

PRIVATIZATION COMMISSION

Enhancing Kenya's Productive Capacity

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PRIVATIZATION COMMISSION

LEADERSHIP AND INTEGRITY CODE

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Signed by:

Date:

Solomon Kitungu
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1.0 PREAMBLE

This Code of Conduct has been developed for the Privatization Commission (PC). Pursuant to section 37 and 38 of the Leadership and integrity Act, no 19 of 2012 and to give effect to chapter six of the constitution of Kenya. This code is intended to establish standards of integrity and ethical conduct in the leadership of the PC by ensuring that the PC respect the values, principles and requirements of the Constitution in the discharge of their duties.

The mandate of PC is to implement the Privatization Programme on behalf of the Government of Kenya. In pursuit of its mandate, PC enlists the services of Human Resources who include employees, auditors, consultants, supplier of goods and other service providers.

In absorbing the services from these groups of professionals, employees and traders, PC will be in contact with persons of diverse backgrounds and who are bound to influence the business dynamic's of the PC.

It is against this background that PC has prepared this Code of Conduct to give guidance to its employees as they carry out their professional responsibilities.

The PC Management upholds corporate morality. In this respect therefore, the Management will continue to support and facilitate the implementation of the high standards of morality in its structure.

The PC's Code of Conduct reflects the standards against which the Commission shall be evaluated in the decades to come.



Executive Director/ CEO
Privatization Commission

2.0 TERMS AND DEFINITIONS

"asset" means a thing, tangible or intangible, owned, whether wholly or in part, or controlled by a person, which has an actual or determinable economic value and can be sold, exchanged or otherwise used or applied to meet an obligation or acquire something else in return;

"authorised officer" means an Executive Director/CEO (ED/CEO) of Privatization Commission (PC)

"bank account" means an account maintained by a bank or any other financial institution for and in the name of, or in the name designated by, a customer of the bank or other financial institution and into which money is paid or withdrawn by or for the benefit of that customer or held in trust for that customer and in which the transactions between the customer and the bank or other financial institution are recorded;

"business associate" means a person who does business with or on behalf of an officer of the PC and has express or implied authority from that officer of the PC ;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to leadership and integrity and includes the Attorney-General;

"Code" means the General Leadership and Integrity Code

"Commission" means the Ethics and Anti-Corruption Commission established under the Ethics and Anti-Corruption Commission Act, 2011 (No. 22 of 2011); CAP. 182 Leadership and Integrity [Rev. 2015] [Issue 3] L17-6

"dependant" means a person whose means of support is partially or wholly derived from an officer of PC;

"public entity" means— Privatization Commission .

"public officer" has the meaning assigned to it under Article 260 of the Constitution;

"spouse" means a wife or husband;

"State officer" has the meaning assigned to it under Article 260 of the Constitution. (2) Despite subsection (1), until after the first elections under the Constitution, references in this Act to the expressions

"Cabinet Secretary", "Principal Secretary" or "State department" shall be construed to mean "Minister", "Permanent Secretary" and "Ministry", respectively. [Act No. 18 of 2014, Sch.] 3.

3.0 GUIDING VALUES, PRINCIPLES AND REQUIREMENTS

(1) The primary purpose of this Code is to ensure that an officer of PC respect the values, principles and requirements of the Constitution.

(2) An officer of PC shall respect the values, principles and the requirements of the Constitution, including—

(a) the national values and principles provided for under Article 10 of the Constitution;

(b) the rights and fundamental freedoms provided for under Chapter Four of the Constitution;

(c) the responsibilities of leadership provided for under Article 73 of the Constitution;

(d) the principles governing the conduct of State officers provided for under Article 75 of the Constitution;

(e) the educational, ethical and moral requirements in accordance with Articles 99(1)(b) and 193(1)(b) of the Constitution;

(f) in the case of County governments, the objectives of devolution provided for under Article 174 of the Constitution; and [Rev. 2015] Leadership and Integrity CAP. 182 L17-7 [Issue 3] (g) in so far as is relevant, the values and principles of Public Service as provided for under Article 232 of the Constitution.

(3) Nothing in this code shall be construed as in any way diminishing or derogating from the values and principles under subsection (2)

4.0 LEADERSHIP AND INTEGRITY CODE

The provisions of Part II of the LIA, 2012 apply to the PC as per Section 52 of the Act as outlined below:

4.1 Rule of law (S.7)

- 4.1.1 An officer of the PC shall respect and abide by the Constitution and the law.
- 4.1.2 An officer of the PC shall carry out the duties of the office in accordance with the law.
- 4.1.3 In carrying out the duties of the office, an officer of the PC shall not violate the rights and fundamental freedoms of any person unless otherwise expressly provided for in the law and in accordance with Article 24 of the Constitution.

4.2 Public trust (S.8)

The PC is a position of public trust and the authority and responsibility vested in an officer of the PC shall be exercised by the officer in the best interest of the people of Kenya.

4.3 Responsibility and duties (S.9)

Subject to the Constitution and any other law, an officer of the PC shall take personal responsibility for the reasonably foreseeable consequences of any actions or omissions arising from the discharge of the duties of the office.

4.4 Performance of duties (S.10)

An officer of the PC shall, to the best of their ability—

- (a) carry out the duties of the office efficiently and honestly;
- (b) carry out the duties in a transparent and accountable manner;
- (c) keep accurate records and documents relating to the functions of the office; and
- (d) report truthfully on all matters of the PC.

4.5 Professionalism (S.11)

An officer of the PC shall—

- (a) carry out duties of the office in a manner that maintains public confidence in the integrity of the office;

(b) treat members of the public and other public officers with courtesy and respect;

(c) not discriminate against any person, except as is expressly provided by the law;

(d) to the extent appropriate to the office, maintain high standards of performance and level of professionalism within the PC; and

(e) if the officer of the PC is a member of a professional body, observe and subscribe to the ethical and professional requirements of that body in so far as the requirements do not contravene the Constitution or this Code.

4.6 Financial integrity (S.12)

4.6.1 An officer of the PC shall not use the office to unlawfully or wrongfully enrich himself or herself or any other person.

4.6.2 Subject to Article 76(2)(b) of the Constitution, an officer of the PC shall not accept a personal loan or benefit which may compromise the officer in carrying out their duties.

4.7 Moral and ethical requirements (S13)

4.7.1 For the purposes of Articles 99(1)(b) and 193(1)(b) of the Constitution, an officer of the PC shall observe and maintain the following ethical and moral requirements—

(a) demonstrate honesty in the conduct of public affairs subject to the Public Officer Ethics Act (No. 4 of 2003);

(b) not to engage in activities that amount to abuse of office;

(c) accurately and honestly represent information to the public;

(d) not engage in wrongful conduct in furtherance of personal benefit;

(e) not misuse public resources;

(f) not discriminate against any person, except as expressly provided for under the law;

(g) not falsify any records;

(h) not engage in actions which would lead to the officer's removal from the membership of a professional body in accordance with the law; and

(i) not commit offences and in particular, any of the offences under Parts XV and XVI of the Penal Code (Cap. 63), the Sexual Offences Act (No.3 of 2006), the Counter-Trafficking in Persons Act (No. 8 of 2010), and the Children Act (Cap. 141).

4.8 Gifts or benefits in kind (S14)

4.8.1 A gift or donation given to an officer of the PC on a public or official occasion shall be treated as a gift or donation to the State.

4.8.2 Notwithstanding subsection (1), an officer of the PC may receive a gift given to them in an official capacity, provided that—

(a) the gift is within the ordinary bounds of propriety, a usual expression of courtesy or protocol and within the ordinary standards of hospitality;

(b) the gift is not monetary; and

(c) the gift does not exceed twenty thousand shillings

4.8.3 Without limiting the generality of subsection (2), an officer of the PC shall not—

(a) accept or solicit gifts, hospitality or other benefits from a person who—

(i) has an interest that may be achieved by the carrying out or not carrying out of the officer's duties;

(ii) carries on regulated activities with respect to which the PC has a role; or

(iii) has a contractual or legal relationship with the PC;

(b) accept gifts of jewellery or other gifts comprising of precious metal or stones ivory or any other animal part protected under the Convention on International Trade in Endangered Species of Wild Fauna and Flora; or

(c) any other type of gift specified by the Commission in the regulations.

4.8.4 An officer of the PC shall not receive a gift which is given with the intention of compromising the integrity, objectivity or impartiality of the officer.

4.8.5 Subject to subsection (2), an officer of the PC who receives a gift or donation shall declare the gift or donation to the Commission and the PC.

4.8.6 The PC shall keep a register of—

(a) gifts received by an officer of the PC serving in the PC; and

(b) gifts given by the PC to other State officers.

Transportation , storage and Disposal of gifts

4.8.6.1 Subject to internal policies of the relevant public entity, where an officer of the PC or PC has received a gift that cannot be immediately transported, PC shall make arrangements for transportation of the gift.

4.8.6.2 PC shall store any gift received and maintain it in good condition until such time as it is donated or otherwise utilized.

4.8.6.3 A gift that is surrendered to PC under regulation 5 (5) shall be deemed to be public property and shall be received and disposed of in accordance with the provisions of Public Procurement and Asset Disposal Act, 2005 (No. 3 of 2005).

Public entity may utilize gift

4.8.6.4 Where PC receives a gift under section 14 of the Act, and decides to utilize the gift, it shall register it in the same manner as any item procured by PC.

Reporting of gifts

4.8.6.5 PC shall at the close of every financial year furnish the Commission with a report specifying—

a) all gifts received;

b) any gifts the entity intends to dispose of; and

c) any gifts the public entity has disposed of.

4.8.6.6 Where PC has not received, disposed of or intends to dispose of, any gift, it shall nonetheless make the report in accordance with paragraph (1)

4.8.6.7 The report under paragraph (1) shall be submitted to the Commission within thirty days after the close of the financial year.

4.8.6.8 The Commission shall review the report and if it ascertains that an officer of the PC has breached provisions relating to gifts, the Commission shall inform PC and require disciplinary measures to be taken against that officer of the PC.

4.9 Wrongful or unlawful acquisition of property (S.15)

An officer of the PC shall not use the office to wrongfully or unlawfully influence the acquisition of property.

4.10 Conflict of interest (S.16)

4.10.1 An officer of the PC shall use the best efforts to avoid being in a situation where personal interests conflict or appear to conflict with the officer's official duties.

4.10.2 Without limiting the generality of subsection (1), an officer of the PC shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in a conflict of the officer's personal interests and the officer's official duties.

4.10.3 An officer of the PC whose personal interests conflict with their official duties shall declare the personal interests to the PC or the Commission

4.10.4 The Commission or the PC may give direction on the appropriate action to be taken by the officer to avoid the conflict of interest and the officer of the PC shall—

(a) comply with the directions; and

(b) refrain from participating in any deliberations with respect to the matter.

4.10.5 Notwithstanding any directions to the contrary under subsection (4), an officer of the PC shall not award or influence the award of a contract to—

(a) himself or herself;

(b) the officer's spouse or child;

(c) a business associate or agent; or

(d) a corporation, private company, partnership or other body in which the officer has a substantial or controlling interest.

4.10.6 In this section, "personal interest" includes the interest of a spouse, child, business associate or agent or any other matter in which the officer has a direct or indirect pecuniary or non-pecuniary interest.

4.10.7 Where an officer of the PC is present at a meeting, where an issue which is likely to result in a conflict of interest is to be discussed, the officer shall declare the interest at the beginning of the meeting or before the issue is deliberated upon.

4.10.8 A declaration of a conflict of interest under subsection (7) shall be recorded in the minutes of that meeting.

4.10.9 The PC shall maintain an open register of conflicts of interest in the prescribed form in which an affected officer shall register the particulars of registrable interests, stating the nature and extent of the conflict.

4.10.10 For purposes of subsection (9), the registrable interests include the interests set out in the Second Schedule.

4.10.11 The PC shall keep the register of conflicts of interest for five years after the last entry in each volume of the register.

Register of conflict of interest

4.10.11.1 PC shall open and maintain a register of Conflict of Interest in a manner prescribed in Form B

4.10.11.2 The Register referred to under paragraph (1) shall be in the custody of the ED/CEO of the PC or his or her nominee.

4.10.11.3 The Register under this regulation shall contain—

- a) name and address of an officer of the PC ;
- b) registrable interest;
- c) nature of the conflict of interest;
- d) date the conflict of interest is declared;
- e) directions given by the Commission or PC to the officer making the declaration;
- f) date of entry in the register;
- g) signature of the officer giving directions on behalf of the

Commission or PC.

Inspection of register of conflict of interest

- 4.10.11.4 Any person may make an application to PC, the Commission, Clerk of the Senate, National Assembly or a County Assembly to inspect the Register of Conflict of Interest in a manner prescribed in Form E in the Schedule.
- 4.10.11.5 An application made under paragraph (1) shall contain—
the full names and address of the applicant;
the specific information that is sought; and
the purpose for which the information is intended to be used.
- 4.10.11.6 The PC, the Commission, the Clerk of the Senate, National Assembly or a County Assembly shall within seven days acknowledge receipt of an application under paragraph (2), and avail the register for inspection.
- 4.10.11.7 It shall be the responsibility of the officer of the PC to ensure that an entry of registrable interests under subsection (9) is updated and to notify the PC or the Commission of any changes in the registrable interests, within one month of each change occurring.

4.11 Participation in tenders (S.17)

An officer of the PC shall not participate in a tender for the supply of goods or services to the PC or is otherwise similarly associated, but the holding of shares by an officer of the PC in a company shall not be construed as participating in the tender of the PC unless the officer has a controlling shareholding in the company.

4.12 Bank accounts outside Kenya (S.19)

- 4.12.1 Subject to Article 76(2) of the Constitution or any other written law, an officer of the PC shall not open or continue to operate a bank account outside Kenya without the approval of the Commission.

Application to open, operate or control a bank account outside Kenya

- 4.12.2.1 An officer of the PC, who wishes to open, operate or control or continue to operate or control a bank account outside Kenya under section 19 of the Act, shall make an application to the Commission in a manner prescribed in Form G in the Schedule.

4.12.3 An application under paragraph (1) shall specify—

- a) applicant's personal details;
- b) applicant's employment details;
- c) details of the account;
- d) estimated period for operating the account;
- e) any other relevant information.

4.12.4 An application under paragraph (1) shall be supported by certified copies of the following documents—

- a) identity card or valid passport;
- b) passport size photograph;
- c) the beneficiary's identity card, birth certificate, valid passport, travel permit, (whichever is applicable);
- d) documentary evidence for the purpose which the account is intended;
- e) tax compliance certificate; and
- f) any other relevant document.

4.12.5 An applicant who wishes to continue operating an account shall, in addition to the application made under paragraph (1), attach a written and signed authority allowing the Commission to verify the statements and any other information from the financial institution outside Kenya in a manner prescribed in Form H in the Schedule.

4.12.6 An officer of the PC who operates or controls a bank account outside Kenya shall, not later than January of succeeding year, submit statements of the account annually to the Commission.

4.12.7 The statements of the account referred to under paragraph (5) shall cover the period of January to December of each year.

4.12.8 Notwithstanding the provisions of this regulation, the Commission may require an applicant to furnish additional information.

Determination of application and approval of account

4.12.9 In determining an application to open or continue to operate a bank account outside Kenya, the Commission shall consider the following grounds—

- a) whether an account is for educational purposes in respect of the benefit of the applying officer, his or her spouse, child or any

other beneficiary; or

- b) whether an account is for medical purposes in respect of the officer, his or her spouse, child or any other beneficiary; or
- c) whether an account is for a public officer who works in a diplomatic mission abroad; or
- d) any other reasonable grounds that the Commission may determine.

The Commission shall process an application as soon as practicable but in any event the process shall not exceed six months.

4.12.10 Where the Commission approves an application it shall issue the applicant with an approval in writing to—

- a) open a new account;
- b) continue to operate an existing account.

4.12.11 An officer of the PC who has obtained approval under paragraph (3) shall submit to the bank outside Kenya—

- a) a copy of the approval to open an account;
- b) a copy of the approval to continue to operate an existing account; and
- c) authority to verify account details.

4.12.12 Notwithstanding the provisions of these Regulations, an approval given by the Commission shall be subject to the provisions of any other written law regarding the opening, operation or control of bank accounts outside Kenya.

Rejection or application

4.12.13 The Commission shall not approve an application made under regulation 16 unless the applicant has satisfied the conditions stated therein.

4.12.14 Where the Commission declines to give an approval for opening or continuing to operate a bank account outside Kenya, it shall within fourteen days of the decision, inform the applicant stating the reasons thereof in writing.

4.12.15 An applicant dissatisfied with the decision of the Commission under paragraph may within twenty-one days from the date of notification of the decision, apply to the Commission for review.

4.12.16 The Commission shall consider the application for review within thirty days from the date of lodging the application for

review and within fourteen days inform the applicant of its decision.

4.12.17 An applicant dissatisfied with the decision of the Commission under paragraph (4) may seek appropriate orders from the High Court.

Officer to operate account for specified purpose

4.12.18 Where approval is granted by the Commission to either open or continue to operate a bank account outside Kenya for a specific purpose, the account shall be used only for purpose for which the application was made.

4.12.19 An officer of the PC operating an account outside Kenya who wishes to change the purpose or use the account for an additional purpose other than that for which the account is being operated shall make an application to the Commission.

Application for extension to operate a bank account outside Kenya

4.12.20 An officer of the PC who has been operating a bank account outside Kenya may apply to the Commission for an extension where the period for which approval had been given is about to expire.

Unauthorized operation of an account

4.12.21 The Commission shall, in accordance with section 19 (3) of the Act, determine whether an account is being operated for purposes specified in the application.

4.12.22 Where the Commission determines that an account is not being operated for the intended purpose, the Commission shall, by notice in writing, require the officer to close the said account within twenty-four hours and confirm the closure to the Commission.

4.12.23 Where the duration of the approval issued to the officer to operate a bank account outside Kenya lapses and the officer has not applied for an extension, the Commission shall, by notice in writing, require the officer to, within twenty-four hours, close the said account and confirm the closure to the Commission.

4.12.24 An officer who operates an account for a purpose other than the one specified in the application, is in breach of the provisions of the Act or these Regulations and shall be subject to disciplinary proceedings in addition to any other action that may be preferred against the officer.

Notice of closure of a bank account outside Kenya

4.12.25 An officer of the PC who has ceased to operate a bank account outside Kenya shall notify the Commission, in writing, within thirty days of closure of the account.

Register

4.12.26 PC shall open and maintain a register of all officers of the PC operating bank accounts outside Kenya.

4.12.27 The Register under paragraph (1) shall contain the following information—

- a) the name, personal file (PF) or identity card (ID) number and address of the officer;
- b) the bank name, address, and country in which the account is held;
- c) the account name, and the bank code;
- d) the name in which the account is being operated, if not that of the officer;
- e) the purpose for operating the account;
- f) the name of the institution to which monies will be transferred where the account is being operated for educational, medical or other purpose;
- g) the duration of approval for operating the account;
- h) name of the officer's spouse, child or beneficiary, if the account is operated for the benefit of one of such persons; and
- i) any other relevant information.

4.12.28 An officer of the PC who operates or controls the operation of a bank account outside Kenya shall submit statements of the account annually to the Commission and shall authorize the Commission to verify the statements and any other relevant information from the foreign financial institution in which the account is held.

4.12.29 Subject to subsections (1) and (2), upon the commencement of the LIA 2012, a serving officer of the PC who operates a bank account outside Kenya shall close the account within six months or such other period as the Commission may, by notice in the *Gazette*, prescribe.

4.12.30 Without prejudice to the foregoing provisions of this section, an officer of the PC who fails to declare operation or control of a bank account outside Kenya commits an offence and shall, upon

conviction, be liable to imprisonment for a term not exceeding five years, or a fine not exceeding five million shillings, or both.

4.13 Acting for foreigners (S.20)

4.13.1 An officer of the PC shall not be an agent of, or further the interests of a foreign government, organisation or individual in a manner that may be detrimental to the security interests of Kenya, except when acting in the course of official duty.

4.13.2 For the purposes of this section—

(a) an individual is a foreign individual if the individual is not a citizen of Kenya; and

(b) an organisation is a foreign organization if it is established outside Kenya or is owned or controlled by a foreign government, organization or individual.

4.14 Care of property (S.21)

4.14.1 An officer of the PC shall take all reasonable steps to ensure that public property in the officer's custody, possession or control is taken care of and is in good repair and condition.

4.14.2 An officer of the PC shall not use public property, funds or services that are acquired in the course of or as a result of the official duties, for activities that are not related to the official work of the officer.

4.14.3 An officer of the PC shall return to the issuing authority all the public property in their custody, possession or control at the end of the appointment.

4.14.4 An officer of the PC who contravenes subsection (2) or (3) shall, in addition to any other penalties provided for under the Constitution or any other law be personally liable for any loss or damage to the public property.

4.15 Misuse of official information (S.22)

4.15.1 An officer of the PC shall not directly or indirectly use or allow any person under the officer's authority to use any information obtained through or in connection with the office, which is not available in the public domain, for the furthering of any private interest, whether financial or otherwise.

4.15.2 The provisions of subsection (1), shall not apply where the information is to be used for the purposes of—

(a) educational, research, literary, scientific or other purposes not prohibited by law.

4.16 Political neutrality (S.23)

4.16.1 An officer of the PC, shall not, in the performance of their duties—

(a) act as an agent for, or further the interests of a political party or candidate in an election; or

(b) manifest support for or opposition to any political party or candidate in an election.

4.16.2 An officer of the PC shall not engage in any political activity that may compromise or be seen to compromise the political neutrality of the office subject to any laws relating to elections.

4.16.3 Without prejudice to the generality of subsection (2) an officer of the PC shall not—

(a) engage in the activities of any political party or candidate or act as an agent of a political party or a candidate in an election;

(b) publicly indicate support for or opposition against any political party or candidate participating in an election.

4.17 Impartiality (S.24)

An officer of the PC shall, at all times, carry out the duties of the office with impartiality and objectivity in accordance with Articles 10, 27, 73(2)(b) and 232 of the Constitution and shall not practice favoritism, nepotism, tribalism, cronyism, religious bias or engage in corrupt or unethical practices.

4.18 Giving advice (S.25)

An officer of the PC who has a duty to give advice shall give honest, accurate and impartial advice without fear or favour.

4.19 Gainful employment (S.26)

4.19.1 Subject to subsection (2), an officer of the PC who is serving on a full time basis shall not participate in any other gainful employment.

4.19.2 In this section, **"gainful employment"** means work that a person can pursue and perform for money or other form of compensation or remuneration which is inherently incompatible with the responsibilities of the PC or which results in the impairment of the judgment of the officer in the execution of the functions of the PC or results in a conflict of interest in terms of section 4.10.

4.20 Offers of future employment (S.27)

4.20.1 An officer of the PC shall not allow himself or herself to be influenced in the performance of their duties by plans or expectations for or offers of future employment or benefits.

4.20.2 An officer of the PC shall disclose, in writing, to the PC and the Commission, all offers of future employment or benefits that could place the State officer in a situation of conflict of interest.

4.21 Former PC officer acting in a Government or PC matter (S.28)

A former officer of the PC shall not be engaged by or act for a person or entity in a matter in which the officer was originally engaged in as an officer of the PC, for at least two years after leaving the State office.

4.22 Misleading the public (S.29)

An officer of the PC shall not knowingly give false or misleading information to any person.

4.23 Falsification of records (S.30)

An officer of the PC shall not falsify any records or misrepresent information to the public.

4.24 Citizenship (S.31)

4.24.1 Subject to Article 78(3) of the Constitution, an officer of the PC who acquires dual citizenship shall lose his or her position as an officer of the PC.

4.24.2 A person who holds dual citizenship shall, upon appointment to the PC, not take office before officially renouncing their other citizenship in accordance with the provisions of the Kenya Citizenship and Immigration Act, 2011, (No. 12 of 2011.)

4.25 Conduct of private affairs (S.32)

An officer of the PC shall conduct private affairs in a manner that maintains public confidence in the integrity of the office.

4.26 Tax, financial and legal obligations (S.33)

4.26.1 An officer of the PC shall pay any taxes due from him or her within the prescribed period.

4.26.2 An officer of the PC shall not neglect their financial or legal obligations.

4.27 Bullying (S.34)

4.27.1 An officer of the PC shall not bully any person.

4.27.2 For purposes of subsection (1), "bullying" includes repeated offensive behaviour which is vindictive, cruel, malicious or humiliating and is intended to undermine a person.

4.28 Acting through others (S.35)

4.28.1 An officer of the PC contravenes the Code if the officer—

(a) causes anything to be done through another person that would constitute a contravention of the Code if done by the officer; or

(b) allows or directs a person under their supervision or control to do anything that is in contravention of the Code.

4.28.2 Subsection (1)(b) shall not apply where anything is done without the officer's knowledge or consent or if the officer has taken reasonable steps to prevent it.

4.28.3 An officer of the PC who acts under an unlawful direction shall be responsible for his or her action.

4.29 Reporting improper orders (S.36)

4.29.1 If an officer of the PC considers that anything required of them is in contravention of the Code or is otherwise improper or unethical, the officer shall report the matter to the Commission

4.29.2 The Commission shall investigate the report and take appropriate action within ninety days of receiving the report.

5.0 COMPLAINT, INVESTIGATIONS AND DISCIPLINARY PROCESS

5.1 LODGING OF COMPLAINT

- 5.1.1 An officer of the PC wishing to lodge a complaint under the Act may do so orally, anonymously, or in writing to the PC or the Commission.
- 5.1.2.1 Where a complaint under paragraph (1) public entity or the Commission shall reduce writing.
- 5.1.3 Commission shall within sixty days of receipt of a complaint initiate and conclude any preliminary inquiry it may consider necessary, having regard to the nature of the complaint.
- 5.1.4 On conclusion of a preliminary inquiry made under paragraph (3), PC or the Commission shall determine whether the complaint is legitimate and within its jurisdiction.
- 5.1.5 Where PC or the Commission determines that the complaint does not have merit, it shall inform the complainant where the complainant is known, and the officer against whom the complaint was made.
- 5.1.5 Where PC or the Commission determines that the complaint does not lie within its jurisdiction, it shall—
 - a) refer the matter to the relevant authority;
 - b) inform the complainant where he or she is known;
 - c) inform the officer against whom the complaint was made.
- 5.1.6 PC or the Commission shall, if it determines that a complaint is legitimate and lies within its jurisdiction, commence an investigation.
- 5.1.7 An officer of the PC who lodges a complaint to PC under the Act shall not be subjected to harassment, suspension, transfer, verbal or other abuse or any other form of unfair treatment.
- 5.1.8 Any officer who contravenes paragraph (8) commits a breach of the Code and shall be subject to disciplinary proceedings in addition to any other action that may be preferred against him.

5.2 Information regarding complaints

Upon receipt of a complaint under regulation 23 (1), PC or the Commission may, if it is of the view that the complaint does not have sufficient details, call for more information regarding the complaint from any person, within fourteen days.

5.3 Investigations

Where PC or the Commission initiates investigations into breach of Code in accordance with regulation 23(1) the investigations shall be conducted in accordance with the provisions of the Constitution, the Act and any other relevant law.

5.4 Suspension pending investigations

5.4.1 Subject to paragraph (2), an officer of the PC who is under investigations may—

- a) if the public entity conducting the investigation is the officer's employer, be suspended by that public entity; or
- b) if employed by a public entity other than the one conducting the investigation be suspended on the recommendation of that public entity; or
- c) if the Commission conducts the investigation, be suspended on the recommendation of the Commission.

5.4.2 The provisions of paragraph (1) shall apply where the officer is likely to—

- a) conceal, alter, destroy, remove records, documents or evidence;
- b) intimidate, threaten or otherwise interfere with witnesses; or
- c) interfere with investigations in any other manner.

5.4.3 An officer of the PC under suspension shall be on half pay pending investigations and determination of the allegations made against the officer.

5.5 Conclusion of investigations

5.5.1 Where an officer of the PC is suspended under regulation 26(1), investigations shall be concluded within twelve (12) months of lodging of the complaint and the findings and the reasons thereof communicated to the complainant and the officer complained against within seven days from the date of the decision.

5.5.2 Despite provisions of paragraph (2), in the event that an investigation against an officer of the PC who has been suspended has not been concluded within twelve months, PC or the Commission may on reasonable grounds seek for an extension to conclude the investigations from the High Court, with notice to the officer.

5.6 Investigation report

PC or the Commission shall on conclusion of investigation prepare an

investigation report containing—

- (a) a summary of the complaint;
- (b) a description of the investigation undertaken and evidence obtained;
- (c) findings; and
- (d) recommendations.

5.7 Referrals

Where PC or the Commission, after investigation, is of the opinion that civil or criminal proceedings ought to be preferred against an officer of the PC, PC shall refer the matter to the appropriate authority in accordance with section 43 of the Act.

5.8 Clearance and reinstatement

- 5.8.1 Where on conclusion of investigations it is established that there was no violation of the code—
- 5.8.2 PC which is the employer of an officer of the PC under investigation shall within thirty (30) days inform the officer of that finding and if the officer had been suspended, re-instate, the officer within fourteen (14) days in accordance with the terms of service;
- 5.8.3 In the case of a public entity other than the employer of the officer or the Commission, it shall within thirty (30) days inform the officer of that finding and if the officer had been suspended recommend to the relevant public entity the reinstatement of the officer.
- 5.8.4 Upon reinstatement, the officer's salary, benefits and any other entitlements withheld during the suspension shall be paid to an officer of the PC.
- 5.8.9 An officer of the PC shall be reinstated to the position which the officer held immediately prior to suspension or to a reasonably suitable position on terms and conditions not less favourable than those which would have applied had the officer not been on suspension.
- 5.8.10 In case it shall not be possible to reinstate the suspended officer for whatever reason, then the officer shall be paid benefits equivalent to the employment benefits for the remainder of the duration of the employment, from the date of suspension.

5.9 Violation of Code

- 5.9.1 Where, on conclusion of investigations conducted under these Regulations, PC or the Commission establishes that there has been a violation of the Code by an officer of the PC, the Commission or PC

may recommend—

- a) warning or caution;
- b) suspension;
- c) dismissal; or
- d) any other appropriate action against such officer.

5.9.10 Notwithstanding the provisions of paragraph (1), where the Commission has investigated and established a violation of the Code by an officer of the PC, the Commission shall require the PC to take such action against the officer as it may recommend.

5.9.10 The Commission or PC shall, when taking a disciplinary action under this regulation, observe the principles of fair administrative action in accordance with Article 47 of the Constitution.

5.10 Review of decisions

5.10.1 Any person aggrieved by the decision of the PC or the Commission made in accordance with regulation 31 may apply for review within fifteen days from the date of the decision.

5.10.2 The PC or the Commission shall review its decision within fifteen days after receipt of an application made under paragraph (1).

5.11 Court Redress

An officer of the PC aggrieved by any decision made by PC or the Commission under these Regulations, may seek redress from the High Court.

5.12 Advisory opinion

5.12.1 An officer of the PC or PC that requires advice from the Commission on any issue relating to the application of Chapter six of the Constitution shall make such request in writing.

5.12.2 The Commission shall respond to the request made under paragraph (1) within thirty days.

5.12.3 The Commission shall treat the request and its response in confidence.

5.13 An officer of the PC to commit to the code

5.13.1 Where PC has not prescribed a specific leadership and integrity code, an officer of the PC shall on appointment or election to a public office sign and commit to the General Leadership and Integrity Code as set out in Form I, in the Schedule.

5.13.2 Where PC has prescribed a specific leadership and integrity code, a an officer of the PC shall on appointment or election to a public

office sign and commit to that specific leadership and integrity code as specified in Form J of the Schedule.

5.13.3 Subject to paragraph (2), an officer of the PC shall sign and commit to the specific and leadership integrity code seven (7) days after publication of the code.

6.0 CONTRAVENTION OF THIS CODE

An officer of the PC who contravenes any provisions of these code whose penalty is not provided for in the Act or the Regulations, commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six (6) months, or both.

An officer of the PC shall at all times be guided by this Code of Conduct.

Any contravention of this Code shall cause the Board and or Management to institute disciplinary proceedings, against the party or parties who are in contravention of this Code.

7.0 AMENDMENT, ALTERATION AND REVIEW OF THIS CODE

This code shall not be amended, altered, reviewed nor have any of its section excised without the written authority of the Executive Director /CEO. However, this code will be reviewed from time to time to ensure that it is aligned to the PC's Mandate and regulatory and Government requirements as may be notified to PC.

ANNEX

Annex I

Form A

GIFT DECLARATION FORM

(To be submitted in duplicate. Attach relevant information or documentation relating to the gift)

Recipient's Name.....

Recipient's designation.....

Recipient's Employer:

Name of the donor institution:

Name and title of the presenter.....

Description of the gift:

Estimated value of the gift.....

Current location of the gift:

Date of receipt/issuance of the gift.....

Date of declaration of the gift:

Date the gift was surrendered:

Function at which the gift was received/ issued:.....

Signature of declarant:

Remarks of the Authorized Officer.....

.....

Name of the Authorized officer.....

Signature and Date.....

DECLARATION OF CONFLICT OF INTEREST***(To be submitted in duplicate)***

Name of State Officer or Public officer:

Designation of the officer:.....

Description of the Conflict of Interest

Name and Address of the person with whom the officer has an interest	Nature of interest	Estimated value of the interest	Date the interest was acquired	Date the interest ceased (if applicable)	Remarks(if any)

Ithe undersigned, holding the position of.....
 atPF /ID No.....being aware of the provisions of 46 (1) (d)
 and 46 (2) of the Leadership and Integrity Act, 2012 declare the above
 information to be true to the best of my knowledge.

Signature of the Officer:.....

Date:

Submitted to:.....

Designation of the person submitted to:

Signature:.....Date:.....

FORM C

OATH OF AN EMPLOYEE OF THE COMMISSION

I,, being an employee of the Privatization Commission, do solemnly swear/sincerely and truly declare and affirm that I shall well and truly serve the Commission, and shall not other than in the course of my duties under the Privatization Act, or with written consent of the Commission, directly or indirectly reveal any business of the Commission, or disclose the contents of any document relating to the business of the Commission acquired by me in the performance of my duties as such employee.

So help me God.

SIGNATURE.....

DATE.....

**SWORN BEFORE ME
COMMISSIONER FOR OATHS**

THIS.....DAY OF

FORM D**(S. 16(11) R. 12(1))****REGISTER OF CONFLICT OF INTEREST**

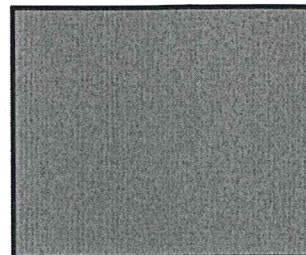
Item No.	Name of the officer making the declaration	Registrable interest	Nature of Conflict	Date of Declaration	Name & signature of person making entry	Remarks or Directions issued	Date	Update of registered interests

Form E

(s 19(2) r 15(1))

**APPLICATION FOR APPROVAL TO OPEN AND OPERATE A BANK ACCOUNT OUTSIDE
KENYA**

(To be submitted in duplicate)



p/p photo

SECTION A: PERSONAL DETAILS

Name:

ID/Passport Number:PIN.....Nationality.....

Postal Address:

Residential Address:

Telephone/Mobile Number:Email:.....

SECTION B: EMPLOYMENT DETAILS

Name of the Employer

Employment type.....P/F NO.....Monthly Salary

Ministry.....Department.....Position.....Station.....

Employers Postal Address.....Postal Code.....Town.....

Employers Physical Address

TelephoneEmail:.....

SECTION C: ACCOUNT DETAILS

Country in which the account is to be opened/operated:

Name, address and branch of the Bank:

.....

Account Number (where applicable).....

Type of Account.....

Estimated duration of operating the account

.....

Expected Annual turn-over/expenditure.....

Mode of the operation (self, joint).....

Reasons for opening/operating the account:

.....

.....

.....

.....

Bank statements for accounts already in operation (*attach*):

.....

Duration for operating the account (where applicable):

Signatories if different from the applicant:

Particulars of the beneficiaries/nominee (where applicable)

.....

.....

.....

Relationship of the applicant to the beneficiary/nominee.....

Any other relevant information

(Attach copies of: Applicant's Identity Card/valid passport, beneficiary's identity card/ birth certificate/ valid passport, travel permit, Certificate of

Incorporation/Registration, admission letters from the relevant institutions, tax compliance certificate and any other relevant document).

I _____ the undersigned holding the position of _____ at
PF NO/ID No _____ being aware of the provisions of Section 46 (1) (d) and
(2) of Leadership and Integrity Act, 2012 declare the above information to be
true to the best of my knowledge.

Signature of the Applicant:.....Date:.....

FOR OFFICIAL USE

Remarks of the Authorized Officer

.....
.....

Approved/Not

Approved

.....

Reasons for Rejection

.....

.....

Name of the Authorized officer

.....

.....

Signature..... **Date and stamp**.....

FORM F

(s 19 (3) r.15 (4))

AUTHORITY TO VERIFY ACCOUNT DETAILS

(To be submitted in duplicate)

To : (Bank outside Kenya)

Address: Branch

Account Name

Account Number:

I, the undersigned, Passport No. in
accordance with Sections 19 (3) of the Leadership and Integrity Act, 2012 do
hereby authorize the Ethics and Anti-Corruption Commission (EACC) of Postal
Office Box 61130 Code 00200, Nairobi, Kenya and of Telephone Number +254
020 310722 to verify statements of my account held in your Bank and any other
relevant information.

Signed by the said }

at }

this day of 20 }

.....

Signature of Account Holder

}

Before Me }

}

Notary Public }

Form G

(s 40 r 36(1))

COMMITMENT TO LEADERSHIP AND INTEGRITY CODE

I confirm that I have read and understood the Leadership and Integrity Act No. 19 of 2012 and commit to abide by the Code as set out under Part II of the Act.(where public entity has no specific code code)

/or I confirm that I have read and understood the Leadership and Integrity Code for(name of public entity) and hereby commit to abide by the provisions of the Code.(where public entity has specific code).

Sworn at }

By the said }

Deponent

this.....day of.....20.....}

Before Me }

}

Commissioner for Oaths/Magistrate }

