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MINISTRY OF LABOUR, SOCIAL SECURITY AND SERVICES



FOREWORD

Kenya aspires to acquire a globally competitive middle-income country status by the year 2030 in accordance with the *Kenya Vision 2030*. However, the country's economic performance and level of global competitiveness remains low relative to the global benchmarks. The main factors for this underperformance include poor technology, inadequate technical skills and unfavourable comparative trading factors, such as relative prices of inputs and outputs. Kenya's economic performance has been unstable since attaining political independence in 1963. The country transited from a high growth path of more than 5 percent in the 1960s, 1970s and 1980s to a low growth path in the 1990s to early 2000s.

The impressive post-independence growth was anchored on exploitation of the technological opportunities availed by the Green Revolution in agriculture (high-yielding crop varieties, fertilizer application and irrigation technology), goodwill by donors, favourable terms of trade and the optimism expressed by Kenyans to harness its resources as a free state. In agriculture, which is the mainstay of the Kenyan economy, the endogenous factors responsible for productivity growth are intensity of fertilizer use, the extent of improved seed usage, as well as socio-demographic characteristics (e.g. the education of household decision makers, age and gender structure of the household) and access to farm credit.

After the turbulent global and domestic economic reform challenges precipitated by liberalization during the early 1990s and 2000s, economic growth improved from 0.5 percent in 2002 to 2.9 percent in 2003, reaching a high of 7 per cent in 2007 following on implementation of the *Economic Recovery Strategy for Wealth and Employment Creation* policy blueprint. This performance, however, dropped to 1.5 per cent in 2008 following the 2007/2008 post election violence, but picked up thereafter to reach 5.6 percent in 2010. The *Kenya Vision 2030* envisions a growth rate of 10 percent per annum from 2012 to 2030, anchored on extensive infrastructural and institutional and socio-political reforms and developments.

Consistent with the country's economic performance, Kenya's multifactor productivity has been constant at less than one percent since independence. At the same time, the country's level of competitiveness has been low and declining. In 2010/2011, Kenya ranked position 106 out of 139, just marginally ahead of Tanzania and Uganda but below comparative African and South East Asian countries in terms of productivity. Reminiscent of the trends in the country's economic growth and global competitiveness, Kenya has not been able to create adequate productive and durable jobs to absorb the country's increasing labour force. Employment creation within the formal sector is fast dwindling while the informal sector that accounts for about 81 percent of the country's employment is increasingly getting saturated despite its jobs being precarious in nature.

The role of productivity in promoting competitiveness, employment creation, rapid economic growth and the transformation envisaged in the *Kenya Vision 2030* and the Kenya Constitution 2010 cannot be gainsaid. Kenya has had many productivity improvement initiatives in the past. However, these measures have been piecemeal in nature, lacked focus, were poorly coordinated and hardly implemented, and hence could not create the desired sustainable impact. Further, there has never been a comprehensive policy, legal and institutional framework to guide and steer productivity management initiatives in the country.

This Sessional Paper on National Productivity Policy presents the paradigm shift required for productivity management in the country. It contains specific and targeted interventions, which when effectively implemented, would contribute considerably towards the achievement of the goals of *Kenya Vision 2030* and the Kenya Constitution 2010. Some of the key proposals in the policy include the establishment of a National Productivity Council (NPC) to facilitate inter-sectoral coordination of policy and programmes initiatives of public and private sectors, and enactment and implementation of a Productivity Management Act to underpin all the productivity management efforts in the country.

It is important to point out however, that developing and implementing a policy are two different things. Achieving sustainable change in national productivity and competitiveness envisioned in this policy document will invariably depend on the extent to which the policies are implemented. It goes without saying that effective implementation of this policy is hinged on support, active participation, and cooperation of everybody and all relevant institutions in the country. I therefore call for sobriety, creativity and innovative approaches in the process of achieving this noble vision.



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Acronyms

AG	Attorney General
AU	African Union
APO	Asian Productivity Organization
ASEAN	Association of South East Asian Nations
BNPC	Botswana National Productivity Center
CBOs	Community Based Organisations
CHE	Commission for Higher Education
CAD	Computer Aided Design
CAM	Computer Aided Manufacturing
CAPP	Computer Aided Process Planning
COTU (K)	Central Organization of Trade Unions (Kenya)
DOHSS	Directorate of Occupational Safety and Health Services
ERP	Enterprise Resource Planning
FBOs	Faith Based Organisations
FKE	Federation of Kenya Employers
GDP	Gross Domestic Product
GOK	Government of the Republic of Kenya
GRC	Global Competitive Report
ICT	Information and Communications Technology
ILO	International Labour Organisation
JICA	Japan International Corporation Agency
JPC	Japan Productivity Center
KAM	Kenya Association of Manufacturers
KEPSA	Kenya Private Sector Alliance
KIE	Kenya Institute of Education
KNBS	Kenya National Bureau of Statistics
KNCPC	Kenya National Cleaner Production Center
LMC	Labour Management Cooperation
LMIS	Labour Market Information Systems
M&E	Monitoring and Evaluation
M&ED	Monitoring and Evaluation Directorate
MoALF	Ministry of Agriculture, Livestock and Fishery
MoE	Ministry of Education
MoES&T	Ministry of Education, Science and Technology
MoH	Ministry of Health
MoLSSS	Ministry of Labour, Social Security and Services
MoDP	Ministry of Devolution and Planning
MoICNG	Ministry of Interior and Coordination of National Government
MTP	Medium Term Plan
NESC	National Economic and Social Council
NEMA	National Environmental Management Authority

NGOs	Non Governmental Organizations
NLB	National Labour Board
NPO	National Productivity Organization
NPP	National Productivity Policy
NT	National Treasury
OEE	Overall Equipment Efficiency
OP	Office of the President
OVI	Objectively Verifiable Indicator
PAA	Productivity Agenda for Africa
PAPA	Pan African Productivity Association
PCK	Productivity Centre of Kenya
NPC	National Productivity Council
R&D	Research and Development
SADC	Southern African Development Community
VDS	Vision Delivery Secretariat
WCPS	World Confederation Productivity Science

CHAPTER ONE: INTRODUCTION

1.1 Background

Kenya aspires to achieve a globally competitive middle-income country status offering high quality of life by the year 2030. Attainment of this aspiration is hinged on the country's ability to achieve rapid and sustainable economic and productivity growth. Productivity is a major determinant of competitiveness as it is capable of driving high and sustained economic growth, and the transformation envisaged in the *Kenya Vision 2030* and the Kenya Constitution 2010.

Productivity is defined as a relationship between inputs and outputs in the production of goods and services. Socially, productivity is viewed as an attitude of mind which seeks to continually improve what already exists; a belief that one can do things better today than yesterday and better tomorrow than today.

Productivity is also the efficiency and effectiveness with which factors of production are combined and utilized in an economically and environmentally sustainable manner to produce quality and cost effective goods and services. Productivity is essential in raising welfare and a country's level of competitiveness. Higher levels of productivity are associated with higher economic growth, employment creation, increased incomes, better use of resources, increased market competition, better working conditions and high quality of life. This is evident from developed and the newly industrialized countries of South East Asia that have managed to achieve higher and sustainable levels of productivity and competitiveness.

Kenya has in the past made several attempts aimed at promoting productivity. Some of these initiatives are contained in the first National Development Plan (1964-1970); Wage Guidelines (1973-2005); Sessional Paper No. 1 of 1986 on *Renewed Economic*

Growth; National Development Plan (1997-2001); *Economic Recovery Strategy for Wealth and Employment Creation* (2003-2007); *Kenya Vision 2030* and its first Medium Term Plan (2008-2012). The Kenya Constitution 2010 also puts a case for improved productivity as a means of attaining high quality of life for the citizens. Article 41 of the Constitution on the Bill of Rights, for example, provides for fair remuneration and the right of a worker to reasonable working conditions. Article 230 emphasizes the need to recognize productivity, performance, transparency and fairness in remuneration.

Kenya is faced with low productivity levels with a total factor productivity index of less than a unit. Consistent with this, the country's labour and capital productivity indices were 0.84 and 0.46 respectively in 2009. This is in contrast with the benchmark of a productivity index of at least 5 for global competitiveness. The implication is that Kenya's competitiveness is low. For example, Kenya's ranking on global competitiveness stood at 106 out of 144 in 2012/2013. Kenya is ranked behind Tunisia, South Africa, Mauritius, Egypt, Morocco, Namibia, Gambia, Algeria, Libya and Senegal in terms of global competitiveness. Within East Africa, the country is marginally ahead of Tanzania and Uganda while it lags far behind the South East Asian countries that it aspires to benchmark herself with.

Generally, productivity has been incorrectly equated to production; that it only benefits the employers; is applicable to blue collar job workers; that productivity improvement leads to loss of jobs; and is just a means of working harder. However, productivity is about efficiency in resource utilization in the production of quality goods and services. Productivity leads to increased production with available resources and also leads to job creation and retention.

1.2 Scope of the Policy

The policy addresses the multiple challenges impending productivity advancement in the economy under four pillars namely: productivity culture; labour market

development; technological change and innovation; and institutional and legal arrangements. The policy also provides a Monitoring and Evaluation mechanism for effective implementation of the stated strategies and programmes.

1.3 Rationale for Developing a Productivity Policy

Whereas Kenya has implemented several productivity improvement interventions in the past, the country's level of productivity remains dismally low and is responsible for the low, unstable and unsustainable economic growth. According to United Nations statistics, industry value added (as percentage of GDP) had declined from 19 in 1990 to 15 in 2009; against South Africa at 31 and the global best, Singapore, maintained at 35.

Other measures such as consumption expenditure have improved 4 times over the 20 year period for other countries while that of Singapore has increased 7 times. The final consumption expenditure in Kenya in 2009 compares with that of Singapore 20 years earlier. The previous productivity improvement interventions lacked focus, were non-comprehensive, poorly coordinated and hardly implemented. The country also lacked policy, and legal and institutional framework to anchor the productivity initiatives and provide the required impetus for effective productivity management in the country.

This Sessional Paper on National Productivity contains specific measures that will be undertaken to address the past weaknesses. The ultimate goal is to guarantee increased global competitiveness, creation of productive and sustainable jobs, rapid economic growth and high standards of living for all Kenyans.

CHAPTER TWO: SITUATION ANALYSIS AND CHALLENGES

2.1 Past Productivity Promotion Initiatives

The Kenya Government has, since attaining political independence in 1963, recognized the vital role of productivity in promoting economic growth, employment creation, improvement in the standards of living and overall national development and prosperity. Several attempts have been made, at a policy level, to improve productivity at various levels and sectors of the national economy.

The country's first National Development Plan, the Wage Guidelines and the Sessional Paper No. 1 of 1986 all underscored the need for productivity promotion in enhancing enterprise and organizational competitiveness. The 8th National Development Plan (1997-2001) put a case for integrating productivity in wage determination. It advocated for establishment of a productivity centre to champion productivity improvement, and removal of labour market rigidities and distortions, especially wage guidelines. The *Economic Recovery Strategy for Wealth and Employment Creation* (2003-2007), the *Kenya Vision 2030* and its *Medium Term Plan* (2008-2012) emphasize the need for mainstreaming productivity in all sectors of the country's economy. The policy blueprints recognize the role of productivity in promoting global competitiveness, achieving high and sustained economic growth and creating productive and durable employment opportunities. The policy documents also affirm the commitment of the Government, social partners, the private sector and other stakeholders to productivity promotion.

At the institutional level, the government in collaboration with other social partners established (in 2002) the Productivity Centre of Kenya to champion productivity management activities in the country. This is an institution which is registered under the Companies Act, Cap 486 and is co-sponsored by GOK, FKE and COTU (K), but it is grossly underfunded.

The foregoing initiatives and policy measures did not however, create the desired impact. The dismal impact was attributed to poor policy design; piecemeal interventions; weak coordination; and absence of policy, legal and institutional framework to anchor the productivity improvement initiatives and to provide strategic direction on productivity management and its supporting systems in the country.

2.2 Kenya's Productivity Status

Productivity level is an indicator of a country's competitiveness and its prosperity status. Countries that have embraced productivity practices develop their ability to produce quality goods and services at costs that meet the test of domestic and international markets, while promoting and maintaining high standards and quality of life of their people. In today's liberalized markets, productivity and quality improvements reinforce each other to become potential sources of a country's socio-economic competitiveness.

At the national level, Kenya suffers from three main problems namely: inadequate adoption of productivity management standards and practices; lack of knowledge in productivity and management techniques; and absence of a national integrated institutional framework for productivity promotion and management. Consequently, Kenya's productivity level has remained relatively low at a multi factor index of 0.84 compared to the emerging economies of South East Asia whose average productivity index is in the range of 5. In addition, Kenya's labour productivity index increased marginally from an index of 1 in 2001 to 2.38 in 2011 as compared to an index of 12.5 for the United States of America, 7.6 for Japan and 5.3 for Malaysia.

Kenya's capital productivity improved slightly from index of 0.2 to 0.6 during the same period. The low capital productivity index for the country implies non attainment of the optimal equipment efficiency in installed machinery and equipment. Use of obsolete machinery coupled with mis-match between the skills possessed by workers and those required by industry, and low adoption of modern technology further explain the

country's inability to attain desirable levels of overall equipment efficiency. Kenya's low labour productivity is attributable to poor work attitudes and ethics, non-conducive working environment, low adoption of productivity enhancing tools, and poor labour-management partnerships.

The implication is that the country has continued to be held in a low productivity trap manifested by low purchasing power, low capacity utilization, limited capital formation, and sluggish productivity growth, rising domestic prices and unit costs, and spiral agitation for wage increments. With regard to wage formation, while the government has endeavored to mainstream productivity in wage determination through issuance of wage guidelines, the same has not been achieved. This is linked to the fact that labour market players still do not share similar understanding and conviction about productivity and its role in driving competitiveness, employment creation and guaranteeing the interest of investors, employers, employees and their families.

2.3 Economic Growth

Kenya experienced a persistent decline in her economic growth for most of the years since attaining political independence in 1963. The country transited from a high growth path in the first decade of independence to a low growth path up to early 2000s. This trend was reversed in 2003 when the economy realized a growth rate of 2.9 percent up from 0.5 percent in 2002. The country's performance peaked in 2007 at 7 per cent before declining to 1.5 per cent in 2008. In 2010, Kenya's economy grew at 5.6 percent as compared to 2.6 percent in 2009. The subdued nature of the country's performance is attributed to low productivity attainments, high cost of production relative to contemporary countries, limited value-addition and weak competitiveness of the country's goods and services. Kenya aspired to scale up its growth rate to 10 percent per annum by 2012 and sustain it at that level for the remaining period of the *Kenya Vision 2030* horizon. Achievement of this goal, however, requires effective mechanisms for undertaking productivity management.

2.4 Employment Creation and Retention

Creation of productive and sustainable employment opportunities remains an underlying principle of productivity enhancement which is in line with improving productivity without reducing employment in the long run. In Kenya, about 30 percent of the total formal employment are casual employees who are deprived of long-term benefits of service, which negatively affects employee motivation towards productivity improvement interventions. The situation is even in Kenya's large informal sector which accounts for over 81 percent of the country's employment. Jobs in the informal sector are insecure and indecent, characterized by job insecurity, poor wages and terms and conditions of employment, absence of institutionalized social protection mechanisms, weak safety and health standards, low job tenure and lack of representation. This suggests that informality remains a major productivity trap in Kenya and requires targeted productivity enhancement interventions.

2.5 Challenges to Productivity Management

Kenya's low levels of productivity can be attributed to various factors. These include lack of productivity consciousness and awareness; weak human resource base; weak labour-management partnership; poor work environment, and absence of a framework to guide productivity measurement and compensation. Other factors are low prioritization of research and development, slow adoption of modern technology, weak and inhibitive legal and regulatory framework, and absence of a policy and institutional framework to guide productivity improvement efforts.

2.5.1 Lack of Productivity Culture

Presence of a productivity culture in the work force is critical for sustained productivity growth. However, across the work force, in both the private and public sector, productivity culture is characterized by poor work ethics as manifested by lack of time management as well as waste of other resources. In this regard, the majority of the

Kenyan population including public and private sector organizations is hardly conscious of the need to understand and appreciate the norms of productivity parameters. Efforts towards inculcating a productivity mindset have been initiated through the performance contracting initiatives albeit with resistance widely encountered. In many organizations, the concept is being equated with contemporary exploitive management practices which is untrue. In addition, there is lack of common vision and understanding of productivity, inadequate information about improvement approaches, and low levels of cooperation among social partners on improvement initiatives with resultant low prioritization of productivity enhancing techniques. Further, there is lack of integration of productivity matters in the country's education and training systems, at the formative stage of childhood which is critical in building national values for a productive future workforce. Old stereotypes that value office (*'white-collar'*) jobs and gender biases and, by default, debase technical and manual tasks hamper prioritization of science and technical education and skills in the education curriculum across the entire education sector.

2.5.2 Weak Human Resource Base

Effective human resource planning, development and utilization are imperative for productivity improvement and competitiveness. Even though Kenya has a large pool of educated workforce, the country's labour force lacks key skills, ingenuity and creativity required for effective productivity mainstreaming. The majority of Kenyan workers lack appropriate and relevant skills, with most of the skills being out of tune with industry demands. At the same time, some of the country's workers manifest inadequate practical work skills, and are unable to relate and translate theory to practice.

2.5.3 Weak Labour-Management Partnership

Kenya suffers from weak labour-management partnership. This is manifested in lack of trust between labour, management and their representatives; non-inclusion of workers in decision making, poor communication structures and information asymmetry. This

state of affairs inhibits creativity and innovativeness, undermines commitment and affects productivity. Hence the priorities and actions of each of the three parties in the work system tend to be in disharmony and, often, operate antagonistically to the detriment of the organization's overall objective.

2.5.4 Rampant Job insecurity

Continued employment in a job is a prerequisite for productivity improvement practices. It creates experience, nurtures employee creativity and harmony, and brings worker contentment necessary for engaging in productivity improvement. However, a large proportion of private sector employers engage workers on intermittent, temporary or casual terms in contravention of the Employment Act, 2007. Because of the latent threat to employment security, workers 'feel' no need to engage in any productivity improvement programme. Further, any changes or constructive suggestions are withheld or resisted as workers foresee no long-term benefits nor 'feel' being part of the establishment. Job insecurity tends to put workers on their toes all the time, looking forward to exit to other livelihood opportunities while treating their current appointment as transitory.

2.5.5 Poor Work Environment

The work environment in many workplaces in the country is generally cluttered and characterized by poorly furnished work stations. This compromises on the occupational safety and health of workers, which impacts directly on the cost of production, productivity and quality of working life.

2.5.6 Lack of Productivity Measurement

Productivity measurement is the first step in effective productivity management and competitiveness. Kenya lacks a robust framework for measuring productivity at enterprise, sectoral and national levels. Moreover, the country does not have a system of performance benchmarking and productivity-based reward mechanism that would

induce productivity improvement in all sectors of the economy. This is partly attributable to lack of academic training on productivity, a system of imparting life skills, workplace based productivity training and knowledge on productivity measurement techniques and integration or mainstreaming of productivity in wage determination. The challenge of productivity measurement and compensation criteria is also aggravated by lack of adequate, reliable, relevant and up to date productivity databases. At the same time, there is no comprehensive framework for formalized collection, collation, analysis, retrieval and dissemination of relevant productivity indicators. This has led to individual, *ad-hoc* and uncoordinated mechanisms for collecting and analyzing productivity data. Further, most organizations, particularly in the private sector, are not willing to release information to other agencies that is necessary for productivity analysis for fear of exposing their niche strengths to competitors. Besides, the Kenya National Bureau of Statistics does not collect all the necessary data required for productivity analysis. This state of affairs has frustrated efforts towards undertaking effective and meaningful productivity improvements in the country.

2.5.7 Low Prioritization of Research and Development

Broad based productivity-driven research and development (R&D) is critical for productivity improvement and competitiveness. Kenya has, for a long time, suffered from low prioritization of R&D. This has cumulatively led to the current status of low innovation and inventions. The low prioritization of R&D is manifested in terms of low funding of R&D activities by both the Government and the private sector. Public spending on R&D stood at a paltry 0.05 percent of GDP in 2010 which is low based on the global best practices of a minimum of 1 per cent. At the same time R&D in the country is mainly undertaken by the Government with little contribution from the private sector. Further, there is weak linkage between production/service enterprises and research institutions to inform on research needs and a system for disseminating and absorbing the research output. This means that there is scope to improve in this area because Kenya is reported to rank at position 45 in the world in terms of innovations.

2.5.8 Slow Adoption of Modern Technology

Modern technology is one of the enablers of productivity and competitiveness. Kenya's productivity and competitiveness has been greatly undermined by failure of the country or its slow pace to embrace new technology, methods, products and processes. The slow pace in technology adoption is attributed to inadequate institutional capacity to support adoption and absorption of modern technology; high cost of technology; lack of information on existing technologies and their potential in increasing productivity and competitiveness.

2.5.9 Lack of Legal and Institutional framework

Kenya has a tripartite Productivity Centre that was established in 2002. The Centre is established as a Company limited by guarantee but operates as a department of the Ministry of Labour. The legal status of the Centre makes it difficult for it to attract budgetary resources from the Treasury. It also limits the Government's ability to deploy the requisite human resources to the Centre. At the same time, the social partners who jointly established the Centre have been unable to financially support the activities of the Centre. The operational set up of the PCK as a department of the Ministry of Labour constrains it in attracting funding, restricts its flexibility in executing its mandate and lowers acceptability of its outputs by other stakeholders.

In Financial Years 2009/2010 and 2010/2011, the Centre was allocated Kshs 11 million and, Kshs 28 million respectively with no contributions from the other two social partners. Currently, the Centre has a staff strength of nine (9) officers, five (5) of whom are technical, against an approved staff establishment of eight six (86) officers. As a result the Centre is constrained in fulfilling its mandate. Despite these limitations, the Centre developed 15 model companies and trained 150 technical service providers country wide in the 2010/2011 financial year. With an appropriate institutional framework and requisite fiscal and human resources, the Centre is capable of creating

the necessary critical mass of productivity practitioners and packages for productivity and competitiveness take-off in the country.

2.5.10 Best Practices in Productivity Institutional Framework

Countries that have attained enhanced economic growth and competitiveness have established National Productivity Organizations (NPOs) to spearhead the productivity improvement agenda. NPOs are formed under different legal frameworks depending on a country's development level. Countries that have attained substantial strides in productivity management have had their NPOs given autonomy in their operations in addition to adequate financial and human resources. These are legal entities established either through a Decree or an Act of Parliament. These NPOs are either established as Corporations such as in Malaysia, Authorities as in Australia and New Zealand, Councils as in India and Mauritius, Centers as in Japan and the UK, Institutes as in South Africa, Boards as in Singapore, or Development Academies as in Philippines. Notwithstanding their legal status, these NPOs have had substantial financial support by their respective national governments despite their huge financial outlays. This underscores the role of governments in establishing and funding of NPOs. The world over it is proven that productivity pays; hence the conviction that investing in productivity management brings over 50 percent net returns to any institution annually.

2.5.11 Productivity Mindset Change

There is a general belief that productivity is un-measurable in the public sector which provides services, yet productivity is related to quality and therefore plays a key role in the quality of services rendered which are quantifiable and is therefore measurable. This policy recognizes that changing the negative mind set about productivity will go a long way in improving the quality of services in the public and private sectors. This will be achieved through intensive publicity campaigns involving both public and private sector.

CHAPTER THREE: PRODUCTIVITY POLICY FOR KENYA

3.1 Introduction

The Kenya government recognizes the critical role of productivity in realizing the aspirations of the *Kenya Vision 2030* and Kenya Constitution 2010. However, productivity management in the country has to undergo a paradigm shift if it has to fully contribute in actualizing these aspirations. This policy has been developed through a participatory process involving the relevant stakeholders as shown in Annex (v).

3.2 Objectives of the Policy

The Government is responding with measures to accelerate economic growth through productivity growth and high investment. Specifically, the objectives of the policy are to:

- (i) Achieve Kenya's incremental productivity growth of 5 percent per year from the current level of less than one per cent;
- (ii) Move towards improving the country's productivity levels, with the public and private sector expected to achieve 4.5 and 5.5 percent productivity growth per annum respectively as a contribution to achieving the annual target growth in productivity¹. This is expected to enable the country achieve its overall real GDP growth target of 10 percent annually as envisioned under the Kenya Vision 2030; and
- (iii) Increase productivity awareness and consciousness level in the country from the current level of about 1 percent to 60 percent of the population by the year 2030.

¹Annual labour productivity growth (average of 2007-2011): China 10.5%, India 6.2%, Vietnam 4.8%, Malaysia 4.0%, Indonesia 3.6%, Thailand 3.3%.

3.3 Guiding Principles of the Productivity Policy

This policy framework shall be guided by the following principles so as to ensure its success:

- (i) Promotion of National values;
- (ii) Customer focus by total quality improvements;
- (iii) Innovation in Management and Technology
- (iv) Requisite investments in R&D
- (v) Fair distribution of productivity gains
- (vi) Modernization of labour management relations; and
- (vii) Employee involvement and human resources development.

3.4 Productivity Management Policies and Programs

Global competitiveness is pegged on 12 pillars which are used to measure comparative country rankings. These pillars are; institutions, infrastructure, macroeconomic environment, health and primary education, higher education and training, goods market efficiency, labour market efficiency, financial market development, technological readiness, market size, business sophistication, and innovation. Based on these indicators, Kenya's overall Global Competitiveness Index ranking in 2010-2011 was 106 out of 139 ranked countries.

In recognition of this low ranking, this policy outlines initiatives to be implemented aimed at improving the country's global competitiveness index. This will be achieved through the multi-stakeholder involvement in undertaking the interventions specified in the document and summarized in the implementation matrix. Specifically, this policy paper identifies programs aimed at improving the country's productivity at the national and sector levels, setting standards for benchmarking, and anchoring the Policy as a flagship project of the *Kenya Vision 2030* as well as its implementation through the 2nd *Medium Term Plan* (2013-2017) and annual Performance Contracts. Further, the policy

will adopt a cluster approach to competitiveness which brings together Government, business firms, research institutions and academic institutions in enhancing productivity growth, nurturing competitive advantage, enhancing value addition and increasing international outreach among others.

In recognition of the challenges currently facing productivity improvement, the Office of the President shall play a pivotal role in entrenching productivity in the public domain.

3.4.1 Pillar 1: Productivity Culture

A strong productivity culture in the work force is a key driver for efficient and effective resource use. To promote productivity awareness and ingrain productivity practices as a way of life, the Government will spearhead a National Productivity Campaign as a Strategy to reinforce the productivity agenda in all sectors of the economy.

In addition, the educational system has the greatest potential to mould the citizenry into a productive workforce through better structural orientation especially at the early formative stages. The quality of the scientists doing research, the engineers planning new products and methods, and the managers, administrators and workers operating enterprises and the public service organizations all depend on the education system to instill productivity values. Through educational reforms, the Government will integrate basic elements of productivity and related values in education curriculums to better prepare children at the formative stage and graduates at all levels, to the realities of a productive life.

Training programs outside the formal education system play a critical part to productivity improvement by providing skills to the labour force. The Government will encourage the mainstreaming of Productivity training in the skills upgrading programs.

3.4.2 Pillar 2: Labour Market Development

The country has a labour force with varying levels of formal education and skills currently working in all sectors of the economy. However, this labour force is lacking in

full commitment, ingenuity and practical skills albeit the theoretical skills and knowledge earned in schools and colleges. Therefore, the country needs a dynamic labour force which is creative, flexible, competent, multi-skilled, better informed, technology oriented, and enjoying job protection and decent employment; critical to the realization of the full potential of the country's human resource stock.

In addressing these issues, the policy proposes the following: the need by management to recognize the knowhow, ingenuity, and imagination of employees. As stakeholders, labour, management, and private investors who commit themselves to improve productivity should understand the criteria to be used in sharing the productivity gains. As partners, there is need to develop new mutual cooperative arrangements between labour and management. In implementing productivity-enhancing changes, there is need to provide adequate assurance to workers that the reforms will not adversely affect their job security. Moreover, there is need for the management to improve the quality of the work environment, recognize and reward appropriately individual's and, or group's contributions towards productivity improvement.

Reforms in labour practices in public and private sectors are critical in promoting better internal relations. People-centric reforms enhance managerial and staff capacities towards improvement of strategic and organizational work environment. Most organizations work environments in Kenya suffer from bureaucratic, command-like internal relations between staff and management; that are worker unresponsive, not focused to customer needs and are characterized by many other challenges.

In order to sustain productivity improvement at the firm level, a strong enforcement of the Employment Act is required to reduce job casualization and increase job security. The Government shall review labour laws for enhancing firms and employers to improve their work environment and establish sufficient safety and health standards. The labour reforms shall focus on integrating productivity improvement and gains sharing

mechanisms, labour-management partnerships, and productivity assessments into existing legal frameworks. The labour law will be reviewed to entrench organized modes of interaction between management and labour, including their alignment to the Constitution 2010.

3.4.3 Pillar 3: Technological Change and Innovation

This Policy will support technological change facilitated by the *Science, Technology and Innovation Policy and Strategy*. Technological change in this context refers to the total process through which productivity enhancing innovations are conceived, developed, and diffused throughout the economy. Therefore, technological advances are critical to continued productivity growth as they lead to increasingly effective use of factors of production (labour, capital). Technological change applies to all sectors where it involves techniques, methods, ideas and products. This requires: first, a strong underlying scientific base and culture – a continuous improving body of knowledge through which changes are conceptualized and from which practical applications are developed. Second, individuals and organizations must have the necessary access to available technical knowhow and to information on available products and processes. Third, individuals and organizations should have incentives to develop new products or to invest in the purchase of new products developed by others; and finally access to capital resources to finance the development and installation of new products and processes.

It should be noted that productivity improvement tools are also considered as key components, which facilitate technological change and innovation since the tools increase output with the given or reduced inputs. Various forums and consultation services will be conducted in order to transfer productivity improvement tools to key stakeholders and model companies in the country.

3.4.4 Pillar 4: Institutional and Legal Arrangement

An effective institutional framework is a prerequisite for successful policy development and implementation. The current Productivity Centre of Kenya will be transformed into a National Productivity Council (NPC) and strengthened to effectively perform its functions. Within NPC, an institutional framework, in the form of National Committees on Productivity, to facilitate inter-sectoral coordination of policy and programme initiatives of the Government and the private sector, will be established. The Council will drive the public and private sector efforts and enhance implementation of productivity improvement programmes and offer policy advice to the Government. The National Committees on Productivity shall constitute of persons from the Government, private sector, academia and other professionals who shall co-ordinate the implementation of the national productivity agenda.

In addition to playing the role as Secretariat to the National Committees on Productivity, the NPC's mandate includes: promoting productivity improvement and productivity culture, assisting enterprises in productivity improvement through building their capacities; acquisition, processing and disseminating productivity information; facilitating labour-management consultations, act as a catalyst and mobilize in productivity management; networking with peer organizations and initiate productivity improvement programme. Further, the NPC will establish and maintain an up-to-date database to provide productivity indicators for benchmarking, and wage compensation analysis.

Lastly, the Government in collaboration with private sector will develop and table a Bill in Parliament to transform and strengthen PCK to NPC and provide for the framework of productivity management in the country. This Act will facilitate the establishment and sustenance of a more effective institution for implementation, monitoring and overall coordination of all productivity improvement efforts in the country.

CHAPTER FOUR: REPORTING, MONITORING & EVALUATION

4.1 Rationale for Effective Policy Implementation and Coordination

Failures in the implementation of past policies and development programmes have largely been attributed to lack of an effective implementation framework and capacity gaps. The Government is committed to full and effective implementation of this Productivity Policy as it presents the surest way through which productivity improvement, competitiveness, employment creation and rapid economic growth can be addressed in a sustainable manner in the country. To achieve the outcomes set out in this Sessional Paper, it is important to have an effective implementation, monitoring and evaluation framework, to facilitate assessment of progress while at the same time allowing for learning from any implementation or pitfalls in strategy. This framework, therefore, envisages a mechanism that provides regular feedback between institutions and agencies entrusted with the implementation of the policies, strategies and programmes outlined in this document on one hand and the beneficiaries of such actions on the other.

The Government further recognizes that successful implementation of the strategies and activities identified in this blueprint will require involvement and active participation of virtually everybody and all entities in the society. Key among these are: the social partners, the private sector, civil society, Non-Governmental Organizations (NGOs), Community Based Organizations (CBOs), Faith Based Organizations (FBOs) and development partners.

Effective co-ordination is critical in the formulation and implementation of the policy. It is also a pre-requisite for enhanced monitoring and evaluation. It is recognized that productivity improvement is the responsibility of all individuals and entities within the

national economy and cut across all sectors and regions. However, to enhance coordination and harmonization of efforts, all productivity improvement initiatives will be coordinated within the framework of the proposed NPC. Effective coordination of actions and interventions is deemed necessary to exploit synergies, enhance policy harmonization, streamline the signals given by the respective actors and limit policy disjoint, duplication of efforts and wastage of scarce resources.

4.2 Monitoring and Evaluation

The Government underscores the importance of initiating an effective Monitoring and Evaluation (M&E) system for successful implementation of policies and programmes. Monitoring and evaluation of the productivity improvement strategies and interventions contained in this document will take place at three levels with clear definition of roles and expected outputs.

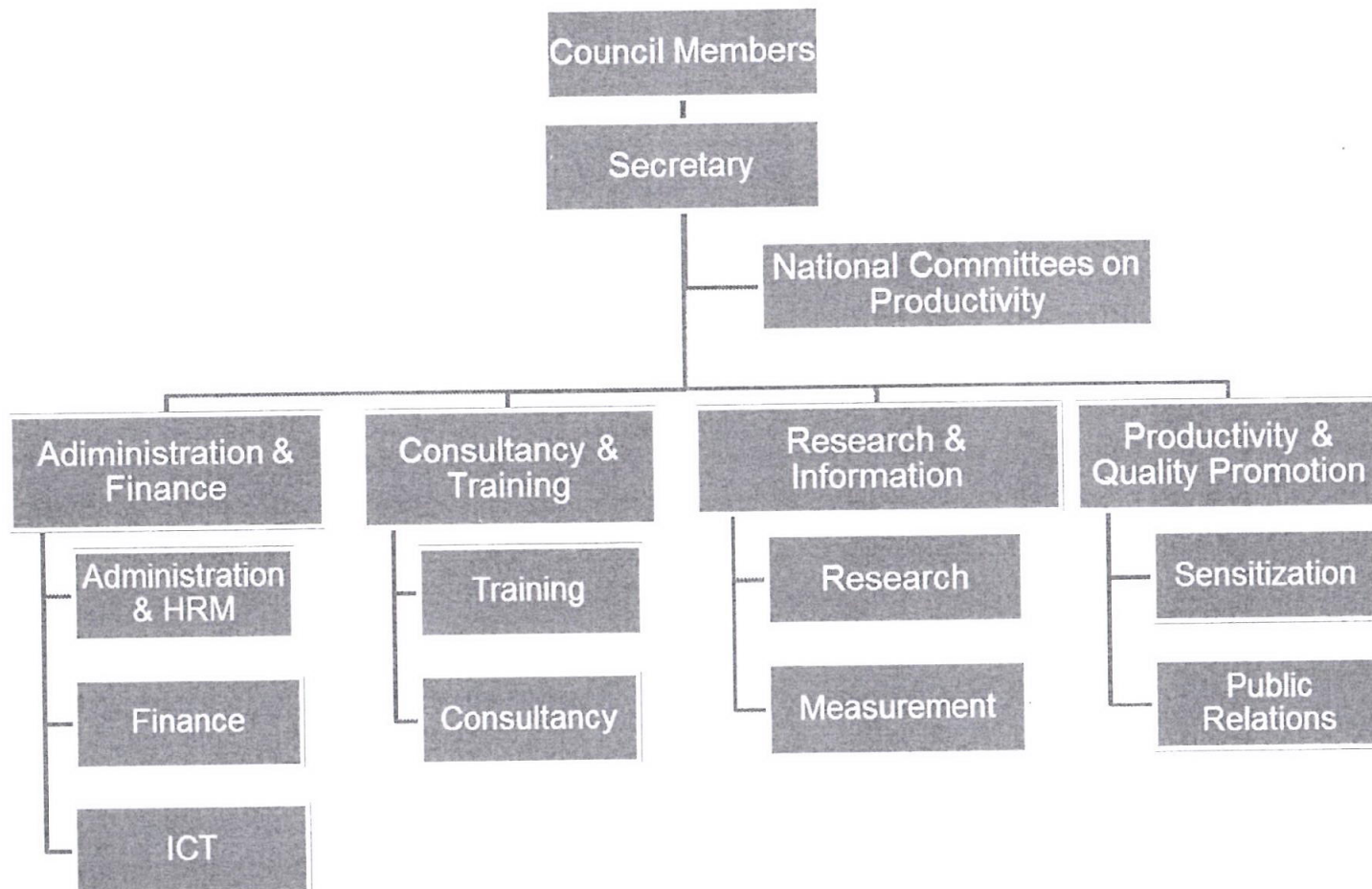
At the national level, NPC in collaboration with the Monitoring and Evaluation Directorate (M&ED) in the Ministry of Devolution and Planning will develop a comprehensive logical framework to guide the policy implementation process. The logical framework will spell out the broad policy objectives, strategic interventions and expected outputs in each of the identified productivity improvement initiatives. In addition, the logical framework will contain performance indicators, means of verification and the time frame for each of the identified strategic interventions.

NPC and M&ED will further develop M&E tools for each of the identified interventions and facilitate the development and institutionalization of an inbuilt M&E mechanism within the systems of other relevant stakeholders. NPC, M&ED, social partners, the private sector, civil society, and development partners will undertake joint monitoring and evaluation exercises. Progress Reports on implementation will be produced at this level and shared amongst all the stakeholders.

Capacity building will be undertaken at the national and sectoral levels to equip NPC, individual trade union organizations and employers with the relevant skills to collect and process timely and reliable data necessary for an effective M&E exercise. The M&E Reports from the regions will be shared at the national level with NPC and the social partners and other stakeholders to enhance feedback mechanism.

At the beneficiary or organization level, the individual productive enterprises will be the source of information required for the envisaged M&E system. They will be critical in identifying productivity improvement areas and suggesting appropriate mitigation measures.

Annex 1: Proposed Organizational Chart of NPC



Annex 2: Implementation Matrix

Objective	Output	Objectively Verifiable Indicators (OVI)	Outcomes/ impact	Actors	Time Frame
Pillar 1 Productivity Culture	Productivity awareness of Kenyans raised from 1% to 60% by 2030	Productivity awareness Baseline Survey Reports, productivity journals, pamphlets and posters	Productivity awareness index raised to 60%	OP, FKE, COTU, NPC, Private Sector Development Partners, Universities, Research Institutions	By 2030
	5S and Quality Work Environment adopted by institutions/enterprises in Public and Private Sector	5S certification	Work environment Improved	NPC, MOLSSS, NT, Universities, Research Institutions, Private Sector Service Providers	By 2014
	Integrate productivity concept in education curriculum	Training material for curriculum developed	Increased number of students who are conscious of productivity	MOE, NPC, training institutions	By 2016

Objective	Output	Objectively Verifiable Indicators (OVI)	Outcomes/ impact	Actors	Time Frame
Pillar 1 Productivity Culture	Productivity awards introduced	Number of institutions/enterprises participating in the awards	Integration and adoption of productivity practices improved	OP, MoICNG, FKE, COTU, KIM, KAM, Research Institutions, MSEs, MSEA, KEPSA, Private Sector Development Partners, Universities, Research Institutions	By 2016
	Productivity Month identified and Gazetted	Gazette notice National Productivity Champion	Productivity practices adopted	NPC, MODP, AG, NT, Universities, Research Institutions	By 2013
	Productivity improvement initiatives mainstreamed in all Ministries' action plans	MTPs, Strategic plans, performance contract,	Improved quality goods and services, cost effectiveness, faster delivery, productivity outreach widened	OP, MoICNG, VDS, NPC, all ministries and departments, Universities, Research Institutions	By 2013
Pillar 1 Productivity culture	Productivity measurement introduced in all sectors	Productivity indices statistics	Monitor growth of productivity; Proper planning of economy and; Improved industrial harmony	NPC, FKE, COTU, Public and Private Sector Development Partners, Universities, Research Institutions	By 2014

Objective	Output	Objectively Verifiable Indicators (OVI)	Outcomes/ impact	Actors	Time Frame
Pillar 2 Labour market development	Continuous provision of reliable productivity indicators for wage determination	Improved industrial harmony index; Number of institutions utilizing productivity indices for wage negotiation	Number of industrial disputes reduced	MOLSSS, NPC, FKE, COTU, KNBS, Private Sector Development, Partners, Universities, Research Institutions	By 2014
	Provision of productivity measurement guidelines and benchmarking	Handbook on productivity standards at sector/firm level	Productivity standards adopted and improved	NPC, Public Sector, FKE, COTU, Private Sector Development Partners, Universities, Research Institutions	By 2016
Pillar 2 Labour market development	Labour market institutions (National Labour Board, OHHS) strengthened	Number of workers and employers practicing LMC	Labour social dialogue improved	MOLSSS, NPC, FKE, COTU, Private Sector Development Partners, Universities, Research Institutions	By 2017

Objective	Output	Objectively Verifiable Indicators (OVI)	Outcomes/ impact	Actors	Time Frame
	Work environment, health and safety standards improved	Number of Organizations/Enterprises implementing employee involvement schemes (5S, QCC, ESS, WITs); Reduction in number of accidents reported	Improved employees morale; Improved health and safety of workers	MOLSSS, NPC, FKE, COTU, Private Sector Development Partners Universities, Research Institutions	By 2013
	Strict enforcement of Employment Act	Reduced casualization of permanent jobs	Improved worker productivity	MOLSSS	2012
Pillar 3 Technological change and innovation	Raising awareness for importance of undertaking Research and Development	No. of organizations undertaking Research and Development; Allocation for Research and Development increased from 0.3% to 1.5% of GDP	New innovative products, services, and production processes	ME, NT, NPC, Research institutions, Private sector, Development partners, Universities, Research Institutions	By 2013

Objective	Output	Objectively Verifiable Indicators (OVI)	Outcomes/ impact	Actors	Time Frame
	Technological uptake improved	Number of innovations suggested and implemented	Quality products and services; New products and work systems	MoE, FKE, COTU, NPC, Private Sector Development Partners, Universities, Research Institutions	By 2017
	Develop trainers and consultants on productivity improvement tools	Enterprise financial data	Improved firm productivity and profitability	MoE, FKE, COTU, NPC, Private Sector Dev. Partners, Universities, Research Institutions	By 2014
Pillar 3 Technological change and innovation	Majority of MSE are introduced to productivity improvement Programmes	Number of MSEs engaged in productivity improvement initiatives	Increased profitability; Reduced MSEs mortality	NPC, MSEs, NT, MODP, FKE, COTU(K), KIBT, Universities, Research Institutions	By 2020
Pillar 4 Institutional and legal arrangement	Draft National Productivity Policy (NPP) approved	Approved NPP; Cabinet Minutes	Framework for NPP presentation to Parliament established	MOLSSS, NT, OP, MoICNG and Universities, Research Institutions	By 2013

Objective	Output	Objectively Verifiable Indicators (OVI)	Outcomes/ impact	Actors	Time Frame
	National Productivity Council(NPC) established	Gazette Notice	Productivity management framework in place	MOLSSS, NT, OP, MoICNG, Universities, Research Institutions	By 2013
	Productivity Bill finalized	Productivity Act enacted	NPC anchored by act of Parliament; Institutional framework strengthened	MOLSSS, NT, OP, MoICNG, Parliament, AG, Private Sector, Universities, Research Institutions	By 2012
Pillar 4 Institutional and legal arrangement	National Productivity Policy anchored in MTP (2013-2017)	Inclusion of Productivity Policy in strategic plans of ministries their annual work plans	Productivity Policy interventions captured in all ministries' action plans	OP, MODP, NPC, All Ministries, VDS, Universities, Research Institutions	By 2013
	Create partnership with domestic and foreign institutions on productivity improvement	Number of collaboration activities	Faster and nationwide adoption of productivity tools; Knowledge on best practices enhanced	NPC, Productivity related institutions (domestic and foreign)	2012

Objective	Output	Objectively Verifiable Indicators (OVI)	Outcomes/ impact	Actors	Time Frame
Monitoring and Evaluation framework	Monitoring and Evaluation framework developed	Monitoring and Evaluation reports	Effective monitoring and evaluation	NPC, M&ED, MOLSSS, NT, Universities, Research Institutions	By 2014

Annex 3: Comparison of National Productivity Organizations

NPO	Initial status	Current status
JPC-SED Japan	<ul style="list-style-type: none"> Started in 1955 as an academia, labour, business and Private Company through cabinet decision. However, the Government fully funded it for the 1st 20 years but on a reducing scale. It also raised funds through consultancies, training programmes etc 	<ul style="list-style-type: none"> Became an international non -profit making NGO in 1994 after JPC merged with Japan Socio economic congress (a Government body). Managed through a Board.
Philippines	<ul style="list-style-type: none"> Created in 1960 and mandated with productivity management. It's a Private Company with a tripartite Board comprised of Industry, Labour and Academia. 	<ul style="list-style-type: none"> In 1996 Productivity became national agenda. Government created a Philippine Council for Advocacy and promotion of productivity. Created through Executive Order No.395 President appoints Chairperson.

NPO	Initial status	Current status
		<ul style="list-style-type: none"> • DAP still supported by the Council but is independent and undertakes fund raising through consultancies.
Malaysia National Productivity Corporation	<ul style="list-style-type: none"> • A Productivity Council established in 1966 through Act of Parliament as Government Council. • Council of 20 has membership of 8 from Government and 5 from Government Institutions and the rest (7) from employers and workers organizations' who are appointed by Minister for International Trade and Industrial Development. 	<ul style="list-style-type: none"> • Changed into a Corporation through amendment of the 1966 Act. The composition of council members remains.
Mauritius	<ul style="list-style-type: none"> • Government Corporation established in 1999 through Act of Parliament. • Fully funded by Government. • Chairperson of Board appointed by Head of State. • Chief Executive and Board Members appointed by Minister in charge for productivity. • Has a tripartite Board. 	<ul style="list-style-type: none"> • Still Government Institute and fully Government funded. • The Corporation at management (Board) level is tripartite.
Botswana (BNPC)	<ul style="list-style-type: none"> • A Government parastatal started through Act of Parliament. • Fully funded by Government through grants and also raises funds through consultancy, training and other fees and donation. • CEO appointed by President. • Chairman and members appointed by Minister. 	<ul style="list-style-type: none"> • Same status
NPI – South	<ul style="list-style-type: none"> • A Limited Company under Section 21. 	<ul style="list-style-type: none"> • Still Company but re-thinking its status due

NPO	Initial status	Current status
Africa	<ul style="list-style-type: none"> • Board is tripartite. • Government funds certain development projects. • Managed through a Board (stakeholders & social partners) and has a Council comprised of the three partners at a higher level. 	to its inability to have a wide outreach.

Annex 4: Management, Funding and Operations of Productivity Organizations

NPO /Issue	JPCSED JAPAN	NPI South Africa	BNPC Botswana	NPCC Mauritius	DAP Philippines	NPC Malaysia
Management	-Tripartite initially -Currently under BOD comprising business, labour, academics. -Bi-party	-Advisory Council -BOD -comprising Govt, business and labour -Tripartite	-BOD comprising Govt, Business &labour -Tripartite	-BOD comprising labour , govt and business -Tripartite	-BOD comprising Govt, business & labour -Bi-party	-BOD comprising Govt, Management &labour -Tripartite
Funding	-Initially funded by government for 20 years, later through consultancy. -Currently self sustaining -Ksh. 2.7b	-Highly government funded and conduct consultancy -Ksh. 1.3 billion	-Fully funded by the government -Ksh. 670M	-Grants from the government & consultancies -Ksh. 334M	-Initially government -Currently self sustaining -Ksh. 560M	-Highly government funded & consultancies - ksh.1billion for operation -ksh.756M for development
Structure and	-Well established with	Well established with departments	Well established with departments	Well established with departments	Well established namely:	

Operations	departments	namely: -Strategic projects, -Job creation & retention, -Capacity building for 5 months, -Research advisory -Productive behaviour and competence	namely: -Public sector, -Corporate service, -Enterprise support, -Information and research, -Productivity and quality		-Productivity and quality -Centre for quality and competitiveness -Agricultural productivity -Centre for Knowledge management -Centre for governance	
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Annex 5: Stakeholders involved

- 1 Ministry of Agriculture, Livestock and Fisheries
- 2 Ministry of Industry and Enterprise Development
- 3 Ministry of Commerce and Tourism
- 4 National Treasury
- 5 Ministry of Interior and Coordination of National Government
- 6 Ministry of Devolution and Planning
- 7 Federation of Kenya Employees (FKE)
- 8 Central Organization of Trade Unions (COTU(K))
- 9 Academia
- 10 Kenya Institute of Public Policy and Research Association (KIPPRA)
- 11 National Economic and Social Council (NESC)
- 12 Vision Delivery Secretariat

“appeal” means an application seeking for a reversal of a decision or action that has been taken against a member of the National Police Service;

“authorized officer” means the Inspector General or an officer, not below the rank of inspector of police, who may initiate disciplinary action against another officer;

“appropriate disciplinary board” means the National Police Service Disciplinary Board to deal with disciplinary issues relating to officers of the rank of Assistant Superintendent and above, and the Subordinate disciplinary board to deal with disciplinary issues relating to officers of the rank of Chief Inspector and below.

“disciplinary action” means imposition of any punishment against a police officer on account of misconduct;

“disciplinary proceedings” means proceedings under Part IX of the National Police Service Act;

“dismissal” means an order to a member of the Service to leave the Service on disciplinary grounds and resulting in the loss of the right to a pension or any benefit;

“interdiction” means an administrative measure where an officer is ordered to discontinue his or her duties for a period of time and which may result in disciplinary action;

“investigation” means an inquiry into a complaint or report with a view to determine or disclose if an offence against discipline has occurred.

“misconduct” means any action, or failure or refusal to act, which although it may not necessarily constitute a contravention of law, does not meet—

- (a) the requirements or norms of policing contained in any regulation or official document, charter, standing orders or policy providing for standards of discipline, behaviour or ethics, rules of engagement, rules on the use or abuse of power or rules and regulations on the use of equipment, applicable to members of the Service;
- (b) the values and norms applicable to policing in a democratic society and in particular those laid down in Articles 10, 232 and 244, of the Constitution and any law relating to ethics and leadership; or
- (c) applicable norms and standards provided for in international instruments applicable to Kenya;

“reinstatement” means a person is taken back in the Service on his or her former position, after having been interdicted or suspended;

“removal” means cessation from being employed by the National Police Service with or without a disciplinary process, with or without loss of pension benefits and it includes resignation, dismissal and retirement;

“resignation” means that the member of the Service voluntarily leaves from the Service in accordance with section 76 of the National Police Service Act;

“suspension” means the disciplinary action where an officer is required to discontinue performing his or her usual role for a period of time.

“review” means an application lodged with the National Police Service Commission, seeking for a reconsideration of a decision or action that has been taken against a member of the National Police Service;

PART II—DISCIPLINE

Disciplinary control by the Commission.

3. (1) The Commission exercises disciplinary control over the Service.

(2) In these Regulations ‘disciplinary control’ includes—

- (a) the development and prescription of fair and clear disciplinary procedures and mechanisms in accordance with Article 47 of the Constitution;
- (b) ensuring compliance with the prescribed disciplinary procedures and guidelines by the Inspector-General;
- (c) ensure compliance with the due process in disciplining members of the Service;
- (d) receiving of regular reports from the Inspector-General on disciplinary matters handled by the National Police Service;
- (e) review or ratification of disciplinary actions taken by the Inspector-General; and
- (f) hearing and determining appeals from the members of the Service.
- (g) Observing due process, removing persons holding or acting in offices within the Service

(3) The Commission shall establish procedures applicable in the conduct of disciplinary proceedings and shall ensure compliance with such procedures.

(4) Every disciplinary process shall observe due process as provided under Article 47 and Article 246 (3) (b) of the Constitution.

General principles.

4. (1) The objective of discipline is to ensure that every officer follows lawful orders of their superiors and adhere to the Constitution, laws, principles and professional standards and values of the Police Service, Regulations, Standing Orders and the officer held accountable where the officer fails to do so.

(2) Discipline of any officer shall comply with Part X of the National Police Service Act.

(3) Disciplinary proceedings are aimed at shielding the National Police Service from interference outside the command structure and maintain discipline in the Service while at the same time ensuring officers are held accountable for offences against discipline.

(4) Disciplinary proceedings shall observe due process and ensure that administrative action taken is expeditious, efficient, lawful, reasonable, procedurally fair and that uniform procedures are adopted in the treatment of offences against discipline.

(5) Disciplinary proceedings shall be carried out within the rules of natural justice and fair administrative action.

(6) Disciplinary action taken for any offences against discipline committed by any officer shall take into consideration that any disciplinary action taken is commensurate with the offence committed.

Disciplinary proceedings

5. (1) The Inspector-General may initiate disciplinary proceedings directly or through an authorized officer, or through the appropriate Disciplinary Boards, as stipulated in these regulations, against any member of the Service and shall do so in accordance with these regulations and guidelines issued by the Commission and in accordance with the Service Standing Orders.

(2) Where a complaints or reports against a police officer disclose offences against discipline, appropriate disciplinary action may be taken by the Inspector General or the authorized officer in accordance with due process.

(3) Where disciplinary proceedings are initiated by the Inspector General or by an authorized officer, such initiation shall be notified to the Commission for record and monitoring purposes.

(4) A police officer who commits an offence against discipline is liable to:

- (a) reprimand;
- (b) suspension;
- (c) confinement to barracks or police residential quarters;
- (d) reduction of salary by not more than one third of the basic salary for a period not exceeding three months;
- (e) a fine not exceeding a third of basic salary.
- (f) an order of restitution;
- (g) stoppage of salary increments for a period of time, but not exceeding one year;
- (h) reduction in rank;
- (i) dismissal from the Service;
- (j) any combination of the punishments provided under this section;

(5) The sanctions under sub-regulation (3) (f), (g), (h), (i) and (j) shall only take effect after approval and confirmation by the Commission.

(6) In the awarding of disciplinary actions for offences against discipline stipulated in the National Police Service

Act and the Service Standing Orders, the scale of punishment to be awarded, shall take into account the following:-

- (a).the circumstances in which the offence was committed and the gravity thereof,
- (b).the seniority and length of service of the offender,
- (c).the previous record and conduct of the offender,
- (d).Statement in mitigation.

(7) The presiding officer on the subordinate disciplinary board shall enter a record of such punishment, the date of the punishment and the offence for which it was inflicted, on the record sheet of the police officer punished, a copy of which shall be forwarded to the Commission for review and confirmation where applicable.

(8) In furtherance of section 88 (4) of the National Police Service Act, the Commission may take disciplinary action and conduct disciplinary proceedings in accordance with these regulations, for offences against discipline, against a police officer who is charged of a criminal offence regardless of whether the criminal proceedings lead to a conviction or acquittal.

(9) Where an officer commits a criminal offence, the Inspector General or authorized officer shall interdict the officer as per the provisions of these regulations and the Service Standing Orders and shall immediately inform the Commission of such interdiction.

Retirement on grounds of public interest

6. (1) If the Inspector General after having considered every report in its possession made with regard to an officer, is of the opinion that it is desirable, in the public interest, that the service of the officer be terminated on grounds which cannot suitably be dealt with under any provision in these Regulations or the Service Standing Orders, the Inspector General shall notify the officer in writing specifying the complaints by reason of which the officer's retirement i

the public interest is being contemplated, together with the substance of any report or part thereof that is detrimental to the officer.

(2) If after giving the officer an opportunity to show cause why the officer should not be retired in the public interest the Inspector General is satisfied that the officer should be required to retire in the public interest, the Inspector General shall forward to the Commission the report on the case, the officer's reply, the Deputy Inspector General's or Director of the Directorate of Criminal Investigation's comments, where applicable and the Inspector General's comments and the Commission shall determine whether the officer should be required to retire in the public interest.

Review and confirmation
and by the Commission.

7. (1) Any disciplinary action taken by the Inspector -General or other authorized officer shall be subject to review and confirmation by the Commission in accordance to these regulations.

(2) If upon reviewing a disciplinary action taken by the Inspector General or an authorized officer, the Commission finds that disciplinary measures taken are not commensurate with the disciplinary offence, the Commission shall make recommendations to the Inspector General on the required corrective action to be taken.

(3) Manifestly unjust, unfair or oppressive disciplinary proceedings or that which amount to an abuse of the disciplinary process may lead to disciplinary proceedings against the authorized officer responsible.

(4) The Commission may cause further investigations where necessary in a bid to confirm that the disciplinary action meted on an officer was commensurate to the offence committed..

(5) The Commission in reviewing a disciplinary measure taken against an officer shall be at liberty to review the process and

outcome of an investigation and the recommended punishment.

(6) An officer under investigation, depending on the nature of the case, may be interdicted during the pendency of the investigation and may be liable to imposition of disciplinary action, if any, or pending the conclusion of a criminal matter.

(7) An interdiction of an officer shall not be taken to mean removal from office.

(8) An interdicted officer shall continue to be subject to all laws, regulations, standing orders and guidelines that are obtaining in the Service.

(9) While a police officer is interdicted from duty, the police officer's powers, privileges and benefits as a police officer shall be restricted, but the officer shall continue to be subject to the same discipline and penalties, and to the same authority, as if the officer had not been interdicted or suspended.

(10) An officer who has been interdicted from duty will be entitled to half salary as well as to remain in the accommodation as provided to the officer.

(11) Notwithstanding sub-regulation 10, during an officer's interdiction or suspension as the case may be, the officer may be required to proceed to his home area and to report to the local police station or post as prescribed in the Service Standing Orders.

- Complaints against police
- 8.** (1) The disciplinary process may commence upon occurrence of incidents that include any of the following:
- (a) a complaint from a member of the public;
 - (b) a complaint from a member of the Police Service;

- (c) a complaint from a state organ
- (d) an anonymous witness statement or other statement made for another investigation not necessarily commenced for purposes of Police Service matters;

(2) Where any of the incidents listed in subsection (1) occur, such complaint will be promptly investigated by the most senior officer available directly or through an authorized officer as prescribed in the Service Standing Orders.

(3) In exceptional circumstances, where the offence against discipline is clearly manifest as to render investigations unnecessary, the officer in charge may immediately issue a notification to the appropriate disciplinary board to conduct the disciplinary proceedings.

(4) During the investigation, statements may be collected from the complainant, any witnesses available if any and from the officer accused in the complaint..

(5) Where the complaints or reports and investigation thereof disclose offences against discipline, the investigations report along with a notification shall be forwarded to the appropriate disciplinary board to commence disciplinary proceedings.

(6) The appropriate disciplinary board will upon conclusion of the disciplinary proceedings make a recommendation to the Inspector General or authorized officer on the disciplinary action to be taken.

(6) Upon conclusion of the disciplinary proceedings and receipt of the recommendations of the appropriate disciplinary board, action may be taken by the Inspector General or the authorized officer in accordance with due process and the Service Standing Orders.

(7) Investigations into complaints against police shall be notified to the Internal Affairs Unit upon commencement of the

investigations.

(8) Where investigations under this section disclose offences against discipline, the officer in charge shall be required to inform the Internal Affairs Unit of the notification issued to the appropriate disciplinary board to conduct proceedings to enable a record of the same to be maintained.

(9) Where an officer accused in a complaint admits to an offence against discipline, appropriate disciplinary proceedings shall be taken by the appropriate disciplinary board.

(10) An authorized officer may, subject to these Regulations and any other applicable procedure, take corrective action immediately against an officer who is manifestly culpable of a disciplinary offence pending the disciplinary proceedings before the appropriate disciplinary board in accordance with these regulations and the Service Standing Orders.

Cooperation with other agencies

9. (1) Officers in charge and seniority shall be required to cooperate with the Internal Affairs Unit, the Independent Policing Oversight Authority and other investigative agencies during the course of any disciplinary process.

(2) Authorized officers conducting investigations into complaints against police shall be required to conduct the investigations expeditiously and to issue monthly reports on the findings of investigations to the Internal Affairs Unit for their record and other purposes in line with their mandates.

(3) The Internal Affairs Unit shall be required to submit quarterly reports to the Commission through the Inspector General of all complaints and outcomes of investigations conducted by the Unit and reported from various field reports.

10. (1) An officer found guilty of a disciplinary offence shall

Disciplinary action be subject to punishments as provided in regulation 5 (3) of these regulations.

(2) Where the disciplinary proceedings lead to the following disciplinary sanctions:

- (a) an order of restitution;
- (b) stoppage of salary increments for a period of time, but not exceeding one year;
- (c) reduction in rank;
- (d) dismissal from the Service;
- (e) any combination of the punishments provided under this section;

the sanctions shall only take effect after approval and confirmation by the Commission in accordance with these regulations and the Service Standing Orders.

Commencement of disciplinary proceedings

- 11.** (1) Disciplinary proceedings before the Disciplinary Boards against an officer would be initiated upon:—
- (a) Notification from the officer's immediate supervisor
 - (b) recommendation from the Internal Affairs Unit of the National Police Service
 - (c) recommendation from Independent Policing Oversight Authority
 - (d) adverse mention in a report of a parliamentary committee, committee of inquiry, the Auditor General, the Directorate of Criminal Investigations, the Directorate of Public Prosecutions, the Ethics and Anti-Corruption Commission, the Commission on Administrative Justice, or any other official inquiry or investigation; or
 - (e) where an officer is caught in the act committing an offense against discipline;
 - (f) any other similar ground.

Establishment and composition of the National Police Service Disciplinary Board

- 12.** (1) Pursuant to section 95A of the National Police Service Act, there is established the National Police Service Disciplinary Board.
- (2) Where a hearing is for purposes of the discipline of an officer of the rank of Assistant Superintendent and above, the Disciplinary Board shall be convened to inquire into and hear the disciplinary proceedings.
- (3) The Disciplinary Board shall consist of-
- (a) A person qualified to be appointed as a Judge of the High Court, who shall be the presiding officer, appointed by the Commission;
 - (b) Five other members appointed by commission as follows-

(i) two members representing the Kenya Police Service of ranks not below the rank of Assistant Inspector General;

(ii) two members representing the Administration Police Service of ranks not below the rank of Assistant Inspector General;

(iii) one member representing the Directorate of Criminal investigations of a rank not below Assistant Inspector General

(4) In the event that the officer accused of committing an offence against discipline is of a rank higher than the ranks of the officers appointed to the Board, the Commission shall appoint the members to conduct the hearing of the officer in question taking seniority into account.

(5) There shall be an officer authorized to present the circumstances and evidence of the offence against discipline regarding the accused officer before the Disciplinary Board.

(6) The officer accused of an offence against discipline appearing before the Board may be represented by a police officer, who shall not be of a rank higher than the accused officer's rank, to conduct his defence.

(7) Notwithstanding sub-regulation (6) the Board may require the officer to make submissions in person during the hearings.

(8) The disciplinary board may decline the officer selected by the accused officer giving reasons for the refusal and accord the accused officer an opportunity to select a different officer.

Members and term of the
Disciplinary Board

13. (1) The chairperson and the members of the disciplinary board, shall serve on a part-time basis and convene when relevant disciplinary matters require their attention.

(2) A member appointed into the disciplinary board under regulation 12 shall serve on the Board for a renewable term of two years.

- (3) The membership of the Board shall ensure that as far as is practicable no more than two thirds of the membership shall be of the same gender.

Functions of the
Disciplinary Board

14. The Functions of the Disciplinary Board shall be to conduct the following, in accordance with these regulations:

- (1) Inquire into matters related to discipline for officers of the rank of or above Assistant Superintendent;
- (2) In conducting an inquiry under subsection (1), the Board may engage the services of any person or institution with expert knowledge in the matter to which the inquiry relates.
- (3) Undertake disciplinary proceedings in accordance with these regulations;
- (4) Determine and make recommendations to the Commission, including recommendations for dismissal from the Service.
- (5) A police officer aggrieved by the Disciplinary Board's proceedings and recommendations may appeal to the Commission in accordance with these regulations and the Service Standing Orders.
- (6) An officer aggrieved by the Commission's decision following the recommendations of the Disciplinary Board may apply to the Commission for a review in accordance with these regulations.

Subordinate Disciplinary
Boards

15. (1) Where a hearing is for purposes of the discipline of an officer of the rank of Chief Inspector and below, a Subordinate Disciplinary Board shall be constituted to inquire into and hear the disciplinary proceedings.

- (3) The Subordinate Disciplinary Board shall be composed of—

- (a) a presiding officer, being an officer who is appointed as a presiding officer, and shall be of a rank not below the rank of Inspector and not of or below the rank of the accused officer;
 - (b) an assistant presiding officer appointed by the immediate overall Service commanding officer, as prescribed in the Service Standing Orders;
 - (c) an officer appointed by the immediate overall Service commanding officer to observe the proceedings, who shall not be of a rank lower than the accused officer.
- (4) During the hearings of the Subordinate Board, there shall be:
- (a) an officer prosecuting the offence being an officer authorized to inquire into offences against discipline and shall be of a rank higher than the accused officer but not of a rank higher than the presiding officer;
 - (b) the officer conducting the defence of the accused officer being an officer who shall not be of a rank higher than the presiding officer;
- (5) The accused officer may be accompanied by another officer of his choice for assistance and support provided such an officer is not of a senior rank to the presiding officer;
- (6) A police officer aggrieved by the Subordinate Disciplinary Board's decision may appeal first at the County or Formation or Unit, then to the respective Deputy Inspector General or Directorate of Criminal Investigations, then to the Inspector General in accordance with these regulations and the Service Standing Orders.
- (7) A further appeal shall lie with the Commission in accordance with these regulations and the Service Standing Orders.

Conduct of Disciplinary proceedings and hearings

16. (1) Disciplinary proceedings shall be conducted in accordance with these Regulations and the Service Standing Orders and any guidelines issued by the Commission from time to time.
- (2) Where an offence against discipline is committed by an officer, the officer's supervisor may take immediate corrective action where necessary, pending the commencement of disciplinary process.
- (3) In all disciplinary proceedings, the accused officer shall be notified of the offence accused of having committed and shall be accorded an opportunity of at least 14 calendar days within which to show cause why disciplinary action should not be taken against the officer.
- (4) Where a disciplinary hearing is scheduled, an officer accused of a disciplinary offence shall be given at least 7 calendar days notice before the date of the hearing.
- (5) In exceptional circumstances, the notice under sub-regulation (4) may be waived and the hearing held in accordance with the Service Standing Orders.
- (6) Where sub-regulation (5) is invoked, the presiding officer shall be required to make written record of the reason for such waiver.
- (7) Where an officer fails to attend a disciplinary hearing despite evidence of notification of the date, venue and time of the hearing:
 - a) The disciplinary hearing may proceed in the absence of the accused officer.
 - b) The absent officer shall be required to give written reasons for his or her absence from the proceedings.
 - c) The appropriate disciplinary board may upon conclusion of the hearing issue a determination of

the disciplinary action to be taken. Such determination shall be put on record and taken immediately.

- (8) Where applicable or relevant, the officer who is the subject of the hearing may call witnesses or other evidence on his or her behalf, at the officer's own cost.
- (9) The disciplinary hearings before the Boards shall be conducted expeditiously and without undue delay or technicalities and any delay in the disposal of the proceedings beyond twenty eight days shall be reported to the Commission together with the reasons for such delay.
- (10) The recommendations of the Disciplinary Board shall be forwarded to the Commission for confirmation and approval. The Commission will then communicate the disciplinary action to be taken on the officer through the Inspector General.
- (11) The recommendations of the Subordinate Disciplinary Board shall be forwarded to the Inspector General or authorized officer as prescribed in the Service Standing Orders, for confirmation and approval. The Inspector General or authorized officer will then communicate or implement, where applicable the disciplinary action to be taken on the officer through the Inspector General, taking into consideration regulation 10 of these regulations.

Action by Commission on review.

17. (1) The Commission shall ascertain whether the correct procedures as prescribed in these regulations, the Service Standing Orders and Guidelines have been followed and whether correct disciplinary measures have been taken.

(2) Where the Commission reviews a disciplinary case, it may take any of the following actions—

- (a) uphold the decision;
- (b) set aside the decision;
- (c) vary the decision as it considers to be just;
- (d) make such directions as it may considers appropriate, with respect to the decision;
- (e) make any decision for refund, reinstatement of remuneration or release of withheld payment due to an officer as it considers to be just;
- (f) direct that disciplinary action be taken against any authorizing officer or other person within the Service who has failed to discharge a duty he or she that was under obligation to discharge in relation to the disciplinary case; or
- (g) make any other appropriate decision in view of the circumstances of the case.

Record of disciplinary cases generally.

18. (1) The Commission shall keep records, and include in its annual report, the number of members of the police service who were subjected to the disciplinary process, the type of offences and the disciplinary action taken,

(2) The record referred to in subsection (1), shall include—

- (a) the outcome of all reviews and appeals of cases by the Commission and the Service;
- (b) information about misconduct which the officer is accused of;
- (c) the punishment imposed;

- (3) The Inspector General shall be required to submit monthly reports to the Commission of all disciplinary proceedings and action taken against officers accused of offences against discipline, for purposes of maintaining this records and conducting any further action as may be required.

Power of review by the Commission of its decisions.

19. (1) Where disciplinary hearing has been conducted before the Commission itself, the person aggrieved by the decision of the Commission may apply to the Commission to review that decision.

(2) Where the Commission has confirmed or determined action to be taken on an officer following recommendations of the disciplinary board. An officer aggrieved by the decision of the Commission may apply to the Commission to review that decision.

(3) An application for review shall be in writing and be made within thirty days, of the disputed decision.

(4) An application for review to the Commission shall be required to be confined to any of the following grounds:

(a) an error on the face of the record.

(b) a new and important matter that was not considered by the Commission's disciplinary panel in conduct of the officer's proceedings.

(5) The Commission, where applicable may deal with a review by way of written submissions between the officer and the Commission or through oral hearing or both.

(6) Where the application for review is to the Commission and the matter is to be handled through a hearing;

(a) the Commission shall establish a panel to hear the case;

(b) the composition shall depend on the gravity of the case and the rank of the officer involved and shall be comprised of members including:

(i) a Commissioner to chair the panel;

(ii) an officer from the same Service as the officer applying for review, designated by the Inspector General in consultation with the respective Deputy Inspector General or Director of the Directorate of

Criminal Investigations;

(iii) one human resource officer from the Service of the concerned officer;

(iv) any other officer(s) who possesses the knowledge and skills that are found necessary for the functions of the Panel.

(c) The panel shall consider the review application within 21 days and make recommendations to the Commission for the Commission's consideration and final decision.

(d) The decision and reasons for the decision shall be submitted to the officer by the Commission, through the Inspector General within 14 days of the receipt of the panel's recommendations.

Appeals

20. (1) Where a disciplinary hearing has been conducted by the Disciplinary Board, the officer aggrieved by the decision of the Disciplinary Board may appeal to the Commission.

(2) Where a disciplinary hearing has been conducted by the Subordinate Disciplinary Board, the officer aggrieved by the decision of the Board may appeal to the designated appellate authority as prescribed in the Service Standing Orders.

(3) Where an officer is aggrieved by the decision from the designated appellate structures prescribed in the Service Standing Orders, the officer shall have an opportunity to appeal with the Commission.

(4) An appeal to the Commission shall be required to be confined to any of the following grounds:

(a) an error on the face of the record.

(b) a new and important matter that was not considered by the disciplinary boards in conduct of the officer's proceedings.

Status of the officer
during Review and
Appeals

21. A request for review or an appeal of the decision or sentence awarded against an officer shall act as a stay of the decision of the Disciplinary Boards or of the Commission, where applicable, but the officer in question may be required to proceed on leave for the duration on the review or appeal.

Appeal procedures

22. (1) An appeal to the Commission or to the designated appellate authority within the Service, as the case may be, shall be in writing and be made within fourteen days, of the decision appealed against.

(2) An officer appealing within the Service designated appeal authorities shall submit a copy of the appeal to the Inspector General and to the respective Deputy Inspector General of the officer's Service and to the Commission for record and monitoring purposes.

(3) The designated appellate body as per the Service Standing Orders or the Commission, as the case may be, may accept an appeal out of time when there is good reason to do so or in the interest of justice, and the reasons have clearly been provided by the officer in writing.

(4) The designated appellate body as per the Service Standing Orders or the Commission, as the case may be, may deal with an appeal by way of written submission by the parties or through oral hearing or both.

(5) Where the appeal is to the Commission and the matter is to be handled through a hearing;

(a) the Commission shall establish a panel to hear the case.

(b) the composition shall depend on the gravity of the case and the rank of the person involved and shall be comprised of:

(i) a Commissioner to chair the panel

(ii) an officer from the same Service as the officer appealing, designated by the Inspector General in consultation with the respective Deputy Inspector General or Director of the Directorate of Criminal Investigations

(iii) one human resource officer from the Service of the concerned officer.

(iv) any other officer(s) who possesses the knowledge and skills are found necessary for the functions of the Panel.

(c) The panel shall consider the matter within 21 days and make recommendations to the Commission for the Commission's consideration and final decision.

(d) The decision and reasons for the decision shall be submitted to the officer by the Commission, through the Inspector General within 14 days of the receipt of the panel's recommendations.

Decision of the Review or
Appeal panels

- 23.** (1) The Review or Appeal panels, as the case may be, shall deliver its decision within seven days of the conclusion of the hearing and may, in respect of a decision appealed against recommend the Commission or the Inspector General, where applicable, —
- (a) uphold the decision;
 - (b) set aside the decision;
 - (c) vary the decision as it considers to be just;
 - (d) make such directions as it may considers appropriate, with respect to the decision;
 - (e) make any decision for refund, reinstatement of remuneration or release of withheld payment due to an officer as it considers to be just;
 - (f) direct that disciplinary action be taken against any authorizing officer or other person within the Service who has failed to discharge a duty he or she that was under obligation to discharge in relation to the disciplinary case; or
 - (g) make any other appropriate decision in view of the circumstances of the case.
- 24.** While carrying out the actions prescribed in these regulations, the Commission in the performance of its functions shall:
- (a) inform itself in such a manner as it thinks fit
 - (b) receive written or oral statements
 - (c) not be bound by strict rules of evidence
 - (d) cooperate with other State agencies, departments or Commissions on any matter that the Commission considers necessary.
- 25.** The Commission shall issue guidelines for the better carrying out of disciplinary processes and proceedings.
- 26.** The Commission may revise these regulations from time to time

Dated 2014

*Johnston Kavuludi,
Chairperson, National Police Service Commission*

Issues in the guidelines to be issued by the Commission will include:

- *Rules of procedure of the Disciplinary Board*
- *schedule of penalties*
- *prescribed forms/formats for reprimand, suspension*
- *format and application of interdiction*
- *format and application of suspension*
- *format and application of removal and dismissal*
- *format of record keeping and submission*

THE NATIONAL POLICE SERVICE COMMISSION ACT, 2011

(No. 30 of 2011)

LEGAL NOTICE NO.:

In Exercise of Powers conferred by section 28 of the National Police Service Commission Act, 2011, the National Police Service Commission makes the following Regulations—

NATIONAL POLICE SERVICE COMMISSION (TRANSFER AND DEPLOYMENT) REGULATIONS, 2015

PART I—PRELIMINARY

Citation. **1.** These Regulations may be cited as the National Police Service Commission (Transfers and Deployments) Regulations 2015.

Definitions. **2.** In these Regulations, unless the context otherwise requires—

“assignment” means the allocation of specific duties to an officer;

“deployment” means a temporary movement, being not for more than three months, of an officer from one station to another for a specific assignment and in which, administratively, the person remains with the original station and pay point;

“posting” where an officer is allocated as his or her duty station;

“secondment” means temporary deployment of an officer outside the National Police Service with or without more responsibilities,

“transfer” means a permanent relocation of an officer to a new duty station and the officer from then onwards falls administratively under the new posting, and its respective pay point;

V. 10

Transfers:
General

PART II—TRANSFERS

3. (1) Transfers of officers is a measure to ensure appropriate distribution of police officers, in order for the Service to effectively carry out its mandate.

- (2) Transfers may be occasioned by—
 - (a) a promotion;
 - (b) vacancies;
 - (c) restructuring or re-organization;
 - (d) the need to enhance efficiency and effectiveness of the Service.
 - (e) enhance exposure and career development
- (3) A transfer shall not be used as a disciplinary sanction or as a reward measure.

Authority to transfer.

4. (1) The authority to determine transfers belongs to the Commission, as provided for in Article 246 (3) of the Constitution.
- (2) All transfers of any officer shall be determined by the Commission upon the recommendation, from the Inspector General with the advice of the Service Board.
- (3) The Inspector General shall be responsible to determine the distribution of officers in the Service and recommend to the Commission to authorize transfers from time to time as may be desired to reach the required distribution of officers throughout the Republic.
- (4) The recommendations from the Inspector General to the Commission for the transfer of officers shall be in writing.
- (5) When considering a recommendation for transfer of an officer from the Inspector General, the Commission shall take into consideration factors including—
 - (a) the justification given for the transfer;
 - (b) the proposed transfer does not disrupt police work;
 - (c) confirmation that funds are available to pay the officer(s) transfer allowance;
 - (d) due regard is given to Articles 10 and 232 (1) (h) and (i) of the Constitution.
- (6) Transfers within the county for officer in the rank of Superintendent and below may be done by the Inspector General through an authorized officer,
- (7) Any transfers conducted under sub-regulation (6) above shall within 30 days of the transfer be notified to the Commission for appropriate action.

Inter-Service Transfer

5. (1) A Gazetted officer may apply to the Commission through the officer's Service channels to the Commission for an Inter-Service transfer.

(2) Applications for inter-service transfer shall be determined by the Commission on the recommendation of the Service Board.

(3) An application for an inter-service transfer shall be in writing and contain the officer's reasons for desiring a transfer and the officer's qualifications for the position to be undertaken.

(4) An officer's application for inter-service transfer shall be forwarded by the respective Deputy Inspector General, through the Inspector General to the Commission together with a statement disclosing:

- a) the applicant's performance of his/her duties in the last three years;
- b) an evaluation as to whether the applicant is considered to be well qualified for the post desired;
- c) the recommendations of the Deputy Inspector General as to the grant or refusal of the application.

(5) An applicant may be considered for inter-service transfer:

- a) If the officer's qualifications, experience and career progression are in accordance with the rank and position the officer is seeking;
- b) If there exists a vacancy in the receiving service;
- c) Provided the contemplated transfer would not jeopardize the promotion prospects of serving officers in the receiving service;

(6) Inter-service transfers of officers of the ranks below the rank of Inspector of Police may be arranged at the mutual discretion and concurrence of their respective Deputy Inspector General or the Director of the Directorate of Criminal Investigations and recommended to the Commission in writing through the Inspector General for determination.

Conditions for transfers

6. (1) An officer entering the Service shall be deemed to have understood that he or she shall be required, and to have accepted, to work in any place in the Republic and transfers shall be read into the terms and conditions of employment in the Service.

(2) Transfers shall be need based and shall be carried out in such manner as not to disrupt police operations.

(3) To be considered for transfer, an officer shall have served in a duty station continuously for a minimum period of one year and a maximum period of three years.

(4) Where transfers are made considerations shall be accorded to the officer so as to ensure smooth resettlement of the officer and his or her family..

(5) The Commission and the Inspector General shall ensure that transfers are not used as an avenue for corruption and for soliciting or offering money or other services to acquire or avoid a transfer.

(6) Lobbying or canvassing for or against a transfer shall constitute a disciplinary offence.

Transfers on medical and compassionate grounds

7. Where an officer requests for a transfer or raises an objection to an intended transfer on medical or compassionate grounds, the officer shall make an application in that regard in writing for consideration by the Commission

Notification of transfer.

8. (1) An officer shall be notified of a transfer through a written notification by the Commission through the Inspector General.

(2) An officer's notification of transfer shall disclose the officer's new posting, the date of assumption of duties and details of the officer's facilitation of transfer.

PART II — DEPLOYMENT

Authority to deploy officers
No. of 2011

9. (1) The authority to deploy an officer lies with the Inspector-General, in accordance with section 10(1)(g) of the National Police Service Act.

(2) As and when a case may arise necessitating deployment, as shall be determined by the Inspector General, the Inspector General shall determine the deployment of officers in the Service.

(3) A deployment shall not be used as a disciplinary sanction or as a reward measure.

Period of deployment.

10. The Inspector General shall pursuant to regulation 4 recommend to the Commission such deployments in writing and the Commission shall take note of such deployments.

Transition from deployment.

11. (1) All deployment shall be for a period not exceeding three months.

(2) Any further extension of the deployment period by the Inspector General shall be with the approval of the Commission.

(3) At the end of the deployment period, officers shall be required to undergo debriefing sessions as determined by the Commission for purposes of transition into regular policing.

(4) Deployments of officers shall not be interpreted as a transfer.

(5) The Commission may review these regulations from time to time.

PART III —SECONDMENTS AND ATTACHMENTS

12. Any secondment of an officer shall be done after confirmation that the institution to which the officer is seconded shall pay the costs of the service of the seconded officer.

Made on the

2015

JOHNSTON KAVULUDI

Chairperson, National Police Service Commission

than the office the member is substantively appointed to hold, while the member continues to hold the substantive appointment;

“affirmative action” has the meaning assigned thereto in Article 260 of the Constitution and includes any measure designed to overcome or ameliorate an inequity or the systemic denial or infringement of a right or fundamental freedom;

“appointment” includes acting appointment, re-appointment ;

“authorized officer” means the person Inspector General and any other officer who is authorized to initiate disciplinary action against another officer;

“merit” with reference to a person who is a candidate for a position within the National Police Service means that the person –

- (a) has abilities, aptitude, skills, knowledge, experience and personal qualities relevant to the carrying out of the duties in question;
- (b) in the case of promotions, that the officer, has performed satisfactorily in the previous post;
- (c) has the required educational qualifications;
- (d) has potential for further development;

- (e) has integrity in accordance with Chapter Six of the Constitution; and
- (f) meets the criteria as may be set out in the announcement or advertisement regarding the position in question;

“promotion” means the elevation of an officer to a higher rank, with higher pay and more responsibilities;

“review” means an assessment of a case to establish if it has been conducted in line with the policies and procedures;

Guiding principles

3. (1) The Commission shall determine all promotions within the National Police Service and these regulations establish procedures for the management of promotions and the process applicable to promotions in the Service.
- (2) All promotions in the National Police Service shall be based on merit.
- (3) Subject to compliance with the prescribed procedures for appointment, the Commission or other appointing authority shall not be required to consider more than one person in order for an appointment to be deemed to have been made on the basis of merit.
- (4) Members of the National Police Service shall be required to pass requisite examinations prior to consideration for promotions
- (5) Subject to established policies on affirmative action, all officers of the National Police Service shall be accorded equal opportunities for promotion.

Delegation to the
Inspector General

4. (1) Promotions from the rank of Police Constable through to the rank Superintendent may be delegated to the Inspector-General in accordance with section 10 (2) of the National Police Service Commission Act.
- (2) A delegation under these regulations to the Inspector General shall be in writing and subject to the conditions as may be imposed by the Commission from time to time and shall not divest the Commission of the responsibility concerning the exercise of its powers or the performance of the duty delegated.
- (3) Where promotions are delegated to the Inspector General—
 - (a) Promotions may be commenced after written notification of the commencement of the process to the Commission;
 - (b) The Inspector General shall be accountable for the process to the Commission and be bound by the Commission policies, guidelines, regulations or directives.
 - (c) The Inspector General shall report to the Commission in writing any promotions done under delegated authority, within thirty days of the promotions.
 - (d) The Commission may review or revoke the promotions, where applicable, where the Commission finds any failure to adhere to the guidelines and regulations on promotions.
- (4) Promotions of officers of the ranks above Superintendent shall not be delegated and shall be carried out directly by the Commission.

Maintenance of
standards

5. The National Police Service shall maintain job descriptions and standard job specifications for all civilian and uniformed police positions as approved by the Commission and these shall be used as the basis for all promotions.

- Offence
6. It shall be a disciplinary offence to solicit or offer money or other reward in order to get or give a promotion in the National Police Service.
- Determination of promotions
7. (1) Promotions shall be—
- (a) determined by the existence of appropriate vacancies, and criteria for promotion or a promotional course;
 - (b) only be given upon successfully undergoing the necessary training required for that promotion in question;
 - (c) guided by the values set out in Articles 10 and 232 of the Constitution;
 - (d) be objective and fair, and shall include—
 - (i) merit, equity, aptitude and suitability as reflected in outstanding work performance;
 - (ii) passing the prescribed professional qualifications for the new position;
 - (iii) possession of proven experience and demonstrable milestones attained by the candidate;
 - (iv) consideration of the integrity of the candidate;
 - (v) qualification under any other relevant specific criteria as may be determined and published by the Commission.
- (2) When determining promotions, an officer's disciplinary record shall be taken into consideration.
- (3) An officer who has been found guilty of a disciplinary offence may not be considered for promotion until after the lapse of six months from the date of the disciplinary offence.

Succession
management.

8. (1) The Commission or, as the case may be, the Inspector General, shall enhance in so far as possible, succession management by making the decision to promote an officer in anticipation of the concerned position falling vacant and not after the vacancy has already occurred.
- (2) Where a police officer has been promoted, the officer must within thirty days from the date of the promotion, be released to take up the promotion.

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- Performance evaluation and appraisal.
- 9.** (1) In order to assess whether an officer qualifies for a promotion there shall be regular, mandatory performance appraisals in order to establish a reliable track record of an individual member of the National Police Service.
- (2) Performance management consists of such steps as the Commission may determine and publish so that this is brought to the attention of all officers.
- Promotion Boards
- 10.** (1) The Inspector General shall through the Service Standing Orders establish boards to be known as Service Promotion Boards to advise the Commission on issues relating to promotions.
- (2) The board set up under sub-regulation (1) may comprise a member of the human resources department.
- (3) The Commission shall determine the procedure of the promotional boards.
- Applying for a position that entails a promotion
- 11.** (1) The Commission or the Inspector General may advertise certain vacancies as determined by the Commission that may amount to promotions of officers within the Service in line with these regulations.
- (2) A member of the Service may apply for a position in the Service that entails a promotion from his or her current position.
- (3) The provisions of these Regulations regarding the principles applicable and the procedure of applications for recruitment into the National Police Service shall, with the necessary modifications apply to promotions in the Service.
- (4) The Commission shall keep a record of every proceeding regarding a promotion of an officer.
- Alternative avenues for career development
- 12.** (1) The Commission may establish other human resources development mechanisms and processes to be known as

horizontal career development.

(2) Horizontal career development may include a non-promotion reward scheme, where a member of the service is offered higher financial incentives and other career development opportunities and rewards irrespective of whether the member is promoted or not.

Actual promotion

13. (1) The actual promotion takes effect when it is confirmed in writing, though the officer may take an office or position in an 'acting' capacity until he or she is confirmed into the rank.

(2) The fact of undergoing a promotional training does not, in itself, automatically entitle a person to a promotion but such training shall be considered alongside other requirements for the position to which promotion is desired.

Appeals

14. (1) A member of the Service may appeal to the Commission against a promotion, a missed promotion, or a demotion of an officer in the Service to the Commission.

(2) An appeal shall be in writing and be made within thirty days, of the decision appealed against.

(3) The Commission may accept an appeal out of time when there is good reason to do so or where compelling circumstances warrant it.

(4) The Commission may deal with an appeal by way of written submission by the member or through oral hearing of the parties.

(5) The Commission shall establish a panel to hear a case, the composition of which shall depend on the gravity of the case and the rank of the person involved.

(6) The appeal panel shall consist of:

- (i) a Commissioner to chair the panel;
 - (ii) an officer from the same Service as the officer appealing, designated by the Inspector General in consultation with the respective Deputy Inspector General or Director of the Directorate of Criminal Investigations;
 - (iii) one human resource officer from the Service of the concerned officer;
 - (iv) any other officer(s) who possesses the knowledge and skills that are found necessary for the functions of the Panel.
- (7) The panel shall consider the appeal within 21 days and make recommendations to the Commission for the Commission's consideration and final decision.
- (8) The decision and reasons for the decision shall be submitted to the officer by the Commission, through the Inspector General within 14 days of the receipt of the panel's recommendations.

Dated

2015

Johnston Kavuludi,

Chairperson, National Police Service Commission