report as per the parameters should be determined as per the Data Protection Act, 2019 since the report is a public document;
4. The term “authorized officer” should be defined in a way that brings on board the other commissions and independent offices;
5. Where the “laid out procedures” lie should be specified e.g. the specific law or if the same are as per the administrative policies of the institutions they serve;
6. The authorized officers have a right to fair hearing and fair administrative action. Further different services have different disciplinary procedures;
7. The inclusion of county service boards and the provision for the reporting to include the governor and county assembly means the bill requires concurrence from the Senate.

5.0 COMMITTEE RECOMMENDATIONS

Having considered the Bill and the views by different stakeholders, the Committee recommends-

1. THAT, the Bill be amended by inserting the following definition in section 2 of the Act:
“authorized officer” means any officer appointed within the public service or service Commission to perform its delegated functions within the public service or service Commission;

Justification

The amendment seeks to provide the definition of the term “authorized officer” which is contained in the Bill and is also used in other sections of the Act but is not defined in the Public Service (Values and Principles) Act, 2015.

2. THAT, the Bill be amended by inserting the following definition in section 2 of the Act:
“public office” has the meaning assigned in Article 260 of the Constitution.

Justification

The amendment seeks to ensure that a public office is defined as contained in the Constitution, and further to ensure that every public office shall be mandated to prepare a report on the status of the promotion of the values and principles of public service.

3. THAT, clause 2 of the Bill be amended in the proposed new paragraph (da) by deleting the word “living”.

Justification

The deletion of the word ‘living’ is necessary so as to use the term “persons with disabilities” as provided in Article 54 of the Constitution.

4. THAT, clause 2 of the Bill be amended in the proposed new paragraph (da) by deleting the words “county of birth, county of residence”.

Justification

The deletion of the parameters of county of birth and county of residence is necessary as these two parameters are not provided for in the Constitution as parameters for achieving fair competition, merit and fair representation within the public service.

5. THAT, clause 2 of the Bill be amended in the proposed new subsection (4) by inserting the words “of the respective service Commission or public office” immediately after the words “in accordance with the laid out procedures”.

Justification

The amendment seeks to eliminate the possibility of ambiguity and provide with clarity that the disciplinary action to be taken against any authorized officer who fails to prepare the report shall be the disciplinary procedures applicable to the office of the specific authorized officer.

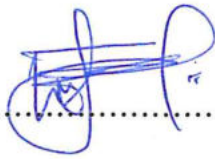
6. THAT, the Bill be amended by inserting an amendment to section 16(1) of the Bill as follows:
“Section 16 of the principal Act is amended in subsection (1) by inserting the words “and each public office” immediately after the words “each service Commission”

Justification

The amendment seeks to ensure that each public office within the meaning of the Constitution shall be obligated to prepare a report on the status of the promotion of the values and principles of public service. This is in keeping with the provisions of Article 232(2) of the Constitution which provides that the values

and principles of public service shall apply to public service in all State organs in both levels of government and all State corporations.

SIGNED.....



DATE.....

25/04/2023

HON. ERIC MUCHANGI KAREMBA, M.P.
CHAIRPERSON, THE DEPARTMENTAL COMMITTEE ON LABOUR



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT

DEPARTMENTAL COMMITTEE ON LABOUR

REPORT ADOPTION LIST

We, the members of the Departmental Committee on Labour, have pursuant to Standing Orders 199 and adopted this report and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity.

Date: 18/04/2023

	NAMES	SIGNATURE
1.	Hon. Karemba Eric Muchangi Njiru, MP-Chair person	
2.	Hon. Muli Fabian Kyule, MP- Vice Chairperson	
3.	Hon. K'Oyoo James Onyango, M.P.	
4.	Hon. Kagesi Kivai Ernest Ogesi, M.P.	
5.	Hon. Kiti Richard Ken Chonga, M.P.	
6.	Hon. Lomwa Joseph Samal, M.P.	
7.	Hon. Omwera George Aladwa, M. P.	
8.	Hon. Wambilianga Catherine Nanjala, MP	
9.	Hon. Abdullahi Amina Dika, M.P.	
10.	Hon. Aburi Donya Dorice, M.P.	
11.	Hon. Barasa Patrick Simiyu, M.P.	
12.	Hon. Chiforomodo Mangale Munga, M.P.	
13.	Hon. Kihungi Peter Irungu, M. P.	
14.	Hon. Sankaire Leah Sopiato, M.P.	
15.	Hon. Siyoi Lillian Chebet, M.P.	

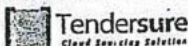


SUPPLIER PREQUALIFICATION NOTICE 2023-2025

Kenya Women Microfinance Bank invites applications from interested, competent and eligible firms for pre-qualification for the under listed categories of goods, services and works for the period 2023-2025.

NO.	CATEGORY/DESCRIPTION	NO.	CATEGORY/DESCRIPTION
GENERAL			
1	Supply of printed stationery	48	Provision of hotel accommodation services
2	Supply of rubber stamps and seals	49	Provision of general investigative services, security training and due diligence
3	Supply of non-printed stationery	50	Provision of real estate agents' services
4	Supply of branded promotional materials (mail bags, branded t-shirts etc.)	51	Provision of insurance brokerage services
5	Supply of staff uniform	52	Provision of insurance services (underwriters only)
6	Supply, installation and maintenance of signage and branding	53	Provision of payroll services
7	Supply of furniture, fittings and furnishings	54	Provision of outsourced labour services
8	Supply and maintenance of potted plants and flowers	55	Provision of towing services
9	Supply and delivery of office consumables	56	Provision of security printing services (e.g. ATM card, cheque books)
10	Supply of newspapers, periodicals and magazines	57	Provision of financial audit/tax services
11	Supply of drinking water and water dispensers	58	Provision of car hire services including taxis, buses and minibuses
FACILITY MANAGEMENT			
12	Supply of hardware tools and equipment	59	Provision of OSHA audit services
13	Supply and maintenance of firefighting equipment and fire suppression systems	60	Provision of energy audit services
14	Supply and maintenance of generators	61	Provision of customer service survey services
15	Supply, installation and maintenance of ATM machines	62	Provision of translation services
16	Supply and maintenance of safes, fire resistant cabinets and strong room doors	63	Provision for lease of motor vehicles
17	Supply of note and coin counters, fake note detectors/UV lights and shredders	64	Supply of toners and computer consumables
18	Supply of tyres and tubes	65	Supply and maintenance of ICT equipment (computers, laptops, routers etc.)
19	Supply of LPG, fuel cards and diesel	66	Supply and installation of software licenses e.g. anti-virus
20	Supply, installation and maintenance of air conditioning, refrigeration services and data centre cooling services	67	Supply and installation of access control systems, intruder alarm, CCTV system and electric fencing
21	Provision of office cleaning and sanitary services	68	Provision for lease and maintenance of access control systems, intruder alarm and CCTV system and electric fencing
22	Provision of fumigation and pest control services	69	Supply and maintenance of power back-up systems ups, and power stabilizers
23	Provision of vehicle storage	70	Supply and maintenance of telecommunication equipment (routers, PBX etc.)
24	Provision of garbage disposal services	71	Provision of structured cabling works and networks maintenance services
25	Provision of asset tagging services	72	Provision of leased printers and copiers
26	Provision of garage for repair and maintenance of bank vehicles	73	Provision of software development services
PROFESSIONAL SERVICES			
27	Provision of major building construction works	74	Provision of IT consultancy services
28	Provision of major drainage and plumbing works	75	Provision of website development and maintenance services
29	Provision of major electrical installation, repair and maintenance works	76	Provision for lease of office equipment e.g. laptops, computers
30	Provision of minor construction works, repairs and partitioning	77	Provision of ICT audit and cybersecurity assessment services
31	Provision and maintenance of mechanical ventilation system	MARKETING	
32	Provision of architectural services	78	Provision of digital marketing services
33	Provision of interior design services	79	Provision of outdoor advertising services
34	Provision of mechanical engineering consultancy services	80	Provision of print/media advertising services
35	Provision of electrical engineering consultancy services	81	Provision of PR & creatives services
36	Provision of civil structural engineers - consortium	82	Provision of experiential marketing, communication and promotion services
37	Provision of quantity surveyor (QS) services	83	Provision of research services
38	Provision of air travel agency services (IATA registered)	RECRUITMENT	
39	Provision of vehicle valuation services	84	Provision of pre-employment screening and background check services
40	Provision of property and land valuation services	85	Provision of recruitment services
41	Provision of international and local courier services	86	Provision of HR consultancy services
42	Provision of security guard services	87	Provision of staff training services
43	Provision of cash-in-transit and offsite ATM management services	88	Provision of team building services
44	Provision of event management services	LEGAL	
45	Provision of catering services	89	Provision of auctioneering and repossession services
46	Provision of car tracking services	90	Provision of debt collection services
47	Provision of photography and videography services	91	Provision of legal services (Giti, Migori, Kisumu, Kakamega, Kitale, Eldoret, Nakuru, Kericho, Machakos, Embu, Meru, Thika, Nairobi)

The supplier prequalification exercise will be conducted online via:



Tendersure™ platform is secure, transparent and provides an efficient prequalification process. Interested suppliers may access and register on www.tendersure.co.ke under the "Available Jobs" tab. Access to the prequalification will be granted upon payment of a non-refundable fee of KES 3,000.00 per category. All payments will be made via an online payment platform during the application process. Available payment methods include M-PESA, Visa Card and MasterCard amongst others. The online prequalification exercise closes on 17th March 2023 at 10pm EAT.

In case of any inquiry kindly contact us at help@tendersure.co.ke or +254 709 557 000.

All existing suppliers are required to participate alongside prospective suppliers in order to be evaluated and considered.

All participants who duly complete the prequalification process online will be notified of the outcome.

Prequalification is not a guarantee for business opportunity, bidders will be invited to submit their quotations on need basis based on the opportunities available. Kenya Women Microfinance Bank reserves the right to accept or reject any bid in whole or in part at its discretion.

Kenya Women Microfinance Bank is licensed and regulated by the Central Bank of Kenya (CBK).



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

13TH PARLIAMENT - SECOND SESSION - 2023

In the matter of consideration by the National Assembly of:-

1. The Land (Amendment) (No.2) (National Assembly Bill No. 40 of 2022)
2. The National Transport & Safety Authority (Amendment) (National Assembly Bill No. 43 of 2022)
3. The Pensions (Amendment) (National Assembly Bill No. 44 of 2022)
4. The Cancer Prevention & Control (Amendment) (National Assembly Bill No. 45 of 2022)
5. The Public Service (Values and Principles) (Amendment) Bill (National Assembly Bill No. 46 of 2022)
6. The Geriatric Bill, (National Assembly Bill No. 50) of 2022.

PUBLIC PARTICIPATION (SUBMISSION OF MEMORANDA)

Pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3) of the National Assembly Standing Orders, the Clerk of the National Assembly hereby invites members of the public and relevant stakeholders to submit memoranda on the following Bills:

The Land (Amendment) Bill (National Assembly Bill No. 40 of 2022) sponsored by Hon. Simon King'ara, MP.

The principal objective of the Bill is to amend the Land Act, No. 6 of 2012 to provide for registration of public land and land set aside for public purpose.

The National Transport & Safety Authority (Amendment) (National Assembly Bill No. 43 of 2022) sponsored by Hon. Simon King'ara, MP.

The principal objective of the Bill is to amend the National Transport & Safety Act, No. 33 of 2012 to assign additional functions to the Authority to include the establishment of systems and procedures for the registration and licensing of two and three wheeled public motorcycle taxis.

The Pensions (Amendment) (National Assembly Bill No. 44 of 2022) sponsored by Hon. Abdul Dawood, MP.

The principal objective of the Bill is to amend the Pensions Act, Cap. 189 to provide for a timeline within which pension shall be payable to an officer.

The Cancer Prevention & Control (Amendment) (No. 2) (National Assembly Bill No. 45 of 2022) sponsored by Hon. Didmus Barasa, MP.

The principal objective of the Bill is to amend the Cancer Prevention & Control Act, 2012 to provide for training of health cadres in the specialized medical field of oncology; to include cancer treatment as part of the provision of primary healthcare and incorporate the use of e-health and telemedicine.

The Public Service (Values and Principles) (Amendment) Bill (National Assembly Bill No. 46 of 2022) sponsored by Hon. Abdul Dawood, MP.

The principal objective of the Bill is to amend the Public Service (Values and Principles) Act, 2015 to require all state organs in the national and county governments and state corporations to submit annual reports on details of human resource in constitutional commissions, independent offices and County Public Service Boards and County Assembly Service Boards.

The Geriatric Bill (National Assembly Bill No. 50 of 2022) sponsored by Hon. Nathaniel Wamuchomba, MP.

The principal objective of the Bill is to give effect to Article 57 of the Constitution by establishing a legal framework for the treatment of elderly persons.

The Bills were Read a First Time on Tuesday, 15th and Wednesday, 16th February, 2023 and pursuant to Standing Order 127(1) of the National Assembly Standing Orders, committed to Departmental Committees of the National Assembly as set out in the schedule hereunder:

SCHEDULE		
NO.	BILL	COMMITTEE
1.	The Land (Amendment) (No.2) (National Assembly Bill No.40 of 2022)	Lands
2.	The National Transport & Safety Authority (Amendment) (National Assembly Bill No.43 of 2022)	Transport & Infrastructure
3.	The Pensions (Amendment) (National Assembly Bill No. 44 of 2022)	Finance & National Planning
4.	The Cancer Prevention & Control (Amendment) (No.2) (National Assembly Bill No. 45 of 2022)	Health
5.	The Public Service (Values and Principles) (Amendment) Bill (National Assembly Bill No. 46 of 2022)	Labour
6.	The Geriatric Bill (National Assembly Bill No.50 of 2022)	Social Protection

Copies of the Bills are available at the National Assembly Table Office, or on www.parliament.go.ke/the-national-assembly/house-business/bills

The memoranda should be addressed to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to ena@parliament.go.ke; to be received on or before Wednesday, 8th March, 2023 at 5.00 p.m.

SAMUEL NJORGE
CLERK OF THE NATIONAL ASSEMBLY

23rd February, 2023

For the Welfare of Society and the Good Government of the People



THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA/DDC/LABOUR/2023/024

3rd April 2023

CPA Nancy Gathungu, CBS
Auditor-General
Office of the Auditor General
3rd Floor, Anniversary Towers
NAIROBI

CPA Dr. Margaret N. Nyakango
Controller of Budget
Office of the Controller of Budget
12th Floor, Bima House, Harambee Avenue
NAIROBI

Dr. Nancy Macharia
Commission Secretary
Teachers Service Commission
Kilimanjaro Avenue, Upper Hill
NAIROBI

Dr. Bernard Mogesa, PhD, CPM
Chief Executive Officer
Kenya National Human Rights and Equality Commission
1st Floor, CVS Plaza
Kasuku Lane, off Lenana Road
NAIROBI

✓ **Marjan Hussein Marjan**
Commission Secretary/CEO
Independent Electoral and Boundaries Commission
6th Floor, Anniversary Towers, University Way
NAIROBI

Hon. Ann A. Amadi
Commission Secretary/Chief Registrar
Judicial Service Commission
Kenya Re-Insurance Plaza
Taifa Road, CBD
NAIROBI

CPA James Katule
Commission Secretary/CEO
Commission on Revenue Allocation
2nd Floor, Grosvenor Suite, Riverside Drive
NAIROBI

Ann R. Gitau, MBS
Commission Secretary/CEO
Salaries and Remuneration Commission
6th Floor, Williamson House, 4th Ngong Avenue
NAIROBI

Ms. Kabale Tache Arero
Acting Chief Executive Officer/ Secretary
National Land Commission
316 Upper Hill Chambers, 2nd Ngong Avenue, Off Ngong Rd
NAIROBI

Dr. Mc'Opiyo Silas Oloo, EBS
Acting Chief Executive Officer/ Commission Secretary
National Police Service Commission
SkyPark Plaza, Waiyaki Way
NAIROBI

Dear Sir,

**RE: CONSIDERATION OF THE PUBLIC SERVICE (VALUES AND PRINCIPLES)
(AMENDMENT) BILL NO. 46 OF 2022 BY THE DEPARTMENTAL
COMMITTEE ON LABOUR**

The Departmental Committee on Labour is established pursuant to Standing Order 216 of the National Assembly Standing Orders and is mandated "*to study and review all the legislation referred to it.*"

The Public Service (Values and Principles) (Amendment) Bill, 2022 sponsored by Hon. Abdul Dawood, MP is before the Committee for consideration and reporting to the House. The Bill seeks to require all state organs in the National and County Governments and State Corporations to submit annual reports on details of the human resources in constitutional commissions, independent offices, County Public Service Boards and County Assembly Service Board.

Towards public participation as required by Article 118 of the Constitution of Kenya and Standing Order 127(3), the Committee in the local daily print newspapers of 23rd February 2023 sought public views.

The Committee, while considering the Bill during its sitting on 23rd March 2023 resolved to get your opinion on the following:-

1. Definition of "authorised officer"
2. The content of the annual reports for submission to the President and Parliament

This is therefore to request for your written submissions in a matrix format on the two items and clauses in the Bill. The matrix should indicate the Section of the Act, specific clause, proposed amendment and justification. Twenty (20) hard copies of the submissions should be delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi and a soft copy

emailed to cna@parliament.go.ke to be received on or before Tuesday 11th March 2023 at 5.00 pm. A copy of the Bill is forwarded herewith for reference.

Our Liaison Officers on this subject are Ms. Rose M. Wanjohi and Mr. Samuel Wanjiru who may be contacted on Tel Nos. 0722864516 and 0723781651 or email: rose.wanjohi@parliament.go.ke and samuel.wanjiru@parliament.go.ke respectively.

Yours *Sincerely,*

A handwritten signature in dark ink, appearing to read 'Gazemba', with a long horizontal line extending to the right.

George Gazemba, ACI Arb, CPM

For: CLERK OF THE NATIONAL ASSEMBLY



THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

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www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA/DDC/LABOUR/2023/020

20th March, 2023

Immaculate Kassait, MBS,
Data Commissioner
Office of the Data Protection Commissioner
P.O Box 30920-00100
Britam Tower, Hospital Road
NAIROBI

Dear *Madam*,

RE: INVITATION TO SUBMIT VIEWS ON THE PUBLIC SERVICE (VALUES AND PRINCIPLES) (AMENDMENT) BILL NO. 46 OF 2022

The Departmental Committee on Labour is established pursuant to Standing Order 216 of the National Assembly Standing Orders, and is mandated "*to study and review all the legislation referred to it*"

The Public Service (Values and Principles) (Amendment) Bill, 2022 sponsored by Hon. Abdul Dawood, MP is before the Departmental Committee on Labour for consideration and reporting to the House.

The Bill seeks to require all state organs in the National and County Governments and State Corporations to submit annual reports on details of the human resource in constitutional commissions, independent offices, County Public Services Boards and County Assembly Service Boards.

The Committee has received a memorandum on the Bill from the Law Society of Kenya, expressing concern on the compliance of the proposed amendment to the provisions of the Data Protection Act, 2019 which outlines the procedures to be followed by data processors and data controllers in the management of personal data. In this regard, the Committee finds it necessary to get your views and comments on the Law Society of Kenya memorandum to inform its consideration of the Bill.

This is therefore to forward you a copy of the Society's memorandum for your views and comments. It will be appreciated if your response reaches the Committee **on or before Monday, 27th March, 2023 at 5.00 pm.**

The liaison officers for this activity are Ms. Rose M. Wanjohi who may be contacted on 0722864516 or email: rose.wanjohi@parliament.go.ke and Mr. Samuel Wanjiru, 0723781651 or samuel.wanjiru@parliament.go.ke.

Yours *Sincerely,*



SERAH KIOKO, MBS

For: CLERK OF THE NATIONAL ASSEMBLY



THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
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www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA/DDC/LABOUR/2023/017

16th March, 2023

Dr. Simon K. Rotich, CBS,
Commission Secretary/CEO
Public Service Commission
Commission House, Harambee Avenue
NAIROBI

Mr. Eric Theuri
President, Law Society of Kenya
Lavington, Opposite Valley Arcade,
Gitanga Road
NAIROBI

Mr. Joash Dache
Secretary /Chief Executive Officer
Kenya Law Reform Commission (K.L.R.C)
P.O BOX 34999-00100.
NAIROBI

Dear **Dr. Rotich**

**RE: MEETING WITH DEPARTMENTAL COMMITTEE ON LABOUR AND
STAKEHOLDERS ON THE PUBLIC SERVICE (VALUES AND PRINCIPLES)
(AMENDMENT) BILL NO. 46 OF 2022**

The Departmental Committee on Labour is established pursuant to Standing Order 216 of the National Assembly Standing Orders, and is mandated "*to study and review all the legislation referred to it.*"

The Public Service (Values and Principles) (Amendment) Bill, 2022 sponsored by Hon. Abdul Dawood, MP is before the Committee for the Departmental Committee on Labour for review and reporting to the House.

The Bill seeks to require all state organs in the National and County Governments and State Corporations to submit annual reports on details of the human resource in constitutional Commissions, independent offices and County Public Services Boards and County Assembly Service Board. An advert was placed in the dailies inviting memorandum from the public on 23rd February, 2023 pursuant to Article 118(1)(b) and Standing Order 127(3).

Further to your memoranda received, the Committee resolved to invite you to a meeting to make your detailed submissions on the Bill on **Thursday 23rd March 2023** in the Committee

Room 2nd Floor, Continental House, Parliament Buildings starting at 10.00 am as per the schedule below.

No.	Agency	Time
1.	Public Service Commission	10.00 am
2.	Kenya Law Reform Commission	11.00 am
3.	Law Society of Kenya	12.00 pm

The liaison officers for this activity are Ms. Rose M. Wanjohi who may be contacted on 0722864516 or email: rose.wanjohi@parliament.go.ke. Mr. Samuel Wanjiru, who may be contacted on 0723781651 or email: samuel.wanjiru@parliament.go.ke respectively.

Yours



JEREMIAH NDOMBI, MBS

For: CLERK OF THE NATIONAL ASSEMBLY

Copy to: **Hon. Abdul Dawood, MP**
North Imenti Constituency
Parliament Buildings
NAIROBI



THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

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www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA/DDC/LABOUR/2023/011

20TH February 2023

Hon. Justin B.N Muturi, EGH
The Attorney General
Office of the Attorney General & amp;
Department of Justice
Sheria House, Harambee
NAIROBI

Dr. Simon K. Rotich, CBS,
Commission Secretary/CEO
Public Service Commission
Commission House, Harambee Avenue
NAIROBI

Mr. Eric Theuri
President, Law Society of Kenya
Lavington, Opposite Valley Arcade,
Gitanga Road
NAIROBI

Mr. Joash Dache
Secretary /Chief Executive Officer
Kenya Law Reform Commission (K.L.R.C)
P.O BOX 34999-00100.
NAIROBI

Ms. Christine Gakii Nkonge
Executive Director
Katiba Institute, House No.5 -the Crescent-Off Parklands Road
NAIROBI

Dear *Hon Muburi*

RE: STAKEHOLDERS SUBMISSIONS ON THE PUBLIC SERVICE (VALUES AND PRINCIPLES) (AMENDMENT) BILL NO. 46 OF 2022 BY THE DEPARTMENTAL COMMITTEE ON LABOUR

The Departmental Committee on Labour is established pursuant to Standing Order 216 of the National Assembly Standing Orders, and is mandated "*to study and review all the legislation referred to it.*"

The Public Service (Values and Principles) (Amendment) Bill, 2022 sponsored by Hon. Abdul Raheem Dawood, MP, seeks to establish a mechanism for all state organs in the National and County Governments and State Corporations to submit annual reports on details of the human resource in constitutional Commissions, independent offices, County Public Service Boards and County Assembly Service Boards.

The Bill was published on 28th November, 2022 and Read a first time in the House on 16th February, 2023. Pursuant to Standing Order 127 (1), the Bill was committed to the Departmental Committee on Labour for consideration and submission of report to the House.

This is therefore to invite you to present your written submission in a matrix format that indicates the Section of the Act, specific clause, proposed amendment and justification. Twenty (20) hard copies of the submissions should be delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi and a soft copy emailed to cna2@parliament.go.ke to be received on or before Thursday 3rd March 2023 at 5.00pm.

Enclosed find a copy of the Bill for reference.

The liaison officers for this activity are Ms. Rose M. Wanjohi who may be contacted on 0722864516 or email: rose.wanjohi@parliament.go.ke, Mr. Binensa Mabungu, who may be contacted on 0790289954 or email: binensa.mabungu@parliament.go.ke respectively.

Yours



JEREMIAH NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to: Hon. Abdul Dawood, MP
North Imenti Constituency
Parliament Buildings
NAIROBI

SPECIAL ISSUE

Kenya Gazette Supplement No. 171 (National Assembly Bills No. 46)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2022

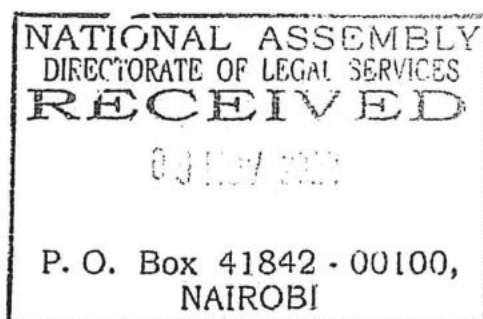
NAIROBI, 28th October, 2022

CONTENT

Bill for Introduction into the National Assembly—

PAGE

The Public Service (Values and Principles) (Amendment) Bill, 2022 1181



AN ACT of Parliament to amend the Public Service (Values and Principles) Act and to provide for connected purposes.

Short title.

- Amendment of
section 16 of
No. 1 A of 2015**

- (a) in sub-clause (3), by inserting the following paragraph immediately after paragraph (d)—

“(da) details on the human resource establishment within the Service Commission outlining the total number of employees and highlighting their gender, age, county of birth, county of residence, ethnicity and whether they are persons living with disabilities.”

- (b) by inserting the following new subsection immediately after subsection (3)—

(4) An authorised officer who fails to prepare a report under subsection (1) may be subjected to disciplinary action in accordance with the laid out procedures.

MEMORANDUM OF OBJECTS AND REASONS**Statement of the Objects and Reasons for the Bill**

The purpose of this Bill is to amend the Public Service (Services and Principles) Act to require all state organs in the national and county governments and state corporations to submit annual reports on details of the human resource in constitutional Commissions, independent offices and County Public Service Boards and County Assembly Service Board. The reports should contain details outlining the total number of employees and highlighting their gender, age, county of birth and county of residence.

This will facilitate the public service values and principles that require the public service to reflect Kenya's diverse communities and afford adequate and equal opportunities for appointment of women and men, members of all ethnic groups and persons with disabilities pursuant to Article 232 of the Constitution. By receiving annual reports, legislatures can discharge the oversight role bestowed upon them as they will be able to analyze and query non-compliant state organs.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

This Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

Indication on whether the Bill concerns county governments

The Bill concerns county governments in terms of Articles 110(1) (c) of the Constitution in that it contains provisions that affect the functions of the county governments as it requires all county assembly service boards and county public service boards to submit reports outlining details of human resource in their respective services.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 26th October, 2022.

ABDUL RAHIM DAWOOD,
Member of Parliament.

Section 16 which it is proposed to be amended—

Reports

16. (1) Once in every year, each service Commission shall prepare a report on the status of the promotion of the values and principles of public service.

(2) Each service Commission shall submit the report prepared under subsection (1) to the President and Parliament, and the Governor and county assembly, where relevant, by 31st December of each year.

(3) The report under this section shall provide information on—

- (a) the measures taken to promote the values and principles of public service;
- (b) the progress achieved in the promotion of values and principles of public service;
- (c) the challenges faced in the promotion of values and principles of public service;
- (d) any recommendations for the progressive realisation of values and principles of public service; and
- (e) any other matter that may be relevant to the realisation of the values and principles of public service.

SPECIAL ISSUE

Kenya Gazette Supplement No. 59 (Acts No. 1)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

ACTS, 2015

NAIROBI, 19th May, 2015

CONTENT

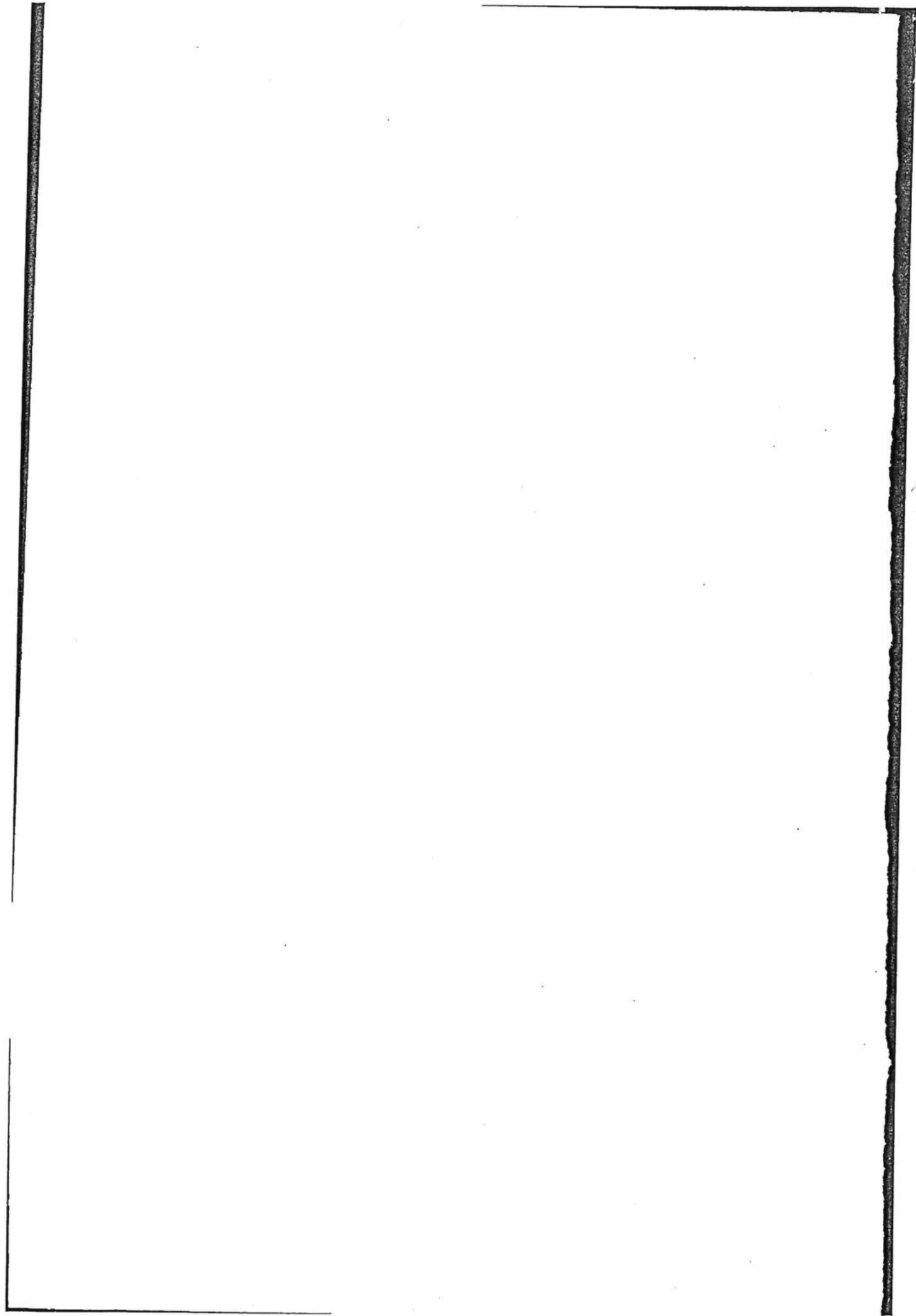
Act—

PAGE

The Public Service (Values and Principles) Act, 2015 1



PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI



THE PUBLIC SERVICE (VALUES AND PRINCIPLES) ACT

No. 1 of 2015

Date of Assent: 14th May, 2015

Date of Commencement: 4th June, 2015

ARRANGEMENT OF SECTIONS

Section

PART I—PRELIMINARY

- 1—Short title.
- 2—Interpretation.
- 3—Objects of the Act.
- 4—Application of the Act.

PART II—VALUES AND PRINCIPLES OF PUBLIC SERVICE

- 5—High standards of professional ethics.
- 6—Efficient, effective and economic use of resources.
- 7—Responsive, prompt, effective, impartial and equitable provision of services.
- 8—Transparency and provision to the public of timely, accurate information
- 9—Accountability for administrative acts.
- 10—Fair competition and merit as the basis of appointments and promotions.

PART III—PUBLIC PARTICIPATION, COMPLAINTS, REGISTER AND REPORTING

- 11—Public participation in promotion of values and principles of public service.
- 12—Public participation in policy-making.
- 13—Complaints.
- 14—Maintenance of register.
- 15—Compliments, commendations, honours, rewards, etc.
- 16—Reports.

PART V—GENERAL PROVISIONS

- 17—Regulations.
-

**THE PUBLIC SERVICE (VALUES AND
PRINCIPLES) ACT, 2015**

AN ACT of Parliament to give effect to the provisions of Article 232 of the Constitution regarding the values and principles of public service and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Public Service (Values and Principles) Act, 2015.

Short title.

2. In this Act, unless the context otherwise requires—

Interpretation.

“code of ethics” means a code of practice adopted by a profession to regulate that profession;

“continuing professional development” means the means by which a professional maintains their knowledge and skills related to their professional lives;

“professional association” means a non-profit organization seeking to further a particular profession, the interests of individuals engaged in that profession, and the public interest;

“professional in good standing” means a member of a professional association who has no pending matter of professional misconduct against them;

“professional in the public service” means a public officer who is or should be a member of a professional association;

“professional misconduct” means a violation of the code of ethics of a professional association by a member of that professional association;

“public officer” has the meaning assigned to it in Article 260 of the Constitution;

“public service” has the meaning assigned to it in Article 260 of the Constitution; and

“service Commission” means a constitutional Commission or independent office provided for in Chapter Fifteen of the Constitution, and includes—

- (a) a County Public Service Board; and
- (b) a County Assembly Service Board.

3. The objects of this Act are to provide for—

Objects of the Act.

- (a) a general code on the values and principles of public service;
- (b) public participation in the promotion of the values and principles of, and policy making by, the public service; and
- (c) reporting on the status of the promotion of values and principles of public service.

4. This Act applies to the public service in—

Application of the Act.

- (a) all State organs in the national and county governments; and
- (b) all State corporations.

PART II—VALUES AND PRINCIPLES OF PUBLIC SERVICE

5. (1) Every public officer shall maintain high standards of professional ethics.

High standards of professional ethics.

(2) For the purposes of subsection (1), a public officer maintains high standards of professional ethics if that public officer—

- (a) is honest;
- (b) displays high standards of integrity in that officer's dealings;
- (c) is transparent when executing that officer's functions;
- (d) can account for that officer's actions;
- (e) is respectful towards others;
- (f) is objective;
- (g) is patriotic; and
- (h) observes the rule of law.

(3) Despite the provisions of this section, a professional in the public service shall—

- (a) comply with the provisions of the relevant professional association regarding registration and continuing professional development;

- (b) be bound by the code of ethics of the relevant professional association; and
- (c) undergo such disciplinary action of the relevant professional association for any act of professional misconduct in addition to undergoing any disciplinary action of the public service for such act of professional misconduct.

(4) Where necessary, the public service, a public institution or an authorised officer may require a professional association to inform the public service, public institution or authorised officer whether or not a professional in the public service has committed an act of professional misconduct.

6. (1) A public officer shall use public resources in an efficient, effective and economic manner.

Efficient, effective and economic use of resources.

(2) For the purposes of subsection (1), a public officer fails to use public resources in an efficient, effective and economic manner if, in the process of their usage—

- (a) the public officer has used the public resources in a manner that is not prudent;
- (b) there is unreasonable loss;
- (c) there is deliberate destruction; or
- (d) the effect is to reduce the effectiveness of the public service.

7. (1) The public service shall ensure that public services are provided—

Responsive, prompt, effective, impartial and equitable provision of services.

- (a) promptly;
- (b) effectively;
- (c) impartially; and
- (d) equitably.

(2) The provision of public services is not prompt where there is unreasonable delay.

(3) For the purposes of this section, “unreasonable delay” includes failure by a public officer to provide a public service within the period that may be provided for in the service charter of the public institution in which he or she is serving.

(4) The provision of public services is ineffective if—

- (a) there is unreasonable loss;
- (b) public complaints against a public officer are made regarding the provision of public services; or
- (c) public grievances against a public institution are made regarding the quality of its services,

and a public officer is found culpable of the loss, or the complaint or grievance against the officer is found valid, upon complaint pursuant to section 13 of this Act.

(5) The provision of public services is not impartial or equitable if—

- (a) a public officer discriminates against a person or a community during the provision of public services; or
- (b) a public officer refuses or fails to give accurate information during the provision of public services.

(6) Every public institution shall—

- (a) develop standards for the responsive, prompt, effective, impartial and equitable provision of services;
- (b) facilitate the introduction of modern and innovative procedures, technologies and systems for the delivery of its services;
- (c) simplify its procedures and ease formalities related to access and delivery of its services;
- (d) ensure the adaptability of public services to the needs of the public;
- (e) ensure that its services are delivered closer to the users of the services; and
- (f) develop mechanisms for monitoring and evaluating the effectiveness of public service delivery.

8. (1) A public officer shall not—

- (a) give information that the public officer knows or ought to know to be inaccurate; or

Transparency and provision to the public of timely, accurate information.

- (b) unduly delay the provision of any information where required to provide that information.

(2) The public service, a public institution or, where permitted, an authorised officer shall develop guidelines for the provision to the public of timely and accurate information, and the promotion of transparency and accountability.

(3) For the purposes of this section, "undue delay" includes a failure by a public officer to provide information within the time required in accordance with the guidelines of the public institution in which he or she serves.

9. (1) Every public officer shall be accountable for his or her administrative acts.

Accountability for administrative acts.

(2) The public service, a public institution or an authorised officer shall ensure the accountability of a public officer by—

- (a) keeping an accurate record of administrative acts of public servants in each public institution;
- (b) requiring every public officer to maintain an accurate record of their administrative acts;
- (c) maintaining a record of relevant documents prepared by a public officer; and
- (d) establishing a mechanism to address complaints arising out of the administrative acts of a public officer.

10. (1) The public service, a public institution or an authorised officer shall ensure that public officers are appointed and promoted on the basis of fair competition and merit.

Fair competition and merit as the basis of appointments and promotions.

(2) Despite subsection (1), the public service may appoint or promote public officers without undue reliance on fair competition or merit if—

- (a) a community in Kenya is not adequately represented in appointments to or promotions in the public service or in a public institution;
- (b) the balance of gender in the public service or in a public institution is biased towards one gender;
- (c) an ethnic group is disproportionately represented in the public service or in a public institution; or

- (d) persons with disabilities are not adequately represented in the public service or in a public institution.

(3) Each public institution or each authorised officer shall develop a system for the provision of relevant information that promotes fairness and merit in appointments and promotions.

PART III—PUBLIC PARTICIPATION, COMPLAINTS, REGISTER AND REPORTING

11. (1) The public service shall facilitate public participation and involvement in the promotion of values and principles of public service.

Public participation
in promotion of
values and principles
of public service.

(2) Public participation and involvement may be through—

- (a) citizens' fora;
- (b) the village councils established under section 53 of the County Governments Act, 2012; or
- (c) elected leaders

No. 17 of 2012

(3) The citizens' fora referred to in subsection (2) shall include—

No. 13 of 2011

- (a) faith-based organisations or groups;
- (b) boards of management of learning institutions, however organised;
- (c) welfare associations;
- (d) residents' associations;
- (e) market-users' committees;
- (f) self-help groups; and
- (g) such other registered or unregistered groups organised at the sub-county level.

(4) Despite the provisions of this section, the rights and duties of residents specified in the Second Schedule to the Urban Areas and Cities Act, 2011, shall be applicable for the purposes of this Act with the necessary modifications.

12. (1) The public service shall develop guidelines for the involvement of the people in policy-making.

Public participation
in policy-making.

(2) The guidelines developed under subsection (1) shall ensure that the public is given—

- (a) adequate opportunity to review a draft policy;
- (b) adequate opportunity to make comments on a draft policy;
- (c) an opportunity to be heard by the makers of a policy; and
- (d) notification of the final draft of the policy and whether or not it incorporates their views.

13. (1) Where a person alleges the violation of the values and principles of public service by a public officer, that person may complain to—

Complaints.

- (a) the supervisor of that public officer;
- (b) the head of the department or institution in which that public officer serves;
- (c) the department in charge of public complaints of the relevant service Commission;
- (d) the department in charge of public complaints of the relevant commission; or
- (e) the person in charge of the values and principles committee of the public institution, where established.

(2) A person who makes a complaint under this section against a public officer may do so—

- (a) in person;
- (b) through a relative or personal representative;
- (c) through a legal representative;
- (d) through a citizens' forum;
- (e) through a village council;
- (f) through the relevant member of a county assembly; or
- (g) through the relevant member of Parliament.

(3) Where a person makes a complaint to a service Commission, that service Commission shall—

- (a) receive and record in a register the details of the complaint;

- (b) investigate and determine the complaint expeditiously but in any case in not more than three months from the date of receipt of the complaint; and
- (c) set down the reasons for its determination in writing and provide it to the complainant, the public officer concerned and to that public officer's supervisor, head of department or head of the institution.

(4) If after three months a service commission has not investigated and determined a complaint, the officer responsible for handling the complaint shall give the complainant satisfactory reasons, in writing, for non-compliance.

(5) Appropriate disciplinary action shall be taken against any officer who is found to have unreasonably delayed in handling a complaint made to the service commission.

(6) A person aggrieved by the decision of a service Commission may seek judicial redress.

14. (1) Each service Commission shall keep and maintain a register of complaints made against public officers and shall, upon request by a complainant, allow the complainant to inspect the register to verify details relating to his or her complaint.

Maintenance of register.

(2) A register of complaints shall contain the details of the complaint including the name and designation of the officer complained against and the action taken by the responsible commission.

(3) The service Commission may, on the request of a complainant, omit the identity of the complainant from the register of complaints.

15. (1) Where a person considers the quality of public service offered by a public officer to be exemplary, outstanding, or innovative, that person may inform the public officer's supervisor or head of the institution.

Compliments, commendations, honours, rewards, etc.

(2) For the purposes of subsection (1), each public institution shall make guidelines to provide for—

- (a) the receiving and recording of information; and

- (b) recognising, commending and rewarding public officers who offer exemplary, outstanding or innovative services or who perform their duties exceptionally well.

16. (1) Once in every year, each service Commission shall prepare a report on the status of the promotion of the values and principles of public service.

Reports.

(2) Each service Commission shall submit the report prepared under subsection (1) to the President and Parliament, and the Governor and county assembly, where relevant, by 31st December of each year.

(3) The report under this section shall provide information on—

- (a) the measures taken to promote the values and principles of public service;
- (b) the progress achieved in the promotion of values and principles of public service;
- (c) the challenges faced in the promotion of values and principles of public service;
- (d) any recommendations for the progressive realisation of values and principles of public service; and
- (e) any other matter that may be relevant to the realisation of the values and principles of public service.

PART VII—GENERAL PROVISIONS

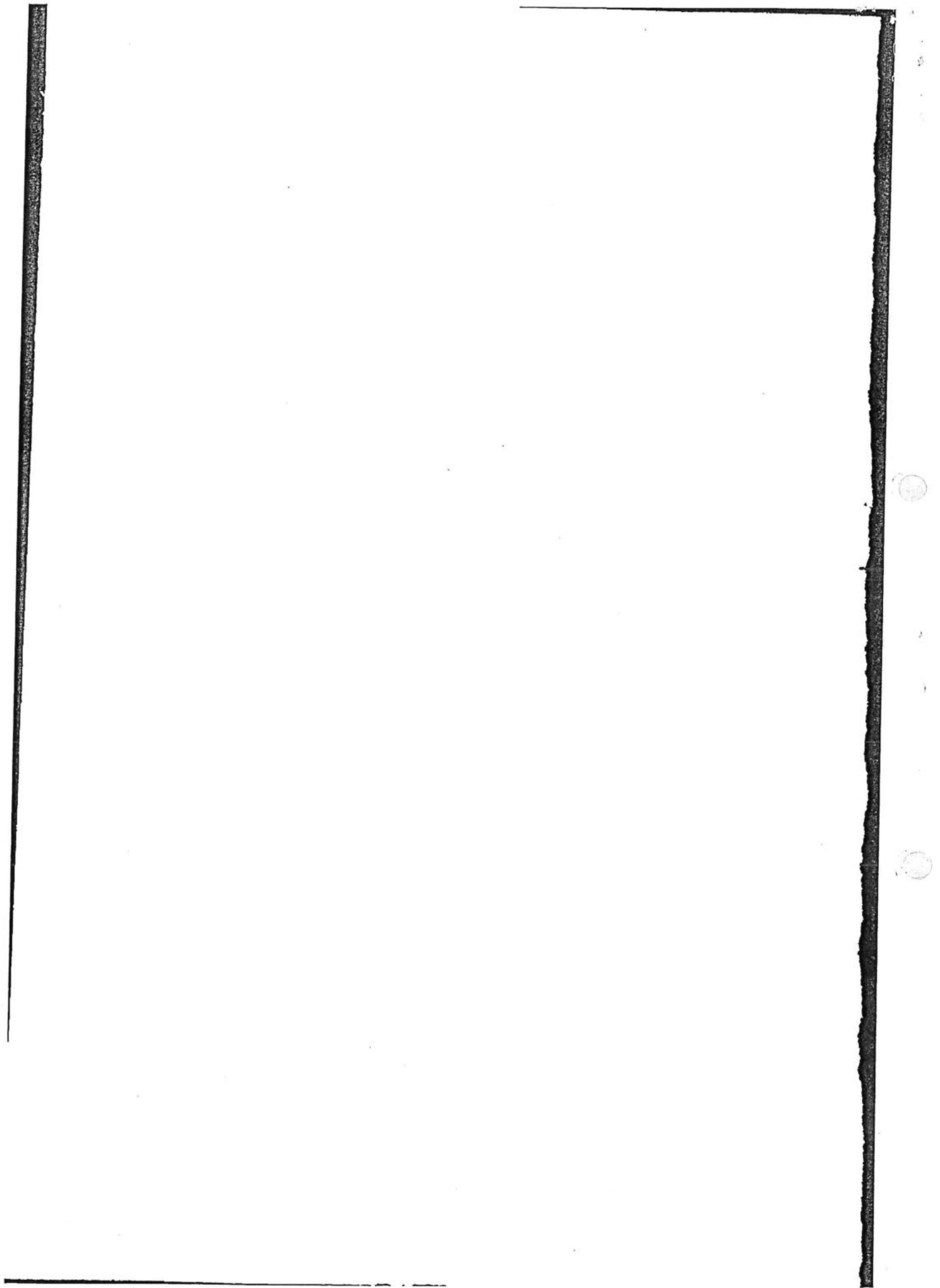
17. (1) Each service Commission may make regulations for the better carrying into effect of this Act.

Regulations.

(2) Despite the generality of subsection (1), a service Commission may make regulations regarding—

- (a) high standards of professional ethics;
- (b) determination of any disciplinary matter in relation to a violation of a value or principle under this Act;
- (c) the responsive, prompt, effective, impartial or equitable of public services;
- (d) the efficient, effective and economic use of public resources;

- (e) transparency;
- (f) the provision to the public of timely and accurate information;
- (g) public participation;
- (h) accountability of public officers;
- (i) the application of fair competition or merit in appointments or promotions;
- (j) service delivery;
- (k) performance management;
- (l) access to information by the public and
- (m) the provision of adequate and equal training opportunities for training.





PUBLIC SERVICE COMMISSION

Ref: PSC/LEG/019/14/158 Vol. V (83)

14th March, 2023

The Clerk to the National Assembly
Parliament Buildings
Parliament Road
NAIROBI.

AMENDMENT TO THE PUBLIC SERVICE VALUES AND PRINCIPLES ACT.

This has reference to your letter Ref: NA/DDC/LABOUR/2023/011 dated 20th February, 2023 on the above subject.

The Commission observes that the proposed amendment seeks to introduce parameters for measurement of inclusivity in terms of gender, ethnicity, disability status and age. These parameters are provided for in Articles 27 (8), 54 (2), 55 (c), and 232 (i), (h) and (j) of the Constitution. The Commission therefore has no objection to requiring Service Commissions to report these parameters.

There is however no justification for inclusion of the county of birth and county of residence in the proposed amendment, there is no requirement for this parameter under the Constitution.

Dr. Simon K. Rotich, CBS
Secretary/CEO
Public Service Commission



KENYA LAW REFORM COMMISSION



"A Vibrant Agency for Responsive Law Reform"

Telegrams: "LAWREFORM" NAIROBI
Telephone: Nairobi, +254-20-2241186/2241201
Fax: +254-20-2225786
www.info@klrc.go.ke

When replying please quote

Ref. No. KLRC/RES/93/VOL.VII/(16)
and Date



KENYA LAW REFORM COMMISSION
REINSURANCE PLAZA
3RD FLOOR
TAIFA ROAD
P.O. Box 34999-00100
NAIROBI, KENYA

The Clerk of the National Assembly
Clerks' Chambers
National Assembly
National Building
P. O. Box 41842 - 00100
NAIROBI

Attn. Mr. Jeremiah Ndombi, MBS)

Dear *Jeremiah*

RE: COMMENTS ON THE PROPOSED PUBLIC SERVICE (VALUES AND PRINCIPLES)
(AMENDMENT) BILL, 2022

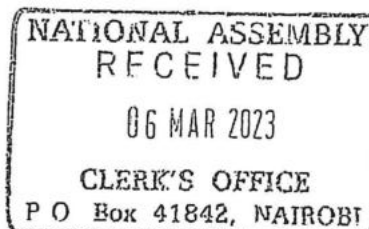
Your letter Ref.NA/DDC/LABOUR/2023/011 dated 20th February 2023.

Enclosed herewith, please find the Commission's comments on the Proposed Public Service (Values and Principles) (Amendment) Bill, 2022 for further action.

As always, we thank you for your continued support to the Commission.

Yours

Joash Dache
Joash Dache, MBS
Secretary/Chief Executive Officer



Ms. Rose Wanjohi
P/s TNA. 07/03/23



COMMENTS ON THE PROPOSED PUBLIC SERVICE (VALUES AND PRINCIPLES) (AMENDMENT) BILL, 2022

A. Introduction

The Kenya Law Reform Commission, hereinafter referred to as "KLRC", *Vide* a letter dated 20th February, 2023 and referenced as NA/DDC/LABOUR/2023/011, from the Clerk of the National Assembly, received a request for comments on the proposed Public Service (Values and Principles) (Amendment) Bill, 2022.

The proposed Bill according to its memorandum of objects and reasons, is a Bill to amend section 16 of the The Public Service (Values and Principles) Act, No. 1a of 2015, (hereinafter referred to as the Act), to require all state officers in the national and county government to submit annual reports on details of their human resource.

Against this background and pursuant to the KLRC's mandate under section 6 of the Kenya Law Reform Commission Act, No. 19 of 2013, the KLRC, undertook an analysis of the proposed Bill by assessing its constitutionality as well as the statutory harmony with the other existing relevant legislation.

B. Analysis of the Bill

Provision of the Bill	Proposal	Rational
Clause 2(b)—makes reference to the term "authorised officer" who may face disciplinary actions for failing to submit a report.	Although the term authorised officer has been used across the body of the Act, the term has not been defined. The KLRC recommends that the term be defined under section 2 of the Act.	This is for clarity and ease of understanding.

C. Conclusion

The proposed amendments though well meaning, are however procedural in nature and could adequately be addressed through administrative measures or Regulations as contemplated under section 17 of the Act.



REPUBLIC OF KENYA

OFFICE OF THE ATTORNEY-GENERAL
&
DEPARTMENT OF JUSTICE

DDC-H-071
8/17/03/23

AG/LDD/498/1/15

The Clerk of the National Assembly,
Parliament Buildings,
P. O. Box 41842-00100,
NAIROBI.



16th March, 2023

RE: STAKEHOLDERS SUBMISSIONS ON THE PUBLIC SERVICE (VALUES
AND PRINCIPLES) (AMENDMENT) BILL NO. 46 OF 2022 BY THE
DEPARTMENTAL COMMITTEE ON LABOUR

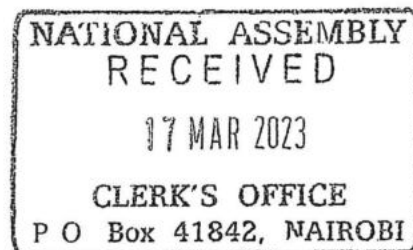
Reference is made to your letter dated the 20th February 2023 and Ref
No. NA/DCS/LABOUR/2023/011 on the above captioned matter.

We sought policy guidance on the Public Service (Values and Principles)
(Amendment) Bill, 2022 from the relevant offices. We have received
views and comments from the Ministry of Public Service, Gender and
Affirmative Action and the Public Service Commission. Enclosed herewith
please find the comments for your consideration.

Christine Mulatya
Senior Parliamentary Counsel.
For: ATTORNEY-GENERAL

Encl.

Copy to: Hon. J.B.N. Muturi, EGH
Attorney-General.



SHERIA HOUSE, HARAMBEE AVENUE
P.O. Box 40112-00100, NAIROBI, KENYA. TEL: +254 20 2227461/2251355/07119445555/0732529995
E-MAIL: info.statelawoffice@kenya.go.ke WEBSITE: www.attorney-general.go.ke

DEPARTMENT OF JUSTICE
CO-OPERATIVE BANK HOUSE, HAILLE SELLASIE AVENUE P.O. Box 56057-00200, Nairobi-Kenya TEL: Nairobi 2224029/ 2240337
E-MAIL: legal@justice.go.ke WEBSITE: www.justice.go.ke

ISO 9001:2008 Certified



Ms. Rose Wanjohi

Plc TNA, 12 20/03/2023



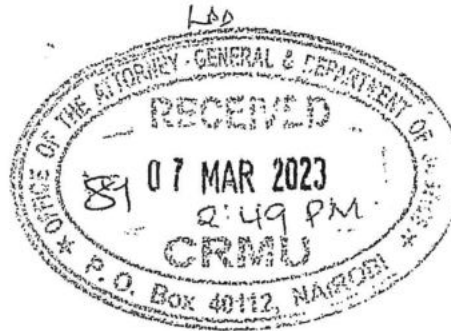
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PUBLIC SERVICE COMMISSION

PSC/LEG/019/14/158 (71)

6th January, 2023

Hon. Attorney General
Office of the Attorney General &
Department of Justice
Sheria House, Harambee Avenue
NAIROBI



RE: STAKEHOLDERS SUBMISSIONS ON THE PUBLIC SERVICE (VALUES AND PRINCIPLES) (AMENDMENT) BILL NO. 46 OF 2022 BY THE DEPARTMENTAL COMMITTEE ON LABOUR

We acknowledge receipt of your letter Ref. No. AG/LDD/498/1/15 dated 1st March, 2023 on the above subject.

The Commission observes that the amendment seeks to ensure institutions provide data to show inclusion in terms of gender, ethnicity, age and disability status which are constitutional parameters under Article 27(8) 54(2) 55(c) 56 (c) and 232 (1) (h) and (i). The Commission therefore has no objection to it.

However, on the introduction of a parameter on County of birth and County of residence this is not supported by any constitutional provision.


Dr. Simon K. Rotich, CBS
SECRETARY/CEO
PUBLIC SERVICE COMMISSION



(5)

REPUBLIC OF KENYA
MINISTRY OF PUBLIC SERVICE, GENDER, AND AFFIRMATIVE ACTION
STATE DEPARTMENT FOR PUBLIC SERVICE
Office of the Principal Secretary

Telegraphic address: "Personnel", Nairobi
Telephone: Nairobi 2227411
Telex: 23125
Fax: 2243620
When replying please quote

P.O. Box 30050-00100
NAIROBI
KENYA

Ref: MPSCA/8/9/21

7th March, 2023

Christine Mulatya
Senior Parliamentary Counsel
Office of the Attorney General and
Department of Justice - Sheria House
NAIROBI

Dear *Christine*

RE: STAKEHOLDERS SUBMISSIONS ON THE PUBLIC SERVICE (VALUES AND PRINCIPLES) (AMENDMENT) BILL NO 46 OF 2022 BY THE DEPARTMENTAL COMMITTEE ON LABOUR

The above subject matter and your letter Ref:AG/LDD/498/1/15 dated 1st March, 2023 refers.

The proposed amendments to the Public Service (Values and Principles) Act are well noted and there are no objections to the same.


However, in the attached Memorandum Objects and Reasons for the Bill, it is stated under paragraph Two (2) that the amendment will facilitate equal opportunities among other things. Whereas this is a good intent, as provided under Article 10 2(b) the Constitution, This may not be tenable as a consequence or object of the proposed amendment.

The proposal is to have the objective to be aimed at facilitating equity rather than equality.

The below is the submission as requested.

	SECTION FOR AMENDMENTS	PROPOSED AMENDMENTS 3(da)	JUSTIFICATION
1	Section 16 2(3)da	(da) Details on the human resource establishment within the Service Commission outlining the total number of employees and highlighting their gender, age, county of birth county of residence, ethnicity and where they are persons living with disabilities."	The tabulated details will provide data that will be used to access compliance with the Constitution and the Public Service (Values and principles) Act 2015

2	Section 16(4)	Addition of subsections (4) - An Authorized officer who fails to prepare a report under subsection (1) may be subjected to disciplinary action in accordance with laid out procedures.	This will serve to strengthen enforcement and adherence to the requirements of the Act
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Yours *Sincerely,*

 Amos N. Gathecha, EBS, ndc (K)
PRINCIPAL SECRETARY

Copy to : Cabinet Secretary



LAW SOCIETY OF KENYA
Lavington, Opposite Valley Arcade
Gitanga Road
P.O. Box 72219-00200
NAIROBI
Tel. 387 4664
0720 904983

① DCS
for attention of
the relevant
committee
considering the
Bill
13/3/23

DC on Labour
Rose Wanjohi to
facilitate consideration
w.r/v
14/3/23

MEMORANDUM

TO

THE CLERK OF THE NATIONAL ASSEMBLY

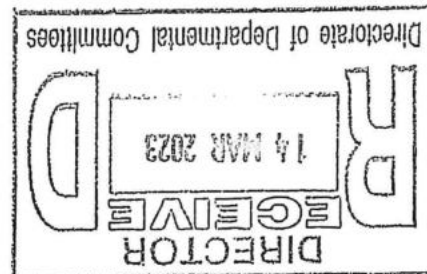
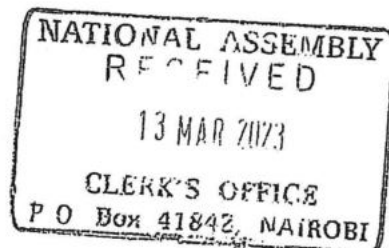
ON

THE PUBLIC SERVICE (VALUES AND PRINCIPLES) (AMENDMENT) BILL, 2022

② DCS
for your
attention
14.03.23

MARCH 2023

Eric Theuri, President Law Society of Kenya
Lavington, opp Valley Arcade,
Gitanga Road P.O Box 72219 - 00200 Nairobi | Kenya
Tel: +254 111 045 300
Email: lskpresidenttheuri@gmail.com/ president@lsk.or.ke
Website: www.lsk.or.ke



THE PUBLIC SERVICE (VALUES AND PRINCIPLES) (AMENDMENT) BILL, 2022

Introduction

The Law Society of Kenya is a professional statutory body established under the Law Society of Kenya Act, No. 21 of 2014 with a mandatory membership of all Advocates in Kenya currently numbering to over 21,000.

The organs of the Society are the General Membership, the Council, the Branches and the Secretariat. The Council is the governing body of the Law Society of Kenya. It comprises a President, a Vice- President and eleven other members, all of whom must be members of the Law Society of Kenya. Council members are elected every two years by the members of the Society by means of a secret ballot conducted in accordance with the Law Society of Kenya Act.

Currently, the Council is comprised of The President, The Vice-president and 11 Council members namely:

- o President, Eric Theuri
- o Vice President, Faith Mony Odhiambo
- o General Membership Representatives, Chrysostom Akhaabi, Kabata Mwaura, Tom K'opere
- o Nairobi Representatives, Cohen Amany, Njoki Mboce, Ochieng Gor
- o Up-country Representatives, Byron Menezes, Lindah Kiome, Michael Wabwile, Vincent Githaiga
- o Coast Representative, Riziki Emukule
- o Secretary/CEO, Florence W. Muturi

One of the Law Society of Kenya statutory objects as provided in section 4(a) of the Act is to assist the Government and the courts in all matters affecting legislation and the administration and practice of law in Kenya. Pursuant to the statutory mandate, the Law Society of Kenya makes presentations on the Public Service (Values and Principles) (Amendment) Bill, 2022.

GENERAL COMMENT

The Public Service (Values and Principles) (Amendment) Bill, 2022 seeks to amend section 16 of the Public Service (Values and Principles) Act, 2015 to include an additional provision that requires all state organs in the national and county governments and state corporations to submit annual reports on details of the human resource in constitutional Commissions, independent offices and County Public Service Boards and County Assembly Service Board.

The law further requires the data to be reported on by the human resource to include the gender, age, County of Birth and County of residence. This is intended to facilitate the public service values and principles that require the public service to reflect Kenya's diverse communities and afford adequate and equal opportunities for appointment of women and men, members of all ethnic groups and persons with disabilities pursuant to Article 232 of the Constitution.

Below are our comments that highlight the immediate observable issues related to the draft and are informed by the existing practice standards.

SPECIFIC COMMENTS ON THE PUBLIC SERVICE (VALUES AND PRINCIPLES)
(AMENDMENT) BILL, 2022

Provision of the Bill	Issue	Proposal
Section 2 on Amendment of section 16 of No.1A of 2015	<p>This section provides that;</p> <p><i>"Section 16 of the Public Service (Values and Principles) Act is amended —</i> <i>(a) in sub-clause (3), by inserting the following paragraph immediately after paragraph (d)—</i> <i>(da) details on the human resource establishment within the Service Commission outlining the total number of employees and highlighting their gender, age, county of birth, county of residence, ethnicity and whether they are persons living with disabilities."</i></p> <p>It is offensive to refer to disabled persons as Persons living with Disabilities especially in light of the now progressive phrasing as persons abled differently.</p>	<p>Delete the word "living" to remain with Persons with Disabilities.</p>

032
11

	<p>Reference should be made to the Persons with Disabilities Act, 2003 and Article 232 (I) (h) (iii).</p> <p>The risk of dwelling on ethnicity and not on sustainable development</p> <p>The amendment does not include academic and professional qualification and this is short sighted. The goal of merit based recruitment was always that in the end all public servants work professionally to drive the development of the country and that there is progressive improvement of professionalism both at county level and national level to reflect the diversity of the country.</p> <p>Contextually people in national government, county government and any other public agency are employed chiefly because they have the requisite education, professional qualifications and adherence to the standards of their professional body.</p> <p>To make the list comply with the intent of the law, that is Article 232 (I) (a) and (b), (g) (h) and (i) there should be added to the list academic and professional qualifications.</p>	
	<p>Personal Data</p> <p>This further data to be reported by the human resource falls under the definition of 'personal data'.</p> <p>Personal data is information that is related to an identifiable person or identifiable natural person; according to the Data Protection Act, 2019.</p> <p>The enactment and implementation of this Bill will therefore, impact the manner in which this personal data is accessed, disclosed, transmitted or otherwise processed by the data controller/processor (state organs) by the human resource of these various state offices.</p>	<p>Amend the provision to reflect the following –</p> <p><i>(da) details on the human resource establishment within the Service Commission outlining the total number of employees and highlighting their gender, age, county of birth, county of residence, ethnicity, whether they are persons with disabilities, their academic qualifications and their professional qualifications"</i></p> <p>The law, therefore, ought to be very clear on State Organ's compliance to the provisions of the Data Protection Act, 2019 which outlines the procedures to be followed by data processors and data controllers in management of personal data.</p> <p>Justification for this comment is under Article 31 of the Constitution of Kenya, 2010 and the Data Protection Act, 2019.</p> <p>Annual reports are considered public records, owing to this fact, the information by the human</p>

		<p>resource on age, gender, and county of birth and residence will have to be handled with precaution in order to safeguard the identities of these staff members. Further the failure to disclose this information renders the effect of the amendment mute hence the need to balance the two competing considerations.</p>
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In conclusion, we humbly submit that our comments be considered before enacting the law.

Yours faithfully,



Eric Theuri
President Law Society of Kenya

*Data Commission
Protection of data*



OFFICE OF THE DATA PROTECTION COMMISSIONER

When replying please quote:

Ref: ODPC/ADM/4/6/2

Email: info@odpc.go.ke

Britam Tower
12th Floor
P.O. Box 30920 - 00100
NAIROBI

3rd April, 2023

Office of the Clerk
The National Assembly
Main Parliament Buildings
P.O Box 41842-00100
NAIROBI

**RE: VIEWS ON THE PUBLIC SERVICE (VALUES AND PRINCIPLES)
(AMENDMENT) BILL NO. 46 OF 2022.**

INTRODUCTION

Reference is made to letter **NA/DDC/LABOUR/2023/020**, dated **20th March 2023**, inviting the Office of the Data Protection Commissioner to submit views on the memorandum on the Bill from the Law Society of Kenya. The said memorandum expressed concerns on the proposed **Section 2 on the Amendment of Section 16 of No.1A of 2015** which seeks compliance with the provisions of the Data Protection Act, No. 24 of 2019 (hereinafter "the DPA" or "the Act").

ODPC COMMENTS

The Office has studied the memorandum and wishes to respond as follows in line with its mandate:

1. **Section 2 on the Amendment of Section 16 of No.1A of 2015** seeks to collate and process the following employee details: *gender, age, county of birth, county of residence, ethnicity, and whether they are persons living with disability*. Employee ethnicity, which is part of the data to be collected, is deemed "**sensitive personal data**" under Section 2 of the DPA.

2. Section 31 of the DPA provides that where sensitive personal data is to be processed, a Data Protection Impact Assessment (DPIA) **MUST** precede the processing of such employee data, to identify and mitigate any potential risks.
3. The processing of such personal data should therefore adhere to the following principles set out under Section 25 of the DPA:
 - i. The data must be obtained and processed fairly and lawfully (*principle of lawfulness, fairness and transparency*);
 - ii. The data must be stored for specified and legitimate purpose and not used in a way incompatible with those purposes (*principle of purpose limitation*);
 - iii. Must be adequate, relevant and not excessive in relation to the purpose for which they are stored (*principle of data minimization*);
 - iv. Must be accurate and, where necessary, kept up to date (*principle of accuracy*);
 - v. Must be preserved in a form which permits identification of the data subjects for no longer than is required for the purpose for which those data are stored (*principle of storage limitation*); and
 - vi. Appropriate security measures ought to be taken for the protection of personal data stored, against accidental or unauthorised destruction or accidental loss as well as against unauthorised access, alteration or dissemination (*principle of confidentiality, integrity and accountability*).
4. The following rights of the data subjects (employee's) under Sections 26 and 29 of the DPA should be safeguarded; the employees should be notified of their rights specified in the Act, inform them that their personal data is being collected, state the purpose of the collection; disclosing any third parties who may receive the data and the safeguards adopted, providing the contacts of the data controller or data processor and disclose whether any other entity may receive the data, describe the technical and organizational security measures taken to ensure data confidentiality and integrity, state if the data is being collected pursuant to any law and if it is voluntary or mandatory; and outline the consequences if they fail to provide all or part of the requested data.
5. The employee's rights to obtain as the case may be, access, rectification or erasure of the data collected and to object to the processing of all or part of their personal data, should equally be spelt out. The remedy for lack of compliance with a request for access, rectification or erasure should also be spelt out.
6. The grounds for processing sensitive personal data as outlined under Section 44 and 45 of the DPA should also be adhered to during the processing of the said information.

7. The processing should also incorporate the elements of data protection by design or default under Section 25 of the DPA and Part V of *the Data Protection (General) Regulations, 2011*. Data protection by design, is an approach that ensures data controllers and data processors consider privacy and data protection issues at the design phase of any system, service, product or process and then throughout the lifecycle. Data protection by default, on the other hand, requires all data controllers and processors to ensure that only data that is necessary to achieve a specific purpose is processed.
8. In as much the anticipate processing falls within the ambit of lawful bases for processing personal data under Section 30 of the Act; for the compliance with any legal obligation to which the controller is subject; and to the performance of any task carried out by a public authority, the processing must still comply with the provisions of the DPA highlighted herein.

RECOMMENDATIONS

9. In light of the foregoing, the provision should be amended, by adding a proviso as hereunder:

(da) details on the human resource establishment within the Service Commissioning outlining the total number of employees and highlighting their gender, age, county of birth, county of residence, ethnicity, whether they are persons with disabilities, their academic qualifications and their professional qualifications, provided that the information in question is processed in accordance with the Data Protection Act, No. 24 of 2019"



**Immaculate Kassait, EBS
DATA COMMISSIONER**

Tel: 254 (20) 4298000
Fax 254 (20) 4298251
Email: info@crakenya.org
Website: www.crakenya.org



14 Riverside Drive
Grosvenor block
2nd Floor
P.O. Box 1310 - 00200
NAIROBI

COMMISSION ON REVENUE ALLOCATION

REF: CRA/CSO/P&S/11/Vol.IV (18)

DATE: 11th April 2023

Mr. Samuel Njoroge
Clerk of the National Assembly
Parliament Buildings
NAIROBI

Dear *Mr. Njoroge,*

Rose Wanjohi
pls facilitate
up 12/4/23

RE: MEMORANDUM ON THE PUBLIC SERVICE (VALUES AND PRINCIPLES) (AMENDMENT) BILL NO. 46 OF 2022

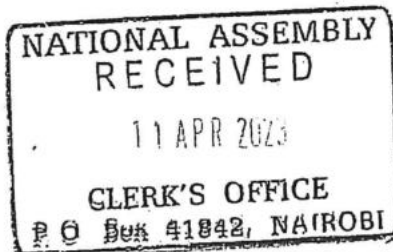
We refer to the subject matter and your letter dated 3rd April 2023.

In line with your request, please find enclosed our memorandum touching on provisions of the Bill as captioned for your consideration.

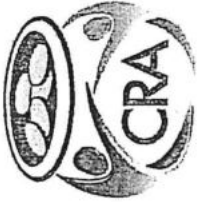
Yours *Sincerely,*

James Katule
CPA James Katule

COMMISSION SECRETARY/CEO







COMMENTARY ON THE PUBLIC SERVICE (VALUES AND PRINCIPLES) (AMENDMENT) BILL NO. 46
OF 2022

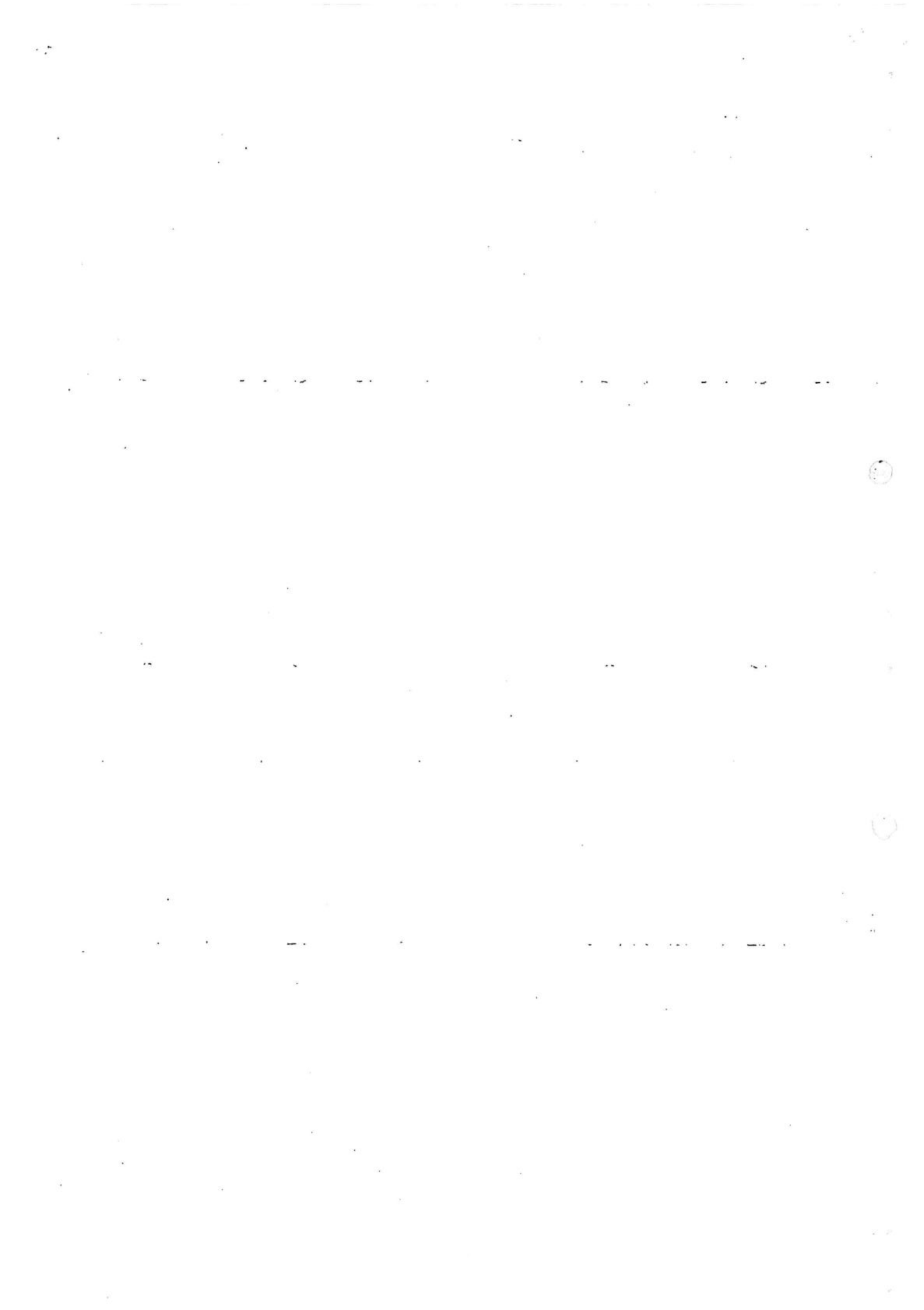
This Bill seeks to amend the Public Service (Values and Principles) Act to require all state organs at the national and county level to submit reports on their human resource.

Comments on the Bill are as below-

No.	Clause	Proposed Amendment	Justification
1.	Interpretation	Include a new amendment to the Bill to insert under section 2 of the Act definition of the phrase " <i>authorised officer</i> " to mean the head of the secretariat or person charged with the day to day administration and management of the affairs of a government entity	The phrase is currently not defined.

2.	<p>Clause 16 Reports</p>	<p>Proposes insertion of a new sub clause (3) to section 16 immediately after paragraph (d)</p> <p>“(da) details on the human resource establishment within the Service Commission outlining the total number of employees and highlighting their gender, age, county of birth, county of residence, ethnicity and whether they are persons living with disabilities”</p> <p>Recommendation: Add <u>religion, employment terms i.e. permanent or contractual and level of education</u> as part of the report content.</p>	<p>To align with the constitutional provisions on inclusivity e.g. Article 27 and to foster diversity</p>
3.	<p>Clause 2(b)</p>	<p>Proposes insertion of the following new sub section</p>	<p>To offer clarity to the provision and to make it implementable.</p>

		<p>immediately after sub section (3)-</p> <p>(4) An authorized officer who fails to prepare a report under subsection (1) maybe subjected to disciplinary action in accordance with the laid out procedures.</p> <p>Recommendation: Specify where the "laid out procedures" lie e.g. the specific law or if the same are as per the administrative policies of the institutions they serve.</p>	
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REPUBLIC OF KENYA

National Police Service Commission



Sky Park Plaza, 5th Floor
Woodvale Close, Westlands
P.O. Box 47363 - 00100 GPO
NAIROBI

Website: www.npsc.go.ke
Email: info@npsc.go.ke
Tel: 0709 099 000

NPSC/1/29/12/ VOL. III (62)

Rose Wanjohi

pls facilitate

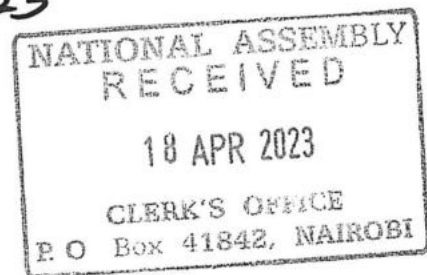
Date: 17th April, 2023

*4 m/v
19/4/23*

To The Clerk,
The National Assembly
Departmental Committee on Labour
P.O. Box 41842-00100,

NAIROBI

Email: cna@parliament.go.ke



NATIONAL POLICE SERVICE COMMISSION SUBMISSIONS ON STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL NO. 46 OF 2022

The National Police Service Commission has received a request by the National Assembly Departmental Committee on **Labour** through a letter addressed to the Commission Secretary Ref: NA/DDC/LABOUR/2023/024 dated 3rd April, 2023.

The request to the National Police Service Commission is for submissions on the proposed amendments to the Public Service (Values and Principles) (Amendment) Act, No 1A of 2015.

Please find attached Submissions by the Commission on the Bill as requested.

Submitted for your most gracious consideration


Dr. Silas O. Mc'Opio, PhD, EBS, OGW
Ag. CS/CHIEF EXECUTIVE OFFICER
NATIONAL POLICE SERVICE COMMISSION





REPUBLIC OF KENYA

National Police Service Commission



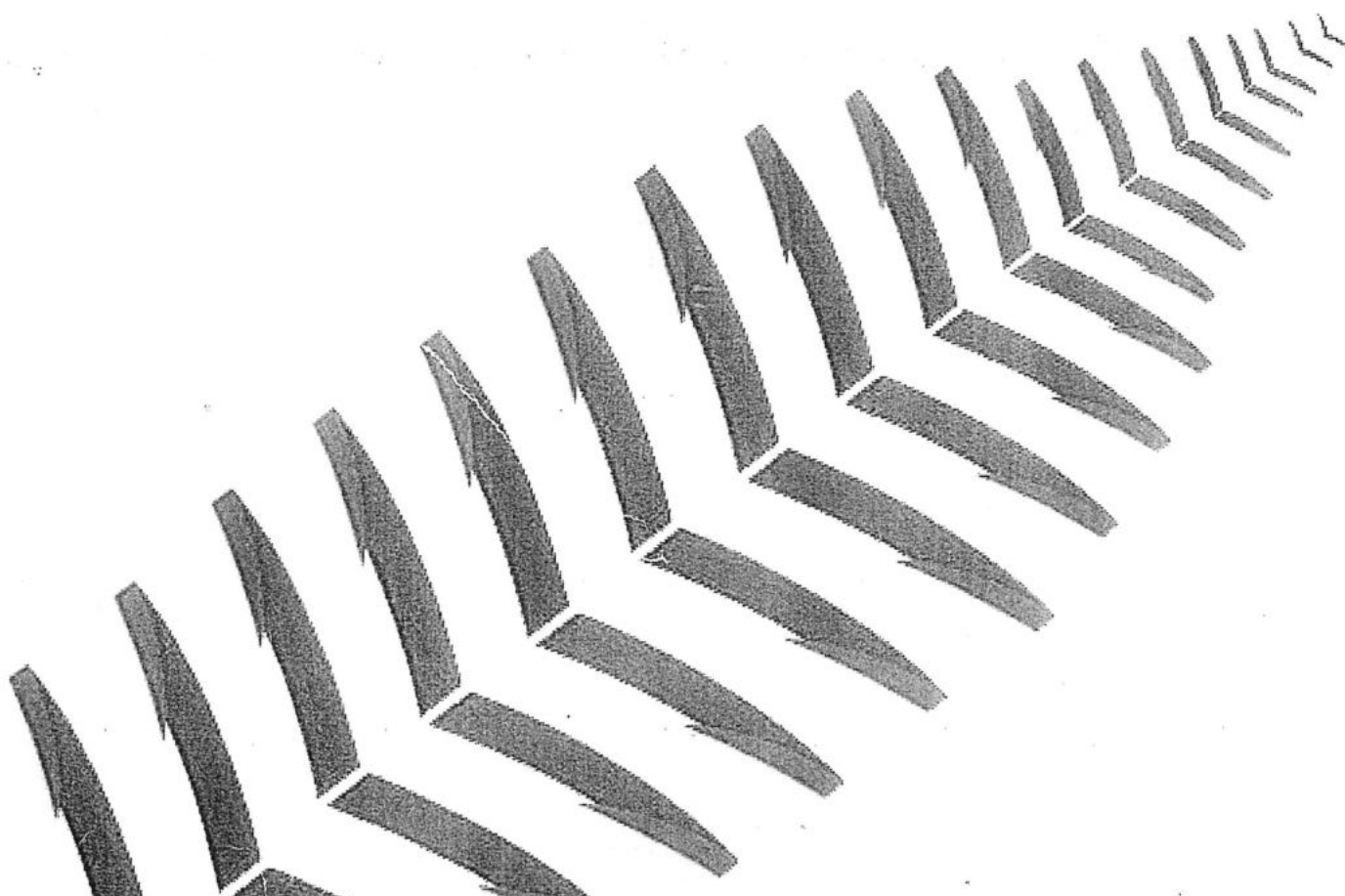
THE NATIONAL POLICE SERVICE COMMISSION'S SUBMISSIONS
TO

THE NATIONAL ASSEMBLY
DEPARTMENTAL COMMITTEE ON LABOUR

PRESENTED BY

DR. SILAS MC'OPIYO, PhD. EBS, OGW
Ag COMMISSION SECRETARY/ CHIEF EXECUTIVE OFFICER,
NATIONAL POLICE SERVICE COMMISSION

TUESDAY, 11TH APRIL, 2023



OUTLINE

- 1.0 INTRODUCTION
- 1.1 NATIONAL POLICE SERVICE COMMISSION LEGAL FRAMEWORK
- 2.0 PUBLIC SERVICE (VALUES AND PRINCIPLES) (AMENDMENT) BILL NO. 46 OF 2022
- 2.1 AUTHORISED OFFICER
- 2.2 SUBMISSION OF ANNUAL REPORTS
- 2.3 EXEMPTION FOR FULL REPORTING ON CATEGORY OF STAFF
- 2.4 AMENDMENT OF SECTION 16 OF THE PUBLIC SERVICE (VALUES AND PRINCIPLES) ACT BY INTRODUCTION OF SUB-CLAUSE 3(da)
- 2.5 PROPOSED AMENDMENT BY INSERTING NEW SUB-SECTION 16 (4)

1.0 INTRODUCTION

The National Assembly Departmental Committee on Labour has invited the, National Police Service Commission through a letter reference NA/DDC/LABOUR/2023/024 dated 3rd April, 2023 addressed to the Acting Commission Secretary/ Chief Executive Officer to make comments on Public Service (Values and Principles) (Amendment) Bill No. 46 Of 2022 pursuant to Article 118 of the Constitution of Kenya, 2010.

The invitation for public participation requests the National Police Service Commission to make its submissions through the Clerk of the National Assembly on the proposed amendments to the Public Service (Values and Principles) Act No. 1A of 2015.

1.1 NATIONAL POLICE SERVICE COMMISSION LEGAL FRAMEWORK

The National Police Service Commission is established by Article 246(1) of the Constitution of Kenya, 2010, it is also a Constitutional Commission under Article 248(2) of the Constitution and is a Service Commission as set under section 2 of the Public Service Act No. 1A of 2015 and as set out under Article 234(3) (c) of the Constitution.

The mandate, powers, objects and independence of the Commission is operationalized in accordance to Article 246 (3)(c) which requires the Commission to perform any other function prescribed by the National Legislation. Other Legislations operationalization the Commission's mandate are: NPS Act No. 11A of 2011 and NPSC Act No. 30 of 2011.

There are also numerous Regulations pursuant to the Legislations named hereinabove which include: NPSC (Recruitment and Appointment) Regulations 2015, NPSC (Promotions) Regulations 2015, NPSC (Transfers and Deployment) Regulations 2015, NPSC (Discipline) Regulations 2015, NPS (Vetting) Regulations 2013 and NPS Service Standing Orders (SSO 2017, LN. 100 of 9th June 2017).

The Commission is responsible for the Human resource function of the National Police Service as set out in Article 246 (3) of the Constitution of Kenya, 2010.

2.0 PUBLIC SERVICE (VALUES AND PRINCIPLES) (AMENDMENT) BILL NO. 46 OF 2022

The invitation letter cites two of the resolutions in which the Commission is invited to make its submissions on. The first one is an opinion on what should constitute the definition of the term “authorised officer”.

2.1 AUTHORISED OFFICER

The NPSC Act, 2011 does not have a definition for the term “Authorised Officer” but the National Police Service Commission Human Resource Manual proffers a meaning in its ‘Definition of Terms’ section as follows;

Commission Secretary. “The Commission Secretary is the Chief Executive Officer of the Commission appointed in accordance with section 15 of the National Police Service Act. He is also the Accounting and the Authorized Officer of the Commission.”

The Public Service (Values and Principles) Act No. 1A of 2015 is aimed at more Public entities and State agencies other than the National Police Service Commission. The Commission (NPSC) will therefore make a recommendation of the meaning of the term in the context of preparation and submission of the Statutory Annual Reports to the President and Parliament to mean:

	PROPOSED AMENDMENT	COMMENTS BY NPSC
1.	Definition of the term “Authorised officer”	Means the Commission Secretary or officer appointed and exercising the powers, performing similar duties and functions for or on behalf of the Commission for purposes of preparing the Statutory Annual Reports to Parliament and the President.

2.2 SUBMISSION OF ANNUAL REPORTS

In the Matter of submissions of the Annual reports to the President and the National Assembly, the National Police Service Commission (NPSC) is guided by the NPSC Act, No. 30 of 2011 at Section 26 of the Act.

Section 26 (3) (i) of the NPSC Act No. 30 of 2011 mirrors the proposed Section 16 3(da) of Proposed Amendment Bill No. 46 at to the extent that it provides that;

S. 26 (3) Annual Report

The annual report shall contain, in respect of the year to which it relates—

- (i) **the gender, county regional and ethnic diversity in the Service;**

2.3 STAFF OF THE COMMISSION

The National Police Service Commission has categories of staff as follows:

- i. **Members of the Service** (as defined by Section 2, National Police Service Act No. 11A of 2011) that includes civilian members of staff of the Service;
- ii. **Police Officers** under the National Police Service as established by Article 243 of the Constitution and this includes **Police reservists**;
- iii. Staff of the Commission.

2.3 EXEMPTION FOR FULL REPORTING ON CATEGORY OF STAFF

The National Police Service Commission has well over 100, 000 uniformed and civilian staff as outlined in the definition of Members of the Service. The Commission already has reporting requirements spelt out in the quoted section 26 of the NPSC Act no. 11A of 2011.

Application of the proposed amendment should be varied and **qualify the reporting of this category to the extent of the information submitted** to the National Police Service Commission with regard to Section 110 (2) of the National Police Service Act No. 11A of 2011. This provision states that staff establishment of the National Police Reserve is determined by the National Security Council by stating as follows:

- Section 110 (2)** The National Security Council shall determine the maximum number Reserve police officers.

2.4 AMENDMENT OF SECTION 16 OF THE PUBLIC SERVICE (VALUES AND PRINCIPLES) ACT BY INTRODUCTION OF SUB-CLAUSE 3(da)

The Commission has reporting guidelines as provided in section 26 of the National Police Service Commission Act No. 30 of 2011 and makes the following comments;

	PROPOSED AMENDMENT	COMMENTS BY NPSC
2.	Introduction of sub-clause 3(da) “details on the human resource establishment within the Service Commission outlining the total number of employees and highlighting their gender, age, county of birth, county of residence , ethnicity and whether they are persons living with disabilities”	<p>The National Police Service Commission has Members of the Service who serve duties at National level and operationalized countrywide.</p> <p>Its workforce is dynamic due to nature and exigencies of work and County of residence may not be a good indicator in its Annual report and therefore seeks that it be expunged from the amendment.</p> <p>The Commission is not opposed to the additional reporting on the other categories outlined in the proposed amendment but proposes that the same be in summary version as reporting sub headings for over 100, 000 staff in a dynamic work environment may not be practicable within timelines every year.</p> <p>The Commission submits that it be allowed to create workable summaries on this reporting headline owing to its huge workforce.</p>

2.5 PROPOSED AMENDMENT BY INSERTING NEW SUB-SECTION 16 (4)

The National Police Service Commission has elaborate disciplinary procedures for all the categories of Staff in its employment set out in various Regulations and in its Human Resource Manual, 2017.

The proposed amendment by introducing sub-section 16 (4) refers to disciplinary action of an 'authorised officer' for failure in preparing the Annual Statutory Report to the National Assembly and the President.

In this regard, the Commission proposes as follows:

	PROPOSED AMENDMENT	COMMENTS BY NPSC
3.	(4) An authorised officer who fails to prepare a report under subsection (1) may be subjected to disciplinary action in accordance with the laid out procedures.	The disciplinary action should be specific and indicate that: "An authorised officer who fails to prepare a report under subsection (1) may be subjected to disciplinary action in accordance with the laid out procedures of the Service Commission "

The Authorised Officers have a right to fair hearing and Fair Administrative action. Certainty of the disciplinary procedures to be followed is necessary considering that the different Service Commissions have different disciplinary procedures.



National Police Service Commission
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Telephone: 0709 099 000
Email: info@npsc.go.ke
www.npsc.go.ke



**Salaries & Remuneration
Commission**
Rewarding productivity

Ref: SRC/ADM/28 (14)

11th April, 2023

The Clerk
National Assembly
Main Parliament Buildings
NAIROBI

Att: George Gazemba, ACI Arb, CPM

**CONSIDERATION OF THE PUBLIC SERVICE (VALUES AND PRINCIPLES
AMMENDMENT) BILL NO. 46 OF 2022 BY THE DEPARTMENTAL COMMITTEE ON
LABOUR**

Reference is made to your letter Ref No. NA/DDC/LABOUR/2023/024 dated 3rd April, 2023 on the above subject.

The Salaries and Remuneration Commission (SRC) concurs with the proposed amendments for implementation.


Mrs. Anne R. Gitau, MBS
COMMISSION SECRETARY/CEO

OFFICE OF THE CONTROLLER OF BUDGET



Tel: 020 2211068, 0738466721, 0709910000
Email: cob@cob.go.ke/info@cob.go.ke
Website: www.cob.go.ke

Ref: COB/NA/002/Vol. IV (59)

Mr. Samuel Njoroge
Clerk of National Assembly
Parliament Building
NAIROBI

Dear *Mr. Njoroge*

Rose wanjohi

pls facilitate

19/4/23

14th February, 2023



Bima House, 12th Floor
Harambee Avenue
P.O. Box 33616-00100
Nairobi Kenya

RE: OFFICE OF THE CONTROLLER OF BUDGET COMMENTS ON THE PUBLIC SERVICE (VALUES AND PRINCIPLES) (AMENDMENT) BILL NO. 46 OF 2022 BY THE DEPARTMENT OF COMMITTEE ON LABOUR

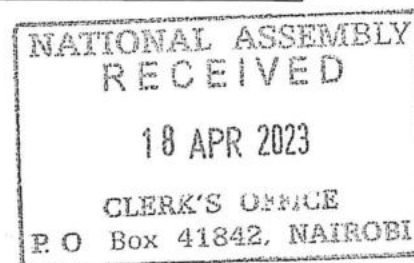
Please refer to your letter Ref. NA/DDC/LABOUR/2023/024 dated 3rd April 2023 requesting comments on the Public Service (Values and Principles) (Amendment) Bill No. 46 Of 2022).

Having reviewed the proposed amendments, the Controller of Budget supports the enactment of the proposed amendments that are in line with the provisions of Article 10 of the Constitution to promote the principles of equity, inclusivity, and consideration of special groups. For these principles to be achieved, there is a need for institutionalization of data collection and reporting.

In addition, we propose that;

Clause	Proposal	Justification
Interpretation Clause	Define 'an authorized officer' to mean the Accounting Officer or the Chief Executive Officer of the respective service Commission	The responsibility of an authorized officer should be placed upon the Accounting Officer or the Chief Executive Officer of the respective service Commission

Promoting Prudent Utilization of Public Funds



Thank you for your continued support.

Yours *Sincerely,*

A handwritten signature in black ink, appearing to read 'Margaret', with a stylized, flowing script.

CPA Dr. Margaret Nyakang'o, CBS
CONTROLLER OF BUDGET

TEACHERS SERVICE COMMISSION

Telephone: Nairobi 2892000

Website: www.tsc.go.ke

Email: info@tsc.go.ke

When replying please quote

REF:CS/TSC/78/VOL.III



THE TSC HOUSE
UPPER HILL NAIROBI
KILIMANJARO ROAD
PRIVATE BAG
NAIROBI

DATE: 18th April 2023

The Clerk of the National Assembly
Main Parliament Buildings
P.O. Box 41842-00100
NAIROBI.

Attention: George Gazemba, ACI Arb, CPM

PUBLIC SERVICE (VALUES AND PRINCIPLES) AMENDMENT BILL, 2022

We acknowledge receipt of your letter Ref: NA/DDC/LABOUR/2023/024 dated 3rd April, 2023 contents of which we have duly noted.

Attached, find a matrix of our representations on the Bill for your review and consideration.


DR NANCY NJERI MACHARIA, CBS
SECRETARY/CHIEF EXECUTIVE

Encls.

TEACHERS SERVICE COMMISSION
COMMENTS ON THE PUBLIC SERVICE (VALUES AND PRINCIPLES) AMENDMENT BILL, 2022

SN	PROVISION	RECOMMENDATION	JUSTIFICATION
1	Clause 2: Interpretation Authorised officer	The term “ Authorised Officer ” be defined to mean the Secretary/Chief Executive Officer of the Commissions and independent offices created under chapter 15 of the Constitution.	The Secretary/Chief Executive Officers of the Chapter 15 Commissions/ Independent offices are the Accounting officers and Administrative heads of their respective Commissions and Offices. They are the technical heads charged with day to day management of affairs of the Commissions with Institutional memory hence better placed to handle questions related to submission of Statutory Report.
2	Clause 4: An authorised officer who fails to prepare a report under subsection 1 may be subjected to disciplinary action in accordance with the laid-out procedures.	The appropriate disciplinary action should either be set out in the amendment or the bill should refer to the disciplinary procedure prescribed in the law governing the terms and conditions of service of the	There is need to document the disciplinary process and further elaborate the nature of the sanction in the law to deter ambiguity.

	respective officers.	authorized

MINUTES OF THE 23RD SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR HELD ON THURSDAY 16TH MARCH 2023 AT THE PANARI SKY CENTRE, ORCHID ROOM AT 11:00 AM

PRESENT

1. The Hon. Karemba Eric Muchangi Njiru, M.P. -Chairperson
2. The Hon. K'Oyoo James Onyango, M.P.
3. The Hon. Omwera George Aladwa, M.P.
4. The Hon. Aburi Donya Dorice, M.P.
5. The Hon. Barasa Patrick Simiyu, M.P.
6. The Hon. Chiforomodo Mangale Munga, M.P.
7. The Hon. Kihungi Peter Irungu, M.P.
8. The Hon. Siyoi Lillian Chebet, M.P.

APOLOGIES

1. The Hon. Muli Fabian Kyule, M.P. -Vice Chairperson
2. The Hon. Kagesi Kivai Ernest Ogesi, M.P.
3. The Hon. Kiti Richard Ken Chonga, M.P.
4. The Hon. Lomwa Joseph Samal, M.P.
5. The Hon. Wambilianga Catherine Nanjala, M.P.
6. The Hon. Abdullahi Amina Dika, M.P.
7. The Hon. Sankaire Leah Sopiato, M.P.

COMMITTEE SECRETARIAT

- | | | |
|------------------------|---|----------------------|
| 1. Mr. Binensa Mabungu | - | Clerk Assistant III |
| 2. Mr. Samuel Wanjiru | - | Clerk Assistant III |
| 3. Mr. Timothy Chiko | - | Research Officer III |
| 4. Ms. Rehema Koech | - | Audio Officer III |
| 5. Ms. Zainabu Wario | - | Serjeant-At-Arms |

AGENDA

1. Prayers
2. Preliminaries;
3. Confirmation of Minutes.
4. Matters Arising;
5. **Pending Business**
 - i. Two Bills
 - ii. Statement on the sexual harassment of tea workers on various tea farms in Kericho County
 - iii. Benchmarking visit by the Parliament of the Republic of South Africa.
 - iv. Benchmarking visit by the Homa Bay County Assembly's Committee on Social Welfare and Equal opportunity
6. Briefing by the Legal Counsel on the Public Service (Values and Principles) (Amendment) Bill No. 46 of 2022.
7. Submission from The Hon. Abdul Dawood, M.P. as the sponsor of The Public Service (Values and Principles) Bill No. 46 of 2022

8. Any Other Business
9. Adjournment

MIN. NO.160 NA/LABOUR/2023: PRELIMINARIES

The Chairperson called the Meeting to order at ten minutes past eleven o'clock. This was followed by a prayer by The Hon. Aburi Donya Dorice, M.P.

MIN.NO.161 NA/LABOUR/2023: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS.

Minutes of the 13th Sitting were read and confirmed as a true record of the deliberations having being proposed by The Hon. Barasa Patrick Simiyu, M.P. and seconded by The Hon. Chiforomodo Mangale Munga, M.P.

Minutes of the 14th Sitting were read and confirmed as a true record of the deliberations having being proposed by The Hon. Chiforomodo Mangale Munga, M.P. and seconded by The Hon. Barasa Patrick Simiyu, M.P.

Minutes of the 15th Sitting were read and confirmed as a true record of the deliberations having being proposed by The Hon. Barasa Patrick Simiyu, M.P. and seconded by The Hon. Chiforomodo Mangale Munga, M.P.

Minutes of the 16th Sitting were read and confirmed as a true record of the deliberations having being proposed by The Hon. Chiforomodo Mangale Munga, M.P. and seconded by The Hon. Barasa Patrick Simiyu, M.P.

Minutes of the 17th Sitting were read and confirmed as a true record of the deliberations having being proposed by The Hon. Barasa Patrick Simiyu, M.P. and seconded by The Hon. Chiforomodo Mangale Munga, M.P.

Minutes of the 18th Sitting were read and confirmed as a true record of the deliberations having being proposed by The Hon. Chiforomodo Mangale Munga, M.P. and seconded by The Hon. Barasa Patrick Simiyu, M.P.

Minutes of the 19th Sitting were read and confirmed as a true record of the deliberations having being proposed by The Hon. Barasa Patrick Simiyu, M.P. and seconded by The Hon. Chiforomodo Mangale Munga, M.P.

Minutes of the 20th Sitting were read and confirmed as a true record of the deliberations having being proposed by The Hon. Chiforomodo Mangale Munga, M.P. and seconded by The Hon. Barasa Patrick Simiyu, M.P.

Minutes of the 21st Sitting were read and confirmed as a true record of the deliberations having being proposed by The Hon. Barasa Patrick Simiyu, M.P. and seconded by The Hon. Chiforomodo Mangale Munga, M.P.

Minutes of the 22nd Sitting were read and confirmed as a true record of the deliberations having being proposed by The Hon. Chiforomodo Mangale Munga, M.P. and seconded by The Hon. Barasa

Patrick Simiyu, M.P.

MIN.NO.162 NA/LABOUR/20223: MATTERS ARISING

There were no matters arising.

MIN.NO.163 NA/LABOUR/2023: PENDING BUSINESS BEFORE THE COMMITTEE

The following business has been committed to the committee

1. The Public Service (Values and Principles) (amendment) Bill no. 46 of 2022 on proposed amendments which seek to establish a mechanism for all state organs in the National and County governments and State Corporations to submit annual reports on details of the human resource in Constitutional Commissions, Independent offices, County Public Service Boards and County Assembly Service Boards
2. There is a proposed benchmarking visit by the Parliament of South Africa on matters Diaspora and Migrant Workers proposed for April 2023. This is to be done jointly with the select committee on Diaspora and Migrant workers Welfare
3. Statement regarding the sexual harassment of female workers in various tea estates in Kericho County. A statement was sought from the Chairperson of the Departmental Committee on Labour on the allegations of sexual harassment of female workers in various tea estates in Kericho County. An explanation was sought on the measures that the government is putting in place to protect the rights of female workers in the tea estates. Furthermore, an explanation was sought on the measures that have been put in place to ensure tea companies are adhering to labour laws and policy on sexual harassment. In addition, an explanation was sought as to whether there are investigations into these heinous acts.
4. The Public Service Internship (National Assembly Bill no. 63) of 2022- The Principal object of this Bill is to establish a legal framework for the regulation of internship programmes within the Public Service. Article 55 of the constitution provides that the State shall take measures, including affirmative action programmes to ensure that the youth have access to inter alia relevant education, training and employment. The bill seeks to ensure a monthly stipend, insurance and other entitlements to persons engaged in internships within the public service for the duration of the Internship programme.
5. There is a proposed benchmarking visit by the Homa Bay County Assembly's Committee on Social Welfare and Equal opportunity. This is to be done jointly with the Departmental Committee on Social Protection.

MIN. NO. 164 NA/ LABOUR/2023: BRIEFING BY THE LEGAL COUNSEL ON THE PUBLIC SERVICE (VALUES AND PRINCIPLES) (AMENDMENT) BILL NO. 46 OF 2022.

Ms. Christine Odhiambo, the Senior Legal Counsel, guided the Committee through the contents of the Public Service (Values and Principles) amendment bill No. 46 of 2022. The Bill proposes amendments which seek to establish a mechanism for all state organs in the National and County governments and State Corporations to submit annual reports on details of the human resource in Constitutional Commissions, Independent offices, County Public Service Boards and County Assembly Service Boards.

The Committee has received stakeholders' submissions on the Amendment Bill from the Kenya Law Reform Commission, the Law Society of Kenya and the Public Service Commission. The amendment Bill seeks to introduce a new paragraph (da), and a new subsection (4) as shown below:

"16. Reports

- 1) Once in every year, each service Commission shall prepare a report on the status of the promotion of the values and principles of public service.
- 2) Each service Commission shall submit the report prepared under subsection (1) to the President and Parliament, and the Governor and county assembly, where relevant, by 31st December of each year.
- 3) The report under this section shall provide information on—
 - a) the measures taken to promote the values and principles of public service;
 - b) the progress achieved in the promotion of values and principles of public service;
 - c) the challenges faced in the promotion of values and principles of public service;
 - d) any recommendations for the progressive realization of values and principles of public service; and
 - (da) details on the human resource establishment within the Service Commission outlining the total number of employees and highlighting their gender, age, county of birth, county of residence, ethnicity and whether they are persons living with disabilities;
 - e) any other matter that may be relevant to the realization of the values and principles of public service.
- 4) An authorized officer who fails to prepare a report under subsection (1) may be subjected to disciplinary action in accordance with the laid-out procedures."

Committee Observations

The effect of the amendment is that in addition to the matters in respect of which each service Commission shall make a report, they shall also include in the report the number, age, ethnicity and residence of the employees, as well as whether the employee is a person living with disability.

Section 10(3) of the Act mandates each public institution or each authorized officer to develop a system for the provision of relevant information that promotes fairness and merit in appointments and promotions. The amendment therefore seeks to ensure that each service Commission shall make a report on its system of provision of information on the composition of its human resource.

The amendment further provides that where an authorized officer fails to prepare a report, the authorized officer may be subjected to disciplinary procedures.

Stakeholder Submissions

- i. **Kenya Law Reform Commission** submitted that the Amendment Bill should define the term "authorized officer" which is used in the new subsection (4) and in other sections of the Act but the term is not defined in the Act for clarity purposes.

An "authorized officer" in relation to the Public Service Commission Act, means any officer, body or authority appointed by the Commission to perform its delegated functions in a Ministry or State department, or any member of the Commission;

The Kenya Law Reform Commission submitted to the committee that an amendment may therefore be introduced in section 2 of the Act to define an authorized officer as— "authorized officer" means any officer appointed within the public service or service Commission to perform its delegated functions within the public service or service Commission;"

- ii. **Law Society of Kenya** submitted to the committee that a change should be made to the paragraph (da) - "Delete the word "living" to remain with persons with disabilities." They further submitted that the details of the report should include academic and professional qualifications. The Law Society of Kenya also expressed concern in their submissions that the enactment and implementation of the Bill may conflict with the Data Protection Act since the annual reports are considered public documents. The justification for this is that:

- It is offensive to refer to disabled persons as persons living with disabilities.
- To give effect to the goal of merit-based recruitment as provided in Article 232(1) of the Constitution.
- Article 31 of the Constitution guarantees the right to privacy.

The Law Society of Kenya noted that the deletion of the word "living" is necessary so as to use the term "persons with disabilities" as provided in Article 54 of the Constitution.

The Law Society of Kenya further noted in their submissions that section 25 of the Data Protection Act mandates the data controller to ensure that personal data is collected for explicit, specified and legitimate purposes and not processed in a manner incompatible with those purposes; and further that such personal data is adequate, relevant, limited to what is necessary in relation to the purposes for which it is processed. The collection and recording of employee data will therefore be regulated by the provisions of the Data Protection Act, which allows for the collection of personal information.

- iii. **The Public Service Commission** submitted that it agrees with the introduction of parameters for measurement of inclusivity in terms of gender, ethnicity, disability, status and age. The Public Service Commission although, expressed in their written submissions that there is no justification for the inclusion of county of birth and county of residence as there is no requirement for this parameter under the Constitution.

Committee Resolutions

The Committee resolved to invite the sponsor of the Public Service (Values and Principles) amendment Bill No 46. Of 2022, The Hon. Abdul Dawood, M.P for a meeting to make submissions on the issues raised by the stakeholders.

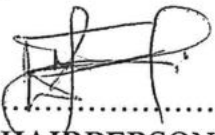
MIN. NO. 165 NA/LABOUR/2022: ANY OTHER BUSINESS

The Secretariat reported that the Ministry of Labour and Social Protection had delayed in submitting a response to the statement on the alleged sexual harassment of female tea workers in tea estates in Kericho County. Therefore the statement once received and the report on the visit by the Committee to the tea estates on the allegations will be tabled to the House in the week of 20th to 24th March 2023.

The Committee will meet with the Portfolio Committee of Parliament on Employment and Labour of the Republic of South Africa scheduled for 30th March 2023 in a venue to be confirmed.

MIN. NO. 166 NA/LABOUR/2022: ADJOURNMENT/ DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at fifty-five minutes past eleven o'clock. The next meeting will be held on notice.

SIGNED.......... DATE18/04/2023.....
(CHAIRPERSON)

MINUTES OF THE 24th SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR HELD ON THURSDAY 23RD MARCH 2023 AT THE 4TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 AM

PRESENT

- | | | |
|---|---|-------------------------|
| 1. The Hon. Karemba Eric Muchangi Njiru, M.P. | - | Chairperson |
| 2. The Hon. Muli Fabian Kyule, M.P. | - | Vice Chairperson |
| 3. The Hon. Kagesi Kivai Ernest Ogesi, M.P. | | |
| 4. The Hon. Chiforomodo Mangale Munga, M.P. | | |
| 5. The Hon. Sankaire Leah Sopiato, M.P. | | |

APOLOGIES

1. The Hon. K'Oyoo James Onyango, M.P.
2. The Hon. Omwera George Aladwa, M.P.
3. The Hon. Aburi Donya Dorice, M.P.
4. The Hon. Barasa Patrick Simiyu, M.P.
5. The Hon. Kihungi Peter Irungu, M.P.
6. The Hon. Kiti Richard Ken Chonga, M.P.
7. The Hon. Lomwa Joseph Samal, M.P.
8. The Hon. Wambilianga Catherine Nanjala, M.P.
9. The Hon. Siyoi Lillian Chebet, M.P.
10. The Hon. Abdullahi Amina Dika, M.P.

COMMITTEE SECRETARIAT

- | | | |
|---------------------------|---|------------------------|
| 1. Ms. Rose M. Wanjohi | - | Senior Clerk Assistant |
| 2. Mr. Samuel Wanjiru | - | Clerk Assistant III |
| 3. Ms. Christine Odhiambo | - | Senior Legal Counsel |
| 4. Ms. Wanjiru Githunguri | - | Legal Counsel II |
| 5. Mr. Timothy Chiko | - | Research Officer III |
| 6. Mr. Alex Amwata | - | Hansard Officer III |
| 7. Mr. Charles Ayari | - | Audio Officer III |
| 8. Mr. Alan Gituku | - | Serjeant-At-Arms |

IN -ATTENDANCE

1. Hon. Abdul Dawood, MP
2. Mr. Remmy Mulati - Deputy Commission Secretary, Public Service Commission

AGENDA

1. Prayers
2. Preliminaries;
3. Confirmation of Minutes.
4. Matters Arising;
5. **Pending Business**
 - i. Two Bills
 - ii. Two Questions
 - a) Q/No. 059/2023 by Hon. Paul Katana, MP- PSC criteria gazetting hardship areas

- b) Q/No. 067/2023 by Hon. Cherorot Kimutai, MP on employment design for graduates
- iii. Benchmarking visit by the Parliament of the Republic of South Africa.
- 6. Meeting on the Public Service (Values and Principles) (Amendment) Bill No. 46 of 2022 with
 - i. Hon. Abdul Dawood, MP
 - ii. Public Service Commission
 - iii. Kenya Law Reform Commission
 - iv. Law Society of Kenya
- 7. Any Other Business
- 8. Adjournment

MIN. NO.167 NA/LABOUR/2023: PRELIMINARIES

The Chairperson called the Meeting to order at ten minutes past ten o'clock. This was followed by a prayer by The Hon. Fabian Muli, M.P- Vice Chairperson.

MIN.NO.168 NA/LABOUR/2023: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING.

The Agenda item was deferred.

MIN.NO.169 NA/LABOUR/2023: MATTERS ARISING

There were no matters arising.

MIN.NO.170 NA/LABOUR/2023: PENDING BUSINESS BEFORE THE COMMITTEE

The following business has been committed to the committee

1. The Public Service (Values and Principles) (amendment) Bill no. 46 of 2022 on proposed amendments which seek to establish a mechanism for all state organs in the National and County governments and State Corporations to submit annual reports on details of the human resource in Constitutional Commissions, Independent offices, County Public Service Boards and County Assembly Service Boards
2. There is a proposed benchmarking visit by the Parliament of South Africa on matters Diaspora and Migrant Workers proposed for April 2023. This is to be done jointly with the select committee on Diaspora and Migrant workers Welfare
3. The Public Service Internship (National Assembly Bill no. 63) of 2022 - The Principal object of this Bill is to establish a legal framework for the regulation of internship programmes within the Public Service. Article 55 of the constitution provides that the State shall take measures, including affirmative action programmes to ensure that the youth have access to inter alia relevant education, training and employment. The bill seeks to ensure a monthly stipend, insurance and other entitlements to persons engaged in internships within the public service for the duration of the Internship programme.
4. Questions
 - (i) Q/No. 058/2023 by Hon. Paul Katana, MP (Kaloleni Constituency) on the criteria the government uses to categorize and gazette hardship areas and Kaloleni has not been included.
 - (ii) Q/No. 067/2023 by Hon. Cherorot Kimutai, MP (Kipkelion East) on the employment design of the country that requires experience thereby locking out fresh graduates

**MIN. NO. 171 NA/ LABOUR/2023: SUBMISSIONS FROM HON. ABDUL DAWOOD, MP ON
THE PUBLIC SERVICE (VALUES AND PRINCIPLES)
BILL, 2022**

The Hon. Abdul Rahim Dawood, MP appeared before the Committee and made the following submissions on the Public Service (Values and Principles) Bill, 2022.

Hon. Dawood, MP submitted that the term "authorized officer" as mentioned in the Bill refers to the definition as contained in the Public Service Commission Act, 2017. However, there may be need to amend the definition as the other commissions and independent offices may not prescribe to the same definition nor have a definition of an authorized officer for purpose of the proposed Bill.

He informed the committee that the inclusion of the criteria in the report for both county of birth and county of residence would prevent persons being disadvantaged during job searches. Where you were born and what ethnicity you belong to may not collate to where you are residing or where you may eventually be employed especially for public servants.

On the issue of data privacy, the Member advised that the advice of the data commissioner should be sought to confirm what data requested in the bill could be deemed privilege. He is willing to have any of the reporting criteria that is classified as privilege or private be remove from as part of the Bill. He conceded that the Public Service Act 2011 in section 55 provides for a review of qualifications of public servants.

He conceded that he had not been aware that there was a difference in the naming of "persons living with disabilities" and "persons with disabilities". The constitution in Article 54 identifies "persons with disabilities"

**MIN. NO. 172 NA/ LABOUR/2023: SUBMISSIONS FROM PUBLIC SERVICE COMMISSION
ON THE PUBLIC SERVICE (VALUES AND PRINCIPLES)
BILL, 2022**

Mr. Remmy Mulati, Deputy Commission Secretary accompanied by other Commission Secretariat officers appeared before the Committee and submitted that:-

The Commission agrees with the introduction of parameters for measurement of inclusivity in terms of gender, ethnicity, disability, status and age.

However, the Commission noted that there is no justification for the inclusion of county of birth and county of residence as there is no requirement for this parameter under the Constitution.

The Commission raised concerns on the inclusion of academic qualifications given the provision for a review of the same in sect 55 of the PSC Act. The Commission presented that the report presents total numbers of each of the parameters listed and not to each individual persons. This would make the exercise unrealistic and cumbersome given the time constraints and purpose of the report.

The commission also noted that as a commission it no issue with the definition of "authorized officer" since it's as contained in the public service Commission act. However, the other independent offices and commissions may wish to expand or further define the term "authorized officer" as it appertains to them.

The Commission did not make a presentation of the term "persons living with disabilities"

**MIN. NO. 173 NA/ LABOUR/2023: SUBMISSIONS FROM KENYA LAW REFORMS
COMMISSION ON THE PUBLIC SERVICE (VALUES AND
PRINCIPLES) BILL, 2022**

The Kenya Law Reform Commission appeared before the Committee and made the following submissions

The Commission noted that the term “authorized officer” which is used in the new subsection (4) and in other sections of the Act is not defined in the Public Service (Values and Principles) Act.

The justification is for clarity purposes.

**MIN. NO. 174 NA/ LABOUR/2023: SUBMISSIONS FROM LAW SOCIETY OF KENYA ON
THE PUBLIC SERVICE (VALUES AND PRINCIPLES)
BILL, 2022**

The Law Society of Kenya appeared before the Committee and made the following submissions that;

They presented that the word “living” is deleted from the Bill and it remain with persons with disabilities as provide in article 54 of the CoK. It is offensive to refer to disabled persons as persons living with disabilities.

They agreed with the inclusion of academic and professional qualifications since it give effect to the goal of merit based recruitment as provided in Article 232(1) of the Constitution.

The LSK noted that the enactment and implementation of the Bill may conflict with the Data Protection Act since the annual reports are considered public documents in particle with Article 31 of the Constitution which guarantees the right to privacy. Further they noted that section 25 of the Data Protection Act mandates the data controller to ensure that personal data is collected for explicit, specified and legitimate purposes and not processed in a manner incompatible with those purposes; and further that such personal data is adequate, relevant, limited to what is necessary in relation to the purposes for which it is processed. The collection and recording of employee data will therefore be regulated by the provisions of the Data Protection Act, which allows for the collection of personal information.

Committee Observations

The Committee observed that

1. The term “persons living with disabilities” is offensive and has a negative connotation and should be amended in the bill
2. The matter of what data is private or privileged as has been proposed to be contained in the report as per the parameters should be determined as per the data protection act since the report is a public document.
3. The term “authorized officer” should be defined in a way that brings on board the other commissions and independent offices
4. The inclusion of county service boards and the provision for the reporting to include the governor and county assembly means the bill requires concurrence from the Senate.
5. To include the county of residence and that of birth is not provided for in the constitution, it may be deemed discriminatory offending article 27 (4) and will make the reporting exercise cumbersome since the totals of each parameter is what is required.

Committee Recommendations

The Committee recommends THAT

1. To request for clarification of what parameters would provide data that is classified as private or privilege under the data protection act.
2. To amend in the bill the term” persons living with disabilities” to the term as “persons with disabilities “as defined in the Constitution

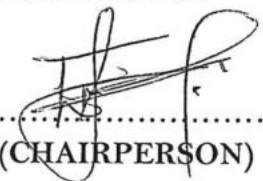
3. To drop the proposes inclusion of county of residence and county of birth as this still talks to ethnicity which a person cannot be discriminated against as per Article 27(4) of the constitution.
4. To request written submissions from the other commissions and independent offices on the term "authorized officer" and the parameters for the reports.

MIN. NO. 175 NA/LABOUR/2023: ANY OTHER BUSINESS

The Committee proposed that it will not hold meeting except the joint sitting with the Portfolio Committee of Employment and Labour of Republic of South Africa during the recess period from 24th March to 11th April, 2023.

MIN. NO. 176 NA/LABOUR/2022: ADJOURNMENT/ DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at half past twelve o'clock. The next meeting will be held on notice.

SIGNED.......... DATE 18/04/2023.
(CHAIRPERSON)

MINUTES OF THE 26th SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR HELD ON TUESDAY 18TH APRIL 2023 IN THE COMMITTEE ROOM, 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT PRECINCTS AT 10:00 AM

PRESENT

- | | | |
|---|---|------------------|
| 1. The Hon. Karemba Eric Muchangi Njiru, M.P. | – | Chairperson |
| 2. The Hon. Muli Fabian Kyule, M.P. | - | Vice Chairperson |
| 3. The Hon. Kagesi Kivai Ernest Ogesi, M.P. | | |
| 4. The Hon. Kiti Richard Ken Chonga, M.P. | | |
| 5. The Hon. Lomwa Joseph Samal, M.P. | | |
| 6. The Hon. Chiforomodo Mangale Munga, M.P. | | |
| 7. The Hon. Kihungi Peter Irungu, M.P. | | |
| 8. The Hon. Barasa Patrick Simiyu, M.P. | | |
| 9. The Hon. Abdullahi Amina Dika, M.P. | | |

APOLOGIES

1. The Hon. K'Oyoo James Onyango, M.P.
2. The Hon. Omwera George Aladwa, M.P.
3. The Hon. Wambilianga Catherine Nanjala, M.P.
4. The Hon. Aburi Donya Dorice, M.P.
5. The Hon. Siyoi Lillian Chebet, M.P.
6. The Hon. Sankaire Leah Sopiato, M.P.

COMMITTEE SECRETARIAT

- | | | |
|---------------------------|---|------------------------|
| 1. Ms. Rose M. Wanjohi | - | Senior Clerk Assistant |
| 2. Mr. Samuel Wanjiru | - | Clerk Assistant III |
| 3. Ms. Christine Odhiambo | - | Senior Legal Counsel |
| 4. Ms. Wanjiru Githunguri | - | Legal Counsel II |
| 5. Mr. Timothy Chiko | - | Research Officer III |
| 6. Mr. Alex Amwata | - | Hansard Officer III |
| 7. Ms. Rehema Koech | - | Audio Officer III |
| 8. Mr. Alan Gituku | - | Serjeant-At-Arms |

AGENDA

1. Preliminaries;
2. Confirmation of Minutes.
3. Matters Arising;
4. **Pending Business**
 - i. One Legislative Proposal
 - ii. Two Bills
 - iii. Three Questions
 - a) Q/No. 058/2023 by Hon. Paul Katana, MP- PSC criteria of gazettement of hardship areas
 - b) Question No. 048/2023 by Hon. Caroli Omondi,) regarding the gazettement of Suba South and Suba North Sub counties as hardship areas.
 - c) Q/No. 067/2023 by Hon. Cherorot Kimutai, MP on employment design for graduates

5. **Consideration of pending submissions and a draft report on The Public Service (Values and Principles) (Amendment) Bill (National Assembly Bill No. 46), 2022**
6. **Briefing on The Public Service Internship Bill, 2022(National Assembly Bill No. 63)**
7. Any Other Business
8. Adjournment

MIN. NO.193 NA/LABOUR/2023: PRELIMINARIES

The Chairperson called the Meeting to order at thirty minutes past ten o'clock. This was followed by a prayer by The Hon. Abdullahi Amina Dika, M.P.

MIN.NO.194 NA/LABOUR/2023: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING.

This agenda was deferred.

MIN.NO.195 NA/LABOUR/2023: MATTERS ARISING

Under MIN. NO. 191 NA/LABOUR/2023:

The Chairperson informed the committee that the familiarization retreat with the Ministry of Labour and Social protection and National Industrial Training Authority (NITA) had been rescheduled to take place between Thursday 4th May 2023 and Sunday 7th May, 2023 in Mombasa.

MIN.NO.196 NA/LABOUR/2023: PENDING BUSINESS BEFORE THE COMMITTEE

The following business has been committed to the committee

1. Legislative Proposal of the County Governments (Amendment) Bill, 2023 by Hon. Umulkher Harun Mohamed which seeks to amend the County Government Act, No. 17 of 2012 to provide that the composition of every County Public Service Board shall include a youth.
2. The Public Service (Values and Principles) (amendment) Bill no. 46 of 2022 on proposed amendments which seek to establish a mechanism for all state organs in the National and County governments and State Corporations to submit annual reports on details of the human resource in Constitutional Commissions, Independent offices, County Public Service Boards and County Assembly Service Boards.
3. The Public Service Internship Bill no. (National Assembly Bill no. 63) of 2022- The Principal object of this Bill is to establish a legal framework for the regulation of internship programmes within the Public Service. Article 55 of the constitution provides that the State shall take measures, including affirmative action programmes to ensure that the youth have access to inter alia relevant education, training and employment. The bill seeks to ensure a monthly stipend, insurance and other entitlements to persons engaged in internships within the public service for the duration of the Internship programme.
4. Questions
 - (i) Q/No. 058/2023 by Hon. Paul Katana, MP (Kaloleni Constituency) on the criteria the government uses to categorize and gazette hardship areas and Kaloleni has not been included.
 - (ii) Question No. 048/2023 by Hon. Caroli Omondi, MP (Suba South Constituency) regarding the gazettelement of Suba South and Suba North Sub counties as hardship areas.

- (iii) Q/No. 067/2023 by Hon. Cherorot Kimutai, MP (Kipkelion East) on the employment design of the country that requires experience thereby locking out fresh graduates.

MIN. NO. 197 NA/ LABOUR/2023: CONSIDERATION OF PENDING SUBMISSIONS AND A DRAFT REPORT ON THE PUBLIC SERVICE (VALUES AND PRINCIPLES) AMENDMENT BILL, NATIONAL ASSEMBLY BILL NO.46,2022.

Ms. Rose Wanjohi, Senior Clerk Assistant, took the Committee through the Draft Report on The Public Service (Values and Principles) Amendment Bill, National Assembly Bill No.46,2022.

The Bill seeks to amend the Public Service (Values and Principles) Act, no. 1A of 2015 to require all state organs and state corporations to submit annual reports on details of the human resource in constitutional commissions, independent offices and County Public Service Boards and County Assembly Service Board. The Reports should contain details outlining the total number of employees and highlighting their gender, age, county of birth and county of residence. The justification is that it will facilitate the public service values and principles that require the public service to reflect Kenya's diverse communities and afford adequate and equal opportunities for appointment of women and men, members of all ethnic groups and persons with disabilities pursuant to Article 232 of the Constitution. By receiving annual reports, legislatures can discharge the oversight role bestowed upon them as they will be able to analyze and query non-compliant state organs.

Proposed amendment to s.16 of No. 1A of 2015

1. In sub-clause (3) by inserting the following paragraph immediately after paragraph (d)-
“(da) details on the human resource establishment within the Service Commission outlining the total number of employees and highlighting their gender, age, county of birth, county of residence, ethnicity and whether they are persons living with disabilities.”
2. by inserting the following new subsection immediately after subsection (3)-
(4) An authorised officer who fails to prepare a report under subsection (1) may be subjected to disciplinary action in accordance with the laid-out procedures

In line with the Article 118 (1) (b) of the Constitution and Standing Orders 127(3), the National Assembly in the local daily newspapers of 23rd February, 2023 invited the public to make representations on the proposed amendments in the Bill as per annexure 2 of the report. The Committee received written submissions on the proposed amendments to the Public Service (Values and Principles) Act, No. 1A of 2015.

The following Stakeholders were requested to submit their views to the Committee:

- i. Office of the Attorney General
- ii. The Public Service Commission
- iii. The Kenya Law Reform Commission
- iv. The Law Society of Kenya
- v. The Data Commissioner
- vi. The Salaries and Remuneration Commission
- vii. The Kenya National Human Rights and Equality Commission
- viii. The National Lands Commission
- ix. The Independent Electoral and Boundaries Commission
- x. The Judicial Service Commission
- xi. Commission on Revenue Allocation
- xii. The Teachers Service Commission
- xiii. The National Police Service Commission
- xiv. The Auditor General

- xv. Controller of Budget

The following stakeholders submitted their memoranda to the Committee: -

- i. The Public Service Commission
- ii. The Kenya Law Reform Commission
- iii. The Law Society of Kenya
- iv. Office of the Data Commissioner
- v. The Teachers Service Commission
- vi. Commission on Revenue Allocation
- vii. The National Police Commission
- viii. The Salaries and Remuneration Commission
- ix. Office of the Attorney General

Committee Observations

The Committee while considering the Bill made the following key observations;

1. The term “persons living with disabilities” is offensive and has a negative connotation and should be amended in the bill and be defined as is contained in the Constitution.
2. The matter of what data is private or privileged as has been proposed to be contained in the report as per the parameters should be determined as per the data protection act since the report is a public document.
3. The term “authorized officer” should be defined in a way that brings on board the other commissions and independent offices.
4. Where the “laid out procedures” lie should be specified e.g., the specific law or if the same are as per the administrative policies of the institutions they serve.
5. The authorized Officers have a right to fair hearing and Fair administrative action. Further different services have different disciplinary procedures.
6. To include the county of residence and that of birth is not provided for in the constitution, it may be deemed discriminatory offending article 27 (4) and will make the reporting exercise cumbersome since the totals of each parameter is what is required.
7. The inclusion of county service boards and the provision for the reporting to include the governor and county assembly means the bill requires concurrence from the Senate.

Committee recommendations.

Having considered the Bill and the views by different stakeholders, the Committee recommended-

1. THAT, the Bill be amended by inserting the following definition in section 2 of the Act:
“authorized officer” means any officer appointed within the public service or service Commission to perform its delegated functions within the public service or service Commission;

Justification

The amendment seeks to provide the definition of the term “authorized officer” which is contained in the Bill and is also used in other sections of the Act but is not defined in the Public Service (Values and Principles) Act, 2015.

2. THAT, the Bill be amended by inserting the following definition in section 2 of the Act:
“public office” has the meaning assigned in Article 260 of the Constitution.

Justification The amendment seeks to ensure that a public office is defined as contained in the Constitution, and further to ensure that every public office shall be mandated to prepare a report on the status of the promotion of the values and principles of public service.

3. THAT, clause 2 of the Bill be amended in the proposed new paragraph (da) by deleting the word “living”.

Justification

The deletion of the word ‘living’ is necessary so as to use the term “persons with disabilities” as provided in Article 54 of the Constitution.

4. THAT, clause 2 of the Bill be amended in the proposed new paragraph (da) by deleting the words “county of birth, county of residence”.

Justification

The deletion of the parameters of county of birth and county of residence is necessary as these two parameters are not provided for in the Constitution as parameters for achieving fair competition, merit and fair representation within the public service.

5. THAT, clause 2 of the Bill be amended in the proposed new subsection (4) by inserting the words “of the respective service Commission or public office” immediately after the words “in accordance with the laid out procedures”.

Justification

The amendment seeks to eliminate the possibility of ambiguity and provide with clarity that the disciplinary action to be taken against any authorized officer who fails to prepare the report shall be the disciplinary procedures applicable to the office of the specific authorized officer.

6. THAT, the Bill be amended by inserting an amendment to section 16(1) of the Bill as follows: “Section 16 of the principal Act is amended in subsection (1) by inserting the words “and each public office” immediately after the words “each service Commission”

Justification

The amendment seeks to ensure that each public office within the meaning of the Constitution shall be obligated to prepare a report on the status of the promotion of the values and principles of public service. This is in keeping with the provisions of Article 232(2) of the Constitution which provides that the values and principles of public service shall apply to public service in all State organs in both levels of government and all State corporations.

The Committee having considered the submissions from various stakeholders, **unanimously** adopted the Report on The Public Service (Values and Principles) Amendment Bill, National Assembly Bill No.46,2022, with the above amendments, having been Proposed by The Hon. Lomwa Joseph Samal, M.P and seconded by The Hon. Kagesi Kivai Ernest Ogesi, M.P.

MIN. NO. 198 NA/ LABOUR/2023: BRIEFING ON THE PUBLIC SERVICE INTERNSHIP BILL, NATIONAL ASSEMBLY BILL NO.63,2022.

Ms. Wanjiru Githunguri, Legal Counsel, briefed the committee on the Public Service Internship Bill, National Assembly Bill No.63,2022.

The Public Service Internship Bill, 2022 seeks to establish a legal framework for the regulation of internship programmes within the public service. It seeks to give effect to Article 55 of the Constitution which provides that the State shall take measures, including affirmative action programmes to ensure that the youth have access to inter alia relevant education, training and employment.

The Bill therefore makes provision for internship of college and university graduates in the public sector, and also provides for hands-on training and acquisition of skills by graduates. The Bill seeks

to ensure the provision of a monthly stipend, insurance and other entitlements to persons engaged in internships within the public service for the duration of the internship programme.

The principal objectives of the Act include the enhancement of youth development and employability; the provision of guidelines and standards applicable to all interns within the public service as well as to ensuring effectiveness and efficiency in the implementation and management of internship programmes.

Part II of the Bill provides for the recruitment of interns. This Part mandates a person in charge of a public service institution to identify and advertise all internship opportunities available within the institution.

This Part sets out the eligibility criteria for interns as any person who has completed their certificate, diploma or degree qualification from an institution recognised in Kenya; or a person who has not been exposed to work experience related to the person's area of study.

This Part however excludes retirees and persons who have been removed or resigned from office.

This Part sets out the roles and responsibilities of public service institutions to plan and budget for internship programmes as well as to provide the necessary facilities to enable interns to acquire the required skills and knowledge.

This Part also sets out the roles and responsibilities of interns to demonstrate commitment and willingness to participate in the learning experiences of the internship programme, and to observe confidentiality of information and security of equipment during the course of the internship programme.

This Part further sets out the entitlements of interns during the internship programme, and these are—

- (a) monthly stipend to be prescribed by the Cabinet Secretary;
- (b) personal accident insurance cover;
- (c) sick leave, maternity or paternity leave; and
- (d) subsistence allowance as shall be determined by the Cabinet Secretary.

This Part sets the maximum internship period as twelve months.

The Part also sets out the grounds for termination of internship, which are—

- (a) absence from the public service institution without permission or reasonable cause for a period exceeding twenty four hours;
- (b) gross or disorderly conduct;
- (c) unsatisfactory performance;
- (d) failure to obey any lawful instructions; or
- (e) commission of a criminal offence.

This Part also allows for the termination of the internship programme by submission by the intern of a thirty days' notice in writing to the person in charge of the public service institution.

Part III of the Bill provides for the provisions on delegated powers, and gives the Cabinet Secretary the power to make regulations for the better carrying out of the provisions of the Act.

The Committee has received stakeholder submissions of the Bill from the Public Service Commission, and the State Department of Kenya.

Committee Observations.

The Committee observed the need to include the private sector in the proposed public service Internship Bill. This can be done through tax rebates and incentives for private firms engaging interns.

Stakeholder Submissions

i. Public Service Commission submitted;

That the Bill is a replica of the Public Service Commission Internship Policy. The Bill also incorrectly places the management of the internship programme under the Cabinet Secretary responsible for matters related to labour;

That the role of the Public Service Commission is not provided in the Bill. Section 2 of the Employment Act defines an employee to include an apprentice and indentured learner, therefore interns are presumed to be employees within the public service. The Public Service Commission has the sole constitutional mandate of management of human resource in the public service, therefore the internship programme would have to fall within the mandate of the Commission.

That **Clause 6** of the Bill decentralizes the management of the internship programme to MDAs with a provision for delegation of the function to a body, officer or authority. This reverses the gains of a centralized system introduced by the Commission. Decentralization gives each MDA the power to individually advertise for internship opportunities, and this is not cost effective, and may affect funding of the internship programme;

That Article 232(1)(g), (h) and (i) of the Constitution provides for competition and merit, representation of Kenya's diverse communities and equal opportunities to all. It would be impossible to comply with this constitutional provision in a decentralized internship programme.

That the Committee should consider amendments to the Public Service Commission Act to incorporate the Public Service Internship Programme as currently managed by the Commission.

That the Bill should be rejected.

ii. State Department for Public Service submitted;

That there is need to consider the Private Sector in the Law for internship. Currently, interns are deployed to Private organizations such as hospitals, Law firms, Banks, Non-Governmental Organizations (NGO's) as well as in the Public Sector.

That the Bill should define the following terms in **Clause 1** of the Bill;

- (i) 'graduate' which used in the citation and in the body but has not been defined.
- (ii) 'Cabinet Secretary' should mean Cabinet Secretary for the time being responsible for matters relating to Public Service. Executive Order No. 1 of 2023 mandates the Ministry of Public Service Gender and Affirmative Action to oversee internship in the Public Service
- (iii) 'certificate' e.g., certificate means post- secondary school certificate for a duration of not less than six (6) months. This is needed to provide for a standard minimum qualification and duration of training
- (iv) 'County Executive Committee Member' should be the County Executive Committee Member in each county responsible for matters relating to Public Service.
- (v) "Intern"- 3 months may not be adequate for acquisition of relevant experience & skills and inculcation of public service values and ethos (No justification or proposal given)
- (vi) "Intern"- 'experience for registration with respective professional bodies and /or.....

- (vii) "Internship"- 'to enhance future employability and/or fulfil the legal requirement for professional registration'. Internship is not only aimed at professional registration but to also to acquire necessary skills and experience to enhance employability.

That **Clause 5(1) of the Bill** be amended to provide that this Act shall apply to every public office as defined in Article 260 of the Constitution. This is to specify the definition of 'public office' as per Article 260 of the Constitution

That **Clause 11(1) on** provision of personal accident insurance cover, there may arise administrative challenge in the Management of the insurance cover given the duration of internship. Due to the huge numbers, it may not be affordable and sustainable.

That **Clause 12(1)(a)** be amended to provide that any period of sick leave beyond thirty days shall not be considered for the payment of stipend. This is to encourage the intern to complete the period of internship as provided after lapse of sick leave.

That **Clause 12(1)(b)** be amended to provide that interns will be eligible for maternity leave and the internship programme will be deferred until such time they resume duty. Stipend will not be payable during the period of deferment. To encourage the intern to complete the period of internship as provided after lapse of maternity leave.

That **Clause 12(1)(c)** should consider clarifying since it is not clear the purpose for payment of subsistence allowance and duration for the same. The subsistence allowance is payable when one is working outside the duty station.

That **Clause 13 on** internship period that shall not exceed twelve months- Any period below six months may not be adequate for acquisition of relevant experience & skills and inculcation of public service values and ethos.

Committee Observations

The Committee observed THAT

1. The Bill flows from the Public Service Commission Policy for the Public Service. Further the Ministry has revised the Policy to the current policy "*Internship and Volunteer Policy and Guidelines for the Public Service*" January 2023.
2. That the current Bill has taken up provisions that the previous Bill did not carry
 - a. Onboarding of the private sector
 - b. Bridging courses for persons who have gained experience but have yet to receive certification
3. The Bill is a money Bill since if passed it will require budgetary allocation for all public offices for payment for stipends to interns, not confined to the Public Service Commission where the internship program and policy for the government is currently domiciled.
4. National Industrial Training Authority receives a training Levy on all trainings undertaking both in the public and private sector.
5. Compelling the private sector to take on interns and perhaps employing them permanently would create a financial burden to companies trying to stay afloat, as the numbers may be unsustainable. However, perhaps with incentive from the government, the companies may take onboard the interns.
6. The Bill can cure the mischief of exploitation of professions like teachers, doctors, lawyers who currently are taken on as unpaid interns in the private sector to gain experience yet are struggling to repay the loans taken on during their schooling.

Committee resolutions

The Committee resolves

1. to invite the Sponsor of The Public Service Internship Bill, National Assembly Bill No.63,2022, Hon. Naisula Lesuuda, M.P, Public Service Commission, State Department for Public Service for a meeting to make detailed submissions on the Bill.
2. to seek views from the Federation of Kenya Employers on the proposal of onboarding the Private Sector in the Public Service Internship Bill.

MIN. NO. 199 NA/LABOUR/2023: ANY OTHER BUSINESS

No other business rose.

MIN. NO. 200 NA/LABOUR/2023: ADJOURNMENT/ DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at seven minutes past twelve o'clock. The next meeting will be held on notice.

SIGNED..... DATE
(CHAIRPERSON)

