



REPUBLIC OF KENYA

PUBLIC SERVICE COMMISSION OF KENYA

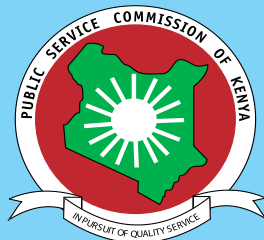
THE PUBLIC OFFICER ETHICS ACT, 2003

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# Guidelines on Declaration of Income, Assets and Liabilities

29th May 2009

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*Service with integrity*



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## **1.0 Introduction**

These administrative guidelines are issued to assist and simplify the administration of Part IV of the Public Officer Ethics Act, 2003. The guidelines amplify the Public Officer Ethics (Public Service Commission) Administrative Procedures, 2009 issued as legal notice No.76 of 2009 and the guidelines do not substitute the procedures and other applicable law. In individual cases specific reference should be made to the procedures as issued by the Commission and the provisions of Part IV of the Public Officer Ethics Act, 2003.

## **2.0 Prescribed Financial Declarations**

The Act prescribes the making of financial declarations of incomes, assets and liabilities by every public officer. There are three types of declarations:

- a) Initial declaration: This is made by a public officer within thirty days of joining the service.
- b) Every two-year declaration: This is made by a public officer every two years while in the service.
- c) Final declaration: This is made by a public officer within thirty days of leaving the service.

## **3.0 Statement Dates**

The statement dates for the three types of declarations will vary.

- a) Initial declaration: The date of first appointment to the service.
- b) Every two-year declaration: 1st November of the year of the declaration.
- c) Final declaration: The date the officer ceases to be a public officer.

## **4.0 Declaration Period**

The declaration periods are as follows:

- a) Initial declaration: The period is the year ending on the date of first appointment (the statement date).
- b) Every two-year declaration: The period is from the previous statement date to the current statement date.

- c) Final declaration: The period between the last every two-year declaration and the date of leaving service, or, if , after the initial declaration the every two-year declaration had not fallen due, the period between the initial declaration and the date of leaving service.

## **5.0 Printing and Issuance of the Declaration form**

The Public Service Commission will print and issue the prescribed form for declaration of incomes, assets and liabilities to the authorized officers for delivery to individual public officers free of charge.

## **6.0 Request and collection of declaration forms**

For every two-year declaration, the authorized officer shall make a request in writing to the Commission stating the number of forms required and collect the same by 1st October of the declaration year.

For the initial and final declarations, the authorized officer shall make a request in writing to the Commission stating the number of forms required and collect the same as and when necessary.

The authorized officer or his representative shall sign the collection register on receipt of the forms.

## **7.0 Issuance of forms to public officers**

For the every two-year declaration, the authorized officer shall issue a declaration form to all public officers in their organization irrespective of rank or grade before 1st November.

For the initial declaration the authorized officer shall issue the form to the public officer on assumption of duties on first appointment (the statement date).

For final declaration the authorized officer shall issue the form to the public officer on the last date of service (the statement date).

The public officers shall sign the relevant register on receipt of the declaration form indicating the date the form was issued.

## **8.0 Delivery of completed declarations to the authorized officer**

- a) For the every two-year declaration, the public officer shall deliver the duly completed declaration to the authorized officer by 31st December of the declaration year.
- b) For the initial declaration the public officer shall deliver the duly completed declaration to the authorized officer within thirty days from the effective date of becoming a public officer, the statement date.
- c) For the final declaration the public officer shall deliver the duly completed declaration to the authorized officer within thirty days of ceasing to be a public officer, the statement date.
- d) On delivery of the duly completed declaration the authorized officer or his representative and the public officer shall sign the delivery register.

## **9.0 Retention and delivery of declarations to the Commission**

- a) For public officers in job group below “H” or its equivalent, the authorized officer shall retain the declarations under his safe custody.
- b) For public officers in job group “H” and above or its equivalent, the authorized officer shall deliver the declarations to the Commission Secretary as follows:
  - i) For the every two-year declaration before 31st January following the declaration year.
  - ii) For both initial and final declarations within thirty days of submission by the public officer.
- c) Any declaration sent to the Commission by the authorized officer shall be forwarded by a letter addressed to the Commission Secretary.

## **10.0 Request for clarifications**

- a) For officers in job group below ‘H’ or its equivalent, the authorized officer or staff authorized in writing shall analyze the submitted declarations

and where necessary request for clarifications on discrepancies and inconsistencies within six months from the date of submission.

- b) For officers in job group 'H' and above or its equivalent, the secretary or staff authorized in writing shall analyze the submitted declarations and where necessary request clarifications on discrepancies and inconsistencies within six months from the date of submission.
- c) Clarifications and responses shall be made in writing.

## **11.0 Consequence of non compliance**

A public officer who fails to make a declaration or a clarification or who makes a false or misleading declaration or clarification may be prosecuted in a court of law or subjected to disciplinary proceedings. In that regard, the authorized officer or the Commission will initiate action.

## **12.0 Conditions for disclosure, access, acquisition or publication of information to third parties including law enforcement agencies**

- a) Any person including law enforcement agencies may apply in writing to an authorized officer or the Commission to access or acquire or publish information in the declaration.
- b) For the information to be disclosed to the applicant, the Commission or authorized officer must be convinced that the applicant has legitimate interest and good cause to justify the disclosure or publication.
- c) The Commission or authorized officer shall not permit disclosure or publication of the information unless the involved public officer has been notified of the intended action and his response put into consideration.

## **13.0 Access to information by the officer who provided it or representative**

- a) The public officer who made the declaration or clarification can access it by making a written application to the Commission or the authorized officer.
- b) The Commission or the authorized officer shall confirm the identification of the officer before releasing the information applied for.

- c) The public officer's authorized representative can access the information by making a written application to the Commission or the authorized officer.
- d) The Commission or the authorized officer shall confirm the authorization of the representative of the public officer before releasing the information applied for.

## **14.0 No release of original declaration**

The Commission or authorized officer shall not release or part with the original declaration made by any public officer.

## **15.0 Cessation of retention of declarations**

The declarations shall be retained for five years after the public officer ceases to be a public officer. In that case, the Commission will issue specific instructions on cessation of retention of the declarations on case to case basis.

## **16.0 Communication to public officers**

Where it is necessary to inform a public officer or the representative anything relating to making of financial declarations under Part IV of the Act or related issues, the communication shall be in writing and hand delivered or sent by registered mail to the last known address of the officer or representative.

## **17.0 Inquiries**

Any person may make an inquiry to the Commission Secretary relating to financial declarations under Part IV of the Public Officer Ethics Act, 2003.

## **18.0 Forms**

The following forms will be used, as need may arise, by authorized officers and public officers as a guide in dealing with some of the requirements of Part IV of the Public Officer Ethics Act, 2003 or the Public Officer Ethics (Public Service Commission) Administrative Procedures, 2009, legal notice No.76 of 2009:



**Form PSC-E(I):**

Sample duly completed Declaration - Schedule to the Act.



REPUBLIC OF KENYA

**PUBLIC SERVICE COMMISSION OF KENYA**

**Declaration of Income, Assets & Liabilities  
(The Public Officer Ethics Act, 2003)**

**1. Name of the Public Officer**

(Surname)	(First Name)	(Other Names)
<i>Ambapo</i>	<i>Jameson</i>	<i>Wambapo</i>

**2. Birth Information**

a. Date of Birth DD *1<sup>st</sup>* MM *March* YY *1960*

b. Place of Birth *Taita-Taveta District*

**3. Marital Status:** *Married or Single* (choose whichever applicable)

**4. Address**

Postal Address: *P. O. BOX 399, Voi*

Physical Address: *C% DC's office, Taita-Taveta or House no. 20, Makongeni estate. Or C% Motoni Village Motoni sub-location, Taita-Taveta District.*  
(State one applicable in your case)

**5. Employment Information**

a. Employment No. *1987216374* (Where applicable)

b. Designation *Senior Clerical Officer* (State one applicable in your case)

c. Name of Employer *Public Service Commission (Office of the President) or Kenya Ports Authority or Town Council of Masaku or Kenya National Commission for Human Rights, or Kenya Police Force or National Youth Service or Kenya Prison Service, etc*  
(State one applicable in your case)

**d. Nature of Employment (Permanent, temporary, contract, etc)**

*(State whichever applicable)*

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**6. Name of Spouse or Spouses**

- |       |                             |                               |                                   |
|-------|-----------------------------|-------------------------------|-----------------------------------|
| (i)   | <i>Wambapo</i><br>(Surname) | <i>Mrembo</i><br>(First Name) | <i>Wakesho</i><br>(Other Names)   |
| (ii)  | <i>Wambapo</i><br>(Surname) | <i>Maua</i><br>(First Name)   | <i>Wanje</i><br>(Other Names)     |
| (iii) | <i>Wambapo</i><br>(Surname) | <i>Rafiki</i><br>(First Name) | <i>Mwanaisha</i><br>(Other Names) |
| (iv)  | <i>Wambapo</i><br>(Surname) | <i>Sabuni</i><br>(First Name) | <i>Rukia</i><br>(Other Names)     |
| (v)   | <i>Wambapo</i><br>(Surname) | <i>Rita</i><br>(First Name)   | <i>Mary</i><br>(Other Names)      |

*(Attach additional list if necessary and state the names of your spouses as appropriate)*

**7. Name of dependent children under the age of 18 years**

- |       |                             |                                 |                                |
|-------|-----------------------------|---------------------------------|--------------------------------|
| (i)   | <i>Wambapo</i><br>(Surname) | <i>Wakwanza</i><br>(First Name) | .                              |
| (ii)  | <i>Wambapo</i><br>(Surname) | <i>Issa</i><br>(First Name)     |                                |
| (iii) | <i>Wambapo</i><br>(Surname) | <i>Bahati</i><br>(First Name)   |                                |
| (iv)  | <i>Wambapo</i><br>(Surname) | <i>James</i><br>(First Name)    | <i>Ambapo</i><br>(Other Names) |
| (v)   |                             |                                 |                                |
| (vi)  |                             |                                 |                                |
| (vii) |                             |                                 |                                |

(viii)

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(Surname)	(First Name)	(Other Names)
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(ix)

---

(Surname)	(First Name)	(Other Names)
-----------	--------------	---------------

(x)

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(Surname)	(First Name)	(Other Names)
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*(Attach additional list if necessary and state the names of your dependent children as appropriate)*

8. Financial Statement for: **Jameson Wambapo-Ambapo**

*(A separate statement is required for the officer and each spouse and dependent child under the age of 18 years. Additional sheets should be added as required)*

a. **Statement Date: 1st November 2009** *(or such other date for initial or final declaration. The date stated applies for all every two-year declarations)*

b. **Income, including emoluments, for period from**  
**1st November 2007** to **31st October 2009**

*(Including, but not limited to, salary and emoluments and income from investments. The period is from the previous statement date to the current statement date. For an initial declaration, the period is the year ending on the statement date.)*

Description	Approximate Amount
<i>Gross two year Salary</i>	330,000
<i>Gross two year rent</i>	1,000,000
<i>Gross two year sale of crops produce</i>	500,000
<i>Gross two year sale of livestock products</i>	700,000
<i>Gross two year Interest on bank deposits</i>	100,000
<i>Gross two year dividends from Harambee Sacco</i>	10,000
<i>Gross two year dividends from Ken-Gen shares</i>	5,000
<i>Dowry received in December 2008</i>	150,000
<i>Gross two year Matatu Income</i>	600,000
<i>Gross two year Insurance bonuses</i>	25,000
<i>Gross two year Cash gifts</i>	100,000
<i>Gross two year income from royalties</i>	80,000
<i>Damages awarded by court in civil case</i>	5,000,000
<i>Gross two year merry-go round income</i>	130,000

*(State all particulars of your income for the period and attach a separate sheet of the income of your spouse(s) and dependent children under the age of 18 years prepared in a similar way)*

**c. Assets(as of the statement date)**

*(Including, but not limited to, land, buildings, vehicles, investments and financial obligations owed to the person for whom the statement is made.)*

<b>Description (include location of asset where applicable)</b>	<b>Approximate Amount</b>
<i>Ancestral land LR No. Motoni/Taita-Taveta/12 measuring approximately 4 hectares</i>	500,000
<i>Acquired Land LR No. Motoni/Taita-Taveta/137 approximately 2 hectares</i>	200,000
<i>Plot No. 150, Makongeni Estate, Voi Town</i>	150,000
<i>Developed Plot No. 169 in Motoni Township</i>	1,000,000
<i>Mortgage house under acquisition, Langata Government houses</i>	3,500,000
<i>Matatu Nissan Caravan KAT 196 Y</i>	650,000
<i>Toyota Corolla salon Car KAx 188 M</i>	550,000
<i>1000 Ken-Gen shares</i>	10,000
<i>350,000 Harambee Sacco shares</i>	350,000
<i>Outsatnding Dowry from Mwanaiasha</i>	45,000
<i>Friendly loan to Mwanamwenza</i>	90,000
<i>Life Insurance/school fees policy value</i>	96,000
<i>Cash at KCB bank, Voi Ac/No 0000100096</i>	1,570,000
<i>Cash at EQUITY Bank, Motoni AC/No.000319</i>	450,000
<i>Cash at Hand</i>	50,000
<i>Unpaid court claim from PSV insurance Co.</i>	45,000
<i>15 dairy cows (or other livestock e.g poultry, sheep, pigs, fish, bees, goats, camels, donkeys e.t.c)</i>	300,000
<i>4 shepherd dogs (or other pets e.g horses, cats, peacock and pigeons e.t.c)</i>	200,000
<i>Jewellery</i>	450,000
<i>Assorted house holds</i>	300,000
<i>Trophies and artifacts (including drawings, paintings, carvings and portraits e.t.c)</i>	1,500,000

## d. Liabilities (as of the statement date)

Description	Approximate Amount
<i>Outstanding school fees (e.g at University of Nairobi, Motoni High School e.t.c)</i>	150,000
<i>Outstanding friendly loan from Juma</i>	41,000
<i>Outstanding Haraambee Sacco Loan</i>	700,000
<i>Outstanding Equity Bank Loan</i>	50,000
<i>Outstanding KCB bank loan</i>	342,000
<i>Outstanding Car loan from Equity Bank</i>	200,000
<i>Outstanding Mortgage Savings and Loan</i>	950,000
<i>Outstanding HELB study loan</i>	111,000
<i>Outstanding imprest due to GOK</i>	35,000
<i>Outstanding Salary advance</i>	40,000
<i>Outstanding dowry for Baba Rita Mary</i>	45,000
<i>Outstanding rent arrears</i>	22,000
<i>Outstanding bills ( water,hospital, electricity, telephone , wages, e.tc)</i>	45,000

(State all particulars of your liabilities as at the statement date and attach a separate sheet of the liabilities of your spouse(s) and dependent children under the age of 18 years prepared in a similar way)

## 9. Other information that may be useful or relevant:

(State any useful or relevant information relating the financial declaration including useful explanations e.g.

*a) The ancestral land is registered in the name of my late grandfather.*

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*b) Income from Crops is from my father's land.*

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*c) Matatu Nissan caravan registered in my wife's name.*

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*d) Title for plot in Motoni not issued due to unfinished land adjudication.*

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*e) Plot in Makongeni jointly owned with my brother James Smith.*

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**I solemnly declare that the information I have given in this declaration is, to the best of my knowledge, true and complete.**

**Signature of officer:**

*(sign as appropriate)*

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**Date:** *(state the date of the signing)*

---

**WITNESS.**

**Signature:** *(sign as appropriate)*

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*Name:* *(state the name as appropriate)*

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*Address:* *(state the address of the witness)*

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*(The witness is any willing adult of sound mind. Do not use a child as a witness. The witness need not be your supervisor or a colleague at work. The witness should see you affixing your signature i.e. to witness the signing).*

**Form PSC-E(II):**

**Sample of authority letters - Subparagraphs 4(2), 5 and 12 of the procedures.**

Date: \_\_\_\_\_

To: \_\_\_\_\_

*(Fill the name and staff personal number of officer being authorized)*

**SUBJECT:        DESIGNATION AS AN AUTHORIZED STAFF**

This is to designate you as an authorized staff to assist in the administration of Part IV of the Public Officer Ethics Act, 2003. You are required to carry out the duties with integrity and dedication in accordance with the Act.

Please acknowledge receipt of this letter.

\_\_\_\_\_ *(signature)*

Commission Secretary or Authorized Officer *(delete whichever is not applicable)*

***NOTE: This sample letter shall be issued by the authorized officer, where the powers have been delegated, to designate and empower the necessary staff required to assist in administering declarations of incomes, assets and liabilities.***

**Form PSC-E(III):  
Commission Register on forms collected by authorized officers - subparagraph 6(4) of the  
procedures.**

SERIAL NO.	MINISTRY, DEPARTMENT, LOCAL AUTHORITY, STATE CORPORATION OR PUBLIC BODY	DATE OF COLLECTION	NUMBER OF FORMS COLLECTED	NAME OF OFFICER WHO COLLECTED OR REMARKS ON MODE OF DISPATCH	SIGNATURE OF OFFICER (OR DISPATCH REGISTRATION NUMBER)



**Form PSC-E(IV):**

**Register to be maintained by an authorized officer for issuance of declaration forms to officers and receipt of declarations - subparagraph 9 of the procedures.**

SERIAL NO.	NAME OF THE OFFICER TO WHOM THE FORM IS ISSUED	OFFICER'S STAFF PERSONAL NUMBER	DATE OF DELIVERY OF FORM TO THE OFFICER	SIGNATURE OF OFFICER RECEIVING THE FORM	DATE DECLARATION DELIVERED BY THE OFFICER	SIGNATURE OF THE OFFICER RECEIVING THE DECLARATION	REMARKS IF ANY

**Form PSC-E(V):**  
 Register to be maintained by the Commission Secretary for declarations by public officers in job group “H” and above, or its equivalent - Subparagraph 10 of the procedures.

SERIAL NO.	MINISTRY, DEPARTMENT, LOCAL AUTHORITY, STATE CORPORATION OR PUBLIC BODY	DATE OF RECEIPT OF THE DECLARATIONS	NUMBER OF DECLARATIONS RECEIVED	NAME AND SIGNATURE OF AUTHORIZED STAFF MAKING THIS ENTRY	REMARKS, (IF ANY)

**NOTE:** the secretary shall maintain separate registers for initial, every two-year and final declarations respectively.

Form PSC-E(VI):

Returns to the Commission by the authorized officer - subparagraph 11 of the procedures.

**MINISTRY / DEPARTMENT / LOCAL AUTHORITY / STATE CORPORATION / PUBLIC BODY**

(Name of organization as appropriate) Date \_\_\_\_\_ (state date as appropriate)

NO. OF PUBLIC OFFICERS ON THE PAYROLL AS AT 31st OCTOBER	OFFICERS IN JOB GROUP "H" AND ABOVE OR ITS EQUIVALENT	OFFICERS IN JOB GROUP BELOW "H" OR ITS EQUIVALENT	REMARKS, (IF ANY)
NO. OF PUBLIC OFFICERS ON THE PAYROLL WHO HAVE SUBMITTED DECLARATIONS WITHIN TIME			
NO. OF PUBLIC OFFICERS ON THE PAYROLL WHO HAVE NOT SUBMITTED DECLARATIONS WITHIN TIME			
NO. OF PUBLIC OFFICERS UNPAID, PARTIME, TEMPORARY AS AT 31st OCTOBER			
NO. OF PUBLIC OFFICERS UNPAID, PARTIME, TEMPORARY WHO HAVE SUBMITTED DECLARATIONS WITHIN TIME			
NO. OF PUBLIC OFFICERS UNPAID, PARTIME, TEMPORARY WHO HAVE NOT SUBMITTED DECLARATIONS WITHIN TIME			

**NOTE:**

a) *The returns in the format above shall be submitted to the Commission Secretary by 31<sup>st</sup> January following the every two-year declarations.*

b) *For initial and final declarations the authorized officer shall submit returns to the Commission Secretary in the format above in respect of every six calendar months for January to June and July to December by 31<sup>st</sup> July and 31<sup>st</sup> January respectively.*

c) *The authorized officer shall attach a certified copy of the register prepared on Form IV to the returns prepared in the above format.*

d) *The authorized officer shall also attach to the returns in the format above, a report of any action taken or notification to the Attorney General on every case of failure to comply with Part IV of the Act by any public officer in job group below "H" or its equivalent)*

**Form PSC-E(VII):**

**Sample of a letter requesting for clarification - Paragraph 12 of the Procedures.**

Date: \_\_\_\_\_

To: \_\_\_\_\_

*(Fill the name, address and staff personal number of the officer required to make a clarification)*

**SUBJECT: REQUEST FOR CLARIFICATION ON FINANCIAL DECLARATION**

Please refer to your \_\_\_\_\_ *(Insert every two-year or initial or final declaration as the case may be)* dated \_\_\_\_\_ *(insert date of the declaration)* which has been received in this office. Discrepancies or inconsistencies have been noted in the declaration as follows:

- a) \_\_\_\_\_
- b) \_\_\_\_\_
- c) *etc. (Set out particulars of the discrepancies or inconsistencies that may have been noted as appropriate).*

In view of the above discrepancies or inconsistencies, you are hereby requested to submit your written clarifications so as to reach the undersigned within twenty one (21) days *(or such other reasonable time depending on the circumstances of individual case)* from the date of this letter.

\_\_\_\_\_ *(signature)*

Commission Secretary or Authorized Officer *(delete whichever is not applicable)*

***NOTE: This letter may be issued to an officer only within six months from the last date of the period prescribed for submitting the declaration in question. An officer shall not be required to make a clarification where the six months have lapsed.***

**Form PSC-E(VIII):**

**Sample of a letter giving an opportunity to an officer to make a representation on intended disclosure or access or acquisition or publication or in any way making public information in a declaration following an application or a request to do so - Paragraph 16(6) or 17(5).**

Date: \_\_\_\_\_

To: \_\_\_\_\_

*(Fill the name, address and staff personal number of the officer required to make a representation.)*

**SUBJECT: OPPORTUNITY TO MAKE REPRESENTATION**

Please refer to your \_\_\_\_\_ *(Insert every two-year or initial or final declaration as the case may be)* dated \_\_\_\_\_ *(insert date of the declaration)* which is held in this office.

This is to inform you that \_\_\_\_\_ *(insert the name and address of the person or public body making the application or request)* has applied or requested for disclosure or access or acquisition or publication *(delete whichever not applicable)* of the information in the declaration. It is intended that the application or request be granted.

In view of the intended action, you are hereby given an opportunity to make representations on the matter so as to reach the undersigned within twenty one (21) days *(or such other reasonable time depending on the circumstances of individual case)* from the date of this letter.

\_\_\_\_\_ *(signature)*

Commission Secretary or Authorized Officer *(delete whichever is not applicable)*

**Form PSC-E(IX):**

Register to be maintained by the Commission Secretary or authorized officer on applications for disclosure, access and acquisition of information held under Part IV of the Act - subparagraph 16 (8) of the procedures.

SERIAL NO.	NAME OF THE APPLICANT	DATE THE APPLICATION WAS RECEIVED	NAME AND STAFF PERSONAL NUMBER OF OFFICER INVOLVED	MINISTRY, DEPARTMENT, LOCAL AUTHORITY, STATE CORPORATION OR PUBLIC BODY	DESCRIPTION OR PARTICULARS OF INFORMATION APPLIED FOR	DECISION MADE

**Form PSC-E(X):**

Register to be maintained by the Commission Secretary or authorized officer on request for publication or making public in any way the information held under Part IV of the Act - subparagraph 17 (8) of the procedures.

SERIAL NO.	NAME OF THE APPLICANT	DATE THE APPLICATION WAS RECEIVED	NAME AND STAFF PERSONAL NUMBER OF OFFICER INVOLVED	MINISTRY, DEPARTMENT, LOCAL AUTHORITY, STATE CORPORATION OR PUBLIC BODY	DESCRIPTION OR PARTICULARS OF INFORMATION APPLIED FOR	DECISION MADE



## **19.0 Appendix: The Public Officer Ethics (Public Service Commission) Administrative Procedures, 2009, Legal Notice No. 76 of 2009**

### **LEGAL NOTICE NO 76 of 2009.**

#### **THE PUBLIC OFFICER ETHICS ACT**

*(No. 4 of 2003)*

**IN EXERCISE** of the powers conferred by section 33 (1) of the Public Officer Ethics Act, 2003, the Public Service Commission establishes the following administrative procedures—

#### **THE PUBLIC OFFICER ETHICS (PUBLIC SERVICE COMMISSION) ADMINISTRATIVE PROCEDURES, 2009**

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#### **PART I - PRELIMINARY**

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Citation	<b>1.</b> These procedures may be cited as the Public Officer Ethics (Public Service Commission) Administrative Procedures, 2009.
Interpretation.	<b>2.</b> In these procedures, unless the context otherwise requires—
No. 4 of 2003.	“Act” means the Public Officer Ethics Act; “authorized officer” means a person to whom the powers and functions of the Commission have been delegated to in accordance with section 4 of the Act; “Commission” means the Public Service Commission established under section 106 of the Constitution; “declaration form” means the form set out in the Schedule to the Act; and “Secretary” means the person appointed as secretary to the Commission under section 3(1) of the Service Commission Act and includes a person for the time being appointed to act as the secretary.
Cap.185.	

Scope of application. **3.** These procedures shall apply to the administration of Part IV of the Act with respect to the public officers for whom the Commission is the responsible under the Act.

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Commission's Administration Officer. **4.** (1) The Secretary shall be the Commission's responsible officer for the application of these procedures.  
  
(2) The Secretary shall, in writing, designate the necessary officers from among the staff of the Commission to assist in the application of these procedures.

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Delegated powers and functions. **5.** Where the Commission has delegated the powers and functions under section 4 of the Act, provisions of paragraph 4 of these procedures shall apply.

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**PART II - PROCEDURES FOR DECLARATIONS**

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Collection of declaration forms. **6.** (1) Every authorized officer shall in writing request for and collect from the Commission sufficient declaration forms for use by public officers under his jurisdiction.  
  
(2) In the case of every two-year declarations, the authorized officer shall collect the declaration forms from the Commission not later than 1st October of the year of declaration so as to be delivered to the concerned officers in time before 1st November of the year, the prescribed statement date.  
  
(3) In the case of initial or final declaration, the authorized officer shall collect the declaration form so as to be delivered to the concerned officer in time before the statement dates of the initial or final declaration prescribed under the Act.  
  
(4) The Secretary shall maintain a register on the number of forms collected by each authorized officer.

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Delivery of declaration forms to the staff. **7.** The authorized officer shall deliver to each of his staff, irrespective of the rank or grade, a

declaration form for the purpose of making any of the declarations prescribed under the Act.

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Delivery and confidentiality of declarations.

**8.**(1) Every public officer shall deliver to his authorized officer a duly completed declaration before the lapse of the time prescribed under the Act.

(2) For public officers in job group below “H” or its equivalent, the authorized officer shall retain the duly completed declarations under his safe custody.

(3) For public officers in job group “H” and above or its equivalent, the authorized officer shall not retain the declarations but shall deliver them to the Secretary so as to reach the Secretary within thirty days from the last date for submitting the declaration in issue as prescribed in the Act.

(4) The information collected and held by the Commission or the authorized officer under this paragraph shall be kept confidential and shall not be disclosed, accessed, acquired, published or made public in any manner except in accordance with the provisions of the Act and these procedures.

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**9.** (1) The authorized officer shall maintain, irrespective of the rank or grade of the public officer, a register indicating—

- a) the name of the public officer;
- b) the public officer staff personal number;
- c) the date the declaration form was delivered to the public officer;
- d) the signature of the public officer acknowledging receipt of the declaration form;
- e) the date the completed declaration was delivered by the public officer;
- f) the signature of the authorized staff acknowledging receipt of the declaration; and the relevant remarks relating to the declarations, if any.

(2) For purposes of this paragraph, the authorized officer shall maintain separate registers in respect of initial, every two-year and final declarations respectively.

Maintenance of register by the Secretary.

**10.** (1) For public officers in job group “H” and above or its equivalent, the Secretary shall maintain a register of the declarations delivered indicating –

- a) the date the authorized officer delivered the declarations at the Commission;
- b) the name of the ministry, department, local authority, state corporation or public body to which the public officers making the declarations belong; and
- c) the number of declarations received from the authorized officer.

(2) For purposes of this paragraph, the Secretary shall maintain separate registers in respect of initial, every two-year and final declarations respectively.

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Returns to the Commission

**11.**(1) In the case of every two-year declarations, irrespective of the rank or grade of the public officer, the authorized officer shall submit to the Secretary the following information-

- a) the number of public officers on the payroll and public officers who are unpaid or part time or temporary as at 31st October of the year of declaration;
- b) the certified copy of the register maintained in accordance with paragraph 9;
- c) the total number of public officers who have submitted the declaration within the prescribed time;
- d) the total number of public officers who have failed to submit the declaration within the prescribed time;
- e) the action taken or report made to the Attorney- General on failure to comply with the Act by public officers in job group below “H” or its equivalent; and
- f) the relevant remarks relating to the returns, if any.

(2) The authorized officer shall submit the returns in subparagraph (1) by 31st January following the every two-year declaration.

(3) In the case of initial and final declarations, the authorized officer shall submit to the Secretary the

returns set out in subparagraph (1) in respect of every six calendar months for January to June and July to December by 31st July and 31st January respectively.

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### **PART III – PROCEDURE FOR CLARIFICATIONS**

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Requests for clarifications.

**12.** (1) For public officers in job group “H” and above or its equivalent, requests for clarifications under section 28 of the Act may be made, on behalf of the Commission, by the Secretary or by staff of the Commission authorized in writing by the Secretary for that purpose.

(2) For public officers in job group below “H” or its equivalent, requests for clarifications under section 28 of the Act may be made, under the Commission’s delegated powers, by the concerned authorized officer or staff authorized in writing by the authorized officer for that purpose.

(3) Where a request for a clarification under this paragraph is made, it shall be made –

- a) in writing; and
- b) within six months from the last date of submission of the declaration, as prescribed under section 28(1) of the Act.

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Nature of clarifications.

**13.** (1) For public officers in job group “H” and above or its equivalent, the Secretary or the staff of the Commission authorized in writing by the Secretary for the purpose shall analyse each declaration to ascertain if, in the opinion of the Secretary or the staff, any of the following conditions exist –

- a) on the face of the declaration, or in light of any other information the Commission may have, there is reason to suspect the declaration may be false or incomplete; or
- b) the assets of the person who submitted the declaration are disproportionate to his income; or
- c) the income, assets or liabilities of the person who submitted the declaration raise concerns of impropriety or conflict of interest or any

other breach of the Code of Conduct and Ethics.

(2) If it is ascertained that any of the conditions in subparagraph (1) exists, the public officer who submitted the declaration shall be given an opportunity to make a clarification.

(3) If, after considering any clarification the public officer who submitted the declaration may make, the Secretary is of the opinion that any of the conditions in subparagraph (1) still exists, the Secretary shall bring the matter to the attention of the Commission.

(4) The Commission may with respect to a matter brought to its attention under subparagraph (3) take such action as it considers appropriate including notifying the Attorney- General.

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Powers of an authorized officer relating to clarifications.

**14.**(1) For public officers in job group below “H” or its equivalent, the concerned authorized officer or the staff authorized in writing by the authorized officer for that purpose shall analyse each declaration to ascertain if, in the opinion of the authorized officer or the staff, any of the conditions set out in paragraph 13 (1) exist.

(2) If it is ascertained that any of the conditions in paragraph 13 (1) still exists, the authorized officer shall give the public officer who submitted the declaration an opportunity to make a clarification.

(3) If, after considering any clarification the public officer who submitted the declaration may make, the authorized officer is of the opinion that any of the conditions in paragraph 13 (1) still exists, the authorized officer shall take such action as he considers appropriate including notifying the Attorney- General.

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Action and reporting of failure to comply generally.

**15.** (1) For public officers in job group “H” and above or its equivalent, the Secretary shall bring to the attention of the Commission any ascertained failure to comply with relevant provisions of the Act and the Commission shall take appropriate

action against the involved public officer including notifying the Attorney General.

(2) For public officers in job group below “H” or its equivalent, if in the opinion of the concerned authorized officer after giving the public officer an opportunity to make representation, there appears to exist an ascertained failure to comply with the relevant provisions of the Act, the authorized officer shall take appropriate action against the involved public officer including notifying the Attorney-General.

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**PART IV – PROCEDURE FOR  
DISCLOSURE, ACCESS, ACQUISITION OR  
PUBLICATION OF INFORMATION**

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Written request required for access, disclosure etc.

**16.**(1) Subject to subparagraph (4), information collected under the Act and held by the Commission or an authorized officer shall not be disclosed to, accessed or acquired by any person or authority including a law enforcement agency unless a written request is provided.

(2) For public officers in job group “H” and above or its equivalent, a request to access the information in a declaration shall be addressed to the Secretary who shall table it before the Commission for consideration in accordance with this paragraph.

(3) For public officers in job group below “H” or its equivalent, a request to access the information in a declaration shall be addressed to the concerned authorized officer.

(4) Subparagraph (1) shall not apply to the authorized staff of the Commission or the staff authorized by the authorized officer who are empowered to access the information under the provisions of these procedures.

(5) The Commission or an authorized officer shall not disclose or allow access to or acquisition of the information under this paragraph unless the person or authority applying for the information shows to the satisfaction of the Commission or the authorized

officer that he has a legitimate interest and good cause in furtherance of the objectives of the Act in relation to the declaration or clarification in issue.

(6) If in the opinion of the Commission or the authorized officer, the condition set out in subparagraph (5) is satisfied by the applicant, the Commission or an authorized officer shall grant an opportunity to the affected public officer to make a representation on the question of the disclosure or access or acquisition of the information within such reasonable time as shall be deemed necessary.

(7) The Commission or an authorized officer shall not disclose to or allow access or acquisition of the information by the applicant unless the time under subparagraph (6) has lapsed and the representation by the public officer, if any, has been considered in view of the application.

(8) The Commission or the authorized officer shall maintain a register of applications and decisions made under this paragraph setting out –

- a) the name of the applicant;
- b) the date the application was received;
- c) the name and staff personal number of the public officer subject of the application;
- d) the ministry, department, local authority, state corporation or public body the public officer belongs to;
- e) the brief description of the particulars of the information applied for; and
- f) the brief description of the decision made on the application

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No publication of information without permission etc.

**17.**(1) A person or public body including a law enforcement agency shall not publish or in any way make public information in a declaration held by the Commission or an authorized officer under the Act except with prior written authority of the Commission or authorized officer, as the case may be.

(2) For public officers in job group “H” and above or its equivalent, a request to publish or in any way make public the information in a declaration shall



be addressed to the Secretary who shall table it for the Commission's consideration in accordance with this paragraph.

(3) For public officers in job group below "H" or its equivalent, a request to publish or in any way make public the information in a declaration shall be addressed to the authorized officer for consideration in accordance with this paragraph.

(4) The Commission or an authorized officer shall not give permission to a request to publish or in any way make public the information held under the Act unless the person or public body requesting for the permission demonstrates to the satisfaction of the Commission or the authorized officer that he or it has a legitimate interest and good cause in furtherance of the objectives of the Act.

(5) If in the opinion of the Commission or the authorized officer, the condition set out in subparagraph (4) is satisfied by the applicant, the Commission or the authorized officer, shall not grant the permission to publish or in any way make public the information unless an opportunity is given to the affected public officer to make a representation on the question of the publication within such reasonable time as shall be deemed necessary.

(6) The Commission or the authorized officer as the case may be shall not be required to give an opportunity to the affected public officer under subparagraph (5) if, the publication or the making public of the information pursuant to the grant of permission shall in no way disclose the identity of the public officer who provided the information.

(7) Where the affected public officer has been given an opportunity to make a representation under subparagraph (5), the Commission or the authorized officer as the case may be shall not grant permission to a request to publish or in any way make public the information held under the Act unless the time under subparagraph (5) has lapsed and the

representation by the public officer, if any, has been considered in view of the request.

(8) The Commission or the authorized officer shall maintain a register of requests and decisions made under this paragraph setting out –

- a) the name of the person or public body making the request;
- b) the date the request was received;
- c) the name and staff personal number of the public officer subject of the request;
- d) the ministry, department, local authority, state corporation or public body the public officer belongs to;
- e) the brief description of the particulars of the purpose for the intended publication of the information requested for; and
- f) the brief description of the decision made on the request.

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Authenticity of public officer or representative.

**18.** The information collected under the Act and held by the Commission or the authorized officer shall not be disclosed to-

- a) a public officer who provided the information under the Act unless the public officer provides documents or such other evidence verifying his identification; or
- b) his representative unless the representative provides copies of documents that establishes the representative's authority to receive the information.

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Decision to be in public interest.

**19.** The Commission or an authorized officer shall take into consideration all the relevant information and circumstances before making a decision under this Part and shall in every case act in the best public interest.

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Finality of the decisions made under this Part etc.

**20.** Except as provided under these procedures, any decision made by the Commission or an authorized officer under this Part shall be final.

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## **PART V – MISCELLANEOUS**

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Cessation of retention of information etc.

**21.** (1) Where the retention of the information collected and held under the Act ceases to be so

retained due to lapse of the prescribed period of retention, the Commission shall direct on the action to be taken.

(2) The Secretary or the authorized officer may make a request to the Commission for the purpose of directions under subparagraph (1).

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Service of documents etc.	<b>22.</b> Where under these procedures it is required that a document or a notice be transmitted to a public officer or his authorized representative, the service shall be by personal delivery or by registered mail to the last known address.
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Commission may itself act in any event.	<b>23.</b> (1) Nothing in these procedures empowering the Secretary or an authorized officer or any other person to perform any function vested in the Commission under the Act shall- a) preclude the Commission from itself performing that function; or b) on its motion or upon request, from revising the decision of the Secretary or an authorized officer or any other person.
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(2) A request for revision under subparagraph (1) shall be made in writing and addressed to the Secretary.

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Audit and investigation.	<b>24.</b> The Commission may institute an audit or investigation of the manner in which an authorized officer has discharged the duties under these procedures.
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Cases not covered by procedures.	<b>25.</b> Any case not covered by these procedures shall be dealt with in accordance with such instructions as the Commission may, from time to time, issue.
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Commission may prescribe forms.	<b>26.</b> The Commission may prescribe forms for the better carrying out of the provisions of these procedures.
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Right of the Secretary or authorized officer to be heard.	<b>27.</b> The Commission shall, at the request of the Secretary or an authorized officer, hear him or his representative personally in connection with
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any matter he has referred to the Commission in application of these procedures.

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Revocation of L.N 122 /2003.

**28.** The Public Service Commission Procedures for the Administration of Part IV of the Act are revoked.

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*Mr. T. J. K. Gateere*

*Chairman, Public Service Commission of Kenya - PSCK*

*Made on the 29th May, 2009.*

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