



Republic of Kenya

Public Service Commission

Guidelines on Establishment and Abolition of Offices in the Public Service

Issued by The Public Service Commission

June, 2015

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Mission

To transform the public service to be dynamic, professional, efficient and effective for the realization of national development goals

Vision

To be the lead service commission in the provision, management and development of competent human resource in the Public Service

Core Values

Integrity
Professionalism
Equity and Diversity
Team Spirit
Transparency and Accountability
Creativity and
Continual Improvement

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DEFINITION OF TERMS

Abolish	Do away with, put to an end to or annul existence of an office or post
Agencies	Organizations established to work on behalf of the Government
Appeal	Petition or make an urgent or serious request to review a decision
Commission	The Public Service Commission
Complement	An establishment of the total number of posts and personnel
Duplication	Replication or repetition of mandates, functions and roles
Establish	Set up, form or create an office or position
Job Description	Details of what a job entails including main duties and responsibilities
Office	Government or public institution or organization
Overlaps	Extend over or past, and cover part of a function or role, or to have functions or roles in common
Oversight Agency	Body charged with responsibility to regulate or control other state agencies.
Post	Government or public position or job
Public Service	Government service established for the benefit of the public
State Corporations	Government organizations authorized to act as single entities
Trade-in	Exchange of unwanted existing posts for creation of the most desired posts

SECTION ONE: INTRODUCTION

1.1 Background

Effective service delivery to the citizens requires an efficient Public Service. This can be achieved through a functional legal and institutional framework with entrenched institutions optimally managed and undertaking clear roles and responsibilities to achieve efficiency and effectiveness. However, this was elusive before the enactment of the Constitution of Kenya, 2010 as the service was marred by a large workforce, duplications, and overlaps and lack of accountability and overlaps which blurred delivery of services to the citizens. The enactment of the Constitution ushered in a new era where institutions are entrenched, clear roles and responsibilities given and with a facilitative legal and institutional framework. The Public Service Commission for instance draws its mandate from Article 234 of the Constitution.

One of the Commission's functions is to establish and abolish offices in the public service. Establishment of offices in the Public Service entails the determination of the number and kinds of offices in the service, while abolition of office refers to a determination whose effect is to make an office in the service to cease to exist.

Establishment and abolition of offices in the public service is therefore a critical and strategic function that requires to be done in a structured and procedural manner. However, there exist no comprehensive guidelines on how to effectively perform this function. In some instances, it has been done without adequate justification, consultations and recourse for accountability.

It has therefore become imperative that the Commission streamlines establishment and abolition of offices in the public service hence these guidelines.

1.2 The Rationale

The previous institutional arrangement created an environment where establishment and abolition of offices was conducted without documented and laid down procedures to guide the process. Public service institutions lacked standard guidelines for use whenever they needed to establish or abolish an office. These resulted into duplications and overlaps, wastage

and misallocation of resources, bloated establishments and spiraling wage bill.

Abolition of office and rationalization also posed several legal challenges to the Government making the process cumbersome since a number of such offices were created under legal statutes. This brought with it numerous litigations and huge financial demands on the Government. Lack of procedures and political expediency equally played a role in arbitrary retention and failure to recommend abolition as an option in restructuring. The manifestation of this is the number of offices that the National Government still retains despite the fact that the Constitution devolved most of the functions to County Governments.

The above scenario hampered service delivery to the citizens leading to clamour for reforms in the management of Public service more so with regard to establishment and abolition of offices. The new dispensation responded by vesting the power to establish and abolish offices in the Public Service Commission, under Article 234. The President may also under Article 132(4) (a) establish an office in the public service with recommendation of the Public Service Commission.

Abolition of office is a continuous process and happens when government's strategic direction changes. However, even where functions are rationalized and recommendations made, action to abolish the affected offices is rarely formalized and this leads to duplication in government. Given that a number of offices are created under legal statutes, the process of establishing and abolishing those offices needs to be undertaken in a structured manner to ensure optimal efficiency status is achieved.

It is for these reasons that the Commission has found it necessary to develop guidelines on establishment and abolition of offices in the public service. These guidelines have been developed to address past procedural difficulties in order for the Commission to have coherence in the processes of establishment and abolition of offices in the public service.

1.3 Objectives of the Guidelines

The objectives of these guidelines are:

- (i) To provide a standard method of establishing and abolishing offices in the public service;

- (ii) To mitigate against uncontrolled growth of the public Service;
- (iii) To ensure functions are allocated and transferred to the appropriate body to eliminate any duplications and overlaps.

1.4 Principles of Establishing and Abolishing Offices in the Public Service

- (i) To facilitate efficiency and effectiveness in service delivery
- (ii) Fairness
- (iii) Transparency and Accountability
- (iv) Equitable provision of resources
- (v) Prudent utilization of resources

1.5 Scope of application

These guidelines will cover the public service and will apply to ministries/ departments and state corporations/agencies.

SECTION TWO: GUIDELINES ON ESTABLISHMENT AND ABOLITION OF OFFICES IN THE PUBLIC SERVICE

This section outlines procedures for establishment and abolition of offices in the public service:

2.1 Introduction

The Constitution provides for establishment and abolition of offices for Constitutional Commissions, Independent Offices, State Offices and County Public Service. This should be done in line with the applicable labour practices.

The role of establishment and/or abolition of offices in the public service shall be performed by:

- a) The President on recommendation by Public Service Commission as provided for in Article 132 (4) (a)
 - (i) Where the President considers it necessary to establish an office in the public service as provided under Article 132 (4) (a) of the Constitution, the same shall be made to the Commission, in writing. In so doing the steps of establishing and abolishing offices should be followed
 - (ii) Where the Commission is requested or considers it necessary to make a recommendation to the President to establish an office in the public service as provided for under Article 132 (4) (a) of the Constitution, the Commission shall, with necessary recommendations, act in accordance with the provisions of these guidelines.
- b) The Public Service Commission as provided for in Article 234 (2) (a) (i) or by an Act of Parliament;
- c) As delegated by Public Service Commission as per Article 234 (5).

2.2 Factors that Determine Establishment and Abolition of Offices

The following factors can lead to establishment or abolition of offices in the Public Service:

- (i) Change in legal provisions
- (ii) Change in strategic direction of the government, sector, ministry/department/agency
- (iii) Emerging issues/emergencies/global trends
- (iv) Internal and external environment
- (v) Financial implications/cost of doing business
- (vi) Social, political and economic needs
- (vii) Duplications, overlaps, mergers and acquisitions
- (viii) Technological changes
- (ix) Work processes
- (x) Any other factor as the President or the Commission may consider

2.3 Procedure for Establishment and Abolition of Offices in the Public Service

2.3.1 Establishment of an Office/Creation of Post

The following steps shall guide establishment of office(s) and post(s) in the public service

Establishment of an Office

Step 1: Application

A Ministry/Department/Agency will make a request for the establishment of an office, in a report which will include:

- (i) Mandate of the office and its linkage with the strategic direction of the MDA
- (ii) The proposed functions of the office

- (iii) Justifications from the Cabinet Secretary for creation of the office indicating the need for creation and strategic viability.
- (iv) Financial implications of the proposed office
- (v) The nature of the office to be established and confirmation that the functions are not being performed elsewhere in the service.

Creation of Post(s)

Establishment of an office(s) will lead to creation of post(s) that will operationalize the Office. The Commission or the Oversight body may also create post(s) following requests as and when necessary.

To facilitate creation of post(s), the requesting body will make a proposal for the establishment of the post(s) which will include:

- (i) Justification for creation of the post(s);
- (ii) Financial implications of creation of the post(s);
- (iii) Proposed post(s) and linkage with the functions of the organization;
- (iv) Records specifying the current authorized establishment; grading structure; designation title(s); additional posts required; and evidence of optimum utilization of existing post(s);
- (v) Job descriptions and specifications of the post
- (vi) Availability of physical facilities i.e. office space, equipment
- (vii) Where creation of posts is on trade-in basis, the reasons, number and grades of the posts should be clearly defined.

Upon receipt and analysis of the application, the Commission or the Oversight body may approve, reject, seek for more information or request a relevant body to advice on the application.

- a) Where the request is approved, the decision will be notified to the relevant Cabinet Secretary with a copy to the Cabinet Secretary, National Treasury within fourteen (14) days for implementation.

In such cases, the following must be clearly communicated:

- Justification for creation

- Title of post(s)
 - Nature of post – Permanent or temporary (supernumerary)
 - Job groups – levels
 - Number of post(s)
- b) Where the request does not meet the set criteria, it will be referred back to the requesting body for further information and clarification within fourteen (14) days of the decision.
 - c) Where the request is rejected, the Commission will inform the Cabinet Secretary of the decision and reasons, in writing, within fourteen (14) days.
 - d) If dissatisfied with the decision, the requesting body may seek review of the decision within thirty (30) days after receipt of the rejection.

Step 2: Examination and Decision

On receipt of the application, the Commission or the Oversight Agency will:

- (i) Analyze the application in line with the set out criteria in step 1
- (ii) Confirm viability of the proposed office; the need; and financial implications.
- (iii) Confirm that there is no other organization within the public service with related or similar functions to the proposed office.
- (iv) The Commission or oversight agency shall consider the request and shall submit its decision in writing to the relevant Cabinet Secretary:
 - (a) Where the request is approved, the decision will be notified to the relevant Cabinet Secretary and copied to the Cabinet Secretary, National Treasury;
 - (b) Where the request is rejected the requesting Ministry shall be informed in writing and the reasons for rejection thereof;
 - (c) Where the application is considered feasible but does not satisfy the criteria, it will be referred back to the Ministry/Department for further information and clarification.

If dissatisfied with the decision, the Ministry/Department can request for review of Commission decision within thirty (30) days after rejection.

2.3.2 Appointment/Confirmation or Filling of Offices/Posts

Where a decision has been made to create an office or a post, appointments/ filling of posts will be done competitively on the basis of values and principles of Public Service and as set out in the policies and guidelines on human resource management.

2.3.3 Abolition of Offices in the Public Service

Abolition of office/post may occur under following circumstances:

- (i) Following change of strategy by government or the MDA;
- (ii) When the mandate for which the office was set up is fulfilled, it is obsolete/redundant;
- (iii) Upon repeal of the establishing laws;
- (iv) Upon re-organization of office;
- (v) Technological changes;
- (vi) Duplications/overlaps/mergers.

Abolition of offices/posts in the public service will be carried out in line with the following procedure:

Procedure for Abolition of office (s)

The Commission on its own accord or on request by the Ministry/ Department will:

- (i) Provide comprehensive report on reasons for abolition of the office;
- (ii) State functions of the office to be abolished including the Ministry and sector it falls under;
- (iii) Justify abolition of the office, including confirmation that there will be no service delivery gap
- (iv) Highlight Impact of the decision to abolish the office
- (v) Provide the number, levels and skills of officers who are in-post and the expected effect of abolition on the function;

- (vi) Indicate status of affected officer(s) e.g. retired, re-designated, re-deployed;
- (vii) Indicate the benefits as a result of abolition;
- (viii) Submit a comprehensive brief on the background of the case clearly stating events leading to abolition.

Procedure for Abolition of Post (s)

The Commission will initiate necessary action to abolish posts. The following requirements shall apply for proposals on abolition of posts:

- (i) Submit justification for abolition of the post(s) including confirmation that there will be no gap in service delivery;
- (ii) Provide the background of the case (s) clearly stating reasons and events leading to abolition;
- (iii) Provide function, cadre and number of post (s) to be abolished;
- (iv) Specify designation title(s) and grades of post to be abolished including the office it falls under;
- (v) Indicate job description of post (s) to be abolished;

Step 3: Consideration and Decision

On receipt of the application, the Commission will:

- (i) Analyze the application;
- (ii) Make decision and advise the requesting Ministry/Department/ Agency, and The National Treasury, accordingly;
- (iii) Delete the post(s) from master establishment records/master complement control;
- (iv) Reconcile Establishment Records.

Step 4: Communicate the Decision

On creation and/or abolition of office/post the Commission shall inform the Ministry/State Department/Agency of the decision within fourteen (14) days.

SECTION THREE: INSTITUTIONAL FRAMEWORK

The following agencies shall be responsible for implementation of these guidelines:

3.1 Public Service Commission

The Commission shall:

- a) Establish and abolish offices in line with these guidelines;
- b) Maintain and update establishment records and complement data for the public service;
- c) Ensure compliance and reporting on these guidelines; and
- d) Monitor the implementation of the guidelines

3.2 The National Treasury

The National Treasury will be responsible for:

- a) Sourcing and allocating funds for implementation of decisions based on these Guidelines; and
- b) Confirmation of availability of funding for offices and posts to be established.

3.3 Ministry Responsible for Public Service

The Ministry responsible for public service will be responsible for providing technical support to Ministries/Departments and Agencies.

3.4 Ministries/Departments

Ministries/Departments shall:

- a) Submit their requests and proposals on establishment/creation and abolition of offices/post(s) to the Public Service Commission;
- b) Implement Public Service Commission's decisions on establishment/creation and abolition of office(s) /post(s);

- c) Maintain and update establishment records and complement data for their respective ministries/departments; and
- d) Shall comply to these guidelines and report to the Public Service Commission on quarterly basis.

3.5 Oversight Agency Responsible for State Corporations

The Oversight Agency will be responsible for:

- a) Issuance of guidelines on establishment and abolition of offices for state corporations/Agencies in consultation with the Public Service Commission.
- b) Approval of establishment and abolition of offices in state corporations/Agencies.
- c) Monitoring and evaluating the State Corporations on creation and abolition of offices;
- d) Maintenance and update of establishment records and complement data for state corporations.
- e) Provision of annual reports on establishment and abolition of offices to the Public Service Commission.

3.6 State Corporations/Agencies

The State Corporations/Agencies shall:

- a) Submit their requests and proposals on creation and abolition of office(s) to the Oversight Agency responsible for State Corporations;
- b) Implement decisions on creation and abolition of offices;
- c) Maintain and update establishment records and complement data; and
- d) Comply with these guidelines and report to the Oversight Agency responsible for State Corporations on quarterly basis.

SECTION FOUR: MONITORING, EVALUATION AND REPORTING

4.1 Monitoring, Evaluation and Reporting

Monitoring and evaluation will be in-built in the process to facilitate implementation and achievement of results. Monitoring progress and evaluating outputs and processes will be key in entrenching a structured way of establishing and abolishing offices in the public service.

Implementation of these guidelines will be monitored and evaluated periodically by the oversight agencies to assess achievement of the objectives. Information/data will be obtained from reports from ministries/ departments/state corporations; complement data; field visits; and through surveys.

To facilitate this, respective authorized officers/chief executive officers will make periodic reports on establishment and abolition of offices/posts to the oversight agencies for analysis, process review and decision.

These processes will require commitment of all the implementing institutions as provided for through the established institutional framework. The PSC will release an annual evaluation report on the status of this function.

4.2 Review of the Guidelines

The guidelines will be reviewed after four (4) years from the date of implementation or as circumstances shall determine.

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