



PUBLIC SERVICE COMMISSION

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**Framework  
for  
Development and Review  
of  
Terms and Conditions of  
Service in the Public Service**

May, 2016

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## TABLE OF CONTENTS

1.0	INTRODUCTION .....	1
1.1	BACKGROUND.....	1
1.2	OBJECTIVES OF THE FRAMEWORK.....	4
1.3	LIMITATIONS IN THE CURRENT REVIEW PROCESS.....	5
2.0	LEGAL FRAMEWORK .....	6
3.0	INSTITUTIONAL FRAMEWORK.....	6
3.1.1	PUBLIC SERVICE COMMISSION.....	6
3.1.2	MINISTRY RESPONSIBLE FOR PUBLIC SERVICE .....	7
3.1.3	THE NATIONAL TREASURY.....	7
3.1.4	THE MINISTRY RESPONSIBLE FOR LABOUR.....	7
3.1.5	THE RELEVANT MINISTRY.....	8
3.1.6	SALARIES AND REMUNERATION COMMISSION .....	8
3.1.7	STATE CORPORATIONS ADVISORY COMMITTEE (SCAC) .	8
3.1.8	PROFESSIONAL BODIES .....	8
3.1.9	UNIONS.....	9
4.0	PROCESS FOR DEVELOPMENT AND REVIEW OF TERMS AND CONDITIONS OF SERVICE.....	9
4.1	SITUATIONAL ANALYSIS.....	9
5.0	MONITORING, EVALUATION AND REPORTING .....	12
6.0	REVIEW OF THE FRAMEWORK .....	13



## Foreword

Article 234(2)(g) of the Constitution mandates the Public Service Commission to set and review conditions of service for public servants. The Commission believes that in order to manage talent effectively and to ensure an efficient public service, the terms and conditions of public officers need to be continuously reviewed not only to fulfil the requirements of the constitution but also to define the needs of the workforce to perform optimally.

Terms and conditions of service are not the only contributor to good performance but are linked to other human resource practices such as performance management, creativity and innovation, talent management, recognition and discipline.

It must be appreciated that over the years, the Government has been improving terms and conditions of service through circulars issued from time to time and periodic reviews undertaken by various commissions, task-forces and *ad hoc* committees.

Previous reviews have been handled in a random manner without involvement of stakeholders. This has caused challenges in implementation of recommendations. It is for this reason that the Public Service Commission has seen it fit to develop a framework to provide for a structured mechanism for review of terms and conditions of service and ensure stakeholder participation as envisaged in the Constitution.

This framework provides guidelines to the various stakeholders in developing terms and conditions of service

as well as the steps to be taken in developing proposals in reviewing the terms and conditions of service.

All stakeholders are therefore urged to abide by the guidelines provided in this framework and to fully participate in review of terms and conditions of service as and when required.

Prof. Margaret Kobia, PhD, CBS  
Chairperson,  
Public Service Commission

## **List of Acronyms**

- PPSRRB — Public Service Remuneration Review Board.
- SCAC — State Corporations Advisory Committee
- CS — Cabinet Secretary.



## **1.0 INTRODUCTION**

### **1.1 Background**

Article 234(2)(g) of the Constitution mandates the Public Service Commission to set and review conditions of service for public servants. Section 13(2) of the Public Service Commission Act, 2012 operationalizes the provisions of the Constitution by empowering the Commission to establish a consultative committee on the conditions of service of officers in the public service.

Various commissions and committees have in the past been constituted to review and make recommendations on the terms and conditions of service in the Public Service. The commissions include;

The Ndegwa Commission on Public Service Structure and Remuneration Commission 1970-71 which noted that the government wages policy will influence the allocation of total national resources, human as well as physical. It noted the current structure of remuneration is distorted by a number of factors including the differential impact of fringe benefits which play an important role in remuneration; disparities between average wages in the private sector and a relatively small but very important "high wage sector". Further the Commission noted that the public sector had exercised much restraint with regard to wages. The Commission recommended a system of job evaluation whereby the then 78 civil service salary grades would be rationalized and placed into 15 job groups.

Waruhiu Civil Service Committee (1979/80) recommended salary increment and new salary scales. It also

recommended the retention of the basic grading structure which was recommended by the Ndegwa Commission of 1970/71. It further recommended the retention of retirement at the age of 45 years and the discontinuation of rental deductions for government houses from salaries of officers who were living in their own houses. The Committee also recommended upward adjustment of car loan entitlement to officers.

The Ramtu Commission of 1985 made recommendations which when implemented brought about disparate terms and conditions of service particularly among certain categories of civil servants. The piecemeal basis upon which some recommendations were implemented gave rise to further disparities.

The Ominde Committee of 1989 was mandated to look into the terms and conditions of service for the disciplined personnel which also brought disparities.

The appointment of other committees to look into terms and conditions of service, such as Nyakiamo (1996), National Assembly; Mwakio (1997), Public Universities; Ng'eny (1997), Disciplined Forces; and Munene (1997), Civil Service, have made the situation more complicated.

The Report of the Harmonization Commission on Terms and Conditions of Service for Public Servants 1998/1999 the so called Kipkulei Commission made drastic recommendations on public sector terms and conditions of service. The Commission noted that over the years, different sectors or categories of workers in the Public Service had been agitating for special terms and

conditions of service; or some kind of preferential treatment on the basis of perceived importance of the work they were doing. This created glaring disparities between those employees and the public servants in other sectors. The Commission recommended a pay policy which would provide a transparent, unified and harmonized framework for determining pay.

The Permanent Public Service Remuneration Review Board (PPSRRB) developed a pay policy that was to guide the entire public service on issues of determination of pay and management of remuneration. In the Parastatal sector, the categorization into six grades has led to requests for reviews that have been done without a proper mechanism for determining the requests through the State Corporations Advisory Committee (SCAC). The proliferation of unions following the provision of the Constitution is likely to complicate issues even further.

The Constitution of Kenya 2010 established the Salaries and Remuneration Commission which is mandated under Article 230(4) to set and regularly review the remuneration and benefits of State Officers and to advise the national and county governments on the remuneration and benefits of all other public officers. The Constitution also established the Public Service Commission with the power to review and make recommendations to the national Government in respect of conditions of service. It is generally understood in human resource management that terms and conditions of service cannot be dealt with in isolation from each other. It is for this reason that the Public Service Commission, being the employer of public

servants, with a critical role to play in the determination of terms and conditions of service, has developed this framework that will guide in the review of terms and conditions of service. The Salaries and Remuneration Commission, being a major stakeholder, has also been considered in the development of this framework.

## **1.2 Objectives of the Framework**

The objectives of the Framework are:

- (i) To provide consistency and uniformity in development and review of terms and conditions;
- (ii) To provide a platform for consultations with all stakeholders;
- (iii) To provide a standard period of review of terms and conditions across the public service;
- (iv) To facilitate the harmonization of terms and conditions of service; and
- (v) To minimize Labour unrest.

## **1.3 Definition and Scope**

Terms and conditions of service govern the employment relationship between an employer and employee. These may include salaries, allowances, benefits, and working conditions amongst others.

This framework provides a systematic approach in reviewing terms and conditions of service. It shall be the standard guide for all organs that develop or review any terms and conditions of service or laws and regulations

that have an impact on terms and conditions of service in the public service.

The framework is applicable to all public service employees including employees of State corporations and agencies.

#### **1.4 Limitations in the Current Review Process**

Prior to the promulgation of the Constitution of Kenya 2010, there was lack of clarity on the institution responsible for reviewing terms and conditions of service in the public service. Reviews were therefore undertaken in an adhoc manner. This created disparities in the terms and conditions in addition to the following limitations—

- a) inflexibility in terms of service;
- b) non-involvement of all stakeholders;
- c) disregard for productivity;
- d) disregard to cost of living adjustment;
- e) lack of a set standard timeframe for review;
- f) lack of uniformity;
- g) implementation challenges;
- h) unequal pay for officers with same qualifications and performing similar jobs;
- i) political interference; and
- j) failure to consider the Government's ability to pay.

## **2.0 LEGAL FRAMEWORK**

The following laws and regulations shall be considered in developing and reviewing terms and conditions of service:

- a) The Constitution;
- b) The Employment Act and other Labour laws;
- c) The Persons with Disabilities Act;
- d) The Public Finance Management Act;
- e) The Income Tax Act;
- f) The Leadership and Integrity Act;
- g) The Public Officer Ethics Act;
- h) The Pensions Act;
- i) The National Hospital Insurance Fund Act;
- j) The National Social Security Fund Act;
- k) The Public Service Regulations;
- l) The Public Officer Code of Conduct;
- m) The Public Service Code of Regulations;
- n) The Collective Bargaining Agreements; and
- o) Any other relevant laws and regulations.

## **3.0 INSTITUTIONAL FRAMEWORK**

### **3.1.1 Public Service Commission**

The Commission will be responsible for the review and making recommendations to the National Government in respect of conditions of service. In this regard, the

Commission will initiate or approve the development or review of terms and conditions of service. The Commission shall spearhead or oversee the review process.

### **3.1.2 Ministry responsible for Public Service**

The Ministry shall provide the technical guidance and facilitate approval by Cabinet and implementation of the developed or reviewed terms and conditions of service.

The Ministry shall establish a negotiating committee to engage with the union. Membership will include representatives from the following:

1. Ministry responsible for public service
2. Ministry responsible for labour
3. Ministry responsible for national treasury
4. Attorney-General's office
5. Relevant Ministry
6. Two (2) co-opted members

### **3.1.3 The National Treasury**

The National Treasury will advise on the Government's ability to accommodate the resultant expenditure arising from the proposed review. The Treasury shall also be responsible for sourcing and allocating funds for implementation.

### **3.1.4 The Ministry responsible for Labour**

The Ministry will participate in the discussions of any proposals for development and review of terms and

conditions of service and will also continue with its role of setting the annual minimum wage as required by law.

### **3.1.5 The relevant Ministry**

The relevant Ministry will be a key stakeholder in terms of initiating development and reviews and providing guidance on conditions of service for cadres of staff within the Ministry. The Ministry will participate in the development of a Cabinet memorandum in liaison with the Ministry responsible for labour and the Ministry responsible for public service. The Ministry will also implement the review.

### **3.1.6 Salaries and Remuneration Commission**

The Salaries and Remuneration Commission shall advise on the proposed reviews on remuneration and benefits for public officers.

### **3.1.7 State Corporations Advisory Committee (SCAC)**

The SCAC will be involved in all reviews relating to State corporations and agencies. It will also ensure implementation of the review in State corporations and agencies.

### **3.1.8 Professional Bodies**

The professional bodies shall provide a linkage between the relevant profession and the public service. They shall also be instrumental in advising on the acceptable professional requirements, working conditions and terms of service for the profession.



### **3.1.9 Unions**

The unions shall be the link between the Government and public officers whom they represent. They shall be the officially recognized spokespersons and representatives of staff in the development or review process.

## **4.0 PROCESS FOR DEVELOPMENT AND REVIEW OF TERMS AND CONDITIONS OF SERVICE**

In order to objectively set and review terms and conditions of service and effectively manage the expectations of the Public Officers, it is imperative that the terms and conditions of service is not only uniform but applies across the public service.

This framework will ensure development of clear, consistent and simplified criteria to be used in reviewing terms and condition of service and will define the factors to be considered, the stakeholders and provide a checklist for the review process.

### **4.1 Situational Analysis**

Prior to any review, a situational analysis of the current status of the terms and conditions shall be carried out. This will involve taking stock of and analysing the terms and conditions that require review. It will also be necessary to conduct a comparative study of the terms applicable for the category of public servants whose terms are due for review. The comparative studies may include regional and international studies as applicable.

## **4.2 Development of Proposal**

Subject to provisions of Article 234(5), all proposals for review of terms and conditions of service shall be spearheaded by the Public Service Commission.

The proposals shall be developed arising from the situational analysis and shall state the target group and cost implications. The National Treasury and the Salaries and Remuneration Commission shall be consulted in development of any proposals with financial implications while the SCAC will be involved in all developments and reviews of terms and conditions of service for State corporations and agencies.

### **4.2.1 Proposals from Trade Unions**

All proposals from the union on terms and conditions of service will be submitted to the Cabinet Secretary responsible for public service or to the SCAC as appropriate. The CS or SCAC as the case may be will consider the proposals from the union and submit to the Public Service Commission for purposes of initiating the review process.

### **4.2.2 Proposals from State Organs**

Any State organ proposing a review of terms may initiate the process with the approval of the Public Service Commission.

### **4.2.3 Proposals to amend Legislation**

Any proposals for amendment of legislation that has an impact on terms and conditions of service shall be required to undergo the process provided in this

framework. In this regard, the National Social Security Fund, the National Hospital Insurance Fund or any other State organ or agency proposing legislative amendments will be required to abide by this framework

### **4.3 Stakeholder Participation**

The Public Service Commission and the Ministry responsible for public service shall be involved in all reviews while the National Treasury and the Salaries and Remuneration Commission shall be involved in all reviews of salaries, allowances and benefits with monetary implications.

A proposal for review shall be subjected to identified stakeholders. The following factors shall determine the relevant stakeholders for any review:

- a) The relevant union;
- b) The relevant professional body;
- c) The relevant Ministry; and
- d) The cadre of staff.

The proposal shall be sent to all identified stakeholders by e-mail and shall be uploaded on the Commission's website, the website of the relevant Ministry and the website of the relevant State corporation or agency.

Subject to the provisions of Article 234(5) of the Constitution, the Commission shall convene a stakeholder's forum which shall consider the proposal and make recommendations.

## **4.4 Approval**

The recommendations shall be discussed by the Commission and upon approval, shall be submitted to the Cabinet Secretary responsible for public service to act as follows:

### **4.4.1 Financial Approvals**

The Cabinet Secretary shall submit recommendations which have financial implication to the National Treasury for confirmation of funding. Upon confirmation, the proposals shall be forwarded to SRC for consideration and to Cabinet for approval.

### **4.4.2 Non Financial Approvals**

The Cabinet Secretary shall submit recommendations which have no financial implication to Cabinet for approval.

## **4.5 Implementation**

Upon approval by Cabinet, an agreement shall, where necessary, be signed between the respective parties or the review shall be implemented as appropriate.

## **4.6 The Review Period**

A review of terms and conditions of service shall take place after the expiry of a period of four (4) years.

## **5.0 MONITORING, EVALUATION AND REPORTING**

Authorized Officers and Chief Executive Officers of State corporations and agencies, as the case may be, shall be required to prepare and submit a quarterly report to the

Commission which shall state the level of compliance with the developed or reviewed terms and conditions of service.

The Commission shall also carry out an annual audit on implementation and impact in the civil service while the SCAC will do the same for State corporations and agencies and present the audit reports to the Commission.

## **6.0 REVIEW OF THE FRAMEWORK**

This framework shall be reviewed from time to time as circumstances shall determine.



## **Public Service Commission**

P.O. Box 30095, 00100, Nairobi, Kenya

Harambee Avenue, Nairobi, Kenya

Tel.: +254 (020) 2223901-5, 2227471-5

Fax: +254 (020) 2214791

Mobile: +254 724 253 807, +254 735 800 282

Website: [www.publicservice.go.ke](http://www.publicservice.go.ke)