

# THE CONFLICT OF INTEREST BILL, 2019

## A Bill for

### AN ACT of Parliament to provide for the management and regulation of conflict of interest for public officials and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

#### PART I—PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Conflict of Interest Act, 2019 and shall come into force on such date as the Attorney-General may, by notice in the Gazette, appoint.

Interpretation.

2. In this Act, unless the context otherwise requires—  
"gainful employment" means engaging in any of the activities prohibited under section 22 (1);

"registrable interests" means the interests set out in Second Schedule;

"Commission" means the Ethics and Anti-Corruption Commission established under Ethics and Anti-Corruption Commission Act;

Act No. 22 of 2011.

"public official" means—

(a) a person engaged in any capacity in the delivery of government programmes or services, whether for remuneration or not;

(b) a person who renders a public service, whether appointed or elected, including state officers, public officers, temporary staff, consultants and volunteers;

(c) a person who renders a service of public nature which includes provision of services in the following institutions—

- (i) a Cooperative Society;
- (ii) a Retirement Benefit Scheme;
- (iii) a Public Private Partnership; or
- (iv) a Strategic Public Utility; or

(d) a person who renders a service involving the collection or administration of a levy, fee or funds authorized by legislation.

"strategic public utility" means—

(a) a body in which the government owns majority

- shares;
- (b) a state corporation within the meaning of the State Corporations Act;
- (c) a body that receives, uses, administers or manages a Government fund, whether in form of a grant, loan or government guaranteed loan; or
- (d) any undertaking that supplies an essential service to the public or a section of the public as a monopoly; and

“unexplained assets” has the meaning assigned to it in the Anti-Corruption and Economic Crimes Act.

Act No. 3 of 2003

Objects of the Act.

**3.** (1) The object of this Act is to provide for the management of conflict of interest by public officials in the discharge of their duties.

(2) Without prejudice the generalities of subsection (1), the objects of this Act are to—

- (a) promote objectivity and impartiality in decision making by public officials;
- (b) ensure that the integrity of a public official in decision-making is not compromised by public official’s private interests;
- (c) enhance public confidence in delivery of public services by public officials;
- (d) provide a framework for the regulation and management of real, apparent or potential conflict between public interest and private interest; and
- (e) provide an institutional framework for the management of conflict of interest.

Application of the Act.

**4.** This Act shall apply to—

- (a) any person engaged, in any capacity, in the delivery of government programmes or services, whether for remuneration or not;
- (b) an appointed or elected person rendering a public service including public officials, temporary staff, consultants and volunteers; or
- (c) a person rendering a service of a public nature which includes—
  - (i) cooperative societies;
  - (ii) retirement benefit schemes;
  - (iii) public private partnerships; or
  - (iv) strategic public utility.

## **PART II—ADMINISTRATION OF THIS ACT**

Administration of this Act.

**5.** This Act shall be administered by the Ethics and Anti-corruption Commission established under the Ethics and Anti-corruption Commission Act.

Act No. 22 of 2011.

Functions of the Commission.

**6.** The functions of the Commission under this Act shall be to—

- (a) administer and manage conflict of interest under this Act for all public officials;
- (b) develop an effective system for reporting allegations of violations of the conflict of interest laws;
- (c) develop standards and promote best practices for the management of the conflict of interest;
- (d) develop administrative procedures for the management of conflict of interest;

- (e) receive and process requests related to management of conflict of interest;
- (f) conduct inquiries on matters of conflict of interest and make recommendations to the relevant bodies;
- (g) recommend appropriate sanctions to be taken against public officials for violation of obligations under this Act;
- (h) provide advisory opinions on conflict of interest on its own volition or on request by any person;
- (i) conduct public awareness on the management of conflict of interest;
- (j) analyse, seek for clarification and verify conflict of interest disclosures; and
- (k) institute proceedings for forfeiture of undeclared and unexplained assets.

Powers of the Commission.

**7.** The Commission shall, in the performance of its functions under this Act, have the power to—

- (1) summon witnesses and require them—
  - (a) to give evidence, orally or in writing, on oath or, if they are persons entitled to affirm in civil matters, on affirmation; and
  - (b) to produce any evidence or exhibits that the Commission considers necessary;
- (2) request for and obtain professional assistance or advice from such persons or organizations as it considers appropriate;
- (3) delegate to another person or body, by notice in the Gazette, any of its powers or functions under this Act in respect to classes of public officials specified by the Commission and that person or body shall be deemed to be the Commission responsible for administration and management of conflict of interest; and
- (4) cooperate and collaborate with other public entities or

agencies, any foreign governments and international or regional organizations in the management of conflict of interest and enforcement of the Act.

### **PART III—CONFLICT OF INTEREST**

Conflict of interest.

- 8.** A public official is in conflict of interest if the official—
- (a) exercises an official power, duty or function that provides an opportunity to further the official's private interests or those of the official's relatives or friends or to improperly further another person's interests;
  - (b) is in a situation where the official's private interests can reasonably be perceived to impair or influence the official's ability to act objectively in the performance of an official duty; or
  - (c) has private interests that could conflict with the official's duties in future.

Obligation to avoid conflict of interest.

- 9.** Every public official shall—
- (a) take reasonable steps to avoid any conflict of interest, real, apparent or potential in connection with the public official's engagement;
  - (b) disclose details of any private interest of the public official in connection with his or her engagement.

Decision making.

- 10.** (1) A public official shall not make a decision or participate in making a decision relating to the exercise of an official power, duty or function if the public official knows or reasonably should know that, in the making of the decision, he would be in a conflict of interest.

(2) A person who contravenes subsection (1) commits an offence.

Participation in proceedings before Parliament or county assembly.

- 11.** (1) Subject to Article 116(3) and (4) of the Constitution, a member of Parliament or county assembly shall declare any private interest or benefit of whatever nature in any—
- (a) debate or proceeding in the relevant house of Parliament or county assembly, as the case may be;
  - (b) debate or proceeding in any committee of the relevant house of Parliament or county assembly, as

the case may be; and

- (c) transaction or communication which the member may have with other public officials or other members of the relevant house of Parliament or county assembly, as the case may be.

(2) A Member of Parliament or county assembly who makes a declaration under subsection (1) shall not—

- (a) participate in any deliberations in respect of which the member has made the declaration; or
- (b) use any information obtained by the member in the discharge of the member's constitutional role to advance the member's private interests.

(3) A person who contravenes subsection (1) or (2) commits an offence.

Preferential treatment.

**12.** (1) A public official shall not, in the exercise of an official power, duty or function, grant a person, whether directly or indirectly, any special consideration, treatment or advantage beyond what is allowed by law or written policy.

(2) A person who contravenes subsection (1) commits an offence.

Misuse of official information.

**13.** (1) A public official shall not, directly or indirectly, use or allow any person under the official's authority to use any information that is obtained by the official in the course of performing official duties and is not available to the public to improperly further or seek to further the public official's or another person's private interests.

(2) A person who contravenes subsection (1) commits an offence.

Undue influence.

**14.** (1) A public official shall not use his position to influence the decision of another person or another public official so as to further the official's private interests or to further another person's private interests.

(2) A person who contravenes subsection (1) commits an offence.

Offers of outside employment.

**15.** (1) A public official shall—  
(a) not allow himself to be influenced in the exercise of an official power, duty or function by plans for, or offers of, outside employment;  
(b) disclose in writing to the appointing authority, the accounting officer or the equivalent any offers of outside employment that could place the public official in a situation of conflict of interest within

seven days of receiving the offer.

(2) A public official who accepts an offer of outside employment shall within seven days disclose his acceptance of the offer in writing to the Commission as well as to the appointing authority.

(3) For purposes of this section “offers of outside employment” means offers of future engagements or benefits by an entity other than the current employer.

(4) A person who contravenes subsection (1) or (2) commits an offence.

Gifts and other benefits.

**16.** (1) A public official or a member of the public official's family shall not accept any gift or other advantage, including from a trust or foundation, that may influence the public official's judgment in the exercise of an official power, duty or function.

(2) Notwithstanding subsection (1), a public official may receive a gift given in an official capacity, provided that the gift—

(a) is received as a normal expression of courtesy or protocol, or is within the customary standards that normally accompany the public official's position;

(b) is not monetary; or

(c) does not exceed such value as may be prescribed by the Commission.

(3) If a public official or a member of the official's family accepts any gift or benefit, the public official shall, within forty-eight hours of resumption of duty, make a declaration of such acceptance, giving sufficient detail on the nature of the gift or other advantage accepted, the donor and the circumstances under which it was accepted.

(4) A person who contravenes subsection (1) or (3) commits an offence.

Register of gifts.

**17.** Every public entity shall maintain a register of—

(a) gifts received by public officials serving in the public entity;

(b) gifts given by the public entity to public officials; and

(c) donations received by the public entity for a specific cause.

Complementary treatment.

**18.** (1) A public official or member of his family shall not accept an offer for travel, holiday, hospitality, training,

scholarship or medical treatment for any purpose unless the complimentary treatment offered is required in his capacity as a public official or in exceptional circumstances.

(2) A public official or member of the official's family who accepts any complimentary treatment, shall, within forty eight hours of resumption of duty, make a declaration of such acceptance in the prescribed form, giving sufficient detail on the nature of the treatment accepted, the donor and the circumstances under which it was accepted.

(3) A person who contravenes subsection (1) or (2) commits an offence.

Contracts with public sector entities

**19.** (1) A public official shall not be party to a contract for the supply of goods, works and services with any public entity.

(2) A public official shall not, in the exercise of the official's power, duty or function, award or influence the award of a contract in which the official has private interests.

(3) A person who contravenes subsection (1) or (2) commits an offence.

Partnerships and private companies

**20.** (1) A public official shall not have an interest in a partnership, private company or any other legal entity that is a party to a contract with a public entity under which the partnership, private company or any other legal entity receives a benefit.

(2) A person who contravenes subsection (1) commits an offence.

Conflict in Recruitment

**21.** (1) A public official shall not—

(a) participate in or influence a recruitment and selection process in which the official has private interest; or

(b) canvass for a candidate in a recruitment and selection process in which the official has private interest.

(2) Subsection (1) shall not apply to appointments of personal staff permitted to the public official as may be prescribed.

(3) A person who contravenes subsection (1) commits an offence.

Collusion by public officials to conceal conflict of interest

**22.** (1) A public official shall not enter into an arrangement with a public official of another public entity in furtherance of an action which would amount to or be reasonably perceived to conceal a conflict of interest.



(2) A person who contravenes subsection (1) commits an offence.

Gainful employment.

**23.** (1) A public official shall not engage in any gainful employment which—

- (a) is inherently incompatible with the duties of the public official;
- (b) results in the impairment of the judgment of the public official in the execution of official duties;
- (c) results in conflict of interest; or
- (d) the official is mandated to regulate or exercise oversight.

(2) Without prejudice to the generality of subsection (1), a public official serving on a full time basis shall not participate in any other employment that amounts to—

- (a) holding another salaried office;
- (b) privately practicing the same profession for which the official is engaged;
- (c) acting as a paid arbitrator or consultant;
- (d) holding an honorary public position; or
- (e) engaging in such employment during official working hours.

(3) Where a public official engages in gainful employment which is permitted under this Act, the public official shall, within thirty days of taking up the employment, make a declaration of the employment in the prescribed form and register the declaration with the appointing authority and the Commission

(4) A public official shall not engage in any gainful employment without permission from the appointing authority.

(5) A person who contravenes any provision of this section commits an offence.

Register of conflict of interest.

**24.** (1) The accounting officer of a public entity shall maintain a register of conflict of interest in the prescribed manner.

(2) The register referred to in subsection (1), shall contain the particulars of a public official's registrable interests, stating the nature and extent of a conflict and shall be open to the public for inspection.

Political neutrality.

**25.** (1) An appointed public official shall not engage in any political activity that may compromise or be seen to compromise the political neutrality of the office.

(2) Without prejudice to the generality of subsection (2), an

appointed public official shall not, in the performance of official duties—

- (a) act as an agent for, or further the interests of a political party or a candidate in an election; or
- (b) manifest support for or opposition to any political party or candidate in an election.

(3) A person who contravenes subsection (1 or (2) commits an offence.

Public collections.

**26.** (1) A public official shall not—

- (a) solicit for contributions from the public unless the President has, by notice in the Gazette, declared a national disaster and allowed a public collection for the purpose of the national disaster;
- (b) participate in collection of funds from the public, either as a collector or promoter, in a way that reflects adversely on that public official's integrity, impartiality or interferes with the performance of the official's duties; or
- (c) use official social media platforms or his place of work as a venue for soliciting or collecting funds.

(2) A public official shall not use his official position to solicit funds or coerce any person to contribute towards a private fund collection.

{3) A person who contravenes subsection (1) or (2) commits an offence.

#### **PART IV—COMPLIANCE MEASURES**

Duty to recuse.

**27.** (1) A public official shall recuse himself from any discussion, decision, debate or vote on any matter in respect of which the official would be in a conflict of interest.

(2) Where a public official recuses himself under sub-section (1)—

- (a) the recusal shall be recorded in the minutes of the transaction in question; and
- (b) the public official shall, within sixty days after the day on which the recusal took place, make a declaration of the recusal, providing sufficient details to identify the conflict of interest that was avoided and file the declaration with the employer and the Commission.

Declaration of income, assets and liabilities by

**28.** (1) Every public official shall submit to the Commission a declaration of the income, assets and liabilities of himself,

public officials

his spouse or spouses and his dependent children under the age of eighteen years.

(2) The declaration referred to under sub section (1), shall be in the form set out in the First Schedule.

(3) Notwithstanding the generality of subsection (1), a public official shall in a periodical or final declaration provide information on any material changes in, or affecting any of the categories of income, assets or liabilities in the schedule of mandatory declarations that have occurred within the two- year period prior to the declaration.

(4) For purposes of this section, “material change” means—  
(a) at least twenty five percent increase or decrease in the value of an income, asset or liability;  
(b) the disposal or acquisition of an asset or liability;  
(c) changes in marital status;  
(d) appointment or changes in directorships  
(e) changes in membership in companies or partnerships and other legal entities howsoever established; or  
(f) changes in membership in social associations, societies, clubs, foundations or trusts.

Timelines for declaration.

**29.** (1) A public official shall, within thirty days of appointment as a public official, submit an initial declaration relating to the financial affairs of the public official for the period of one year prior to appointment as a public official.

(2) Every public official shall, once every two years within the period of service, submit a declaration relating to the affairs of the public official as at 1<sup>st</sup> of November of the declaration year, and such declaration shall be made within the month of December next following.

(3) A public official shall, within thirty days after ceasing to be a public official, submit a final declaration relating to the financial affairs of the public official as at the date the official ceased to be a public official.

Specific disclosures.

**30.** A public official shall include in the declaration a description of all benefits that the public official, any member of the official’s family or any partnership or private corporation in which the official or a member of the official’s family has an interest or is entitled to receive from the date of the report to the date of next scheduled report, as a result of a contract with a public entity and the declaration shall include a description of the subject-matter and nature of the contract.

Clarification

**31.** (1) Upon receipt of the declaration under Section 28, the Commission shall analyse the declaration to ascertain—

- (a) its completeness and correctness;
- (b) whether the declaration raises possible issues of conflict of interest; and
- (c) whether on the face of it the declaration may be false.

(2) The Commission may, within six months of receipt of a declaration, in writing, request for clarification from the public official who submitted the declaration under section 28.

(3) A person from whom clarification is sought under subsection (3) shall, within fourteen days, provide the clarification to the Commission.

(5) A request for clarification may include a requirement that—

- (a) the omitted information be provided; or
- (b) any discrepancy or inconsistency, including a discrepancy or inconsistency arising out of the omission, be explained or corrected.

(6) The Commission may verify any information provided in the declaration.

Access to declarations.

**32.** (1) Any declaration made under this Act shall be accessible to any person upon application to the Commission in the prescribed manner if the applicant satisfies the Commission that he has a legitimate interest and good cause in the furtherance of the objectives of this Act.

(2) A person who obtains information under subsection (1), shall not publish or in any way make public such information without prior written authority of the Commission.

(3) A person who contravenes sub section (2), commits an offence and shall on conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not two years, or to both.

(4) Notwithstanding subsection (1), a law enforcement agency shall have unrestricted access to the disclosures and compliance reports of a public official.

Retention of information.

**33.** The Commission shall keep information collected under this Act concerning a public official for at least five years after the public official ceases to be a public official.

Temporary vacation of office.

**34.** (1) A public official who is under investigation for alleged violation of this Act shall, on recommendation of the Commission to the appointing authority, temporarily vacate

office for a period of ninety days to facilitate investigations.

(2) The Commission shall make a recommendation under subsection (1), where it has reasonable grounds to suspect that the public official is likely to—

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

(3) For purposes of this section, “temporary vacation of office” means temporary withdrawal or deprivation of powers and privileges of an office including, participating in decision making, voting, supervising, drawing of facilitative allowances and benefits linked to the office or function.

(4) Where a public official refuses to vacate office within seven days of receipt of the notice under subsection (1), the Commission may make an *ex parte* application to the High Court for orders to compel the public official to temporarily vacate office.

False declaration.

**35.** A public official who—

- (a) fails to submit any information required under this Act; or
- (b) submits information that he knows, or ought to know, is false or misleading,

commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years, or to both.

Divestiture.

**36.** A public official shall within ninety days after the day of appointment or in the course of employment divest any private interest that would place the public official in a conflict of interest situation,

Methods of divestment.

**37.** Private interests referred to in section 38 may be divested by—

- (a) selling them in an arm’s-length transaction; or
- (b) placing them in a blind trust that meets the requirements of section 38.

Blind trust requirements.

**38.** (1) A blind trust shall provide that—

- (a) the assets to be placed in trust shall be registered to the trustee unless they are in a registered retirement savings plan account;

- (b) the public official shall not have any power of management or control over the trust assets;
- (c) the trustee shall not seek or accept any instruction or advice from the public official concerning the management or the administration of the assets;
- (d) the assets placed in the trust shall be listed in a schedule attached to the instrument or contract establishing the trust;
- (e) the term of any trust shall be for as long as the public official who establishes the trust continues to hold the office, or until the trust assets are depleted;
- (f) the trustee shall deliver the trust assets to the public official when the trust is terminated;
- (g) the trustee shall not provide information about the trust, including its composition, to the public official, except for information that is required by law to be filed by the public official and periodic reports on the overall value of the trust;
- (h) the public official may receive any income earned by the trust, and add to or withdraw from the capital funds in the trust;
- (i) the trustee shall be at arm's length from the public official and the Commission is to be satisfied that an arm's length relationship exists;
- (j) the trustee may be—
  - (i) the public trustee;
  - (ii) a registered trustee; or
  - (iii) a listed company or a subsidiary wholly owned by a listed company, including a trust company or investment company, that is qualified to perform the duties of a trustee; or
- (k) the trustee shall provide the Commission, on every anniversary of the trust, with a written annual report verifying the accuracy, nature and market value of the trust, a reconciliation of the trust property, the net income of the trust for the year preceding, and the fees of the trustee, if any.

(2) Despite subsection (1), general investment instructions may be included in a blind trust instrument or contract but only with the

prior approval of the Commission.

(3) Oral investment instructions shall not be given with respect to a blind trust contract or instrument.

Confirmation of blind trust or sale.

**39.** A public official shall submit to the Commission proof of sale or a copy of any contract or instrument establishing the blind trust in respect of any asset, gift, inheritance or other private interests that are subject of divestment.

Confidentiality of divestment.

**40.** The Commission shall, unless otherwise required by an Act of Parliament, keep confidential all information provided by a public official relating to a divestment under this Act, except for the fact that a sale has taken place or that a trust exists.

Assets given as security.

**41.** (1) A public official shall not, unless with the approval of the Commission, divest assets that have been given as security to a lending institution.

(2) Subject to sub-section (1), a public official shall disclose to the Commission the discharge of the secured asset and take the necessary steps to divest it in accordance with this Act.

(3) A public official shall not charge an asset in order to defeat divestiture requirements under this Act.

(4) A person who contravenes any provision under this Section commits an offence.

Assets of minimal value.

**42.** A public official shall not be required to divest assets if, in the opinion of the Commission, the assets are of such minimal value that they do not pose any risk of conflict of interest in relation to the public official's duties and responsibilities.

Compliance orders.

**43.** The Commission may order a public official, in respect of any matter, to take any compliance measure, including divestment or recusal, that the Commission considers necessary for the compliance with this Act.

Report on Compliance with orders of the Commission.

**44.** A report on compliance with the orders of the Commission may contain a description of—

- (a) the asset or the interest and the method used to divest it;
- (b) the process to be put in place by the reporting public official to effect the recusal; and
- (c) the matter and the order, and the steps taken to

comply with the order.

Prohibitions after leaving office.

**45.** (1) A former public official shall not—

- (a) act for or on behalf of any person in connection with any specific proceeding, transaction, negotiation or case to which the State is a party and with respect to which the former public official had acted for, or provided advice to the State;
- (b) be engaged by or act for or against his former employer for at least two years after ceasing to be a public official;
- (c) use information obtained in his official capacity and which is not available to the public to further the interests of another person or entity; or
- (d) accept appointment to a board of directors of, or employment with, a private entity with which he had significant official dealings during the period of two years immediately preceding the termination of his service.

(2) The official dealings under paragraph (d), may either be directly on the part of the public official or through private affiliations.

(3) A person who contravenes subsection 1) commits an offence.

Prohibition on representation, vouching for or defending

**46.** (1) A former public official shall not represent, vouch for or defend, whether for remuneration or not, any public entity on behalf of a person or an entity outside the public service with which the former official had significant official dealings, during the period of two years immediately preceding the termination of service.

(2) Despite sub section (1), a former public official may represent, vouch for or defend when officially called upon to.

Exemption of former public officials

**47.** (1) A former public official may, upon making an application in writing, be exempted by the Commission from the provisions of section 46 and 47, based on the grounds that—

- (a) the former public official was not a senior member of the state organ;
- (b) the former public official's functions did not include the handling of files of a political or sensitive nature, such as confidential cabinet documents;
- (c) the former public official had little influence,



visibility or decision-making power in the office of a state organ; and

(d) by virtue of the official's expertise in public service.

(2) The Commission shall, within thirty days from the date of the application, in writing, communicate the decision made to the former public official who applied for the exemption.

Order on official dealings

**48.** If the Commission establishes that a former public official is not complying with his obligations under this Act, the Commission may order any current public official not to have official dealings with that former public official.

#### **PART V—MISCELLANEOUS PROVISIONS**

General Penalty.

**49.** A person who commits an offence for which no penalty has been specifically provided for, shall on conviction be liable to a fine not exceeding five million shillings or a term of imprisonment not exceeding four years, or to both.

Right to refuse

**50.** (1) The Commission shall not commence investigations if—

- (a) the subject matter of the request does not disclose an issue of conflict of interest under this Act;
- (b) the subject matter of the request has been adequately dealt with, or could more appropriately be dealt with, according to a procedure provided for under another Act of Parliament; or
- (c) the substance of the request is frivolous, vexatious or made in bad faith.

(2) If the Commission declines to commence an investigation, the Commission shall inform the person who made the request and give reasons for the decision.

Mutual cooperation.

**51.** The Commission may collaborate with other public entities and agencies and any foreign government or international or regional organizations in the management of conflict of interest and enforcement of the Act.

Confidentiality.

**52.** The Commission or any person acting on its behalf shall not, unless required by law, disclose any information that comes to their knowledge in the performance of their duties under this Act, unless the disclosure is, in the opinion of the Commission, essential for the purposes of carrying out its functions and exercising the powers conferred on it under

this Act or is required by any law enforcement agency.

Protection from liability.

**53.** No criminal or civil proceedings shall lie against the Commission or any person acting on behalf of the Commission, for anything done, reported or said in good faith in the exercise of any power, or the performance of any function of the Commission under this Act.

Returns by reporting entities.

**54.** Every reporting entity shall file returns with the Commission once every quarter in the prescribed manner.

Regulations.

**55.** The Attorney-General may make regulations for the better carrying out the provisions of this Act.

(2) Without prejudice to the generality of sub-section (1), the Attorney-General may make regulations prescribing—

- (a) the service of documents required or authorized to be served under this Act;
- (b) the manner and proof of service and the circumstances under which documents are deemed to be served
- (c) exceptional circumstances under which complimentary treatment may be accepted under this Act;
- (d) the mechanism and procedure for the opening, maintaining and publicizing of registers of conflict of interest
- (e) anything required to be prescribed under this Act.

Repeal.

**56.** The Public Officers Ethics Act, No. 4 of 2003 is repealed.

Transition provision.

**57.** Transition of POEA into COI

Consequential amendments.

**58.** Amendments of LIA and ACECA.

First Schedule  
**Declaration of income assets and liabilities.**

For purposes of Section 23 (3) the following are categories of income, assets and liabilities which a public official must declare-

- (i) **Income –**
  - a) Windfall gains
  - b) Rental income
  - c) Business income from any trade or profession
  - d) Employment Income
  - e) Farming income
  - f) Dividends
  - g) Interest
  - h) Investment Returns
  - i) Pensions and annuities
  - j) Royalties
  - k) Cash or material awards
  - l) Insurance bonuses
  - m) Grants
  - n) Any other income that is taxable
  
- (ii) **Assets**
  - a) Ownership of or interest in a scheme, fund or entity howsoever established or structured or administered;
  - b) cash at hand and at bank
  - c) Land (developed and undeveloped)
  - d) any trusts in respect of which a public official or a member of his or her family is a beneficiary.
  - e) works of art, antiques, precious metals, jewelry or collectibles;
  - f) automobiles, marine vessels and aircrafts;
  - g) treasury bonds and bills
  - h) publicly traded securities of corporations and foreign governments, whether held individually or in an investment portfolio account such as, but not limited to, shares, stocks, bonds, stock market indices, trust units, closed-end mutual funds, commercial papers and medium-term notes;
  - i) equity held in an entity that is not publicly listed or traded whether registered in Kenya or another jurisdiction.
  - j) retirement savings plans, education savings plans and retirement income funds;
  - k) commodities, futures and foreign currencies held or traded for speculative purposes;

- l) stock options, warrants, rights and similar instruments registered retirement savings plans, education savings plans, insurance and other life saving plans, annuities;
- m) investments in mutual funds;
- n) primary and secondary residences, recreational property, farmland and buildings;
- o) personal loans of not less than Ksh.100,000 receivable from relatives and other persons;
- p) debts owed to the public official including by previous employer, client or partner;
- q) public and private sector debt financing not guaranteed by a level of government, such as university and hospital debt financing;

**Liabilities include-**

- (a) Secured and unsecured loans;
- (b) Mortgages
- (c) Debts owed by the official
- (d) Outstanding imprest due to GOK
- (e) Outstanding Salary advance

Second Schedule  
**Registrable interests**

DRAFT ONE