



REPUBLIC OF KENYA

PUBLIC SERVICE COMMISSION OF KENYA

**COUNTY PUBLIC SERVICE
HUMAN RESOURCE MANUAL**

MAY 2013

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PREAMBLE

The Constitution of Kenya (2010) provides for restructuring of the government from a centralized to a devolved system. The Fourth Schedule distributes functions between the national and county governments. The national government will deal with policy formulation, national planning, quality assurance and setting of norms and standards, while county governments will deal with service delivery at the county level.

With the devolvement of functions to the county level of government, a county public service which will perform the functions has been established. To ensure the county public service is effectively managed, it has been found necessary that the County Public Service Human Resource Manual be developed. The manual provides procedures on various aspects of HRM function that will guide the management of human resources in the county government.

The manual is in tandem with best human resource practices and incorporates the provisions of the Constitution of Kenya (2010). The County Government Act (2012), Labour Laws and other relevant legislation that govern various aspects of employee/employer relationship in the Public Service. The Regulations are also anchored on other policies and guidelines governing the management of the Public Service.

The manual covers Organization of Government, Labour Relations, Terms and Conditions of Employment, Performance Management, Code of Conduct, Salaries and Advances, Allowances, Medical Benefits, Leave, Training and Development, Health and Safety and Terminal Benefits.

It is important to note that this Manual is not exhaustive and should be read together with all relevant legislations and regulations governing devolution and the Public Service.

The manual will apply to the county government public service, and will be updated from time to time to reflect policy changes affecting human resource management in the Public Service.

Where clarification on any part of this Manual is required, it should be sought from the Secretary, Public Service Commission.

Secretary/Chief Executive

DEFINITION OF TERMS

Accounting Officer - Means a public officer appointed to take full responsibility on the finances, assets and liabilities of the respective county department.

Authorized Officer - Means a county public officer to whom a county Public Service Board has delegated its functions and exercises supervision over a county department.

Basic Salary - Means an officer's salary excluding allowances.

Bondee - Means an employee who is serving a training bond obligation.

Cabinet Secretary - Means a person holding office of a Cabinet Secretary of the Government of Kenya established under Article 152 of the Constitution.

Chief Officer – Means a county chief officer responsible for a county department.

Children - Means the biological offspring or legally adopted child under the age of twenty two (22) years who are unmarried and are wholly dependent on the officer. For purpose of records, the names of the children must be declared at the time of birth or adoption if it occurs during employment in the Civil Service. Copies of birth certificates or legal adoption papers will be required in either case.

Consultative Committee – Means a forum for co-operation and negotiation between the government, as an employer, and trade union.

Constitution – Means the Constitution of Kenya, 2010

County public servant or officer - Means employee of the county Public Service

County public service – Means the collectivity of all individuals performing functions within any department of the county government or its agency but does not include the governor, deputy governor, members of the county executive committee and members of the county assembly.

County – Means a County established under Article 6 (1) of the Constitution and specified in the First Schedule.

County Governor - Means the Chief Executive Officer of a County in a County Government

Extended Family - Includes parents, brothers and sisters of the officer.

Immediate Family - Includes the officer, spouse, children and the officer's parents.

Leave Year - Means the period commencing 1st July to 30th June of each financial year.

Next-of-Kin - Means the name of the person provided by the officer for the purpose of contact during emergency and in case of death.

Nuclear Family - Means the officer, spouse and children.

Pro-rata - Means computation of benefits for the period served in relation to the full term entitlement.

Public Service – Means the collective of all individuals, other than State Officers, performing a function within a State Organ.

Reimbursable Allowances - Means those allowances where an officer gets reimbursement on the expenditure incurred in the course of duty.

Remunerative Allowance - Means those allowances paid to an officer, in addition to salary as a form of compensation for additional responsibilities.

Spouse - Means legal marriage partner of an officer specified under the Marriage Act or in accordance with the relevant Customary Law.

State Officer - Means a person holding a State Office.

Surety - Means a person who formally accepts responsibility to locate a bondee and/or redeem the bond obligation of a bondee who defaults or appears in a court of law in respect of the same.

Tour of Service - Means the period of employment contract in the Civil Service awarded to a foreign employee.

Training Bond - Means formal agreement between the County Government and its employees who are selected for approved training that oblige them to serve in the county public service for a specific period of time on completion of training.

The County Public Service Human Resource Manual is formulated with due regard to gender; thus where reference is made either to 'he' or 'she' only, it shall be construed to mean and include reference to both 'he' and 'she' and where reference is made to spouse, it shall be construed to mean and include reference to both 'husband' and 'wife' where applicable and vice versa.

LIST OF ACROYNYMS

CBA	Collective Bargaining Agreement
CPSB	County Public Service Board
LAPF	Local Authority Pension Fund
NSSF	National Social Security Fund
PSC	Public Service Commission
TA	Transition Authority
SRC	Salaries Remuneration Commission
WCPS	Widows and Children Pension Scheme
CGA	County Government Act

SECTION A: ORGANIZATION OF GOVERNMENT

A.1 Introduction

Section A provides for the structure of government in Kenya. It also provides for the national values and principles of governance and values and principles of Public Service, the functions of the national and county governments, the organization of the county governments and functions and powers of the county public service boards. The role of the Public Service Commission in relation to County Public Service is also contained in this section. It shall be read in conjunction with the Constitution of Kenya, the County Government Act, the Public Service Commission Regulations and other relevant legal statutes.

A.2 The Structure of Government

- (1) The national government comprises of the National Executive, the Parliament of Kenya and the Judiciary. The National Executive comprises of the President, the Deputy President and the Cabinet. The Cabinet consists of the President, the Deputy President, the Attorney General and not fewer than 14 and not more than 22 Cabinet Secretaries.
- (2) The Parliament is a bicameral Parliament i.e it consists of two houses; The National Assembly and the Senate. The National Assembly represents the constituencies while the Senate represents the counties.
- (3) County Governments comprise the County Executive and County Assemblies. The County Executive Committee comprises of the Governor and County Executive Members appointed by the Governor. The County Assembly is the legislative arm of the County Governments.

A.3 Role of the Public Service

The Public Service shall be responsible for implementation of Government policies and programmes as stipulated under the Fourth Schedule of the Constitution.

- (1) The functions distributed to the two levels of the government will be performed through the public service. The public service is a catalyst for socio-economic development of a country and it greatly impacts on the quality of life of the citizens.
- (2) Under Article 260 of the Constitution, public service means the collectivity of all individuals, other than State officers, performing a function within a State organ. government or county governments, with the exception of State Officers.
- (3) Under Article 56 of the Constitution and sec.56 (1) of County Government Act, each county shall have its own public service to be known as county public service.

- (4) The public service whether at the national or county level serve the Kenyan public and should as much as possible be insulated from politics.

A.4 National Values and Principles of Governance

- (1) In discharging their functions, the national and county governments shall be guided by the national values and principles of governance and values and principles of public service.

The National Values and Principles of Governance include:-

- (a) Patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of people;
 - (b) Human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized;
 - (c) Good governance, integrity, transparency and accountability; and sustainable development
- (2) The Values and Principles of Public Service include:-
- (a) High standards of professional ethics;
 - (b) Efficient, effective and economic use of resource;
 - (c) Responsive, prompt, effective, impartial and equitable provision of services;
 - (d) Involvement of the people in the process of policy making;
 - (e) Accountability for administrative acts;
 - (f) Transparency and provision to the public of timely accurate information;
 - (g) Subject to paragraphs (h) and (i), fair competition and merit as the basis of appointments and promotions;
 - (h) Representation of Kenya's diverse communities; and
 - (i) Affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service of:-
 - (i) men and women;
 - (ii) the members of all ethnic groups; and
 - (iii) persons with disabilities

Whereas the public service commission will promote, evaluate and report on the state of compliance of the values at the national level, the county public service board shall do the same at the county level.

A.5 Functions of the National Government and County governments

- (1) The functions of the national are set out in the in the Fourth Schedule of the Constitution. The national government is responsible for:
 - (i) Foreign affairs, foreign policy and international trade;
 - (ii) the use of international waters and water resources;
 - (iii) National defence and the use of the national defence services; and
 - (iv) Police services amongst others..
- (2) The functions county governments are set out in fourth schedule. They include:
 1. Agriculture;
 2. County health services;
 3. Control of air pollution, noise pollution, other public nuisances and outdoor advertising; and
 4. Cultural activities, public entertainment and public amenities amongst others.
- (3) Article 6(2) of the Constitution provides that the governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation.

A.6 Organization of County Governments

- (1) The county governments have an executive arm of government and a legislative arm. The executive arm of county governments comprises the governor and the county executive committee appointed by the governor and approved by the county assembly. The county public services shall be headed by the county secretary who shall also be secretary to the county executive committee.

A.7 Role of the Executive Committee

- (1) The county executive committee will be responsible for the management and coordination of the county administration and its departments and will develop and implement county policy as is provided for under section 37 of CGA.
2. The members of the executive committee are individually and collectively accountable to the governor in the exercise of their powers and the performance of their duties and responsibilities.

3. They shall appear before a Committee of the County Assembly when required by the Committee and answer any question concerning a matter for which the member is responsible (section 39 of CGA).

A.8 Allocation of Functions to County Departments

- (1) The allocation of functions to county Departments shall be as set out in Governor's Circulars which will be issued to the County Public Service from time to time.

A.9 Communication by Executive Committee Members

- (1) Executive Committee Members will communicate directly with the Governor by minutes, letters or verbally, as may be appropriate. They may see him/her by arrangement whenever they wish to do so. Executive committee members should inform the Governor at the earliest possible opportunity of any important event connected with the administration of functions of their respective County Departments.
- (2) Executive Committee Members will communicate:-
 - (i) with one another on official matters by letters, emails, telephone and not by passing files;
 - (ii) with their respective County Secretaries by minutes, emails, telephone or orally;
 - (iii) with Heads of Departments under their control in writing through their County Secretaries.
- (3) If an Executive Committee Member wishes to communicate with a Department not falling within his portfolio, he will do so through the appropriate Executive Member and not directly.
- (4) An Executive Committee Member will communicate with officials of Departments under his/her general control through the appropriate Chief Officer/Head of Department, as the case may be and not directly except in such matters of daily routine as may require direct communication, or when special circumstances so require. In such cases, if any important decisions or directions are involved, the Executive Committee Member concerned should also confirm his instructions to the County Secretary/Head of Department as soon as possible.
- (5) Executive Committee Members may communicate directly with the County Governor.

A.10 Role of the County Secretary

- (1) The County Secretary shall be the head of the county public service. He/she will be responsible for arranging the business and keeping the Minutes of the county executive committee subject to the directions of the executive committee, conveying the decisions of the county executive to the appropriate persons or authorities and performing any other functions as directed by the county executive committee (section 44 (3) of CGA).

A.11 Role of County Chief Officers

- (1) County Chief Officers are responsible to their respective county executive committee members for:-
 - (i) Efficient management and administration of their respective county departments as provided for under section 46 of CGA
 - (ii) Efficient utilization of funds and other Public resources placed at their disposal as they shall be the authorized officers in respect of exercise of delegated powers; and
 - (iii) Giving effect to lawful directives of County Executive Committee Members and keeping them informed of all important activities and events;
- (2) County Chief Officer should always seek advice and guidance from their respective County executive committee members on important policy matters.
- (3) County Chief Officer intending to be absent from his/her office will notify his/her respective County executive committee member and their respective County Secretary of their absence.

A.12 The County Public Service Board

- (1) Section 58 of the County Government Act, 2012 establishes a County Public Service Board (CPSB) for each county. The CPSB is the body responsible for management of the human resource in the county. It consists of a Chairperson, and a Secretary and not less than three but not more than five other members appointed by the Governor with the approval of the County Assembly.

A.13 Functions and Powers of the County Public Service Board

The County Government Act 2012, section 59, empowers the CPSB to:-

- (i) establish and abolish offices in the county public service;
- (ii) appoint persons to hold or act in offices of the county public service including in the boards of cities and urban areas within the county and to confirm appointments;
- (iii) exercise disciplinary control over, and remove, persons holding or acting in those offices;
- (iv) prepare regular reports for submission to the county assembly on the execution of the functions of the Board;
- (v) promote in the county public service the values and principles referred to in Articles 10 and 232 of the Constitution;
- (vi) evaluate and report to the county assembly on the extent to which the values and principles referred to in Articles 10 and 232 of the Constitution are complied with in the county public service;

- (vii) facilitate the development of coherent, integrated human resource planning and budgeting for personnel emoluments in counties;
- (viii) advise the county government on human resource management and development;
- (ix) advise county government on implementation and monitoring of the national performance management system in counties;
- (x) make recommendations to the Salaries and Remuneration Commission, on behalf of the county government, on the remuneration, pensions and gratuities for county public service employees.

A.14 Delegation by the County Public Service Board

- (1) The County Public Service Board may delegate, in writing, any of its functions to any one or more of its members, the county secretary, county chief officer, sub-county or ward administrator, village administrator, city or municipal manager and town administrators.

A.15 Communication of CPSB decisions

- (1) The decisions of the County Public Service Board will be communicated through the Secretary, County Public Service Board.
- (2) The Secretary, County Public Service Board will communicate to the county chief officer responsible for human resource who will in turn communicate to the affected officer.

A.16 Role of the Public Service Commission in Relation to County Public Service

- (1) The Public Service Commission is mandated to hear and determine appeals from the county public service.
- (2) The appeals may be in respect of any decision relating to:-
 - (a) Recruitment, selection, appointment and qualifications attached to any office;
 - (b) remuneration and terms and conditions of service;
 - (c) disciplinary control;
 - (d) national values and principles of governance, under Article 10, and values and principles of public service under Article 232 of the Constitution;
 - (e) retirement and other removal from service;
 - (f) pension benefits, gratuity and any other terminal benefits; or
 - (g) any other decision the Commission considers to fall within its constitutional competence to hear and determine an appeal in that regard.

A.17 The Role of the Public Service Commission during the Transition Period

- (1) During the transition period, the body responsible for transition shall in consultation with the Public Service Commission and the relevant Ministry facilitate transfers and secondment/deployment of staff between the national and county governments.
- (2) The Public Service Commission will continue to deal with human resource management issues related to the County Public Service until the county public service boards are constituted and operationalised.

SECTION B: TERMS AND CONDITIONS OF EMPLOYMENT

B.1 Introduction

This Section provides for rules governing recruitment, appointment, confirmation and promotion of county public officers. It also provides guidelines on remuneration, schemes of service, transfer of service and secondment of officers from one organization to another and other related matters within the County Government.

B.2 Categories of Appointment

- (1) Appointments in the County Public Service are divided into the following main categories:
 - (i) Permanent and Pensionable;
 - (ii) Medium Term Appointment (1 - 5 years renewable contract); and
 - (iii) Short-Term Appointment (Casual, hourly or daily paid).

B.3 Powers of Appointment and Procedures to be Followed

- (1) The authorities empowered to make appointments and promotions in the County Public Service are:
 - (i) The Governor, with the approval of the County Assembly is empowered to appoint:-
 - County Secretary
 - County Executive Committee Members
 - County Chief Officers-Governor to nominate qualified and experienced chief officers from among persons competitively sourced and recommended by County Public service Board
 - Chairperson of County Public Service Board
 - County Public Service Board Members
 - Secretary to the County Public Service Board
 - (ii) County Executive Committee with the approval of County Assembly is empowered to appoint:-
 - City Board Members
 - Municipality Board Members
 - Town Committee Members
 - (iii) County Public Service Board will appoint and promote:-

- City/Municipality Managers
- Sub-County Administrators
- Other staff of the County Public Service

(iv) Other authorities/officers/institutions to which the County Public Service Board shall delegate its functions is provided for in Section 86 of the County Government Act. 2012.

(2) The procedures to be followed in appointing persons to hold offices within the scope of the County Government are provided for in the County Government Act, 2012 and laid down regulations as may be reviewed from time to time.

B.4 Salaries and Remuneration

(1) The Salaries and Remuneration Commission will, based on recommendation of the County Public Service Board, advise and regularly review the salary and allowances applicable to officers in the county public service, amongst other public officers. Salaries and Remuneration Commission will be guided by the following principles:-

- (i) The need to ensure that the total public compensation bill is fiscally sustainable;
- (ii) The need to ensure that the county public service is able to attract and retain the skills required to execute its functions;
- (iii) The need to recognize productivity and performance;
- (iv) Transparency and fairness; and
- (v) Equal remuneration to persons for work of equal value.

B.5 Reporting Vacancies

(1) An Authorized Officer must declare all vacant posts to the County Public Service Board in accordance with the procedures set out in the County Government Act 2012.

(2) All vacancies shall be declared in a prescribed format which shall include: the number of vacancies; when the vacancy occurred; whether the vacancy is within the authorized establishment and other relevant details.

B.6 Recruitment

(1) Recruitment will be guided by the values and principles of the public service spelt out in Article 232 of the Constitution.

- (2) In recruitment, the county government will ensure that the staff appointed into the county public service has the necessary skills, knowledge and attitude to deliver efficient and effective services.
- (3) In the recruitment process, due consideration will be given to:-
 - (i) appropriate organizational structure in each Department;
 - (ii) optimal staffing levels;
 - (iii) schemes of service and career progression guidelines

B.7 Matters to Take into Account during Appointments

- (1) In selecting candidates for appointment, the CPSB will consider:-
 - (a) the standards, values and principles set out in Articles 10, 27 (4), 56 (c) and 232 (1) of the Constitution;
 - (b) the prescribed qualifications for holding or acting in the office;
 - (c) the experience and achievements attained by the candidate;
 - (d) the conduct of the candidate in view of any relevant code of conduct, ethics and integrity;
 - (e) the need to ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county;
 - (f) the need for open and transparent recruitment of public servants; and
 - (g) individual performance.
- (2) In determining whether an appointment, promotion or re-designation has been undertaken in a fair and transparent manner, the overriding factors shall be merit, fair competition and representation of the diversity of the county.

B.8 Recruitment of Non-Citizens

- (1) It is the policy of the Government not to employ non-citizens where there are citizens with the appropriate qualifications available. Approval to recruit a non-citizen will be granted by the CPSB, subject to the guidelines provided by the state department responsible for labour and existing protocols.

B.9 Application Forms for Employment

- (1) A candidate applying for employment must complete the prescribed application form detailing personal details, employment history, qualifications, medical record etc.

B.10 Offer of Appointment

- (1) A person appointed to any office will be given the appropriate letter of offer of appointment, as the case may be, which may be accepted or rejected by the candidate within the stipulated time.
- (2) A written contract of service shall state particulars of employment which include, the name and address of the employee, job description, date of commencement of the job, form and duration of the contract, place of work, hours of work, remuneration, terms and conditions of employment which the employee is entitled to such as:-
 - (i) Annual leave entitlement;
 - (ii) Pensions and pension schemes; and
 - (iii) The length of notice which the employee is obliged to give and entitled to receive to terminate his contract of employment.

B.11 Letters of Appointment

- (1) An officer appointed in any of the categories must be issued with a letter of appointment indicating the terms and conditions of service.

B.12 Office Hours

- (1) Officers are required to work 40 hours spread over 5 days in a week. Government office hours within Nairobi and Mombasa are as follows:
 - (i) Nairobi and all other Regions
Monday to Friday: 8.00 a.m. to 1.00 p.m.
2.00 p.m. to 5.00 p.m.
 - (ii) Mombasa, Northern and North Eastern Region
Monday to Friday: 7.45 a.m. to 12.30 p.m.
2.00 p.m. to 4.30 p.m.
- (2) Though the general office hours will be as stated above, Heads of Departments will not be restricted to utilizing their staff outside these hours when there is any cause requiring their services either earlier or later.

B.13 Probation

- (1) An officer shall be put on probation for a period of 6 months as provided for in the employment Act, 2007.

- (2) An officer appointed on probation must be regarded as being on trial with a view to learning his work and being tested as to his suitability for it. It is the duty of the senior officers to ensure that every officer on probation is given adequate opportunities to qualify for confirmation in appointment.
- (3) Within reasonable time before the expiry of the probationary period, the Authorized Officer should consider in the light of the reports on the officer's conduct, capabilities and performance whether or not the officer is suitable for confirmation.
- (4) Where an officer's conduct and performance are unsatisfactory, he shall be informed in writing and the probation period may be extended to a maximum period of three (3) months subject to the category of employment.
- (5) Should the officer's performance fail to improve on expiry of the extended probation period, his services shall be terminated.
- (6) An officer appointed to the Service in a pensionable post will be confirmed in appointment and admitted into the permanent and pensionable establishment on completion of the probationary period.

B.14 Confirmation in Appointment

- (1) The power of confirmation of all officers in the appointments and extension or termination of their probationary appointments lies with County Public Service Boards or authorized officers under delegated powers.

B.15 Medium-Term Appointment

- (1) Where vacancies cannot be filled on permanent and pensionable terms because of non-availability of suitable persons or where vacancies exist in the non-pensionable establishment (such as in development projects), candidates may be recruited to fill such vacancies on medium-term contract appointment.
- (2) An officer serving on medium term contract, and whose services are still required, will be informed in writing at least three (3) months before the expiry of the contract. On acceptance of the offer, the case will be referred to the County Public Service Board (CPSB) for renewal.
- (3) Contract employment will be kept to a maximum period of five years. Contracts can be renewed for another period of five years once.

B.16 Employment of Casuals

- (1) Casual workers shall be engaged only on urgent short-term tasks with the approval of the County Public Service Board. Casual workers shall not be engaged for more than three months, as stipulated in the Employment Act (2007).

- (2) The Casual Workers shall be hired on piece rate, time rate jobs and should be paid in accordance with statutory wages Regulations Orders issued by the Government from time to time.

B.17 Certificate of Service

- (1) Certificate of Service will be given on request to an officer, upon his retirement, resignation, dismissal or termination of appointment. This may be used as a reference covering the officer's period of Government Service.

B.18 Testimonials and Letters of Commendation

- (1) Testimonials and letters of commendation may be given by supervisors as a way of motivating their staff for exemplary service.

B.19 Schemes of Service

- (1) The grading structure, qualifications and other requirements for recruitment into the County Public Service are laid down in various Schemes of Service. The Schemes of Service must be followed in processing appointments and promotions of officers in their respective fields of employment. County Public Service Boards shall harmonize the existing schemes of service, in accordance with the Public Service Commission guidelines.

B.20 Promotions

- (1) In selecting candidates for promotion, regard will be given to merit and ability as reflected in work performance and results, as well as seniority, experience, and academic or professional qualifications.
- (2) Recommendations for promotion shall be made by the candidate's supervisor to the CPSB.

B.21 Dates of Promotion

- (1) The effective date of the officer's promotion will be the date of the CPSB letter authorizing the promotion, or the date the officer qualifies for promotion for the common cadre posts.
- (2) If an officer has been appointed by CPSB to act in a post and is subsequently promoted to it without any interval between the appointment in an acting capacity and the date of his substantive promotion, the effective date of promotion will be the date on which he commenced to act.
- (3) The principles set out in this regulation will apply to posts on which the Board has delegated its powers to Authorized Officers.

B.22 Re-designation

- (1) Where an officer is re-designated from one cadre to another, the re-designation will be on a continuous basis to avoid loss of seniority. The period served in the previous grade will be considered as qualifying period for the purpose of promotion to the new cadre.
- (2) All cases of re-designation will be handled in accordance with the provisions of various schemes of service.
- (3) In selecting public officers for re-designation, the criteria for appointment as prescribed under paragraph B.7 shall apply.

A public officer shall not be re-designated to hold or act in a public office if:-

- (a) the office is not vacant;
 - (b) the public officer does not meet all the qualifications, except for experience at a lower grade in the relevant cadre, attached to the public office;
 - (c) the decision to re-designate the officer may disadvantage any public officer already serving in the relevant cadre; or
 - (d) the officer has not consented to the re-designation.
- (4) If a public officer is re-designated, the officer shall not in any way suffer reduction in remuneration.

B.23 Transfer of Service

- (1) Transfer of service to and from one County Public Service to another or other Administrations shall be approved by the Public Service Commission and/or County Public Service Board as the case may be.
- (2) An officer can only be considered for a transfer if the service of the other administration in which he has applied for appointment, has been declared to be 'Public Service' for the purposes of the Pensions Act.
- (3) Where an officer is appointed to a pensionable post under the Public Service Superannuation Scheme, the officer will be eligible for pension benefits as provided for in the Public Service superannuation Act

B.24 Secondment of Officers to Statutory Boards or Similar Organizations

- (1) Secondments of officers from the County Public Service to other organizations will be arranged for periods not exceeding three years without renewal and will be confined to pensionable officers.
- (2) Approval for secondments will be granted by the County Public Service Board. To maintain the officers pensionable status, the officers or the organization to which the

officer is seconded will be required to make pension contribution at the rate of 31 percent of an officer's basic salary in the Government during the term of his secondment, due account being taken of any notional annual increments to which he may be entitled.

- (3) Officers on secondments will be paid their salaries and other allowances by the organizations in which they are seconded.

B.25 Secondment from Other Organizations to the County Public Service

- (1) Secondment of officers from other organizations to the County Public Service will be approved by the CPSB.

B.26 Non Discrimination

The County Government shall:-

- (1) Promote equality of opportunity in employment and will not discriminate directly or indirectly against an employee on the grounds of race, colour, sex, language, religion, disability, pregnancy, mental status, HIV status, and in respect of recruitment, training, promotion, terms and conditions of employment, termination of employment or any matters arising out of employment.
- (2) Ensure that not more than two-thirds of vacant posts are filled by either gender in the county public service.
- (3) Ensure that at least thirty percent of the vacant posts at entry level are filled by candidates who are not from the dominant ethnic community in the county.

B.27 Rights and Privileges of Persons with Disabilities

- (1) Employees with disability, and are registered with the National Council for Persons with Disabilities, shall be entitled to exemption from tax on all income accruing from employment.
- (2) Affording adequate and equal opportunities for appointment, training and advancement for persons with disabilities.
- (3) The County Government shall provide facilities and effect such modification, whether physical, administrative or otherwise, in the workplace as may be reasonably required to accommodate persons with disabilities.

SECTION C: PERFORMANCE MANAGEMENT

C.1 Introduction

This Section provides guidelines for performance management in the county public service. Performance management involves strategic planning, work planning, target setting, tracking performance and reporting.

C.2 County Performance Management Framework

- (1) The county executive committee shall design a performance management plan to evaluate performance of the county public service and the implementation of county policies as is provided for in Section 47 of the County Government Act.
- (2) The plan shall provide for among others—
 - (a) objective, measurable and time bound performance indicators;
 - (b) linkage to mandates;
 - (c) annual performance reports;
 - (d) citizen participation in the evaluation of the performance of county government; and
 - (e) public sharing of performance progress reports.
- (3) The governor shall submit the annual performance reports of the county executive committee and public service to the county assembly for consideration.
- (4) The performance management plan and reports under this section shall be public documents.

C.3 Performance Appraisal System

- (1) The Appraisal is based upon the principal of work planning, setting of agreed performance targets, feedback and reporting. It is linked to other human resource systems and processes including staff development, career progression, recruitment, placement, incentives and sanctions.
- (2) The purpose of performance appraisal is to assess as comprehensively and objectively as possible the officer's performance against set targets and is aimed at the realization of overall departmental objectives.

C.4 Objectives of Performance Appraisal

- (1) The overall objective of appraisal system is to manage and improve performance in the county public service by enabling a higher level of staff participation and involvement in planning, delivery and evaluation of work performance.

(2) The specific objectives are to:-

- (i) Link individual performance with organization performance;
- (ii) Enable supervisors and appraises to continuously assess work progress;
- (iii) Assess the learning and development needs of staff on timely basis;
- (iv) Promote accountability in the county public service;
- (v) Promote communication and encourage continuous feedback between appraise and supervisor;
- (vi) Set the basis on which an officer's performance is monitored and evaluated as stipulated in the individual work plan;
- (vii) Improve the quality of work through better planning, on-going discussions and fair participatory appraisal; and
- (viii) Provide information for decision-making on administrative and human resource issues such as renewal of contracts, promotions, delegation of duties, training, deployment, reward and sanctions.

C.5 Scope of Application

- (1) Staff Performance Appraisal shall apply to all categories of staff in the county public service.
- (2) County Governments may develop their own performance appraisal instruments.
- (3) All newly employed, promoted, redeployed officers will be required to complete relevant performance appraisal forms within three (3) months of employment, redeployment and promotion.
- (4) The primary responsibility for implementing PAS rests with County Chief Officers and heads of departments.

C.6 Work Planning and Setting of Performance Targets

- (1) At the beginning of each financial year, each officer shall develop an individual work plan and sign a performance appraisal report with his/her supervisor based on agreed performance targets. The departmental work plans shall include departmental priority objectives from which individual performance targets will be derived. Departmental heads will discuss with staff and ensure that the objectives and performance targets of the department are understood.
- (2) The individual work plans will be derived from the departmental work plans and officer's job description. The work plan will briefly describe the performance targets or expected results on specific assignment and activities for which the staff member is responsible during the performance year.
- (3) Appraisee will hold discussions with immediate supervisor to agree on work plan. The

performance targets shall thereafter be set as agreed in the discussions by latest 31st July of each year. The expected results may include completion of projects/assignments during the period of assessment. For each assignment to be assessed there shall be clear and measurable indicators of success.

- (4) As part of the staff training and development plan, every staff member will indicate at least one training goal to be achieved in the reporting period as agreed with the supervisor. This may include special assignments, continuing education, on the job training, seminars, conferences and study tours.

C.7 Values and Competencies Assessment

- (1) Achievement of performance targets will also depend on possession of certain specific competencies. Besides these competencies, it is important to ensure that results in the county public service are realized through observance of certain well defined values and ethics.
- (2) The Supervisor shall discuss with the appraisee each competency and value at the beginning of the appraisal period in order to be clear on the relevance of the competencies and values on the performance of the appraisee.

C.8 Appraisal Period

- (1) The appraisal period will cover one (1) year starting from 1st July to 30th June of the following year. The Performance Appraisal reflects the summation of the year's performance.

C.9 Continuous Performance Appraisal

- (1) Performance appraisal is an on-going process throughout the performance period. Milestones over the review period should be documented and maintained in the appraisee's personal file.

C.10 Mid-Year Performance Review

- (1) The main purpose of the mid-year Performance Review is to accord both the supervisor and appraisee the opportunity to jointly review progress made by the appraisee in accomplishing the tasks and assignments agreed at the beginning of the Appraisal period.
- (2) The review shall be centred on what has been achieved, any constraints experienced and whether there is need to vary the initial assignments in order to accommodate any unforeseen circumstances. Any changes, additions or removal of performance targets shall only be made in the event that there have been significant changes in the nature of functions carried out by the appraisee and which may necessitate revision of performance targets.

- (3) The supervisor should, after discussions with the appraisee at the Mid-year Performance Review, comment on the appraisee's performance.
- (4) In the event that the supervisor leaves the department, he/she will be required to appraise the performance of the appraisee (s) on pro-rata basis.

C.11 Reporting Frequency

- (1) The appraisee shall submit quarterly performance reports to the supervisor. Reports on performance will be on quarterly basis but reflecting cumulative achievements on agreed targets. The report for the fourth quarter will be the end year report.

C.12 End of Year Appraisal Process

- (1) The end of year appraisal takes place at the end of the reporting period. The following will constitute the end of year evaluation process.
 - (i) The appraisee shall submit to the supervisor a preliminary report on the extent to which set targets were achieved as agreed at the beginning of the performance year, with clear performance indicators to support performance;
 - (ii) The supervisor and appraisee shall discuss the overall performance for the whole appraisal period;
 - (iii) The supervisor is also required to assess the appraisee's core competences and values.

C.13 County Performance Management Steering Committee

- (1) The County Secretary shall constitute a County Performance Management Steering Committee which shall implement, monitor and evaluate the performance management system in the County.
- (2) The composition of the committee shall be as follows:-
 - (i) Chairperson - To be appointed by the County Secretary from among County Chief Officers
 - (ii) Secretary - Chief Officer in charge of Planning;
 - (iii) Members - Chief Officers of other County Departments;
- (3) The role of the County Performance Management Steering Committee is to:-
 - (i) Coordinate the performance contracting system at the County level;

- (ii) Ensure integrity and credibility of overall process of staff performance appraisal is safeguarded and maintained in the County Departments;
- (iii) Propose measures to improve staff performance management process;

C.14 Departmental Performance Management Committee

- (1) Each county department will establish a Departmental Performance Management committee whose role will be to;
 - (i) Ensure staff appraisal process conforms to County Departments' strategic objectives;
 - (ii) Ensure staff appraisal process is adequately linked to the County Departments objectives, work plans and performance contracts;
 - (iii) Ensure that performance of all officers in the county department is evaluated and feedback relayed to the officers in writing at the end of the year;
 - (iv) Arbitrate in case of disagreement on appraisal ratings between supervisors and appraisees;
 - (v) Compile the county department annual performance appraisal reports;
 - (vi) Implement the internal monitoring and evaluation framework;
 - (vii) Hold quarterly performance review meetings.

SECTION D: CODE OF CONDUCT

D.1 Introduction

This Section contains general rules of conduct to be observed by public officers so as to maintain integrity and loyalty to the county government and also uphold the dignity of the public office to which they have been appointed.

The Section also outlines procedures to be followed in cases of breach of discipline. It is, therefore, imperative that every public officer in the county government adheres to these rules of conduct, and such other rules which may be introduced from time to time.

D.2 Conduct of Public Officers in the Service of the County Government

- (1) A public officer should ensure that his or her conduct both in public and in private life does not bring the Service into disrepute.
- (2) A public officer who contravenes paragraph (1) is liable to disciplinary action stipulated in this Section.

D.3 Leadership and Integrity

- (1) A public officer appointed to a public office will be required to demonstrate respect for the people; bring honour to the service and dignity to the office; and promote public confidence and integrity, as stipulated in Chapter Six of the Constitution of Kenya (2010).

D.4 Personal Interests

- (1) It is a requirement that all officers disclose their personal interests. For the purpose of this regulation, “personal interest” includes the interest of a spouse, relative or business associate which may conflict with official duties. A public officer shall therefore:-
 - (i) not hold shares, corporate or partnership of another body directly or through another person, if holding those shares or having that interest would result in the public officer’s personal interests conflicting with his official duties;
 - (ii) declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict and also refrain from participating in any deliberations with respect to the matter where such interests conflict with the official duties;
 - (iii) not award a contract or influence the award of the contract to self, spouse, close relative, business associate, or a corporation, partnership or other body in which the officer has an interest;

- (iv) not use the office to improperly enrich self or another person or improperly use the office to acquire land and other property for self or another person, whether or not the land or property is paid for, for personal benefit or for another;
- (v) not use or allow the use of information acquired in connection with the public officer's duties that is not public for own benefit or others;
- (vi) not engage in a full-time employment in another organization;
- (vii) not hold office in a political party;
- (viii) not undertake any private agency in any matter related to official duties; and
- (ix) not be an agent for a foreign Government, organization or individual in a manner that may be detrimental to the security interests of Kenya.

D.5 Post Retirement Engagement

- (1) A retired public officer who is receiving a pension from public funds shall not hold more than two concurrent remunerative positions as chairperson, director or employee of:-
 - (i) Company owned or controlled by the government at any level;
 - (ii) State organ.
- (2) A retired public officer shall not receive remuneration from public funds other than as contemplated in paragraph (1) above.

D.6 Declaration of Income, Assets and Liabilities

- (1) Every officer shall on 1st appointment and bi-annually thereafter submit a declaration of income, assets and liabilities of self, spouse(s) and dependent children under eighteen (18) years to the Board.
- (2) A public officer who fails to submit a declaration or clarification as required, or who submits information that the officer knows is false or misleading, will be liable to disciplinary action.
- (3) If an investigation discloses that the public officer has contravened the Code of Conduct and Ethics, the appropriate disciplinary action will be taken against the officer; or if the Board is of the view that civil or criminal proceedings ought to be considered, the matter may be referred to the Director of Public Prosecutions.

D.7 Abuse of Office

- (1) A Civil Servant who uses his office to enrich self or confer a benefit to a third party is guilty of an offence in accordance with the Anti- Corruption and Economic Crimes Act.

D.8 Management of Newspapers, Publications and Interviews on Questions of Public Policy

- (1) A public officer shall not act as the editor of any newspaper or take part directly or indirectly in the management thereof or publish anything which may be reasonably regarded as of a political or administrative nature without the express permission of the relevant authority in the county government.
- (2) A public officer shall not, under any circumstances, communicate with the media either in writing or by granting interview and making statements on matters affecting county government programs or policies without the specific authority of the relevant authority in the county government. Where such authority has been obtained, the officer shall communicate with the press through the respective Chief Officer.
- (3) While it is not desired to interfere with a public officer's freedom of speech, any lack of discretion on the part of the officer is likely to embarrass the county government and may result to serious consequences to the officer responsible.

D.9 Confidentiality

- (1) A public officer is bound to uphold confidentiality as stipulated in the Official Secrets Act (CAP 187) on appointment and on leaving the service of the county government.
- (2) Chief Officers should bring to the attention of all the employees, the provisions of the Official Secrets Act (CAP 187) on appointment and at any other time as may be deemed necessary.

D.10 Supply of Information and Communication with Members of the County Assembly

- (1) A Chief Officer may give information on technical issues related to the duties and activities of a county department for which the officer is responsible to members of the County Assembly through the respective Executive Committee Member.

D.11 Hospitality from Foreign Diplomatic Representatives

- (1) A public officer may not accept hospitality from any Foreign Diplomatic Representative, without the prior permission of the County Secretary.

D.12 Membership to Political Associations

- (1) Public Officers are not permitted to be active members of any associations of which the objects and functions are in any way political. This does not imply that the Government considers membership of such associations improper or undesirable, but merely that it considers that membership of a political association is not consistent with the duties and obligations of a public officer who is required to carry out the county government's policy, unbiased by any political view held.

D.13 Political Neutrality

- (1) Whereas, it is the constitutional right of any officer to be involved in political party activities, a public officer shall not use the office held to:-
 - (i) Act as an agent for, or so as to further the interest of a political party;
 - (ii) Indicate support for or opposition to any political party or candidate in an election; and
 - (iii) Engage in political activities that may compromise or be seen to compromise the political neutrality of the office held.
- (2) A public officer should refrain from active participation in politics. In any dealings which the officer may have with members of the County Assembly, the discussions should be restricted to subjects of general interests and county government affairs which fall under the officer's sphere.
- (3) A public officer must at all times preserve the tradition of loyalty to the Government without which no public service can properly function. The officer should also bear in mind the provisions of the Official Secrets Act and the penalties which can result due to contravention.
- (4) A public officer who may wish to contest for a political seat will be required to resign the service unless the officer is eligible for retirement under the Pensions Act.

D.14 Inclusiveness

- (1) The county government will strive to eradicate all forms of discrimination and harassment in order to promote inclusiveness and representation of Kenya's diverse communities and ethnic groups. It will therefore be an offence for officers who will be found to:
 - (i) Discriminate against a person by applying a requirement or a condition that has an effect of segregating a person on ethnic grounds;

- (ii) Discriminate another person by way of victimization through any act that is injurious to the person's well-being and esteem by treating the person less favorably.
- (2) To ensure that the county public service reflects diversity of the Kenyan communities, the county Government will endeavour to address inclusiveness through recruitment, deployment, training and promotion.
- (3) A public officer is liable to be posted to any station within the service of the county government.

D.15 Sexual Harassment

- (1) A public officer should not harass another officer sexually through; direct or indirect request for favors, use of language whether written or spoken of a sexual nature, use visual material of a sexual nature and show physical behavior of a sexual nature which directly or indirectly subjects the person to behavior that is unwelcome or offensive.
- (2) Disciplinary action will be taken against a public officer for harassing another person.

D.16 Gifts

- (1) A public officer is prohibited from receiving valuable presents (other than gifts from personal friends and relatives) whether in the form of money, goods, free passages or other personal benefits and from giving such presents.
- (2) A gift or donation to a public officer on a public or official occasion will be regarded as a gift or donation to the county government and shall be delivered to that county treasury unless exempted under an act of Parliament.
- (3) When presents are exchanged between officers acting on behalf of the county government in ceremonial occasions with other governments or their representatives, the presents received will be handed over to the county government and any present in return will be given at the county government's expense.

D.17 Financial Probity

- (1) A public officer shall not:-
 - (i) maintain a bank account outside Kenya except in accordance with the relevant Act of Parliament; or
 - (ii) seek or accept a personal loan or benefit in circumstances that compromise the integrity of the public officer.

- (2) A non Kenyan public officer shall not enter into any private arrangement with any bank or financial institution in the country for the purposes of getting any loan without prior approval of his Authorized Officer. In signifying the approval in this regard, the Accounting Officer will ensure that the officer will be able to honour the obligations in full during the tour of service in which the loan is to be granted.
- (3) Before leaving the country on completion of the tour, a non-Kenyan public officer shall be required to certify to the Accounting Officer that financial and other obligations have been cleared.

D.18 Sale of Property to the Government

- (1) If a public officer wishes to dispose personal property or effects by sale to the county government, the same should be in accordance with the Government Procurement Procedures.

D.19 Undue Influence

- (1) Officers should be made aware that the practice of seeking the influence of members of the County Assembly or other persons as a means of bringing their services to the notice of the county government with a view to consideration for promotion or other favors is discouraged. Any such attempt to obtain such favors is considered irregular and may actually be detrimental to the officer's interests.
- (2) A public officer is not permitted to make representations to a Member of the County Assembly on matters affecting his/her individual terms and conditions of service. Proper channels of communications exist to enable officers to make representations regarding their personal affairs.

D.20 Absence from Duty without Leave

- (1) Where an officer is absent from duty without leave, reasonable or lawful cause, the following steps will apply:
 - (a) Establish the exact period with dates the officer has been absent from duty. If not traced within a period of ten (10) days from the commencement of such absence, salary will be stopped with effect from the date of absence.
 - (b) A show cause letter will be addressed to the officer through his or her last known address by registered mail, giving a reasonable period within which to respond but not less than ten (10) days, stating clearly the nature of the offence and the contemplated action.

- (c) If the officer does not respond, the case will be submitted to the relevant committee which shall make a recommendation to the CPSB for summary dismissal.
 - (d) If the officer responds, investigations will be carried out on the issues raised in the show cause letter and in the officer's defence; an investigation report prepared; and submitted to the relevant committee for recommendation. Thereafter the case will be submitted to the CPSB for a decision.
 - (e) The decision will be communicated to the officer informing him or her of the right of appeal, or review to the County Public Service Board within six weeks from the time of the decision.
 - (f) If the officer is not satisfied with the decision of the Board, the officer may appeal to the PSC, in accordance with PSC regulations and section 77 of CGA.
- (2) Where the officer has been absent from duty without permission and has continued to be paid leading to overpayment, the amount in question may be recovered from the salary or any other monies due to the officer from the Government.
 - (3) Where the overpayment is not as a result of a public officer's negligence, the officer who occasioned the overpayment should be held liable.

D.21 Absence from Duty on Grounds of Illness

- (1) A public officer who absents self from duty on the grounds of illness must produce proof of sickness/sick leave certified by a medical practitioner. Should the officer fail to produce a medical certificate, the officer shall be considered to be absent without leave and his case shall be dealt with in accordance with the relevant disciplinary procedure.

D.22 Pecuniary Embarrassment

- (1) Pecuniary embarrassment from whatever cause, will be regarded as necessarily impairing the efficiency of a public officer and rendering him liable to disciplinary proceedings.
- (2) A public officer will be expected to retain a net salary of not less than $\frac{1}{3}$ of his basic salary per month.
- (3) Pecuniary embarrassment, involving both lending and borrowing of money at usurious rates of interest, will be regarded as an offence affecting both the respectability of the service and trustworthiness of the individual and may be held to be a bar to promotion or further retention in the service.
- (4) It is the policy of the county government to give officers who are in debt every possible opportunity to extricate themselves from their financial embarrassment, but there must

be a limit beyond which a public officer cannot be retained in the service of the county government, in which case he must be retired in the public interest. In certain circumstances, it might even be necessary to consider dismissal, but this step will only be taken in case of a most serious nature and where indebtedness is not the only factor involved.

- (5) The department responsible for human resource matters will institute disciplinary action in accordance with laid down disciplinary procedures.
- (6) When a public officer is seriously indebted to the extent of more than six (6) months' salary, consideration should be given for removal from the service. The officer responsible for human resource will issue a show cause letter for the officer to explain why disciplinary action should not be instituted against him on account of indebtedness. The officer shall be required to submit quarterly reports showing exactly the state of his finances and the amounts which have been liquidated during the three (3) months previous to the date on which the report is submitted.
- (7) When a public officer's indebtedness requires that the officer should no longer carry out duties which may tempt the officer to appropriate public funds or stores for own use, it may be necessary either to retire the officer in the public interest or to redeploy the officer. Any officer, therefore, holding an office of this nature and who shows a tendency to run into debt should be warned in writing of this position.

D.23 Report in Cases of Bankruptcy, Judgment-Debtors

- (1) A public officer who is declared bankrupt, becomes insolvent or seriously indebted shall at once report the matter to the county chief officer. Failure to report such matter shall be regarded as a serious offence rendering the public officer liable to disciplinary action being taken.
- (2) A public officer who has reported bankruptcy, insolvency or indebtedness shall without delay submit a complete statement of facts of the case to the Chief Officer who will decide whether the circumstances would necessitate disciplinary proceedings being instituted.
- (3) In no circumstances shall a bankrupt, insolvent or seriously indebted officer be permitted to be employed on duties involving the handling of public funds.
- (4) Registrars of the High Court and Magistrates will report to the Authorized Officer, every instance in which a public officer becomes a judgment-debtor or whenever proceedings are taken against a public officer in bankruptcy.

D.24 Improper use of County Government Stores

- (1) Government stores should not be converted for personal use. Disciplinary action will be taken against a public officer making or receiving unauthorized issues.

D.25 Losses of Public Funds

Losses of Public Funds include:

- (i) actual loss or destruction of, or damage (other than fair wear and tear) to, or failure to account for the disposal of public monies, stamps, securities, or property movable or immovable (including any money or other property, not belonging to the county government which is held or used by an officer in his official capacity, either alone or jointly with any other person);
- (ii) non collection of any monies due or belonging to the county government, or for the collection of which the county government is responsible;
- (iii) payments made or liabilities incurred without or in excess of any statutory, administrative or other authority, including nugatory and similar payments and payments arising from incorrect certificates; and irregular or excess issues of stores, rations, etc.;
- (iv) unauthorized use of county government stores, vehicles, buildings, equipment, or any other property, or of service (e.g. repair workshop) provided for official purposes; and
- (v) Compensation and similar payments (including third party claims in respect of vehicle accident), legal and court costs, and any other additional expenditure or liability incurred which was avoidable and need not have been incurred.

D.26 Loss of Public Funds through Neglect or Fault

- (1) If at any time public funds are lost in consequence of the neglect or fault of an officer, the officer will be held to have incurred a pecuniary liability in respect of the loss, and if a satisfactory explanation or offer of restitution is not forthcoming, the officer may be required to meet this liability in whole or in part. The amount in question may be recovered from his salary or any other monies due to him from the county government, or may be sued for and recovered in any court of law.
- (2) Such a recovery is not imposed as a fine or punishment but as a means of compensating the public purse of losses sustained as a consequence of an officer's dereliction of duty. It is in no way precluded by any criminal or disciplinary proceedings in respect of the same occurrence, irrespective of the result.
- (3) Reckless indifference to the probable consequences of any neglect or fault will result in those consequences being deemed to have been intended.
- (4) Any act or omission which facilitates or makes a loss possible, even though it was not the immediate cause of it, may be regarded as a contributory cause and may involve a

consequential liability, provided that full recovery from the person whose neglect or fault, including a criminal act, was the immediate cause.

- (5) Two or more officers may be held to have incurred a joint liability and recovery of all or part of the loss may be apportioned between them.

D.27 Recovery of Losses of Public Funds

- (1) The procedure to be followed in reporting and dealing with losses is set out in the Public Finance Management Act and Regulations.
- (2) An Accounting Officer may require an officer to make good the loss of public funds, unless the loss is one which he is authorized by Public Finance Management Regulations (PFMR) and procedures to write off. In all cases, the Executive Committee Member responsible for Treasury may require an officer to make good the loss of public funds after he has considered the recommendations of the Accounting Officer.
- (3) Except as provided for in Public Finance Management Regulations and Procedures, no loss may be written off to public funds without the authority of the county treasury. All losses not within the authority of an Accounting Officer to write off must be reported to the county treasury, who may request any officer who appears to have incurred a pecuniary liability in respect of a loss to explain within a stated time why he should not be required to make good the loss in whole or in part. If a satisfactory explanation is not forthcoming, the executive committee member responsible for Treasury will review the circumstances of the loss and, after taking into consideration the officer's general conduct and financial circumstances, any other action which may have been taken against him, will decide whether the officer will be required to make good the loss, and if so to what extent. Similar action will be taken by an Accounting Officer in respect of the cases falling within his authority.
- (4) The executive committee member responsible for county Treasury or the Accounting Officer, as the case may be, will, when recording his decision, give directions as to the method of recovery. The normal method will be deductions from the officer's salary, if necessary in monthly installments, in amounts not exceeding 25 percent of his monthly salary. If, however, the officer's appointment has been or is shortly to be terminated, deductions from any sums due to him from county government will be made in such amounts as may be necessary to effect full recovery before termination of his service.
- (5) The executive committee member responsible for county Treasury or the Accounting Officer, as the case may be, may at any time, if a satisfactory explanation is received or for any other sufficient reasons, relieve an officer in whole or in part of his pecuniary liability, and may direct that sums recovered from him in connection with the loss in question be repaid, in whole or in part.
- (6) An officer who is dissatisfied with a decision to recover from him may appeal within

one (1) month (or such longer period as the executive committee member responsible for county Treasury may in any particular case authorize) against a decision of an Accounting Officer.

- (7) Where an officer has received any erroneous payment, he shall be liable to refund to the county government the amount of such payment and paragraphs (2) to (5) of this Section shall apply.
- (8) Paragraph(7) shall not be deemed to relieve any other officer from any pecuniary liability in respect of the erroneous payment and the officer responsible for such payment may be held to have incurred a joint liability and recovery of all or part of the amount of such payment may be apportioned between them.
- (9) For the purpose of this Section:-
 - (i) “erroneous payment” means the payment of any salary, gratuity or allowance or the grant of any benefit in respect of which the county government incurs any expenditure or loss, to an officer to which he was not entitled or in excess of his entitlement;
 - (ii) It is immaterial whether an erroneous payment was made under a mistake of fact of law.
- (10) In a genuine case where the recovery of an erroneous payment is likely to impose very considerable financial hardship on an officer, such a case should be submitted to the County Public Service Board giving full details of the circumstances in which the erroneous payment was made and making an appropriate recommendation for the grant of any relief. Similarly, where an erroneous payment involves a written contractual obligation between the county government and the officer concerned, the matter should be referred immediately to the CPSB for advice.
- (11) In addition to the above provisions, disciplinary action which may lead to dismissal may be taken against an officer on account of loss of public funds.

D.28 Disciplinary Powers and Procedures

- (1) The powers of disciplinary control and removal of county public officers from the service are vested in the CPSBs or Authorized Officers as specified in the County Government Act.

D.29 Principles Guiding Exercise of Disciplinary Control

- (1) Adherence to the principles of natural justice:
 - (i) A person affected by a decision must be given an opportunity to be heard; and

- (ii) the person making the decision must not be biased.
- (2) Respect for the rule of law:
- (i) everybody should be treated equally;
 - (ii) no one is above the law;
 - (iii) no one is exempt from law;
 - (iv) no one can grant exemption to the application of the law;
 - (v) acting within legal authority; and
 - (vi) a person making a decision affecting a public officer must ensure that he or she is acting within legal authority and in accordance with the prescribed procedure.

D.30 Forms of Punishment

- (i) Recovery of the cost or part of the cost of any loss or breakage caused by default or negligence, provided no such cost has been recovered by surcharge action under the appropriate financial instructions or regulations;
- (ii) reprimand (including severe reprimand);
- (iii) deferment of increment;
- (iv) withholding of increment;
- (v) stoppage of increment;
- (vi) reduction in rank or seniority; and
- (vii) dismissal.

D.31 Interdiction

- (1) The interdiction process entails the following:
- (a) An officer may be interdicted where misconduct which is likely to lead to dismissal is reported or a report that an officer has been charged in criminal proceedings is received.
 - (b) If the case relates to a criminal charge the officer is served with an interdiction letter. If the misconduct is one which can lead to dismissal but is not of criminal nature the officer will be served with a show cause letter which shall also contain a communication on interdiction.
 - (c) Where the misconduct is likely to lead to a dismissal and is also the subject of a criminal charge, the procedure in (b) will prevail.
 - (d) A county public officer who is interdicted shall receive half basic salary and full house allowance but other benefits shall be withheld by the authorized officer: Provided that an officer on suspension shall be paid medical allowance or medical insurance premium remitted whichever is the case.

- (e) If in any case an authorized officer is satisfied that the public interest requires that a county public officer should cease forthwith to exercise the powers and functions of the county public office, the authorized officer may interdict the county public officer from the exercise of those powers and functions, provided proceedings which may lead to the public officer's dismissal are being taken or are about to be taken or that criminal proceedings are being instituted against the county public officer.
 - (f) A county public officer who is under interdiction may not leave the duty station without the permission of the authorized officer or of any public officer who is empowered to give such permission on behalf of the authorized officer.
 - (g) A public officer whose interdiction has been lifted shall promptly be served with a decision letter.
- (2) Under this Part, "salary" refers to basic salary and, where applicable, includes incentive or overseas allowance.

D.32 Suspension

- (1) Where a public officer has been convicted of a serious criminal offence, other than proceedings for minor offences, an authorized officer may suspend the public officer from the exercise of the functions of the public office pending consideration of the public officer's case under these Regulations.
- (2) An authorized officer may suspend from the exercise of the functions of the public office a public officer against whom proceedings for dismissal have been taken if, as the result of those proceedings, the authorized office considers that the public officer ought to be dismissed.
- (3) A public officer who is suspended shall receive a quarter basic salary and full house allowance but other benefits shall be withheld by the authorized officer: Provided that an officer on suspension shall be paid medical allowance or medical insurance premium remitted whichever is the case.
- (4) Where a public officer has been suspended and such public officer is neither dismissed nor otherwise punished under these Regulations, any salary, remunerative allowances or any other benefit withheld under this paragraph shall be restored to the officer upon termination of such proceedings.
- (5) Where a public officer has been suspended and such public officer is not dismissed but any of the other punishments under these Regulations is imposed, any salary, remunerative allowances or any other benefit withheld under this paragraph shall not be restored upon termination of such proceedings:

- (6) A public officer who is suspended may not leave the duty station without the permission of the authorized officer or of any public officer who is empowered to give such permission on behalf of the authorized officer.
- (7) Where a public officer has been interdicted or suspended, the public officer may in writing request the authorized officer to communicate the progress and action taken towards the conclusion of the disciplinary case.
- (8) Where a public officer has made a request in accordance with paragraph 7 above, the authorized officer shall make the appropriate response by writing to the officer within thirty days from the date of receipt of the officer's request.
- (9) Where a public officer has made a request in accordance with this paragraph and the authorized officer has failed to respond within the prescribed thirty days or the public officer is dissatisfied with the response, the officer may apply to the CPSB for the lifting of the interdiction or suspension and the Board shall make an appropriate decision which may include the termination of the disciplinary proceedings.

D.33 Officer convicted of criminal offence.

- (1) If a county public officer is convicted of a criminal offence which, in the opinion of the authorized officer, warrants imposition of any of the prescribed punishments, the authorized officer shall forward a copy of the charge and any judgment or order made on appeal or revision to the Board for consideration, the Board shall decide whether the public officer should be dismissed or subjected to any of the other punishments mentioned in these Regulations or other legislation, and, in making a decision the Board shall rely solely on the court record leading to the conviction.

D.34 Appeals

- (1) Any person dissatisfied or affected by a decision made by the CPSB or a person in exercise or purported exercise of disciplinary control against any county public officer may appeal to the Public Service Commission against the decision.
- (2) The appeals may be on any decision relating to employment of a person in a county government including a decision in respect of—
 - (a) recruitment, selection, appointment and qualifications attached to any office;
 - (b) remuneration and terms and conditions of service;
 - (c) disciplinary control;
 - (d) national values and principles of governance, under Article 10, and values and principles of public service under Article 232 of the Constitution;
 - (e) retirement and other removal from service;
 - (f) pension benefits, gratuity and any other terminal benefits; or
 - (g) any other decision the Commission considers to fall within its constitutional competence to hear and determine on appeal in that regard.

- (3) The Commission shall not entertain an appeal more than once in respect to the same decision.

D.35 Reviews

- (1) Any person dissatisfied or affected by a decision made by the Commission on appeal in a decision made in a disciplinary case may apply for review and the Commission may admit the application if:-
 - (a) the Commission is satisfied that there appear in the application new and material facts which might have affected its earlier decision, and if adequate reasons for the non-disclosure of such facts at an earlier date are given; or
 - (b) there is an error apparent on record of either decision.

An application for review shall be in writing and made within the time prescribed by the Commission in regulations governing disciplinary proceedings, but the Commission may entertain an application for review later if, in the opinion of the Commission, the circumstances warrant it.

D.36 Defense of Officers in Civil Suits

- (1) When a civil suit is instituted against a public officer as a result of his official position or of an act done by him in the course of official duties, the officer may apply to the Attorney General through the County Secretary for assistance in the defense. The decision as to whether the Government will undertake the defense will be taken by the Attorney General who may consult the Treasury before reaching a decision.
- (2) It is emphasized that speed is also essential in these cases, and a County Secretary must consult the Attorney General and submit an application for assistance to him at the earliest possible moment.
- (3) In cases where the county government assumes responsibility for the defense of a public officer on the advice of the Attorney General, the latter will provide free legal defense, by instructing a state counsel or by briefing a private advocate and the cost of such defense will be a charge on the vote of the Office of the Attorney General. If the Attorney General briefs an advocate to represent a public officer, this will be done in consultation with the officer. Whether any damages and/or costs awarded against a public officer in a civil suit will be met from public funds depends on the facts of each case. If the action is only nominally against the officer and is, in substance and in fact against the county government, the county government will take responsibility and meet all the damages and the costs awarded. The question of so indemnifying a public officer is one for specific decision in each case, and will be decided only after consultation between the Attorney General, the County Treasury and the county

department concerned. When the county government accepts liability for damages and/or costs, the county department concerned will be responsible for meeting such liability out of its vote.

- (4) County Officers desiring the county government to assist in their defense in civil suits must apply to the Attorney General through their County Secretary as soon as they become aware that a suit may be instituted against them. They should not wait until summons is served upon them. They must not brief an advocate in their defense and subsequently apply for county government assistance. Unless the proper procedure is followed, the county government may decline to pay any part of the cost of defense or of any damages or costs which may be awarded against a public officer.

D.37 Administrative Arrangements

- (1) In order that the defense of officers who apply for legal aid in civil suits, may not be prejudiced by any delay occasioned by the necessity for referring applications and to enable the Attorney General, take any procedural step which may be immediately necessary in order to protect the position of the officer pending a decision on the application but without committing the county government to accede to the application, a County Governor on forwarding such an application, should send a copy of the officer's statement of defense to the office of the Attorney General.

D.38 Civil Proceedings by Officers for Defamation

- (1) Where a public officer has been defamed in respect of matters arising out of his official position, e.g. in the press or at a political meeting, it may be that the county government is also defamed by implication, and may, therefore, agree to give legal aid to the officer. Where such a case occurs, the officer should apply for legal aid through his Accounting Officer to the [Attorney General](#). Legal aid will not be granted unless:
 - (i) The county government has a substantial interest in seeing that the defamatory statement is repudiated; and
 - (ii) There is, in the opinion of the Attorney General, a good prospect of success in the action.
- (2) The consent of the Attorney General must be obtained before proceedings are commenced. A private advocate, not a state counsel, will normally be employed, and the Attorney-General will select, in consultation with the officer, the advocate, or firm of advocates, to be employed. Legal aid will cover either the whole of the plaintiff's expenses, including costs awarded against him if he is unsuccessful in his suit, or any unrecovered costs or a part of such costs, as may be specified, if he succeeds, and will be subject to repayment in proportionate costs or damages are recovered. Any expenses ultimately chargeable to public funds will be met from the vote of the Office of the Attorney General.

D.39 Consent to Institute Civil Proceedings

- (1) No officer shall institute civil proceedings arising out of any circumstances related with the official position, or with any activity in which he has been engaged in the course of his official duties, without first obtaining the written consent of the Attorney General to the institution of such proceedings, whether or not he desires legal aid. In purely private proceedings, unconnected with their official position or duties, officers do not require the consent of the Government. In such private litigation, the question of legal aid by Government does not arise.

SECTION E: SALARIES AND ADVANCES

E.1 Introduction

This Section deals with salary related issues including; determination of salary on promotion, criteria for the grant of annual increments, incremental credits for previous approved experience and determination of the relative seniority between officers.

The Salaries and Remuneration Commission will be responsible for the review of the Civil Service salaries and allowances.

E.2 Date of Initial Payment of Salary on Appointment

- (1) A person engaged will be paid full salary from the date of assumption of duty.
- (2) All officers will be paid salary in Kenya currency through their bank accounts.

E.3 Salary Structure

- (1) The County Public Service salary structure will be based on the grading levels spelt out in the various schemes of service and will be reviewed from time to time taking into consideration economic performance, availability of funds, performance level of staff and collective bargaining agreements.

E.4 Determination of Salary on Promotion/Upgrading

- (1) If the salary of an officer who is promoted to a higher Job Group is less than the minimum of the salary scale attached to the higher Job Group, he will enter the scale of the higher Job Group at the minimum point of the scale on the effective date of his promotion/upgrading. His future incremental date will be the following year on the 1st date of the month in which the officer was promoted.
- (2) If, however, the salary of an officer on the day preceding the effective date of his promotion is one point immediately below the minimum of the salary scale attached to his new Job Group and if that officer was earning an annual increment, he will receive the minimum salary scale attached to his new Job Group on the effective date of his promotion and retain his former incremental date.
- (3) If on the effective date of promotion/upgrading the officer was already within the higher salary scale but the officer had not attained the maximum point of his current salary scale, the officer will enter the higher salary scale, at the point next above his current salary on the effective date of his promotion/upgrading and the officer will retain his former incremental date, i.e. incremental date immediately prior to his promotion.

- (4) If on the day preceding the effective date of his promotion he had attained the maximum point of the salary scale attached to his former Job Group and his service at that salary amounted to less than one year, he will enter the salary scale attached to his new Job Group from the effective date of his promotion at the point next above his salary. His future incremental date will be the 1st date of the month in which the officer was promoted.
- (5) If on the effective day of the promotion an officer had served at the maximum salary point of his present salary scale for one (1) year but less than two (2); the officer will enter the next salary point above his salary and will retain his former incremental date prior to reaching his maximum salary point.
- (6) If on the effective day of the promotion an officer had served at the maximum salary point of his present salary scale for two years but less than three years, the officer will be granted two (2) salary increments at the point above his salary. His future incremental date will be the 1st date of the month in which he was promoted.
- (7) If on the effective day of the promotion an officer had served at the maximum salary point of his present salary scale for three years and above, the officer will be granted three (3) salary increments at the point above his salary. His future incremental date will be the 1st date of the month in which he was promoted.

E.5 Determination of Salary of an Officer Transferred from another Administration

- (1) The salary of an officer who is transferred from another administration will be determined by application of the provisions of Regulation E.4.
- (2) However, where an officer from another Government organization has been identified for a particular assignment and his salary is higher than the salary applicable to the relevant grade, the case will be referred to the County Public Service Board for determination.

E.6 Determination of Incremental Dates on Appointment or Promotion/Upgrading

- (1) Each 1st date of the month is an incremental date. Officers' incremental dates will be the 1st date of the month they are appointed, promoted or upgraded subject to the provisions of Regulation E.4.

E.7 Conditions for the Grant of Annual Increments

- (1) An officer serving on an incremental scale is not entitled to receive an increment as a right. An increment will only be granted based on the performance of the officer.

E.8 Increments for Approved Experience

- (1) Except where otherwise provided, an officer appointed on permanent or contract terms may be given incremental credit for previous approved experience at the rate of one increment for each complete year of approved experience provided the maximum salary of the Job Group assigned to the post is not exceeded. The grant of increments for approved experience will be subject to the following rules:
 - (i) Incremental credit will only be granted in respect of approved experience gained after acquiring the requisite minimum qualifications for the grade. In granting incremental credit, any period of service or experience stipulated as a basic requirement for appointment or promotion to a particular grade would be excluded as this constitute the minimum requirement specified for appointment to that grade;
 - (ii) Incremental credit may not be given on appointment to promotional posts, i.e. posts to which an officer would not normally be appointed if he had joined the Government Service immediately after completing his education; and
 - (iii) Incremental credit may be given for the number of years of aggregate approved experience, periods in excess of full years being ignored. Thus, if an officer has approved experience for three periods each of 1½ years, since the total amounts to 4½ years he will be eligible for four (4) increments.
- (2) Where an officer on appointment is placed at a salary below the point in the scale at which he would normally enter by virtue of the incremental credit for which he is eligible, an adjustment should be made with retroactive effect from the date of his appointment.

E.9 Seniority

- (1) In accordance with the CPSB regulations, “Seniority” of county public officers shall be determined as follows:
 - (i) As between county public officers of the same grade:
 - (a) by reference to the dates on which they respectively entered the grade.
 - (b) if the county public officers entered that grade on the same day, by reference to their seniority on the day immediately preceding that day.
 - (c) if any county public officers who entered the same grade on the same day did so by appointment and not by promotion (excluding promotion from a non-pensionable to a pensionable grade), then seniority relative to each other shall be determined by reference to their respective ages.

- (ii) As between public officers of different grades on the same salary scale or the same flat rate of salary, by reference to the dates on which they respectively entered their grades.
- (iii) As between county public officers of different grades on different salary scales, by reference to the maximum point on their salary scale, a flat rate of salary being regarded for this purpose as a salary scale with a maximum point equivalent to the flat rate.

E.10 Advance of Salary

- (1) An advance of not more than one month's salary may be granted by an Accounting Officer to an officer on permanent and pensionable or contract establishment when the officer, owing to circumstances beyond his control, is placed in a difficult financial position requiring assistance from the county government.
- (2) In applying for the advance, the officer should explain in detail the circumstances leading to the situation which he could not have foreseen and therefore planned.
- (4) An advance under this regulation may be granted only when an officer has no other outstanding salary advance. In very exceptional circumstances, an Accounting Officer may grant an advance of not more than two (2) month's salary in situations similar to those in paragraph (1) of this regulation if he is satisfied that the officer needs assistance in excess of one month's salary advance.

E.11 Recovery of Advance

- (1) The recovery period for salary advance will be limited to a period of not more than twelve (12) months. In respect of an officer who is due to leave the service before twelve (12) months, the advance must be fully recovered in equal installments within the remaining period of the officer's service in the county government.

E.12 Advance for other purposes

- (1) County governments may grant other advances for various purposes

E.13 Salary Deductions

- (1) To ensure that officers do not over-commit their salaries, no salary deduction will be effected beyond two thirds (2/3) of an officer's basic salary.
- (2) Officers should be cautious when taking credit facilities as this will lead to a reduction on the officer's earning. Heads of Human Resource Units will be held responsible for any over deductions arising from such credit facilities.

SECTION F: ALLOWANCES

F.1 Introduction

This Section suggests allowances which may be granted to officers in specific circumstances. While it may be considered that the salary attached to a post represents appropriate remuneration of its holder for proper and efficient performance of day-to-day duties, there are circumstances in which additional payments are warranted. Such additional payments are made in form of allowances, either to reimburse an officer for the expenses incurred directly or indirectly in the execution of his duties, or to compensate him for services rendered over and above the normal job requirements.

The Salaries and Remuneration Commission will be responsible for the review of the Civil Service salaries and allowances.

F.2 Accommodation Allowance

- (1) When an officer travelling on duty is required to stay overnight away from his permanent station and makes his own arrangements for boarding and lodging, accommodation allowance will be paid to him at the rates determined from time to time. Eligibility for this allowance and the period of absence from the permanent station will be determined in each case, taking into account such factors as the distance, mode of travel, nature of assignment and the time taken to travel from the permanent station to a specified destination.
- (2) Accommodation allowance may be paid for a maximum continuous period of thirty (30) nights.
- (3) On transfer from one station to another, an officer may claim accommodation allowance for self and spouse and up to a maximum of four unmarried children under 22 years of age, with disability or children aged up to 25 years and still in college who are living with and are dependent on him should they be compelled to spend one or more nights on the journey. The rate of allowance for the spouse and children aged 16 years and above will be the same as that for the officer as set out in paragraph (1) above, and the rate for the children below 16 years will be one-half of the rate payable to the officer.
- (4) When a non Kenyan is recruited to work in the country, he will on arrival, be eligible for payment of accommodation allowance at the rates applicable to his Job Group, for himself, spouse and children for a period not exceeding 30 days, subject to the approval of the Authorized Officer. The spouse will be eligible for payment at full rate while four (4) unmarried children who are twenty two (22) years and below will be eligible for payment at half rate.
- (5) At the end of tour, the officer may draw accommodation allowance for a short period not exceeding 30 days when it is necessary for him to vacate his rented accommodation

in advance of leaving the country.

F.3 Entertainment Allowance

- (1) Some officers are from time to time required by the nature of their duties to provide hospitality and entertainment to official guests. To enable them meet such expenses, a non-accountable monthly entertainment allowance will be paid on the advice of the Salaries and Remuneration Commission.

F.4 Subsistence Allowance

- (1) An officer who is required to travel on duty outside Kenya will be granted subsistence allowance at the daily rates notified to the Service from time to time.
- (2) The rates of subsistence allowance which are payable for each complete period of 24 hours commencing from the time of departure from Kenya are designed to meet the cost of accommodation at good, but not luxury class hotels, three meals a day including service charges, local travelling (such as taxi, bus or train fare), incidental expenses including any taxes and an element in respect of essential entertainment. In addition, travelling expenses incurred from the airport of disembarkation to a hotel or other residential place and vice versa, airport charges, fees for vaccination, visas and passport charges will be refunded.
- (3) Where an officer's travelling, boarding and lodging expenses are paid in full directly to the hosting institution/hotel by the county Government or any other Organization, a residual allowance of up to one-quarter ($\frac{1}{4}$) of the standard rate of subsistence allowance may be paid to him to cover incidental expenses. Where only lodging expenses are covered, subsistence allowance may be paid at three-quarters ($\frac{3}{4}$) of the standard rate. In cases where the sponsor does not meet the expenses directly but pays an allowance and such allowance is less than the standard rate of subsistence allowance, the officer may claim the difference from the government.
- (4) An officer travelling on duty abroad is normally expected to regularize his expenses within the standard rate of subsistence allowance. Nevertheless, in very exceptional circumstances, for example, when hotels are heavily booked during an international meeting and the officer has no choice of accommodation or when the standard rate of subsistence allowance is insufficient for any other justifiable reasons, consideration will be given by the Accounting Officer for a refund of the additional expenses on production of receipted bills in respect of actual expenditure incurred.
- (5) However, the prevailing rates are reviewed regularly to approximate rates and are expected to be sufficient to afford an officer reasonable accommodation.

F.5 Acting Allowance

- (1) When an officer is in possession of requirements for appointment to a higher post he may be appointed to act on the post pending advertisement of the post.
- (2) The officer will be eligible for payment of an acting allowance at a rate to be determined by the Salaries and Remuneration Commission subject to the approval of the CPSB.
- (3) The CPSB will not approve acting appointment to take effect from a date earlier than three (3) months prior to the date on which the recommendation is submitted to the Commission. These arrangements will apply in cases of acting appointment under the delegated powers.
- (4) When a substantive vacancy occurs and a recommendation for an acting appointment is being made to the CPSB, such recommendation should be accompanied by a draft indent for advertisement of the vacancy in question.
- (5) When a post falls temporarily vacant due to the absence of the substantive holder, an acting appointment should not be made unless the period of such absence exceeds thirty (30) days. A recommendation for an acting appointment for a period of thirty (30) days or less will be considered by the CPSB for those cases where the law or regulations require that, in the absence of the substantive holder of a public office, the function of that public office can be exercised only if another officer is appointed in an acting capacity.
- (6) Acting allowance will be paid when an officer acts in a higher post for a minimum period of thirty (30) days or when the acting appointment follows another within an interval of not more than fifteen (15) days and the actual duration of both acting appointments is thirty (30) days or more. Acting allowance will not be paid when an officer who has been appointed to act in a higher post is absent from duty for whatever reason for a period of more than thirty (30) days.
- (7) An officer who is appointed to act in a higher post will be eligible for the duration of his acting appointment, for travelling privileges and other related ad hoc allowances, such as hotel or accommodation allowance. However, the officer will not qualify for house allowance or other remunerative allowances assigned to the higher post.
- (8) Acting allowance will not be paid against common cadre posts.

F.6 Special Duty Allowance

- (1) When an officer is called upon to perform duties of a higher post but does not possess the necessary qualifications for appointment to that post, he will be paid special duty allowance at the rate of 10% of the officer's basic salary or 10% of the minimum basic

salary of the higher grade, whichever is higher. The payment of special duty allowance will be subject to recommendation by the Human Resource Management Advisory Committee and approval by the Authorized Officer.

- (2) When a post falls temporarily vacant due to the absence of the substantive holder, special duty allowance should not be paid to an officer performing duties of such a post unless the period of absence exceeds thirty (30) days.
- (3) Officers will not be called upon to perform duties of a post that is not more than two (2) grades higher than the officer's substantive grade.
- (4) Special Duty Allowance will not be payable to an Officer for more than one (1) year.
- (5) Officers performing duties of a higher post under this regulation will not be eligible for allowances or travelling privileges applicable to the higher post.

F.7 Overtime Allowance

- (1) An officer who is required to work overtime, an allowance may be granted to him with prior approval of the Authorized Officer on the advice of the appropriate Human Resource Management Advisory Committee, for overtime worked in excess of forty (40) hours per week, at a rate to be determined
- (2) This provision will not apply to certain categories of staff who are required to work overtime regularly and an allowance has been authorized for their compensation.
- (3) It is emphasized that overtime allowance should not be paid for routine duties where it is possible that alternative arrangements can be made for performance of the tasks within normal working hours.
- (4) Overtime allowance will be paid subject to a maximum of ten hours per week.
- (5) Officers who are normally called upon to perform duties of a supervisory nature will not qualify for overtime allowance as this factor is taken into account in determining the rate of their remuneration.

F.8 Hardship Allowance

- (1) The County Government will determine the mechanisms of paying hardship allowance based on guidelines from the Salaries and Remuneration commission.

F.9 Transfer Allowance

- (1) When an officer is transferred from one station to another, he will be eligible for

payment of transfer allowance amounting to one (1) month's basic salary immediately he is released to the new station provided the new station is not less than 40 km from the old station.

- (2) Transfer allowance will not be paid to:-
- (i) Field officers such as Surveyors, Hydrologists, Engineers, Geologists, and Inspectors of Works, when moving from one camp to another;
 - (ii) Officers who are posted on temporary basis (i.e. on relief duty) for a period not exceeding three months; and
 - (iii) Officers who are transferred on their own request to suit their own convenience.

F.10 Field Allowance

- (1) Field officers such as surveyors, road foremen, prospectors and officers in charge of land development units, whose duties entail continuous field work and who live in movable accommodation (i.e. portable huts or tents), may be granted a regular field allowance at a rate to be determined from time to time subject to a maximum of three months.
- (2) Field allowance will not be paid for any night for which the officer draws accommodation allowance or hotel allowance e.g. when visiting Head Office or for any night spent at the station where he is based.

F.11 Extraneous Allowance

- (1) Extraneous allowance is payable to officers who are required to work over and above the official working hours on a continuous basis. The rates will be as advised by the Salaries and Remuneration Commission (SRC), while eligibility for payment will be determined by CPSB.

F.12 Leave Allowance

- (1) All officers will be eligible for leave allowance once a year. For ease of administration, the allowance will be paid through the payroll.
- (2) The rate of leave allowance will be as advised by SRC from time to time.

F.13 Commuter/Transport Allowance

- (1) All officers will be eligible for commuter/transport allowance provided they are not facilitated with Government transport.
- (2) The rates of the allowances will be determined by the Government from time to time.

- (3) It will be an offence for an officer in receipt of commuter allowance to use Government vehicle to and from the office.

F.14 Other Allowances

- (1) There are other allowances which may be paid to different categories of staff in various circumstances (e.g. persons with disability). Such allowances will be determined by the county government with the advice of the SRC, and communicated to the service from time to time.

SECTION G: MEDICAL BENEFITS

G.1 Introduction

The County Government as an employer is under obligation to provide free medical treatment or make provision for adequate medical care for its employees.

G.2 Medical Cover

- (1) The medical cover shall be in respect of an officer and his family.
- (2) The amount of the cover will be determined by the county government from time to time.

G.3 Management of the Scheme

- (1) The Scheme will be operated by a network of healthcare providers where employees and their dependants can access out-patient and in-patient treatment. On admission, the employee will inform the secretariat who will settle the bills with the hospitals on discharge.

SECTION H: LEAVE

H.1 Introduction

Leave is a right to every officer and will be granted for recuperative purposes to enable the officer renew his energies and improve efficiency. Leave may not be commuted for cash nor will it be payable to dependants or to the estate in the event of an officer's death. Leave is granted subject to the exigencies of service.

H.2 Categories of Leave

Leave falls into the following categories:

- (i) Annual Leave;
- (ii) Maternity Leave;
- (iii) Paternity leave;
- (iv) Unpaid Leave
- (v) Compassionate Leave;
- (vi) Leave for Sportsmen/women.
- (vii) Sick Leave;
- (viii) Terminal Leave;

H.3 Application for Leave

- (1) Application for leave should be submitted on the appropriate form, as, to the respective Head of Department.
Principal Secretaries
- (2) Annual leave for a newly appointed officer will be calculated on a pro-rata basis only for the year of his appointment.

H.4 Annual Leave

- (1) An officer will be eligible for annual leave at the commencement of a 'leave year' except in the case of a newly appointed officer who will be required to serve for a minimum of three (3) months before being granted annual leave.
- (2) "Leave year" will commence on 1st July up to 30th June the following year.
- (3) Annual leave excludes Saturdays, Sundays and Public Holidays.
- (4) All officers will be entitled to 30 days annual leave.
- (5) Annual leave is not usually accumulated. However, an officer may, if he so wishes, carry forward from one leave year to another not more than one-half of his annual

leave entitlement. This arrangement is intended to enable an officer to reserve a portion of his annual leave to be taken in an emergency.

- (6) Annual leave must be taken within the leave year it falls due or forfeited. Deferment of annual leave from one leave year to another will not be permitted save in very exceptional circumstances with the prior approval of the Authorized Officer.
- (7) A non-citizen working in Kenya wishing to travel outside the country while on leave or for personal reasons will be required to obtain prior written permission from the Authorized Officer.

H.5 Maternity Leave

- (1) A female officer who is required to be absent from duty on account of confinement will be granted maternity leave with full salary for a maximum period of ninety (90) calendar days exclusive of the annual leave due for the year.
- (2) An application for maternity leave should be submitted to the County Secretary/Head of Department at least one month before the expected date of confinement. The application should be supported by a medical certificate indicating the date on which maternity leave should commence.
- (3) Should it be necessary to extend maternity leave beyond the prescribed period of ninety (90) calendar days on grounds of sickness of the mother, the provision provided in regulation H.10 will apply.
- (4) Where the extension will be on the account of the child's sickness the provisions provided in Regulation H.6 will apply.

H.6 Paternity Leave

- (1) A male officer will be eligible for paternity leave for a maximum period of ten (10) working days during the period of the spouse's maternity leave. Such leave shall be taken not more than once per year. An officer will be required to avail a Doctor's Certificate confirming the maternity status of his wife.

H.7 Unpaid Leave

- (1) Unpaid leave may be granted to an officer with the prior approval of the Authorized Officer on the following grounds:-
 - (i) Urgent private affairs of exceptional nature not exceeding thirty (30) days;
 - (ii) Officers whose spouses are posted to foreign Missions during the term of the tour of Service;

- (iii) Officers who are appointed to international organizations where they cannot transfer their service or be on secondment for a period not exceeding three (3) years;
- (2) Unpaid leave granted in accordance with this regulation will not be increment-earning and where necessary incremental date should be adjusted.
- (3) The period of unpaid leave will not be pension-earning.

H.8 Compassionate Leave

- (1) An officer, who has exhausted his annual leave entitlement, may be granted compassionate leave for up to ten (10) days in a leave year.
- (2) In the event of serious illness of a member of an officer's nuclear family outside the country which urgently requires the officer's presence, a visit may be made by the officer or the spouse as the case may be.
- (3) A non-citizen officer will be eligible for compassionate leave of fourteen (14) days in the event of death of a parent, spouse or an officers' child. The officer will be eligible for payment of passages as provided.

H.9 Special Leave for Sportsmen

- (1) An officer who is selected to represent Kenya in National, Regional or International fixtures will be granted special leave with full salary for the necessary period of his training and subsequent participation in sports.
- (2) This special leave will not be counted against annual leave entitlement and will be authorized by the Head of Department in which the sportsman is employed, in consultation with the State Department responsible for sports.

H.10 Sick Leave

- (1) Sick leave is the approved absence of an officer from duty on account of illness and includes weekends and public holidays.
- (2) A medical certificate signed by a medical officer must be produced in every case of absence on account of illness.
- (3) An officer may be granted sick leave subject to the maximum period indicated below, provided it is certified that there is a reasonable prospect of eventual recovery and fitness for duty.
 - (i) All officers on pensionable or contract terms of service will be granted up to

three months leave on full pay followed by three months on half pay.

- (ii) If the officer is unable to resume duty within the first three months of sick leave, the Authorized Officer will refer the case to the County Director responsible for Medical Services to convene a medical board.
 - (iii) Where the officer is incapacitated to the extent that he does not appear before a medical board, the case should be referred to the CPSB for retirement on medical grounds.
 - (iv) The officer will not be reinstated in the payroll on the expiry of the six months until his case is determined as provided in paragraph 3 (i) above.
- (5) Sick leave in excess of three (3) months will approved by CPSB With the advise of the County Chief Officer responsible for Medical Services who will decide if the officer should be examined by a Medical Board with a view to determining whether or not there is reasonable prospects of eventual recovery and fitness for duty.
- (6) In exceptional cases of continued ill-health, the Authorized Officer may on the recommendation of the County Chief Officer responsible for medical services grant an extension of sick leave beyond the maximum periods indicated in paragraph (1) above, with such salary as may be decided.

H.11 Terminal Leave

- (1) An officer who has not availed himself of the annual leave due for the year in which his employment ceases will be entitled to annual leave on pro-rata basis.
- (2) In addition to the leave granted under this regulation, an officer may be granted the annual leave carried forward from the previous leave year.
- (3) Notwithstanding (1) and (2) above, an officer who is due for retirement will also be entitled in addition to his annual leave, thirty days (30) leave pending retirement. This leave must be taken a month preceding retirement and will neither be commuted for cash nor will the officer qualify for additional leave allowance.

H.12 Public Holidays

- (1) The following days shall be observed as public holidays in accordance with the Public Holidays Act (Cap.110):-

New Year's Day1st January
Good Friday
Easter Monday
Labour Day1st May
Madaraka Day1st June

Idd-ul-Fitr.....	
Mashujaa Day	20 th October
Jamhuri Day.....	12 th December
Christmas Day	25 th December
Boxing Day	26 th December

(2) In addition to the above public holidays, the following will be observed as public holidays by officers as indicated:-

- (i) Idd-ul-Haj
- (ii) Diwali

H.13 Festival Holidays

- (1) Leave of absence on the occasion of religious festivals may be granted without loss of pay for not more than two days in a leave year, subject to the exigencies of the service. An application for leave on such an occasion should be addressed to the Authorized Officer well in advance of the date on which any particular religious festival is celebrated.
- (2) An Authorized Officer may, at his discretion and subject to the exigencies of the service also allow members of his staff an hour or so off-duty for the purpose of attending religious services on festivals other than those on which a full holiday has been granted.

H.14 Deferment/Commutation of Leave

- (1) Authorized Officers shall be responsible for authorizing deferment and commutation of leave for cash where leave is not taken due to exigencies of service. To ensure prudent financial management, all cases of commutation of leave for cash will be approved by the Authorized Officer. The above notwithstanding, it is reiterated that officers should be allowed to utilize their leave in each year.

SECTION I: TRAINING AND DEVELOPMENT

I.1 Introduction

- (1) This section provides guidelines on how to plan, manage and coordinate training in the county public service. A culture of continuous learning is encouraged as a way of developing Human capital in the Public Service.
- (2) The Government policy on training is to ensure continuous upgrading of core competencies, knowledge, skills and attitudes of Public Officers including their ability to assimilate technology to enable them create and seize opportunities for career growth, social advancement, economic growth and development.
- (3) County Governments will establish training funds for financing their training programmes. The funds will be used for job-related courses that enhance performance and service delivery.
- (4) All training must be based on identified training needs. County Public officers should have at least five (5) days training in a year while newly recruited or transferred officers must be inducted within three months of joining County Public Service.

I.2 Management and Co-ordination of Training

- (1) The management and co-ordination of training in the County Public Service will be the responsibility of the county public service boards. Human Resource Management and Development Units established in County Departments will be responsible for the training function in the County Departments. Departmental Training Committees shall be established to manage the training function.

I.3 Training Needs Assessment

- (1) Training in the county Public Service shall be based on Training Needs Assessment which shall be conducted every two years in each County Department.
- (2) County Departments shall prepare training projections based on Training Needs Assessment to guide the training committees in nominating officers for training.

I.4 Training Programmes

- (1) Training programmes comprise both short and long term courses in specific professions that are intended to impart required knowledge, skills and attitudes to enhance staff performance.

- (2) County Departments may design specific in-house training programmes as a method of developing training interventions which address identified training needs. In addition training can be provided under institutional training both locally and abroad.
- (3) In designing training programmes County Departments should ascertain the availability of:-
 - (i) Professional, qualified and experienced trainers;
 - (ii) Training programmes that are cost-effective; and
 - (iii) An effective evaluation and feedback system to assess the impact of training on performance.
- (4) Selection of trainees for all training programmes will be based on identified needs with emphasis on training for performance improvement that addresses national, county, organizational and individual goals.

1.5 Training Levy

- (1) Officers undertaking courses lasting more than three (3) months both locally and internationally will be required to contribute to the cost of their training at a rate to be determined by the CPSB.
- (2) Officers undertaking part-time or full time self-sponsored courses are however, exempted from paying the training levy.
- (3) County Secretary shall ensure that the officers' contributions are remitted for the duration of the course to the County Public Service Board.

1.6 Induction Training

- (1) Induction and orientation training help an employee familiarize with the work environment and requirements. County Government Departments shall conduct induction training within three (3) months for newly recruited officers and those who have joined on transfer.

1.7 Eligibility for Training

- (1) County Public Officers at all levels will be eligible for at least five (5) days training in a year.
- (2) An officer who attends a course lasting six months and more above will be required to work for two years before they can qualify for selection for another long course.

1.8 Course Approval

- (1) The County Public Service Board will grant course approval to officers proceeding on authorized training in accordance with service regulations. Officers will be required to obtain course approvals before commencement of training.
- (2) County Secretary will be responsible for issuance of course approvals for local training and should approve all local courses undertaken in their respective County Departments on the recommendation of the County Departmental Training Committee.
- (3) The County Government shall initiate training programmes for all officers. Therefore, there is no provision for unpaid study leave in the service.

1.9 Sponsorship for Training

- (1) The County Government will sponsor staff for courses under the regular and parallel University programmes, open Learning, part-time or sandwich as long as such cases are approved by the respective training committees.

1.10 Training Bond

- (1) The County Government will enter into a formal agreement with serving officers proceeding on approved courses of training locally or abroad lasting six (6) or more months.
- (2) The period of the bond for courses lasting six or more months will be determined by the duration of the course as follows:-

	Training Period	Bond Period
(i)	Six months up to one year	One year
(ii)	More than one year upto two years	Two years
(iii)	More than two years upto three years	Three years
(iv)	More than three years	As per the duration of the course but not exceeding five years

- (3) Bond period determined by the cost of training will not be less than one year and should not exceed five years.
- (4) The components of the bond amount may be determined by the mode of study and the sponsoring authority. For full-time sponsored officers, the bond amount will be the total cost of the training plus the gross salary for the duration of the training.

- (5) The bondee and/or surety will be required to redeem the bond amount in lumpsum incase of default.
- (6) Details on the administration and implementation of the training bond are contained in the Public Service Training Bond Guidelines. County Governments can adopt this.

1.11 Skills Inventory

- (1) County Chief Officers shall develop, update and maintain a skills inventory for all officers in their respective Departments for purposes of identifying the available skills and the required skills in order to plan for training or recruitment to address the identified gaps and for succession management.
- (2) It will be the responsibility of the officer to update their skills inventory.

1.12 Allowances for County Government Sponsored Training

- (1) Officers undertaking long courses abroad will be paid living allowance to cater for subsistence, accommodation, outfit and excess baggage while subsistence allowance is paid to officers attending short courses or those traveling outside the country on official duties.
- (2) Officers attending long courses on full time basis within Kenya but outside their duty stations will be eligible for payment of living allowance to cater for meals, accommodation and related expenses at rates applicable to respective areas.
- (3) County Government sponsored officers attending part-time, evening, sandwich and holiday module courses will not be entitled to a living allowance or stipend.
- (4) Officers sponsored by the County Government and attending full time courses within their duty stations and their environs will not be paid any living allowance or stipend.
- (5) Officers sponsored by the County Government to undertake courses at Kenya School of Government are not entitled to any living allowance or stipend.
- (6) An officer attending a short course lasting up to one month that is externally organized but held locally and outside the officers' duty station, will be eligible for living allowance to cater for accommodation, meals, service charges and other incidental expenses.
- (7) Other Allowances paid to officers undertaking courses locally and abroad are:-
 - (i) Research Allowance;

- (ii) Dissertation/Thesis Allowance;
- (iii) Project Allowance;
- (iv) Book Allowance.

(8) The applicable rates are as stipulated in circulars issued to the service from time to time.

I.13 Incidental Expenses

- (1) The County Government will meet the cost of pre-departure medical examination, visa, vaccination and inoculation while the officer will meet passport expenses for foreign training.
- (2) The County Government will meet the cost of transport and traveling to and from the institution at which the course is held. However, the trainee will meet the cost of daily commuting between lodgings and place of study.

I.14 Annual Leave

- (1) An officer who has been on training will be eligible for his normal annual leave only for the year he resumes duty in addition to the leave days officially carried forward before proceeding on training.

I.15 Donor Funded Courses

- (1) Where a training award/scholarship for a long course organized under bilateral arrangements caters for only tuition and accommodation but do not include meals, out of pocket and stipend. The officer will be eligible for 25% of the living allowance applicable to the designated country.
- (2) Where a short course is partially funded under bilateral agreement, the officer will be eligible for 25% subsistence allowance applicable to the designated country.
- (3) Where a medical insurance cover is not provided under a Technical Cooperation Training Award, the County Government will meet the cost of the relevant medical insurance cover for the officer.

I.16 Seminars, Workshops, Retreats and Conferences

- (1) The rates paid to officers involved in Seminars, Workshops, Retreats and Conferences will be determined by the County Government from time to time.
- (2) Workshops which are meant to review, develop and produce reports shall be treated as Retreats and should be for a maximum duration of ten (10) days. The number of participants in a Retreat should not be more than ten (10) excluding the secretariat staff.

- (3) The duration of Seminars, Workshops and Conferences should not exceed three weeks. Any Seminar, Workshop and Conference beyond three (3) weeks will be considered as a course and will be subjected to the stipulated provisions for courses.
- (4) No officer should be involved in more than one role in Seminar/Workshop/Conference at a given time.

SECTION J: LABOUR RELATIONS

J.1 Introduction

- (1) Under Article 41 of the Constitution every worker has the right to fair labour practices including: fair remuneration; reasonable working conditions; the right to form, join or participate in the activities and programmes of a trade union; and the right to go on strike.

J.2 Consultative Committees

- (1) The Collective Bargaining Agreements (CBAs) between former Local Authorities and Kenya Local Government Workers' Union have lapsed by operation of law.
- (2) The County governments will sign recognition agreements with public service trade unions at the county level. The recognition agreements will provide for establishment of a Consultative Committee.
- (3) The main objectives of the Committee are:-
 - (i). To provide machinery for negotiations between the County Government and the trade unions for terms and conditions of service of unionisable employees; and
 - (ii). To secure the greatest measure of co-operation between the County Government in its capacity as an employer, and its employees in all matters affecting the County Public Service.

J.3 Composition and Functions of the Committee

- (1) The Committee may consist of not more than three members from the County Government and not more than three members from the Union;
- (2) The quorum shall not be less than two representatives from each side;
- (3) The function of the Committee will be to negotiate with the trade unions and conclude a Collective Bargaining Agreement on terms and conditions of service for all unionisable employees.
- (4) The Committee will meet as and when necessary, regulate its own procedures and elect its own chairperson and secretary. It may also co-opt, where necessary, members of the county departments or experts on labour issues. It may also set up a sub-committee to deal with a specific matter.
- (5) Unless otherwise agreed, the expenses of the Committee (if any) will be met by the County Government and the trade unions on equal basis;

- (6) A meeting of the Committee shall be convened within fourteen days of a request for a meeting from either side. Such request or report shall state the matter or matters to be discussed and will be placed on the agenda provided that such matters are relevant.
- (7) In the event of failure to reach an agreement at Committee meeting , the provisions of the Labour Relations Act,2007 on dispute resolutions shall apply in so far as the County Government is concerned .

J.4 Union Membership

- (1) All employees may join any registered and recognized trade union of their choice.
- (2) An employee shall not be victimized or disciplined for being a member or participating in trade Union activities;
- (3) An employee who is appointed as an official of a Union shall be a serving officer in the county public service except the Secretary General and will be granted permission to carry out their official duties for the Union;
- (4) An employee is not allowed to be an official of more than one trade union. However, an official of a trade union may also be an official of a federation to which the trade union is affiliated;
- (5) Meetings of members of the Union may take place during office hours with official permission from the Chief officers of the County Departments concerned.

J.5 Recovery of Union Dues

- (1) The county government may deduct trade union dues from the wages of union members and pay the monies so deducted into a specified account of the trade union;
- (2) Any further deductions from an employee who has resigned his union membership and notified the employer in writing shall be stopped; and
- (3) A copy of an employee's resignation notice shall be forwarded to the union for information.

J.6 Dispute Resolution

- (1) The county government will endeavor at all times to have a good working relationship with the trade union in order to maintain industrial peace. However, should a trade dispute arise concerning dismissal or termination of service of an employee, dispute shall be resolved in accordance with the Labour Relations Act, 2007 in so far as the county government is concerned.

- (2) The union may also refer a dispute to the Industrial Court as a matter of urgency if the dispute concerns:
- (i) Recognition of a trade union; and
 - (ii) Redundancy where the trade union has already referred the dispute for conciliation for instance when a county government has retrenched employees without giving notice; and employers and employees are engaged in an essential service.

J.7 Employees Participation in Strikes

An employee may participate in a strike if:-

- (i) The trade dispute that forms the subject of the strike concerns the terms and conditions of employment or recognition of a trade union to which an employee is a member;
- (ii) The trade dispute is unresolved after conciliation; and
- (iii) Seven days written notice of strike has been given to the Government and the County Department responsible for Labour by the representative of the Union.

NB: The current labour laws do not recognize County Governments and they need to be amended.

SECTION K: HEALTH AND SAFETY

K.1 Introduction

- (1) This Section provides guidelines and standards for the prevention and protection of officers against accidents and occupational hazards arising at work place.
- (2) The Section also provides procedures to be followed as a result of occurrence of such accidents and modalities for the administration and payment of Compensation for work related injuries and accidents occurring during and outside the course of work.
- (3) It further provides for guidance and counselling, management of HIV/AIDS at the workplace and the rehabilitation of officers who may be facing challenges of drugs and substance abuse.

K.2 Guidelines to General Safety

- (1) County governments should maintain healthy and safe working conditions for the officers under their respective County to ensure there is no personal injury caused by accidents.
- (2) All officers shall always consider safety to themselves and others when performing their duties. They should not compromise on quality, cause injury, ill health, loss or environmental damage.

K.3 Emergency Preparedness

- (1) Every County Department depending on the nature of work and services shall plan for foreseeable incidents such as accidents, explosions, fire, floods, earthquakes and bomb threats and prepare and outline procedures to be followed in such events.
- (2) Head of County Departments shall have a responsibility of ensuring that all officers and visitors are informed of and are fully conversant with the emergency procedures.

K.4 Fire Precautions

- (1) County Chief Officers are responsible for ensuring that the fire protection facilities are provided in the buildings used by County Departments under their control and are adequate and maintained as advised by Fire Officers and Occupational Safety and Health Officers. They are also responsible for enforcing all necessary fire precaution measures as directed by both the County Department responsible for Public Works and the County Department responsible for Labour.
- (2) General information on fire precautions and fire equipment is contained in publications which are obtainable on application from the County Department responsible for Public

Works. Regulations regarding fire safety are obtainable from the State Department responsible for Labour.

- (3) All County departments should conform to the provisions of Occupational safety and health Act and Regulations therein

K.5 Medical Examination

- (1) The County Chief Officers and Heads of Department will ensure that all officers working in hazardous occupations will undergo periodic medical examination by the designated health practitioner.

K.6 Provision of Protective Equipment and Clothing

- (1) The County Chief Officers should ensure that all officers who are employed in any process involving exposure to wet or to any injurious or offensive substances are provided with adequate, effective and suitable protective clothing and appliances.

K.7 Safe Use of Potentially Dangerous Equipment

- (1) The County Chief Officers and Heads of Department should ensure that all plants including hoists and lifts, steam boilers, other equipment and pressure vessels are properly maintained and that they undergo the statutory examinations as per the requirement in the Occupational Safety and Health Act.

K.8 Reporting of Accident

- (1) Immediately an accident or development of an occupational disease resulting in death or injury to an officer comes to the notice of the officer under whom he is directly deployed, the supervisor should make a claim for compensation in accordance with the procedure set out in the Occupational Safety and Health Act 2007 and Work Injury Benefits act 2007.

K.9 Guidance and Counselling

- (1) The current challenges in the workplace and family environment affects the performance and wellbeing of an officer. To address these challenges, the County Government will introduce guidance and counselling in the Service.
- (2) Counselling Services in the County public service shall be free of charge and shall be limited to Public Officers. However, consultation with family members or support system may be sought when deemed necessary.

K.10 HIV/AIDS as a Workplace Issue

- (1) HIV and AIDS is a major challenge facing officers in and out of the office. It poses a big threat to the individual, the family and the public Service. It is in cognizance of this that the national government has put in place care and support programmes for the infected and affected officers to enable them remain productive.
- (2) HIV/AIDS shall be treated like any other challenging issue at workplace. All county public officers shall have a role to play in the wider struggle to mitigate the effects of the pandemic.

K.11 Fighting Stigma and Discrimination

- (1) An officer shall not be discriminated or stigmatized on the basis of HIV status. It is an offence for any person to discriminate another on the ground of actual, perceived or suspected HIV status in relation to employment, access to education, credit, insurance, travel, health care, habitation and or any other ground.
- (2) The Heads of Department, Human Resource Officers and supervisors will be at the forefront in providing conducive working environment for the infected and affected officers. They will be required to set up programmes that will instill positive behavior in the management of HIV and Aids.

K.12 Safe and Healthy Work Environment

- (1) It shall be the responsibility of the Supervisors to minimize the risk of HIV/AIDS transmission by adopting first aid/universal infection control precautions at workplace.

K.13 Screening for Purposes of Employment/Recruitment

- (1) HIV/AIDS screening shall not be a requirement for job seekers, recruitment or for persons in employment. Screening shall be confidential, voluntary and shall be after counseling. There shall be no disclosure of HIV/AIDS test results of any related assessment results to any person without the written consent of the officers;

K.14 Health Care Services

- (1) Officers, including spouses and children, are eligible to affordable health care services and to benefit from statutory and occupational schemes.

K.15 Drug and Substance Abuse policy

- (1) Addiction to drugs or substance will be treated like any other disease. An officer who is

determined to deal with drug and substance abuse problem by engaging in rehabilitation services will be referred by his County Department to a Government doctor for evaluation.

- (2) County Government will provide both in-patient and out-patient rehabilitation services within the limits provided in the Medical Insurance Scheme.

SECTION L: TERMINAL BENEFITS

L.1 Introduction

- (1) This Section provides guidelines on various forms of exit from the public service and the benefits payable, if any. It also outlines benefits payable under the NSSF, Widows and Children Pension Scheme and Public Service Superannuation Scheme.

L.2 Forms of Exit from the Service

- (1) A public officer may exit from the public service through:-
 - (i) Resignation;
 - (ii) termination in accordance with the letter of appointment;
 - (iii) retirements:
 - (a) On attainment of 60 years;
 - (b) In public interest;
 - (c) On medical grounds
 - (d) On 50 year rule (voluntary)
 - (e) On abolition/re-organization of office ;
 - (iv) dismissal; or
 - (v) death.

L.3 Resignation

- (1) An officer serving within permanent establishment, whether confirmed or on probation, may resign his appointment by giving a one (1) month notice or he shall pay one months salary in lieu of such notice. A non-pensionable officer may resign his appointment in accordance with the terms of his agreement or letter of appointment.
- (2) On resignation, an officer is required to refund any outstanding liabilities to the county government. Any amount due to an officer may be withheld and applied towards any sum due by him. If any liabilities are outstanding, the county government shall institute legal mechanisms for recovery.
- (3) An officer whose terminal benefits are determined under the Pensions Act will not be eligible for pension or gratuity on leaving the Service except in the specific circumstances defined in the Pensions Act or letter of appointment. An officer who resigns cannot, if subsequently re-employed after a break of service, count his previous service for pension.
- (4) An officer whose terminal benefits are determined under the Public Service Superannuation Scheme will on resignation be eligible for terminal benefits as provided in the Public Service Superannuation Scheme Act.

L.4 Termination of Appointment

- (1) The employment of an officer serving on contract or probationary terms may be terminated by the appointing authority in accordance with the provisions of the officer's agreement or by giving appropriate period of notice or salary in lieu of notice.

L.5 Mandatory Retirement Age

- (1) All officers will be required to retire from the Service on attaining the mandatory retirement age of 60 years.

L.6 Retirement under the '50 Year' Rule

- (1) An officer on attaining the age of 50 years may opt to retire any time thereafter.
- (2) An officer whose pension is determined under the Pensions Act and has completed ten (10) year's service, will be eligible for pension should the officer opt to retire under '50 year' rule. However, if the officer has less than ten years' service, he will be eligible only for a gratuity in accordance with Regulation 5 of the Pensions Regulation.
- (3) An officer will be required to give two (2) months notice of his intention to retire under the '50 year' rule.
- (4) An officer whose pension is determined under the Public Service Superannuation Scheme and opts to retire under the '50 year' rule will be eligible as provided for in the Public Service Commission superannuation Act, 2012.
- (5) Applications from officers to retire under the '50 year' rule will be approved by their respective Chief Officers.

L.7 Retirement in Public Interest

- (1) If an authorized officer, after having considered every available report with regard to a complaint against a public officer and it is apparent that it is desirable to retire the officer on grounds of public interest, the authorized officer shall:-
 - (a) serve the public officer with a letter setting out the particulars of the complaint as reported and asking the officer to make representation within a reasonable time in view of the intended retirement; and
 - (b) upon receipt of the representation or if none is received within the prescribed time, forward to the CPSB all the details of the case.

- (2) Unless the CPSB considers that further inquiry into the complaint is necessary, in which case it shall issue directions to the authorized officer accordingly, it shall decide forthwith whether the public officer should be called upon to retire on grounds of public interest.
- (3) In this paragraph, for a complaint or report to justify retirement on grounds of public interest, it must be such that in view of the complaint or report, the public officer has offended public policy as protected in:-
 - (a) prescribed government policy;
 - (b) provision of the constitution or legislation; or
 - (c) binding decision made by a competent court of law.

L.8 Retirement due to Ill-Health

- (1) Where it appears that an officer is unfit for continued service on medical grounds, the case shall be forwarded to the County Director of Medical Services to convene a Medical Board. The officer may be retired from the Service on medical grounds on the recommendation of the Medical Board.

L.9 Retirement on Abolition/Re-organization of office

- (1) An officer, may be retired either on the abolition of the office he holds or upon the re-organization of the county department in which the officer serves for efficiency in service delivery. Such action shall be approved by the Board.

L.10 Dismissal

- (1) Dismissal refers to termination of appointment arising out of disciplinary proceedings on grounds of gross misconduct, desertion, criminal conviction, intoxication neglect of duties, insubordination, committing a crime, use of abusive language, misappropriation of public funds and pecuniary embarrassment, among others.
- (2) An officer whose pension is determined under the Pensions Act and is dismissed from the Service, shall forfeit all rights or claims to a pension, gratuity, annual allowance or other retiring award, and any other rights or claims he enjoys in regard to leave or passages at the public expense. However, he will be entitled to employers N.S.S.F. contribution under exemption clause of Legal Notice No. 176 of 1975.
- (3) An officer whose pension is determined under the Public Service Superannuation Scheme Act will, on dismissal, be eligible to terminal benefits as provided under the Act.

L.11 Death

- (1) On death of an officer, the next of kin will be paid death gratuity and dependants

pension. In case of an officer who has been contributing towards the Widows and Children's Pensions Scheme the next of kin will, in addition, be paid the accrued benefits.

L.12 Registration under the N.S.S.F

- (1) County Public officers who are not on permanent and pensionable terms of service will be required to register with National Social Security Fund as provided for in the National Social Security Fund Act.

L.13 General Information on Pensions and Gratuities

- (1) Human Resource Management Divisions of County governments should complete the pension and gratuity claim forms so that the Pensions Department of the county Treasury can, without delay, make the necessary calculation based on the particulars given in the claim forms.
- (2) The provisions are subject to amendment and nothing included in these notes is intended to supersede provisions of the Pensions Act and Regulations.
- (3) The Pensions Legislation of the Public Service of Kenya is contained in the Pensions Act Chapter 189.
- (5) The Pensions Department of the county Treasury is responsible for the calculation of the pension/gratuity in accordance with the Pensions Act and Regulations based on the service records submitted by county Departments.
- (6) The Pension/gratuity claim forms currently in use are:-
 - (i) G.P. 178 - For pensionable officers.
 - (ii) G.P. 179 - For non-pensionable officers, serving on purely temporary terms. This form is completed in respect of male officers, who were appointed or transferred to the service of the Government prior to 1st April, 1966 and female officers, who were so appointed or transferred prior to January, 1977.
 - (iii) G.P. 213 For Pensionable Officers who resign, are dismissed, retire or die while still single and without children.

L.14 Definitions of Terms used in Pensions

- (1) Pensionable Office; means an office to which an officer has been appointed whether on probation or otherwise on terms which include eligibility for the grant of a pension under the Pensions Act.

- (2) Pensionable Officer; means an officer who is the holder of a pensionable office in which he has been confirmed.
- (3) Qualifying Service; means service which may be taken into account in determining whether an officer is eligible, by length of service, for pension or gratuity.
- (4) Pensionable Service; means service which may be taken into account in calculating a pension or gratuity under the Pensions Act e.g.
 - (i) Probationary service followed by service on permanent and pensionable terms is reckonable in full for the purposes of calculating a pension or gratuity;
 - (ii) Contract service is reckonable in full if an officer surrenders or refunds the gratuity earned under the contract provided that he was admitted without a break of service to the pensionable establishment;
 - (iii) Provident Fund service is reckonable in full if an officer surrenders his personal contributions to revenue, provided that he was admitted without a break of service to the pensionable establishment;
 - (iv) Temporary service; normally reckons to the extent of one-half (1/2) in calculating a pension or gratuity; and
 - (v) Unpaid leave is not pension earning.

L.15 Eligibility for Pension/Gratuity

- (1) An officer is eligible for the grant of a pension or gratuity under the pensions Act only upon retirement from the service of the county government in any of the following circumstances:-
 - (i) Age not less than 50 years ;
 - (ii) Abolition or re-organization of office;
 - (iii) Ill-health; and
 - (iv) Public interest.
- (2) An officer who voluntarily resigns from the service of the county government or who is dismissed forfeits all claims to the retirement benefits except:

L.16 Refunds on Termination of Appointment or Dismissal

- (1) On leaving the Service on resignation or dismissal, an officer will be eligible for registration under the National Social Security Fund Act and the Government will pay the equivalent of employer's contribution as if the officer was on temporary terms of Service.
- (2) Contributors of Widows' and Children Pensions Scheme will be eligible for refund in accordance to the provisions of the Widows' and Children Pensions Scheme Act.

L.17 Retirement Benefits Claim

- (1) In cases where the retiring officer is eligible for retirement benefits under the Pensions Act, a claim for such benefits should be submitted to the Pensions Department of the County Treasury on the appropriate Form G.P.178 or 179 as the case may be, at least nine (9) months before the date of retirement.
- (2) The Head of the Human Resource Management Division in a county government or an officer duly authorized to sign notices of retirement will be held responsible for the availability of the relevant service records to facilitate the submission of an acceptable retirement benefits claim to the Director of Pensions, in the County Treasury within the time limit specified in the sub-section (1) of this regulation. The same officer will be held accountable for the accuracy and timely submission of information to the Director of Pensions in the County Treasury.
- (3) The retiring officer should submit all the documents stipulated in the retirement notice within the time frame.

L.18 Retirement Benefits Payable under the Pensions Act

- (1) The retirement benefits payable under the Act are:-
 - (i) Pensions which include service pension (whether unreduced or reduced), injury pension, killed-on-duty pension and abolition-additional pension;
 - (ii) Gratuities which include commuted pension gratuities, service gratuities, death gratuities, compassionate gratuities and marriage gratuities;
 - (iii) Other allowances which include annual allowance and maintenance allowance.
- (2) An officer whose pension is determined under the Pensions Act becomes eligible for the grant of a service pension only if he has completed a minimum period of ten (10) years' service. If however, he has completed less than ten (10) years service, he becomes eligible for the grant of a service gratuity.

- (3) The rates and modes of calculation of these benefits are set out in the pensions regulations.

L.19 Transfer of Service and Secondment of Pensionable Officers

- (1) When a pensionable officer is transferred to the national government, another county government or another administration, which is “scheduled” under the Pensions Act, the pension Form GP.178 the statement of aggregate pensionable emoluments form GP.190 should be completed and forwarded to the Pensions Department of the County Treasury.
- (2) Transfers of pensionable officers from the Government to organizations which are not “scheduled” under the Pensions Act but which have been declared to be “public service” for the purposes of the Act, need not be notified to the Pensions Department of the County Treasury until the eventual retirement from the organizations of such officers.
- (3) County departments are required to ascertain from the county department responsible for Human Resource Management or the Pension Department of the County Treasury whether or not an organization to which their officers are seeking transfer has been declared a “public service”.
- (4) An officer whose benefits are determined under the Public Service Superannuation Scheme will be able to transfer his terminal benefits to a new organization as provided under Regulation L.21.
- (5) When pensionable officers are seconded from one government to another government or Administration, the recipient organization or Administration pays pension contributions to the parent government based on a fixed percentage of the officer’s substantive salary in the parent government for the period of secondment. The present rate of pension contribution is thirty one percent (31%).

L.20 Pensions Schemes

- (1) County governments are required to establish pension schemes in accordance with Retirement Benefits Act or adopt Public Service Superannuation Fund established under Public Service Superannuation Scheme Act, 2012.

L.21 Public Service Superannuation Fund:

- (1) The Government will contribute 15% of an employee’s monthly basic salary while the employee will contribute 7.5%.
- (2) The contributions will be paid into the Public Service Superannuation Fund.

- (3) Employees will be allowed to access their own accumulated contributions on leaving the service.
- (4) Contributions by employees will be tax exempt up to 30% of the contributions or Ksh.20, 000 whichever is lower. The contribution will be deducted from the salary before tax is calculated. This will in effect reduce the tax level and improve the net pay.

NB: The Public Service Superannuation Act is not yet in operation.