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# Salaries & Remuneration Commission

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## **FIRST ANNUAL REPORT for SALARIES AND REMUNERATION COMMISSION**

**January - June, 2012**



*Commissioners in a group photo with the Chief Justice during their swearing in on 10th January, 2012*



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## **FIRST ANNUAL REPORT**

**For**

**SALARIES AND REMUNERATION COMMISSION**

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## **SALARIES AND REMUNERATION COMMISSION**

### **Vision**

To be a leading, independent and preferred center of excellence for determination of competitive and harmonized remuneration in the Public Service.

### **Mission**

To develop a harmonized, competitive and sustainable remuneration system that attracts and retains the best staff in the Public Service for promotion of productivity and ensure effective service delivery to the people of Kenya.

### **Core Values**

In addition to the Values provided under Article 232 of the Constitution, the following core values shall guide the Commission's operations:

Integrity  
Professionalism  
Timeliness  
Courtesy  
Objectivity  
Confidentiality  
Creativity  
Responsiveness  
Teamwork

## **Commission's obligations**

The Commission is committed to its stakeholders for:

- (i) Prompt acknowledgement of submitted cases within 7 days of receipt;
- (ii) Provision of well researched and objective decisions and advice;
- (iii) Action within one month if all the requisite information is availed;
- (iv) Treatment of urgent cases with the urgency they deserve;
- (v) Prompt action to facilitate payment to our suppliers of goods and services upon verification of the same;
- (vi) Undertaking to train and manage staff;
- (vii) Seeking information from the wider market to inform our services to our stakeholders; and
- (viii) Usage of current and relevant technology to attend to our stakeholders.

## TABLE OF CONTENTS

<b>SALARIES AND REMUNERATION COMMISSION</b> .....	<b>2</b>
Vision	2
Mission	2
Core Values .....	2
Commission’s obligations .....	3
<b>ACKNOWLEDGEMENT</b> .....	<b>8</b>
<b>CHAPTER ONE</b> .....	<b>9</b>
1.0 Preamble .....	9
1.1 Background of the Current Management of Remuneration and Benefits in the Public Service .....	11
1.2 Remuneration Challenges Inherited by the Commission .....	12
<b>CHAPTER TWO</b> .....	<b>15</b>
2.0 REMUNERATION ISSUES AFFECTING SERVICE DELIVERY IN THE PUBLIC SERVICE .....	15
2.1 Preamble .....	15
2.2 Health Professionals .....	15
2.3 Legal Professionals .....	16
2.4 National Security Organs .....	17
2.5 Teaching Service .....	18
2.6 Local Authorities .....	19
2.7 Public Universities .....	20
2.8 Civil Service .....	21
2.9 State Corporations .....	22
<b>CHAPTER THREE</b> .....	<b>25</b>
3.0 AN OVERVIEW OF KENYA’S ECONOMIC PERFORMANCE AND THE COMMISSION’S FINANCIAL REPORT .....	25
3.1 Preamble .....	25
3.2 Economics of Remuneration .....	25
3.3 Global Perspective .....	26
3.4 Public-Private Sector Wage Levels .....	27
3.5 Percentage of Government Revenue to Expenditure .....	28
3.6 Salaries and Remuneration Commission Financial Report for Year ending 30 <sup>th</sup> June 2012 .....	29
<b>CHAPTER FOUR</b> .....	<b>31</b>
4.0 ISSUES THAT REQUIRE URGENT ATTENTION .....	31
4.1 Preamble .....	31
4.2 Restoration/Attaining Equity and Fairness in Salaries and Remuneration .....	31
4.3 Institutionalization of Remuneration Reviews and Harmonization of Review Cycles .....	32
4.4 Service Wide Job Evaluation Exercise .....	32
4.5 Attraction and Retention of Personnel with Requisite Skills .....	33
4.6 Productivity Measurement .....	33
4.7 Pensions Review .....	34

4.8	Collective Bargaining.....	35
4.9	Review and Development of Public Service Remuneration and Benefits Management Policy .....	35
4.10	Housing Policy .....	35
4.11	Harmonization of Cross-cutting Allowances/Benefits .....	36
<b>CHAPTER FIVE .....</b>		<b>37</b>
5.0	REMUNERATION STRUCTURES IN THE PUBLIC SERVICE AS AT JUNE, 2012.....	37
5.1	Preamble .....	37
5.2	Sub-sectoral Analysis .....	38
5.3	Agenda Four and Constitutional Commissions.....	39
5.4	State Corporations.....	39
<b>CHAPTER SIX .....</b>		<b>42</b>
6.0	ACTIVITIES OF THE SALARIES AND REMUNERATION COMMISSION .....	42
6.1	Induction Workshop.....	42
6.2	Establishing the Identity of the Commission .....	43
6.3	Drafting Regulations for Submission of Proposals and Determining and Advising on Remuneration and Benefits .....	43
6.4	Interpretation of Government Structure as Provided in the Constitution for Purposes of Setting Remuneration Packages .....	43
6.5	Market Survey on Private Public Sector Wage Differentials .....	44
6.6	Database for Analysis and Review/Determination of Remuneration Levels.....	44
6.7	Job Evaluation Exercise .....	45
6.8	Harmonizing and Restoring Equity in Remuneration Cycle .....	46
6.9	Recruitment of the Secretary/Chief Executive .....	46
6.10	Adequate Secretariat Staff for Commission's Functions .....	46
6.11	Office Accommodation .....	46
6.12	Cases of Setting and Harmonization Handled by the Commission.....	47
6.13	Stakeholders Consultations Fora.....	48
6.14	Benchmarking Visits.....	49
6.15	Challenges Experienced by the Commission .....	50
<b>CHAPTER SEVEN .....</b>		<b>54</b>
7.0	WAY FORWARD.....	54
7.1	Managing Remuneration Applying Universally Accepted Principles ....	54
7.2	Conclusion .....	55



## **FOREWARD**

One of the greatest contributors to industrial unrest which subsequently threaten industrial peace and economic growth of this country has been remuneration and benefits issue for all cadres serving in the Public Sector. The factors often cited include: inequity in remuneration occasioned by disparities in the review cycles, disparities in percentage increases, disparities in availability of funds for review; politicization of salaries assent; lack of job evaluation to determine comparability; lack of market surveys to ascertain the market labour cost; and lack of productivity indices to measure productivity and performance.

These are the issues that establishment of the Salaries and Remuneration Commission as a Constitutional body is meant to address. The Commission following its constitution is focused to address the issues and also to ensure that public services are accessible to all Kenyans in all parts of the country and thus improve service delivery and general performance in the different sub-sectors of the economy.

Ideally, the Commission should have been constituted immediately the Constitution was promulgated, to forestall some of the industrial unrests that the country has witnessed. This notwithstanding, the Commission on constitution embarked on activities that would ensure that as it sets, review and advises on remuneration and benefits in the Public Service, there will be compliance with the general provisions of the Constitution and specifically Article 41(2a) and 230(5).

This First Annual Report of the Salaries and Remuneration Commission therefore, contains the situation as inherited by the Commission, the challenges experienced in the past six months that the Commission has



been in existence and the way forward in the management of remuneration and benefits in the Public Service. The Report has been organized into Six Chapters as follows: Chapter

1; gives the Background of the Current Management of Remuneration and Benefits in the Public Service, Chapter 2; discusses the Issues affecting Service Delivery in the Public Service, Chapter 3; highlights an Overview of Kenya's Economic Performance and Commissions Financial Report, Chapter 4; presents Issues that Require Urgent Attention Chapter 5; presents Remuneration Structures in the Public Service as at June 2012, Chapter 6; enumerates the Activities of Salaries and Remuneration Commission while Chapter 7; provides the Way forward.

Last but not the least; the Commission appreciates the support it has received from stakeholders and staff which has enabled it within the short period it has been in existence to embark on its mandate. The Commission further urges the public and stakeholders to have patience especially in the handling of the historical injustices that have been entrenched in the system and whose address will require paradigm shift, changed mind set and systemic overhaul of the existing systems.



**Sarah J.C Serem**  
**Chairperson**



## **ACKNOWLEDGEMENT**

The Commission in presenting this First Annual Report wishes to recognize and appreciate the support accorded to it by all the arms of the Government for it to be operational and undertake its mandate.

The Commission further wishes to thank all the key stakeholders and in particular the public service organizations, Employers, Labour unions and other stakeholders for constantly agreeing to engage and share valuable information which have enriched Commissions operations.

The Commission wish to appreciate the various resource persons and their respective institutions who through their expertise and presentations to the Commission enhanced the Commission understanding of the prevailing issues affecting remuneration management in the Public Service and led to quality and practical decisions.

Lastly, in the Commission it is understood that the success in managing the remuneration and benefits of public servants lies in solving the problems, resolving the difficulties that have been created in the past and understanding that it is a process that will never stop as solving the challenges will create new ones. We must therefore, soldier on involving all the stakeholders in getting lasting solutions.

A handwritten signature in black ink, appearing to read 'G. A. Otieno'.

**G. A. Otieno (Mrs.), MBS  
COMMISSION SECRETARY**

# CHAPTER ONE

## INTRODUCTION

### 1.0 Preamble

1. The Salaries and Remuneration Commission is established under Chapter 12 Article 230(1) of the Constitution of Kenya, 2010. Article 230 (4) provides the mandate of the Commission as to: set and regularly review the remuneration and benefits of State officers; and advise the national and county governments on the remuneration and benefits of all other public officers. Article 230(5) of the Constitution further requires that the Commission in performance of its functions, shall take into account the principles of: ensuring the fiscal sustainability of the total public compensation bill; ensuring public service is able to attract and retain the requisite skills to execute their functions; recognizing productivity and performance; and transparency and fairness. Members of the Commission were appointed on 16<sup>th</sup> December, 2011 and sworn in on 10<sup>th</sup> January, 2012.

2. To effectively undertake its mandate, the Commission: collects, collates and analyses both primary and secondary data/information; undertakes studies and surveys on trends in remuneration and factors affecting attraction and retention of staff in the Public Sector; undertakes job evaluation exercises; and constantly liaises with fundamental stakeholders to ensure adequate budgetary provision and general acceptability of the decisions and advice it gives to the Service for effective implementation.

3. Generally, the purpose of remuneration and benefits to employees is to: attract and retain, especially those with critical and scarce skills; compensate them for work done; and motivate them to perform well in offering quality and acceptable services efficiently. A fair and sufficient remuneration therefore, depresses the need for constant recruitment and training for replacements which is costly.

4. The argument that adequate and fair pay is crucial to sustaining attraction, motivation, performance and integrity of public servants is widely accepted and documented. There is evidence world over that Government workers either cut back their productivity or hours of work when salaries are low and reduction in production is greater as the compensation diminishes otherwise, the workers actively seek to change jobs in favor of the private

sector. Low salary levels result in absenteeism, alternative employment, rent-seeking (e.g. the "per diem" problem or sitting allowance), absenteeism, moonlighting, petty corruption including the sale of government services and low productivity. Subsequently, recruitment and retention and governance especially of highly qualified and critical professionals, becomes more difficult to the management.

5. Remuneration reform has been an important issue in public service management all over the world. Remuneration is a significant feature of human resources management, and human resource is the most crucial factor in the delivery of public services. Public service remuneration reform has for many years focused on reducing government employment and containing the wage bill. This approach however, ignores a diversity of policy objectives that could be achieved through remuneration decisions. Examples of these include:

- (i) Remuneration policy being used to pursue egalitarian and equity goals;
- (ii) Alternatives to raising remuneration during budgetary constraints and high cost of living to ensure that the operational and maintenance costs including other development expenditures are not adversely impacted on;
- (iii) The need to ensure devolvement of a rational and transparent compensation structure;
- (iv) Development of appropriate and adequately competitive remuneration levels to allow public service to attract and retain the desired number and quality of human resource with appropriate requisite skills and experience;
- (v) The evolution of an incentive regime with appropriate rewards (and sanctions) to adequately motivate public servants towards acceptable standards of performance;
- (vi) Significant improvements in service delivery entail expansion of the workforce and subsequently wage bill; and
- (vii) Remuneration operating in conjunction with other organizational and managerial systems to ensure realization of organizational objectives.

## **1.1 Background of the Current Management of Remuneration and Benefits in the Public Service**

6. Before the establishment of the Salaries and Remuneration Commission, various processes were used to determine remuneration and benefits levels in the Public Service. The processes included:

- (i) *Administrative reviews* which relied on ad hoc Commissions and Committees to determine the terms and conditions of service for public servants when need arose;
- (ii) *Collective bargaining* where remuneration and benefits for unionized workers are determined through an industrial process which sets out agreed terms and conditions of service for the affected workers for a specific period of time, usually two to four years; and
- (iii) *Institutional processes* which involved: Ministry of Finance issuing wage guidelines to guide employers and employee representatives in negotiating the terms and conditions of service at the workplace; Ministry of Labour and Human Resource Development setting statutory minimum wages which are Gazetted and announced by the Minister; and Pensions Department which regulates, processes, and pays pensions and other related benefits in the Public Service as provided by various statutes.

7. In addition, special institutions were charged with setting remuneration levels and benefits for different sub-sectors of the Public Service. For instance, the Parliamentary Service Commission, the Judicial Service Commission, the Teachers Service Remuneration Committee and the Kenya National Audit Commission were established by Acts of Parliament to set and review terms and conditions of service for their respective workers. State Corporations Advisory Committee (SCAC) was also established by an Act of Parliament to advise the Government on, among other matters, remuneration levels and other terms of service for the employees of state corporations. There was also the Armed Forces Remuneration Review Board (AFPRB) that was constituted through a Gazette Notice to advise on matters pertaining to terms and conditions of service for members of the Armed Forces and Constabulary.

8. The last attempt was the establishment of the Permanent Public Service Remuneration Review Board (PPSRRB) through Kenya Gazette Notice No. 7941 of November, 2003. This was in recognition of the need for a central body with the mandate to continuously review and harmonize

remuneration in the entire Public Service. The Board made several strides in harmonizing and re-aligning remuneration and benefits in the Public Service as is outlined in its Eighth Report. The PPSRRB however, lacked legal backing to effectively perform its mandate and enforce its supremacy as a central remuneration body among parallel and sectoral remuneration review institutions.

## **1.2 Remuneration Challenges Inherited by the Commission**

9. Coming from a background where remuneration and benefits have been set through ad hoc Committees/ Commissions, undue pressure from unions and other influence, the current remuneration and benefits in the Public Service reflects both vertical and horizontal disparities and inequities. Specifically:

- (i) The varied Committees and Commissions on remuneration reviews introduced wage disparities across different sub-sectors of the Public Service;
- (ii) The creation of parallel remuneration review institutions for different sub-sectors of the Public Service further widened the wage differentials;
- (iii) The independence of the three arms of Government was used to introduce wage disparities;
- (iv) The overall remuneration of professional staff who are non-unionized remained low leading to high turnover at this level and consequently, the workforce in relation to the public service core functions and the distribution is skewed with heavy concentration in the support cadres relative to the technical, professional and managerial grades;
- (v) Wide pay differentials between public and private sector for professional employees with the same qualifications and experience, making the former less competitive in attracting and retaining requisite professional and managerial talent;
- (vi) Ad hoc and uncoordinated salary adjustments creating difficulties in the management of the Public Service wage bill which remained high relative to GDP and Government revenue;
- (vii) Remuneration structures which are too compressed and too low to reward or motivate good performance compounded by annual increments awarded automatically, leaving little distinction between mediocrity and meritocracy; and

- (viii) Proliferation of allowances and other benefits being used to increase compensation reducing the rationality and transparency of the remuneration system with little direct relationship to job performance and productivity, negatively impacting on pension benefits since the benefits are calculated on the basis of the basic salary and not total monetary compensation.





## **CHAPTER TWO**

### **2.0 REMUNERATION ISSUES AFFECTING SERVICE DELIVERY IN THE PUBLIC SERVICE**

#### **2.1 Preamble**

10. Following the swearing in of the Salaries and Remuneration Commission and as the Commission took office, a number of remuneration issues were presented as affecting service delivery among all the cadres serving in the public Sector. These include: inequity in remuneration occasioned by disparities in the review cycles, disparities in percentage increases, disparities in availability of funds for review; politicization of salaries assent; lack of job evaluation to determine comparability; lack of market surveys to ascertain the market labour cost; and lack of productivity indices to measure productivity and performance. The impact of the remuneration issues in service delivery and general performance however, have different manifestations that are specific to each sub-sector of the Public Service details some of which are discussed in the subsequent paragraphs.

#### **2.2 Health Professionals**

11. Public Health Service is responsible for over 80 percent of health care service delivery in the entire country. It also has the obligation of meeting majority of the Millennium Development Goals (MDGs) and implementation of the Vision 2030 health flagship projects on which the economic growth of the Country is pegged.

12. The sub-sector however, suffers from inadequate staffing due to high exodus of personnel to the private sector, regional and other international markets. Resignation and desertion account for a big percent of the total annual attrition of health personnel, leaving a staff strength far much below the recommended number of staff in each cadre. The exodus has been attributed to the relatively low remuneration and poor working conditions within the sub-sector as compared to that obtaining in the private sector. This impacts adversely on service delivery across the country as the available staff are unable to cope with the increasing number of patients and resulting in inequitable distribution of health personnel especially in the rural and hard to reach areas

13. Public service health personnel like most of the civil servants were yet to have their salaries adjusted to the re-aligned salary levels which the Legal Officers in the Judiciary and State Law Office were earning. This inequity in remuneration aggravated the disparities thus, increasing the turnover and industrial unrests.

14. Notwithstanding the payment of extraneous and emergency call allowances, the remuneration gap between the private and public sector health personnel still remains. As a result, the public health care service delivery is likely to continue experiencing inadequate staffing occasioned by migration to the private sector due to remuneration gaps.

15. Further, Medical Officers employed in the Public Service have been allowed to engage in part-time private practice as a means of extending their professional service to the larger population. Lack of clear guidelines to facilitate proper management of the practice has however, led to the staff spending more time at the private clinics, compromising the availability, quality and efficiency of healthcare services in the public facilities. The region based house allowance further acts as a "push factor" to the health personnel especially in hardship and remote areas. This is compounded by inadequate housing in such areas which affects deployment of staff thus, impacting negatively on service delivery

16. The duties of health personnel also expose them to risks which increase each day due to the changing work environment. Despite the request by the staff, the risk factor has not been appropriately covered.

### **2.3 Legal Professionals**

17. The Legal officers in the Public Service serve at the Judiciary, State Law Office, Directorate of Public Prosecutions, Parliamentary Service, Agenda Four Commissions and Constitutional Commissions, State Corporations and Government Ministries. Whereas the requirements for recruitment to the entry positions is the same in most Public Service institutions that employ legal staff, the remuneration levels are diverse with some employees having negotiated remuneration levels that are more than 300 percent of the salary levels drawn by the legal personnel in State Law Office, Directorate of public Prosecutions and Ministry of Justice, National Cohesion and Constitutional Affairs. In addition, some organizations within the legal sub-sector especially commissions and committees established under statutes or legal notices had independent legal instruments which allowed the organizations to recruit and determine remuneration for their

staff. This provision has been a cause of major disparities in remuneration within the sub-sector.

18. The resultant disparities have made some of the institutions in the Public Service Legal Sub-sector outliers and are used as benchmark and source of agitation for other legal staff including public servants in the demand for higher pay, leading to discontent, low morale and high turnover and a state of inadequate staffing in the major Government institutions which is not conducive to efficient and effective service delivery. The problem is compounded by grading disparities within the sub-sector including remunerative benefits which are due to the personnel within the legal sub-sector.

## **2.4 National Security Organs**

19. The Government Since 2003 has made significant strides towards improvement of salaries and other terms of service for the Security Organs. The reviews were aimed at improving the living standards of the officers and translate into higher efficiency in service delivery. The Kenya Defence forces, National Intelligence and Police Services are the National Security Organs in the country responsible for enhancing national security, law and order. In most cases, they contend that each should be accorded similar treatment in terms of remuneration in recognition for the demanding job and continuously compare their remuneration levels within themselves as they constitute the security arm of the Government. Consequently, since the security organs are not unionisable and are not allowed to actively express their disquiet, piecemeal remuneration reviews not covering the entire security sector conducive for enhancement of the security of the country.

20. Due to lack of a comprehensive Job Evaluation exercise to determine comparable worth of the positions within the Security Organs, it has been a challenge establishing the exact worth for purposes comparability and setting of remuneration. As a result, each organ has been able when convenient to demand and get a salary increase. As the reviews are not effected at the same time due to budgetary constraints, the Services are in perpetual competition and endless quest for salary review, a condition not conducive to service delivery

21. Retention of services of personnel deployed in the specialized units such as Aviation, Engineering and Instructing skills which are competitively sought for in the open market and whose commercial value is quite high is also a challenge. Although the Government has made efforts to review the rates of allowances to give them a competitive economic value, it is difficult

to match the market rates as well as balance the rank in the Services which has led to high turnover and staff shortage.

22. The number and quality of housing for the security Organs continues to present a major challenge. Although the Government has made efforts in the provision and improvement of housing in the sector, the issue is still a major concern as the available housing facilities are not adequate. It has also been established that the high level of stress and strained interpersonal relationships especially among the lower cadre officers is partly attributed to the inadequate housing facilities.

23. Further, duties of Security Organs expose them to regular high risk with life threatening circumstances that are unpredictable which increases each day with emerging challenges in enhancing security, law and order. While the Kenya Defence Forces has procured a Risk Cover for their staff, the other Disciplined Services are yet to be provided with a similar cover.

## **2.5 Teaching Service**

24. The Teaching Service constitutes the highest percentage of the Public Service with a population of about 243,000 teachers spread across the Country. Remuneration for teachers is determined through collective bargaining between; the Kenya National Union of Teachers (KNUT), Kenya Union of Post-Primary Education Teachers (KUPPET) and Teachers Service Commission (TSC). The Unions however, view their role as that of negotiating for increase of salary levels in disregard to productivity and other Government policies. This has created an atmosphere where the unions tend to reject Government reform initiatives and constantly urge its membership to participate in industrial unrests. This in effect affects the quality of education.

25. The Government's policy on recruitment of trained teachers on contract terms to address staff shortage in schools is a good initiative. Despite these teachers having similar qualifications and work load as their colleagues who are on permanent terms, they are awarded a fixed level of salary which is not at par, contrary to the principle of equal pay for work of equal value. The contract teachers therefore, end up being demotivated, less committed to work and exit with the earliest opportunity and management holds them accountable thus, affecting consistency and quality of service delivery.

26. Besides payment of Hardship Allowance, there is no specific policy to encourage staff deployment in hardship and hard to reach areas hence,

making difficult to deploy teachers to schools located in such areas. Teachers also resist deployment to such areas thus, leaving the residents of those areas without trained teachers or with inadequate teaching staff. A study was undertaken to evaluate the levels of hardships in the areas designated as hardship with a view to harmonize the disparities in the areas and the allowances payable to all public servants deployed in those areas. Implementation of the recommendations from the findings of the study was however, resisted by the teachers Unions. The continued disparity in payment of the allowances is likely to be a source of discontent with a possibility of negative impact on deployment and service delivery when teachers are left out of implementation.

## **2.6 Local Authorities**

27. The Local Authorities have for a long time experienced various challenges that affect service delivery to the public at all levels. Some of the challenges include: support of non-viable Local Authorities; highly politicized systems of operation; inefficiency in collection of revenue, settlement of debts and criteria for allocation; utilization of Local Authorities Trust Fund (LATF); and haphazard recruitment and management of staff. These have had a negative impact on staff attraction and retention, quality and level of staff performance and hence service delivery.

28. Remuneration for the employees in Local Authorities is negotiated centrally through the Kenya Local Government Workers Union (KLGWU) and covers all staff. The negotiations however, do not take into account the ability to pay due to different financial capabilities of the Councils. Some Councils therefore, pay the negotiated rates while others are not able to pay thus, creating disparities in remuneration within Local Authorities. Salaries for top scales are lower than those obtained in equivalent positions in the Public Service. Such salary levels make it difficult to attract and retain the qualified level of staff who would streamline some of the management issues that impact on service delivery.

29. Reports from the various studies undertaken in the sub-sector indicate that the lack of funds in a number of Local Authorities have led to situations where the statutory deductions such as National Hospital Insurance Fund (NHIF) and National Social Security Fund (NSSF) from the employees as provided in law, are not remitted to the respective Fund Managers. Consequently, employees who seek medical attention or terminal benefits are occasionally denied their benefits as the deductions are not remitted. This in effect, coupled with ineffective management of the

remuneration systems, affects the morale of the employees and contributes to poor service delivery.

## **2.7 Public Universities**

30. Teaching, research, innovations and community service constitute the core functions of a University. With the expansion of higher education and the instrumental role of research and innovation in the global knowledge-based economy, demand and competition for highly qualified academics have intensified. When terms and conditions of service of public university staff are poor, or perceived to be poor, the institution suffers in terms of: attraction and retention of high quality staff and experiences outward migration of qualified staff; low staff morale; and inability to concentrate on the core functions.

31. Most university staff especially the teaching staff, because of the academic nature of their job being employed in institutions of higher learning perceive, their jobs to be of higher stature and not comparable with any in the Public Service. Currently the grading structure is however, aligned to the rest of Public Service, a situation which has been contested by the trade unions. The position has not been addressed either way due to lack of job evaluation exercise to determine/verify the job grading of the various cadres at the universities.

32. Terms and conditions of service for public university staff are determined through a Collective Bargaining Process between the employer and trade unions. There are three staff trade unions in each institution namely: Kenya Union of Domestic Hotels, Education, Institutions, Hospitals and Allied Workers (KUDHEIA), which represent the non-academic staff; University Non-teaching Staff Union (UNTESU), which represent the Academic equivalent staff; and University Academic Staff Union (UASU), representing the Academic staff. The presence of the three trade unions in each institution is however, a challenge since the negotiations are not carried out at the same time and therefore, make collective bargaining cycles continuous and time consuming. Further, existence of the three unions has created overlaps in salary scales between the various cadres in the public universities. The resultant disparities have created grounds for agitation in some levels of staff, especially the academic staff.

33. The practice over the years has also revealed that although public universities unlike the teaching service have embraced performance contracting in the management system, the trade unions in public universities are not sensitive to the issues of affordability. The short term

remuneration review cycle of two years makes the salary awards expensive and unaffordable. This situation often leads to threats or strikes especially when the agreement cannot be paid within the cycle period hence increasing occasions of industrial unrest which negatively impact on service delivery.

## **2.8 Civil Service**

34. The lagging behind of remuneration levels in the Civil Service in relation to other Public Service sub-sectors, has created low morale, discontent, apathy and de-motivation among the employees. This is mainly due to remuneration reviews which are undertaken at varying intervals and awarded at different percentage increases, for different cadres.

35. The policy of budgetary restraint without providing for fiscal space for implementation of Civil Service salary reviews; encourages ad hoc reviews which do not contribute to good fiscal or human resource management. The lack of planning for civil servants remuneration reviews has led to the delays or piece meal release of budgetary provision whenever a review is due to. Consequently, although the rest of the public service have adjusted their salaries to cost of living and inflation to the Re-aligned Harmonization Instrument, the Civil Service salaries remained un-realigned. This has introduced gaps in the salary structure, disparities with other sub-sectors and inequity.

36. Lack of an institutionalized cycle for review, causes inequity between the Civil service and other Public Service that have got a review cycle and long delays in review of the Civil servant salaries. In the pursuit of efficiency and improved service delivery in the Civil Service, the Government has been sourcing staff from the wider labour market. These appointees from the private sector organizations negotiate and join the service with salaries payable to their previous jobs, on a 'salary to self' basis. Introduction of higher salaries into the system for a job of comparable worth further creates gaps and inequity in remuneration, causing de-motivation among the professionals in the service who are performing similar jobs and earning lower pay.

37. Lack of a comprehensive job evaluation to determine comparability of jobs and lack of productivity indices to measure productivity and performance have also contributed to existing disparities among officers of the same grade. This has demoralized employees in the civil service, resulting in poor service delivery.

## **2.9 State Corporations**

38. According to Sessional Paper No. 10 of 1965, the establishment of State Corporations was driven by national desire to: accelerate economic social development; redress regional economic imbalances; increase citizen participation in the economy; promote indigenous entrepreneurship; and promote foreign investments through joint ventures. To facilitate effective and efficient management of State Corporations, State Corporation Advisory Committee (SCAC) in 2004, developed Guidelines on terms and conditions of service for State Corporations. The Guidelines classified the State Corporations into eight functional categories based on mandate and core functions. The categorization forms the basis of awarding salaries and other remunerative benefits.

39. The rates provided in the Guidelines for the Chief Executive Officers are used to guide the development of salary structures for the other staff below the Chief Executive. Further, individual State Corporations have trade unions which negotiate for remuneration of their members through Collective Bargaining conducted after every 2 years.

40. Since the last guidelines in 2004, a number of State Corporations pursued enactment of legislations that gave remuneration determination mandate to the responsible Ministers. As a result, the remuneration for Chief Executives has been revised without reference to SCAC thus, introducing disparities mainly arising from award of 'salaries to self' beyond rates in the Guidelines. This has in effect increased demand for salaries beyond recommended rates within the sub-sector. The variances from the Guidelines range from Kshs.100,000 to 700,000 above the figures given in the Guidelines.

41. Whereas the salaries for most Chief Executive Officers have not been officially reviewed since 2004, the salary levels for staff below management are reviewed every 2 years through Collective Bargaining Agreements. The frequent reviews have raised salaries to levels that are causing overlaps with salaries of management staff, almost surpassing those of the CEOs, leading to discontent.

42. The initial categorization of State Corporations was not strictly based on job evaluation but rather on sector and services provided. Lack of clear categorization criteria created room for appeals by influential organizations for re-categorization to higher levels. The categorization led to the perception that some key institutions in terms of service and scope are



categorized at lower level thus, remuneration levels also low, impacting on service delivery.

43. Further, lack of institutionalized regular review of categorization as well as remuneration levels has also been a cause of concern as some State Corporations argue that their functions and scope have since changed or varied with the changing circumstances and emerging issues in the economy and therefore, should be categorized differently.

44. Grouping together State Corporations with different abilities and functions without considering the turnover and ability to pay, has had negative impact on the performance of some State Corporations. The Corporations that are unable to pay the salaries specified in their category, transfer the cost to consumers of their products making them costly and uncompetitive. Some draw money from capital projects to pay remuneration leading to inadequate funding of capital projects.



## CHAPTER THREE

### 3.0 AN OVERVIEW OF KENYA'S ECONOMIC PERFORMANCE AND THE COMMISSION'S FINANCIAL REPORT

#### 3.1 Preamble

45. An overview of the economic performance of the country is important as the remuneration levels in any country are largely determined by the performance of the economy. The makers of the Constitution of Kenya were keenly aware of this and that is why under Article 230 (5a), the Salaries and Remuneration Commission being the sole Public Service body charged with management of the Public Service Remuneration is compelled '...to ensure that the total public compensation bill is fiscally sustainable...'

#### 3.2 Economics of Remuneration

46. The Salaries and Remuneration Commission was constituted at a time when Kenya's economy was experiencing continued recovery from the economic downturn encountered in 2008 when the Country recorded a low GDP growth rate of 1.5 percent down from 7.0 percent in 2007. The GDP growth picked up from 2009, reaching 4.4 percent in 2011 with growth projected at over 5.6 percent for 2012.

47. The Constitution also compels the Salaries and Remuneration Commission that in setting, reviewing or advising on remuneration and benefits, it ensures productivity and performance for improving the living standards of Kenyans. The population growth rate is currently relatively high, contributing to a contraction in per capita incomes. Real per capital (adjusted for inflation) incomes grew by about 5 per cent between 2006 and 2010 when it stood at Kshs. 63,419 in 2010, the capita GDP at constant and market prices were Kshs. 38,970 and Kshs. 76,577, respectively. This translates to constant prices earning of about Kshs. 3,248 per month, which is too low given prevailing inflation rate of 14.5 per cent. The proportion of poor people is estimated to have increased to 48.8 percent in 2011 (IPPRA, 2012) up from 45.9 percent recorded in 2005/06.

48. Another challenge facing the country which remuneration levels of public servants impacts on is the low creation of quality jobs relative to the growth in the labour force, leading to unemployment and underemployment; high employment in the informal sector compared to the formal sector, and wage gaps. Currently, the share of informal sector employment is close to 81 per cent between 2004 and 2011. The share of normal (wage) sector (both public and private combined) employment has remained about 19 percent. The level of remuneration set by the Salaries and Remuneration Commission will determine the cost of employment, the expansion and establishment of industries and therefore, the employment creation rates in the country.

49. To illustrate the above, the Private sector employment grew by 1.9 per cent (2008) down from 2.6 percent (2007). Public sector wage employment grew by 1.6 per cent (2008) up from 3.3 per cent (2007). Data available shows that formal sector employment shrunk from 28.7 percent of total employment in 2000 to 19 percent in 2011. Along the same lines, there was a marked increase in the employment of casuals in the modern sector. The proportion of casuals in wage employment grew from 17.9 percent in 2000 to 32.8 percent, depicting a 14.9 percent point increase in the level of casual workers over the period (Republic of Kenya, Various). This has a direct relationship to the wage increases in the public sector over the same period.

### **3.3 Global Perspective**

50. According to the Global Competitiveness Report (2010-11), Kenya was ranked 106 out of 139 countries in 2010 down from rank 98 out of 135 countries in 2009 indicating the country was sliding backwards in terms of competitiveness. Productivity as measured by the ratio of output to input in real terms registered accelerated growth over the years from 1 in 2001 to 2.26 in 2009. The labour productivity index improved sequentially over the same period from 0.40 in 2001 to 0.84 in 2010 and the capital productivity index from 2001 to 0.46 in 2009.

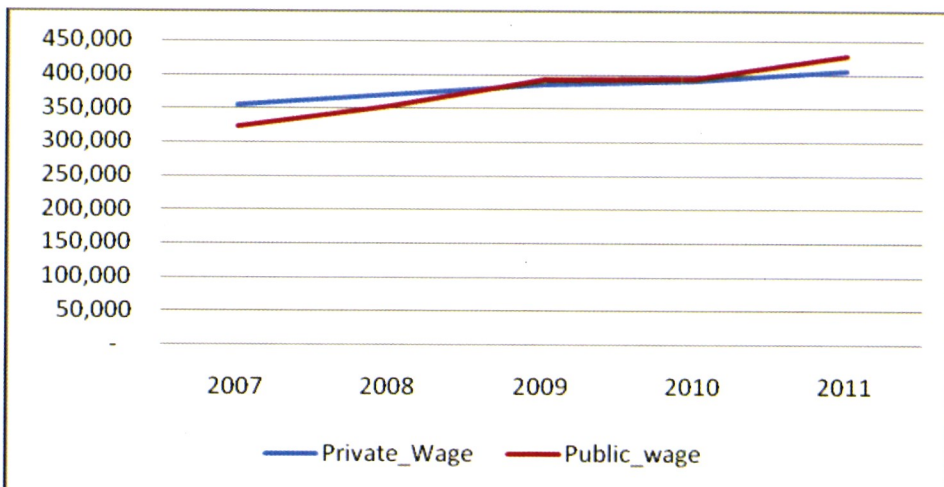
51. The increase in the labour productivity index is attributed to an increase in employment numbers over the period unlike productivity practices. The score of labour global standard as a percentage of available Salaries and Remuneration Commission 1<sup>st</sup> Annual Report

man hours used for productive work in Kenya is at 35 percent while the whole global standard is at 75 percent. These are pointers that workers have not been able to change from their way they are doing things over time, public service not exempted. The Salaries and Remuneration Commission in consultation with stakeholders would therefore, need to adopt and implement interactive productivity linked to pay across the Public Service and thus economy so that parity and equity in remuneration and benefits structure is realized. This is because for the economy to grow and the country achieve the aspirations in the Vision 2030 of a middle level economy, it will be impossible for any employer to pay more wages if productivity and performance is not enhanced.

### 3.4 Public-Private Sector Wage Levels

52. Figure 1-1 shows the trends in public and private sector wages. Until 2008, the average annual earnings were higher in the private sector than in the public sector. Since then, the trend has reversed in favour of public sector and the gap is even getting wider. In 2011, the average annual wage earning per employee in the public sector (Kshs. 427,991) was higher than that for private sector (Kshs. 405,959). This has mainly been influenced by the wages set in some State Corporations and the Constitutional Commissions.

**Figure 1.1: Annual average wage earnings per employee**

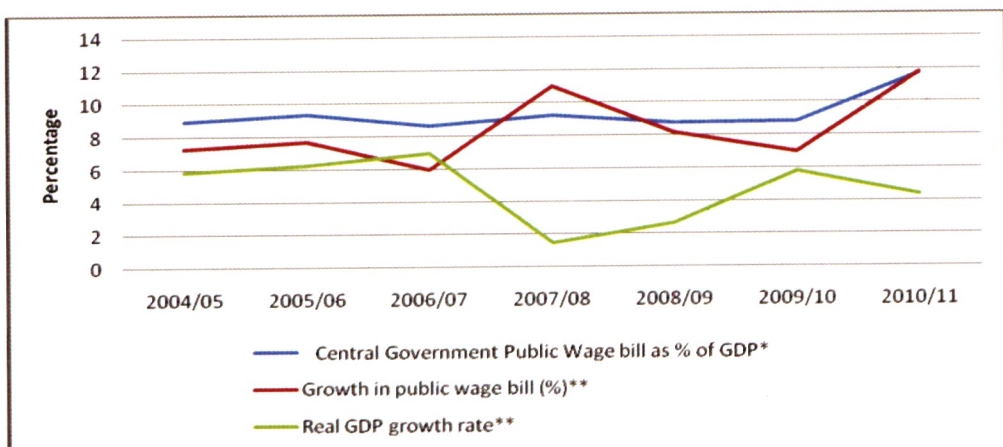


### 3.5 Percentage of Government Revenue to Expenditure

53. The total of Government revenue as a percentage of GDP increased from 21.2 in 2003/4 to 24.6 percent in 2010/11. Central Government revenue including grants increased from 22.5 percent to 23 percent during the same period. On the other hand, total expenditure as a percentage of GDP increased from 24.8 percent to 29.1 percent in 2010. Total recurrent spending was 22.1 percent in 2003/4 and 21.1 percent in 2010/11. This trend can be associated with the increase in development spending from 3.1 percent of GDP in 2003/4 to 8.9 percent of GDP in 2008/9 (GOK, 2010).

54. The total wage bill for the entire public service including military and local authorities, in absolute terms, increased from Kshs. 166 billion in 2004 to 291.5 billion in 2010/2011. Central Government wage bill as percentage of GDP increased from 9.2 percent in 2007/8 to 11.7 percent in 2010/2011. The wage bill to GDP ratio is an indicator of the public service personnel cost share of the total economy. Public wage bill increased by 7.3 percent in 2005, and 11 percent in 2008 before declining by 7 percent in 2010 and finally increasing to 9.6 percent in 2011 and 10.8 percent as of June 2012. The changes in public wage bill are further, expected to be on an upward trend owing the various reforms in Government including implementation of the Constitution of Kenya, 2010 and envisaged decentralization structures.

**Figure 1.2: Changes in public wage bill and GDP growth rate (%) (2005-2011)**



55. According to Figure 1.2, growth in the wage bill remained high above growth in GDP, a situation of concern. It should follow that a rise in growth of GDP may be accompanied by a rise in growth of public wage bill and vice versa. A wage bill of 11.7 percent in 2011 is too high for an economy like Kenya and should be reduced to a level of no more than 10 percent. An international comparison shows Malaysia (5 percent), Egypt (7.1) percent and Mauritius (5 percent) have a wage bill to GDP ratio below 10 percent. There may be urgent need to stimulate economic growth and similarly reduce the wage bill in order to accommodate the process of devolution.

### **3.6 Salaries and Remuneration Commission Financial Report for Year ending 30<sup>th</sup> June 2012**

56. The Commission was constituted in the middle of the financial year 2011/2012. It could therefore not be allocated its vote without constraining the activities of operationalizing it. Consequently, to fast-track its operationalization, the financial operations were initially through Ministry of State for Public Service (MSPS) Vote R03 and Vote Head number 025 in the 2011/2012 Financial Year (FY) up to 30<sup>th</sup> June, 2012, belonging to the defunct Permanent Public Service Remuneration Review Board (PPSRRB). The Commission was allocated an independent Vote R208 to be operational with effect from 1<sup>st</sup> July, 2012 in the FY 2012/2013, in line with the Constitution Article 249 (3) requiring a separate vote for each Commission and Independent Office.

57. The review has shown that the SRC spent its resources well through the MSPS and focused on its core mandate as defined in the Constitution and the Act. The expenditure was about 78.27% of the total allocation. Most of the unspent amount was for office partition, which did not take off as at 30<sup>th</sup> June, 2012 although the procurement process had been completed. This was due to late approval of Supplementary Estimates leading to delayed procurement of a contractor and the works was carried forward to the current FY 2012/13. Other activities planned for the period included stakeholders consultations on the Draft Study Report on Public-Private sector wage differentials, the completion of design of the website and

unveiling of the Commission's Logo. These have been carried forward to the FY 2012/2013.



## CHAPTER FOUR

### 4.0 ISSUES THAT REQUIRE URGENT ATTENTION

#### 4.1 Preamble

58. An efficient public sector human resource management is critical for effective and equitable service delivery and sustainable development. The achievement of Vision 2030 and the implementation of the provisions of the Constitution of Kenya, 2010 require a public service that is citizen focused, result oriented and abler to serve a rapidly growing economy and society. A skilled, motivated, well and equitably remunerated public service is a prerequisite to the attainment of national policy objectives. As the Salaries and Remuneration Commission settled to work, the following issues were presented inform of memorandum or requests as needing urgent attention to work towards a public service that would play the important facilitative role.

#### 4.2 Restoration/Attaining Equity and Fairness in Salaries and Remuneration

59. Due to disparities caused by selective salary reviews especially those awarded after achievement of full Banding salary levels, the restoration of equity and fairness in remuneration among comparable cadres in the Public Service performing work of equal value regardless of the respective public service institutions they are work for was recommended. The Commission was urged to identify areas of inequity and unfairness, quantifying the same and make plans for harmonization including budgetary provision for implementation. This included:

- (i) Requesting Ministry of Finance to make necessary budgetary provisions for adjustment of salaries of the staff whose salaries had not been adjusted to the cost of living/ inflation as part of harmonization
- (ii) Freezing the remuneration for the sub-sectors whose salaries are beyond the Re-aligned harmonization levels to avoid further distortions for purposes of fairness and equity;

- (iii) Identifying remuneration recommendations that have been partially implemented and advise the affected organizations to strategically plan for funding and full implementation; and
- (iv) Re-negotiating remuneration levels of persons on special salaries 'personal to self', on expiry of their contracts, to the levels obtaining in the Public Service for equivalent grades.

#### **4.3 Institutionalization of Remuneration Reviews and Harmonization of Review Cycles**

60. The implementation of remuneration reviews across all sub-sectors needed to be undertaken in a systematic manner without leaving behind some sub-sectors for purposes of ensuring equity in remuneration. The Commission was therefore urged to harmonize the remuneration cycle and institutionalize the reviews to facilitate management of the wage bill, regulate and predict remuneration reviews as well as reduce remuneration disparities, in the Public Service. This included:

- (i) Releasing of a policy harmonizing reviews cycles to four year period for all sub-sectors of the public service;
- (ii) The harmonized review cycles take effect after full implementation of the Realigned Harmonization; and
- (iii) The policy to allow for in between review consideration to be made for purposes of compensating inflation whenever there is significant change in the cost of living or other peculiarities of attraction and retention in employment.

#### **4.4 Service Wide Job Evaluation Exercise**

61. The disparities were recognized to be a result of lack of objective criteria for determining the worth of the job positions in the Public Service. The Commission was therefore urged to adopt objective criteria in determining the job worth for each position in the Public Service and adopt the principle of equal pay for work of equal value. A comprehensive job evaluation exercise in the Public Service as a matter of priority that would facilitate clear job classification and grading to form a basis for setting appropriate and equitable remuneration levels was recommended to be undertaken

#### **4.5 Attraction and Retention of Personnel with Requisite Skills**

62. The Commission was informed that despite improvement of remuneration in the Public Service, attraction and retention of some critical skills required for attainment of key Vision 2030 goals for example, medical and legal professionals, still remained a challenge. It was recommended that appropriate measures be taken to ensure that the Service not only attracts the requisite skills but also retains these critical skills needed to realize the Vision 2030. Consequently:

- (i) Establishment of criteria for determining critical Services based on prevailing country's developmental needs was recommended;
- (ii) The unique aspects of the critical cadres needed to be identified to facilitate development of parameters that could be used to design specific incentives including flexible wage structure to attract and retain the requisite cadres that are in short supply;
- (iii) Development of special retention scheme to attract the staff to the hard to reach and remote areas to ensure service is provided where required and the planned national development objectives are achieved;
- (iv) A research to be undertaken to identify all types of disability in the Public Service and classification of those requiring assistance with remunerative implications to perform their duties consequent to which a policy be developed to guide the entire Public service on how to facilitate persons with disability to deliver services in areas of Public service deployment;
- (v) A survey to determine actual private public sector wage differentials and its impact on the service delivery in terms of salary distortions and staff turnover be undertaken.

#### **4.6 Productivity Measurement**

63. Performance/productivity based pay is the most equitable way of remunerating employees. Its implementation in the Public Service had however, been hampered by lack of accurate measurement tools that identifies the quantifiable aspects of service against which assessment can be made. The Constitution of Kenya, 2010 also recognizes productivity and performance as key ingredient in determination of remuneration to ensure

that the Government gets value for money. The Commission was therefore urged to pursue:

- (i) Development of national policy on productivity to provide indices and measurements to form the basis for performance based pay;
- (ii) The Productivity Centre of Kenya and other specialized Institutions like Universities to develop sectoral productivity indices and identify measurable and quantifiable components and job attributes that can form the basis of development of a credible and reliable productivity measurement system for the Public Service; and
- (iii) Inculcating a productivity mindset within the public service to enable public servants appreciate the linkage between pay and performance.

#### **4.7 Pensions Review**

64. Although the Government introduced Contributory Pension schemes in the Public Service, not all sub-sectors adopted the scheme. Further, the proportions of employee-employer contributions for those on contributory schemes vary significantly creating disparities in the terminal benefits. Despite the fact that pensioners are similarly affected by changes in the cost of living and inflation which in effect erodes their purchasing power and status in the society, pension benefits have in the past not been reviewed alongside remuneration reviews of serving public servants due to fiscal sustainability. It was recommended that the commission follow up with public organizations to ensure that:

- (i) All public servants became members of contributory pension schemes;
- (ii) The employee-employer proportions for the contributory pension schemes in the public service is harmonized for purposes of fairness and equity in the schemes; and
- (iii) A provision be introduced in the Pension Act for pensions of pensioners on non-contributory pensions to be reviewed regularly to cushion them against economic distortions and subsequent erosions of purchasing power.

## **4.8 Collective Bargaining**

65. Collective Bargaining process in some sub-sectors of the Public Service in the past resulted in agreements that at times are beyond the available funds thus, putting pressure on the wage bill. This was partially attributed to lack of training of public servants participating in the negotiations. Further, the time frame for many Collective Bargaining Agreements (CBAs) is every two years which has not provided enough time for growth and development of the economy to warrant succeeding negotiations for salary adjustments. the recommendations included that:

- (i) The life cycle of the Collective Bargaining Agreements be harmonized and changed from two (2) years to four (4) years and the relevant Guidelines issued to the Industrial Court and the Service; and
- (ii) Public servants participating in negotiations to be equipped with skills and knowledge necessary for effective participation in the process.

## **4.9 Review and Development of Public Service Remuneration and Benefits Management Policy**

66. The Pay Policy for the Public Service had been used to guide remuneration management in the public service since 2006. The implementation of the provisions of the Constitution of Kenya 2010 requires that determination of remuneration in the Public Service be guided by the principles of: fiscal sustainability of the public compensation bill; ability to attract and retain requisite staff; recognition of productivity and performance; and transparency and fairness. The Board finalized the Report on Principles for Pay Determination that highlights the best practice used to determine remuneration that can be applicable to the Kenyan Public Service. It was recommended that the Commission identifies global remuneration principles necessary for the implementation of the Constitutional principles and development of the remuneration and benefits policy and the subsequent enforcement legislation.

## **4.10 Housing Policy**

67. Since the last review of house allowance in 2001, the cost of accessing housing has increased creating pressure from public servants to have the allowances revised to reflect increase in cost of housing. The policy of pegging house allowance on regions though based on prevailing market

rates is creating deployment challenges especially for professional cadres thus, affecting service delivery in rural and hard to reach areas. There is also disparity in terms of the rates payable and the number of levels of regions with the Civil Service paying the allowance based on four regions, the Teaching Service two regions and some sub-sectors basing the allowance on job group only irrespective of work station. The introduction of the county governments and subsequent deployment of more public servants to the counties is expected to further aggravate the shortage of housing. The Commission was therefore urged to:

- (i) Analyze the findings of the study on prevailing house rents by the Kenya National Bureau of Statistics to guide revision of Housing Policy for the public service; and
- (ii) Analyze the fiscal sustainability and advice on the harmonization of the rates and levels of payment of House Allowance for purposes of equity and parity of treatment of all public servants.

#### **4.11 Harmonization of Cross-cutting Allowances/Benefits**

68. Rates for cross cutting allowances/benefits such as Commuter Allowance, Medical Cover and Hardship Allowance payable in the various sub-sectors of the Public Service vary significantly within and between the sub-sectors. Further, whereas some cadres/sub-sectors are enjoying these benefits, there are some who are not in recipient of such allowances/benefits. The varying rates and circumstances has been a cause of discontent and low morale arising from perceived unfairness among the affected public servants thus, impacting on service delivery. It was recommended that the Commission follow up to ensure:

- (i) All public servants be put under a harmonized and comprehensive medical cover for purposes of equity and a productive public service;
- (ii) Commuter Allowance be paid to all eligible Public Servants at harmonized rates to address the current disparities; and
- (iii) Implementation of harmonization of Hardship Areas and Allowances as approved for all Public Servants.

## **CHAPTER FIVE**

### **5.0 REMUNERATION STRUCTURES IN THE PUBLIC SERVICE AS AT JUNE, 2012**

#### **5.1 Preamble**

69. In 2004, the Government adopted the Harmonization Instrument salary structure to facilitate harmonization of remuneration in the Public Service. Consequently, remuneration of public servants was harmonized and due to budgetary constraints, adjusted every financial year beginning from 2004/05 to 2010/2011. As the phased approach took a number of years to implement, some Public Service sub-sectors including sections of the Civil Service had their salaries beyond the Harmonization levels in Instrument between financial years 2007/2008 and 2010/2011 to compensate for rise in cost of living. The reviews were selective and uncoordinated thus, re-introduced disparities and inequity in the Public Service.

70. To restore harmony and ensure parity of treatment, an instrument was developed in 2007 to Re-align and harmonize the salary levels in the Public service. Due to budgetary constraints, the Re-alignment and Harmonization as at 30<sup>th</sup> June, 2012 had not been wholly implemented in the public service. The Realigned and Harmonized salary scales are shown in Table 1.

Table 1: Harmonization and Re-aligned Harmonization Instrument (Kshs. p.m.)

Band	J/ G Equiv.	Harmonization 2004		Re-aligned and Harmonization Instrument, 2007	
		Minimum Salary	Maximum Salary	Minimum Salary	Maximum Salary
(1)	(2)	(3)	(4)	(5)	(6)
D	A	6,450	7,111	7,719	8,259
	B	7,111	7,840	8,259	9,257
	C	7,840	8,644	8,819	10,207
	D	8,644	9,530	9,721	11,254
	E	9,530	11,032	11,717	13,055
	F	10,506	12,162	11,817	15,222
C	G	13,733	16,692	16,692	21,304
	H	16,692	20,289	19,323	24,662
	J	21,304	25,895	24,662	29,918
B <sub>2</sub>	K	26,323	30,472	30,472	40,835
	L	30,472	35,275	35,275	45,021
	M	35,275	42,877	40,835	54,743
	N	40,835	49,636	47,272	63,492
B <sub>1</sub>	P	63,782	81,404	77,527	103,894
	Q	77,527	98,947	89,748	120,270
	R	94,235	120,270	109,089	144,298
A <sub>3</sub>	S	100,620	127,980	120,270	180,660
	T <sub>2</sub>	127,980	200,500	-	-
	T <sub>1</sub>	127,980	200,500	152,060	302,980
A <sub>2</sub>	U	152,060	302,980	213,640	423,280
A <sub>1</sub>	V	300,100	531,660	399,440	715,080

## 5.2 Sub-sectoral Analysis

71. The following is the status of the implementation of the re-aligned/ harmonization salary as at 30<sup>th</sup> June, 2012.

- (i) **State Law Office (Legal Staff):** Re-aligned and Harmonized.
- (ii) **Core Civil Service:** Not Re-aligned
- (iii) **National Youth Service:** Not Re-aligned
- (iv) **Prisons Services:** Re-aligned and Harmonized.
- (v) **National Security Organs:** Re-aligned and Harmonized.
- (vi) **TSC Secretariat Staff:** Re-aligned and Harmonization.
- (vii) **Teaching Service:** Not Re-aligned. The adoption of Realigned Harmonization Instrument salary structure will have to be



subjected to Collective Bargaining Agreement after the implementation of the 2009 CBA.

- (viii) **Judiciary (Legal Staff):** Re-aligned and Harmonized.
- (ix) **Judiciary (Paralegal and non-legal Staff):** Not Re-aligned
- (x) **Parliamentary Service Staff:** Re-aligned, Harmonized and adjusted beyond the scale.
- (xi) **Local Authorities:** Generally Re-aligned except those local authorities that do not have ability to pay.
- (xii) **Public Universities:** Re-aligned and Harmonized and beyond the re-aligned and harmonized levels due to implementation of CBAs.

72. The sub-sectors with strong unions and which have been able to negotiate Collective Bargaining Agreements have surpassed the salary levels of the Re-aligned Harmonization Instrument. This is because the current practice of Collective Bargaining in Kenya is to award increases in every negotiation cycle which is currently two years.

### **5.3 Agenda Four and Constitutional Commissions**

73. The Agenda Four Commissions have had their salaries set outside the existing salary structures including the provisions in the Constitutional Offices Remuneration Act Cap, 423 of 2009. Similarly, most of the Constitutional Commissions as they were established prior to the constitution of the Salaries and Remuneration Commission, adopted the Agenda Four Commission's remuneration and benefits levels or negotiated for remuneration and benefits above those existing in the Agenda Four Commissions.

### **5.4 State Corporations**

74. Remuneration for the Chief Executive Officers of State Corporations are guided by the Guidelines on Terms and Conditions of Service for State Corporations, 2004. The Guidelines classify the State Corporations into eight categories taking into account the nature, size and scope of business and provides salary and allowances bands (minimum and maximum levels) for Chief Executive Officers for each of the categories of State Corporations. A number of State Corporations have abided by the provisions in the Guidelines however, there are some which have not. Consequently, a number of Chief Executive Officers are currently receiving 'salaries to self'

negotiated beyond the rates in the guidelines causing disparities within the categories. **Table 2** shows prevailing basic salaries for sampled Corporations by category.

**Table 2: Current Basic Salaries for Sampled State Corporations by Category**

Category	Sample Institution	Guidelines Basic Salary p.m.	Actual Basic Salary p.m.
8A Financial Institutions	Kenya Revenue Authority	420,000-620,000	<b>Consolidated 1.5M</b>
8B-Financial Corporations	Kenya Roads Board	400,000-560,000	400,000-560,000
8C-Financial Corporations	Industrial & Comm Dev Corp	210,000-400,000	210,000-400,000
7B-Financial Corporations	National Housing Corporation	210,000-400,000	<b>300,000-540,000</b>
7C-Financial Corporations	KICC	180,000-340,000	<b>270,000-480,000</b>
6A-Regulatory Corporations	SACCO Society Reg Authority	260,000-460,000	<b>400,000-560,000</b>
6C- Regulatory Corporations	NGO Co-ordination	110,000-270,000	<b>180,000-340,000</b>
5-Public Universities	Egerton University	260,000-460,000	260,000-460,000
5-Public Universities	Moi University	260,000-460,000	<b>343,850-529,000</b>
4B-Training and Research	KESREF	180,000-340,000	180,000-280,000
4B- Training and Research	KEMRI	180,000-340,000	180,000-340,000
3A-Service Corporations	Higher Educ. Loans Board	210,000-360,000	210,000-360,000
3-Service Corporations	National Aids Control Council	180,000-340,000	<b>280,000-399,000</b>
2-Regional Dev. Authorities	Tana Athi Dev Authority	90,000-250,000	90,000-250,000
2-Regional Dev. Authorities	Kerio Valley Dev Authority	90,000-250,000	90,000-250,000
1-Tertiary& Training Inst.	Kenya Water Institute	50,000-150,000	<b>274,296</b>
1- Tertiary& Training Inst.	Co-operative College	50,000-150,000	100,620-127,980

**NB:** Bold in the Table reflects the institutions that are paying beyond the maximum stipulated in the guidelines.

## CHAPTER SIX

### 6.0 ACTIVITIES OF THE SALARIES AND REMUNERATION COMMISSION

75. The Members of the Salaries and Remuneration Commission were appointed on 16<sup>th</sup> December, 2011 and sworn in on 10<sup>th</sup> January, 2012. Activities undertaken by the Commission to fulfill its mandate since it was sworn in office up to June, 2012 are listed here under.

#### 6.1 Induction Workshop

76. Soon after the swearing in, the Commission organized an Induction Workshop from 6<sup>th</sup> to 7<sup>th</sup> February, 2012. This was in compliance with the Government's policy which provides for induction and orientation for all persons joining or transferred to Public Service, to help familiarize with the Government regulations and procedures, work environment and requirements. It also provided the Commissioners with an opportunity to understand the mandate and magnitude of the issues that it is required to address. Key resource persons were invited to lead the discussions during the workshop in which the Commission was able to identify the critical issues that needed to be undertaken immediately and draw a plan of action to guide the Commission's work.



*Commissioners in a group photo during the induction workshop held in Mombasa in February, 2012*

## **6.2 Establishing the Identity of the Commission**

77. This included labeling the current office premises being occupied by the Commission, getting a postal address, designing logo and website. The current premises was correctly labeled, a postal address for the Commission acquired and the Commission's logo which is reflected on the cover of the Report designed.

## **6.3 Drafting Regulations for Submission of Proposals and Determining and Advising on Remuneration and Benefits**

78. By the time the Commission was sworn in a number of Public Service organizations wanted to review their remuneration levels, while some public servants' unions had threatened industrial unrest or called for strike. A number of Constitutional Commissions and Independent Offices had also been set and given interim remuneration packages. All these stakeholders had been told to wait for the constitution of Salaries and Remuneration Commission to look at remuneration packages and streamline the process. To enable the Commission to effectively handle the cases that were on hold, it was important that a structured way that would be seen as fair and objective be designed.

79. The Commission with the assistance of Kenya Law Reform Commission developed Draft Regulations and Guidelines on the procedure for: submission of salaries and remuneration benefits proposals to the Commission; remuneration determination and review for State officers; and advice on remuneration for other public officers. The Regulations were finalized and presented to the Minister for Finance for tabling in Parliament.

## **6.4 Interpretation of Government Structure as Provided in the Constitution for Purposes of Setting Remuneration Packages**

80. The Constitution of Kenya, 2010 has restructured the Government to the extent that although a position may be holding a similar name as under the old Constitution, the job content has been redefined. Further, new positions have also been created. The Commission could not therefore, assume that the positions were the same and award remuneration package using the old structures without first analyzing such positions.

81. Consequently, it became pertinent that with the new positions created in Government by the Constitution, there was need for alignment of the general Government structure and placing positions into perspective taking into account the level of authority, responsibilities and accountability as provided by the Constitution and subsequent legislations.

82. The Commission with the assistance of legal experts and scholars including the Kenya Law Reform Commission and lawyers and persons who had been involved in the drafting of the Constitution of Kenya, 2010, developed a draft structure for Government for purposes of setting remuneration and benefits taking cognizance of the constitutional description of the functions and responsibilities of various offices established under the Constitution. The structure was subjected to stakeholders' consultation and the structure incorporating the comments of stakeholders is ready for subjection to Job Evaluation.

### **6.5 Market Survey on Private Public Sector Wage Differentials**

83. One of the principles provided in the Constitution that the Commission is expected to take into account in the determination of remuneration is to ensure that the public service is able to attract and retain the requisite skills to provide the services. One of the issues presented to the Commission as requiring urgent attention was a comparative study to determine wage levels in the Kenyan labour market specifically the public-private public sector wage differentials.

84. The Commission identified KIPPRA to undertake the study. KIPPRA subsequently, embarked on and completed the exercise and the Draft final Report is ready for stakeholder consultation.

### **6.6 Database for Analysis and Review/Determination of Remuneration Levels**

85. When the Commission took office in January, 2010, there was no data on existing remuneration especially for Constitutional Offices that had been awarded interim remuneration and benefits. The Commission embarked on having this data to assist analysis and establish an objective basis for setting and reviewing the interim remuneration and benefits for all State officers as listed under Article 260 of the Constitution of Kenya, 2010.

86. The information has been received and has been used to guide setting of remuneration and benefits of Constitutional Commission constituted after the constitution of the Salaries and Remuneration Commission to avoid disparities and ensure fiscal sustainability.

## **6.7 Job Evaluation Exercise**

87. The inequities and disparities in remuneration had been as a result of setting up or reviewing salaries without objective criteria. As a result, persons doing work of equal value were paid disparate remuneration packages simply because of the manner of appointment or organization of deployment. One of the Commission's mandate is to establish equity in remuneration and benefits in the Public Service. Further, one of the issues that was presented to the Commission as a prerequisite to objective remuneration setting was the conducting of job Evaluation Exercise to ensure objectivity and transparency in remuneration setting and as a means of addressing the existing disparities and equities.

88. The Salaries and Remuneration Commission commissioned Price water House Coopers to undertake a comprehensive Job Evaluation exercise for State Offices and other Officers in the Constitution. The exercise is underway and is expected to end before December, 2012.



*Mrs. Sarah Serem exchange copies of the contract with PWC to carry out job evaluation exercise for State Officers and other offices in the Constitution*

## **6.8 Harmonizing and Restoring Equity in Remuneration Cycle**

89. Another aspect that brought disparities and inequity was the varied review cycle existing in the Public Service. The Salaries and Remuneration Commission following presentations received and analysis done as proposed in the Regulations and adopted as interim a harmonized review cycle of four years to create parity of treatment.

## **6.9 Recruitment of the Secretary/Chief Executive**

90. In recognition of the provisions of the Constitution and the Salaries and Remuneration Commission Act, 2011, for competitive recruitment of the Secretary and Chief Executive of the Commission, the Commission advertised and recruited the secretary and Chief Executive by March, 2012.

## **6.10 Adequate Secretariat Staff for Commission's Functions**

91. The Commission recruited the Deputy Commission Secretary and absorbed the Secretariat staff from the former Permanent Public Service Remuneration Review Board. The staff were skeleton and the Commission with the assistance of the Ministry of Public Service, analyzed the staff requirements, developed an Organization Structure, Staff establishment, job descriptions and specifications for the interim staff establishment. The key staff positions were advertised and as soon as the given period of the advert is over, will be recruited to the Commission. For the rest of the staff process of recruitment will be initiated in the financial year 2012/2013

## **6.11 Office Accommodation**

92. The Commission's current office premises are those that had been used by the Permanent Public Service Remuneration Review Board. The capacity is 5,000 square feet. The Commission requires about 15,000 square feet to accommodate staff and functions of the Commission. NHIF does not have room for expansion. The Commission therefore, sought and with the assistance of Ministry of Housing identified accommodation at Williamson House off Ngong Road. The contract has been signed with the Landlord. The lease documents are being prepared by the Ministry of Housing and procurement process for partitioning is completed and partitioning will take place at the beginning of the next financial year

## **6.12 Cases of Setting and Harmonization Handled by the Commission**

93. The Commission has not conducted Job evaluation as a result, the cases that have been brought to the Commission and decisions or advice given have been on interim basis. The Commission has handled the following cases for setting interim remuneration:

- (i) Interim remuneration for Commissioners of the Independent Electoral and Boundaries Commission
- (ii) Interim remuneration for Judges and Magistrates Vetting Board
- (iii) Remuneration Levels for Witness Protection Agency
- (iv) Interim remuneration and Sitting Allowance for Commissioners of the National Gender and Equality Commission

94. The Commission has also provided advice on following cases :

- (i) Remuneration for Secretariat Staff of Judges and Magistrates Vetting Board
- (ii) Appeal on remuneration Levels for Secretariat Staff of the Witness Protection Agency
- (iii) Review of remuneration Levels for National Youth Service, uniformed Personnel
- (iv) Remuneration for Chairman and Members of the Standards Tribunal
- (v) Salary Structure for the National Environment Trust Fund
- (vi) Guidelines on Categorization of Permanent Boards/Commissions/Committees/Councils/Tribunals
- (vii) Management of Exit for Permanent Secretaries
- (viii) Extraneous Allowance for staff attached to the Kenya Informal Settlement improvement Programme
- (ix) Extraneous Allowance for staff attached to Programme for Rural Outreach of Financial Innovation and Technologies
- (x) Allowances for Sportspersons and Officials Participating in International Games
- (xi) Payment of Extraneous Allowance to Police Prosecutors



- (xii) Payment of Extraneous Allowance to Immigration Officers Deployed in the Airports
- (xiii) Payment of Extraneous Allowance to Secretariat of the African Ministerial Conference on Housing and urban development
- (xiv) Payment of Allowances to Members of the National Water Towers Management Committee
- (xv) Payment of Allowances to Staff Seconded to the Office of Controller of Budget

### **6.13 Stakeholders Consultations Fora**

95. The Constitution of Kenya, 2010 Article 230 (2b and c) provided that the nominating bodies would identify persons that were neither their members nor employees. Consequently, majority of the persons appointed as members of the Commission did not have Public Service background. To enable the Commission effectively appreciate the Public Service, understand the interface of their mandate and areas of operation with their stakeholders, the Commission organized courtesy meetings and fora with key Public Service Organizations and other stakeholders.



*The Commission held several stakeholders meeting during the period under review'*

The fora were used to understand the mandate and scope of work of the various institutions vis a viz the Commission's Constitutional mandate and identify prospects of enhancing a harmonious and cordial relationships between the institutions and the Commission. The visitations were carried out in the months of April and May, 2012. The organizations visited include:

- (i) Ministry of Finance;
- (ii) Ministry of State for Public Service;
- (iii) Ministry of Local Government ;
- (iv) Ministry of Labour;
- (v) Industrial Court of Kenya;
- (vi) The Police Commissioner;
- (vii) Kenya National Human Rights and Equality Commission;
- (viii) Independent Electoral and Boundaries Commission;
- (ix) Public Service Commission;
- (x) Teachers Service Commission;
- (xi) Controller of Budget;
- (xii) State Corporation Advisory Committee;
- (xiii) Parliamentary Service Commission; and
- (xiv) Commission on the Implementation of the Constitution.

#### **6.14 Benchmarking Visits**

96. The Members of the Commission having been drawn from various institutions and background, needed to have wide perspective of remuneration systems in the public and private sector. This was envisaged could be achieved through benchmarking with countries and organizations with best practice. The Commission therefore, identified the Independent Commission for the Remuneration of Public Office Bearers and other relevant institution in the Republic of South Africa. These Bodies had developed remuneration policies, systems, structures, legislations, and regulations which were operational. The visit was carried out in the month of May 2012.



*Members of the Salaries Commission in a meeting with Independent Commission for the Remuneration of Public Office Bearers of South Africa during the benchmark study tour in May, 2012*

## **6.15 Challenges Experienced by the Commission**

97. The remuneration package disparities and inequities which is one of the major causes of unrest are as a result of many years of omission and commission including injustices. There are issues that are deeply embedded in remuneration that cannot be effectively resolved by quick fixes. Their resolution requires analysis, thorough study and coming up with systems and structures which would offer lasting solutions. The Commission however, came in at a time when public servants patience had run out and they want quick fixes. Further, ideally the Commission should have been constituted ahead of other Commissions and Independent offices and when a job evaluation had been carried out, to guide in the fixing of remunerations. All these did not happen. As a result, the Commission has inherited not only old problems but new ones created by the manner remuneration has been set for the new offices. Commission's challenges therefore, include:

- (i) Historical injustices with complexity and magnitude requires time to draw appropriate strategies and modes of approach and allocation of funds to address the same;

- (ii) Discontent public servants as a result of inequities and growing number of demands for remuneration reviews by Public Servants;
- (iii) Partial/non-implementation of previous remuneration recommendations, which is creating unrest in some sections of the Public Sector due to accruing inequity and unfairness, side by side with rising cost of living and inflation which has eroded the purchasing power of many public servants;
- (iv) Determining remuneration without the benefit of a comprehensive job evaluation for the entire Public Service which is not only expensive but also time consuming;
- (v) Inadequate/obsolete equipment and vehicles. The Commission has only one running vehicle inherited from the PPSRRB, one other vehicle has been grounded for the last eight months. The equipments, including computers inherited by the Commission were purchased in 2004;
- (vi) Accommodation - current offices are too small to accommodate more staff yet the Commission must of essence recruit more staff to effectively carry out its mandate;
- (vii) Time constraint especially at the initial stage given that the Commission's terms of service is part time; and
- (viii) Inadequate staffing.





*Remuneration disparities and inequities leading to industrial unrests is one of the major challenges the Commission is grappling with*



*Resolution of remuneration inequities require analysis, thorough study and coming up with structures for long lasting solutions*



## CHAPTER SEVEN

### 7.0 WAY FORWARD

#### 7.1 Managing Remuneration Applying Universally Accepted Principles

98. Historically, management of Public Service remuneration has not strictly adhered to the universally accepted principles for remuneration and benefits determination. For the Salaries and Remuneration Commission to comply with the provisions of Article 230 (5) of the Constitution of Kenya and Section 12 of the Salaries and Remuneration Commission Act, 2011, the Commission will of essence apply the universally accepted principles in the setting, review and advice. This is the only way it will be able to address the historical injustices and the current disparities and inequities in the Public Service. The Commission has therefore, purposed to undertake a number of activities which will be analyzed and planned for in the Strategic Plan to be developed.

- (i) Ensuring Harmonization, Equity and Fairness;
- (ii) Setting and advising on competitive remuneration that will ensure that the Public Service attracts, and retains requisite skills for delivery of its services;
- (iii) Ensuring that there is transparency and participation in remuneration setting by conducting regular job evaluation exercises starting with State offices positions in July, 2012 ;
- (iv) productivity and performance based remuneration by liaising with relevant institutions to develop productivity indices and measurement tools;
- (v) Objectivity and impartiality in remuneration setting by applying principles of pay determination and carrying out market surveys;
- (vi) Adequacy of remuneration reflecting the cost of living by introducing economic adjustments to remuneration and benefits reviews;
- (vii) Ensuring that remuneration structure is Consistent with national strategic objectives by linking the realization of Vision 2030 and implementation of the Constitution to remuneration setting and review;

- (viii) Ensuring Legal compliance and direction in remuneration management by developing remuneration and benefits management policy and legislation; and
- (ix) Affordability and fiscal sustainability in public compensation Bill by linking remuneration and benefits levels to economic performance and the country's Gross Domestic Product.

99. The Commission will therefore, ensure that policies and legislations are made to guide the implementation and achievement of the above stated positions. This process will have to start with the Commission developing its Strategic Plan and with various strategies to address the various components of remuneration and benefits management. The Commission will however require the support of all stakeholders in bringing discipline in the management of remuneration and benefits and consequently achieving the adherence to the universal principles.

## **7.2 Conclusion**

100. The Commission appreciates the support it has received from the various stakeholders that has enabled it within the shortest time to operationalize and undertake its functions. Although the period is too short for the Commission to be fully operationalized we are banking on our various stakeholders for continued support. This is more so as the next face of the operationalization of the Commission is likely to raise issues that may not favour every public servant but will seek to establish equity and fairness. We therefore, call for understanding and forbearance.





*Swearing in of the Commissioners on 10th January, 2012*



Salaries & Remuneration  
Commission

*Rewarding productivity*

**Salaries & Remuneration commission**  
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