

NO. 30 OF 2011

THE NATIONAL POLICE SERVICE COMMISSION ACT

SUBSIDIARY LEGISLATION

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**THE NATIONAL POLICE SERVICE COMMISSION
(RECRUITMENT AND APPOINTMENT) REGULATIONS**

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**THE NATIONAL POLICE SERVICE COMMISSION
(RECRUITMENT AND APPOINTMENT) REGULATIONS**

[Legal Notice 41 of 2015]

PART I – PRELIMINARY

1. Citation

These Regulations may be cited as the National Police Service Commission (Recruitment and Appointment) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"Act" means the National Police Service Commission Act (Cap. 85);

"acting capacity" means temporary conferment upon a member of the Service, the power to perform duties of an office other than the office the member is substantively appointed to hold, while the member continues to hold the substantive appointment;

"appointment" means a formal conferment or notification of employment in the National Police Service;

"assignment" means the allocation of specific duties to an officer;

"civilian" means a person other than a police officer within the meaning of the National Police Service Act (Cap. 84);

"employment vetting" means the process to assess a person's suitability for appointment or promotion within the Service;

"establishment" the required number of staff of the National Police Service;

"member of the Service" means police officers in the Service and includes civilian members of staff of the Service;

"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 assigned to that person;
- (b) has integrity in accordance with Chapter Six of the Constitution; and
- (c) has potential for further development;
- (d) has the required educational qualifications;
- (e) in the case of promotions, that the officer, has performed satisfactorily in the previous post; and
- (f) meets the criteria as may be set out in the advertisement for a vacancy.

"recruitment" means the process of hiring a member of the National Police Service;

"strength" means the actual number of staff within the National Police Service;

"training" means imparting and inculcation of skills, knowledge, abilities and behaviour which is necessary for undertaking policing functions;

"transfers" means the act of sending a police officer from one police posting to another, and the police officer shall on transfer be administratively under the new posting and its respective pay code;

"vacancy" means where the strength existing in the Service is less than the establishment required.

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PART II – RECRUITMENT

3. General provisions on recruitment

(1) Subject to section 10 (2) of the Act and paragraph (2), the Commission shall be responsible for all recruitment into the Service and shall develop policies, Regulations and procedures for the proper carrying out of the recruitment and appointment process.

(2) Despite paragraph (1), the Commission may delegate, in writing, to the Inspector-General the recruitment of police officers below the rank of the Superintendent of Police.

(3) In addition to paragraph (2), a delegation to the Inspector General shall be in writing and shall be subject to such 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.

(4) Where recruitment is delegated to the Inspector-General—

- (a) no recruitment may be commenced prior to the approval of the Commission;
- (b) the Inspector-General shall be held accountable for the recruitment and shall be guided by the policies and regulations developed by the Commission.

(5) For the avoidance of doubt any recruitment of any of the higher ranks shall be carried out directly by the Commission.

(6) The National Police Service Commission and 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 shall for the basis for all recruitment.

(7) In addition to the requirements set out in paragraph 9, the recruits shall be required to undergo and pass the interviews or examinations, and employment vetting, as shall be determined by the Commission in consultation with the Inspector-General.

(8) All recruitment shall reflect the diversity of the Kenyan people in equitable proportions.

(9) The national values and principles relating to transparency shall be adhered to during the entire recruitment and appointment process.

4. Recruitment categories

A person may enter the police service in any of the following Recruitment categories—

- (a) as a police constable;
- (b) on higher ranks through a cadet entry scheme;
- (c) as a specialists; or
- (d) as a civilian staff.

5. Gender, regional, ethnic balance

The Commission shall ensure that the recruitment process take into consideration the gender, regional and ethnic balance in accordance with the provisions of the Constitution and the National Police Service Commission Act (Cap. 85) and the National Police Service Act (Cap. 84).

6. Review of establishment and strength of the Service

The Inspector-General shall, on an annual basis, carry out a review of the Service's establishment and strength and shall submit the recommendations to the Commission.

7. Entry into the Service

(1) person may enter and serve in the National Police Service in either of the categories set out under regulation 4.

(2) Any recruitment shall be at the request of the Inspector-General to the Commission and shall be undertaken when it is necessary.

(3) All recruitments shall be subject to availability of vacancies in the establishment.

(4) For purposes of paragraph (3), the Inspector-General shall provide the Commission with an overview of the entire Service's establishment and strength, on an annual basis and in particular at least six months prior to the following financial year.

(5) It shall be the responsibility of the Inspector-General to ensure that the requisite arrangements are made in order to pay, train, and provide equipment and housing to the recruits.

8. Prohibition against charging for recruitment, appointments, etc

(1) All applications for any position within the National Police Service shall be free of charge.

(2) Soliciting or offering money or other services in order to acquire a certain position shall constitute a disciplinary offence in addition criminal penalties under any written law and shall, in addition, be referred to the Ethics and Anti-Corruption Commission and the Director of Public Prosecutions for prosecution under the relevant existing laws.

(3) The soliciting referred to under paragraph (2) shall result in automatic disqualification from the recruitment process.

9. Entry criteria

All candidates shall be required to meet the minimum requirements which includes—

- (a) be a citizen of Kenya;
- (b) hold a Kenya National Identity Card;
- (c) possess the required academic qualifications as shall, from time to time, be determined by the Commission for purposes of recruitment;
- (d) be aged between eighteen to twenty-eight years for holders of Kenya Certificate of Secondary Education or its equivalent and up to thirty years for university graduates;
- (e) be physically and medically fit; and
- (f) have no criminal record or pending criminal charges.

10. Functions of the Commission in the recruitment process

(1) In undertaking the recruitment process, the Commission shall establish the distribution of persons to recruited into the Service and at each recruitment centre in the second phase of the process, taking into consideration the regional, ethnic and gender balance.

(2) In establishing the distribution under paragraph (1), the Commission shall consider the following—

- (a) the national ethnic ratio basing on the latest population census results by the Kenya National Bureau of Statistics, the National Cohesion and Integration Commission and any other relevant government institution;
- (b) the ethnic-composition of the Service prior to the subject recruitment;
- (c) the need for inclusion of marginalized groups and communities; and
- (d) any other criteria which the Commission may from time to time consider necessary.

(3) The Commission shall—

- (a) advertise the vacant positions in the Service for recruitment, in local dailies or any other available media, and invite applicants to apply within a specified period;
- (b) ensure adequate publicity and public participation before and during the recruitment exercise;
- (c) prepare a shortlist of applicants taking into consideration gender, regional and ethnic balancing and conducting due diligence on the shortlisted applicants, which includes examining their backgrounds;

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- (d) inform the shortlisted candidates in the manner provided in regulation 11 to present themselves for the second phase of the recruitment process which involves physical, aptitude and medical assessments and the verification of documents;
- (e) ensure adequate briefing and facilitation of the recruitment panels before the commencement of the second phase of the recruitment exercise;
- (f) ensure adequate supervision of the panels;
- (g) accredit observers to participate in the second phase of the recruitment exercise;
- (h) receive the short-list of successful candidates from the recruitment panels for analysis and final decision;
- (i) ensure that the candidates shortlisted by the recruitment panels shall be two-times the number required from that recruitment centre, and to the best extent possible reflect regional, ethnic and gender balance;
- (j) publish the list of successful candidates in the local dailies or any other available media;
- (k) communicate to the successful candidates by issuing letters of admission to attend designated colleges;
- (l) examine and address any complaints or appeals raised in respect of the recruitment exercise;
- (m) deal with any matters incidental thereto.

11. Advertising and recruitment

Where there is a vacancy, the Commission shall, in accordance with the procedures set out by the Commission advertise in at least two daily newspapers of national circulation or may use any other available form of media.

12. Content of the advertisement on recruitment

- (1) The advertisement under regulation 11 shall include information on the—
 - (a) application procedure;
 - (b) criteria for the recruitment;
 - (c) closing date of the application;
 - (d) any other information which the Commission may from time to time consider necessary.
- (2) The closing date shall be at least seven days from the date of publishing the advertisement.
- (3) All applications to the Commission shall include—
 - (a) completed application form in the format specified by the Commission;
 - (b) copy of the applicant's identification card or passport;
 - (c) copies of the applicant's academic qualifications;
 - (d) letter of recommendation in the prescribed format;
 - (e) police certificate of good conduct;
 - (f) any other document as may be required by the Commission.
- (4) Upon receipt of the applications from the applicants, the Commission shall prepare a short-list of the applicants to be invited for the physical, aptitude and medical assessment as well as verification of documents submitted.
- (5) In preparing the shortlist, due regard shall be given to ensure ethnic, gender and regional balance.
- (6) The Commission shall shortlist at least three times the number of candidates required for the vacancies available in a particular recruitment centre.

(7) The Commission shall publish the names of the shortlisted applicants and invite the public to send their complaints and comments, if any, concerning the suitability of the applicants.

(8) The Commission shall notify the shortlisted applicants to attend the physical, aptitude and medical assessment and verification of documents stage of the recruitment process.

(9) The notification shall contain details of the date and venue of the said exercise and any other requirements.

(10) The shortlisted candidates shall be required to avail themselves for the second phase of the recruitment exercise on the date and time specified and carry with them original version of the supporting documents and copies of such documents shall submitted by the applicants to the Commission for verification.

(11) Shortlisted candidates who fail to appear for the second phase of the recruitment exercise shall be disqualified.

(12) The second stage of the recruitment process shall be carried out through the recruitment panels.

(13) The recruitment panels shall submit to the Commission a list of all shortlisted candidates who appeared at the second stage of the recruitment process as well as the list of the successful candidates.

(14) The candidates shall, to the best extent possible, be two times the number of candidates required from that centre.

(15) The Commission shall communicate to the successful candidates of their success in accordance with these Regulations.

(16) The successful candidates shall report to the training institution on such date as specified by the Commission in the admission letter.

(17) Where after the lapse of three days from the date notified for reporting to the college, an applicant fails to report, as notified to the Commission by the person in charge of the college, the applicant shall be deemed to have forfeited the offer of recruitment and the Commission shall, within four days, replace the applicant with another shortlisted applicant of the same gender and from the same ethnic and regional group as the forfeiting applicant.

(18) Subject to paragraph 17, where a replacement of the same gender, ethnic and regional group as the forfeiting applicant cannot be obtained, the Commission shall replace the applicant with another shortlisted applicant.

13. Recruitment panels

(1) The members of the recruitment panels shall be the following, or their equivalent—

- (a) an officer not below the rank of a superintendent, as assigned by the Commission who shall be the chairperson;
- (b) an education officer;
- (c) a Medical Officer of Health;
- (d) two officers not below the rank of Chief Inspector who shall be the joint secretaries;
- (e) any such other officers that the Commission may, from time to time, consider necessary.

(2) The recruitment panels shall preside over the physical, aptitude and medical assessment and verification of documents on behalf of the Commission.

(3) The recruitment panels shall ensure that the assessment and verification is carried out to the highest standards of professionalism and accountability.

(4) Members of a recruitment panel shall be held accountable collectively and individually for any issues that may arise out of the exercise in their respective centres.

(5) The recruitment panel shall consider any issues raised by members of the public on the day of the assessment and verification in a timely manner.

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- (6) The members of the recruitment panels shall—
- (a) take an oath of integrity;
 - (b) ensure that accredited observers also take the oath of integrity;
 - (c) prepare the recruitment venue and mobilization of the required logistical support in collaboration with the Commission;
 - (d) undertake the recruitment within the day and time specified by the Commission;
 - (e) submit electronic returns on the recruitment exercise to the Commission on the day of the exercise through fax or email contacts provided during briefing;
 - (f) within five days after completion of the recruitment exercise, submit to the Commission, the returns in print form in the manner provided under regulation 14(13).

14. Calendar of activities for the recruitment process

(1) Only shortlisted candidates in the specified centres shall be allowed to participate in the second phase of the recruitment process.

(2) The Commission shall determine and inform the persons in charge of the respective recruitment centres of the time in which the recruitment exercise shall commence.

(3) Where the exercise fails to commence at the time scheduled by the Commission, the Commission shall be informed immediately by the chairperson of the recruitment panel and may be required to adjust the starting time and duration of the exercise.

(4) At the commencement of the recruitment exercise, the shortlisted candidates shall be required to submit original documents to the recruitment panel, for verification and certification. The original documents shall be returned to the candidates before they leave the recruitment centre.

(5) The shortlisted candidates shall be required to provide copies of the requisite documents to the recruitment panel, which copies shall be retained by the recruitment panel.

(6) At the recruitment centre, the panel shall conduct the recruitment exercise in the following manner—

- (a) the panel shall brief the shortlisted applicants, the members of the public and the observers present on what is required during the second phase of the recruitment exercise;
- (b) the candidates shall be required to queue according to gender.

(7) All candidates shall present themselves for scrutiny and verification of their physical and medical fitness, age and academic qualifications.

(8) The physical fitness assessment shall involve activities as provided for in the recruitment manual.

(9) On completion of the physical exercise, successful candidates shall undertake a medical examination as prescribed in the recruitment manual and the panel shall prepare a shortlist of candidates to be considered for admission into the training institutions.

(10) The panel in preparing the list of candidates to be shortlisted, take into consideration the physical and medical assessment and verification of documents, shall be guided by—

- (a) the distribution criteria determined by the Commission;
- (b) regional, ethnic and gender composition determined by the Commission; and
- (c) weighted score sheet that shall be provided by the Commission as provided for in the recruitment manual.

(11) The panel shall submit the following documents to the Commission within five days from the date of completion of the second stage of the recruitment exercise—

- (a) a list of all shortlisted candidates who presented themselves at the recruitment centre;
- (b) a list of candidates selected after the physical fitness exercise;

- (c) a list of candidates selected after the medical examination;
- (d) medical reports of all candidates who underwent the medical examination;
- (e) where the recruitment includes aptitude assessments, the aptitude tests of all candidates who underwent the aptitude test;
- (f) signed minutes of the meetings of the recruitment panel;
- (g) a list of all complaints raised during the exercise and minutes indicating how the complaints were addressed;
- (h) reports submitted by all accredited observers;
- (i) all documents submitted by the applicants and verified by the recruitment panel.

(12) The documents mentioned in paragraph (11) shall be official records held by the Commission.

(13) Failure to submit the returns listed in paragraph (11) shall attract appropriate action by the Commission.

15. Determination of successful candidates, etc

(1) Upon receipt of the returns from the recruitment centres the Commission shall—

- (a) within fourteen days on the receipt of the returns determine the successful candidates;
- (b) issue letters of admission to the successful candidates; and
- (c) require all recruits to report to their designated college on the date specified.

(2) The Commission shall take steps to ensure that the recruits have at least seven days from the date of notification of admission to the reporting date, to enable the recruits make adequate arrangements.

(3) Where a candidate fails to report to the designated colleges on the date specified without reasonable cause, the Commission shall within seven days of the reporting date, replace the recruit with a shortlisted candidate as specified in regulation 12 (17) and (18).

16. Disqualifications

At the time of admission into the colleges and during the period of training at the college, a recruit may be disqualified on the grounds of—

- (a) physical and medical fitness;
- (b) integrity.

17. Ninety day period for recruitment

Every instance of the recruitment process shall be concluded within a period of not more than ninety days.

18. Integrity

The Commission shall ensure the following in the recruitment process—

- (a) all persons involved in the recruitment process shall take an oath attesting that they shall apply and uphold the principles of the Constitution, the relevant laws, regulations and policy;
- (b) all persons involved in the recruitment process shall discharge their duties honestly, impartially and without fear or favour;
- (c) all persons involved in the recruitment process shall undergo briefing or training sessions;
- (d) the process shall be transparent; and
- (e) all persons involved in the exercise shall discharge their responsibilities to the highest levels of diligence and integrity and shall avoid any conflict of interest.

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19. Recruitment of specialist and civilian staff of the Service

(1) The Commission shall be responsible for the recruitment for all positions within the National Police Service, including—

- (a) recruitment for vacancies for specific specialist positions;
- (b) recruitment for civilian functions within the National Police Service.

(2) Candidates to be appointed to these positions shall include those—

- (a) from within the National Police Service;
- (b) from outside the National Police Service for those functions where it is not necessary to have a police service background.

(3) All recruitments shall be carried out at the request of the Inspector-General.

(4) The recruitment process shall include the following steps—

- (a) the recruitment process shall adhere to the procedure outlined in regulation 12 with necessary adjustments;
- (b) the Commission shall invite the shortlisted applicants for personal interviews, and where relevant carry out additional tests;
- (c) all appointments shall be communicated to the successful applicants by the Commission.

(5) The Commission shall, while undertaking recruitment into the Service, give due regard and opportunity to persons with disabilities where appropriate and practicable to do so.

20. Specialist entry

(1) A qualified person with specialist skills may enter the National Police Service at a higher level than the constable recruit level, provided that the person meets the criteria specified for the position by the Commission.

(2) The Commission shall limit the recruitment of persons qualified for the specialist entry to such number as to ensure that the career development of rank and file officers is not affected negatively.

(3) All such regulations applicable for the recruitment of constables shall where appropriate be applicable to specialist entry recruitments into the Service.

21. Complaints management

(1) The Commission shall undertake a review of the returns under regulation 14 (13) to ascertain whether the returns and the process of recruitment has met the prescribed standards.

(2) If upon review of the returns and of the entire recruitment process as required under paragraph (1) the Commission finds anomalies that may bring the integrity of the recruitment process into question or where a complaint has been received by the Commission against any step of the recruitment process, the Commission may undertake or cause to be undertaken an investigation into the recruitment process.

(3) Where a report is received by the Commission upon investigation undertaken under paragraph (2), the Commission may take corrective steps that may include the following—

- (a) disciplinary action against the concerned recruitment official;
- (b) annulment of results of the concerned recruitment centre or centres and order the repeat of the recruitment exercise in the affected centre or centres;
- (c) annulment and repeat of the entire exercise where the anomalies reported relate to many recruitment centres and affect the integrity of the entire exercise;
- (d) recommend prosecution of persons suspected of committing any criminal offences in the recruitment process;
- (e) any action that the Commission may consider appropriate.

(4) In undertaking any action specified under paragraph (1) and (2), the Commission shall in the performance of its functions—

- (a) investigate the complaint in any manner as it may consider fit and just;
- (b) receive written or oral statements;
- (c) not be bound by the strict rules of evidence;
- (d) require the cooperation of other state agencies, departments or organs as may be necessary for the effective discharge of its functions under these Regulations.

PART III – APPOINTMENTS

22. General principles and delegation

(1) Subject to paragraph (2), the Commission shall make all appointments into the National Police Service.

(2) Despite paragraph (1), the Commission may delegate to the Inspector-General the appointment of officers in the ranks of superintendent and below in accordance with the provisions of section 10 (2) of the Act and the Inspector-General shall be bound by the policies and guidelines set by the Commission while making the appointments.

(3) The Inspector-General shall submit a report to the Commission on the appointments made under paragraph (2) which report shall include the details as the Commission shall specify in the instrument of delegation.

23. Training on appointment

On appointment to the National Police Service, the officer appointed shall be required to—

- (a) undergo such training necessary to equip him or her with the skills for the position to which the person is appointed;
- (b) complete and submit a Declaration of Assets and Liabilities form as provided by the Public Officer Ethics Act (Cap. 185B);
- (c) comply with any other requirements determined by the Commission from time to time.

24. Certificates of appointment, etc

(1) Members of the Service of all ranks shall on appointment, be provided with a certificate of appointment in accordance with section 74 of the National Police Service Act (Cap. 84).

(2) The data, including biometric data, of the new appointees shall be kept by both the Service and the Commission.

(3) Every appointee to any position in the Service shall be in accordance with the 4th Schedule of the National Police Service Act (Cap. 84) and shall be required to swear an oath before commencement of duties.

25. Terms and conditions

(1) On appointment, the Commission shall provide to the officers and other staff with a document containing the terms and conditions of Service.

(2) The terms and conditions of service under paragraph (1) shall include information relating to—

- (a) service number;
- (b) probation period;
- (c) salaries and allowances;
- (d) other benefits, including, insurance, medical scheme, if any;
- (e) leave days;
- (f) performance management and expectations;

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- (g) transfers;
- (h) retirement;
- (i) pensions; and
- (j) bonding of services.

26. Appointment in an acting capacity

(1) Where a need arises for an urgent filling of a vacancy while awaiting a permanent appointment or an otherwise more permanent solution for the vacancy, a person may be appointed in an acting capacity, provided that he or she meets the requirements for the position in question.

(2) The Inspector-General may appoint an officer into an office in an acting capacity, and shall immediately upon such appointment inform the Commission of such appointment pending the appointment of a substantive holder of that office.

(3) Appointments in an acting capacity shall not be for more than six months.

27. Submission of recruitment report to Parliament

The Commission shall, within sixty days after the conclusion of the recruitment exercise, prepare a report of the recruitment exercise and submit that report to Parliament within sixty days of the conclusion of the recruitment exercise.

28. Power to vary the time limit

The Commission may, in exceptional circumstances, vary the timelines provided under these Regulations:

Provided that the reasons for varying the timelines shall be minuted.

29. Revocation of L. N. 18 of 2015

The National Police Service Commission (Recruitment and Appointment) Regulations, 2015 is revoked.

**THE NATIONAL POLICE SERVICE
COMMISSION (DISCIPLINE) REGULATIONS**

ARRANGEMENT OF REGULATIONS

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**THE NATIONAL POLICE SERVICE
COMMISSION (DISCIPLINE) REGULATIONS**

[Legal Notice 90 of 2015]

PART I – PRELIMINARY

1. Citation

These Regulations may be cited as the National Police Service Commission (Discipline) Regulations, 2015.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"Act" means the National Police Service Commission Act (Cap. 85);

"appeal" means an appeal lodged with the National Police Service Commission;

"authorized officer" means the Inspector-General or an officer who is authorized by the Inspector-General initiate disciplinary action against an officer;

"civilian staff" means a person serving in the Service but does not carry out policing functions and duties, and is not authorized to use police powers as provided for in the National Police Service Act (Cap. 84);

"corrective action" means an immediate and temporary measure taken by an immediate supervisor against an officer in order to avert further commission of the offence or misconduct pending commencement of disciplinary processes;

"disciplinary action" has the same meaning as assigned to it under the Act;

"disciplinary proceedings" means proceedings under Part X of the National Police Service Act (Cap. 84);

"dismissal" means an order against a member of the Service to leave the employment of the Service on disciplinary grounds and may result in other consequences as prescribed in any other relevant law;

"immediate commanding officer of the respective Service" means the officer prescribed by Regulations or Service Standing Orders as having powers of command over the accused officer;

"interdiction" means a disciplinary measure where an officer is discontinued from the Service for a specified period of time but continues to be paid one half of his monthly salary;

"officer" has the same meaning as assigned to it under section 2 of the National Police Service Act (Cap. 84);

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

"resignation" means that the member of the Service voluntarily leaves from the Service in accordance with section 76 of the National Police Service Act (Cap. 84);

"respective Service" means the Kenya Police Service or the Administration Police Service;

"Service" means the National Police Service established under Article 243 of the Constitution.

3. Disciplinary control by the Commission

(1) The Commission shall exercise disciplinary control over the Service.

(2) In these Regulations, "disciplinary control" includes—

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- (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 formulated by the Inspector-General;
- (c) ensuring 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 Service;
- (e) reviewing or ratifying of disciplinary actions taken by the Inspector-General;
- (f) hearing and determining appeals from the members of the Service; and
- (g) observing due process, removing persons holding or acting in offices within the Service.

(3) The Commission shall develop procedures for the undertaking disciplinary proceedings by the Inspector-General and officers authorized by the Inspector-General and shall ensure compliance with the procedures.

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

4. Complaints against police officers

- (1) The disciplinary process may commence upon occurrence of any of the following—
 - (a) a complaint from a member of the public;
 - (b) a complaint from a member of the Service;
 - (c) a complaint from a state organ; or
 - (d) an anonymous witness statement or other statement made for another investigation not necessarily commenced for purposes of police Service matters.

(2) Where an incident under subsection (1) occurs, such complaint shall be investigated by the most senior officer available or by an authorized officer in the manner 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 committee to conduct the disciplinary proceedings.

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

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

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

(7) Upon conclusion of the disciplinary proceedings and on receipt of the recommendations of the appropriate disciplinary committee, action may be taken by the Inspector-General or the authorized officer in accordance with procedure set out in these Regulations and the Service Standing Orders.

(8) Investigations into complaints against police shall be notified to the Internal Affairs Unit, upon commencement of the investigations.

(9) 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 committee to conduct proceedings to enable a record of the same to be maintained.

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

(11) An authorized officer or an officer-in-charge, as prescribed in the Service Standing Orders, 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 committee in accordance with these Regulations and the Service Standing Orders.

5. Cooperation with the other agencies

(1) The officer-in-charge shall be required to cooperate with 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.

6. Commencement of disciplinary proceedings

Disciplinary proceedings before the Disciplinary committees against an officer may be initiated on—

- (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.

7. Establishment and composition of the National Police Service Disciplinary committee

(1) In exercise of the powers conferred under section 13 of the Act, the Commission shall establish the National Police Service Disciplinary Committee for purposes of hearing and determining disciplinary proceedings for an officer of the rank of assistant superintendent and above.

(2) The Disciplinary Committee shall be consist of—

- (a) the concerned Deputy Inspector-General of the Service to which the accused officer belongs or in his or her absence a Commissioner from the National Police Service Commission:

Provided that the Commissioner shall not be a Deputy Inspector-General of the Service; and

- (b) four other members appointed by Commission as follows—
 - (i) two members representing the Kenya Police Service; and
 - (ii) two members representing the Administration Police Service.

(3) Where the accused officer is an officer from the Directorate of Criminal Investigations, one of the two members representing the Kenya Police Service under paragraph (2) (a) shall be from the Directorate of Criminal Investigations.

[Subsidiary]

(4) Where the accused officer is an officer of the rank of Senior Assistant Inspector-General, the Disciplinary Committee shall consist of at least three members of the Commission.

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

(6) Notwithstanding paragraph (5), the Committee may require the accused officer to make submissions in person during the hearings.

(7) The Disciplinary Committee may decline the officer selected by the accused officer under paragraph (5) and shall give reasons for the refusal, however the accused officer shall be granted an opportunity to select a different officer to assist him or her in the defence.

8. Term of the National Disciplinary Committee

(1) The members of the Disciplinary Committee shall be constituted on a case by case basis.

(2) The Disciplinary Committee shall sit at a venue to be determined by the Commission.

9. Responsibility of the Disciplinary Committee

(1) The Disciplinary Committee shall inquire into matters related to offences against discipline for all officers taking into account the rank of the officer for purposes of the constituting the Disciplinary Committee.

(2) In conducting an inquiry under subsection (1), the Disciplinary Committee may engage the services of any person or institution with expert knowledge in the matter to which the inquiry relates.

(3) The Committee may in determining any complaint against an officer, make recommendations to the Commission, including recommendations for dismissal from the Service.

(4) An officer aggrieved by the decision of the Commission following the recommendations of the Disciplinary Committee, may apply to the Commission for a review, in accordance with these Regulations.

10. Subordinate Disciplinary Committee

(1) Where a hearing is for purposes of undertaking discipline of an officer of the rank of Chief Inspector and below, the Commission shall constitute a Subordinate Disciplinary Committee to inquire into and hear the disciplinary matter.

(2) The Subordinate Disciplinary Committee shall consist of—

- (a) a presiding officer. being an officer who is appointed as a presiding officer by the immediate commanding officer of the respective Service, and shall be of a rank not below the rank of Inspector and not of or below the rank of the accused officer;
- (b) a presiding officer. being an officer who is appointed as a presiding officer by the immediate commanding officer of the respective Service, and shall be of a rank not below the rank of Inspector and not of or below the rank of the accused officer;
- (c) an officer appointed by the immediate commanding officer of the respective Service to observe the proceedings, who shall not be of a rank lower than the accused officer.

(3) There shall be, during the hearings of the Subordinate Disciplinary Committee, 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.

(4) A police officer facing disciplinary action may be accompanied by another officer of his or her choice for assistance and support:

Provided that such an officer shall not be of a senior rank to the presiding officer.

(5) The Subordinate Disciplinary Committee may decline the officer selected by the accused officer under paragraph (5) and shall give reasons for the refusal, however the accused officer shall be granted an opportunity to select a different officer to assist him or her in the defence.

(6) A police officer aggrieved by the Subordinate Disciplinary Committee's decision may apply for appeal in the following sequence—

- (a) at the County or Formation or Unit, at the first instance;
- (b) to the respective Deputy Inspector-General or to the Directorate of Criminal Investigations, at the second instance;
- (c) to the Inspector-General in accordance with these Regulations and the Service Standing Orders, at the third instance.

(7) An appeal from the decision of the Inspector-General shall lie with the Commission in accordance with these Regulations and the Service Standing Orders.

11. Conduct of disciplinary proceedings

(1) Disciplinary proceedings shall be conducted in accordance with these Regulations 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 a corrective action, where applicable, pending the commencement of disciplinary process.

(3) The accused officer shall be notified of the offence accused of having committed and shall be accorded an opportunity of at least three calendar days within which to show cause why disciplinary action should not be taken against him or her.

(4) Where a disciplinary hearing is scheduled, an officer accused of a disciplinary offence shall be given at least seven calendar days' notice before the date of the hearing.

(5) The notice under paragraph (4) may, in exceptional circumstances, be waived and the hearing held in accordance with the Service Standing Orders.

(6) Where paragraph (5) is invoked, the presiding officer shall record the reasons for such waiver in writing.

(7) 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.

(8) The disciplinary hearings before the Disciplinary Committees 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.

(9) The recommendations of the Disciplinary Committee shall be forwarded to the Commission for confirmation and approval and the Commission shall subsequently communicate the disciplinary action to be taken on the officer through the Inspector-General.

(10) The recommendations of the Subordinate Disciplinary Committee shall be forwarded to the Inspector-General or authorized officer as prescribed in the Service Standing Orders, for confirmation and approval and the Inspector-General or authorized officer shall subsequently communicate or implement, where applicable, the disciplinary action to be taken on the officer, taking into consideration the provisions of regulation 10.

12. Disciplinary hearings where the accused is absent

(1) Where an officer fails to attend a disciplinary hearing despite evidence of notification of the date, venue and time of the hearing the disciplinary hearing may proceed in the absence of the accused officer and the presiding officer shall record the reasons for the accused officer's absence.

[Subsidiary]

(2) The appropriate disciplinary committee may upon conclusion of the hearing issue a determination of the disciplinary action to be taken in writing, and the disciplinary action taken shall be recorded immediately in accordance with these Regulations.

13. Disciplinary proceedings by the Service

(1) The Inspector-General may either directly or through an authorised officer or the appropriate disciplinary committees, initiate disciplinary proceedings against any member of the Service in the manner provided under these Regulations and any Guidelines issued by the Commission or the Service Standing Orders.

(2) Where a complaint or report against an officer discloses an offence against discipline, appropriate disciplinary action shall be taken by the Inspector-General, the authorised officer or the concerned disciplinary committee in accordance with these Regulations.

(3) Where disciplinary proceedings are initiated by the Inspector-General or an authorised officer, the Inspector-General or authorized officer shall notify the Commission for information 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 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 specified period but not exceeding one year;
- (h) reduction in rank;
- (i) dismissal from the service;
- (j) any combination of the punishments provided under this paragraph.

(5) The sanctions provided under paragraph 4 (f) (g) (h) (i) and shall only take effect on approval and confirmation by the Commission.

(6) In the determining what disciplinary action to take against an officer under paragraph (4), the Inspector-General or the authorized officer shall take into consideration—

- (a) the circumstances in which the offence was committed and the gravity of the offence;
- (b) the seniority and length of service of the officer;
- (c) the previous record and conduct of the officer; and
- (d) the statement made by the officer for the purposes of mitigation.

(7) The officer presiding on the subordinate disciplinary committee shall enter the details of the punishment, including the date of the punishment and the offence for which it was imposed, on the record sheet of the police officer punished, and a copy of the record shall be forwarded to the Commission.

(8) Where the recommended disciplinary action relates are as provided under regulation 10(4) the recommended disciplinary action shall require confirmation by the Commission.

(9) Where a disciplinary offence amounts to a criminal offence, or where an officer is charged of a criminal offence, the Service shall, in accordance with these regulations and the service standing orders, take appropriate disciplinary action regardless of whether the criminal proceedings result in a conviction or an acquittal.

(10) Where the Service fails to take the requisite disciplinary action the Commission may initiate disciplinary proceedings against the accused officer as provided in section 88(4) of the National Police Service Act.

(11) Where an officer commits a criminal offence, the Inspector-General or authorised officer shall interdict the officer in accordance with the provisions of these Regulations and the Service Standing Orders and shall immediately inform the Commission of the interdiction.

14. Interdiction

(1) An officer under investigation, may be interdicted by the Inspector-General or an authorized officer to facilitate investigations.

(2) An interdiction of an officer shall not mean removal from office.

(3) An interdicted officer shall continue to be subject to all laws, Regulations, Service Standing Orders and Guidelines relating to the Service.

(4) An officer under investigation may, depending on the nature of the case, be interdicted pending the investigation.

(5) Where the officer is interdicted, the officer shall surrender his or her Certificate of Appointment to the supervisor.

(6) Despite any provision in this regulation, the officer's appointment shall not cease only because of such interdiction or suspension.

(7) While an officer is interdicted or suspended, the officer's powers, privileges and benefits shall be suspended, but the officer shall continue to be subject to the discipline and penalties provided under the National Police Service Act (Cap. 84) as if the officer had not been interdicted or suspended.

(8) 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.

(9) Notwithstanding paragraph (8), during an officer's interdiction or suspension as the case may be, the officer may be required to proceed to his permanent residence and to report to the local police station or post as prescribed in the Service Standing Orders.

15. Retirement on grounds of public interest

(1) If the Inspector-General after having considered the report made with regard to an officer, and is of the opinion that the matter cannot suitably be dealt with under any provision in these Regulations or the Service Standing Orders, the Inspector-General shall the officer in writing specifying the complaints by reason of which the officer's retirement is in the public interest.

(2) The notice issued under paragraph (1) shall be issued to the officer together with the any report or part of a report containing any matter against the officer.

(3) If after giving the officer an opportunity to show cause why the officer should not be retired in the public interest and the Inspector-General is satisfied that the officer should retire in the interest of the public, the Inspector-General shall forward to the Commission the report on the case including comments from—

- (a) the officer;
- (b) the Deputy Inspector-General or Director of the Directorate of Criminal Investigation;
- (c) the Inspector-General, and the Commission shall make a final determination whether the officer should be retired in the interest of the public.

16. Review and confirmation and by the Commission

(1) A disciplinary action taken by the Inspector-General or authorised officer shall be subject to review by the Commission in accordance with these Regulations.

(2) If on reviewing a disciplinary action taken by the Inspector-General or an authorised officer, the Commission finds that disciplinary measure taken is not proportionate to the disciplinary offence, the Commission shall make recommendations to the Inspector-General on the required corrective action to be taken.

[Subsidiary]

(3) The disciplinary proceedings shall be performed in accordance with these regulations and the Service Standing Orders, and any officer who fails to adhere to these procedures shall attract disciplinary proceedings against the authorised officer.

(4) In reviewing a disciplinary measure taken against an officer, the Commission may review the process and outcome of an investigation and the recommended punishment, in order to confirm that the disciplinary action meted on an officer was commensurate to the offence committed.

17. Hearing during Disciplinary proceedings

(1) Disciplinary proceeding shall be conducted in accordance with these Regulations and the Service Standing Orders and any guidelines issues 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 he is charged of and shall be given at least three calendar days within which to show cause why disciplinary action should not be taken against him or her.

(4) Where a disciplinary hearing is scheduled, an officer accused of a disciplinary offence shall be given at least twenty-four hours' notice before the date of the hearing.

(5) In exceptional circumstances, the notice under paragraph (4) may be waived and the hearing held in accordance with the Service Standing Orders.

(6) Where paragraph (5) is invoked, the presiding officer shall be required to make a written statement stating the reasons for the waiver.

(7) The officer who is the subject of the hearing may, where applicable, call witnesses or other evidence on his or her behalf, at the officer's cost.

(8) The disciplinary hearing before the Disciplinary Committee 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 stating the reasons for the delay.

(9) The recommendations of the National Disciplinary Committee shall be forwarded to the Commission for confirmation and approval and the Commission shall within seven days upon receipt of the recommendations communicate to the Inspector-General the disciplinary action to be taken against the officer.

(10) The Inspector-General shall take the disciplinary action within three days of receipt of the communication from the Commission.

(11) The recommendations of the Subordinate Disciplinary Committee shall be forwarded to the Inspector-General or authorised officer as prescribed in the Service Standing Orders, for confirmation and approval.

(12) The Inspector-General or authorised officer shall thereafter communicate or implement, where application the disciplinary action to be taken on the officer, taking into consideration regulation 10 of these Regulations.

18. Action by Commission on review

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

(2) Upon review of a decision or action by the Commission, the Commission may—

- (a) uphold the decision;
- (b) set aside the decision;
- (c) vary the directions as it considers to be just;

- (d) make any decisions for refund, reinstatement of remuneration or release of withheld payment due to an officer as it considers to be just;
- (e) direct that disciplinary action to be taken against any authorised officer or other persons within the Service who has failed to discharge a duty in which he or she was under obligation to discharge, in relation to the disciplinary case; or
- (f) make any other appropriate decision in view of the circumstances of the case.

19. Record of disciplinary cases generally

(1) The Commission shall keep records, and include in its annual report, the number of members of the police service who have been subjected to the disciplinary process, the offences committed, the disciplinary action taken, appeals and number of successful appeals.

(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, including where the officer is not found guilty;
- (b) information relating to misconduct which the officer is accused of;
- (c) the disciplinary action taken; and
- (d) the outcome of the review by the Commission or the Service, where applicable, the outcome of the appeal.

20. Power of review by the Commission of its decisions

(1) Where disciplinary hearing has been conducted before the Commission, 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 against 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 seven days, of the decision.

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

- (a) an error on the face of the record; or
- (b) a new and important matter that was not considered by the Commission's disciplinary panel in the conduct of the officer's proceedings.

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

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

- (a) the Commission shall constitute 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 who shall be the chairperson of 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 or Director of the Directorate of Criminal Investigations, as the case may be;
 - (iii) a human resource officer from the Service of the concerned officer; and
 - (iv) any other officer who possesses the knowledge and skills that are found necessary by the panel;

[Subsidiary]

- (c) the panel shall consider the application for review within twenty one days of receipt of the application and shall make recommendations to the Commission for the Commission's consideration and final decision; and
- (d) the decision and reasons for the decision shall be submitted to the officer by the Commission, through the Inspector-General within fourteen days of the receipt of the panel's recommendations.

21. Appeals

(1) Where a disciplinary hearing has been conducted by an authorized officer or disciplinary board, the officer aggrieved by the decision of the authorized officer may appeal to the designated appellate authority.

(2) Any further appeal shall lie with the Commission.

22. Procedure for appeal

(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 shall be made within thirty days of the decision appealed against.

(2) An officer who appeals to the Service designated appeal authorities shall submit a copy of the appeal to the Inspector-General and to the concerned Deputy Inspector-General of the Officer's Service and to the Commission for information purposes.

(3) The Commission or the designated appellate body may, in accordance with the Service Standing Orders, accept an appeal out of time where there is a compelling reason to do so or in the interest of justice, and the officer shall in writing state the reasons justifying the appeal out of time.

(4) The Commission or 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 submissions by the parties or through oral hearing or both.

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

- (a) the Commission shall constitute a panel to hear the case;
- (b) the composition shall depend on 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, as the case may be;
 - (iii) a human resource officer from the Service of the concerned officer; and
 - (iv) any other officer who possesses the knowledge and skills deemed necessary by the panel;
- (c) the panel shall consider the matter within twenty one days and shall make recommendations to the Commission for the Commission's consideration and final decision; and
- (d) the decision and reasons for the decision shall be given to the officer by the Commission, through the Inspector-General within fourteen days' of the receipt of the recommendation of the panel.

23. Report of the panel

(1) The appeals panel shall deliver its report to the Commission within seven days of the conclusion of the hearing and may, in respect of a decision appealed against recommend to—

- (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 consider 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 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.

(2) An appellant who is dissatisfied with the decision of the commission may petition the commission for review, if there is new information that warrants such review by the Commission.

(3) The Commission may issue guidelines for the better carrying out of disciplinary processes and proceedings.

**THE NATIONAL POLICE SERVICE
COMMISSION (PROMOTIONS) REGULATIONS**

ARRANGEMENT OF REGULATIONS

PART I – PRELIMINARY

Regulation

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THE NATIONAL POLICE SERVICE COMMISSION (PROMOTIONS) REGULATIONS

[Legal Notice 88 of 2015]

PART I – PRELIMINARY

1. Citation

These Regulations may be cited as the National Police Service Commission (Promotions) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"acting capacity" means temporary conferment upon a member of the Service, the power to perform duties of an office other than the office the member is substantively appointed to hold, while the member continues to hold the substantive appointment;

"affirmative action" has the same meaning assigned to it under 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;

"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;

"officer" has the same meaning as assigned to it under section 2 of the National Police Service Act (Cap. 84);

"review" means an assessment of any matter relating to promotion, for purposes of establishing whether a promotion has been conducted in accordance with these Regulations.

3. Guiding principles

(1) The Commission shall determine all promotions within the National Police Service in the manner provided for under these Regulations.

(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) Subject to established policies on affirmative action, all officers of the National Police Service shall be accorded equal opportunities for promotion.

4. Delegation to the Inspector-General.

(1) Promotion of an officer of the rank of or above the rank of a Superintendent shall be carried out directly by the Commission and shall not be delegated to the Inspector-General.

[Subsidiary]

(2) Promotion of an officer below the rank of a Superintendent, may be delegated to the Inspector-General in accordance with section 10(2) of the National Police Service Commission Act (Cap. 85).

(3) A delegation to the Inspector-General under paragraph (2) shall—

- (a) be in writing;
- (b) be subject to the conditions as may, from time to time, be imposed by the Commission; and
- (c) not divest the Commission of the responsibility concerning the exercise of its powers or the performance of the duty delegated.

(4) Where promotions are delegated to the Inspector-General, the—

- (a) promotions may be commenced after a written notification of the commencement of the process to the Commission;
- (b) Inspector-General shall be held accountable for the process to the Commission and shall be bound by the policies, Guidelines, Regulations or Directives formulated or prescribed by the Commission;
- (c) Inspector-General shall within thirty days of the promotion, report to the Commission in writing concerning any promotion undertaken pursuant to the delegated authority; and
- (d) Commission may review or revoke the promotions, where the Commission finds any failure in the adherence to the Guidelines or Regulations on promotions.

5. Adherence to standards on promotions

The basis of all promotions shall be in accordance with the standards relating to the job descriptions and specifications for all civilian and uniformed police positions as approved by the Commission.

6. Offence on soliciting for promotions

It shall be a disciplinary offence for an officer to solicit, offer money or other reward in order to get or give a promotion in the National Police Service.

7. Determination of promotions

(1) Promotions shall be determined—

- (a) by the existence of an appropriate vacancy;
- (b) on an officer satisfying the criteria for promotion; or
- (c) on an officer successfully undergoing a Promotional course or training.

(2) In determining promotions, an officer's disciplinary record shall be taken into consideration.

(3) An officer who is 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.

8. Succession Management

(1) The Commission or, as the case may be, the Inspector-General, shall in so far as succession management is concerned, promote an officer in anticipation of the concerned position falling vacant and not after the vacancy has already occurred.

(2) Where a police officer is promoted, the officer shall within thirty days from the date of the promotion, be released from the officer's previous rank and station where applicable to take up the promotion.

(3) The Commission may determine, through the Scheme of Service for members of the National Police Service, the term which an officer may hold a certain rank.

9. Performance Management

(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.

10. Promotion Boards

(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 Service Promotion Boards specified under paragraph (1) shall comprise a member of the human resources department.

(3) The Commission shall issue guidelines on the procedure of the promotional boards.

11. Applying for a position that entails a promotion

(1) The Commission or the Inspector-General may advertise certain vacancies as determined by the Commission that may result to promotion 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 Commission shall keep a record of every proceeding regarding the promotion of an officer.

12. Alternative avenues for career development

(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.

13. Actual promotion

(1) Promotion shall commence on a written confirmation by the Commission, however 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 in which promotion is desired.

14. Appeals

(1) A member of the Service may appeal to the Commission against a promotion, delay or failure to promote, or demotion of an officer, to the Commission.

(2) An appeal shall be in writing and shall 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 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 issue being raised on appeal and the rank of the person involved.

(6) The appeal panel shall consist of—

- (a) a Commissioner to chair the panel;

[Subsidiary]

- (b) 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;
- (c) a human resource officer from the Service of the concerned officer; and
- (d) any other officer who possesses the knowledge and skills that are found necessary for the functions of the panel.

(7) The panel shall consider the appeal within twenty one 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 fourteen days of the receipt of the panel's recommendations.

**THE NATIONAL POLICE SERVICE COMMISSION
(TRANSFERS AND DEPLOYMENTS) REGULATIONS**

ARRANGEMENT OF REGULATIONS

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**THE NATIONAL POLICE SERVICE COMMISSION
(TRANSFERS AND DEPLOYMENTS) REGULATIONS**

[Legal Notice 89 of 2015]

PART I – PRELIMINARY

1. Citation

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

2. Interpretation

In these Regulations, unless the context otherwise requires—

"Act" means the National Police Service Act (Cap. 84);

"assignment" means the allocation of specific duties to an officer;

"Commission" means the National Police Service Commission established under Article 246 of the Constitution;

"deployment" means the temporary movement of an officer from one station to another station, to undertake a specific assignment, for a period not exceeding three months and in which the pay point remains at the original station in which the officer was initially posted prior to the deployment;

"distribution of police officers" means the number of police officers required in a particular station, unit, formation, post or outpost;

"posting" means the placing of an officer in his or her duty station;

"secondment" means the temporary deployment of an officer outside the National Police Service with or without additional responsibilities;

"Service" means the National Police Service established under Article 243 of the Constitution;

"Service Board" means the Service Board established under section 21 of the National Police Service Act (Cap. 84);

"transfer" means the relocation of an officer from the current duty station to a new duty station and matters relating to the officer including the pay point of the officer is moved to the new duty station.

PART II – TRANSFERS

3. Transfers generally

(1) Upon being appointed in the Service, an officer may from time to time be transferred from one station to another station as the Commission may determine.

(2) A transfer shall not be used as a disciplinary sanction or reward measure.

(3) Where it is found that a transfer has been used as a disciplinary sanction or as a reward measure, the Commission shall revoke the transfer and direct appropriate disciplinary action to be taken against any officer established to have participated in the transfer.

4. Authority to transfer

(1) Subject to Article 246(3) of the Constitution, the mandate to determine transfers shall lie with the Commission.

(2) The Commission shall determine inter-county transfers of any officer.

(3) The Inspector-General shall—

[Subsidiary]

- (a) be responsible for determining the distribution of officers in the Service; and
- (b) recommend to the Commission, in writing, the authorization of transfers as may be necessary for purposes of attaining the required distribution of officers in the Service.

(4) The Commission shall, in considering a recommendation for transfer of an officer by the Inspector-General, inter alia consider—

- (a) the justification for the transfer;
- (b) whether the proposed transfer would disrupt police work;
- (c) whether funds are available to pay the officer's transfer allowance; or
- (d) ethnic diversity and gender representation.

(5) The Inspector-General shall ensure that an officer being transferred has been adequately facilitated.

5. Conditions for transfers

(1) An officer appointed in the Service shall be deemed to have agreed to work in any place in the Kenya and transfers shall be in accordance with the terms and conditions of employment in the Service.

(2) A transfer shall be based on necessity and shall be carried out in a manner that shall not disrupt the operations of the concerned Service.

(3) Subject to paragraph (4), in order to be considered for transfer, an officer shall be required to have served in a duty station for a continuous period of at least one year and a maximum period of three years.

(4) Despite subsection (3), the Commission may, in exceptional circumstances, determine an officer's transfer without due regard to the period prescribed in paragraph (3).

(5) Where transfers are made, the Commission shall ensure that the requisite support is accorded to the officer for purposes of facilitating the resettlement of the officer and his or her family.

(6) The Commission and the Inspector-General shall ensure that transfers are fair and just and does not allow corruption including soliciting or offering money or other services to acquire or avoid a transfer.

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

6. Transfer on medical and compassionate grounds

An officer may, make an application in writing and in accordance with the requirements set out in the standing orders requesting for a transfer or raising an objection to an intended transfer' on medical or compassionate grounds, for consideration by the Commission.

7. Notification of transfer

(1) The Commission shall, in writing through the Inspector-General, notify an officer of a transfer.

(2) An officer's notification of transfer under paragraph (1) shall state the officer's new station, the date of assumption of duties and the details of how the officer shall be facilitated during the transfer.

PART III – DEPLOYMENT

8. Authority to deploy officers.

(1) Subject to section 10(1)(g) of the National Police Service Act (Cap. 84), the mandate to deploy an officer lies with the Inspector-General.

(2) The Inspector-General shall, from time to time or on a need basis, determine the deployment of officers in the Service.

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

9. Period of deployment

(1) A deployment shall not exceed three months and may be extended from time to time due to the operational requirements but shall not be for a period of one year.

(2) Where deployment exceeds a period of one year, the Commission shall consider transferring the officer.

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

(4) At the end of the deployment period, an officer shall be required to undergo counseling sessions as may be determined by the Service for psychological purposes of transition into regular policing.

PART IV – SECONDMENTS AND ATTACHMENTS

10. Secondment and attachment

(1) An institution may request the Inspector-General to second or attach a member of the Service to the institution for a specified period of time.

(2) The requests under paragraph (1) shall be made in writing to the Inspector-General.

(3) On receipt of the request under paragraph (2), the Inspector-General shall within fourteen days consult the Service Board concerning the request made by the institution.

11. Terms and conditions of secondments and attachments

(1) 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 officer being seconded.

(2) All secondments or attachments shall be for a period not exceeding three years.

(3) Any further extension of the secondment or attachment period by the Inspector-General shall be with the approval of the Commission.

12. Review of Regulations

The Commission may review these Regulations from time to time.

