

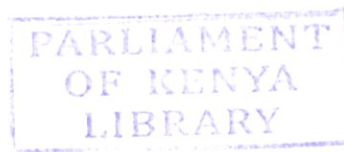
REPUBLIC OF KENYA




PARLIAMENT OF KENYA

*Approved
SNA
4/12/24*

THIRTEENTH PARLIAMENT – THIRD SESSION – 2024



**REPORT OF THE MEDIATION COMMITTEE ON
THE CONFLICT OF INTEREST BILL
(NATIONAL ASSEMBLY BILL NO. 12 OF 2023)**

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE:	04 DEC 2024
	DAY: WEDNESDAY
TABLED BY:	Hon. MURUGARA
CLERK AT THE TABLE:	DAMD

CLERKS' CHAMBERS
PARLIAMENT OF KENYA
PARLIAMENT BUILDINGS
NAIROBI

DECEMBER 2024

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List of Abbreviations and Acronyms

EACC	-	Ethics and Anti-Corruption Commission
FORD	-	Forum for the Restoration of Democracy
KLRC	-	Kenya Law Reform Commission
MCCP	-	Maendeleo Chap Chap Party
ODM	-	Orange Democratic Movement
UDA	-	United Democratic Alliance
WDM	-	Wiper Democratic Movement

Annexures

- Annexure 1: Adoption Schedule
- Annexure 2: Minutes
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(as passed by the National Assembly)
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(*National Assembly Bill No. 12 of 2023*)
- Annexure 5: Speakers Communications on Members of the Mediation Committee
- Annexure 6: Mediated Version of the Conflict of Interest Bill
(*National Assembly Bill No. 12 of 2023*)

Chairperson's Foreword

This report contains proceedings of the Mediation Committee on the Conflict of Interest Bill (National Assembly Bill No. 12 of 2023) that began its sittings on Monday, 25th November 2024 and pursuant to Article 113 (4) of the Constitution, the Committee is required to agree on a version of the Bill and table a report within thirty (30) days from the first sitting.

The Conflict of Interest Bill (National Assembly Bill No. 12 of 2023) was published on 3rd April 2023 and read a First Time on Tuesday, 6th June 2023. The Bill was considered by the National Assembly and passed with amendments on 30th November 2023 and thereafter referred to the Senate for consideration in accordance with Article 110(4) of the Constitution. Pursuant to Standing Order 144 of the National Assembly Standing Orders and Article 110(4) of the Constitution, the Bill was forwarded for consideration by the Senate. The Senate considered the Bill in accordance with the Senate Standing Orders and the Constitution and passed the Bill with amendments on 4th June 2024.

The National Assembly considered and rejected the Senate's amendments to the Bill on 24th July 2024. Consequently, pursuant to Article 112 (1) (b) of the Constitution, the Bill was referred to a Mediation Committee.

As a result, pursuant to the aforementioned Article of the Constitution, the Speakers of the two Houses of Parliament appointed Members to serve in the Mediation Committee via a Communication attached to this report as Annexure 4.

The Speaker of the National Assembly appointed Members to the Mediation Committee on 3^{1st} July 2024 as required by Standing Order 149 (2) of the National Assembly Standing Orders while the Speaker of the Senate appointed Senators to the Committee on 6th August 2024 under provisions of Standing Order No. 166 (2) of the Senate Standing Orders.

The Committee held a total of seven (7) meetings, with the first meeting held on Monday, 25th November 2024 and concluded its sitting on Tuesday, 3rd December 2024. The Committee considered the clauses of the Bill that were under mediation and subsequently agreed on a version of the Bill.

The Committee is grateful to the Offices of the Speakers and Clerks of both Houses of Parliament for the logistical and technical support accorded to it in the execution of its mandate.

Finally, I express my appreciation to Members of the Committee and the Committee Secretariat for their patience, sacrifice, endurance and commitment to the assignment which enabled the Committee to complete the task within the stipulated period.

It is now my pleasant privilege and honour to commend this report to the Houses for approval on behalf of the Mediation Committee pursuant to Article 113 (2) of the Constitution, Standing Order 150 (1) of the National Assembly Standing Orders and Standing Order 167 (1) of the Senate Standing Orders.

HON. MURUGARA GEORGE GITONGA, CBS, MP
(CHAIRPERSON)

MEDIATION COMMITTEE ON THE CONFLICT OF INTEREST BILL
(NATIONAL ASSEMBLY BILL NO. 12 OF 2023)



CHAPTER ONE

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Mediation Committee on the Conflict of Interest Bill (National Assembly Bill No. 12 of 2023) was constituted by the Speaker of the National Assembly and the Speaker of the Senate on 31st July and 6th August 2024 respectively pursuant to Standing Order 149 (2) of the National Assembly Standing Orders and the Speaker of the Senate pursuant to Standing Order 166 (2) of the Senate Standing Orders.

1.2 MANDATE OF THE COMMITTEE

2. The Mediation Committee derives its mandate from the provisions of Articles 112 (b) and 113 of the Constitution, Standing Order 149 of the National Assembly Standing Orders and Standing Order 166 of the Senate Standing Orders which outline the functions of the Committee as follows:
 - i. *To consider Bills where the Houses do not agree on all or any of the amendments made by either Houses;*
 - ii. *To consider Bills where either House rejects a Motion that a Bill which originated in the other House be read a Second or Third time; and,*
 - iii. *To attempt to develop a version of the Bill that both Houses will pass.*

1.3 COMMITTEE MEETINGS AND METHODOLOGY

3. The Committee held seven (7) sittings to deliberate on the Conflict of Interest Bill (National Assembly Bill No. 12 of 2023) in accordance with the Constitution and relevant provisions of the Standing Orders of the Senate and the National Assembly.
4. During the first sitting, the Committee elected Hon. Murugara George Gitonga, CBS, MP and Sen. Wakili Hillary Sigei, MP as Chairperson and Vice-Chairperson respectively pursuant to Standing Order 160 (4) and (5) of the Senate Standing Orders and Standing Order 149 (4) of the National Assembly Standing Orders.

1.3 COMMITTEE MEMBERSHIP

5. The Mediation Committee on the Conflict of Interest Bill (National Assembly Bill No. 12 of 2023) comprises the following Members:

Chairperson

Hon. Murugara George Gitonga, CBS, MP
Tharaka Constituency

UDA Party

Vice-Chairperson

Sen. Wakili Hillary Sigei, MP
Bomet County

UDA Party

Members:

Hon. Mutuse Eckomas Mwangi, OGW, MP
Kibwezi West Constituency

MCCP Party

Sen. Erick Okong'o Mogeni, SC, MP
Nyamira County

ODM Party

Hon. Onyiengo Silvanus Osoro, CBS, MP
South Mugirango Constituency

UDA Party

Sen. Mohamed Mwinyihaji Faki, MP
Mombasa County

ODM Party

Hon. Makali John Okwisia, MP
Kanduyi Constituency

FORD-Kenya

Sen. Daniel Kitonga Maanzo, MP
Makueni County

WDM Party

Hon. Muriu Wakali Edward, MP
Gatanga Constituency

UDA Party

Sen. Crystal Kegehi Asige, MP
Nominated

ODM Party

Hon. Naisula Lesuuda, MP
Sambura West Constituency

KANU Party

Sen. Gloria Magoma Orwoba, MP
Nominated

UDA Party

Hon. Bisau Maurice Kakai, MP
Kiminini Constituency

DAP-K Party

Sen. Danson Mungatana, MGH, MP
Tana River County

UDA Party

Hon. Ken Chonga, MP
Kilifi South Constituency

ODM Party

Sen. Joe Nyutu, MP
Muranga County

UDA Party

Hon. Peter Masara, MP
Suna West Constituency

ODM Party

Sen. Mohamed Said Chute, MP
Marsabit County

UDA Party

1.4 Committee Secretariat

6. The Committee is well-resourced and facilitated by the following staff:

Mr. Ahmed Salim Abdalla
Clerk Assistant I

Mr. Charles Munyua
Senior Clerk Assistant

Mr. Ronald Walala
Senior Legal Counsel

Mr. Moses Kenyanchui
Legal Counsel I

Ms. Emma Esendi
Senior Legal Counsel

Mr. Isaac Nabiswa
Legal Counsel II

Mr. Abdikafar Abdi
Clerk Assistant III

Ms. Vivienne Ogega
Research Officer III

Ms. Jael Ayiego Kilaka
Clerk Assistant III

Ms. Lynn Aseka
Clerk Assistant III

Mr. Meldrick K. Sakani
Audio Officer III

Ms. Judith Aoka
Assistant Audio Officer

Mr. John Nduaci
Serjeant-At-Arms

Mr. Josphat Ng'enh
Media Relations Officer III

Clause 11

21. Clause 11 of the Bill provides for participation of proceedings before Parliament or county assembly.
22. Senate deleted the clause by virtue of the provisions existing under section 16(9) of the Leadership and Integrity Act.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 13

23. Clause 13 of the Bill provides for misuse of official information by a public officer.
24. Senate amended Clause 13 in subclause (1) by deleting the words “interest of the officer or the interests” appearing immediately after the word “to further the” and substituting therefor the words “private interests of the officer or”.

Committee Observation

The Committee agreed with the amendment by the Senate which sought to clarify that the interest to be furthered is a private interest.

Clause 15

25. Clause 15 of the Bill provides for offers of outside employment.
26. Senate amended Clause 15 in subclause (1)(b) by deleting the word “offer” appearing immediately after the words “reporting authority any” and substituting therefor the word “acceptance”.

Committee Observation

The Committee noted that the proposal by the Senate is covered under Clause 15(2) which requires a public officer to disclose an acceptance of an offer of outside employment.

Clause 19

27. Clause 19 of the Bill prohibits a public officer from being a party to or beneficiary of a contract for the supply of goods or services with a reporting authority.
28. Senate amended Clause 19—
 - (a) in subclause (1) by deleting the words “or beneficiary of” appearing immediately after the words “be a party to”, and
 - (b) in subclause (2) by deleting the words “or beneficiary of” appearing immediately after the words “be a party to”
 - (c) by inserting the following subclause immediately after subclause (2) —
 - (2A) Despite subsection (2), a public officer may be a party to a contract for the disposal of goods in relation to a computer, a telephone or any other device capable of storing personal information and the computer, telephone or the device was for the exclusive use of the officer.

Committee Observation

The Committee observed that the proposed insertion of subclause (2A) is overlegislating and therefore the reporting entity should be at liberty to decide how it will deal with disposal of such devices.

Clause 20

29. Clause 20 of the Bill prohibits a public officer from acquiring an interest in an entity that is a party to a contract with the reporting entity in which the public officer serves.
30. Senate deleted this Clause on the basis that Section 12 of the Public Officer Ethics Act is sufficient.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 23

31. Clause 23 of the Bill restricts a public officer from engaging in other gainful employment.
32. Senate deleted this Clause on the basis that Section 26 of the Public Officer Ethics Act is sufficient.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 24

33. Clause 24 of the Bill provides for the maintenance of a register of conflict of interest by a reporting authority.
34. Senate amended the clause in subclause (2) by deleting paragraph (a) on the grounds that Section 16(11) of the Leadership and Integrity Act provides that every public entity shall maintain an open register of conflicts of interest in the prescribed form in which an affected State officer or public officer shall register the particulars of registrable interests, stating the nature and extent of the conflict.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 27

35. Clause 27 of the Bill provides for prohibitions after leaving office.
36. Senate deleted the clause on the basis that Section 28 of the Leadership and Integrity Act provides for the same.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 28

37. Clause 28 of the Bill prohibits a former public officer from representing a person before a reporting entity for a period of two years after termination of service.
38. Senate deleted the clause on the basis that Section 28 of the Leadership and Integrity Act provides for the same.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 29

39. Clause 29 of the Bill provides for application by a former public to be exempted from the provisions of clauses 28 and 29.
40. Senate deleted the clause on the basis that Section 28 of the Leadership and Integrity Act provides for the same.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 30

41. Clause 30 of the Bill provides for the duty for a public officer to recuse themselves from any discussion, decision, debate or vote on any matter in which the public officer would be in conflict of interest.
42. Senate amended the Clause as follows—
 - (a) by deleting the heading to Part IV appearing immediately before the clause;
 - (b) in subclause (1) by deleting the words “decision, debate or vote” appearing immediately after the words “from any discussion” and substituting therefor the words “or decision”; and
 - (c) by deleting subclause (2) and substituting therefor the following new subclause—
 - (2) where a public officer recuses himself under subsection (1), the recusal shall be recorded in the minutes of the transaction in question.

Committee Observation

The Committee noted that recusal is a mechanism that may be applied by a public officer to manage conflict of interest. Therefore, the transmission of the declaration of recusal to the EACC is proper since it is the entity mandated by the Constitution to ensure compliance with and enforce the provisions of Chapter Six of the Constitution which includes conflict of interest.

Clause 31

43. Clause 31 of the Bill provides for declaration of income, assets and liabilities by public officers to the responsible Commission.
44. Senate deleted the Clause since Part IV of the Public Officer Ethics Act sets out the requirements for declaration of the income, assets and liabilities of public officers.

Committee Observation

The Committee noted that the Bill seeks to consolidate the laws relating to conflict of interest in public service. However, the declaration should be made to the responsible Commission and not to the EACC as it has been the practice.

Clause 31A

45. Clause 31A of the Bill provides for the determination of the responsible Commission for purposes of making a declaration of income, assets and liabilities.
46. Senate deleted the Clause on the basis that the Public Officer Ethics Act sets out the requirements for declaration of the income, assets and liabilities of public officers.

Committee Observation

The Committee noted that the declaration should be made to the responsible Commission and not to the EACC as it has been the practice.

Clause 31B

47. Clause 31B of the Bill provides that the Public Service Commission may delegate to another person any of its powers in relation to declaration of income, assets and liabilities.
48. Senate deleted the Clause on the grounds that the Public Officer Ethics Act sets out the requirements for declaration of the income, assets and liabilities of public officers.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 32

49. Clause 32 of the Bill provides for the timelines for declaring the income, assets and liabilities by a public officer.
50. The Senate deleted the Clause based on the grounds that the Public Officer Ethics Act makes provisions for such timelines.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 33

51. Clause 33 of the Bill provides that the responsible Commission may request for clarification from a public officer who has submitted a declaration on income, assets and liabilities.
52. The Senate deleted the Clause on the grounds that the Public Officer Ethics Act makes provisions for such request for clarification.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 34

53. Clause 34 of the Bill provides for access of the declaration by a person upon application to the responsible Commission.
54. The Senate deleted the Clause on the basis that the Public Officer Ethics Act makes provisions for access of the declarations by a person.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 35

55. Clause 35 of the Bill provides for the period of retention of information by a responsible Commission.
56. The Senate deleted the Clause on the basis that the Public Officer Ethics Act makes provisions for retention of information collected by the EACC.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 36

57. Clause 36 of the Bill provides for the offence of failure to submit any information required under the Act.
58. The Senate deleted the Clause on the basis that the Public Officer Ethics Act makes it an offence to fail to submit such information.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 37

59. Clause 37 of the Bill provides for the offence of submission of false information.
60. The Senate deleted the Clause on the grounds that the Public Officer Ethics Act makes it an offence to submit false information.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 38

61. Clause 38 of the Bill provides for the development and publication of administrative mechanisms for implementation of the requirements of Part IV of the Bill.
62. The Senate deleted the Clause on the grounds that the administration of the Act is placed with the reporting authorities.

Committee Observation

The Committee observed that it is important for the EACC to develop such administrative measures since the EACC will be the one administering the Act.

Clause 39

63. Clause 39 of the Bill provides for lodging of complaints with the reporting authority of the EACC by a person who alleges that a public officer has contravened any provision of the Act.
64. The Senate amended-
- (a) subclause (1) by deleting the words “or the Commission” appearing immediately after the words “reporting authority”;
 - (b) subclause (2) by deleting the words “or the Commission” appearing immediately after the words “reporting authority”;
 - (c) subclause (2A) by deleting the words “or the Commission” appearing immediately after the words “reporting authority”; and
 - (d) subclause (3) by deleting the words “or the Commission” appearing immediately after the words “reporting authority”.

Committee Observation

The Committee observed that EACC is the entity mandated by the Constitution to ensure compliance with and enforce the provisions of Chapter Six of the Constitution which includes conflict of interest.

Clause 40

65. Clause 40 of the Bill provides for the discretion by the EACC or a reporting authority on conducting investigations.
66. The Senate amended-
- (a) subclause (1) by deleting the expression "section 48, the Commission or" appearing immediately after the word "despite" and substituting therefor the expression "section 39"; and
 - (b) deleted subclause (2) and substituted therefor the following new subclause –
 - (2) if the reporting authority declines to commence an investigation, the reporting authority shall inform the person who lodged the complaint and give reasons for the decision.

Committee Observation

The Committee observed that EACC is the entity mandated by the Constitution to ensure compliance with and enforce the provisions of Chapter Six of the Constitution which includes conflict of interest.

Clause 41

67. Clause 41 of the Bill provides that an officer may be suspended from office pending the investigations and determination of the allegations made against that officer.
68. The Senate amended by inserting the following new clause immediately after subclause (2)-
- (3) If the Commission or a reporting entity fails to conclude the investigations within ninety days, the investigations shall be deemed to have been concluded at the expiry of the ninety days and the officer shall resume his or her duties.

Committee Observation

The Committee observed that it is important to limit the period which investigations should be concluded. This is to ensure that the power of suspending a public officer are not abused. The Committee also noted the need to provide for the extension of the period by a court of law where investigations are not concluded within ninety days.

Clause 42

69. Clause 42 of the Bill provides for recommendation that may be made by the EACC pursuant to an investigation conducted by the Commission.

70. The Senate amended the Clause-

(a) by deleting the marginal note and substituting therefor the following new marginal note -

Decision of a reporting authority

(b) in subclause (1) by-

- i. deleting the words "The Commission" appearing at the beginning of the introductory clause and substituting therefor the words "A reporting authority";
- ii. deleting the words "recommend to a public entity to" appearing at the beginning of paragraph (a);
- iii. deleting the words "public entity, appointing authority or the" appearing immediately after the words "recommend to a" paragraph (b); and

(c) by deleting subclause (2).

Committee Observation

The Committee observed that EACC is the entity mandated by the Constitution to ensure compliance with and enforce the provisions of Chapter Six of the Constitution which includes conflict of interest.

Clause 44

71. Clause 44 of the Bill prohibits the disclosure of information by a responsible Commission or the EACC.

72. The Senate amended by deleting the introductory clause and substituting therefor the following clause -

44. A reporting authority or any other person acting on their 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 reporting authority or that other person-

Committee Observation

The Committee observed that EACC is the entity mandated by the Constitution to ensure compliance with and enforce the provisions of Chapter Six of the Constitution which includes conflict of interest.

Clause 46

73. Clause 46 of the Bill provides for protection from liability against the EACC or a person acting on behalf of EACC for anything done in the exercise of powers and performance of functions of the EACC.

74. The Senate deleted clause 46 and substituted therefor the following clause-
- 46.** No criminal or civil proceedings shall lie against a reporting entity or any person acting on its behalf for anything done, reported or said in good faith in the exercise of any power or the performance of any function under this Act.

Committee Observation

The Committee observed that EACC is the entity mandated by the Constitution to ensure compliance with and enforce the provisions of Chapter Six of the Constitution which includes conflict of interest.

Clause 47

75. Clause 47 of the Bill provides for reporting entities to file compliance reports with the EACC.

76. The Senate deleted the Clause.

Committee Observation

The Committee observed that EACC is the entity mandated by the Constitution to ensure compliance with and enforce the provisions of Chapter Six of the Constitution which includes conflict of interest.

Clause 49

77. Clause 49 of the Bill provides for the repeal of the Public Officer Ethics Act.

78. The Senate deleted the Clause.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest.

Clause 50

79. Clause 50 of the Bill provides for saving of statutory instruments made under the Public Officer Ethics Act until it is revoked.

80. The Senate amended by deleting subclause (1).

Committee Observation

The Committee observed that a saving clause preserves the intended effects of a change in law.

Clause 51

81. The Clause provides for the laws that would require amendments by virtue of enactments of the Conflict of Interest Bill.

82. The Senate deleted clause 51 and substituted therefor the following clause-

51. The Anti-Corruption and Economic Crimes Act, the Public Officer Ethics Act and the Leadership and Integrity Act are amended in the manner specified in the Second Schedule.

Committee Observation

The Committee noted that the Conflict of Interest Bill seeks to consolidate the laws which provide for management of conflict of interest. Therefore, the repeal of the Public Officer Ethics Act is necessary.

The First Schedule

83. The First Schedule of the Bill provides for the form for declaration of income, assets and liabilities.
84. The Senate deleted the schedule since its already provided for under the Public Officer Ethics Act.

Committee Observation

The Committee observed that the form for declaration of income, assets and liabilities contained in the Public Officer Ethics Act is sufficient in collecting the required information.

The Second Schedule

85. The Second Schedule of the Bill provides for registrable interests.
86. The Senate deleted the schedule since its already provided for under the Leadership and Integrity Act.

Committee Observation

The Committee noted that the schedule as contained in the Leadership and Integrity Act is sufficient.

The Third Schedule

87. The Third Schedule of the Bill provides for consequential amendments to the Anti-Corruption and Economic Crimes Act, the Ethics and Anti-Corruption Act and the Leadership and Integrity Act.
88. The Senate amended the Schedule by deleting amendments to the Acts that contain provisions on conflict of interest.

Committee Observation

The Committee noted that the Conflict of Interest Bill seeks to provide comprehensive provisions of conflict of interest and therefore it is necessary for the Acts of Parliament that provide for conflict of interest to be cleaned up.

CHAPTER THREE

3 COMMITTEE RECOMMENDATION

89. The Committee, having considered the contentious clauses of the Conflict of Interest Bill (National Assembly Bill No. 12 of 2023), has developed a mediated version of the Bill, annexed herewith, for consideration and **approval** by both Houses.

Signed.......... Date.....*4.12.2024*.....

HON. MURUGARA GEORGE GITONGA, CBS, MP
(CHAIRPERSON)

MEDIATION COMMITTEE ON THE CONFLICT OF INTEREST BILL
(NATIONAL ASSEMBLY BILL NO. 12 OF 2023)

Annexure **1**

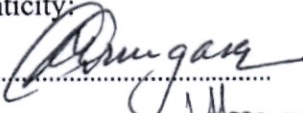

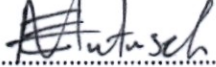


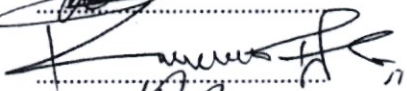

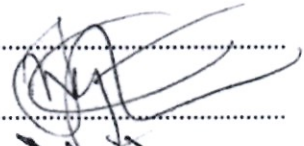

Adoption Schedule



**MEDIATION COMMITTEE ON CONFLICT OF INTEREST BILL, 2023
(NATIONAL ASSEMBLY BILL NO. 12 OF 2023)**

**ADOPTION OF THE MEDIATION COMMITTEE REPORT ON ITS
CONSIDERATION OF THE CONFLICT OF INTEREST BILL, 2023
(NATIONAL ASSEMBLY BILL NO. 12 OF 2023)**

We, the Members of the Mediation Committee on the Conflict of Interest Bill, 2023 have, pursuant to National Assembly Standing Order 199 and Senate Standing Order 223, adopted this Report of the Mediation Committee on its Consideration of the Conflict of Interest Bill, 2023 (National Assembly Bill No. 12 of 2023), and affixed our signatures to affirm our approval and confirm its accuracy, validity and authenticity:

1. Hon. Murugara George Gitonga, CBS, MP 
2. Sen. Wakili Hillary Sigei, MP 
3. Hon. Mutuse Eckomas M., OGW, MP 
4. Hon. Onyiengo Silvanus Osoro, CBS, MP
5. Hon. Makali John Okwisia, MP
6. Hon. Muriu Wakali Edward, MP
7. Hon. Naisula Lesuuda, MP 
8. Hon. Bisau Maurice Kakai, MP 
9. Hon. Ken Chonga, MP 
10. Hon. Peter Masara, MP 
11. Sen. Erick Okong'o Mogeni, SC, MP
12. Sen. Mohamed Mwinyihaji Faki, MP
13. Sen. Daniel Kitonga Maanzo, MP
14. Sen. Crystal Kegehi Asige, MP
15. Sen. Gloria Magoma Orwoba, MP
16. Sen. Danson Mungatana, MGH, MP 
17. Sen. Joe Nyutu, MP
18. Sen. Mohamed Said Chute, MP 

Chairperson's Foreword

This report contains proceedings of the Mediation Committee on the Conflict of Interest Bill (National Assembly Bill No. 12 of 2023) that began its sittings on Monday, 25th November 2024 and pursuant to Article 113 (4) of the Constitution, the Committee is required to agree on a version of the Bill and table a report within thirty (30) days from the first sitting.

The Conflict of Interest Bill (National Assembly Bill No. 12 of 2023) was published on 3rd April 2023 and read a First Time on Tuesday, 6th June 2023. The Bill was considered by the National Assembly and passed with amendments on 30th November 2023 and thereafter referred to the Senate for consideration in accordance with Article 110(4) of the Constitution. Pursuant to Standing Order 144 of the National Assembly Standing Orders and Article 110(4) of the Constitution, the Bill was forwarded for consideration by the Senate. The Senate considered the Bill in accordance with the Senate Standing Orders and the Constitution and passed the Bill with amendments on 4th June 2024.

The National Assembly considered and rejected the Senate's amendments to the Bill on 24th July 2024. Consequently, pursuant to Article 112 (1) (b) of the Constitution, the Bill was referred to a Mediation Committee.

As a result, pursuant to the aforementioned Article of the Constitution, the Speakers of the two Houses of Parliament appointed Members to serve in the Mediation Committee via a Communication attached to this report as Annexure 4.

The Speaker of the National Assembly appointed Members to the Mediation Committee on 3^{1st} July 2024 as required by Standing Order 149 (2) of the National Assembly Standing Orders while the Speaker of the Senate appointed Senators to the Committee on 6th August 2024 under provisions of Standing Order No. 166 (2) of the Senate Standing Orders.

The Committee held a total of seven (7) meetings, with the first meeting held on Monday, 25th November 2024 and concluded its sitting on Tuesday, 3rd December 2024. The Committee considered the clauses of the Bill that were under mediation and subsequently agreed on a version of the Bill.

The Committee is grateful to the Offices of the Speakers and Clerks of both Houses of Parliament for the logistical and technical support accorded to it in the execution of its mandate.

Finally, I express my appreciation to Members of the Committee and the Committee Secretariat for their patience, sacrifice, endurance and commitment to the assignment which enabled the Committee to complete the task within the stipulated period.

It is now my pleasant privilege and honour to commend this report to the Houses for approval on behalf of the Mediation Committee pursuant to Article 113 (2) of the Constitution, Standing Order 150 (1) of the National Assembly Standing Orders and Standing Order 167 (1) of the Senate Standing Orders.

HON. MURUGARA GEORGE GITONGA, CBS, MP
(CHAIRPERSON)

MEDIATION COMMITTEE ON THE CONFLICT OF INTEREST BILL
(NATIONAL ASSEMBLY BILL NO. 12 OF 2023)



CHAPTER ONE

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Mediation Committee on the Conflict of Interest Bill (National Assembly Bill No. 12 of 2023) was constituted by the Speaker of the National Assembly and the Speaker of the Senate on 31st July and 6th August 2024 respectively pursuant to Standing Order 149 (2) of the National Assembly Standing Orders and the Speaker of the Senate pursuant to Standing Order 166 (2) of the Senate Standing Orders.

1.2 MANDATE OF THE COMMITTEE

2. The Mediation Committee derives its mandate from the provisions of Articles 112 (b) and 113 of the Constitution, Standing Order 149 of the National Assembly Standing Orders and Standing Order 166 of the Senate Standing Orders which outline the functions of the Committee as follows:
 - i. *To consider Bills where the Houses do not agree on all or any of the amendments made by either Houses;*
 - ii. *To consider Bills where either House rejects a Motion that a Bill which originated in the other House be read a Second or Third time; and,*
 - iii. *To attempt to develop a version of the Bill that both Houses will pass.*

1.3 COMMITTEE MEETINGS AND METHODOLOGY

3. The Committee held seven (7) sittings to deliberate on the Conflict of Interest Bill (National Assembly Bill No. 12 of 2023) in accordance with the Constitution and relevant provisions of the Standing Orders of the Senate and the National Assembly.
4. During the first sitting, the Committee elected Hon. Murugara George Gitonga, CBS, MP and Sen. Wakili Hillary Sigei, MP as Chairperson and Vice-Chairperson respectively pursuant to Standing Order 160 (4) and (5) of the Senate Standing Orders and Standing Order 149 (4) of the National Assembly Standing Orders.

1.3 COMMITTEE MEMBERSHIP

5. The Mediation Committee on the Conflict of Interest Bill (National Assembly Bill No. 12 of 2023) comprises the following Members:

Chairperson

Hon. Murugara George Gitonga, CBS, MP
Tharaka Constituency

UDA Party

Vice-Chairperson

Sen. Wakili Hillary Sigei, MP
Bomet County

UDA Party

Members:

Hon. Mutuse Eckomas Mwengi, OGW, MP
Kibwezi West Constituency

MCCP Party

Sen. Erick Okong'o Mogeni, SC, MP
Nyamira County

ODM Party

Hon. Onyengo Silvanus Osoro, CBS, MP
South Mugirango Constituency

UDA Party

Sen. Mohamed Mwinyihaji Faki, MP
Mombasa County

ODM Party

Hon. Makali John Okwisia, MP
Kanduyi Constituency

FORD-Kenya

Sen. Daniel Kitonga Maanzo, MP
Makueni County

WDM Party

Hon. Muriu Wakali Edward, MP
Gatanga Constituency

UDA Party

Sen. Crystal Kegehi Asige, MP
Nominated

ODM Party

Hon. Naisula Lesuuda, MP
Sambura West Constituency

KANU Party

Sen. Gloria Magoma Orwoba, MP
Nominated

UDA Party

Hon. Bisau Maurice Kakai, MP
Kimini Constituency

DAP-K Party

Sen. Danson Mungatana, MGH, MP
Tana River County

UDA Party

Hon. Ken Chonga, MP
Kilifi South Constituency

ODM Party

Sen. Joe Nyutu, MP
Muranga County

UDA Party

Hon. Peter Masara, MP
Suna West Constituency

ODM Party

Sen. Mohamed Said Chute, MP
Marsabit County

UDA Party

1.4 Committee Secretariat

6. The Committee is well-resourced and facilitated by the following staff:

Mr. Ahmed Salim Abdalla
Clerk Assistant I

Mr. Charles Munyua
Senior Clerk Assistant

Mr. Ronald Walala
Senior Legal Counsel

Mr. Moses Kenyanchui
Legal Counsel I

Ms. Emma Esendi
Senior Legal Counsel

Mr. Isaac Nabiswa
Legal Counsel II

Mr. Abdikafar Abdi
Clerk Assistant III

Ms. Vivienne Ogega
Research Officer III

Ms. Jael Ayiego Kilaka
Clerk Assistant III

Ms. Lynn Aseka
Clerk Assistant III

Mr. Meldrick K. Sakani
Audio Officer III

Ms. Judith Aoka
Assistant Audio Officer

Mr. John Nduaci
Serjeant-At-Arms

Mr. Josphat Ng'enhoh
Media Relations Officer III

CHAPTER TWO

2 CONSIDERATION OF THE CONFLICT OF INTEREST BILL (NATIONAL ASSEMBLY BILL NO. 12 OF 2023) BY THE MEDIATION COMMITTEE

2.1 BACKGROUND

7. The Conflict of Interest Bill (National Assembly Bill No. 12 of 2023) is a Bill sponsored by the Leader of the Majority Party, Hon. Kimani Ichung'wah, EGH, MP that was first introduced in the National Assembly on 6th June 2023. It was subsequently committed to the Justice and Legal Affairs Committee for consideration.
8. The National Assembly considered and passed the Bill with amendments on 30th November 2023. Subsequently, the Bill was referred to the Senate for consideration pursuant to Standing Order 142 of the National Assembly Standing Orders.
9. The Bill was read a first time in the Senate on 6th December 2023. Consequently, pursuant to Standing Order 145 of the Senate Standing Orders was committed to the Senate standing committee on Justice Legal Affairs and Human Rights for consideration.
10. The Senate considered and passed the Bill with amendments on 16th May 2024 and transmitted the amendments to the National Assembly seeking concurrence on 28th May 2024.
11. The National Assembly approved the Motion on the Report of the Committee of the Whole House on the consideration of Senate Amendments to the Conflict of Interest Bill, 2023 on 4th June 2024. The Committee rejected the Senate amendments to the Bill warranting committal of the Bill to the mediation committee pursuant to Article 112(2)(b) of the Constitution.

2.2 CLAUSES UNDER MEDIATION

12. The following Clauses of the Conflict of Interest Bill (National Assembly Bill No. 12 of 2023) were considered by the Mediation Committee:

Clause 3

13. Clause 3 of the Bill provides for the objects of the Act which includes to enhance integrity of public office and public confidence in the delivery of public services.
14. The Senate amended the clause 3(2) by deleting paragraph (c) and substituting therefor the following new paragraph -
 - (c) enhance public confidence in the integrity of public office and delivery of public services

Committee Observation

The Committee observed that focus should be placed on the integrity of the public officer and not the public confidence in the integrity of the public office.

Clause 5

15. Clause 5 of the Bill provides that the Act shall be administered a reporting authority and the Ethics and Anti-Corruption Commission.
16. Senate amended the Clause by -
 - (a) Renumbering the existing clause as subclause (1);
 - (b) Deleting the words “and the Ethics and Anti-Corruption Commission” appearing immediately after the words “reporting authorities”; and
 - (c) Inserting the following new subclause immediately after the existing subclause –
 - (2) A reporting authority shall, for the purpose of subsection (1), -
 - (a) Oversee the management of conflict of interest for all public officers it is responsible for;
 - (b) Promote best practices for the management of conflict of interest; and
 - (c) Conduct public awareness on the management of conflict of interest.

Committee Observation

The Committee observed that matters on conflict of interest are ethical matters envisaged by Chapter Six of the Constitution. Article 79 of the Constitution provides for the establishment of EACC which is responsible for ensuring compliance and enforce the provisions of Chapter Six of the Constitution.

Clause 6

17. Clause 6 of the Bill provides for the functions of the EACC with respect to management of conflict of interest.
18. The Senate proposed the deletion of Clause 6.

Committee Observation

The Committee observed that since the management of the Act is given to the EACC and a reporting authority, the functions of EACC should remain as passed by the National Assembly.

Clause 7

19. Clause 7 of the Bill provides for the powers of the EACC in the performance of its functions under the Act.
20. Senate amended the clause-
 - (a) in the marginal note by deleting the words “the Commission” appearing immediately after the words “powers of” and substituting therefor the words “a reporting entity”;
 - (b) by deleting the words “The Commission” appearing at the beginning of the introductory clause and substituting therefor the words “A reporting entity”; and
 - (c) by deleting paragraph (c); and
 - (d) by deleting paragraph (d) and substituting therefor the following new paragraph –
 - (d) co-operate and collaborate with other public entities or agencies in the management of conflict of interest and enforcement of this Act

Committee Observation

The Committee observed that EACC is the entity mandated by the Constitution to ensure compliance with and enforce the provisions of Chapter Six of the Constitution which includes conflict of interest.

Clause 11

21. Clause 11 of the Bill provides for participation of proceedings before Parliament or county assembly.
22. Senate deleted the clause by virtue of the provisions existing under section 16(9) of the Leadership and Integrity Act.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 13

23. Clause 13 of the Bill provides for misuse of official information by a public officer.
24. Senate amended Clause 13 in subclause (1) by deleting the words “interest of the officer or the interests” appearing immediately after the word “to further the” and substituting therefor the words “private interests of the officer or”.

Committee Observation

The Committee agreed with the amendment by the Senate which sought to clarify that the interest to be furthered is a private interest.

Clause 15

25. Clause 15 of the Bill provides for offers of outside employment.
26. Senate amended Clause 15 in subclause (1)(b) by deleting the word “offer” appearing immediately after the words “reporting authority any” and substituting therefor the word “acceptance”.

Committee Observation

The Committee noted that the proposal by the Senate is covered under Clause 15(2) which requires a public officer to disclose an acceptance of an offer of outside employment.

Clause 19

27. Clause 19 of the Bill prohibits a public officer from being a party to or beneficiary of a contract for the supply of goods or services with a reporting authority.
28. Senate amended Clause 19—
 - (a) in subclause (1) by deleting the words “or beneficiary of” appearing immediately after the words “be a party to”, and
 - (b) in subclause (2) by deleting the words “or beneficiary of” appearing immediately after the words “be a party to”
 - (c) by inserting the following subclause immediately after subclause (2) —
 - (2A) Despite subsection (2), a public officer may be a party to a contract for the disposal of goods in relation to a computer, a telephone or any other device capable of storing personal information and the computer, telephone or the device was for the exclusive use of the officer.

Committee Observation

The Committee observed that the proposed insertion of subclause (2A) is overlegislating and therefore the reporting entity should be at liberty to decide how it will deal with disposal of such devices.

Clause 20

29. Clause 20 of the Bill prohibits a public officer from acquiring an interest in an entity that is a party to a contract with the reporting entity in which the public officer serves.
30. Senate deleted this Clause on the basis that Section 12 of the Public Officer Ethics Act is sufficient.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 23

31. Clause 23 of the Bill restricts a public officer from engaging in other gainful employment.
32. Senate deleted this Clause on the basis that Section 26 of the Public Officer Ethics Act is sufficient.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 24

33. Clause 24 of the Bill provides for the maintenance of a register of conflict of interest by a reporting authority.
34. Senate amended the clause in subclause (2) by deleting paragraph (a) on the grounds that Section 16(11) of the Leadership and Integrity Act provides that every public entity shall maintain an open register of conflicts of interest in the prescribed form in which an affected State officer or public officer shall register the particulars of registrable interests, stating the nature and extent of the conflict.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 27

35. Clause 27 of the Bill provides for prohibitions after leaving office.
36. Senate deleted the clause on the basis that Section 28 of the Leadership and Integrity Act provides for the same.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 28

37. Clause 28 of the Bill prohibits a former public officer from representing a person before a reporting entity for a period of two years after termination of service.
38. Senate deleted the clause on the basis that Section 28 of the Leadership and Integrity Act provides for the same.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 29

39. Clause 29 of the Bill provides for application by a former public to be exempted from the provisions of clauses 28 and 29.
40. Senate deleted the clause on the basis that Section 28 of the Leadership and Integrity Act provides for the same.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 30

41. Clause 30 of the Bill provides for the duty for a public officer to recuse themselves from any discussion, decision, debate or vote on any matter in which the public officer would be in conflict of interest.
42. Senate amended the Clause as follows—
- (a) by deleting the heading to Part IV appearing immediately before the clause;
 - (b) in subclause (1) by deleting the words “decision, debate or vote” appearing immediately after the words “from any discussion” and substituting therefor the words “or decision”; and
 - (c) by deleting subclause (2) and substituting therefor the following new subclause-
(2) where a public officer recuses himself under subsection (1), the recusal shall be recorded in the minutes of the transaction in question.

Committee Observation

The Committee noted that recusal is a mechanism that may be applied by a public officer to manage conflict of interest. Therefore, the transmission of the declaration of recusal to the EACC is proper since it is the entity mandated by the Constitution to ensure compliance with and enforce the provisions of Chapter Six of the Constitution which includes conflict of interest.

Clause 31

43. Clause 31 of the Bill provides for declaration of income, assets and liabilities by public officers to the responsible Commission.
44. Senate deleted the Clause since Part IV of the Public Officer Ethics Act sets out the requirements for declaration of the income, assets and liabilities of public officers.

Committee Observation

The Committee noted that the Bill seeks to consolidate the laws relating to conflict of interest in public service. However, the declaration should be made to the responsible Commission and not to the EACC as it has been the practice.

Clause 31A

45. Clause 31A of the Bill provides for the determination of the responsible Commission for purposes of making a declaration of income, assets and liabilities.
46. Senate deleted the Clause on the basis that the Public Officer Ethics Act sets out the requirements for declaration of the income, assets and liabilities of public officers.

Committee Observation

The Committee noted that the declaration should be made to the responsible Commission and not to the EACC as it has been the practice.

Clause 31B

47. Clause 31B of the Bill provides that the Public Service Commission may delegate to another person any of its powers in relation to declaration of income, assets and liabilities.
48. Senate deleted the Clause on the grounds that the Public Officer Ethics Act sets out the requirements for declaration of the income, assets and liabilities of public officers.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 32

49. Clause 32 of the Bill provides for the timelines for declaring the income, assets and liabilities by a public officer.
50. The Senate deleted the Clause based on the grounds that the Public Officer Ethics Act makes provisions for such timelines.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 33

51. Clause 33 of the Bill provides that the responsible Commission may request for clarification from a public officer who has submitted a declaration on income, assets and liabilities.
52. The Senate deleted the Clause on the grounds that the Public Officer Ethics Act makes provisions for such request for clarification.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 34

53. Clause 34 of the Bill provides for access of the declaration by a person upon application to the responsible Commission.
54. The Senate deleted the Clause on the basis that the Public Officer Ethics Act makes provisions for access of the declarations by a person.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 35

55. Clause 35 of the Bill provides for the period of retention of information by a responsible Commission.
56. The Senate deleted the Clause on the basis that the Public Officer Ethics Act makes provisions for retention of information collected by the EACC.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 36

57. Clause 36 of the Bill provides for the offence of failure to submit any information required under the Act.
58. The Senate deleted the Clause on the basis that the Public Officer Ethics Act makes it an offence to fail to submit such information.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 37

59. Clause 37 of the Bill provides for the offence of submission of false information.
60. The Senate deleted the Clause on the grounds that the Public Officer Ethics Act makes it an offence to submit false information.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.

Clause 38

61. Clause 38 of the Bill provides for the development and publication of administrative mechanisms for implementation of the requirements of Part IV of the Bill.
62. The Senate deleted the Clause on the grounds that the administration of the Act is placed with the reporting authorities.

Committee Observation

The Committee observed that it is important for the EACC to develop such administrative measures since the EACC will be the one administering the Act.

Clause 39

63. Clause 39 of the Bill provides for lodging of complaints with the reporting authority of the EACC by a person who alleges that a public officer has contravened any provision of the Act.
64. The Senate amended-
- (a) subclause (1) by deleting the words “or the Commission” appearing immediately after the words “reporting authority”;
 - (b) subclause (2) by deleting the words “or the Commission” appearing immediately after the words “reporting authority”;
 - (c) subclause (2A) by deleting the words “or the Commission” appearing immediately after the words “reporting authority”; and
 - (d) subclause (3) by deleting the words “or the Commission” appearing immediately after the words “reporting authority”.

Committee Observation

The Committee observed that EACC is the entity mandated by the Constitution to ensure compliance with and enforce the provisions of Chapter Six of the Constitution which includes conflict of interest.

Clause 40

65. Clause 40 of the Bill provides for the discretion by the EACC or a reporting authority on conducting investigations.
66. The Senate amended-
- (a) subclause (1) by deleting the expression "section 48, the Commission or" appearing immediately after the word "despite" and substituting therefor the expression "section 39"; and
 - (b) deleted subclause (2) and substituted therefor the following new subclause –
 - (2) if the reporting authority declines to commence an investigation, the reporting authority shall inform the person who lodged the complaint and give reasons for the decision.

Committee Observation

The Committee observed that EACC is the entity mandated by the Constitution to ensure compliance with and enforce the provisions of Chapter Six of the Constitution which includes conflict of interest.

Clause 41

67. Clause 41 of the Bill provides that an officer may be suspended from office pending the investigations and determination of the allegations made against that officer.
68. The Senate amended by inserting the following new clause immediately after subclause (2)-
- (3) If the Commission or a reporting entity fails to conclude the investigations within ninety days, the investigations shall be deemed to have been concluded at the expiry of the ninety days and the officer shall resume his or her duties.

Committee Observation

The Committee observed that it is important to limit the period which investigations should be concluded. This is to ensure that the power of suspending a public officer are not abused. The Committee also noted the need to provide for the extension of the period by a court of law where investigations are not concluded within ninety days.

Clause 42

69. Clause 42 of the Bill provides for recommendation that may be made by the EACC pursuant to an investigation conducted by the Commission.

70. The Senate amended the Clause-

(a) by deleting the marginal note and substituting therefor the following new marginal note -

Decision of a reporting authority

(b) in subclause (1) by-

- i. deleting the words "The Commission" appearing at the beginning of the introductory clause and substituting therefor the words "A reporting authority";
- ii. deleting the words "recommend to a public entity to" appearing at the beginning of paragraph (a);
- iii. deleting the words "public entity, appointing authority or the" appearing immediately after the words "recommend to a" paragraph (b); and

(c) by deleting subclause (2).

Committee Observation

The Committee observed that EACC is the entity mandated by the Constitution to ensure compliance with and enforce the provisions of Chapter Six of the Constitution which includes conflict of interest.

Clause 44

71. Clause 44 of the Bill prohibits the disclosure of information by a responsible Commission or the EACC.

72. The Senate amended by deleting the introductory clause and substituting therefor the following clause –

44. A reporting authority or any other person acting on their 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 reporting authority or that other person-

Committee Observation

The Committee observed that EACC is the entity mandated by the Constitution to ensure compliance with and enforce the provisions of Chapter Six of the Constitution which includes conflict of interest.

Clause 46

73. Clause 46 of the Bill provides for protection from liability against the EACC or a person acting on behalf of EACC for anything done in the exercise of powers and performance of functions of the EACC.

74. The Senate deleted clause 46 and substituted therefor the following clause-
- 46.** No criminal or civil proceedings shall lie against a reporting entity or any person acting on its behalf for anything done, reported or said in good faith in the exercise of any power or the performance of any function under this Act.

Committee Observation

The Committee observed that EACC is the entity mandated by the Constitution to ensure compliance with and enforce the provisions of Chapter Six of the Constitution which includes conflict of interest.

Clause 47

75. Clause 47 of the Bill provides for reporting entities to file compliance reports with the EACC.

76. The Senate deleted the Clause.

Committee Observation

The Committee observed that EACC is the entity mandated by the Constitution to ensure compliance with and enforce the provisions of Chapter Six of the Constitution which includes conflict of interest.

Clause 49

77. Clause 49 of the Bill provides for the repeal of the Public Officer Ethics Act.

78. The Senate deleted the Clause.

Committee Observation

The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest.

Clause 50

79. Clause 50 of the Bill provides for saving of statutory instruments made under the Public Officer Ethics Act until it is revoked.

80. The Senate amended by deleting subclause (1).

Committee Observation

The Committee observed that a saving clause preserves the intended effects of a change in law.

Clause 51

81. The Clause provides for the laws that would require amendments by virtue of enactments of the Conflict of Interest Bill.

82. The Senate deleted clause 51 and substituted therefor the following clause-

51. The Anti-Corruption and Economic Crimes Act, the Public Officer Ethics Act and the Leadership and Integrity Act are amended in the manner specified in the Second Schedule.

Committee Observation

The Committee noted that the Conflict of Interest Bill seeks to consolidate the laws which provide for management of conflict of interest. Therefore, the repeal of the Public Officer Ethics Act is necessary.

The First Schedule

83. The First Schedule of the Bill provides for the form for declaration of income, assets and liabilities.
84. The Senate deleted the schedule since its already provided for under the Public Officer Ethics Act.

Committee Observation

The Committee observed that the form for declaration of income, assets and liabilities contained in the Public Officer Ethics Act is sufficient in collecting the required information.

The Second Schedule

85. The Second Schedule of the Bill provides for registrable interests.
86. The Senate deleted the schedule since its already provided for under the Leadership and Integrity Act.

Committee Observation

The Committee noted that the schedule as contained in the Leadership and Integrity Act is sufficient.

The Third Schedule

87. The Third Schedule of the Bill provides for consequential amendments to the Anti-Corruption and Economic Crimes Act, the Ethics and Anti-Corruption Act and the Leadership and Integrity Act.
88. The Senate amended the Schedule by deleting amendments to the Acts that contain provisions on conflict of interest.


Committee Observation

The Committee noted that the Conflict of Interest Bill seeks to provide comprehensive provisions of conflict of interest and therefore it is necessary for the Acts of Parliament that provide for conflict of interest to be cleaned up.

CHAPTER THREE

3 COMMITTEE RECOMMENDATION

89. The Committee, having considered the contentious clauses of the Conflict of Interest Bill (National Assembly Bill No. 12 of 2023), has developed a mediated version of the Bill, annexed herewith, for consideration and **approval** by both Houses.

Signed.......... Date.....*4.12.2024*.....

HON. MURUGARA GEORGE GITONGA, CBS, MP
(CHAIRPERSON)

MEDIATION COMMITTEE ON THE CONFLICT OF INTEREST BILL
(NATIONAL ASSEMBLY BILL NO. 12 OF 2023)

Annexure **1**

Adoption Schedule



**MEDIATION COMMITTEE ON CONFLICT OF INTEREST BILL, 2023
(NATIONAL ASSEMBLY BILL NO. 12 OF 2023)**

**ADOPTION OF THE MEDIATION COMMITTEE REPORT ON ITS
CONSIDERATION OF THE CONFLICT OF INTEREST BILL, 2023
(NATIONAL ASSEMBLY BILL NO. 12 OF 2023)**

We, the Members of the Mediation Committee on the Conflict of Interest Bill, 2023 have, pursuant to National Assembly Standing Order 199 and Senate Standing Order 223, adopted this Report of the Mediation Committee on its Consideration of the Conflict of Interest Bill, 2023 (National Assembly Bill No. 12 of 2023), and affixed our signatures to affirm our approval and confirm its accuracy, validity and authenticity:

1. Hon. Murugara George Gitonga, CBS, MP.....
2. Sen. Wakili Hillary Sigei, MP
3. Hon. Mutuse Eckomas M., OGW, MP
4. Hon. Onyiengo Silvanus Osoro, CBS, MP
5. Hon. Makali John Okwisia, MP
6. Hon. Muriu Wakali Edward, MP
7. Hon. Naisula Lesuuda, MP
8. Hon. Bisau Maurice Kakai, MP
9. Hon. Ken Chonga, MP
10. Hon. Peter Masara, MP
11. Sen. Erick Okong’o Mogeni, SC, MP
12. Sen. Mohamed Mwinyihaji Faki, MP
13. Sen. Daniel Kitonga Maanzo, MP
14. Sen. Crystal Kegehi Asige, MP
15. Sen. Gloria Magoma Orwoba, MP
16. Sen. Danson Mungatana, MGH, MP
17. Sen. Joe Nyutu, MP
18. Sen. Mohamed Said Chute, MP

Annexure 2

Minutes



REPUBLIC OF KENYA
13TH PARLIAMENT | 3RD SESSION

MINUTES OF THE 1ST SITTING OF THE MEDIATION COMMITTEE ON THE CONFLICT OF INTEREST BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2023) HELD ON MONDAY, 25TH NOVEMBER, 2024 AT 3.00 P.M., IN COMMITTEE ROOM 18/19, THIRD FLOOR, BUNGE TOWER.

NATIONAL ASSEMBLY

- | | |
|-------------------------------------|----------|
| 1. Hon. Murugara George Gitonga, MP | - Member |
| 2. Hon. Mwengi Mutuse, OGW, MP | - Member |
| 3. Hon. John Makali, MP | - Member |
| 4. Hon. Bisau Kakai, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|---------------------------------|----------|
| 1. Hon. Silvanus Osoro, CBS, MP | - Member |
| 2. Hon. Edward Muriu, MP | - Member |
| 3. Hon. Naisula Lesuuda, MP | - Member |
| 4. Hon. Ken Chonga, MP | - Member |
| 5. Hon. Peter Masara, MP | - Member |

SENATE

- | | |
|----------------------------------|----------|
| 1. Sen. Wakili Hillary Sigei, MP | - Member |
| 2. Sen. Mohamed Said Chute, MP | - Member |
| 3. Sen. Gloria Magoma Orwoba, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|--------------------------------------|----------|
| 1. Sen. Erick Okong'o Mogeni, SC, MP | - Member |
| 2. Sen. Mohamed Mwinyihaji Faki, MP | - Member |
| 3. Sen. Daniel Kitonga Maanzo, MP | - Member |
| 4. Sen. Crystal Kegehi Asige, MP | - Member |
| 5. Sen. Danson Mungatana, MGH, MP | - Member |
| 6. Sen. Joe Nyutu, MP | - Member |

SECRETARIAT FROM THE NATIONAL ASSEMBLY

- | | |
|------------------------|----------------------------------|
| 1. Mr. Ahmed Salim | - Clerk Assistant I |
| 2. Mr. Abdikafar Abdi | - Clerk Assistant III |
| 3. Mr. Jael Kilaka | - Clerk Assistant III |
| 4. Mr. Ronald Walala | - Ag. D/Director, Legal Services |
| 5. Mr. Abdirahim Omar | - Fiscal Analyst I |
| 6. Mr. Isaac Nabiswa | - Legal Counsel II |
| 7. Ms. Vivienne Ogega | - Research Officer III |
| 8. Mr. Melvick Sakani | - Audio Officer III |
| 9. Mr. Calvin Karung'o | - Media Relations Officer |
| 10. Ms. Mary Kamande | - Public Communications Officer |
| 11. Mr. John Nduaci | - Serjeant-at-arms |

SECRETARIAT FROM THE NATIONAL ASSEMBLY

1. Mr. Charles Munyua - Senior Clerk Assistant
2. Ms. Lynn Aseka - Clerk Assistant III (*Taking Minutes*)
3. Mr. Jackson Matheshe - Research Officer III
4. Mr. Josephat Ng'eno - Media Relations Officer
5. Ms. Judith Aoka - Assistant Audio Officer
6. Ms. Karen Aleyo - Attachee

MIN. NO. 1/2024

PRELIMINARIES

The session Chairperson called the meeting to order at twenty-nine minutes past three O'clock and opened with a word of prayer.

MIN. NO. 2/2024

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Wakili Hillary Sigei, MP and seconded by Hon. John Makali, MP.

MIN. NO. 3/2024

ELECTION OF THE CHAIRPERSON AND VICE-CHAIRPERSON OF THE COMMITTEE

The Committee considered the procedure for appointment of the Chairperson and Vice-Chairperson, as contained in Paper No. 1.

Thereupon, Hon. George Murugara, MP and Sen. Wakili Hillary Sigei, MP were appointed as the Chairperson and Vice-Chairperson of the Committee.

MIN. NO. 4/2024

REMARKS BY THE CHAIRPERSON AND VICE-CHAIRPERSON OF THE COMMITTEE

The Chairperson informed the Committee that there was limited time to consider the Bill and, therefore, there was need for the Members to avail themselves for the Mediation Committee meetings that would be scheduled through the week.

The Vice-Chairperson supported the remarks by the Chairperson and noted that the Committee ought to finalize consideration of the Bill and table its Report in the two Houses before Parliament proceeded for the long recess.

MIN. NO. 5/2024

BRIEFING OF THE CLAUSES OF THE CONFLICT OF INTEREST BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2023)

Members were informed that, to facilitate consideration of the Clauses under mediation, a matrix had been prepared highlighting the provisions of the Bill as originally published, as passed by the National Assembly with amendments, and as passed by the Senate with amendments.

Thereupon, Members resolved to commence consideration of the matrix at the next meeting. Noting the urgency of the matter, Committee further resolved to hold sittings each day throughout the week until conclusion of the business before the Committee.

MIN. NO. 6/2024

CONSIDERATION OF REQUESTS BY THE ETHICS AND ANTI-CORRUPTION COMMISSION (EACC) AND THE AFRICAN PARLIAMENTARIANS NETWORK AGAINST CORRUPTION (APNAC – KENYA)

The Committee considered the requests by the EACC and APNAC-Kenya to participate in the mediation process on the Bill, as contained in Paper No. 3.

Following deliberations, the Committee agreed to the requests and resolved that the two stakeholders be invited to appear before the Committee at its next meeting to present their submissions on the Clauses under mediation.

MIN. NO. 7/2024

ADJOURNMENT

The Chairperson adjourned the meeting at fifty-one minutes past three o'clock. The next meeting was scheduled to be held on Tuesday, 26th November, 2024 at 11.00 am.

SIGNED:  DATE: 24.12.024

(CHAIRPERSON: HON. MURUGARA GEORGE GITONGA, CBS, MP)



REPUBLIC OF KENYA
13TH PARLIAMENT | 3RD SESSION

MINUTES OF THE 2ND SITTING OF THE MEDIATION COMMITTEE ON THE CONFLICT OF INTEREST BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2023) HELD ON TUESDAY, 26TH NOVEMBER, 2024 AT 11.00 A.M., IN COMMITTEE ROOM 26, FIFTH FLOOR, BUNGE TOWER.

NATIONAL ASSEMBLY

- | | |
|-------------------------------------|---------------|
| 1. Hon. Murugara George Gitonga, MP | - Chairperson |
| 2. Hon. Mwangi Mutuse, OGW, MP | - Member |
| 3. Hon. John Makali, MP | - Member |
| 4. Hon. Naisula Lesuada, MP | - Member |
| 5. Hon. Bisau Kakai, MP | - Member |
| 6. Hon. Peter Masara, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|---------------------------------|----------|
| 1. Hon. Silvanus Osoro, CBS, MP | - Member |
| 2. Hon. Edward Muriu, MP | - Member |
| 3. Hon. Ken Chonga, MP | - Member |

SENATE

- | | |
|-----------------------------------|---------------------|
| 1. Sen. Wakili Hillary Sigei, MP | - Vice- Chairperson |
| 2. Sen. Daniel Kitonga Maanzo, MP | - Member |
| 3. Sen. Gloria Magoma Orwoba, MP | - Member |
| 4. Sen. Joe Nyutu, MP | - Member |
| 5. Sen. Mohamed Said Chute, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|--------------------------------------|----------|
| 1. Sen. Erick Okong'o Mogeni, SC, MP | - Member |
| 2. Sen. Mohamed Mwinyihaji Faki, MP | - Member |
| 3. Sen. Crystal Kegehi Asige, MP | - Member |
| 4. Sen. Danson Mungatana, MGH, MP | - Member |

SECRETARIAT FROM THE NATIONAL ASSEMBLY

- | | |
|------------------------|----------------------------------|
| 1. Mr. Ahmed Salim | - Clerk Assistant I |
| 2. Mr. Abdikafar Abdi | - Clerk Assistant III |
| 3. Mr. Jael Kilaka | - Clerk Assistant III |
| 4. Mr. Ronald Walala | - Ag. D/Director, Legal Services |
| 5. Mr. Abdirahim Omar | - Fiscal Analyst I |
| 6. Mr. Isaac Nabiswa | - Legal Counsel II |
| 7. Ms. Vivienne Ogega | - Research Officer III |
| 8. Mr. Melvick Sakani | - Audio Officer III |
| 9. Mr. Calvin Karung'o | - Media Relations Officer |
| 10. Ms. Mary Kamande | - Public Communications Officer |
| 11. Mr. John Nduaci | - Serjeant-at-arms |

SECRETARIAT FROM THE NATIONAL ASSEMBLY

1. Mr. Charles Munyua - Senior Clerk Assistant
2. Ms. Lynn Aseka - Clerk Assistant III (*Taking Minutes*)
3. Mr. Moses Kenyanchui - Legal Counsel I
4. Mr. Jackson Matheshe - Research Officer III
5. Mr. Josephat Ng'eno - Media Relations Officer
6. Ms. Judith Aoka - Assistant Audio Officer
7. Ms. Karen Aleyo - Attachee

MIN. NO. 8/2024 **PRELIMINARIES**

The Chairperson called the meeting to order at twenty-nine minutes past eleven O'clock and opened with a word of prayer. This was followed by a round of introduction by Members, Secretariat and the invited stakeholders.

MIN. NO. 9/2024 **ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Sen. Wakili Hillary Sigei, MP and seconded by Hon. Peter Masara, MP.

MIN. NO. 10/2024 **MEETING WITH ETHICS AND ANTI-CORRUPTION COMMISSION (EACC) AND AFRICAN PARLIAMENTARIANS NETWORK AGAINST CORRUPTION (APNAC-KENYA) TO RECEIVE COMMENTS ON THE CLAUSES OF THE CONFLICT OF INTEREST BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2023) THAT ARE UNDER MEDIATION**

The Committee was informed that APNAC-Kenya had no submissions to make, but had sent a representative to observe the proceedings of the Committee.

Thereupon, the Committee proceeded to receive submissions from the EACC on the amendments effected to the Bill by both the National Assembly and the Senate. In its submissions, the Commission highlighted three areas that the Committee ought to streamline, namely –

- i) Administration of the Act and the proposed enforcement mechanisms;
- ii) Administrative compliance measures; and
- iii) Declaration of Income, Assets and Liabilities.

While the Commission agreed to some of the amendments effected to the Bill by the two Houses, it urged the Mediation Committee to revert the provisions on the above three areas to those contained in the original Bill as published.

MIN. NO. 11/2024 **ADJOURNMENT**

The Chairperson adjourned the meeting at one o'clock. The next meeting was scheduled to be held on the same day at 3.00 p.m.

SIGNED:  DATE: *4, 12, 2024*

(CHAIRPERSON: HON. MURUGARA GEORGE GITONGA, CBS, MP)



REPUBLIC OF KENYA
13TH PARLIAMENT | 3RD SESSION

MINUTES OF THE 3RD SITTING OF THE MEDIATION COMMITTEE ON THE CONFLICT OF INTEREST BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2023) HELD ON TUESDAY, 26TH NOVEMBER, 2024 AT 3.00 P.M., IN COMMITTEE ROOM 26, FIFTH FLOOR, BUNGE TOWER.

NATIONAL ASSEMBLY

- | | |
|-------------------------------------|---------------|
| 1. Hon. Murugara George Gitonga, MP | - Chairperson |
| 2. Hon. Mwengi Mutuse, OGW, MP | - Member |
| 3. Hon. John Makali, MP | - Member |
| 4. Hon. Bisau Kakai, MP | - Member |
| 5. Hon. Peter Masara, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|---------------------------------|----------|
| 1. Hon. Silvanus Osoro, CBS, MP | - Member |
| 2. Hon. Edward Muriu, MP | - Member |
| 3. Hon. Naisula Lesuuda, MP | - Member |
| 4. Hon. Ken Chonga, MP | - Member |

SENATE

- | | |
|-----------------------------------|---------------------|
| 1. Sen. Wakili Hillary Sigei, MP | - Vice- Chairperson |
| 2. Sen. Gloria Magoma Orwoba, MP | - Member |
| 3. Sen. Danson Mungatana, MGH, MP | - Member |
| 4. Sen. Joe Nyutu, MP | - Member |
| 5. Sen. Mohamed Said Chute, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|--------------------------------------|----------|
| 1. Sen. Erick Okong'o Mogeni, SC, MP | - Member |
| 2. Sen. Mohamed Mwinyihaji Faki, MP | - Member |
| 3. Sen. Daniel Kitonga Maanzo, MP | - Member |
| 4. Sen. Crystal Kegehi Asige, MP | - Member |

SECRETARIAT FROM THE NATIONAL ASSEMBLY

- | | |
|-----------------------|----------------------------------|
| 1. Mr. Ahmed Salim | - Clerk Assistant I |
| 2. Mr. Abdikafar Abdi | - Clerk Assistant III |
| 3. Mr. Jael Kilaka | - Clerk Assistant III |
| 4. Mr. Ronald Walala | - Ag. D/Director, Legal Services |
| 5. Mr. Abdirahim Omar | - Fiscal Analyst I |
| 6. Mr. Isaac Nabiswa | - Legal Counsel II |
| 7. Ms. Vivienne Ogega | - Research Officer III |

- 8. Mr. Melvick Sakani - Audio Officer III
- 9. Mr. Calvin Karung'o - Media Relations Officer
- 10. Ms. Mary Kamande - Public Communications Officer
- 11. Mr. John Nduaci - Serjeant-at-arms

SECRETARIAT FROM THE NATIONAL ASSEMBLY

- 1. Mr. Charles Munyua - Senior Clerk Assistant
- 2. Ms. Lynn Aseka - Clerk Assistant III (*Taking Minutes*)
- 3. Mr. Moses Kenyanchui - Legal Counsel I
- 4. Mr. Jackson Matheshe - Research Officer III
- 5. Mr. Josephat Ng'eno - Media Relations Officer
- 6. Ms. Judith Aoka - Assistant Audio Officer
- 7. Ms. Karen Aleyo - Attachee

MIN. NO. 12/2024 PRELIMINARIES

The Chairperson called the meeting to order at twenty minutes past three O'clock and opened with a word of prayer.

MIN. NO. 13/2024 ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Wakili Hillary Sigei, MP and seconded by Hon. Peter Masara, MP.

MIN. NO. 14/2024 CONSIDERATION OF THE CLAUSES OF THE CONFLICT OF INTEREST BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2023) THAT ARE UNDER MEDIATION - RESUMPTION

The Committee resumed consideration of the Conflict of Interest Bill (National Assembly Bills No. 12 of 2023) and commenced consideration of the matrix on the Clauses that are under mediation.

During deliberations, Members proposed amendments on various clauses of the Bill. Due to lapse of time, the Committee resolved to resume consideration of the matrix from Clause 28 at the next meeting of the Committee to be held on Wednesday, 27th November, 2024.

MIN. NO. 15/2024 ADJOURNMENT

The Chairperson adjourned the meeting at fifteen minutes past five O'clock. The next meeting was scheduled to be held on Wednesday, 27th November, 2024 at 11.00 a.m.

SIGNED:  DATE: 4.12.2024

(CHAIRPERSON: HON. MURUGARA GEORGE GITONGA, CBS, MP)



REPUBLIC OF KENYA
13TH PARLIAMENT | 3RD SESSION

MINUTES OF THE 4TH SITTING OF THE MEDIATION COMMITTEE ON THE CONFLICT OF INTEREST BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2023) HELD ON WEDNESDAY, 27TH NOVEMBER, 2024 AT 11.00 A.M., IN COMMITTEE ROOM 26, FIFTH FLOOR, BUNGE TOWER.

NATIONAL ASSEMBLY

- | | |
|-------------------------------------|---------------|
| 1. Hon. Murugara George Gitonga, MP | - Chairperson |
| 2. Hon. Mwengi Mutuse, OGW, MP | - Member |
| 3. Hon. John Makali, MP | - Member |
| 4. Hon. Bisau Kakai, MP | - Member |
| 5. Hon. Ken Chonga, MP | - Member |
| 6. Hon. Peter Masara, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|---------------------------------|----------|
| 1. Hon. Silvanus Osoro, CBS, MP | - Member |
| 2. Hon. Edward Muriu, MP | - Member |
| 3. Hon. Naisula Lesuuda, MP | - Member |

SENATE

- | | |
|-------------------------------------|---------------------|
| 1. Sen. Wakili Hillary Sigei, MP | - Vice- Chairperson |
| 2. Sen. Mohamed Mwinyihaji Faki, MP | - Member |
| 3. Sen. Joe Nyutu, MP | - Member |
| 4. Sen. Mohamed Said Chute, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|--------------------------------------|----------|
| 1. Sen. Erick Okong'o Mogeni, SC, MP | - Member |
| 2. Sen. Daniel Kitonga Maanzo, MP | - Member |
| 3. Sen. Crystal Kegehi Asige, MP | - Member |
| 4. Sen. Gloria Magoma Orwoba, MP | - Member |
| 5. Sen. Danson Mungatana, MGH, MP | - Member |

SECRETARIAT FROM THE NATIONAL ASSEMBLY

- | | |
|-----------------------|----------------------------------|
| 1. Mr. Ahmed Salim | - Clerk Assistant I |
| 2. Mr. Abdikafar Abdi | - Clerk Assistant III |
| 3. Mr. Jael Kilaka | - Clerk Assistant III |
| 4. Mr. Ronald Walala | - Ag. D/Director, Legal Services |
| 5. Mr. Abdirahim Omar | - Fiscal Analyst I |
| 6. Mr. Isaac Nabiswa | - Legal Counsel II |

- | | |
|------------------------|---------------------------------|
| 7. Ms. Vivienne Ogega | - Research Officer III |
| 8. Mr. Melvick Sakani | - Audio Officer III |
| 9. Mr. Calvin Karung'o | - Media Relations Officer |
| 10. Ms. Mary Kamande | - Public Communications Officer |
| 11. Mr. John Nduaci | - Serjeant-at-arms |

SECRETARIAT FROM THE NATIONAL ASSEMBLY

- | | |
|-------------------------|---|
| 1. Mr. Charles Munyua | - Senior Clerk Assistant |
| 2. Ms. Lynn Aseka | - Clerk Assistant III (<i>Taking Minutes</i>) |
| 3. Mr. Moses Kenyanchui | - Legal Counsel I |
| 4. Mr. Jackson Matheshe | - Research Officer III |
| 5. Mr. Josephat Ng'eno | - Media Relations Officer |
| 6. Ms. Judith Aoka | - Assistant Audio Officer |
| 7. Ms. Karen Aleyo | - Attachee |

MIN. NO. 16/2024 **PRELIMINARIES**

The Chairperson called the meeting to order at twenty-nine minutes past eleven O'clock. This was followed by a prayer by Sen. Wakili Hillary Sigei, MP and a round of introduction by the Members and Secretariat.

MIN. NO. 17/2024 **ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Sen. Wakili Hillary Sigei, MP and seconded by Hon John Makali., MP.

MIN. NO. 18/2024 **CONSIDERATION OF THE CLAUSES OF THE CONFLICT OF INTEREST BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2023) THAT ARE UNDER MEDIATION - *resumption***

The Committee resumed consideration of the matrix on the Clauses that are under mediation on the Conflict of Interest Bill (National Assembly Bills No. 12 of 2023). Following deliberations, Members proposed amendments on the clauses of the Bill that are under mediation to be incorporated in the mediated version of the Bill.

MIN. NO. 19/2024 **ADJOURNMENT**

The Chairperson adjourned the meeting at twenty-five minutes past twelve O'clock. The next meeting was scheduled on the same day at 3.00 p.m.

SIGNED:  DATE: 4.12.2024

(CHAIRPERSON: HON. MURUGARA GEORGE GITONGA, CBS, MP)



REPUBLIC OF KENYA
13TH PARLIAMENT | 3RD SESSION

MINUTES OF THE 5TH SITTING OF THE MEDIATION COMMITTEE ON THE CONFLICT OF INTEREST BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2023) HELD ON WEDNESDAY, 27TH NOVEMBER, 2024 AT 3.00 P.M., IN COMMITTEE ROOM 26, FIFTH FLOOR, BUNGE TOWER.

NATIONAL ASSEMBLY

1. Hon. Murugara George Gitonga, MP - Chairperson
2. Hon. John Makali, MP - Member
3. Hon. Naisula Lesuuda, MP - Member
4. Hon. Bisau Kakai, MP - Member
5. Hon. Peter Masara, MP - Member

ABSENT WITH APOLOGY

1. Hon. Mwengi Mutuse, OGW, MP - Member
2. Hon. Silvanus Osoro, CBS, MP - Member
3. Hon. Edward Muriu, MP - Member
4. Hon. Ken Chonga, MP - Member

SENATE

1. Sen. Wakili Hillary Sigei, MP - Vice- Chairperson
2. Sen. Daniel Kitonga Maanzo, MP - Member
3. Sen. Joe Nyutu, MP - Member
4. Sen. Mohamed Said Chute, MP - Member

ABSENT WITH APOLOGY

1. Sen. Erick Okong'o Mogeni, SC, MP - Member
2. Sen. Mohamed Mwinyihaji Faki, MP - Member
3. Sen. Crystal Kegehi Asige, MP - Member
4. Sen. Gloria Magoma Orwoba, MP - Member
5. Sen. Danson Mungatana, MGH, MP - Member

SECRETARIAT FROM THE NATIONAL ASSEMBLY

1. Mr. Ahmed Salim - Clerk Assistant I
2. Mr. Abdikafar Abdi - Clerk Assistant III
3. Mr. Jael Kilaka - Clerk Assistant III
4. Mr. Ronald Walala - Ag. D/Director, Legal Services
5. Mr. Abdirahim Omar - Fiscal Analyst I
6. Mr. Isaac Nabiswa - Legal Counsel II
7. Ms. Vivienne Ogega - Research Officer III
8. Mr. Melvick Sakani - Audio Officer III
9. Mr. Calvin Karung'o - Media Relations Officer
10. Ms. Mary Kamande - Public Communications Officer
11. Mr. John Nduaci - Serjeant-at-arms

SECRETARIAT FROM THE NATIONAL ASSEMBLY

1. Mr. Charles Munyua - Senior Clerk Assistant
2. Ms. Lynn Aseka - Clerk Assistant III (*Taking Minutes*)
3. Mr. Moses Kenyanchui - Legal Counsel I
4. Mr. Jackson Matheshe - Research Officer III
5. Mr. Josephat Ng'eno - Media Relations Officer
6. Ms. Judith Aoka - Assistant Audio Officer
7. Ms. Karen Aleyo - Attachee

MIN. NO. 20/2024 **PRELIMINARIES**

The Chairperson called the meeting to order at twenty-nine minutes past eleven O'clock. This was followed by a prayer by Sen. Wakili Hillary Sigei, MP.

MIN. NO. 21/2024 **ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Sen. Wakili Hillary Sigei, MP and seconded by Hon John Makali., MP.

MIN. NO. 22/2024 **CONSIDERATION OF THE CLAUSES OF THE
CONFLICT OF INTEREST BILL, 2023 (NATIONAL
ASSEMBLY BILLS NO. 12 OF 2023) THAT ARE UNDER
MEDIATION - RESUMPTION**

The Committee was taken through the First Schedule of the Bill that contains, Declaration of income, assets and liabilities. The Committee resolved to withdraw the proposed forms, part I and part II of the First Schedule and adopt the currently used declaration of income, assets and liabilities form of the Public Officers Ethics Act. It was further resolved to delete the list set out on the Second Schedule on Registrable Interests and adopt the list under the Leadership and Integrity Act to be used in the Conflict of Interest Bill (National Assembly Bills No. 12 of 2023).

The Committee then directed the Secretariat to –

- 1) Finetune the consequential amendments to the Third schedule to be considered in the subsequent Committee meeting scheduled to be held tomorrow at 9.00 a.m.; and
- 2) Finalize on the Committee draft report to be considered and adopted at the Committee meeting scheduled to be held on Monday, 2nd December, 2024.

MIN. NO. 23/2024 **ADJOURNMENT**

The Chairperson adjourned the meeting at forty-five minutes past four O'clock. The next meeting was scheduled on Thursday, 28th November, 2024 at 9.00 a.m.

SIGNED:  DATE: 4, 12, 2024
(CHAIRPERSON: HON. MURUGARA GEORGE GITONGA, CBS, MP)



REPUBLIC OF KENYA
13TH PARLIAMENT | 3RD SESSION

MINUTES OF THE 6TH SITTING OF THE MEDIATION COMMITTEE ON THE CONFLICT OF INTEREST BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2023) HELD ON THURSDAY, 28TH NOVEMBER, 2024 AT 9.00 A.M., IN COMMITTEE ROOM 26, FIFTH FLOOR, BUNGE TOWER.

NATIONAL ASSEMBLY

1. Hon. Murugara George Gitonga, MP - Chairperson
2. Hon. Mwengi Mutuse, OGW, MP - Member
3. Hon Naisula Lesuuda, MP - Member.
4. Hon. Bisau Kakai, MP - Member
5. Hon. Peter Masara, MP - Member

ABSENT WITH APOLOGY

1. Hon. Silvanus Osoro, CBS, MP - Member
2. Hon. John Makali, MP - Member
3. Hon. Edward Muriu, MP - Member
4. Hon. Ken Chonga, MP - Member

SENATE

1. Sen. Wakili Hillary Sigei, MP - Vice- Chairperson
2. Sen. Daniel Kitonga Maanzo, MP - Member
3. Sen. Mohamed Said Chute, MP - Member

ABSENT WITH APOLOGY

1. Sen. Erick Okong'o Mogeni, SC, MP - Member
2. Sen. Mohamed Mwinyihaji Faki, MP - Member
3. Sen. Crystal Kegehi Asige, MP - Member
4. Sen. Gloria Magoma Orwoba, MP - Member
5. Sen. Danson Mungatana, MGH, MP - Member
6. Sen. Joe Nyutu, MP - Member

SECRETARIAT FROM THE NATIONAL ASSEMBLY

1. Mr. Ahmed Salim - Clerk Assistant I
2. Mr. Abdikafar Abdi - Clerk Assistant III
3. Mr. Jael Kilaka - Clerk Assistant III
4. Mr. Ronald Walala - Ag. D/Director, Legal Services
5. Mr. Abdirahim Omar - Fiscal Analyst I
6. Mr. Isaac Nabiswa - Legal Counsel II
7. Ms. Vivienne Ogega - Research Officer III
8. Mr. Melvick Sakani - Audio Officer III
9. Mr. Calvin Karung'o - Media Relations Officer
10. Ms. Mary Kamande - Public Communications Officer
11. Mr. John Nduaci - Serjeant-at-arms

SECRETARIAT FROM THE NATIONAL ASSEMBLY

1. Mr. Charles Munyua - Senior Clerk Assistant
2. Ms. Lynn Aseka - Clerk Assistant III (*Taking Minutes*)
3. Mr. Moses Kenyanchui - Legal Counsel I
4. Mr. Jackson Matheshe - Research Officer III
5. Mr. Josephat Ng'eno - Media Relations Officer
6. Ms. Judith Aoka - Assistant Audio Officer

MIN. NO. 24/2024 **PRELIMINARIES**

The Chairperson called the meeting to order at twenty-nine minutes past eleven O'clock. This was followed by a prayer by Sen. Wakili Hillary Sigei, MP and a round of introduction by Members and Secretariat.

MIN. NO. 25/2024 **ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Sen. Mohamed Said Chute, MP and seconded by Hon. Mwengi Mutuse, MP.

MIN. NO. 26/2024 **CONSIDERATION OF THE CLAUSES OF THE
CONFLICT OF INTEREST BILL, 2023 (NATIONAL
ASSEMBLY BILLS NO. 12 OF 2023) THAT ARE UNDER
MEDIATION - resumption**

The Committee resumed consideration of the matrix on the Clauses of the Conflict of Interest Bill, 2023 that are under mediation, and was taken through the consequential amendments to various legislation as set out in the Third Schedule of the Bill. Thereafter, the Committee deliberated and approved the Third Schedule with the proposed amendments.

The Committee further resolved to amend Clauses 3, 12, 13 and 19 of the Bill by replacing the words 'private interest' with 'personal interest', to align the Bill with the wording used at Article 75 of the Constitution.

MIN. NO. 27/2024 **ADJOURNMENT**

The Chairperson adjourned the meeting at thirty-five minutes past ten O'clock. The next meeting was scheduled on Monday, 2nd December, 2024 at 3.00 p.m.

SIGNED:  DATE: 4.12.2024

(CHAIRPERSON; HON. MURUGARA GEORGE GITONGA, CBS, MP)



REPUBLIC OF KENYA
13TH PARLIAMENT | 3RD SESSION

MINUTES OF THE 7TH SITTING OF THE MEDIATION COMMITTEE ON THE
CONFLICT OF INTEREST BILL (*NATIONAL ASSEMBLY NO. 12 OF 2023*) HELD IN
THE MINI-CHAMBER, 1ST FLOOR, COUNTY HALL ON TUESDAY 3RD
DECEMBER 2024 AT 3:00PM

MEMBERS PRESENT

1. Hon. Murugara George Gitonga, MP - *Chairperson*
2. Sen. Wakili Hillary Sigei, MP - *Vice Chairperson*
3. Hon. Mutuse Eckomas Mwangi, OGW, MP
4. Hon. Naisula Lesuuda, MP
5. Hon. Bisau Maurice Kakai, MP
6. Hon. Ken Chonga, MP
7. Hon. Peter Masara, MP
8. Sen. Erick Okong'o Mogeni, SC, MP - *Virtually*
9. Sen. Mohamed Mwinyihaji Faki, MP
10. Sen. Mohamed Said Chute, MP

ABSENT WITH APOLOGIES

1. Hon. Onyiengo Silvanus Osoro, CBS, MP
2. Hon. Muriu Wakili Edward, MP
3. Hon. Makali John Okwisia, MP
4. Sen. Daniel Kitonga Maanzo, MP
5. Sen. Crystal Kegehi Asige, MP
6. Sen. Gloria Magoma Orwoba, MP
7. Sen. Danson Mungatana, MGH, MP
8. Sen. Joe Nyutu, MP

SECRETARIAT

- | | | |
|---------------------------|---|-------------------------|
| 1. Mr. Charles Munyua | - | Senior Clerk Assistant |
| 2. Mr. Ahmed Salim | - | Clerk Assistant I |
| 3. Ms. Emma Esendi | - | Senior Legal Counsel |
| 4. Mr. Moses Kenyanchui | - | Legal Counsel I |
| 5. Mr. Isaac Nabiswa | - | Legal Counsel II |
| 6. Mr. Abdikafar Abdi | - | Clerk Assistant III |
| 7. Ms. Lynn Aseka | - | Clerk Assistant III |
| 8. Ms. Jael Ayiego Kilaka | - | Clerk Assistant III |
| 9. Ms. Vivienne Ogega | - | Research Officer III |
| 10. Mr. Jackson Matheshe | - | Research Officer III |
| 11. Mr. Calvin Karungo | - | Media Relations Officer |
| 12. Mr. Josephat Ng'eno | - | Media Relations Officer |
| 13. Ms. Judith Aoka | - | Assistant Audio Officer |

AGENDA

1. Prayers
2. Preliminaries
3. Confirmation of Minutes of previous sittings

4. Matters arising
5. Consideration and Adoption of the Mediation Committee Report on the Conflict of Interest Bill, 2023 (*National Assembly Bills No. 12 of 2023*)
6. Any Other Business
7. Adjournment / Date of the Next Meeting

MIN. NO. 28/2024: PRELIMINARIES

The meeting was called to order at half past three o'clock by the Chairperson followed by a word of prayer from the Chairperson and thereafter Members of the Committee introduced themselves.

MIN. NO. 29/2024 ADOPTION OF THE AGENDA

The agenda was adopted having been proposed by Sen. Wakili Hillary Sigei, MP and seconded by Hon. Mutuse Eckomas Mwengi, OGW, MP.

MIN. NO. 30/2024 CONFIRMATION OF MINUTES

1. Minutes of the 1st Sitting held on Monday 25th November 2024 at 3:00pm were adopted as a true reflection of the proceedings having been proposed by Sen. Mohamed Said Chute, MP and seconded by Hon. Mutuse Eckomas Mwengi, OGW, MP.
2. Minutes of the 2nd Sitting held on Tuesday 26th November 2024 at 11:00am were adopted as a true reflection of the proceedings having been proposed by Hon. Peter Masara, MP and seconded by Sen. Wakili Hillary Sigei, MP.
3. Minutes of the 3rd Sitting held on Tuesday 26th November 2024 at 3:00pm were adopted as a true reflection of the proceedings having been proposed by Sen. Mohamed Said Chute, MP and seconded by Hon. Peter Masara, MP.
4. Minutes of the 4th Sitting held on Wednesday 27th November 2024 at 11:00am were adopted as a true reflection of the proceedings having been proposed by Hon. Mutuse Eckomas Mwengi, OGW, MP and seconded by Sen. Mohamed Mwinyihaji Faki, MP.
5. Minutes of the 5th Sitting held on Wednesday 27th November 2024 at 3:00pm were adopted as a true reflection of the proceedings having been proposed by Hon. Bisau Kakai, MP and seconded by Sen. Mohamed Said Chute, MP.
6. Minutes of the 6th Sitting held on Thursday 28th November 2024 at 9:00am were adopted as a true reflection of the proceedings having been proposed by Sen. Wakili Hillary Sigei, MP and seconded by Hon. Naisula Lesuuda, MP

MIN. NO. 31/2024 CONSIDERATION AND ADOPTION OF THE MEDIATION COMMITTEE REPORT ON THE CONFLICT OF INTEREST BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 12 OF 2023)

Committee Observation

Upon reviewing the Clauses of the Conflict of Interest Bill (National Assembly Bill No. 12 of 2023) that were considered by the Mediation Committee, the Committee observed as follows:

i. Clause 3

The Committee observed that focus should be placed on the integrity of the public officer and not the public confidence in the integrity of the public office.

ii. Clause 5

The Committee observed that matters on conflict of interest are ethical matters envisaged by Chapter Six of the Constitution. Article 79 of the Constitution provides for the establishment of EACC which is responsible for ensuring compliance and enforce the provisions of Chapter Six of the Constitution.

- iii. Clause 6**
The Committee observed that since the management of the Act is given to the EACC and a reporting authority, the functions of EACC should remain as passed by the National Assembly.
- iv. Clause 7**
The Committee observed that EACC is the entity mandated by the Constitution to ensure compliance with and enforce the provisions of Chapter Six of the Constitution which includes conflict of interest.
- v. Clauses 11, 20, 23, 24, 27, 28, 29, 32, 33, 34, 35, 36, 37 and 49**
The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.
- vi. Clause 13**
The Committee agreed with the amendment by the Senate which sought to clarify that the interest to be furthered is a private interest.
- vii. Clause 15**
The Committee noted that the proposal by the Senate is covered under Clause 15(2) which requires a public officer to disclose an acceptance of an offer of outside employment.
- viii. Clause 19**
The Committee observed that the proposed insertion of subclause (2A) is over legislating and therefore the reporting entity should be at liberty to decide how it will deal with disposal of such devices.
- ix. Clause 30**
The Committee noted that recusal is a mechanism that may be applied by a public officer to manage conflict of interest. Therefore, the transmission of the declaration of recusal to the EACC is proper since it is the entity mandated by the Constitution to ensure compliance with and enforce the provisions of Chapter Six of the Constitution which includes conflict of interest.
- x. Clause 31**
The Committee noted that the Bill seeks to consolidate the laws relating to conflict of interest in public service. However, the declaration should be made to the responsible Commission and not to the EACC as it has been the practice.
- xi. Clause 31A**
The Committee noted that the declaration should be made to the responsible Commission and not to the EACC as it has been the practice.
- xii. Clause 31B**
The Committee observed that the Bill seeks to consolidate the laws relating to conflict of interest in public service.
- xiii. Clause 38**
The Committee observed that it is important for the EACC to develop such administrative measures since the EACC will be the one administering the Act.

- xiv. **Clauses 39, 40, 42, 44, 46 and 47**
The Committee observed that EACC is the entity mandated by the Constitution to ensure compliance with and enforce the provisions of Chapter Six of the Constitution which includes conflict of interest.
- xv. **Clause 41**
The Committee observed that it is important to limit the period which investigations should be concluded. This is to ensure that the power of suspending a public officer is not abused. The Committee also noted the need to provide for the extension of the period by a court of law where investigations are not concluded within ninety days.
- xvi. **Clause 50**
The Committee observed that a saving clause preserves the intended effects of a change in law.
- xvii. **Clause 51**
The Committee noted that the Conflict of Interest Bill seeks to consolidate the laws which provide for management of conflict of interest. Therefore, the repeal of the Public Officer Ethics Act is necessary.
- xviii. **The First Schedule**
The Committee observed that the form for declaration of income, assets and liabilities contained in the Public Officer Ethics Act is sufficient in collecting the required information.
- xix. **The Second Schedule**
The Committee noted that the schedule as contained in the Leadership and Integrity Act is sufficient.
- xx. **The Third Schedule**
The Committee noted that the Conflict of Interest Bill seeks to provide comprehensive provisions of conflict of interest and therefore it is necessary for the Acts of Parliament that provide for conflict of interest to be cleaned up.

Committee Recommendation

The Committee, having considered the contentious clauses of the Conflict of Interest Bill (*National Assembly Bill No. 12 of 2023*), developed a mediated version of the Bill for consideration by both Houses.

Adoption of the Report

The report was therefore adopted, having been proposed by Hon. Mutese Eckomas Mwengi, OGW, MP and seconded by Sen. Mohamed Said Chute, MP.

MIN. NO. 32/2024: ADJOURNMENT

There being no other business, the meeting was adjourned at half past four o'clock. Having agreed on the final version of the Bill, the Chairperson declared that there shall be no other meeting of the Mediation Committee on Conflict of Interest Bill (*National Assembly Bill No. 12 of 2023*).

SIGNED:  DATE: 4.12.2024
(CHAIRPERSON: HON. MURUGARA GEORGE GITONGA, CBS, MP)

Annexure **3**

The Conflict of Interest Bill
(National Assembly Bill No. 12 of 2023)
(as passed by the
National Assembly,
with amendments,
on November 30th, 2023)



REPUBLIC OF KENYA

PARLIAMENT

NATIONAL ASSEMBLY BILLS

(Bill No. 12 of 2023)

THE CONFLICT OF INTEREST BILL, 2023

(A Bill published in the Kenya Gazette Supplement No. 41 of 2023 and passed by the National Assembly, with amendments, on November 30th, 2023)

N.A./B/No. 12/2023

THE CONFLICT OF INTEREST BILL, 2023**ARRANGEMENT OF CLAUSES***Clause***PART I—PRELIMINARY**

- 1—Short title.
- 2—Interpretation.
- 3—Objects of the Act.
- 4—Application of the Act.

PART II—ADMINISTRATION

- 5—Administration of this Act.
- 6—Functions of the Commission.
- 7—Powers of the Commission.

PART III—CONFLICT OF INTEREST

- 8—Conflict of interest.
- 9—Obligation to avoid conflict of interest.
- 10—Conflict of interest in decision making.
- 11—Participation in proceedings before Parliament or county assembly.
- 12—Preferential treatment.
- 13—Misuse of official information.
- 14—Undue influence.
- 15—Offers of outside employment.
- 16—Gifts and other benefits.
- 17—Register of gifts.
- 18—Complimentary treatment.
- 19—Contracts with public entities prohibited.
- 20—Acquisition of interest in partnerships and private companies.
- 21—Conflict in recruitment.
- 22—Collusion by public officers to conceal conflict of interest.

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- 23—Restricted gainful employment.
 - 24—Register of conflict of interest.
 - 25—Political neutrality.
 - 26—Public collections.
 - 27—Prohibitions after leaving office.
 - 28—Prohibition against representing people before reporting entities.
 - 29—Exemption of former public officers.

PART IV—COMPLIANCE MEASURES

- 30—Duty to recuse.
- 31—Declaration of income, assets and liabilities by public officers.
- 31A— Determination of responsible Commission.
- 31B— Certain delegations by Public Service Commission.
- 32—Timelines for declaration.
- 33—Clarification.
- 34—Access to declarations.
- 35—Retention of information.
- 36—Failure to submit information.
- 37—False information.
- 38—Publication of administrative mechanisms.

PART V—COMPLAINTS AND CONDUCT OF INVESTIGATIONS

- 39—Lodging of complaints and investigations
- 40—Right to decline commencement of investigations.
- 41—Temporary vacation of office.
- 42—Recommendations of the Commission.

PART VI—MISCELLANEOUS PROVISIONS

- 43—General Penalty.
- 44—Confidentiality.

- 45—Protection of person making disclosure.
- 46—Protection from liability.
- 47—Reports by reporting entities.
- 48—Regulations.

**PART VII—REPEALS, SAVINGS AND
TRANSITIONAL PROVISIONS**

- 49—Repeal of Act No. 4 of 2003.
- 50—Transitional provisions.
- 51—Consequential amendments.

FIRST SCHEDULE

FORM 1

SECOND SCHEDULE

REGISTRABLE INTERESTS

THIRD SCHEDULE

CONSEQUENTIAL AMENDMENTS

THE CONFLICT OF INTEREST BILL, 2023

A Bill for

AN ACT of Parliament to provide for the management and regulation of conflict of interest and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Conflict of Interest Act, 2023.

Short title.

2. In this Act, unless the context otherwise requires—

Interpretation.

“accounting officer” has the meaning assigned to it under section 2 of the Public Finance Management Act, 2012;

No. 18 of 2012.

“conflict of interest” means a conflict between the public duty and private interests of a public official, in which the public official has private capacity interests that could improperly influence the performance of his official duties and responsibilities;

“Commission” means the Ethics and Anti-Corruption Commission established under section 3 of the Ethics and Anti-Corruption Commission Act, 2011;

No. 22 of 2011.

“complimentary treatment” means a treat offered free of charge as a favour or out of courtesy by a person who has significant official dealings with a public entity and includes offers for travel, holiday, hospitality, training, scholarship or medical treatment;

“gainful employment” means work that a person pursues and performs for money or other form of compensation or remuneration;

“official duty” means any task that a public officer is mandated to perform within the specific scope of his employment as defined by a contract of employment, an Act of Parliament or the Constitution;

“private interest” means a personal benefit, privilege, exemption or advantage that a public officer or a person affiliated to a public officer may gain from the office that the public officer holds and which may influence the

judgement of a public officer in the exercise of a public duty, but does not include interest in a decision or matter that—

- (a) is of general application;
- (b) affects a public officer as a member of a broad class of persons; or
- (c) concerns the remuneration or benefits received by virtue of being a public officer;

“public officer” has the meaning assigned to it by Article 260 of the Constitution;

“registrable interests” means the interests set out in the Second Schedule;

“reporting authority” in relation to a public officer, means an office or body that is responsible for a public officer for the purposes of this Act and includes an accounting officer, a person who exercises executive control over the resources of the entity or any office or entity exercising a function delegated by the Commission;

“reporting entity” means—

- (a) a state organ;
- (b) the national government or any organ or department of the national government;
- (c) a county government or any organ or department of a county government;
- (d) a state corporation within the meaning of State Corporations Act;
- (e) a public school within the meaning of the Basic Education Act, 2013;
- (f) a public university within the meaning of the Universities Act, 2012;
- (g) a company owned by the National Government or a county government;
- (h) a body that uses public assets in any form of contractual undertakings including public private partnerships;
- (i) a company in which the national or county government has controlling shares in accordance

Cap. 446.

No. 14 of 2013.

No. 42 of 2012

No. 17 of 2015.

with section 125 of the Companies Act, 2015;

- (j) a college or other educational institution maintained or assisted out of public funds;
- (k) an entity which renders a service involving the collection or administration of a levy, fee or funds authorized by legislation;
- (l) any entity that uses public money in the delivery of government programmes or services, whether for profit or not;

“responsible Commission” in relation to a public officer, means the entity determined under section 31A to be the responsible Commission in relation to a public officer;

“significant official dealing” means an engagement with an entity by a public officer at a level which, in ordinary circumstances, and taking into account the totality of the circumstances, would be construed as capable of influencing the decision of the public officer in relation to the entity, including—

- (a) engagement as an employee or agent of an entity;
- (b) undertaking a consultancy for or on behalf of an entity;
- (c) rendering of advice to an entity, whether directly or indirectly, and whether formally requested or not;
- (d) any dealing with an entity in a contractual relationship for supply of goods, services or works; or
- (e) any engagement where the public officer exercises regulatory or oversight functions over the affairs of the entity, in whatever form.

“unexplained asset” means an asset of a person whose value is disproportionate to his or her known sources of income at or around that time and for which there is no satisfactory explanation; and

“windfall gain” includes unexpected income which may result from inheritance, lottery prizes, gambling

winnings, payroll bonuses, proceeds from insurance claims, settlement from lawsuits, discoveries from treasure hunting or bounty rewards.

3. (1) The object of this Act is to provide for the management of conflict of interest in the discharge of official duties.

Objects of the Act.

(2) Without prejudice to the generality of sub section (1), the objects of this Act are to—

- (a) promote objectivity and impartiality in official decision making;
- (b) ensure that the integrity of decision makers is not compromised by private interests;
- (c) enhance integrity of public office and public confidence in the delivery of public services;
- (d) provide a framework for the regulation and management of real, apparent or potential conflict between public interest and private interest;
- (e) provide an institutional framework for the management of conflict of interest.
- (f) enhance accountability to the public for decisions and actions by public officers in execution of their duties; and
- (g) promote selfless service by public officers based solely on the public interest.

4. This Act shall apply to all reporting entities and public officers.

Application of the Act.

PART II— ADMINISTRATION

5. This Act shall be administered by reporting authorities and the Ethics and Anti-Corruption Commission.

Administration of this Act.

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

Functions of the Commission.

- (a) oversee the management of conflict of interest for all public officers;
- (b) develop an effective system for reporting violation of this Act;
- (c) promote best practices and develop standards and guidelines for the management of conflict of interest;
- (d) receive and process requests related to the management of conflict of interest;
- (e) conduct inquiries on matters of conflict of interest and make recommendations to the relevant bodies;
- (f) provide advisory opinions on conflict of interest on its own volition or on request by any person;
- (g) conduct public awareness on the management of conflict of interest;
- (h) analyse, seek for clarification and verify conflict of interest disclosures; and
- (i) develop policies, standards, guidelines and promote best practices for the management of conflict of interest.

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

Powers of the Commission.

- (a) conduct investigations on its own initiative or on a complaint made by a member of the public;
- (b) request for and obtain professional assistance or advice from any person or organization as it considers appropriate;
- (c) 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 officers specified by the Commission and that person or body shall be deemed to be responsible for the administration and management of conflict of interest; and
- (d) 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 this Act.

PART III—CONFLICT OF INTEREST

8. A public officer is in conflict of interest if the public officer—

Conflict of interest.

- (a) exercises an official power, duty or function to further his or her private interests or the private interests of another person; or
- (b) fails to declare and register a private interest that is in conflict with the public interest.

9. A public officer shall—

Obligation to avoid conflict of interest.

- (a) take reasonable steps to avoid any real, apparent or potential conflict of interest in connection with the official duties of the public officer; and
- (b) disclose details of any private interest of the public officer that affects the official duties of the public officer.

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

Conflict of interest in decision making.

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

11. (1) Subject to the Constitution or any other relevant written law a member of Parliament or a member of a county assembly shall declare any direct pecuniary interest or benefit of whatever nature in any—

Participation in proceedings before Parliament or county assembly.

- (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; or
- (c) transaction or communication which the member may have with another person or other members of the relevant House of Parliament or county assembly, as the case may be.

(2) A member of Parliament or a member of a county assembly who makes a declaration under subsection (1) shall not use any information obtained by the member in the discharge of the member's constitutional role to advance the member's private interests.

(2A) The Speaker may allow a member of Parliament or a member of a county assembly to speak to a matter under deliberation after considering the nature, extent, and effect of the interest declared under subsection (1).

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

12. (1) A public officer shall not, in the exercise of an official power or in the performance of a 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.

Preferential treatment.

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

(3) Despite subsection (1), no proceedings shall lie against a public officer who grants special consideration, treatment or advantage in good faith.

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

Misuse of official information.

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

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

Undue influence.

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

15. (1) A public officer shall—

Offers of outside employment.

(a) not allow himself to be influenced in the exercise of an official power or performance of a duty or function by plans for or any offer of outside

employment; and

- (b) disclose in writing to the reporting authority any offer of outside employment that could place the officer in a situation of conflict of interest, within seven days of receiving the offer.

(2) A public officer who accepts an offer of outside employment shall, within seven days of acceptance, disclose his acceptance of the offer in writing to the reporting authority.

(3) For purposes of this section “offer of outside employment” means a formal proposal made to a public officer to work for or privately do business with an entity which has official dealings with the reporting entity in which the public officer is serving.

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

16. (1) A public Officer shall not accept or request a gift or favour from a person who—

Gifts and other benefits.

- (a) has an interest that may be affected by the carrying out, or not carrying out, of the public officer’s duties;
- (b) carries on regulated activities with respect to which the public officer’s organisation has a role; or
- (c) has a contractual or similar relationship with the public officer’s organisation.

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

- (a) is received as a normal expression of courtesy or protocol;
- (b) is within the customary standards that normally accompany the public officer’s position;
- (c) is not monetary; or
- (d) does not exceed such value as may be prescribed.

(3) Subject to subsection (2), if a public officer accepts any gift or benefit, the public officer shall, within forty-eight hours of acceptance of such gift or benefit, or, if

not on duty, within forty-eight hours of resumption of duty, make a declaration of such acceptance, giving sufficient details of the nature of the gift or other benefit accepted, the donor and the circumstances under which it was accepted.

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

17. Every reporting authority shall maintain a register of— Register of gifts.

- (a) gifts received by public officers serving in the reporting entity;
- (b) gifts given by the reporting entity to public officers; and
- (c) donations received by the reporting entity for a specific cause.

18. (1) A public officer shall not accept any complimentary treatment for any purpose unless the complimentary treatment offered is required in his official capacity or in exceptional circumstances. Complimentary treatment.

(2) Where a public officer accepts a complimentary treatment in the exceptional circumstances referred to in subsection (1), the public officer shall, within forty-eight hours of acceptance of the complimentary treatment, or, if not on duty, within forty-eight hours of resumption of duty, make a declaration of such acceptance, giving sufficient detail on—

- (a) the nature of the complimentary treatment accepted;
- (b) the donor; and
- (c) the circumstances under which the complimentary treatment was accepted.

(3) A public officer who contravenes sub section (1) or (2) commits an offence.

19. (1) A public officer shall not be a party to or beneficiary of a contract for the supply of goods, works or services with his or her reporting entity. Contracts with public entities prohibited.

(2) A public officer shall not be a party to or beneficiary of a contract for the disposal of goods with his

or her reporting entity.

(3) A public officer shall not, in the exercise of official power, duty or function, award or influence the award of a contract in which the officer has a private interest.

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

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

Acquisition of interest in partnerships and private companies.

(2) Subsection (1) shall not apply to interests acquired through trading in the regulated financial markets provided that the public officer shall not acquire controlling shares in the entity.

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

21. (1) A public officer shall not—

Conflict in recruitment.

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

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

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

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

22. (1) A public officer shall not enter into an arrangement with a public officer of another reporting entity in furtherance of an action which would amount to concealing conflict of interest.

Collusion by public officers to conceal conflict of interest.

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

23. (1) A public officer shall, while serving in a reporting entity, not engage in any other gainful

Restricted gainful employment.

employment which—

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

(2) Where a public officer engages in gainful employment which is not prohibited under this Act, the officer 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 reporting authority and the Commission.

(3) A public officer shall not engage in any other gainful employment without permission from the reporting authority.

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

24. (1) The reporting authority of a reporting entity shall maintain a register of conflict of interest in the prescribed manner.

Register of conflict of interest.

(2) The register referred to in subsection (1) shall—

- (a) contain the particulars of the registrable interests of a public officer set out in the Second Schedule;
- (b) state the nature and extent of a conflict; and
- (c) be open to the public, subject to the provisions of the Access to Information Act, 2016, for inspection.

No. 31 of 2016.

25. (1) An appointed public officer, other than a Cabinet Secretary or a member of a County Executive Committee, shall not, in the performance of his duties—

Political neutrality.

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

- (c) engage in political activity that may compromise or be seen to compromise the political neutrality of his or her office.

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

26. (1) An appointed public officer shall not—

Public collections.

- (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 the integrity and impartiality of the public officer or interferes with the performance of the of the duties of the public officer; or
- (c) use official social media platforms or his place of work as a venue for soliciting or collecting funds.

(2) A public officer 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.

27. (1) A former public officer shall not—

Prohibitions after leaving office.

- (a) act for or on behalf of any person in connection with any specific proceeding, transaction, negotiation or case in which the State is a party and with respect to which the former public officer 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 officer;
- (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 any appointment to a board of directors of, or employment with, a private entity with which the public officer had significant official dealings

during the period of two years immediately preceding the termination of his service.

(2) The official dealings referred to in sub section (1) (d), may be either directly on the part of the public officer or through private affiliations.

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

28. A former public officer shall not, during the period of two years immediately after the termination of service represent, vouch for or defend any person, whether for remuneration or not, before any reporting entity with which the former public officer had direct and significant official dealings.

Prohibition against representing people before reporting entities.

29. (1) A former public officer may, upon making an application in writing, be exempted by the Commission from the provisions of section 27 and 28, on the grounds that—

Exemption of former public officers.

- (a) the former public officer was not directly involved in decision making in the reporting entity;
- (b) the former public officer had no access to important policy information in the reporting entity; or
- (c) the former public officer possesses expertise that is rare in the 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 officer who applied for the exemption.

PART IV—COMPLIANCE MEASURES

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

Duty to recuse.

(1A) Subsection (1) shall not apply to a member of Parliament or a county assembly.

(2) Where a public officer recuses himself under subsection (1)—

- (a) the recusal shall be recorded in the minutes of the

transaction in question; and

- (b) a reporting entity shall, within sixty days after a day on which a recusal took place, transmit a declaration of the recusal to the Commission in the prescribed form.

31. (1) Every public officer shall submit to their responsible Commission a declaration of his or her income, assets and liabilities and the income, assets and liabilities of his or her spouse and dependent children.

Declaration of income, assets and liabilities by public officers.

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

(3) Notwithstanding the generality of subsection (1), a public officer shall in a periodical or final declaration provide information on any material change in, or changes 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) appointment to or changes in directorships;
- (d) changes in membership in companies or partnerships and other legal entities howsoever established; or
- (e) changes in membership in social associations, societies, clubs, foundations or trusts.

31A. (1) This section determines what body is the responsible Commission for a public officer for the purposes of this Act.

Determination of responsible Commission.

(2) The committee of the National Assembly responsible for the ethics of members is the responsible Commission for—

- (a) the Cabinet;
- (b) members of the National Assembly;
- (c) the Director of Public Prosecutions;

- (d) the secretary to the Cabinet;
- (e) members of the Judicial Service Commission;
- (f) members of commissions and independent offices specified under Chapter Fifteen of the Constitution; and
- (g) members of the Ethics and Anti-Corruption Commission and staff of the Commission holding the rank of Deputy Director and above.

(3) The committee of the Senate responsible for the ethics of members is the responsible Commission for senators.

(4) The committee of a county assembly responsible for the ethics of members is the responsible Commission for—

- (a) its respective county executive committee;
- (b) members of the county assembly; and
- (c) members and the secretary of its respective County Public Service Board.

(5) The Public Service Commission is the responsible Commission for—

- (a) principal secretaries;
- (b) high commissioners, ambassadors and diplomatic and consular representatives;
- (c) public officers in respect of which it exercises appointive and disciplinary control, including advisors and personal staff; and
- (d) public officers who are officers, employees or members of state corporations that are public bodies.

(6) A County Public Service Board is the responsible Commission for—

- (a) public officers in respect of which it exercises appointive and disciplinary control, including advisors and personal staff; and
- (b) public officers who are officers, employees or members of county corporations and entities that are public bodies.

(7) The Judicial Service Commission is the

responsible Commission for judges, magistrates and the public officers in respect of which it exercises disciplinary control.

(8) The Parliamentary Service Commission is the responsible Commission for the public officers in respect of which it exercises disciplinary control.

(9) A County Assembly Service Board is the responsible Commission for the public officers in respect of which it exercises disciplinary control.

(10) The Teachers Service Commission established under the Teachers Service Commission Act is the responsible Commission for teachers registered under that Act.

Cap. 212.

(11) The Defence Council established under Article 241(5) of the Constitution is the responsible Commission for members of the armed forces, within the meaning of that Act.

(12) The National Intelligence Service Council established under the National Intelligence Service Act, 2012 is the responsible Commission for members of the National Intelligence Service established under that Act.

No. 28 of 2012.

(13) The National Police Service Commission is the responsible Commission for members of the National Police Service.

(14) The Witness Protection Advisory Board established under the Witness Protection Act, 2006 shall be the responsible commission for the members of the Witness Protection Agency established under that Act.

No. 16 of 2006.

(15) The responsible Commission for a public officer for which no responsible Commission is otherwise specified under this section is the commission, committee or other body prescribed by regulations.

(15) A body that is the responsible Commission for a public officer by virtue of exercising disciplinary control over that public officer remains the responsible Commission notwithstanding the delegation of any disciplinary powers with respect to that public officer.

31B. (1) Subject to subsection (2), the Public Service Commission may, by notice in the Gazette delegate to another person or body any of its powers and functions in

Certain delegations by Public Service Commission.

relation to declarations of income, assets and liabilities and enforcement of the code of conduct and with respect to specified classes of public officers over which it is the responsible Commission.

(2) The Public Service Commission may delegate powers and functions only with respect to public officers in a job group below job group "M" or its equivalent.

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

Timelines for declaration.

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

(3) A public officer shall, within thirty days after ceasing to be a public officer, submit a final declaration relating to his financial affairs as at the date he ceases to be a public officer.

33. (1) Upon receipt of the declaration made under section 31, a responsible Commission shall analyse the declaration to ascertain—

Clarification.

- (a) whether the declaration raises possible issues of conflict of interest; and
- (b) whether on the face of it, the declaration contains any discrepancy or inconsistency.

(2) The responsible Commission may, within six months of receipt of a declaration, request, in writing, for clarification from the public officer who submitted the declaration under section 31.

(3) A public officer from whom clarification is sought under sub section (2) shall, within thirty days of receipt of the request, provide the clarification to the Commission.

(4) 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.

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

34. (1) Subject to subsection (2), the contents of a declaration or clarification under this Act shall be accessible to any person upon application to the responsible Commission in the prescribed manner if the applicant shows to the satisfaction of the responsible Commission that he or she has a legitimate interest and good cause in furtherance of the objectives of this Act, in such declaration or clarification.

Access to
declarations.

(2) Notwithstanding subsection (1), a law enforcement agency shall, after due process, have access to the disclosures and compliance reports made by a public officer under this Act.

(3) The responsible Commission shall, before making an affirmative decision under this section, grant the affected party an opportunity to make representations on the matter.

(4) Any person who—

- (a) publishes or in any way makes public any information obtained under this section without prior permission of the responsible Commission;
- (b) knowingly republishes or otherwise disseminates or discloses to another person information to which this section relates where—

- (i) such information was disclosed to himself or to some other person; or

- (ii) such information was obtained in contravention of this Act,

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

35. The responsible Commission shall keep information collected under this Act concerning a person for at least five years after the person ceases to be a public officer.

Retention of information.

36. A public officer who fails to submit any information required under this Act, within the prescribed period, commits an offence.

Failure to submit information.

37. A public officer who submits information that the public officer knows, or ought to know, is false or misleading, commits an offence.

False information.

38. The Commission shall, within twelve months after the commencement of this Act, develop and publish in the Gazette, administrative mechanisms for the implementation of the requirements of this Part.

Publication of administrative mechanisms.

PART V— COMPLAINTS AND CONDUCT OF INVESTIGATIONS

39. (1) A person who alleges that a public officer has contravened any provision of this Act may lodge a complaint with the reporting authority or the Commission and the report shall be recorded in a register of complaints.

Lodging of complaints and investigations.

(2) The reporting authority or the Commission may investigate the complaint and determine whether the public officer has contravened this Act.

(2A) A reporting authority and the Commission shall not conduct concurrent investigations over the same complaint:

Provided that an investigation commenced against a public officer shall be concluded within ninety days.

(3) A reporting authority or the Commission may initiate an investigation on its own volition.

(4) A public officer who is under investigation under this section shall be informed of the allegations made and shall be given a reasonable opportunity to make a representation relating to the issue before the investigation is concluded.

(5) A person who lodges a complaint against a public officer shall be informed of any action taken or to be taken in respect of the complaint.

(6) Where an investigation under this section is initiated while the public officer is in office, the investigations may be continued even after the public officer has ceased to be in office.

(7) The reporting entity or a reporting authority may take disciplinary action against a public officer serving in a reporting entity.

40. (1) Despite section 48, the Commission or a reporting authority shall not commence investigations if—

Discretion in investigations.

- (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 or a reporting authority declines to commence investigations, the Commission or reporting authority shall inform the person who lodged the complaint and give reasons for the decision.

41. (1) Subject to the Constitution and any written law, a public officer may be suspended from office with full pay pending the investigation and determination of allegations made against that officer where such suspension is considered necessary.

Suspension from office.

(2) Despite sub section (1), the period of suspension of a State officer or public officer shall not exceed ninety days.

42. (1) The Commission may, pursuant to an investigation conducted under this Act—

Recommendations of the Commission.

- (a) recommend to a public entity to take disciplinary or other administrative action against a State or public officer alleged to have contravened the provisions of this Act;
- (b) recommend to a public entity, appointing authority or the public officer, to take such measures as may

be appropriate to ensure compliance with, or cessation of further violation of, the provisions of this Act;

- (c) recommend to any other relevant public body to take appropriate action against a state or public officer, an associate to a state or public officer or a company in which a state or public officer has a controlling interest in; or
- (d) recommend to the Director of Public Prosecutions the prosecution of a person who contravenes this Act.

(2) Where a public entity, Appointing Authority or public officer fails to implement the recommendations under subsection (1) (a) (b) or (c), the Commission may make an application before the High Court for appropriate orders requiring the public entity, authorized officer or public officer to comply.

PART VI—MISCELLANEOUS PROVISIONS

43. (1) A person who contravenes any provision of this Act for which no penalty is provided shall, upon conviction, be liable to—

General Penalty.

- (a) if the person is a natural person, a fine not exceeding four million shillings or to a term of imprisonment not exceeding ten years, or to both; or
- (b) if the person is a body corporate, a fine not exceeding ten million shillings; and

(2) In addition to the penalty under subsection (1), the person shall be liable to a further mandatory fine if as a result of the conduct that constituted the offence the person received a quantifiable benefit or any other person suffered a quantifiable loss.

(3) The mandatory fine referred to in subsection (2) shall be determined as follows—

- (a) the mandatory fine shall be equal to two times the amount of the benefit or loss described in subsection (2); or
- (b) if the conduct that constituted the offence resulted in both a benefit and loss described in subsection

(2), the mandatory fine shall be equal to two times the sum of the amount of the benefit and the amount of the loss.

44. A responsible Commission, the Commission or any person acting on their 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 a responsible Commission or the Commission—

Confidentiality.

- (a) essential for the purposes of carrying out of their functions and exercising the powers conferred on them under this Act; or
- (b) is required by any law enforcement agency, after due process.

45. (1) A person shall not be penalized in relation to any employment, profession, voluntary work, contract, membership of an organization, the holding of an office or in any other way, as a result of having made or proposed to make a disclosure of information which the person obtained in confidence in the course of that activity, if the disclosure is in the public interest.

Protection of person making disclosure.

(2) For purposes of subsection (1), a disclosure which is made to a law enforcement agency or to an appropriate public entity shall be deemed to be made in the public interest.

(3) A person shall make a disclosure under subsection (1) or (2) where such person has reasonable belief in the veracity of the information.

(4) Any person who provides false information maliciously intended to injure another person commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding three years, or to both.

(5) Disclosure of information under subsection (1) and (2) shall be information on conflict of interest.

(6) For the purpose of this section, a person is penalized if the person is dismissed, discriminated against, made the subject of reprisal or other form of adverse treatment or is denied any appointment, promotion or

advantage that otherwise would have been provided or any other personnel action provided under the law relating to whistle blower, and the imposition of any such penalty in contravention of this section shall be actionable as a tort.

46. 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.

Protection from liability.

47. Every reporting entity shall, within six months after the end of the financial year, file compliance reports with the Commission in the prescribed form.

Reports by reporting entities.

48. (1) The Attorney-General may make regulations for the better carrying out the provisions of this Act.

Regulations.

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

- (a) exceptional circumstances under which complimentary treatment may be accepted under this Act;
- (b) the mechanism and procedure for the opening, maintaining and publicizing of registers of conflict of interest; and
- (c) anything required to be prescribed under this Act.

PART VII—REPEALS, SAVINGS AND TRANSITIONAL PROVISIONS

49. The Public Officer Ethics Act, 2003 is repealed.

Repeal of Act No. 4 of 2003.

50. (1) Any statutory instrument made under the repealed Act shall remain in force, so far as it is not inconsistent with this Act, until it is revoked or repealed by a statutory instrument made under this Act, and shall be deemed for all purposes to have been made under this Act.

Saving and transitional provisions.

(2) Any criminal proceedings commenced under the provisions in the Third Schedule proposed for repeal before the commencement of this Act shall be continued.

51. The Leadership and Integrity Act, the Ethics and Anti-corruption Commission Act and the Anti-Corruption and Economic Crimes Act are amended in the manner

Consequential amendments.

specified in the Third Schedule.

FIRST SCHEDULE

FORM 1 [s. 31(2)]

DECLARATION OF INCOME ASSETS AND LIABILITIES

The attention of all public officers is drawn to their obligation to declare their Income, Assets and Liabilities under the Conflict of Interest Act (No.....). Public officials are advised to familiarize themselves with the provisions of the Act and the applicable Code of Conduct and Ethics for their respective reporting entity.

GUIDELINES ON THE COMPLETION OF THE DECLARATION OF INCOME, ASSETS AND LIABILITIES.

A public officer should read these guidelines carefully and follow the instructions in the form before completing it. When completing the form, a public officer shall write legibly, type or print the required information.

1. Where the responsible Commission has a web application for filing the declaration, a public officer may fill and submit the declaration online. In such a case, a physical signature or delivery acknowledgment slip will not be necessary.
2. The declaration is for the income, assets and liabilities of a public official, his spouse or spouses and his dependent children under the age of 18 years.
3. All public officers are required to complete and submit their declarations to their responsible Commission, unless their responsible Commission has delegated its functions to another body.
4. The obligation to make declarations applies to all state and public officers including those on leave, under disciplinary action, secondment and overseas assignments, unless the Attorney General has granted a dispensation exempting an officer or a certain category of public official from filing their declarations, for reasons to be published in the *Gazette*.
5. The responsibility of ensuring that a declaration has been received by the appropriate reporting authority or its agent lies on the public officer. Provided that where the officer sends the form under confidential cover directly to the responsible Commission, the officer should label the envelope with the words "Declaration of Incomes, Assets and Liabilities". The organization and job group of the officer should also be indicated on the envelope.

6. A public officer is required to complete an *initial* declaration within thirty days of appointment and the statement date of the declaration will be the date the officer became a public officer.
7. A public officer is required to make a *biennial* declaration on or before the 31st day of December every other year or as may be provided for under the Act. The statement date for the biennial declaration will be 1st of November of the year in which the declaration is required.
8. A public officer is required to make a *final* declaration within thirty days of ceasing to be a public officer. The statement date of the *final* declaration shall be the date the public official ceased to be a public official.
9. A person submitting a declaration or providing a clarification shall ensure that the declaration or clarification is correct to the best of their knowledge.
10. If space on the form is not adequate, additional information may be included on separate sheets, while clearly indicating the number and paragraph being continued.
11. For each form submitted, there will be an acknowledgment slip issued by the responsible Commission or its agent.
12. Where a declaration is submitted electronically in accordance with the regulations made under this Act or administrative procedures adopted by the responsible Commission or any other competent authority, the declaration shall be valid notwithstanding the absence of a signature or acknowledgement stamp or receipt or slip.
13. Income, assets and liabilities that a public officer may have outside Kenya, should be declared. Joint assets, properties, personal and business accounts within and outside Kenya should also be declared.
14. Where a public officer has contravened the provisions of the Code of Conduct and Ethics relating to the declaration of Income, Assets and Liabilities, appropriate disciplinary action will be taken by the responsible Commission, or other appropriate authority, in accordance with the applicable disciplinary procedures.

PART I: INFORMATION ON PUBLIC OFFICER**1.) Personal Information (Please tick (✓) where appropriate)**

(a) Declaration Status				
Initial <input type="checkbox"/> Biennial <input type="checkbox"/> Final <input type="checkbox"/>				
(b) Name of Public Officer (Self)				
Surname		First Name		Other Names
ID No.	Employee/Co-operative Society No.	PIN	Passport No.	Expiry Date of Passport
(c) Birth Information				
Date of Birth	Place of Birth	Nationality		Mode of acquisition of nationality (e.g., birth, registration, etc)
County	Sub-County	Location	Sub-location	Village
(d) Sex		(e) Marital Status		
Male <input type="checkbox"/> Female <input type="checkbox"/>		Married <input type="checkbox"/> Single <input type="checkbox"/> Other		
(f) Address				
Postal address	Residence (Area/County)	Telephone contacts	E-mail address	
(g) Employment Information				
Name of employer	Job Group/Grade/Scale	Date of First appointment	Date of Present appointment	

<i>Designation</i>	<i>Position</i>		<i>Rank</i>	
<i>Work Station</i>	<i>Sub-County</i>		<i>County</i>	
(h) Nature of employment				
<i>Permanent</i> <input type="checkbox"/>	<i>Temporary</i> <input type="checkbox"/>	<i>Contractual</i> <input type="checkbox"/>	<i>Others (specify)</i>	
<i>Offers of future employment</i>	<i>Membership of remunerative Boards and Committees</i>	<i>Date of Retirement (if on Permanent and/or Pensionable employment)</i>	<i>Expected date of expiry of contract or temporary employment or membership of remunerative Boards or Committees</i>	

2.) Information on spouse(s)

Surname	First name	Other names	ID No.	PIN	Occupation

3.) Particulars of dependent children under the age of 18 years

Surname	First name	Other names	Date of Birth

PART II: INCOME, ASSETS AND LIABILITIES

(1) Income

This includes but is not limited to-

(a) General Income;

(b) Business Income (e.g. from companies, partnerships etc.)

Type of income	Self	Spouse(s)	Dependant(s)	Total (Kshs.).

(2) Assets

(A) Financial assets

These include but are not limited to-

(a) Cash in Banks and Financial Institutions;

(b) Bonds, Stock and Shares (including shares in cooperatives, private and public companies)

	<i>Name and Branch of bank/Financial Institution / Organization in which held</i>	<i>Account Name/ CDSC account/ Share Certificate /SACCO Membership number</i>	<i>Account Number/ CDSC account/ Share Certificate/ SACCO Membership number.</i>	<i>Balance as at the beginning of statement period(Kshs. /No. of Shares/ Acquisition value (Kshs.)</i>	<i>Balance as at statement date(Kshs.) /Current Market value (Kshs.)</i>
<i>Self</i>					
<i>Spouse(s)</i>					
<i>Dependant(s)</i>					

(D) Intellectual property

	<i>Description</i>	<i>Certificate No./Registration No./Identifying No. (where applicable)</i>	<i>Approximate value Current market price (Kshs.)</i>
Self			
Spouse(s)			
Dependant(s)			

(3) Liabilities

These include but are not limited to-

- (a) Liabilities in banks / financial institutions (Business loans, personal loans, overdraft, mortgage, SACCO loans, etc)*
- (b) Other Liabilities (rent, levies, school fees, license fees, utility bills etc)*
- (c) Donations and charitable contributions*

	Description	Creditor name and address	Date incurred	Nationality of creditor	Location of security	Amount advanced (Gross value of credit) (Kshs.)	Outstanding amount as at statement date Current market price (Kshs.)
Self							
Spouse(s)							
Dependant (s)							

PART III: ADDITIONAL INFORMATION

Give any other information you may consider relevant and useful to your declaration

.....

.....

.....

.....

.....

PART IV: DECLARATION

I,, solemnly declare that the information I have given above is true, complete and correct to the best of my knowledge.

Date :

Signature of Public Official:

FOR OFFICIAL USE

- 1. Date of declaration:
- 2. Date of receipt of declaration:
- 3. Action taken:
 - (a) Acknowledgement Slip issued:.....
 - (b) Filed:
 - (c) Sent for verification / clarification:
 - (d) Comments:
 -
 -
 -
 -
 -

Name of Receiving Official :

Signature

DECLARATION OF INCOME, ASSETS AND LIABILITIES
ACKNOWLEDGEMENT SLIP

Name of the reporting entity:.....

Name of the reporting authority (*where applicable, e.g. Principal Secretary, Ministry of ...*):

Name of Public Official:

Personal/ Employee No.

Address:

Date of submission:

Delivered by:

Comments

.....

.....

.....

.....
.....

Name:

For: (The Commission or agent)

Signature :

Date.....

Stamp :

SECOND SCHEDULE. [s. 2 , S. 24(2)(a)]

REGISTRABLE INTERESTS

For purposes of Section 24 (2) the following are categories of income, assets and liabilities which a public official must declare—

(a) Income—

- (i) Windfall gains
- (ii) Rental income
- (iii) Business income from any trade or profession
- (iv) Employment Income
- (v) Farming income
- (vi) Dividends
- (vii) Interest
- (viii) Investment Returns
- (ix) Pensions and annuities
- (x) Royalties
- (xi) Cash or material awards
- (xii) Insurance bonuses
- (xiii) Grants
- (xiv) Any other income that is taxable

(b) Assets

- (i) Ownership of or interest in a scheme, fund or entity howsoever established or structured or administered;
- (ii) cash at hand and at bank;
- (iii) Land, whether developed or undeveloped;
- (iv) any trusts in respect of which a public official or a member of his or her family is a beneficiary;
- (v) works of art, antiques, precious metals, jewelry or collectibles;
- (vi) automobiles, marine vessels and aircrafts;
- (vii) treasury bonds and bills;

- (viii) 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;
- (ix) equity held in an entity that is not publicly listed or traded whether registered in Kenya or another jurisdiction;
- (x) retirement savings plans, education savings plans and retirement income funds;
- (xi) commodities, futures and foreign currencies held or traded for speculative purposes;
- (xii) stock options, warrants, rights and similar instruments registered retirement savings plans, education savings plans, insurance and other life saving plans, annuities;
- (xiii) investments in mutual funds;
- (xiv) primary and secondary residences, recreational property, farmland and buildings;
- (xv) personal loans of not less than Ksh.100,000 receivable from relatives and other persons;
- (xvi) debts owed to the public official including by previous employer, client or partner; public and private sector debt financing not guaranteed by a level of government, such as university and hospital debt financing.

(c) Liabilities—

- (i) Secured and unsecured loans;
- (ii) Mortgages;
- (iii) Debts owed by the official;
- (iv) Outstanding imprest due to the Government;
- (v) Outstanding Salary advance.

THIRD SCHEDULE [s.51].
CONSEQUENTIAL AMENDMENTS

Written Law	Provision	Amendment
The Anti-Corruption and Economic Crimes Act No.3 of 2003	Section 42	Delete
The Ethics and Anti-corruption Commission Act, No. 22 of 2011.	Section 11	Amended in subsection (1) by inserting the following new paragraph immediately after paragraph (l)— (k) perform any other functions and exercise any other powers conferred by an Act of Parliament.
The Leadership and Integrity Act, No. 19 of 2012.	Section 2 (2)	Delete
	Section 6 (3)	Delete.
	Section 6 (4)	Delete
	Section 13(1)(a)	Delete and substitute therefor the following new paragraph— 13. (1)(a) demonstrate honesty in the conduct of public affairs;
	Section 14	Delete
	Section 16	Delete
	Section 17	Delete
	Section 18	Delete
	Section 23	Delete
	Section 26	Delete
	Section 27	Delete
	Section 28	Delete
Section 52	Delete and substitute therefor the following new section—	

		<p>52. Pursuant to Article 80(c) of the Constitution, the provisions of Chapter Six of the Constitution and this Act shall apply to all public officers as if they were State officers.</p>
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I certify that this printed impression is a true copy of the Bill passed by the National Assembly on Thursday, 30th November, 2023.

Clerk of the National Assembly

Endorsed for presentation to the Senate in accordance with the provisions of Standing Order 142 of the National Assembly.

Speaker of the National Assembly

PRINTED BY THE CLERK OF THE NATIONAL ASSEMBLY

Annexure **4**

**Senate Amendments to
The Conflict of Interest Bill**
(National Assembly Bill No. 12 of 2023)



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (THIRD SESSION)

THE SENATE

MESSAGES

MESSAGE TO THE NATIONAL ASSEMBLY

No. 23 of 2024

**PASSAGE OF THE CONFLICT OF INTEREST BILL (NATIONAL ASSEMBLY
BILLS NO. 12 OF 2023)**

PURSUANT to Article 110 (4) of the Constitution and the provisions of Standing Orders 46 (1) and 161 (1) of the Senate, I hereby convey the following Message from the Senate –

WHEREAS, the Conflict of Interest Bill (National Assembly Bills No. 12 of 2023) was published vide Kenya Gazette Supplement No. 41 of 3rd April, 2023 as a Bill to provide for the management and regulation of conflict of interest and for connected purposes;

AND WHEREAS, the National Assembly considered the said Bill and passed it on Thursday, 30th November, 2023 **with amendments** and forwarded the Bill to the Senate for consideration;

AND WHEREAS, the Senate on Thursday, 16th May, 2024 considered and **passed** the said Bill, **with amendments** as in the schedule of amendments attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 112 (1) (b) of the Constitution and Standing Orders 46 (1) and 164 (c) of the Senate, I hereby convey the said decision of the Senate and seek concurrence of the National Assembly to the Senate amendments.

RT. HON. AMASON JEFFAH KINGI, EGH, MP
SPEAKER OF THE SENATE

20th May, 2024

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REPUBLIC OF KENYA

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PARLIAMENT OF KENYA
OFFICE OF THE CLERK OF THE SENATE

SENATE AMENDMENTS TO THE CONFLICT OF INTEREST BILL
(NATIONAL ASSEMBLY BILLS NO. 12 OF 2023)

The following amendments to **the Conflict of Interest Bill (National Assembly Bills No. 12 of 2023)** were passed by the Senate on Thursday, 16th May, 2024 –

CLAUSE 3

Clause 3 of the Bill amended in subclause (1) by deleting paragraph (c) and substituting therefor the following new paragraph –

- (c) enhance public confidence in the integrity of public office and delivery of public services.

CLAUSE 5

Clause 5 of the Bill amended by –

- (a) renumbering the existing clause as subclause (1);
- (b) deleting the words “and the Ethics and Anti-Corruption Commission” appearing immediately after the words “reporting authorities”; and
- (c) inserting the following new subclause immediately after the existing subclause –
 - (2) A reporting authority shall, for the purpose of subsection (1), –
 - (a) oversee the management of conflict of interest for all public officers it is responsible for;
 - (b) promote best practices for the management of conflict of interest; and
 - (c) conduct public awareness on the management of conflict of interest.

CLAUSE 6

Clause 6 of the Bill deleted.

CLAUSE 7

Clause 7 of the Bill amended–

Signature

A handwritten signature in black ink, appearing to be 'W. R. O.', written over a horizontal line.

- (a) in the marginal note by deleting the words "the Commission" appearing immediately after the words "powers of" and substituting therefor the words "a reporting entity";
- (b) by deleting the words "The Commission" appearing at the beginning of the introductory clause and substituting therefor the words "A reporting entity"; and
- (c) by deleting paragraph (c); and
- (d) by deleting paragraph (d) and substituting therefor the following new paragraph -

(d) co-operate and collaborate with other public entities or agencies in the management of conflict of interest and enforcement of this Act.

CLAUSE 11

Clause 11 of the Bill deleted.

CLAUSE 13

Clause 13 of the Bill amended in subclause (1) by deleting the words "interest of the officer or the interests" appearing immediately after the word "to further the" and substituting therefor the words "private interest of the officer or".

CLAUSE 15

Clause 15 of the Bill amended in subclause (1)(b) by deleting the word "offer" appearing immediately after the words "reporting authority any" and substituting therefor the word "acceptance".

CLAUSE 19

Clause 19 of the Bill amended-


- (a) in subclause (1) by deleting the words "or beneficiary of" appearing immediately after the words "be a party to"; and
- (b) in subclause (2) by deleting the words "or beneficiary of" appearing immediately after the words "be a party to".
- (c) by inserting the following subclause immediately after subclause (2) -

(2A) Despite subsection (2), a public officer may be a party to a contract for the disposal of goods in relation to a computer, a telephone or any other device capable of storing personal information and the computer, telephone or the device was for the exclusive use of the officer.

CLAUSE 20

Clause 20 of the Bill deleted.

Signature



CLAUSE 23

Clause 23 of the Bill deleted.

CLAUSE 24

Clause 24 of the Bill amended in subclause (2) by deleting paragraph (a).

CLAUSE 27

Clause 27 of the Bill deleted.

CLAUSE 28

Clause 28 of the Bill deleted.

CLAUSE 29

Clause 29 of the Bill deleted.

CLAUSE 30

Clause 30 of the Bill amended—

- (a) by deleting the heading to Part IV appearing immediately before the clause;
- (b) in subclause (1) by deleting the words “decision, debate or vote” appearing immediately after the words “from any discussion” and substituting therefor the words “or decision”; and
- (c) by deleting subclause (2) and substituting therefor the following new subclause —
 - (2) Where a public officer recuses himself under subsection (1), the recusal shall be recorded in the minutes of the transaction in question.

CLAUSE 31

Clause 31 of the Bill deleted.

CLAUSE 31A

Clause 31A of the Bill deleted.

CLAUSE 31B

Clause 31B of the Bill deleted.

Signature



CLAUSE 32

Clause 32 of the Bill deleted.

CLAUSE 33

Clause 33 of the Bill deleted.

CLAUSE 34

Clause 34 of the Bill deleted.

CLAUSE 35

Clause 35 of the Bill deleted.

CLAUSE 36

Clause 36 of the Bill deleted.

CLAUSE 37

Clause 37 of the Bill deleted.

CLAUSE 38

Clause 38 of the Bill deleted.

CLAUSE 39

Clause 39 of the Bill amended—

- (a) in subclause (1) by deleting the words “or the Commission” appearing immediately after the words “reporting authority”;
- (b) in subclause (2) by deleting the words “or the Commission” appearing immediately after the words “reporting authority”;
- (c) in subclause (2A) by deleting the words “and the Commission” appearing immediately after the words “reporting authority”; and
- (d) in subclause (3) by deleting the words “or the Commission” appearing immediately after the words “reporting authority”.

CLAUSE 40

Clause 40 of the Bill amended—

- (a) in subclause (1) by deleting the expression “section 48, the Commission or” appearing immediately after the word “despite” and substituting therefor the expression “section 39”; and

Signature



(b) by deleting subclause (2) and substituting therefor the following new subclause –

(2) If the reporting authority declines to commence an investigation, the reporting authority shall inform the person who lodged the complaint and give reasons for the decision.

CLAUSE 41

Clause 41 of the Bill amended by inserting the following new clause immediately after subclause (2) –

(3) If the Commission or a reporting entity fails to conclude the investigations within ninety days, the investigations shall be deemed to have been concluded at the expiry of the ninety days and the officer shall resume his or her duties.

CLAUSE 42

Clause 42 of the Bill amended–

- (a) by deleting the marginal note and substituting therefor the following new marginal note –
Decision of a reporting authority
- (b) in subclause (1) by –
- (i) deleting the words “The Commission” appearing at the beginning of the introductory clause and substituting therefor the words “A reporting authority”;
 - (ii) deleting the words “recommend to a public entity to” appearing at the beginning of paragraph (a);
 - (iii) deleting the words “public entity, appointing authority or the” appearing immediately after the words “recommend to a” paragraph (b); and
- (c) by deleting subclause (2).

CLAUSE 44

Clause 44 of the Bill amended by deleting the introductory clause and substituting therefor the following clause –

44. A reporting authority or any other person acting on their 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 reporting authority or that other person –

Signature



CLAUSE 46

The Bill amended by deleting clause 46 and substituting therefor the following clause -

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

CLAUSE 47

Clause 47 of the Bill deleted.

CLAUSE 49

Clause 49 of the Bill deleted.

CLAUSE 50

Clause 50 of the Bill amended by deleting subclause (1).

CLAUSE 51

The Bill amended by deleting clause 51 and substituting therefor the following clause -

51. The Anti-Corruption and Economic Crimes Act, the Public Officer Ethics Act and the Leadership and Integrity Act are amended in the manner specified in the Second Schedule.

FIRST SCHEDULE

The First Schedule of the Bill deleted.

SECOND SCHEDULE

The Second Schedule of the Bill deleted.

THIRD SCHEDULE

The Bill amended by deleting the Third Schedule and substituting therefor the following schedule -

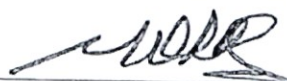
**THIRD SCHEDULE
CONSEQUENTIAL AMENDMENTS**

**Written
Law**

Provision

Amendment

Signature



The
Anti-
Corrupti
on and
Economi
c Crimes
Act, Cap
65.

Section 42 Delete

The
Public
Officer
Ethics
Act, Cap
185B.

Section 2

Delete the definition of the word "public officer"
and substitute therefor the following new
definition -

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

Section 3

Delete and substitute therefor the following new
section-

Determination
of responsible
Commission.

3. (1) This section determines
what body is the responsible
Commission for a public officer for
the purposes of this Act.

(2) The committee of the National
Assembly responsible for the ethics
of members is the responsible
Commission for—

(a) the Cabinet;

(b) members of the National
Assembly;

(c) the Director of Public
Prosecutions;

(d) the secretary to the
Cabinet;

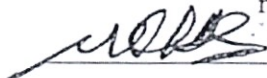
(e) members of the Judicial
Service Commission;

(f) members of
commissions and
independent offices specified
under Chapter Fifteen of the
Constitution; and

(g) members of the Ethics
and Anti-Corruption
Commission and staff of the
Commission holding the rank
of Deputy Director and above.

(3) The committee of the Senate
responsible for the ethics of

Signature



members is the responsible Commission for senators.

(4) The committee of a county assembly responsible for the ethics of members is the responsible Commission for —

- (a) its respective county executive committee;
- (b) members of the county assembly; and
- (c) members and the secretary of its respective County Public Service Board.

(5) The Public Service Commission is the responsible Commission for —

- (a) principal secretaries;
- (b) high commissioners, ambassadors and diplomatic and consular representatives;
- (c) public officers in respect of which it exercises appointive and disciplinary control including advisors and personal staff; and
- (d) public officers who are officers, employees or members of state corporations that are public bodies.

(6) A County Public Service Board is the responsible Commission for —

- (a) public officers in respect of which it exercises appointive and disciplinary control, including advisors and personal staff; and
- (b) public officers who are officers, employees or members of state corporations that are public bodies.

Cap. 212. (7) The Judicial Service Commission is the responsible Commission for judges, magistrates and the public officers in respect of which it exercises disciplinary control.

Signature



Cap. 206.

(8) The Parliamentary Service Commission is the responsible Commission for the public officers in respect of which it exercises disciplinary control.

(9) A county Assembly Service Board is the responsible Commission for the public officers in respect of which it exercises disciplinary control.

Cap. 79.

(10) The Teachers Service Commission established under the Teachers Service Commission Act is the responsible Commission for teachers registered under that Act.

(11) The Defence Council established under Article 241(5) of the Constitution is the responsible Commission for members of the armed forces.

(12) The National Intelligence Service Council established under the National Intelligence Service Act is the responsible Commission for members of the National Intelligence Service established under that Act.

(13) The National Police Service Commission is the responsible Commission for members of the National Police Service.

(14) The Witness Protection Advisory Board established under the Witness Protection Act is the responsible commission for the members of the Witness Protection Agency established under that Act.

(15) The responsible Commission for a public officer for which no responsible Commission is otherwise specified under this section is the commission, committee or other body prescribed by regulation.

(16) A body that is the responsible Commission for a public officer by virtue of exercising disciplinary control over that public officer remains the responsible Commission notwithstanding the

Signature



delegation of any disciplinary powers with respect to that public officer.

Section 12 Delete

Section 38 Delete and substitute therefor the following new section -

Referral for appropriate Action. **38.** A responsible Commission may, pursuant to an investigation conducted under this Act, refer a matter to any other relevant public body to take appropriate action.

The Leaders hip and Integrity Act, Cap 185C. Section 2(2) Delete.

Section 2(2) Delete

Section 6(3) Delete

Section 6(4) Delete

Section 13(1)(a) Delete and substitute therefor the following new paragraph -
(a) demonstrate honesty in the conduct of public affairs.

Section 14 Delete

Section 16 Delete

Section 17 Delete

Section 18 Delete

Section 23 Delete

Section 28 Delete

Section 52 Delete and substitute therefor the following new section -

52. Pursuant to Article 80(c) of the Constitution, the provisions of Chapter Six of the Constitution and this Act shall apply to all public officers as if they were State officers.

CLAUSE 2

Clause 2 of the Bill amended-

- (a) in the definition of the word "conflict of interest" by inserting the words "a discernible" immediately after the words "public official has";
- (b) by deleting the following definition of the word "Commission";
- (c) by deleting the definition of the word "complementary treatment";

Signature



- (d) by deleting the definition of the word “gainful employment”;
- (e) by deleting the definition of the word “registrable interest”;
- (f) by deleting the definition of the word “responsible Commission”;
- (g) by deleting the definition of the word “significant official dealing”; and
- (h) deleting the definition of the word “unexplained assets”.

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Annexure **5**

**Speakers' Communications
on Members of the
Mediation Committee**



REPUBLIC OF KENYA
THIRTEENTH PARLIAMENT - (THIRD SESSION)
THE NATIONAL ASSEMBLY
COMMUNICATION FROM THE CHAIR

_____ (No.040 of 2024) _____

ON

**APPOINTMENT OF MEMBERS TO A MEDIATION COMMITTEE
ON THE CONFLICT OF INTEREST BILL, 2023**

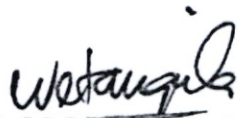
1. **Honourable Members**, as you are all aware, on Wednesday, 24th July 2024, the House **rejected** the Motion on consideration of the Senate amendments to the Conflict of Interest Bill (National Assembly Bill No. 12 of 2023). This decision consequently referred the Bill to a Mediation Committee in accordance with the provisions of Article 112 of the Constitution and Standing Order 149.
2. **Honourable Members**, Article 113 of the Constitution requires that whenever a Bill is referred to a mediation committee, the Speakers of the Houses of Parliament shall appoint an equal number of Members from both Houses to attempt to develop a version of the Bill for consideration by the Houses of Parliament.
3. In this regard, **Honourable Members**, having consulted with the Leader of the Majority Party and the Leader of the Minority Party, I have appointed the following Members to represent the National Assembly in the Mediation Committee—
 - (1) The Hon. George Murugara, CBS, MP;
 - (2) The Hon. Mwengi Mutuse, OGW, MP;
 - (3) The Hon. Silvanus Osoro, CBS, MP;

- (4) The Hon. John Makali, MP;
- (5) The Hon. Edward Muriu, MP;
- (6) The Hon. Naisula Lesuuda, MP;
- (7) The Hon. Bisau Kaikai, MP;
- (8) The Hon. Ken Chonga, MP; and
- (9) The Hon. Peter Masara, MP.

- 4. Honourable Members,** the aforementioned Members will await the appointment of Senators to the Mediation Committee for the Committee to be fully constituted, for purposes of commencing the mediation process. Once I receive a Message from the Senate to that effect, I will convey the same to the House.
- 5.** Thereafter, the Mediation Committee will embark on an attempt to develop a mediated version of the Bill in accordance with Article 113 of the Constitution.

The House is accordingly guided.

I thank you!



THE RT. HON. (DR.) MOSES F. M. WETANG'ULA, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY

Wednesday, 31st July 2024

REPUBLIC OF KENYA

Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
Fax: 2243694
E-mail: clerk.senate@parliament.go.ke



Clerk's Chambers
The Senate
Parliament Buildings
P. O. Box 41842-00100
Nairobi, Kenya.

OFFICE OF THE CLERK OF THE SENATE

Ref. SEN./L&P/MC.2024 (05)

7th August, 2024

Mr. Samuel Njoroge, CBS,
Clerk of the National Assembly,
Parliament Buildings,
P. O. Box 41842-00100,
NAIROBI.

Dear *Mr. Clerk*

APPOINTMENT OF SENATORS TO THE MEDIATION COMMITTEES ON THE NATIONAL RATING BILL (NATIONAL ASSEMBLY BILLS NO. 55 OF 2022) AND THE CONFLICT OF INTEREST BILL (NATIONAL ASSEMBLY BILLS NO. 12 OF 2023)

Reference is made to the above subject matter and your letters Ref. NA/DLP/TBO/MTS/2024/(019) dated 24th July, 2024 and NA/DLP/TBO/MTS/2024/(019) dated 31st July, 2024 respectively.

This is to inform you that the Speaker of the Senate, pursuant to Article 113 of the Constitution, has appointed the following Senators to the Mediation Committees on the National Rating Bill (National Assembly Bills No. 55 of 2022) and the Conflict of Interest Bill (National Assembly Bills No. 12 of 2023), to attempt to develop versions of the two Bills that will be acceptable to both Houses:-

A. The National Rating Bill (National Assembly Bills No. 55 of 2022) -

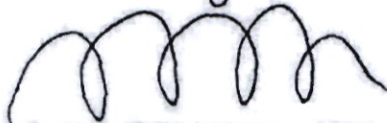
- 1) Sen. John Methu Muhia, MP;
- 2) Sen. (Dr.) Steve Ltumbesi Lelegwe, CBS, MP;
- 3) Sen. William Kipkorir Cheptumo, MP;
- 4) Sen. Wahome Wamatinga, MP;
- 5) Sen. Mariam Sheikh Omar, MP;
- 6) Sen. Issa Boy Juma, MP;
- 7) Sen. Johnes Mwaruma, MP;
- 8) Sen. Agnes Kavindu Muthama, MP; and
- 9) Sen. Beatrice Akinyi Ogolla, MP.

B. The Conflict of Interest Bill (National Assembly Bills No. 12 of 2023)

- 1) Sen. Omogeni Erick Okong'o, SC, MP;
- 2) Sen. Faki Mohammed Mwinyihaji, CBS, MP;

- 3) Sen. Maanzo Daniel Kitonga, MP;
- 4) Sen. Asige Crystal Kegehi, MP;
- 5) Sen. Orwoba Gloria Magoma, MP;
- 6) Sen. Mungatana Danson Buya, MGH, MP;
- 7) Sen. Nyutu Joe, MP;
- 8) Sen. Chute Mohamed Said, MP; and
- 9) Sen. Sigei Wakili Hillary Kiprotich, MP

Yours truly,



**J. M. NYEGENYE, CBS,
CLERK OF THE SENATE.**

Copy to: The Rt. Hon. Amason Jeffah Kingi, EGH, MP,
Speaker of the Senate,
Parliament Buildings,
NAIROBI.

Telegraphic Address
"Bunge", Nairobi
Telephone:+254 20 2848000/327
E-mail:speaker.senate@parliament.go.ke



*Mr. I. Mbatia SCA
Please process
07/08/2024*

The Senate
Parliament Buildings
P.O. Box 41842-00100
Nairobi, Kenya

M. Amolo (ADLS)

*ps deal
07/08/2024
618124*



(3-24)

OFFICE OF THE SPEAKER

INTERNAL MEMO

*NA/DLP/TBO/MTS/2024/019
of 31st July 2024*

From : Director, Speaker's Office
To : Director, Legislative and Procedural Services
Date : 6th August, 2024

SUBJECT : NOMINATION OF SENATORS TO THE MEDIATION COMMITTEE ON THE CONFLICT OF INTEREST BILL

The above subject matter refers.

The Speaker of the Senate has appointed the following Senators to represent Senate to the Mediation Committee on the Conflict of Interest Bill (National Assembly Bills No. 12 of 2023).

1. Sen. Mogeni Erick Okongo, SC, MP
2. Sen. Faki Mohamed Mwinyihaji, MP
3. Sen. Maanzo Daniel Kitonga, MP
4. Sen. Crystal Asige, MP
5. Sen. Orwoba Magoma Gloria, MP
6. Sen. Mungatana Danson Buya, MP
7. Sen. Joe Nyutu, MP
8. Sen. Chute Mohamed Said, MP
9. Sen. Sigei Wakili Hillary Kiprotich, MP

This is forwarded for your further action.

BENEDICT FURAHA

*Ms. Cherop (CAI)
Please deal.
E. Mbatia
07-08-24*

Annexure **6**

**Mediated Version of The
Conflict of Interest Bill
(National Assembly Bill No. 12 of 2023)
(as AGREED by the
Mediation Committee,
on December 3rd, 2024)**



REPUBLIC OF KENYA

PARLIAMENT

NATIONAL ASSEMBLY BILLS

(Bill No. 12 of 2023)

THE CONFLICT OF INTEREST BILL, 2023

(A version of the Conflict of Interest Bill, 2023 (National Assembly Bill No. 12 of 2023) as agreed on 3rd December, 2024 by a mediation committee appointed pursuant to Article 113 of the Constitution)

N.A./B/No. 12/2023

THE CONFLICT OF INTEREST BILL, 2023

ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

- 1—Short title.
- 2—Interpretation.
- 3—Objects of the Act.
- 4—Application of the Act.

PART II—ADMINISTRATION

- 5—Administration of the Act.
- 6—Functions of the Commission.
- 7—Powers of the Commission.

PART III—CONFLICT OF INTEREST

- 8—Conflict of interest.
- 9—Obligation to avoid conflict of interest.
- 10—Conflict of interest in decision making.
- 11—Participation in proceedings before Parliament or county assembly.
- 12—Preferential treatment.
- 13—Misuse of official information.
- 14—Undue influence.
- 15—Offers of outside employment.
- 16—Gifts and other benefits.
- 17—Register of gifts.
- 18—Complimentary treatment.
- 19—Contracts with public entities prohibited.
- 20—Acquisition of interest in partnerships and private companies.
- 21—Conflict in recruitment.
- 22—Collusion by public officers to conceal conflict of interest.

- 23—Restricted gainful employment.
- 24—Register of conflict of interest.
- 25—Political neutrality.
- 26—Public collections.
- 27—Prohibitions after leaving office.
- 28—Prohibition against representing people before reporting entities.
- 29—Exemption of former public officers.

PART IV—COMPLIANCE MEASURES

- 30—Duty to recuse.
- 31—Declaration of income, assets and liabilities by public officers.
- 32—Determination of responsible Commission.
- 33—Certain delegations by Public Service Commission.
- 34—Timelines for declaration.
- 35—Clarification.
- 36—Access to declarations.
- 37—Retention of information.
- 38—Failure to submit information.
- 39—False information.
- 40—Publication of administrative mechanisms.

PART V—COMPLAINTS AND CONDUCT OF INVESTIGATIONS

- 41—Lodging of complaints and investigations
- 42—Discretion in investigations.
- 43—Suspension from office.
- 44—Recommendations of the Commission.

PART VI—MISCELLANEOUS PROVISIONS

- 45—General Penalty.
- 46—Confidentiality.

47—Protection of person making disclosure.

48—Protection from liability.

49—Reports by reporting entities.

50—Regulations.

**PART VII—REPEALS, SAVINGS AND
TRANSITIONAL PROVISIONS**

51—Repeal of Cap. 185B.

52—Saving and transitional provisions.

53—Consequential amendments.

**FIRST SCHEDULE—DECLARATION OF INCOME,
ASSETS AND LIABILITIES**

**SECOND SCHEDULE—REGISTRABLE
INTERESTS**

**THIRD SCHEDULE—CONSEQUENTIAL
AMENDMENTS**

THE CONFLICT OF INTEREST BILL, 2023

A Bill for

AN ACT of Parliament to provide for the management and regulation of conflict of interest and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Conflict of Interest Act, 2023. Short title.

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

“accounting officer” has the meaning assigned to it under section 2 of the Public Finance Management Act; Cap. 412A.

“Commission” means the Ethics and Anti-Corruption Commission established under section 3 of the Ethics and Anti-Corruption Commission Act; Cap. 7H.

“complimentary treatment” means a treat offered free of charge as a favour or out of courtesy by a person who has significant official dealings with a public entity and includes offers for travel, holiday, hospitality, training, scholarship or medical treatment;

“conflict of interest” means a conflict between the public duty and private interests of a public official, in which the public official has private capacity interests that could improperly influence the performance of his official duties and responsibilities;

“gainful employment” means work that a person pursues and performs for money or other form of compensation or remuneration;

“official duty” means any task that a public officer is mandated to perform within the specific scope of his or her employment as defined by a contract of employment, an Act of Parliament or the Constitution;

“private interest” means a personal benefit, privilege, exemption or advantage that a public officer or a person affiliated to a public officer may gain from the office that the public officer holds and which may influence the judgement of the public officer in the exercise of a public

duty, but does not include interest in a decision or matter that—

- (a) is of general application;
- (b) affects a public officer as a member of a broad class of persons; or
- (c) concerns the remuneration or benefits received by virtue of being a public officer;

“public officer” has the meaning assigned to it by Article 260 of the Constitution;

“registrable interests” means the interests set out in the Second Schedule;

“reporting authority” in relation to a public officer, means an office or body that is responsible for the public officer for the purposes of this Act and includes an accounting officer, a person who exercises executive control over the resources of the entity or any office or entity exercising a function delegated by the Commission;

“reporting entity” means—

- (a) a state organ;
- (b) the national government or any organ or department of the national government;
- (c) a county government or any organ or department of a county government;
- (d) a state corporation within the meaning of State Corporations Act; Cap. 446.
- (e) a public school within the meaning of the Basic Education Act; Cap. 211.
- (f) a public university within the meaning of the Universities Act; Cap. 210.
- (g) a company owned by the National Government or a county government;
- (h) a body that uses public assets in any form of contractual undertakings including public private partnerships;
- (i) a company in which the national or county government has controlling shares in accordance

with section 125 of the Companies Act;

- (j) a college or other educational institution maintained or assisted out of public funds;
- (k) an entity which renders a service involving the collection or administration of a levy, fee or funds authorized by legislation;
- (l) any entity that uses public money in the delivery of government programmes or services, whether for profit or not;

“responsible Commission” in relation to a public officer, means the entity determined under section 32 to be the responsible Commission in relation to a public officer;

“significant official dealing” means an engagement with an entity by a public officer at a level which, in ordinary circumstances, and taking into account the totality of the circumstances, would be construed as capable of influencing the decision of the public officer in relation to the entity, including—

- (a) engagement as an employee or agent of an entity;
- (b) undertaking a consultancy for or on behalf of an entity;
- (c) rendering of advice to an entity, whether directly or indirectly, and whether formally requested or not;
- (d) any dealing with an entity in a contractual relationship for supply of goods, services or works; or
- (e) any engagement where the public officer exercises regulatory or oversight functions over the affairs of the entity, in whatever form;

“unexplained asset” means an asset of a person whose value is disproportionate to his or her known sources of income at or around that time and for which there is no satisfactory explanation; and

“windfall gain” includes unexpected income which may result from inheritance, lottery prizes, gambling winnings, payroll bonuses, proceeds from insurance claims,

settlement from lawsuits, discoveries from treasure hunting or bounty rewards.

3. (1) The object of this Act is to provide for the management of conflict of interest in the discharge of official duties.

Objects of the Act.

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

- (a) promote objectivity and impartiality in official decision making;
- (b) ensure that the integrity of decision makers is not compromised by private interests;
- (c) enhance integrity of public office and public confidence in the delivery of public services;
- (d) provide a framework for the regulation and management of real, apparent or potential conflict between public interest and private interest;
- (e) provide an institutional framework for the management of conflict of interest.
- (f) enhance accountability to the public for decisions and actions by public officers in execution of their duties; and
- (g) promote selfless service by public officers based solely on the public interest.

4. This Act shall apply to all reporting entities and public officers.

Application of the Act.

PART II— ADMINISTRATION

5. This Act shall be administered by a reporting authority and the Ethics and Anti-Corruption Commission.

Administration of the Act.

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

Functions of the Commission.

- (a) oversee the management of conflict of interest for all public officers;

- (b) develop an effective system for reporting violation of this Act;
- (c) promote best practices and develop standards and guidelines for the management of conflict of interest;
- (d) receive and process requests related to the management of conflict of interest;
- (e) conduct inquiries on matters of conflict of interest and make recommendations to the relevant bodies;
- (f) provide advisory opinions on conflict of interest on its own volition or on request by any person;
- (g) conduct public awareness on the management of conflict of interest;
- (h) analyse, seek for clarification and verify conflict of interest disclosures; and
- (i) develop policies, standards, guidelines and promote best practices for the management of conflict of interest.

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

Powers of the Commission.

- (a) conduct investigations on its own initiative or on a complaint made by a member of the public;
- (b) request for and obtain professional assistance or advice from any person or organization as it considers appropriate;
- (c) delegate to a reporting authority, any other person or body, by notice in the *Gazette*, any of its powers or functions under this Act in respect to classes of public officers specified by the Commission and that person or body shall be deemed to be responsible for the administration and management of conflict of interest; and
- (d) 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 this Act.

PART III—CONFLICT OF INTEREST

8. A public officer is in conflict of interest if the public officer—

Conflict of interest.

- (a) exercises an official power, duty or function to further his or her private interests or the private interests of another person; or
- (b) fails to declare and register a private interest that is in conflict with the public interest.

9. A public officer shall—

Obligation to avoid conflict of interest.

- (a) take reasonable steps to avoid any real, apparent or potential conflict of interest in connection with the official duties of the public officer; and
- (b) disclose details of any private interest of the public officer that affects the official duties of the public officer.

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

Conflict of interest in decision making.

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

11. (1) Subject to the Constitution or any other relevant written law, a member of Parliament or a member of a county assembly shall declare any direct pecuniary interest or benefit of whatever nature in any—

Participation in proceedings before Parliament or county assembly.

- (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; or
- (c) transaction or communication which the member may have with another person or other members of the relevant House of Parliament or county assembly, as the case may be.

(2) A member of Parliament or a member of a county

assembly who makes a declaration under subsection (1) shall not use any information obtained by the member in the discharge of the member's constitutional role to advance the member's private interests.

(3) The Speaker or a Chairperson of a committee of the relevant House of Parliament or county assembly may allow a member of Parliament or a member of a county assembly to speak to a matter under deliberation after considering the nature, extent, and effect of the interest declared under subsection (1).

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

12. (1) A public officer shall not, in the exercise of an official power or in the performance of a 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.

Preferential treatment.

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

(3) Despite subsection (1), no proceedings shall lie against a public officer who grants special consideration, treatment or advantage in good faith.

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

Misuse of official information.

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

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

Undue influence.

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

15. (1) A public officer shall—

Offers of outside employment.

(a) not allow himself or herself to be influenced in the exercise of an official power or performance of a

duty or function by plans for or any offer of outside employment; and

- (b) disclose in writing to the reporting authority any offer of outside employment that could place the officer in a situation of conflict of interest, within seven days of receiving the offer.

(2) A public officer who accepts an offer of outside employment shall, within seven days of acceptance, disclose his or her acceptance of the offer in writing to the reporting authority.

(3) For purposes of this section “offer of outside employment” means a formal proposal made to a public officer to work for or privately do business with an entity which has official dealings with the reporting entity in which the public officer is serving.

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

16. (1) A public officer shall not accept or request a gift or favour from a person who—

Gifts and other benefits.

- (a) has an interest that may be affected by the carrying out, or not carrying out, of the public officer’s duties;
- (b) carries on regulated activities with respect to which the public officer’s organisation has a role; or
- (c) has a contractual or similar relationship with the public officer’s organisation.

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

- (a) is received as a normal expression of courtesy or protocol;
- (b) is within the customary standards that normally accompany the public officer’s position;
- (c) is not monetary; or
- (d) does not exceed such value as may be prescribed.

(3) Subject to subsection (2), if a public officer accepts any gift or benefit, the public officer shall, within

forty-eight hours of acceptance of such gift or benefit, or, if not on duty, within forty-eight hours of resumption of duty, make a declaration of such acceptance, giving sufficient details of the nature of the gift or other benefit accepted, the donor and the circumstances under which it was accepted.

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

17. Every reporting authority shall maintain a register of—

Register of gifts.

- (a) gifts received by public officers serving in the reporting entity;
- (b) gifts given by the reporting entity to public officers; and
- (c) donations received by the reporting entity for a specific cause.

18. (1) A public officer shall not accept any complimentary treatment for any purpose unless the complimentary treatment offered is required in his or her official capacity or in exceptional circumstances.

Complimentary treatment.

(2) Where a public officer accepts a complimentary treatment in the exceptional circumstances referred to in subsection (1), the public officer shall, within forty-eight hours of acceptance of the complimentary treatment, or, if not on duty, within forty-eight hours of resumption of duty, make a declaration of such acceptance, giving sufficient detail on—

- (a) the nature of the complimentary treatment accepted;
- (b) the donor; and
- (c) the circumstances under which the complimentary treatment was accepted.

(3) A public officer who contravenes sub section (1) or (2) commits an offence.

19. (1) A public officer shall not be a party to or beneficiary of a contract for the supply of goods, works or services with his or her reporting entity.

Contracts with public entities prohibited.

(2) A public officer shall not be a party to or

beneficiary of a contract for the disposal of goods with his or her reporting entity.

(3) A public officer shall not, in the exercise of official power, duty or function, award or influence the award of a contract in which the officer has a private interest.

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

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

Acquisition of interest in partnerships and private companies.

(2) Subsection (1) shall not apply to interests acquired through trading in the regulated financial markets provided that the public officer shall not acquire controlling shares in the entity.

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

21. (1) A public officer shall not—

Conflict in recruitment.

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

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

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

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

22. (1) A public officer shall not enter into an arrangement with a public officer of another reporting entity in furtherance of an action which would amount to concealing conflict of interest.

Collusion by public officers to conceal conflict of interest.

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

23. (1) A public officer shall, while serving in a

Restricted gainful

reporting entity, not engage in any other gainful employment which—

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

(2) Where a public officer engages in gainful employment which is not prohibited under this Act, the officer 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 reporting authority and the Commission.

(3) A public officer shall not engage in any other gainful employment without permission from the reporting authority.

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

24. (1) The reporting authority of a reporting entity shall maintain a register of conflict of interest in the prescribed manner.

Register
conflict
interest. of
of

- (2) The register referred to in subsection (1) shall—
 - (a) contain the particulars of the registrable interests of a public officer set out in the Second Schedule;
 - (b) state the nature and extent of a conflict; and
 - (c) be open to the public, subject to the provisions of the Access to Information Act, for inspection.

Cap. 7M.
Political
neutrality.

25. (1) An appointed public officer, other than a Cabinet Secretary or a member of a County Executive Committee, shall not, in the performance of his duties—

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

(c) engage in political activity that may compromise or be seen to compromise the political neutrality of his or her office.

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

26. (1) An appointed public officer shall not—

Public collections.

(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 the integrity and impartiality of the public officer or interferes with the performance of the duties of the public officer; or

(c) use official social media platforms or his or her place of work as a venue for soliciting or collecting funds.

(2) A public officer shall not use his or her 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.

27. (1) A former public officer shall not—

Prohibitions after leaving office.

(a) act for or on behalf of any person in connection with any specific proceeding, transaction, negotiation or case in which the State is a party and with respect to which the former public officer had acted for, or provided advice to the State;

(b) be engaged by or act for or against his or her former employer for at least two years after ceasing to be a public officer;

(c) use information obtained in his or her official capacity and which is not available to the public to further the interests of another person or entity; or

(d) accept any appointment to a board of directors of, or employment with, a private entity with which the public officer had significant official dealings

during the period of two years immediately preceding the termination of his or her service.

(2) The official dealings referred to in sub section (1) (d), may be either directly on the part of the public officer or through private affiliations.

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

28. A former public officer shall not, during the period of two years immediately after the termination of service represent or defend any person, whether for remuneration or not, before any reporting entity with which the former public officer had direct and significant official dealings.

Prohibition
against
representing
people before
reporting entities.

29. (1) A former public officer may, upon making an application in writing, be exempted by the Commission from the provisions of section 27 and 28, on the grounds that—

Exemption of
former public
officers.

- (a) the former public officer was not directly involved in decision making in the reporting entity;
- (b) the former public officer had no access to important policy information in the reporting entity; or
- (c) the former public officer possesses expertise that is rare in the 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 officer who applied for the exemption.

PART IV—COMPLIANCE MEASURES

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

Duty to recuse.

(2) Subsection (1) shall not apply to a member of Parliament or a county assembly.

(3) Where a public officer recuses himself or herself under subsection (1)—

- (a) the recusal shall be recorded in the minutes of the transaction in question; and

(b) a reporting entity shall, within sixty days after a day on which a recusal took place, transmit a declaration of the recusal to the Commission in the prescribed form.

31. (1) Every public officer shall submit to their responsible Commission a declaration of his or her income, assets and liabilities and the income, assets and liabilities of his or her spouse and dependent children under the age of eighteen years.

Declaration of
income, assets and
liabilities by
public officers

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

(3) Notwithstanding the generality of subsection (1), a public officer shall in a periodical or final declaration provide information on any material change in, or changes 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.

32. (1) This section determines what body is the responsible Commission for a public officer for the purposes of this Act.

Determination of
responsible
Commission

(2) The committee of the National Assembly responsible for the ethics of members is the responsible Commission for—

- (a) the Cabinet;
- (b) Members of the National Assembly;
- (c) the Director of Public Prosecutions;
- (d) the Secretary to the Cabinet;
- (e) members of the Judicial Service Commission;
- (f) members of commissions and independent offices specified under Chapter Fifteen of the Constitution; and
- (g) members of the Ethics and Anti-Corruption Commission and staff of the Commission holding the rank of Deputy Director and above.

(3) The committee of the Senate responsible for the ethics of members is the responsible Commission for Senators.

(4) The committee of a county assembly responsible for the ethics of members is the responsible Commission for—

- (a) its respective county executive committee;
- (b) members of the county assembly; and
- (c) members and the secretary of its respective County Public Service Board.

(5) The Public Service Commission is the responsible Commission for—

- (a) principal secretaries;
- (b) high commissioners, ambassadors and diplomatic and consular representatives;
- (c) public officers in respect of which it exercises appointive and disciplinary control, including advisors and personal staff; and
- (d) public officers who are officers, employees or members of state corporations that are public bodies.

(6) A County Public Service Board is the responsible Commission for—

- (a) public officers in respect of which it exercises appointive and disciplinary control, including advisors and personal staff; and
- (b) public officers who are officers, employees or members of county corporations and entities that are public bodies.

(7) The Judicial Service Commission is the responsible Commission for judges, magistrates and the public officers in respect of which it exercises disciplinary control.

(8) The Parliamentary Service Commission is the responsible Commission for the public officers in respect of which it exercises disciplinary control.

(9) A County Assembly Service Board is the responsible Commission for the public officers in respect of which it exercises disciplinary control.

(10) The Teachers Service Commission established under the Teachers Service Commission Act is the

responsible Commission for teachers registered under that Act.

(11) The Defence Council established under Article 241(5) of the Constitution is the responsible Commission for members of the Kenya Defence Forces.

(12) The National Intelligence Service Council established under the National Intelligence Service Act is the responsible Commission for members of the National Intelligence Service established under that Act.

Cap. 206.

(13) The National Police Service Commission is the responsible Commission for members of the National Police Service.

(14) The Witness Protection Advisory Board established under the Witness Protection Act shall be the responsible commission for the members of the Witness Protection Agency established under that Act.

Cap. 79.

(15) The responsible Commission for a public officer for which no responsible Commission is otherwise specified under this section is the commission, committee or other body prescribed by regulations.

(15) A body that is the responsible Commission for a public officer by virtue of exercising disciplinary control over that public officer remains the responsible Commission notwithstanding the delegation of any disciplinary powers with respect to that public officer.

33. (1) Subject to subsection (2), the Public Service Commission may, by notice in the Gazette delegate to another person or body any of its powers and functions in relation to declarations of income, assets and liabilities and enforcement of the code of conduct and with respect to specified classes of public officers over which it is the responsible Commission.

Certain delegations by Public Service Commission.

(2) The Public Service Commission may delegate powers and functions only with respect to public officers in a job group below job group "M" or its equivalent.

34. (1) A public officer shall, within thirty days of appointment as a public officer, submit an initial declaration relating to his or her financial affairs for the period of one year prior to appointment.

Timelines for declaration.

(2) Every public officer shall, once every two years

within the period of service, submit a declaration relating to the financial affairs of the public officer as at first day of November of the declaration year, and such declaration shall be made within the month of December next following.

(3) A public officer shall, within thirty days after ceasing to be a public officer, submit a final declaration relating to his financial affairs as at the date he ceases to be a public officer.

35. (1) Upon receipt of the declaration made under section 31, a responsible Commission shall analyse the declaration to ascertain—

Clarification.

- (a) whether the declaration raises possible issues of conflict of interest; and
- (b) whether on the face of it, the declaration contains any discrepancy or inconsistency.

(2) The responsible Commission may, within six months of receipt of a declaration, request, in writing, for clarification from the public officer who submitted the declaration under section 31.

(3) A public officer from whom clarification is sought under sub section (2) shall, within thirty days of receipt of the request, provide the clarification to the Commission.

(4) 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.

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

36. (1) Subject to subsection (2), the contents of a declaration or clarification under this Act shall be accessible to any person upon application to the responsible Commission in the prescribed manner if the applicant shows to the satisfaction of the responsible Commission that he or she has a legitimate interest and good cause in furtherance of the objectives of this Act, in such declaration

Access to
declarations.

or clarification.

(2) Notwithstanding subsection (1), a law enforcement agency shall, after due process, have access to the disclosures and compliance reports made by a public officer under this Act.

(3) The responsible Commission shall, before making an affirmative decision under this section, grant the affected party an opportunity to make representations on the matter.

(4) Any person who—

(a) publishes or in any way makes public any information obtained under this section without prior permission of the responsible Commission;

(b) knowingly republishes or otherwise disseminates or discloses to another person information to which this section relates where—

(i) such information was disclosed to himself or herself or to some other person; or

(ii) such information was obtained in contravention of this Act,

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

37. The responsible Commission shall keep information collected under this Act concerning a person for at least five years after the person ceases to be a public officer.

Retention of information

38. A public officer who fails to submit any information required under this Act, within the prescribed period, commits an offence.

Failure to submit information

39. A public officer who submits information that the public officer knows, or ought to know, is false or misleading, commits an offence.

False information

40. The Commission shall, within twelve months after the commencement of this Act, develop and publish in the

Publication of administrative

Gazette, administrative mechanisms for the implementation of the requirements of this Part. mechanisms.

PART V— COMPLAINTS AND CONDUCT OF INVESTIGATIONS

41. (1) A person who alleges that a public officer has contravened any provision of this Act may lodge a complaint with the reporting authority or the Commission and the report shall be recorded in a register of complaints. Lodging of complaints and investigations.

(2) The reporting authority or the Commission may investigate the complaint and determine whether the public officer has contravened this Act.

(3) A reporting authority and the Commission shall not conduct concurrent investigations over the same complaint:

Provided that an investigation commenced against a public officer shall be concluded within ninety days.

(4) A reporting authority or the Commission may initiate an investigation on its own volition.

(5) A public officer who is under investigation under this section shall be informed of the allegations made and shall be given a reasonable opportunity to make a representation relating to the issue before the investigation is concluded.

(6) A person who lodges a complaint against a public officer shall be informed of any action taken or to be taken in respect of the complaint.

(7) Where an investigation under this section is initiated while the public officer is in office, the investigations may be continued even after the public officer has ceased to be in office.

(8) The reporting entity or a reporting authority may take disciplinary action against a public officer serving in a reporting entity.

(9) Where a reporting entity is unable to conduct or conclude an investigation against a public officer, the reporting authority may refer the matter to the Commission.

42. (1) Despite section 41, the Commission or a Discretion in investigations.

reporting authority 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 or a reporting authority declines to commence investigations, the Commission or reporting authority shall inform the person who lodged the complaint and give reasons for the decision.

43. (1) Subject to the Constitution and any written law, a public officer may be suspended from office with full pay pending the investigation and determination of allegations made against that officer where such suspension is considered necessary.

Suspension from office.

(2) Despite subsection (1), the period of suspension of a State officer or public officer shall not exceed ninety days.

(3) If the Commission or a reporting authority fails to conclude the investigations within ninety days, the investigations shall be deemed to have been concluded at the expiry of the ninety days and the officer shall resume his or her duties.

(4) Despite subsection (3), a court of competent jurisdiction may make an order extending the period for conducting investigations.

44. (1) The Commission may, pursuant to an investigation conducted by the Commission under this Act—

Recommendations of the Commission.

- (a) recommend to a reporting authority to take disciplinary or other administrative action against a State or public officer alleged to have contravened the provisions of this Act;
- (b) recommend to a public entity, appointing authority

or the public officer, to take such measures as may be appropriate to ensure compliance with, or cessation of further violation of, the provisions of this Act;

- (c) recommend to any other relevant public body to take appropriate action against a state or public officer, an associate to a state or public officer or a company in which a state or public officer has a controlling interest in; or
- (d) recommend to the Director of Public Prosecutions the prosecution of a person who contravenes this Act.

(2) Where a public entity, appointing authority or public officer fails to implement the recommendations under subsection (1) (a), (b) or (c), the Commission may make an application before the High Court for appropriate orders requiring the public entity, authorized officer or public officer to comply.

PART VI—MISCELLANEOUS PROVISIONS

45. (1) A person who contravenes any provision of this Act for which no penalty is provided shall, upon conviction, be liable to—

General Penalty

- (a) if the person is a natural person, a fine not exceeding four million shillings or to a term of imprisonment not exceeding ten years, or to both; or
- (b) if the person is a body corporate, a fine not exceeding ten million shillings; and

(2) In addition to the penalty under subsection (1), the person shall be liable to a further mandatory fine if as a result of the conduct that constituted the offence the person received a quantifiable benefit or any other person suffered a quantifiable loss.

(3) The mandatory fine referred to in subsection (2) shall be determined as follows—

- (a) the mandatory fine shall be equal to two times the amount of the benefit or loss described in subsection (2); or
- (b) if the conduct that constituted the offence resulted

in both a benefit and loss described in subsection (2), the mandatory fine shall be equal to two times the sum of the amount of the benefit and the amount of the loss.

46. A responsible Commission, the Commission or any person acting on their 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 a responsible Commission or the Commission—

Confidentiality.

- (a) essential for the purposes of carrying out of their functions and exercising the powers conferred on them under this Act; or
- (b) is required by any law enforcement agency, after due process.

47. (1) A person shall not be penalized in relation to any employment, profession, voluntary work, contract, membership of an organization, the holding of an office or in any other way, as a result of having made or proposed to make a disclosure of information which the person obtained in confidence in the course of that activity, if the disclosure is made in the public interest.

Protection of person making disclosure.

(2) For purposes of subsection (1), a disclosure which is made to a law enforcement agency or to an appropriate public entity shall be deemed to be made in the public interest.

(3) A person shall make a disclosure under subsection (1) or (2) where such person has reasonable belief in the veracity of the information.

(4) Any person who provides false information maliciously intended to injure another person commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding three years, or to both.

(5) Disclosure of information under subsection (1) and (2) shall be information on conflict of interest.

(6) For the purpose of this section, a person is penalized if the person is dismissed, discriminated against, made the subject of reprisal or other form of adverse

treatment or is denied any appointment, promotion or advantage that otherwise would have been provided or any other personnel action provided under the law relating to whistle blower, and the imposition of any such penalty in contravention of this section shall be actionable as a tort.

48. 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.

Protection from liability.

49. Every reporting entity shall, within six months after the end of the financial year, file compliance reports with the Commission in the prescribed form.

Reports by reporting entities.

50. (1) The Attorney-General may make regulations for the better carrying out the provisions of this Act.

Regulations.

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

- (a) exceptional circumstances under which complimentary treatment may be accepted under this Act;
- (b) the mechanism and procedure for the opening, maintaining and publicizing of registers of conflict of interest; and
- (c) anything required to be prescribed under this Act.

(3) For the purposes of Article 94(6) of the Constitution—

- (a) the purpose and objective of delegation under this section is to enable the Attorney-General to make regulations to provide for the better carrying into effect of this Act and to enable the Commission and the reporting authorities to discharge its functions more effectively;
- (b) the authority of the Attorney-General to make regulations under this Act shall be limited to bringing into effect the provisions of this Act and for the fulfilment of the objectives of this Act; and

- (c) the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act and the Statutory Instruments Act. Cap 2
Cap 2A

PART VII—REPEALS, SAVINGS AND TRANSITIONAL PROVISIONS

51. The Public Officer Ethics Act is repealed. Repeal of Cap 185B

52. (1) Any statutory instrument made under the repealed Act shall remain in force, so far as it is not inconsistent with this Act, until it is revoked or repealed by a statutory instrument made under this Act, and shall be deemed for all purposes to have been made under this Act. Saving and transitional provisions

(2) Any criminal proceedings commenced under the provisions in the Third Schedule proposed for repeal before the commencement of this Act shall be continued.

53. The Ethics and Anti-corruption Commission Act, the Anti-Corruption and Economic Crimes Act and the Leadership and Integrity Act are amended in the manner specified in the Third Schedule. Consequential amendments
Cap 7H
Cap 65
Cap 185C

FIRST SCHEDULE

[s. 31(2)]

FORM

DECLARATION OF INCOME ASSETS AND LIABILITIES

The attention of all public officers is drawn to their obligation to declare their Income, Assets and Liabilities under the Conflict of Interest Act (No.....). Public officials are advised to familiarize themselves with the provisions of the Act and the applicable Code of Conduct and Ethics for their respective reporting entity.

GUIDELINES ON THE COMPLETION OF THE DECLARATION OF INCOME, ASSETS AND LIABILITIES.

A public officer should read these guidelines carefully and follow the instructions in the form before completing it. When completing the form, a public officer shall write legibly, type or print the required information.

1. Where the responsible Commission has a web application for filing the declaration, a public officer may fill and submit the declaration online. In such a case, a physical signature or delivery acknowledgment slip will not be necessary.
2. The declaration is for the income, assets and liabilities of a public official, his spouse or spouses and his dependent children under the age of 18 years.
3. All public officers are required to complete and submit their declarations to their responsible Commission, unless their responsible Commission has delegated its functions to another body.
4. The obligation to make declarations applies to all state and public officers including those on leave, under disciplinary action, secondment and overseas assignments, unless the Attorney General has granted a dispensation exempting an officer or a certain category of public official from filing their declarations, for reasons to be published in the *Gazette*.
5. The responsibility of ensuring that a declaration has been received by the appropriate reporting authority or its agent lies on the public officer. Provided that where the officer sends the form under confidential cover directly to the responsible Commission, the officer should label the envelope with the words "Declaration of Incomes, Assets and Liabilities". The organization and job group of the officer should also be indicated on the envelope.

6. A public officer is required to complete an *initial* declaration within thirty days of appointment and the statement date of the declaration will be the date the officer became a public officer.
7. A public officer is required to make a *biennial* declaration on or before the 31st day of December every other year or as may be provided for under the Act. The statement date for the biennial declaration will be 1st of November of the year in which the declaration is required.
8. A public officer is required to make a *final* declaration within thirty days of ceasing to be a public officer. The statement date of the *final* declaration shall be the date the public official ceased to be a public official.
9. A person submitting a declaration or providing a clarification shall ensure that the declaration or clarification is correct to the best of their knowledge.
10. If space on the form is not adequate, additional information may be included on separate sheets, while clearly indicating the number and paragraph being continued.
11. For each form submitted, there will be an acknowledgment slip issued by the responsible Commission or its agent.
12. Where a declaration is submitted electronically in accordance with the regulations made under this Act or administrative procedures adopted by the responsible Commission or any other competent authority, the declaration shall be valid notwithstanding the absence of a signature or acknowledgement stamp or receipt or slip.
13. Income, assets and liabilities that a public officer may have outside Kenya, should be declared. Joint assets, properties, personal and business accounts within and outside Kenya should also be declared.
14. Where a public officer has contravened the provisions of the Code of Conduct and Ethics relating to the declaration of Income, Assets and Liabilities, appropriate disciplinary action will be taken by the responsible Commission, or other appropriate authority, in accordance with the applicable disciplinary procedures.

The Conflict of Interest Bill, 2023

1. Name of public officer		
(Surname)	(First name)	(Other names)
2. Birth information		
(a) Date of birth		
(b) Place of birth		
3. Marital status:		
4. Address		
(a) Postal address:		
(b) Physical address:		
5. Employment information:		
(a) Designation		
(b) Name of employer		
(c) Nature of employment (permanent, temporary, contract, etc.)		
6. Names of spouse or spouses		
(Surname)	(First name)	(Other names)
7. Names of dependent children under the age of 18 years:		
(Surname)	(First name)	(Other names)
8. Financial statement for _____		

The Conflict of Interest Bill, 2023

(A separate statement is required for the officer and each spouse and dependent child under the age of 18 years. Additional sheets should be added as required.)

(a) Statement date:

(b) Income, including emoluments, for periods from _____ to _____

(Including, but not limited to, salary and emoluments and income from investments. The period is from the previous statement date to the current statement date. For an initial declaration, the period is the year ending on the statement date.)

Description	Approximate amount

(c) Assets (as of the statement date)

(Including, but not limited to, land, buildings, vehicles, investments and financial obligations owed to the person for whom the statement is made.)

Description (include location of asset where applicable)	Approximate value

(c) Liabilities (as of the statement date)

Description	Approximate amount

The Conflict of Interest Bill, 2023

9. Other information that may be useful or relevant:	

I solemnly declare that the information I have given in this declaration is, to the best of my knowledge, true and complete.

Signature of officer: _____

Date: _____

WITNESS: Signature: _____

Name: _____

Address: _____

SECOND SCHEDULE [s. 2, s. 24(2)(a)]

REGISTRABLE INTERESTS

For purposes of section 24(2) the following are categories of income, assets and liabilities which a public official must declare—

1. Directorships in public or private companies, whether or not remunerated directly or indirectly.
2. Remunerated employment (including office, trade, profession or vocation which is remunerated or which the State officer has any pecuniary interest).
3. Securities (shares, bonds, debentures or any other similar holding) in a company or enterprise or undertaking the aggregate nominal or market value of which exceeds a prescribed value while the state officer was in office.
4. Contracts for supply of goods and services.
5. Plans or expectations for or offers of future employment.
6. Public affairs advice and services to clients.
7. Shareholdings (amounting or not amounting to a controlling interest).
8. Land and property.
9. Sponsorship (from companies, trade unions, professional bodies, charities, universities or other organizations or individuals).
10. Travel facilities and overseas visits (made by a State officer or the State officer's spouse or child substantially catered for by the office of the State officer).
11. Gifts, benefits and hospitality (to a State officer or the State officer's spouse or partner or child or any other material benefit of a prescribed value, from a company, organization or person within Kenya or overseas, which relates substantially to the membership of a state office to a state office or Parliament or County Assembly).

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12. Miscellaneous financial interests (not falling within the above categories but which a reasonable member of the public would think might influence the conduct of a State Officer in his or her office).
13. Non-financial interests (which may reasonably be thought to affect the way a member discharges the duties in a State Office (such as unremunerated directorships; membership of public bodies such as hospital trusts, governing bodies of universities, colleges or schools, and other spheres of government; trusteeships, etc.).
14. Pending civil and criminal cases touching on the State officer or business associate or firm.
15. Possession of dual citizenship or pending applications for dual citizenship and the status of such application.

THIRD SCHEDULE

[s.53].

CONSEQUENTIAL AMENDMENTS

Written Law	Provision	Amendment
The Ethics and Anti-Corruption Commission Act (Cap. 7H)	Section 11	Amended in subsection (1) by inserting the following new paragraph immediately after paragraph (j)— (k) perform any other functions and exercise any other powers conferred by an Act of Parliament.
The Anti-Corruption and Economic Crimes Act (Cap. 65)	Section 42	Delete.
The Leadership and Integrity Act (Cap. 185C)	Section 6 (3)	Delete.
	Section 6 (4)	Delete.
	Section 13(1)(a)	Delete and substitute therefor the following new paragraph— 13. (1)(a) demonstrate honesty in the conduct of public affairs;
	Section 14	Delete.
	Section 16	Delete.
	Section 17	Delete.
	Section 18	Delete.
	Section 23	Delete.
	Section 26	Delete.
	Section 27	Delete.
	Section 28	Delete.
	Section 52	Delete and substitute therefor the following new section— 52. Pursuant to Article 80(c) of the Constitution, the provisions of

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Chapter Six of the Constitution and this Act shall apply to all public officers as if they were State officers.

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End