

**THE PARLIAMENTARY SERVICE ACT, 2000****No. 10 of 2000***Date of Assent: 29th December, 2000**Date of Commencement: 29th December, 2000***ARRANGEMENT OF SECTIONS****PART I - PRELIMINARY***Section*

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FIRST SCHEDULE - Oath of member of the Commission.

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**An Act of Parliament to make provision for the Parliamentary Service and the Parliamentary Service Commission as established under the Constitution and for connected purposes**

**ENACTED** by the Parliament of Kenya as follows: -

**PART I - PRELIMINARY**

1. This Act may be cited as the Parliamentary Service Act, 2000. Short title.

2. In this Act, unless the context otherwise requires - Interpretation.

“chairman” includes the vice-chairman or any other member of the Commission when discharging the functions of the chairman;

“Clerk” means the Clerk of the National Assembly appointed under section 45B of the Constitution;

“Commission” means the Parliamentary Service Commission established under section 45A of the Constitution;

“Fund” means the National Assembly Fund established under section 18;

“member”, in relation to the Commission, includes the chairman and the vice chairman of the Commission;

“Minister” means the Minister for the time being responsible for matters relating to the National Assembly;

“office”, in relation to the Service, means a paid office as an employee of the Service, not being the office of a member of the Commission, or a part-time office, or

an office the emoluments of which are payable at an hourly or daily rate:

“officer” or “employee” means any person who holds or acts in any office of the Service otherwise than as a part-time officer or employee;

“Parliamentary Service Code of Conduct” means the code of conduct prescribed under section 5;

“Parliamentary Service values” means the values specified in or under section 4;

“secretary” includes any other officer when discharging the functions of the secretary;

“Service” means the Parliamentary Service established under section 45A of the Constitution;

“services and facilities” includes all means by which members of the National Assembly are officially assisted in performing their parliamentary duties;

“Speaker” means the Speaker of the National Assembly or, where appropriate, the Deputy Speaker.

## **PART II – THE PARLIAMENTARY SERVICE**

Nature of the  
Parliamentary  
Service.

3.(1) The Service shall be an institution of exemplary administrative and technical competence.

(2) Subject to section 45B of the Constitution, in the performance of their functions, employees of the Service shall not seek or receive directions from any source external to the Service.

(3) Every member of the National Assembly shall respect the non-partisan and apolitical character of the Service and shall not seek to influence employees of the Service in the discharge of their functions.

4. The Service shall uphold the following values –

Parliamentary  
Service values.

- (a) the promotion of democracy and the rule of law;
- (b) the fostering of patriotism, peace and national unity;
- (c) the provision of non-partisan and impartial advice and services to the National Assembly, its committees and its members;
- (d) the maintenance of the highest ethical standards;
- (e) the maintenance of honesty, accountability and integrity in the delivery of services, having regard to the principles of political neutrality, professionalism, economy, efficiency, equality and fairness, courtesy and discipline;
- (f) the provision of a workplace that is free from discrimination, recognizes the diverse backgrounds of the Service employees and promotes national integration;
- (g) the maintenance of the spirit of co-operation in the workplace based on consultation and communication;
- (h) the provision of a fair, flexible, safe and rewarding workplace;

- (i) the inspiration of public confidence in and respect for the institution of Parliament;
- (j) the fostering of understanding and co-operation among the three organs of State, to wit, the Parliament, the Executive and the Judiciary in the context of their autonomy and complementarity; and
- (k) such other values as the Commission may, from time to time, prescribe.

Parliamentary  
Service Code  
of Conduct.

5.(1) The Commission may, from time to time, prescribe a Parliamentary Service Code of Conduct.

(2) Without prejudice to the provisions of any Code of Conduct prescribed under subsection (1), every employee of the Service shall, in the course of his employment –

- (a) be patriotic and loyal to Kenya and at all times conduct himself in a manner that promotes the image and interests of the country;
- (b) conduct himself with honesty and integrity and act with care and diligence;
- (c) use the resources of the nation conscientiously and combat corruption and misuse or wastage of public property;
- (d) respect and observe the law of the land and co-operate with all lawful agencies in the maintenance of law and order;

- (e) treat all persons with respect and courtesy and, in particular, protect persons with disabilities and other vulnerable groups against any form of abuse, harassment or ill-treatment;
- (f) promote gender equality and respect for the rights and freedoms of others;
- (g) preserve and protect the environment and national heritage;
- (h) comply with any lawful and reasonable direction given by any person in the Service having authority to give such direction;
- (i) maintain appropriate confidentiality about dealings that the employee has with the National Assembly, its committees, its members and its staff (including employees of members, if any);
- (j) disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with the Service;
- (k) not provide false or misleading information in response to a request for information that is made for official purposes;
- (l) not make improper use of –
  - (i) any information obtained through or in connection with the office of such employee and which is not yet made available to the public; or
  - (ii) the employee's duties, status, power or authority, in order to gain, or

seek to gain, a benefit or advantage for himself or for anyone else;

- (m) conduct himself in a manner that upholds the letter and spirit of the values and the integrity and good reputation of the Service;
- (n) while on duty overseas, conduct himself in a manner that promotes the good image of Kenya;
- (o) comply with any other requirements of conduct as may be prescribed by the Commission.

Complementarity of values and codes of conduct.

6. The Parliamentary Service values and the Parliamentary Service Code of Conduct provided for in sections 4 and 5 shall be in addition to, and not in derogation from, any others that may be specified by or under any other written law in relation to the citizens of Kenya generally.

Incorporation of the Commission

7. The Parliamentary Service Commission shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of -

- (a) suing and being sued;
- (b) purchasing or otherwise acquiring, holding, charging and disposing of movable or immovable property;
- (c) borrowing and lending money;
- (d) entering into contracts;
- (e) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act which may

lawfully be done or performed by a body corporate.

8.(1) In nominating or appointing any person as a member of the Commission, the Parliamentary party or parties concerned and the National Assembly respectively shall have regard to the person's experience or interest in consolidating and advancing the ideals and objectives of Parliamentary democracy.

Qualifications of members of the Commission.

(2) A member of the Commission shall serve in his personal capacity.

9.(1) There shall be such number and types of departments and such categories and classifications of staff under the Service as the Commission may, from time to time, determine.

Number and type of departments of the Service.

(2) The Commission may from time to time -

- (a) allocate functions to any department of the Service;
- (b) make such arrangements as appear to the Commission expedient in connexion with the creation, division, amalgamation or abolition of any department of the Service.

10. The Commission shall prescribe a scheme of service setting out the terms and conditions for the appointment of the officers and other staff of the Service which shall provide for -

Parliamentary scheme of service.

- (a) the appointment and confirmation of appointments of officers and other staff;
- (b) promotions, resignations and termination of appointments;

- (c) the scales of salaries and allowances; and
- (d) the designation and grades of officers and other staff.

Social security scheme.

11.(1) The Commission –

- (a) shall establish a non-contributory pension scheme for all its employees;
- (b) may establish or adopt a contributory optional superannuation, provident or medical fund or other scheme for its employees and may grant pensions, gratuities, retiring allowances or sickness or injury benefits to any employee.

(2) The provisions of this section shall come into operation on such date as the Minister may, by notice in the Gazette, appoint.

Meetings and procedure of the Commission.

12.(1) The chairman shall convene a meeting of the Commission at least once every fortnight.

(2) The chairman or in his absence the vice-chairman may at any time convene a special meeting of the Commission, and shall do so within seven days of the receipt by him of a written requisition therefor signed by at least three members.

(3) If the chairman fails to convene a special meeting of the Commission pursuant to a requisition under subsection (2), the members making the requisition may convene such meeting which shall be held within seven days after the expiry of the period prescribed in that subsection.

(4) The quorum for a meeting of the Commission shall be four members who shall include one member

appointed under subparagraph (i) and one member appointed under subparagraph (ii) of section 45B(1)(c) of the Constitution.

(5) A member of the Commission other than an *ex officio* member may be removed from office by the appointing authority upon the recommendation of the Commission, if such member -

- (a) has been absent from three consecutive meetings of the Commission without the permission of the chairman; or
- (b) is, in the opinion of the Commission, otherwise unable or unfit to discharge the functions of his office.

#### PART IV - THE CLERK AND OTHER STAFF

13.(1) The Clerk shall be -

- (a) the chief executive of the Parliamentary Service and secretary to the Commission;
- (b) responsible to the chairman and the Commission for the general working and efficient conduct of the business of the Service.

Status and  
general functions  
of the Clerk.

(2) The Commission may delegate to the Clerk such of its functions as are necessary to carry out the day-to-day management of the Service; and, subject to such directions as may be given by the Commission, to direct and supervise the acts of all employees and agents of the Service.

(3) The Clerk may, in consultation with the Commission, assign or delegate the functions under this section to any employee of the Service.

No. 10

Procedural  
functions of  
the Clerk.

14.(1) The procedural functions of the Clerk shall include –

- (a) rendering expert, non-partisan and impartial advice to the members of the National Assembly on Parliamentary procedure and practice;
- (b) carrying out such other duties and exercising powers as may be conferred on him by law or by the standing orders and practices of the National Assembly.

(2) In carrying out the functions specified in subsection (1), the Clerk shall be assisted by such other officers of the Service as may be necessary.

(3) Subject to this Act and any other written law, the Clerk shall, in carrying out and exercising the power conferred on him by the standing orders and practices of the National Assembly, be under the direction of the Speaker.

(4) At any time when the office of the Speaker is vacant or the holder of the office is unable for any reason to carry out the duties and exercise the powers and functions of his office, the Clerk shall, during that period and in relation to the carrying out of the duties and exercise of the powers and functions referred to in this section, be under the direction of the Deputy Speaker.

Exercise of  
functions of  
the Clerk during  
vacancy or  
inability.

15. If the office of Clerk is vacant, or if for any reason the Clerk is unable to exercise the functions of his office, any other person for the time being performing the duties of the Clerk pursuant to the standing orders of the National Assembly or by direction of the Speaker shall have and may exercise all the functions, duties and powers of the Clerk.

16. The Clerk may, at any time and in such manner as may be prescribed under this Act, be suspended or removed from office by the Commission for inability to perform the functions of his office (whether arising from infirmity of body or mind or from any other cause) or for misbehaviour.

Suspension or removal of the Clerk.

17.(1) An employee shall retire from the Service on attaining the age of sixty years:

Retirement and resignation of employees.

Provided that the Commission may re-engage him on contract for a single term not exceeding two years.

(2) An employee may -

(a) after attaining the age of fifty years, elect to retire from the Service at any time; or

(b) in such manner as may be provided under this Act, resign from the Service at any time.

(3) The Commission may, in such manner and for such reasons as may be prescribed under this Act, require an employee to retire from the Service at any time.

## PART V - FINANCIAL PROVISIONS

18. (1) There is established a fund to be known as the National Assembly Fund.

Establishment of National Assembly Fund.

(2) There shall be paid into the Fund -

(a) such moneys as may, from time to time, be provided by Parliament;

(b) such moneys as may be borrowed by the Commission on such terms and for such purposes as the Commission, in

consultation with Minister for the time being responsible for finance, may determine;

- (c) any moneys accruing to or received by the Commission from any other source.

(3) There shall be paid out of the Fund all payments in respect of any expenses incurred in pursuance of the provisions of this Act.

(4) The Commission may, with the approval of the National Assembly signified by resolution, establish such other funds as it may deem necessary.

Bank accounts.

19. The Commission shall open and maintain such bank accounts as are necessary for the exercise of its functions.

Estimates of expenditure.

20.(1) At least three months before the commencement of each financial year, the Clerk shall cause to be prepared, estimates of all the expenditure required for the purposes of this Act for that year and shall present such estimates to the Commission for review.

(2) The Commission shall review the estimates forwarded under subsection (1) and may make such alterations thereto as it may deem appropriate and shall thereafter agree upon those estimates.

(3) The chairman of the Commission shall dispatch a copy of the estimates agreed upon by the Commission under subsection (2) to the Minister responsible for matters relating to finance for information.

(4) The chairman of the Commission or some other member thereof authorized by the Commission in that behalf shall present the estimates agreed by the

Commission for consideration and approval by the National Assembly.

(5) Upon the approval of the estimates presented to the National Assembly under subsection (4), all monies from time to time required for the purposes of this Act shall be paid from the Consolidated Fund into the National Assembly Fund.

21.(1) The Clerk shall ensure that proper books and records of accounts of the Commission are kept and maintained.

Accounts and  
audit.

(2) Within three months after the end of each financial year, the Clerk shall submit to the Controller and Auditor-General, the accounts of the Commission for the year.

(3) Notwithstanding the provisions of any other written law, the accounts of the Commission shall be audited and reported upon by the Controller and Auditor-General.

22. The Commission shall establish a tender board to control and regulate the purchase and disposal of property and supply of works.

Tender board.

23.(1) The Commission shall, from time to time, appoint an independent body of experts to review the terms and conditions of service of members and employees of the National Assembly.

Review of terms  
and conditions  
of service of  
members and  
employees of  
the Assembly.

(2) The Commission shall upon receipt of the report of experts appointed under subsection (1), transmit the report together with its comments thereon, if any, to the National Assembly.

24. Members of the Commission shall receive such allowances as may be determined by Parliament under the National Assembly Remuneration Act.

Remuneration of  
members of the  
Commission.

## PART VI - MISCELLANEOUS PROVISIONS

Annual report  
of operations of  
the Commission.

25. Within three months after the end of each calendar year, the Commission shall prepare and lay before the National Assembly, a report of its operations during that year.

Designated member  
may present  
documents etc.,  
in the Assembly.

26. A member of the Commission (not being the chairman or a Minister) authorised by the Commission in that behalf may -

(a) lay before the National Assembly any document or other matter;

(b) reply to a question relating to the affairs of the Commission.

Oath of office  
for members  
and staff of the  
Commission.

27.(1) The members of the Commission shall, on first appointment, take an oath in the form prescribed in the First Schedule.

(2) The secretary and such other officers (including persons engaged, commissioned or appointed in accordance with section 45B(11) of the Constitution) of the Commission as the chairman may require so to do, shall, on first appointment, take an oath in the form prescribed in the Second Schedule to this Act.

(3) Where any person required to take an oath has no religious belief or the taking of such oath is contrary to his religious belief, he may make and subscribe a solemn affirmation in the form of the oath appointed substituting the words "solemnly and sincerely declare and affirm" for the word "swear" and omitting the words "So help me God".

(4) Every oath or affirmation taken by the chairman shall be administered by the secretary and every

oath or affirmation taken by any other member or the secretary shall be administered by the chairman:

Provided that every oath or affirmation taken by any other officer shall be administered by the secretary.

**28.** The Commission or any committee thereof may, subject to section 29, order any person to attend before it and to give evidence or to produce any paper, book, record or document in the possession or under the control of that person.

Power to order attendance of witnesses.

**29.** Every person summoned to attend to give evidence or to produce any paper, book, record or document before the Commission or a committee thereof shall be entitled, in respect of that evidence or the disclosure of any communication or the production or any paper, book, record or document to the same right or privilege as before a court of law.

Privileges of witnesses.

**30.**(1) A member or an officer of the Commission or any person employed to take minutes or evidence before the Commission or any committee shall not give evidence elsewhere in respect of the contents of those minutes or evidence or of the contents of any document laid before the Commission or that committee or in respect of any proceedings or examination held before the Commission or that committee without special leave first obtained from the chairman.

Evidence of proceedings in the Commission not to be given without leave.

(2) The special leave referred to in subsection (1) may be given by the vice-chairman in the absence or other incapacity of the chairman.

**31.** Any act or thing done by any member of the Commission or by any officer or servant of the Commission shall not, if the act or thing was done *bona fide* for the purposes of carrying out this Act into effect, subject him personally to any liability, action, claim or demand whatsoever.

Protection of members and staff of the Commission.

Communication  
of Commission  
privileged.

32. A person shall not in any legal proceedings be permitted or compelled to produce or disclose any communication, written or oral which has taken place between the Commission or any member or officer of the Commission, in the exercise of, or in connection with the exercise of, the function of the Commission unless the chairman consents in writing to such production or disclosure.

Offences and  
penalties under  
the Act.

33. Any person who -

(a) in connexion with an application by himself or any other person for employment, appointment or promotion in the Service, or in connection with any matter on which it is the duty of the Commission to require information or evidence, or into which it is the duty of the Commission to inquire, wilfully gives to the Commission or to any member thereof any information which is false or misleading in any material particular; or

(b) without the consent in writing of the chairman, publishes or discloses to any unauthorized person or otherwise than in the course of duty the contents or any part of the contents of any document, communication or information whatsoever which has come to his knowledge in the course of his duties under this Act, and any person who knowingly acts in contravention of this paragraph; or

(c) having possession of any information which to his knowledge has been published or disclosed in contravention of paragraph (b) of this section, publishes or communicates to any other person otherwise than for the purpose of any prosecution under this Act

or in the course of his duty any such information; or

- (d) otherwise than in the course of his duty, directly or indirectly by himself or by any other person in any manner whatsoever influences or attempts to influence any decision of the Commission or of any member thereof; or
- (e) disobeys any order made by the Commission or a committee for attendance or for production of papers, books documents or records; or
- (f) refuses to be examined before, or to answer any lawful and relevant question put by, the Commission or a committee,

commits an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings, or to imprisonment for a term not exceeding twelve months, or to both:

Provided that nothing in paragraph (d) of this section shall prohibit any person from giving a certificate or testimonial to any applicant or candidate for the Service or supplying any information or assistance upon formal request made by the Commission.

34.(1) The Commission may, in such manner as it deems fit, make provision for examinations and appoint such selection, promotion or other boards as it deems necessary for the proper discharge of its functions.

Examination  
and other boards.

(2) A board appointed under subsection (1) may wholly or in part consist of persons who are not members of the Commission.

35. Without prejudice to the rights of any person, on the coming into operation of this Act, all moveable and immoveable property and all the rights and liabilities of the former National Assembly Department and all the

Saving of  
existing rights  
and liabilities.

property movable or immovable held by any person on behalf of the Department shall be deemed to vest in the Commission.

Regulations by  
the Commission.

36.(1) The Commission may make regulations for prescribing anything required by this Act to be prescribed and generally for the better carrying out of the purposes of this Act.

(2) Without prejudice to the generality of subsection (1), regulations under this Act may provide for -

- (a) the conduct of the business of the Commission;
- (b) the administration and management of the services and facilities;
- (c) the terms and conditions of service, pension and other retirement benefits of employees;
- (d) the measures for the discipline of employees;
- (e) the financial procedures of the Commission;
- (f) the orientation and training of members of the National Assembly and employees;
- (g) the security of members of the National Assembly.

(3) All regulations made under this section shall be laid before the National Assembly with reasonable despatch and, if a resolution is passed by the Assembly within twenty days on which it next sits after the regulation is laid before it that the regulation be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder, or to the making of any new regulation.

FIRST SCHEDULE

(s.27(1))

**OATH/AFFIRMATION OF MEMBER OF THE COMMISSION**

I ..... having been appointed as Chairman/Vice Chairman/Member of the Parliamentary Service Commission do swear/solemnly and sincerely declare and affirm that I will without fear or favour, affection or ill-will discharge the functions of the office of Chairman/Vice-Chairman/Member of the Parliamentary Service Commission, and that I will not, directly or indirectly, reveal any matter relating to such function to unauthorised persons or otherwise than in the course of my duty. SO HELP ME GOD.

Sworn/Declared by the said .....  
before me this ..... Day of .....

.....  
Chairman/Secretary  
Parliamentary Service Commission

**SECOND SCHEDULE**

(s.27(2))

**OATH/AFFIRMATION OF OFFICER OF THE COMMISSION**

I ..... being called upon to exercise the functions of secretary Officer/[other] of the Parliamentary Service Commission, do swear/solemnly and sincerely declare and affirm that I will not, directly or indirectly, reveal to any unauthorised person or otherwise than in the course of duty the contents or any part of the contents of any document, communication or information whatsoever which may come to my knowledge in the course of my duties as an officer of the Commission. SO HELP ME GOD.

Sworn/Declared by the said .....  
before me this ..... Day of .....

.....  
Chairman/Secretary  
Parliamentary Service Commission