

THE VIHIGA COUNTY PUBLIC SERVICE BOARD BILL, 2025

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THE VIHIGA COUNTY PUBLIC SERVICE BOARD BILL, 2025**A Bill for**

AN ACT of the County Assembly of Vihiga to provide for the framework of uniform norms and standards for county public service required under Article 235 of the Constitution of Kenya 2010 and Part VII of the County Governments Act, to establish in Vihiga County, the Vihiga County Public Service Board, the functions and powers of the Board, the manner and procedures of discharge of the functions and exercise of the powers by the Board, the administration of the Board and to give effect to Articles 10, 232 and 235 of the Constitution and Part VII of the County Governments Act in the county and for connected purposes

ENACTED by the County Assembly of Vihiga, as follows —

PART I — PRELIMINARY**Short title**

1. This Act may be cited as the Vihiga County Public Service Board Act, 2025 and shall commence on the fourteenth day after publication in the *Kenya Gazette*.

Interpretation

2. In this Act unless the context otherwise requires—

“acting appointment” means temporary conferment upon a public officer, by the Board or the relevant appointing authority, the power to perform duties of a public office other than the office the officer is substantively appointed to hold, while the public officer continues to hold the substantive appointment;

“affirmative action” means any measure designed to overcome or ameliorate an inequity or the systemic denial of opportunities;

“appointing authority” means any person who, under the Constitution or any other law, is required to make an appointment for which the approval of a County Assembly is required;

“appointment” includes appointment, acting appointment, reappointment, promotion and re-designation;

“authorized officer” includes the County Secretary, County Attorney, County Chief Officer, County Solicitor, Sub county or Ward Administrator, Village Administrator, City or Municipal Administrator, Town Administrator or any person authorized in writing by the Board or written law.”

“Authorized body” refers to the departmental or county human resource management advisory committee or other body authorized in writing by the Board or written law;

“Board” means the Vihiga County Public Service Board;

“County Secretary” means the County Secretary appointed under Section 44 of the County Governments Act;

“Commission” means Public Service Commission established under Article 233 of the Constitution;

“Casual employee” has the meaning assigned to it under section 2 of the Employment Act (No.11 of 2007);

“Chairperson” means the chairperson of the Board;

“Code of Conduct” means any written standard that is issued by any lawful authority—

- (a) that guides the behavior of any category of public officers or public bodies; and
- (b) is aimed at ensuring ethical, efficient and effective performance of the County Public Service;

“Chief officer” means a county chief officer appointed under section 45 of the County Governments Act (No. 17 of 2012);

“Conditions of Service” means any right or obligation relating to a public officer including —

- (a) appointment;
- (b) standards of conduct;
- (c) removal;
- (d) working hours;
- (e) leave;
- (f) grievances;
- (g) disciplinary control;
- (h) medical care;
- (i) water;
- (j) welfare;
- (k) working environment;
- (l) housing; and

(m) pension benefits.

“Confirmation in appointment” means the placement of a public officer on permanent and pensionable terms of service upon completion of the probation period;

“County Executive Committee” means the County Executive Committee of the County Government of Vihiga established in accordance with Article 176 of the Constitution;

“County Assembly” means the Vihiga County Assembly established in accordance with Article 176 of the Constitution;

“County Assembly Member” means a member of the Vihiga County Assembly elected or nominated in accordance with Article 176 of the Constitution;

“County Government” means the County Government of Vihiga established in accordance with Article 176 of the Constitution;

“County Public Service” has the same meaning as that assigned by section 2 of the County Governments Act;

“Constitution” means the Constitution of Kenya 2010;

“Disciplinary Control” includes control in so far as it relates to due process of justice and any of the lawful penalties that are provided for in this Act or specified in any written law;

“Establishment of offices in the public service” means the determination and creation of the number and substantive offices in the County Public Service;

“Governor” means the Governor of Vihiga County elected in accordance with Article 180 of the Constitution;

“member” includes the Chairperson members of the Board appointed under this Act and the County Governments Act;

“Official document” means any document or paper prepared by any public officer in the course of employment or any document or paper which comes into the custody of any public officer in the course of employment;

“Pensionable public officer” means a public officer who has been confirmed in appointment and admitted to permanent and pensionable establishment;

“Pension benefits” means any pension, compensation, gratuity or other similar allowance payable to a person in respect of such person's

service as a public officer, or to the widows, children, dependents or personal representatives of such person, in respect of that service;

“promotion” means the conferment upon a person in the County Public Service of an office to which is attached added responsibility, higher salary or higher salary scale than that attached to the office to which the person was last substantively appointed;

“a public body” includes—

- (a) any corporation, council, board, committee or other body in the county which has power to act under and for purposes of any written law relating to the undertakings of a public utility or otherwise to administer funds belonging to or granted by the government or money raised by rates, taxes or charges in pursuance of any such law;
- (b) a corporation in the County, the whole or a controlling majority of shares which are owned by a person or entity that is a public body by virtue of any of the bodies in paragraph (a);
- (c) statutory county public bodies; or
- (d) any county public body brought under the jurisdiction of the Board by an Act of the County Assembly for a specified function to the extent of that function;

“Public office” has the same meaning as that signed by Article 260 of the Constitution;

“Public officer” means any person other than a state officer who holds a county public office;

“publicize” in relation to a document, means to make known to the public, through the County, local media and other lawful means;

“publish” in relation to a document, includes —

- (a) publishing, preparing and issuing a document in a newspaper, *Kenya Gazette* or other publication of general circulation in Kenya;
- (b) publication of an abridged or summary version of the document without losing the core content of the document; or
- (c) posting the document on the internet on a government website;

“re-designation” means the movement of a public officer from one career path or cadre to another at a grade equal to or substantially equal to the one held before the movement, to facilitate the public officer's horizontal mobility;

Provided that the posting, deployment or secondment of a public officer from one duty station to another in the same grade in the public service shall not be regarded as a re-designation;

“representative” means any person who represents a public officer on any matter related to the employment of the public officer and excludes an advocate or union representative;

“reprimand” means a form of disciplinary action imposed after formal charges that declares an officer's conduct improper;

“resignation” means the action of a public officer's exit from the public service in accordance with the provisions of this Act or other legislation;

“retirement” means the exit of an officer from the County Public Service with full separation benefits, including pension benefits as may be provided for in the applicable law, contract of service or a special retirement scheme agreed upon between the public officer and the relevant lawful authority;

“secondment” means an arrangement in which a pensionable employee is temporarily released from an organization within the public service to another organization which does not have reciprocal pension arrangements, to provide critical skills or acquire new skills while preserving the pension rights of the employee;

“Secretary” means the Secretary to the Board appointed in accordance with this Act;

“State office” has the same meaning assigned to it in Article 260 of the Constitution;

“transfer” means the deployment of an officer within a department or from one department to another;

“transfer of service” means the movement of a pensionable employee between the two levels of governments or from one county to another or a public service organization to another, which has reciprocal pension arrangements and has been declared a public service for purposes of preserving the employee's previous pensionable services.

Object and purpose of the Act

3. The object and purpose of this Act is to —

- (a) prescribe, pursuant to Article 235 of the Constitution and Part VII of the County Governments Act, further uniform norms and standards necessary for the establishment and effective operation of the Board;

- (b) to implement within the county, the procedure for the removal of member of the Board;
- (c) provide for the required legal framework for the discharge of the functions and exercise of the powers of the Board including establishing and abolishing offices in the public service, appointing persons to hold or act in those offices, confirming appointments, exercising disciplinary control over, and removing persons holding or acting in those offices;
- (d) provide for the application, promotion, evaluation and reporting on the compliance by public officers with the values and principles in Articles 10 and 232 of the Constitution;
- (e) to provide for delegation of the powers and functions of the Board related to employment and disciplinary control to the authorized officers;
- (f) to develop and implement from time to time the legal framework and guidelines for the exercise of delegated powers and functions by the authorized officers;
- (g) to provide for human resource management systems and structures of human resource management and development; and
- (h) for such other matters as may be necessary for the proper administration and functioning of the Board.

Scope and application

4. Subject to the Constitution, the County Governments Act No. 17 of 2012 and any other legislation of national application this Act shall apply to all public bodies and persons holding offices in the Vihiga County Public Service.

Guiding principles

5. The Board shall in fulfilling its mandate under this Act or other law be guided by the national values and principles of governance in Article 10 of the Constitution, the values and principles of public service in Article 232 of the Constitution, the provisions of Article 235 of the Constitution and the objectives of County Public Service outlined in section 55 of the County Governments Act, 2012.

Organizational structure of the County Government

6. The Vihiga County Government organizational structure shall be composed of the County Executive Committee and the departments within the County Government established by the County Executive Committee.

**PART II— ESTABLISHMENT OF THE BOARD AND
APPOINTMENT OF MEMBERS OF THE BOARD**

Establishment of the Board

7. (1) There is established for Vihiga County the Vihiga County Public Service Board.

(2) The Board shall be a body corporate with perpetual succession and common seal and capable of suing or being sued in its corporate name.

Composition of the Board

8. (1) The Board shall comprise the following members nominated and appointed by the Governor with the approval of the County Assembly—

- (a) the chairperson;
- (b) not less than three but not more than five other members; and
- (c) a certified public secretary of good professional standing who shall be the Secretary to the Board; and
- (d) staff of the Board appointed in accordance with this Act.

(2) There shall be a vice-chairperson of the Board who shall not be of the same gender as the chairperson elected by the members from amongst themselves at the first sitting of the Board.

(3) The chairperson shall preside over the election of the vice-chairperson which shall be conducted through secret ballot.

Qualification for appointment of member of the Board.

9. A person qualifies to be appointed as member of the Board if that person —

- (a) satisfies the provisions of Chapter Six of the Constitution;
- (b) is not a state or public officer;
- (c) has not, at any time during the preceding five years, held office or stood for election as —
 - (i) a member of Parliament or of a County Assembly;
 - (ii) a member of the governing body of a political party;
- (d) is, or has at any time been, a candidate for election as a Member of Parliament or of a County Assembly;

- (e) is, or has at any time been, the holder of an office in any political organization that sponsors or otherwise supports, or has at any time sponsored or otherwise supported, a candidate for election as a member of Parliament or of a County Assembly;
- (f) in the case of the chairperson or vice-chairperson, possesses a minimum qualification of a bachelor's degree from a recognized university and working experience of not less than ten years; and
- (g) in the case of any other member—
 - (i) possesses a minimum of a bachelor's degree from a recognized university and working experience of not less than five years; and
 - (ii) if a professional, demonstrates absence of breach of the relevant professional code of conduct.

Procedure for nomination and appointment of member of the Board.

10. (1) Whenever a vacancy arises in the Board, the Governor shall nominate and, with the approval of the County Assembly, appoint members to a Selection Panel for the purpose of selecting suitable candidates for appointment as members of the Board.

(2) The Selection Panel shall consist of—

- (a) a chairperson not being a public officer;
- (b) one person from the private sector;
- (c) an advocate of the High Court of Kenya, who is a member of the Law Society of Kenya;
- (d) an accountant who is a member of the Institute of Certified Public Accountants of Kenya; and
- (e) one person from an association representing workers.

(3) In nominating members of the Selection Panel, the Governor shall ensure that not more than two-thirds of the nominees are of the same gender.

(4) The chairperson of the Selection Panel shall convene the first meeting of the Selection Panel within five days of appointment of members of the Panel.

(5) The Selection Panel shall, within seven days of convening, invite applications from persons who qualify for nomination and appointment as chairperson or member of the Board by advertisement in at least two daily newspapers of national circulation.

(6) The selection Panel shall, within seven days of receipt of applications under section—

- (a) consider the applications to determine their compliance the prescribed qualifications;
- (b) shortlist the applicants;
- (c) interview the shortlisted applicants.

(7) The County Assembly shall, within twenty-one days of receipt of the names of the nominees from the Governor, consider each nomination received from the Selection Panel and approve or reject any of them.

(8) Where the County Assembly approves the nominee, the Speaker of the County Assembly shall, within five days, forward the name of the approved applicant to the governor for appointment.

(9) Where the County Assembly rejects any nominee, the Speaker shall within five days communicate the decision of the county assembly to the Governor and request the Governor to submit fresh nomination from amongst the persons shortlisted and forwarded by the Selection Panel.

(10) If the County Assembly rejects any or all of the subsequent nominees submitted by the Governor for approval after the rejection of the first nominees, a new Selection Panel shall be constituted in accordance with this section to conduct the exercise afresh.

(11) The Selection Panel shall stand dissolved upon the appointment of chairperson, members or member where appointment was to fill one vacancy:

Provided that Selection Panel shall continue to exist until the selection process commenced by the Panel is finally concluded as provided in this section or other written law.

(12) The department responsible for county public service shall provide secretariat services to the Selection Panel.

(13) In nominating or appointing a person as a member of the Board, the Selection Panel and the Governor shall—

- (a) observe the principal of gender equity, ethnic and other diversities of the people of Kenya, and shall ensure equality of opportunity for persons with disabilities; and
- (b) take into account the national values and principles set out in Articles 10, 27, and 232 of the Constitution.

(14) Despite any provision in this section, the Governor may extend the period specified in respect of any matter under this section by a period not exceeding fourteen days.

(15) Subject to this section, the Selection Panel may determine its own procedure.

Tenure of member of the Board

11. A member of the Board shall —

- (a) hold office for a non-renewable term of six years; and
- (b) may serve on a part-time basis.

PART III—FUNCTIONS AND POWERS OF THE BOARD

Functions of the Board

12. (1) The functions of the Board shall be, on behalf of the County Executive —

- (a) to establish and abolish offices in the County Public Service;
- (b) subject to the Constitution, national legislation and this Act, appoint persons to hold or act in offices of the County Public Service including in the Boards of cities and urban areas within the county and to confirm appointments;
- (c) exercise disciplinary control over, and remove, persons holding or acting in those offices;
- (d) prepare regular reports for submission to the County Assembly on the execution of the functions of the Board;
- (e) promote in the County Public Service the values and principles referred to in Articles 10 and 232 of the Constitution;
- (f) evaluate and report to the County Assembly on the extent to which the values and principles referred to in Articles 10 and 232 of the Constitution are complied with in the County Public Service;
- (g) facilitate the development of coherent, integrated human resource planning and budgeting for personnel emoluments in the county;
- (h) advise the county government on human resource management and development;
- (i) advise the county government on implementation and monitoring of the national performance management system in the county;

- (j) make recommendations to the Salaries and Remuneration Commission, on behalf of the County Government, on the remuneration, pensions and gratuities for County Public Service officers;
- (k) appoint a person as secretary to a Board of a city, municipality or urban area who shall be a certified public secretary of good professional standing; and
- (l) perform any other functions as the Board considers necessary for the promotion of values and principles.

(2) The reports submitted to the county assembly under subsection(d) shall contain the details of persons appointed including gender, persons with disabilities, persons from minority and marginalized communities.

Powers of the Board

13. In the performance of the functions under this Act or other legislation, the Board shall have and exercise the powers to —

- (a) inform and educate county public officers and the public about the values and principles;
- (b) recommend to the county government effective measures to promote the values and principles;
- (c) assist county government in the formulation and implementation of programs intended to inculcate in public officers the duty to uphold values and principles;
- (d) advise the county government on their obligations under international treaties and conventions on good governance in the county public service;
- (e) visit any county public office or body with a view to assessing and inspecting the status of compliance with the values and principles;
- (f) investigate on its initiative or upon a complaint made by any person or group of persons, the violation of values and principles;
- (g) recommend to the relevant lawful authority, any necessary action in view of the violation of the values and principles by any person or public body; and
- (h) cooperate with other institutions working in the field of good governance in the public service.

Functions of the Chairperson of the Board

14. The Chairperson shall, in addition to the functions conferred by this Act and any other law—

- (a) convene, in consultation with the Governor, the first meeting of the Board after being constituted;
- (b) preside over the election of the vice-chairperson;
- (c) preside over all meetings of the Board when present;
- (d) be responsible for general supervision and direction of the Board; and
- (e) be the official spokesperson of the Board.

Functions of the Secretary of the Board

15. The Secretary of the Board shall be responsible to the Board for the performance of the following functions —

- (a) be the chief executive and accounting officer of the Board;
- (b) be the custodian of the records and seal of the Board;
- (c) execution of the decisions of the Board;
- (d) assignment of duties and supervision of the staff of the Board;
- (e) preparation and submission to the Board for approval by the Board of the programs necessary for the achievement of the Board's mandate;
- (f) ensuring compliance by the staff with the values and principles of the public service as provided in Article 232 of the Constitution and other legislation;
- (g) preparation of budget estimates for the Board; and
- (h) the performance of such other duties as may be assigned by the Board or other written law.

PART IV—ADMINISTRATION**Staff of the Board**

16. (1) The Staff of the Board shall be the Secretariat comprising of—

- (a) Secretary of the Board who shall be the head of the Secretariat;

- (b) such number of other officers the Board considers necessary to assist the Board perform the functions and exercise the powers assigned by this Act.

(2) The Board shall appoint officers of the Secretariat other than the Secretary and shall after consultation with the Salaries and Remuneration commission set the terms and conditions of the staff:

Provided that in case of temporary absence in the office of Secretary of the Board, the Board shall administratively appoint from senior secretariat staff, a person to perform the duties of the CEO and notify the Governor.

(3) All offices in the Secretariat of the Board shall be offices in the County Public Service.

Cross Transfer of Staff of the Board

17. The Board may, in consultation with the Head of County Public Service transfer staff with the relevant qualifications and experience to the Board and to the County Public Service.

Conduct of business of the Board

18. The Board shall establish a code of conduct to regulate its business and affairs accordingly taking cogniscent of national values and principles.

Independence of the Board

19. (1) In the performance of the functions and exercise of the powers conferred by this Act the Board shall—

- (a) be independent and shall not be subject to the direction and control of any person or authority; and
- (b) shall adhere to the Constitution, the County Governments Act, this Act and any other written law.

(2) The Board shall while exercising the independence under this section or other legislation, respect and cooperate with other institutions of the County and National Governments working in the field of good governance in the public service.

Oath or affirmation of commitment to the Code of Conduct and Ethics

20. Every member and staff of the Board shall, at the time of assuming office or within seven days of assuming office, subscribe to the

oath or affirmation of commitment to the Code of Ethics and Conduct for public officers in Form 1 and Form 2 of the Second Schedule.

Remuneration of member and staff of the Board

21. A member and staff of the Board shall be paid such remuneration as may be determined by the Board on the advice of Salaries and Remuneration Commission out of the funds held in the Fund established under Part VI of this Act.

The Seal of the Board

22. (1) The seal of the Board shall be such device as may be determined by the Board and shall be kept by the Secretary.

(2) The affixing of the seal of the Board on any document or instrument shall be authenticated by the Chairperson, the Secretary and shall be supported by a Board minute.

(3) Any document or instrument purporting to be under the seal of the Board or issued on behalf of the Board shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

PART V—VACANCY IN THE MEMBERSHIP OF THE BOARD

Vacancy in the membership of the Board

23. A vacancy arises in the membership of the Board if—

- (a) the member dies while in office;
- (b) the member resigns in writing addressed to the Governor not less than 30 days before the date of resignation;
- (c) at the expiry of six years following the date of the appointment of the member; or
- (d) the member is removed from office under Article 251 of the Constitution, Section 58(3) of the County Governments Act and the provisions of this Act.

Grounds for removal of member of the Board

24. A member of the Board may be removed from office only for—

- (a) serious violation of the Constitution, or any other law;
- (b) gross misconduct, whether in the performance of the member's or office holder's functions or otherwise;

- (c) physical or mental incapacity to perform the functions of the office;
- (d) incompetency; or
- (e) bankruptcy.

Procedure for the removal of member of the Board.

25. (1) A person desiring the removal of member of the Board shall lodge a petition to that effect with the Clerk of the County Assembly in the form prescribed in the Third Schedule by setting out the ground or grounds upon which the removal is sought.

(2) A petition for the removal of member of the Board shall be committed to the relevant committee of the County Assembly within seven days of receipt of the petition by the speaker and the Committee shall conduct investigations expeditiously into the allegations made in the petition in accordance with the Standing Orders of the County Assembly.

(3) In conducting investigations under this section, the relevant committee shall accord the member an opportunity to attend in person before the Committee and to make representations and also to be accompanied by an advocate or expert of his or her choice.

(4) If the committee is satisfied from the investigations that the complaint discloses sufficient ground for the removal of a member, the Committee shall—

- (a) report on the facts;
- (b) make its recommendation to that effect to the Committee of the whole house which shall vote whether to approve the resolution requiring the removal from office of member of the Board.

(5) If a resolution requiring the removal of a member of the Board is supported by at least seventy-five percent of all the members of the County Assembly, the resolution shall be forwarded to the Governor by the Speaker and the Governor shall within seven days of receipt of the resolution of the County Assembly from the Speaker, appoint a tribunal to investigate and report to the governor the findings. The Composition of tribunal shall be as under Article 251 of the Constitution.

(6) The process of removal of member of the Board under this section following a petition, shall be commenced and concluded within sixty days from the date the petition is received by the Clerk of the County Assembly.

(7) The Governor may, during investigations of a member by the County Assembly under this section, suspend the member from performance of duty on half pay.

(8) If the Committee in its report, fails to recommend the removal of the member or the Committee of the whole house votes against the report of the Committee recommending removal of the member, the Speaker shall make the communication to the Governor not later than seven days after the decision of the County Assembly and the Governor shall, on receipt of the communication, reinstate the member with full benefits payable to the member.

(9) No second petition for removal of a member shall be lodged against the same member during the term of the member if such earlier petition was rejected by the county assembly.

(10) If all members of the Board are individually removed from office in accordance with this section, the Board shall stand disbanded and the process of reconstituting the Board in the manner provided in this Act shall be commenced within seven days following the date of the removal of members.

Vacancy in the office of the Chairperson of the Board

26. (1) If a vacancy arises in the office of the chairperson of the Board, the vice-chair shall assume the office of chairperson and shall, during the acting period, perform all functions and exercise all powers of the chairperson conferred by this Act and any other law.

(2) The Governor may, in writing, confirm the vice-chairperson to be the chairperson for the remainder of the period of the chairperson following a vacancy and the vice chairperson shall in such case and subject to any other law on payment of terminal benefits be deemed to have served the full term as chairperson

(3) Confirmation of the vice chairperson as chairperson shall create a vacancy in the membership of the Board from the date of confirmation which shall be filled in accordance with this Act.

PART VI— FINANCIAL PROVISIONS

Funds of the Board

27. Funds of the Board shall consist of—

- (a) monies allocated for the Board by the County Assembly in the annual estimates or by any other law of National Application;
- (b) any grants, gifts, donations, or other endowments from lawful sources;

- (c) funds that accrue to the Board in the performance of its functions under this Act.

Budgeting for the Board

28. Budgeting process for the County Public Service Board shall be in compliance to Public Finance Management Act (2012) and Public Finance Management Regulations and other national laws and shall cover all their development and operational expenditures in implementation of its mandate.

Financial Year of the Board

29. The Financial Year of the Board shall be the period of twelve months ending the thirtieth of June every year.

Accounts and audit of funds of the Board

30. The Board shall maintain proper books of account and shall be subject to audit in accordance with the provisions of the Public Audit Act (No. 34 of 2015)

Establishment of the Fund of the Board.

31. (1) There is established by this Act, the Vihiga County Public Service Board Fund into which shall be paid monies due or accruing to the Board under this Act or any other law.

(2) The Fund established under this section shall be administered in accordance with the regulations developed by the County Executive Committee Member for matters relating to finance.

(3) The funds held in the Fund shall be used to meet the operations of the Board under this Act.

PART VII—APPOINTMENTS

Powers of the Board in making appointments

32. (1) Except as provided for in the Constitution or legislation and subject to section 74 of the County Governments Act the Board has the power to make appointments in the County Public Service.

(2) The power of the Board to make appointments in the County Public Service shall be exercised—

- (a) at the request of the County Secretary in respect of Governor's personal staff;

- (b) at the request of the County Attorney in respect of the Office of the County Attorney's staff;
- (c) at the request of the relevant County Chief Officer; or
- (d) on the Board's own motion on account of best interest of the County Public Service and parity of treatment of public officers taking into account the circumstances of the case including availability of the required Finance;
- (e) accounting Officers of County Agencies.

Drafting and service of letters of appointment, promotion etc.

33. All letters of appointment, promotions and redesignations shall be approved by the Board, drafted and signed by the CEO to the Board.

Appointment of authorized officers

34. The Board may delegate in writing, any of its functions to any one or more of its members and the county secretary, county chief officer, county solicitor, sub-county or Ward administrator, village administrator, city or municipal manager and town administrators.

Scheduled exercise of powers and functions of the Board by authorized officers

35. (1) The authorised officers shall be guided by the rules under the delegation tool in exercise of powers and functions delegated to them by the Board.

(2) The delegated functions may be reviewed by the Board from time to time.

PART VIII—PROMOTIONS AND RE-DESIGNATIONS

Promotions

36. (1) In selecting candidates for promotion other than for the common cadre, the Board shall have regard to merit and ability as reflected in work performance and results, as well as seniority, experience and academic and professional qualifications.

(2) The board shall publish regulations and procedures for effecting promotions and re-designations

Re-designations

37. (1) A public officer shall not be re-designated to hold or act in a public office if—

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

(2) A public officer who wishes to be re-designated shall apply in writing to the relevant departmental human resource committee and processed by the authorized officer as guided by the delegation tool.

(3) A redesignation which shall result in promotion of an officer shall not take effect without the approval of the Board.

PART IX—EQUITY, AFFIRMATIVE ACTION AND IMPLEMENTATION OF EMPLOYMENT EQUITY IN THE COUNTY PUBLIC SERVICE

Promotion of equity and affirmative action by the Board

38. (1) The Board shall promote equal opportunity in the County Public Service and shall establish and implement strategies for the elimination of discrimination on the basis of ethnic, gender, religion, health, marital status or disability.

(2) For purposes of ensuring representations of the diverse communities in the county public service, the Board or authorized officer shall where necessary, adopt affirmative action measures provided in Articles 27(6) and 56 (c) of the Constitution and section 10 of the Public Service (Values and Principles) Act.

Audit of Public Service Human Resource Management and Systems.

39. The Board shall —

- (a) collect information and conduct an analysis of the County Public Service in order to determine the degree of the underrepresentation of persons in marginalized groups in each occupational group in the County Public Service; and
- (b) conduct a review of the County Public service systems, policies and practices in order to identify employment barriers against persons from minority or marginalized groups that result from those systems, policies and practices.

County Public Service Employment Equity Plan

40. The Board shall, for the purpose of eliminating ethnic imbalance and implementing the provisions of this Act on affirmative action, prepare and implement a Public Service Employment Equity Plan to ensure there is employment equity in its selection decisions and procedures for delegation of appointments.

**PART X—DEPLOYMENTS, TRANSFERS AND
SECONDMENTS**

Deployments

41. (1) The power to deploy a county public officer within a department in the County Public Service shall vest in the relevant County Chief Officer or County Solicitor or Manager to municipal Board for the staff working in respective departments or sections.

(2) The power to deploy a county public officer from one department to another shall vest in the head of County Public Service and shall be done in consultation with the authorized officers in the two departments:

Provided that the County Attorney may assign legal counsel in the Office of the County Attorney to render legal services to a department.

Transfers

42. (1) Inter county transfer or transfer of service to and from one County Public Service to another County Public Service shall be approved by the Board after consultation with the other County Public Service Board.

(2) Whenever the County Chief Officer or authorized officer intends to transfer a public officer from the public office where such a public officer is currently deployed, to another office of different designation but of similar grading, the County Chief officer or authorized officer concerned shall refer the matter to the Board for consideration and determination.

(3) In effecting a transfer of a county public officer, the County Chief Officer, head of County Public Service or authorized officer shall ensure that—

- (a) the transfer shall lead to improved service;
- (b) the interest of the children, if any, and welfare of the affected public officer; and
- (c) the transfer shall not be arbitrary.

(4) Nothing in this section shall apply to the posting of public officers from one station to another in their substantive capacities within the department.

(5) A transfer of a county public officer unless stated in the letter of transfer to be in furtherance of a disciplinary process or where upon being transferred and reporting to the station the officer applied in writing to the person transferring for reconsideration of the transfer but the application was declined, the public officer shall have a right to appeal to the Board.

Secondments

43. (1) The authority to second a county public officer shall vest in the Board and shall be exercised on the request of an authorized officer or the concerned public officer.

(2) Subsection (1), of this section shall not apply to secondments of officers from the County Treasury to the National Treasury under section 106 of the Public Finance Management Act No 18 of 2012.

(3) Unless there is an agreement to the contrary, the public body or entity to which a public officer is seconded shall bear all the costs, remuneration, allowances and other benefits due to the officer during the period of secondment.

(4) The Board shall not approve secondment of a public officer if—

- (a) the public officer to be seconded has not served in the public service for at least three consecutive years after the initial appointment;
- (b) the public body or entity to which the public officer is to be seconded presents a conflict of interest with the public office held by the public officer or the core functions of the public body in which the public officer is employed;
- (c) the public officer may be exposed to undesirable experience in view of the core functions of the public body or entity to which the public officer is to be seconded; or
- (d) the secondment, if permitted, would bring the public service or the public officer into disrepute;
- (e) there is no vacancy;
- (f) there is no budget in the department which the the public officer is being seconded to;

- (g) the public officer has no skill set needed for mentorship of staff;
- (h) the remuneration scale disrupts seniority order in the Department.

(5) An authorized officer, public body or entity shall not receive a public officer on secondment unless the Board has approved the secondment in writing.

(6) The period of secondment shall for three years and may be renewed once and shall not exceed six consecutive years.

PART XI—DISCIPLINARY CONTROL AND PROCEDURES

Disciplinary control

44. (1) The power of disciplinary control in the County Public Service shall vest in the Board and may be exercised directly by the Board or by authorized officers or lawful authority under delegated powers.

(2) Where a case is filed in any court against a public body or an authorized officer relating to a disciplinary case involving a public officer, the concerned authorized officer shall, as soon as possible, notify the Board and the County Attorney for legal advice and representation.

Disciplinary hearings before the Board

45. (1) In all cases where the Board has not delegated its powers of disciplinary control, the county human resource management advisory committee shall after exhausting the procedure provided in the procedures and regulations of this Act, if satisfied that the evidence gathered support the allegations against a public officer make recommendations to that effect and forward the report of the investigations, the charges, the statements of the witnesses and any other evidence to the Board which shall conduct disciplinary hearings in accordance with this section.

(2) The Board shall, as soon as is practicable after receipt of recommendations from the county human resource advisory committee forwarded under subsection (1) conduct disciplinary hearings against an officer guided by the provisions of Article 47 of the Constitution and sections 4, 5 and 6 of the Fair Administrative Action Act which require that—

- (a) the proceedings are expeditious, efficient, lawful, reasonable and procedurally fair;

- (b) the affected public officer has the right to be given written reasons for administrative action that is taken against him or her;
- (c) where the proceedings are likely to adversely affect the rights or fundamental freedoms of the public officer, the authorized officer shall give the officer affected by the decision—
 - (i) prior and adequate notice of the nature and the reasons for the proposed action;
 - (ii) an opportunity to be heard and make representation in that regard;
 - (iii) notice of a right to a review or internal appeal against the disciplinary decision, where applicable;
 - (iv) a statement of reasons and information and documents to facilitate the appeal;
 - (v) notice of the right to legal representation, where applicable,
 - (vi) notice of right to cross-examine where applicable; or
 - (vii) information, materials and evidence to be relied upon in making the decision or taking the disciplinary action.

(3) Where a public officer has been interdicted or suspended, the public officer may, in writing, request the authorized officer or body to communicate the progress and action taken towards the conclusion of the disciplinary case.

(4) Where a public officer has made a request in accordance with subsection (3), the authorized officer or body shall reply within twenty-one days from the date of receipt of the officer's request.

(5) Where a public officer has made a request in accordance with subsection (3) and the authorized officer has failed to respond within the period specified in subsection (4) or the public officer is dissatisfied with the response, the public officer may apply to the Board for the lifting of the interdiction or suspension.

(6) The Board shall upon receipt of an application under subsection (5) make a decision which may include termination of the disciplinary proceedings.

(7) The decision of the Board conducting disciplinary hearings shall be in writing and shall be communicated to the authorized officer and the

affected officer not later than six months from the date the disciplinary proceedings were commenced against a public officer.

(8) In making a decision under this section, the Board may absolve the officer if not satisfied that the allegations have been proved and lift the interdiction or suspension and reinstate the officer with all accrued salary and other benefits or if satisfied that there is proof of guilt of the officer from the evidence presented, pronounce the finding of guilt and proceed to impose the punishment or other penalties provided in this Act against officer.

Conviction of a public officer of a criminal offence

46. (1) If a public officer is convicted of a criminal offence which in the opinion of the authorized officer, warrants the imposition of any of the penalties prescribed under this Act, the authorized officer shall forward a copy of the charge sheet and judgment and any judgment or order made on appeal or revision to the Board for consideration.

(2) The Board shall consider the documents forwarded under subsection (1) and determine, by relying solely on the court record leading to the conviction, whether the public officer should be dismissed or be subjected to any of the other penalties prescribed under this Act or other legislation.

PART XII—APPEALS AND REVIEWS UNDER THE ACT

Appeals to the Board

47. (1) Any person, who is dissatisfied or affected by a decision made by an authorized officer or body in exercise or purported exercise of power of disciplinary control may appeal to the Board within ninety days from the date of the decision:

Provided that the Board may consider an appeal out of time if, in the opinion of the Board, the circumstances warrant such consideration.

(2) An appeal under subsection (1) shall be in writing and shall be filed at the office of Secretary of the Board.

(3) The Board shall not entertain an appeal by a public officer or a representative of a public officer, in respect of a particular decision, more than once.

(4) Despite the right of appeal conferred on a public officer by this section, disciplinary action shall not be deferred or suspended pending the determination of the appeal.

(5) After considering an appeal, the Board may —

- (a) uphold the decision;
- (b) set the decision aside;
- (c) vary the decision as it considers to be just;
- (d) give such directions as it may consider appropriate with respect to the decision;
- (e) direct the refund, reinstatement of remuneration or release of any withheld payments due to the public officer as it considers to be just;
- (f) direct that disciplinary action be taken against any public officer who has failed to discharge a duty that was the public officer's responsibility to perform in relation to the disciplinary case and the concerned public body has suffered a loss; or
- (g) make any other appropriate decision in view of the circumstances of the case.

(6) Where the Board sets aside a decision under subsection (5)(b), the public officer shall revert to the previous status held and receive the attendant benefits as though the decision set aside was never made.

(7) The Secretary of the Board shall maintain a register of appeals which shall reflect—

- (a) the total number of appeals filed in every year,
- (b) the total number of appeals determined in every year and the decision of the Board;
- (c) the total number of appeals which remain undetermined at the end of every year; and
- (d) all other information related to the appeals under this section.

(8) The Board shall develop and publish rules which shall govern hearing and determination of appeals under this section.

Appeals to the Public Service Commission

48. (1) Any person dissatisfied or affected by a decision made by the Board in exercise or purported exercise of powers of disciplinary control against any county public officer may appeal to the Public Service Commission (in this Part referred to as the “Commission”) against the decision within ninety days from the date of the decision.

(2) The Commission shall entertain appeals on any decision relating to employment of a person in the County Public service other than state officers including a decision in respect of—

- (a) recruitment, selection, appointment and qualifications attached to any office;
- (b) remuneration and terms and conditions of service;
- (c) disciplinary control;
- (d) national values and principles of governance under Article 10, and values and principles of public service under Article 232 of the Constitution;
- (e) retirement and other removal from service;
- (f) pension benefits; gratuity and any other terminal benefits; or
- (g) any other decision the Commission considers to fall within its constitutional competence to hear and determine on appeal in that regard.

(3) An appeal under this section shall be in writing and lodged with the Commission within ninety days of the decision appealed from, but the Commission may admit and hear an appeal out of time if the circumstances warrant it.

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

(5) A person shall not file any legal proceedings in any court of law with respect to the matters falling within the appellate jurisdiction of the Commission under this section or other written law before exhausting the procedure provided in this section.

(6) Regulations made by the Commission shall govern appeals under this section.

Review of decisions of the Board in exercise of the power of disciplinary control

49. (1) A person who is dissatisfied or affected by a decision made by the made by the Board on an appeal may apply for review and the Board may admit the application if—

- (a) fresh material facts arise which with due diligence could not be presented when the decision was initially made; or
- (b) there is an error apparent on the record of the earlier decision.

(2) An application for review under subsection (1) shall be in writing and made within six months from the date of the decision to be reviewed: Provided that the Board may entertain an application for review out of time if, in the opinion of the Board, the circumstances warrant it.

(3) Despite the right to apply for review conferred on a public officer by this section, disciplinary action shall not be deferred or suspended pending the determination of the application for review.

(4) After considering an application for review, the Board may—

- (a) uphold the decision;
- (b) set the decision aside;
- (c) vary the decision as it considers to be just;
- (d) give such directions as it may consider appropriate with respect to the decision;
- (e) direct the refund, reinstatement of remuneration or release of any withheld payments due to the public officer as it considers to be just;
- (f) direct that disciplinary action be taken against any public officer who has failed to discharge a duty that was the public officer's responsibility to perform in relation to the disciplinary case and the concerned public body has suffered a loss; or
- (g) make any other appropriate decision in view of the circumstances of the case.

(5) Where the Board sets aside a decision under subsection (4)(b), the public officer shall revert to the previous status held and receive the attendant benefits as though the decision set aside never was.

Appeal or application for review not to defer or suspend implementation of the decision

50. Despite the right of appeal or the right to apply for review in accordance with this Part, the implementation of the decision shall not be deferred or suspended pending the determination of the appeal or the application for review.

Regularization by the Board

51. If it comes to the notice of the Board that there is reason to believe that any process or decision under this Act including appointment, promotion, re-designation, disciplinary action may have occurred in an

irregular or fraudulent manner, the Board shall investigate the matter and if satisfied that the irregularity occurred may-

- (a) regularize the process or the decision;
- (b) revoke the decision;
- (c) direct the concerned head of department or authorized officer repeat the process;
- (d) take any corrective action including disciplinary action against the person responsible for or involved in the irregularity;
- (e) recover or cause to be recovered any loss occasioned to the county government from the person found culpable; or
- (f) in the case of fraud, report the matter to police for criminal process in addition to administrative action already taken under this section.

PART XIII—DELEGATION BY THE BOARD

Delegation by the Board

52. (1) The Board may, pursuant to section 86 of the County Governments Act, delegate in writing any of its functions or powers conferred by that section and this Act to its member, an officer, body or authority in the County Public Service.

(2) A delegation of function or power shall not bar the Board from performing the function or exercising the power delegated.

(3) A delegation of function or power by the Board—

- (a) shall be subject to any conditions that the Board may impose;
- (b) may be withdrawn, and any decision made by the person to whom the delegation is made vacated or adjusted accordingly by the Board.

(4) The Board may, on own motion or on request by any person, institute an audit, investigation, inquiry or visit to determine whether the delegated function and powers are being discharged or exercised properly by the authorized officers.

(5) Where the audit, investigation, inquiry or visit establishes that an authorized officer has breached any condition or improperly performed a delegated function or improperly exercised delegated powers, the Board shall take corrective measures and may revoke the delegation.

(6) In delegating a function or power, the Board may specify within the instrument of delegation, the cadre of public officers in respect of whom the authorized officer or authority may appoint or promote or, in the case

of disciplinary control, dismiss from service without reference to the Board.

Communication to and from the Board

53. (1) A communication from the Board destined to the county executive or officer in the County Public Service shall be signed on behalf of the Board by the Secretary of the Board OR any other authorized officer of the Board and channeled through the Head of County Public Service and the authorized officer to the respective public officer and public entities within the County Executive.

(2) A communication from a public officer to the Board shall be channeled through the authorized Officer and the Head of County Public Service.

(3) A communication to the Board from officers in the public entities shall be channeled through the authorized officer of the public entity, the County Chief Officer of the relevant department and the Head of County Public Service.

Service of notices

54. (1) Where under this Act—

- (a) it is necessary to serve a notice, charge or other document upon a public officer personally or any person; and
- (b) it is not possible to effect such service upon, or communicate such information to the public officer or the person, the notice, charge or other document, or a letter containing such information, may be sent by electronic mail or registered post addressed to the person's usual or last known place of residence or postal address, and, relevant evidence of such postage shall be retained as evidence of delivery.

(2) If the officer so served does not respond within twenty-one days, the Board or authorized officer may take such action as it may consider necessary.

PART XIV—PROMOTION IN THE COUNTY PUBLIC SERVICE OF VALUES AND PRINCIPLES

Promotion in the county Public Service of values and principles of Articles 10 and 232 of the Constitution.

55. (1) The Board is responsible for—

- (a) promotion in the County Public Service of the values and principles provided in Articles 10 and 232 of the Constitution; and
- (b) the evaluation and reporting to the County Assembly on the extent to which the values and principles referred to in Articles 10 and 232 are complied with in the County Public Service.

(2) In promoting in the county Public Service the values and principles of Articles 10 and 232 of the Constitution, the Board has powers to—

- (a) inform and educate county public officers and the public about the values and principles;
- (b) recommend to the county executive effective measures to promote the values and principles;
- (c) assist the county executive in the formulation and implementation of programmes intended to inculcate in public officers the duty to uphold the values and principles;
- (d) advise the county executive on their obligations under the international treaties and conventions on good governance in the County Public Service;
- (e) visit any county public office or body with a view to assessing and inspecting the status of compliance with the values and principles;
- (f) investigate on its own initiative or upon a complaint made by any person or group of persons, the violation of any values and principles;
- (g) recommend to the relevant lawful authority, any necessary action in view of the violation of the values and principles by any person or public body;
- (h) cooperate with other institutions working in the field of good governance in the public service; and
- (i) perform any other function the Board considers necessary for the promotion of the values and principles.

(3) In exercising the powers conferred by subsection (2) (e), the Board shall have the right to call for and receive information from any person it considers holds is privy to such information and access any place for purposes of conducting inspection.

(4) Any person who unreasonably withholds information from the Board on being required to provide the information or hinders or obstructs an officer, agent or member of the Board from accessing any place for purposes of conducting an inspection shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred thousand or a term of imprisonment not exceeding twelve months or both.

Reports to the County Assembly on the extend to which the values and principles are complied with in the County Public Service

56. (1) The Board shall, by the month of December in every year, deliver a report to the County Assembly on the extend to which the values and principles are complied with in the County Public Service in a format that shall —

- (a) include all the steps taken and decisions made by the Board;
- (b) include specific recommendations that require to be implemented in the promotion and protection of the values and principles;
- (c) include specific decisions on particulars of persons or public body who have violated the values and principles, including action taken or recommended against them;
- (d) include any impediment in the promotion of the values and principles; and
- (e) include the programs the board is undertaking or has planned to undertake in the medium term towards the promotion of values and principles.

(2) The Board shall publish a report required under this section in the County or Kenya Gazette not later than seven days after the report has been delivered to the County Assembly.

**PART XV— RESIGNATIONS, RETIREMENTS AND OTHER
REMOVAL FROM OFFICE**

Application of the Part

57. Except as otherwise provided for in a contract of service, this Part shall apply to resignations, retirements, and other removal from an office in the County Public Service.

Resignation

58. (1) A public officer desirous of resigning from a county public office may do so in writing addressed to the Board or the appointing authority through the authorized officer, at least thirty days before the date of resignation.

(2) The resignation letter shall be delivered physically to the Board or the appointing authority not later than thirty days before the date for the resignation:

Provided that the appointment letter may provide for service of resignation letter by email or other acceptable means of service.

(3) The public officer shall give one months' notice or pay one month's salary in lieu of notice.

(4) Where a public officer resigns from the county public service, the public officer shall be entitled to benefits in accordance with the—

- (a) terms and conditions applicable or contained in the contract of service; and
- (b) provisions of law governing the resignation of public officers.

(4) A county public officer who resigns from office shall be required to refund any outstanding liabilities owed to the County Government in default of which—

- (a) any sum due to him or her, other than pension benefits still held by the pensions manager, may be withheld and applied towards settlement of the liability;
- (b) the County Government shall institute legal proceedings for recovery.

(4) A person who has resigned from the county public service may rejoin the service in accordance with the provisions of this Act or any other relevant legislation governing appointment such an officer shall not if subsequently re-employed after a break of service count his previous service for pension.

(5) A county public officer who resigned can only be re-appointed on application and as long as the position from which he resigned remain vacant.

Retirement on grounds of age

59. (1) Subject to any other written law of national application, all officers in the County Public Service employed on permanent and pensionable terms shall retire from service on attainment of the mandatory retirement age of sixty years.

(2) Despite subsection (1) of this section, the mandatory retirement age of persons with disabilities shall be sixty-five years.

(3) An officer who has attained the age of fifty years may opt to retire from the County Public Service any time thereafter before attaining the age of sixty years upon giving two-months written notice to the authorized officer and the Board before the retirement date:

Provided that an officer shall not be entitled to retire under this subsection unless his or her application for retirement has been recommended by the respective authorized officer and approved by the Board.

(4) An officer who is entitled to pension or gratuity by the application of the Pensions Act, may retire from the County Public Service on completion of ten years of continuous service

(5) Whenever a dispute arises as to whether an officer has attained the mandatory retirement age under this section, the date of birth provided by the officer in his or her personal data on the first date of appointment shall be used to determine the officer's age in the absence of a birth certificate.

Notice of retirement

60. The Board shall implement a system by which a public officer due for retirement from the County Public Service under this Part is notified of the retirement in writing three months before retirement.

No extension of service after retirement

61. (1) There shall be no extension of service or retention in the County Public Service of officers who are due for retirement or have retired.

(2) Despite subsection (1), the Board may engage a public officer for service after retirement upon such terms of contract as may be agreed if-

- (a) the public officer possesses rare knowledge, skills, and competence for the time being required in the service;
- (b) the retired officer is willing to be engaged on contract terms; and
- (c) the retired public officer's performance shall not in any way be impaired by age.

Retirement on grounds ill health

62. (1) A public officer may retire from the public service on grounds of ill health if—

- (a) the concerned County Chief Officer or authorized officer considers that a public officer is incapable by reason of any

infirmity of body or mind of discharging the function of the public office and therefore it is in the best interest of the Service and the officer to retire; or

- (b) the public officer has requested to be retired on grounds of ill health, in which case the County Chief Officer or authorized officer shall initiate the process for the retirement of the officer in accordance with this section.

(3) Where a public officer is considered for retirement or has requested to be retired in accordance with subsection (2), the County Chief Officer or authorized officer shall call upon the public officer to appear before a medical board constituted by the County Director of Medical Services to ascertain whether or not the public officer should be retired on grounds of ill health.

(4) After the public officer has been examined in accordance with subsection (3) and the medical board finds that the public officer should be retired on grounds of ill health, the County Director shall forward the Medical Board's records of proceedings and findings together with the County Director's comments to the County Chief Officer or authorized officer who shall—

- (a) request the public officer to make any personal representation in view of the Medical Board's record of proceedings and findings;
- (b) make recommendation in view of the Medical Board's findings on the public officer and the public officer's representation, if any; and
- (c) forward all the documents referred to in this section to the Board to make a decision.

(5) Unless the Board considers that further inquiry is necessary, in which case it shall issue directions to the County Chief Officer or authorized officer, it shall make a decision to retire the public officer on grounds of ill health and communicate the decision to the public officer.

(6) Where a public officer, who has the ability to appear before the Medical Board, fails to so appear, the authorized officer shall forward the case together with the relevant background information to the Board and the Board shall make an appropriate decision, including retiring the public officer on grounds of ill health, where appropriate.

Retirement on grounds of abolition of office

63. (1) If more than one county public officers, holding similar public offices are to be retired on the ground of abolition of office but one or more public officers are to remain in office, the concerned county chief officer or authorized officer shall inform the public officers that their retirement is under consideration and shall invite each of them to make representation within twenty-one days.

(2) Upon receipt of the representations or if none is received upon the expiry of the stipulated time, the County Chief Officer or authorized officer make recommendations and forward the case together with the officer's representation if any to the Board.

(3) The Board shall on receipt of the recommendations of the County Chief Officer or authorized officer and the officer's representations if any make a decision to retire the officer on ground of abolition of office under this section unless directions have been issued to the County Chief Officer or authorized officer by the Board for further justification.

(4) Before retiring an officer under this section, the Board shall have to be satisfied that the public office was abolished.

Retirement pursuant to contractual terms or a special retirement scheme

64. (1) The Board may retire a public officer if—

- (a) officer's contractual terms and conditions of service provide for a special retirement clause which has fallen due; or
- (b) officer' is required or is willing to voluntarily retire in accordance with the terms and conditions of the agreement or special retirement scheme.

Prohibition on retirement that is against the due process

65. Except in cases of voluntary retirement or retirement in accordance with contractual terms and conditions, a public officer shall not be retired under this Act or other law without the due process involving according the officer a reasonable opportunity to make representations on the intended retirement.

Termination of employment

66. (1) The employment of an officer serving in the County Public Service on contract or probationary terms may be terminated by the appointing authority in accordance with the provision on termination

contained in the officer's service agreement or appointment letter of by giving notice of (30) thirty days or salary in lieu of notice.

Dismissals

67. An officer serving in the County Public Service shall, arising out of disciplinary proceedings, be liable to dismissal from service on any of the following grounds—

- (a) gross misconduct;
- (b) desertion;
- (c) conviction of criminal offence in which the sentence exceeds six-months imprisonment;
- (d) intoxication while on duty;
- (e) neglect of duties;
- (f) insubordination;
- (g) committing a criminal offence within the duty station;
- (h) use of abusive language;
- (i) misappropriation of public funds;
- (j) pecuniary embarrassment; or
- (k) other violation of Code of Conduct prescribed by the Board to warrant dismissal.

Review of retirement decision

68. (1) A public officer who has been retired under this Part shall be entitled to apply for a review against the decision on grounds of—

- (a) discovery of fresh material facts which with due diligence could not be presented when the decision was initially made;
- (b) an error apparent on the face of record of the initial decision; or
- (c) manifest absence of parity of treatment in view of the circumstances and facts of the case.

(2) An application for review under this section shall be made within six months from the date of the retirement decision

(3) Subject to subsection (2) the Board may consider an application for review outside the prescribed time if satisfied that the delay in

applying for view was not occasioned by the officer's negligence or inexcusable inaction.

PART XVI—INVESTIGATIONS AND RELATED INQUIRIES

Application of the part

69. (1) This part applies to investigations by the Board related to-

- (a) the violations of any values and principles under section 59(4)(f) of the County Governments Act;
- (b) any process or decision that could have arisen from an irregularity or fraud that requires corrective action under section 75 of the County Governments Act; or
- (c) any other investigation and hearing not being in the nature of a disciplinary complaint within the meaning of Part XI of this Act.

Powers relating to investigations and inquiries

70. The Board may, for the purpose of conducting any investigation or inquiry, employ the services of any county public officer or investigation agency of the county or national Government at the expense of the Board:

Provided that investigations and related inquiries shall be conducted on behalf of the Board by the Office of County Ombudsman established under an Act of the County Assembly in accordance with the procedures and powers provided in that Act.

(2) For the purpose of investigating any matter or carrying out any inquiry, a public officer or agency other than the Office of County Ombudsman, whose services are employed under subsection (1) may, subject to the direction and control of the Board —

- (a) require the discovery and production of any document; and
- (b) requisition of any public record or copy thereof from any public officer.

(3) The provisions of this section shall apply in relation to any statement made by a person before any public officer or agency whose services are employed under subsection (1) as they apply in relation to any statement made by a person in the course of giving evidence before the Board.

(4) The public officer or agency whose services are employed under subsection (1) shall investigate any matter and submit a report to the Board in that behalf.

(5) The Board shall satisfy itself on the correctness of the facts stated and the conclusion arrived at in the report submitted to it under subsection (4) and for that purpose, the Board may make such inquiry, including the examination of any person or persons who conducted or assisted in the investigation, as it deems fit.

Jurisdiction in investigations and inquiries

71. The Board shall investigate or carry out an inquiry upon any complaint, and may, on its own initiative, investigate or carry out an investigation on any matter relating to the carrying out of the functions or implementation of the values and principles of public service and governance in—

- (a) relation to any person;
- (b) a public office; or
- (c) any other body or agency of the County.

(2) The Board shall endeavor, where appropriate, to resolve any matter brought before not being of a criminal nature it by conciliation, mediation or negotiation.

(3) If at any time during or after investigations or inquiry by the Board, person, body or agency conducting investigations or inquiry is of the opinion that a complaint received under this part is of a disciplinary nature, the Board, person, body or agency shall refer the complaint to Head of County Public Service for investigation or action in accordance with sections 90 or 97 whichever shall be applicable of this Act.

Complaints to the Board

72. (1) A person aggrieved by any matter relating to the County Public Service or the discharge of functions of any officer or employee, may make a complaint to the Board either in person or through a bonafide representative.

(2) A complaint may be made on behalf of an aggrieved person if the person is dead or if the person is unable to act for himself or herself, by a member of his or her family or other person suitable to represent the aggrieved person.

Form of complaint

73. (1) A person wishing to lodge a complaint may do so orally or in writing addressed to the secretary of the Board or where there is a County Ombudsman, to that Office.

(2) Where a complaint is made orally, the person before whom the complaint is made shall cause the complaint to be recorded electronically or in writing and forward the recorded complaint to the Secretary of the Board on the same day.

(3) The Board shall prescribe the forms to be used in recording complaints.

(4) Upon receipt of a complaint the Secretary shall report the complaint to the chairperson of the Board not later than seven days and the chairperson shall convene a meeting of the Board within twenty one to consider the complaint and make a decision and communicate the decision together with the reasons and recommendations if any to the complainant or his or her *bona-fide* representative or other lawful authority or organization.

The discretion not to investigate

74. The Board may decline to investigate or inquire into a complaint and communicate the decision to the complainant or his or her *bona fide* representative within twenty-one days of receipt of the complaint if the Board considers that —

- (a) there is, in existence, adequate remedies under any written law or administrative practice; or
- (b) the complaint is trivial, frivolous, vexatious or is not made in good faith.

Notice of hearing

75. (1) Before commencing an investigation or inquiry under this Act, the investigation Board shall give notice of the intended investigation or inquiry to the administrative head of the County organ, public office or organization and the officer or employee to which the investigation or inquiry relates.

(2) The hearings of any investigation or inquiry by the Board may be open to the public.

Persons likely to be prejudiced or affected to be heard

76. (1) Subject to subsection (2), if at any stage of an investigation or inquiry the Board—

- (a) considers it necessary to inquire into the conduct of any person; and

- (b) is of the opinion that the reputation of any person is likely to be prejudiced by the investigation or inquiry,

the Board shall give that person an opportunity to appear before it in person or by a person of their choice to make representations.

(2) This section shall not apply where the credibility of a witness is being impeached.

Personal protection for statements made to the Board

77. No statement made by a person in the course of giving evidence before the Board shall subject that person to any civil or criminal proceedings except on account of giving false evidence in the statement and where the statement amounts to an admission of a crime under any written law.

Action after investigation or inquiry

78. The Board may, upon any investigation or inquiry into a complaint under this Act or upon receiving the investigation or inquiry report from a public officer or investigation agency conducting investigations or inquiry, take any of the following steps—

- (a) where the investigation or inquiry into a complaint of discrimination discloses a criminal offence, refer the matter to the Director of Public Prosecutions or any other relevant authority or take any other action that the Board may deem fit against the concerned County organ, person or persons;
- (b) recommend to the complainant a course of judicial or other redress which does not warrant an application under Article 22 of the Constitution;
- (c) recommend to the complainant and to the relevant government agency or other body concerned, other appropriate methods of settling the complaint or to obtaining relief; or
- (d) provide a copy of the investigation or inquiry report to all interested persons to complainant or organization.

Board to take appropriate disciplinary action

79. (1) If, after an investigation, the Board is of the opinion that there is appropriate disciplinary evidence that an officer committed an act of misconduct, the Board shall take the appropriate disciplinary action.

(2) The Board shall publish and publicize the report submitted to the Governor and County Assembly.

PART XVII— REPORTS ON THE EXECUTION OF THE FUNCTIONS OF THE BOARD

The Board to prepare and submit regular reports to the county Assembly

80. (1) The Board shall prepare quarterly, bi-annual and annual reports for submission County Assembly with a copy to the Governor on the execution of the functions of the Board.

(2) The reports under subsection (1) shall contain the details of persons appointed including gender, persons with disabilities, persons from minority and the marginalized communities.

Annual Reports

81. (1) The Board shall within three months after the closure of the financial year prepare a report for submission to the Governor and County Assembly.

(2) The report shall contain —

- (a) the financial statements of the Board;
- (b) decisions, observations, findings and recommendations in respect to any Constitutional or statutory function of the Board;
- (c) any findings of an audit, investigation, evaluation, monitoring, inquiry, research or visits undertaken by the Board;
- (d) any information that is required by law to be reported on by the Board;
- (e) any issue the Governor or County Assembly has in writing required the Board to report upon;
- (f) any impediments to the achievements of the objects and functions of the Board under the Constitution, this Act or any written law; and
- (g) (any other information relating to the Board's functions that the Board considers necessary.

Reports on the exercise of delegated functions and powers by the authorized officers

82. (1) Reports submitted by the Board under this part shall include reports on the exercise of delegated functions and powers by the authorized officers.

(2) An authorized officer shall submit, to the Board a quarterly return on the exercise of the delegated functions and powers and performance of any duty under this Act, with respect to the preceding quarter of the financial year, in the month of October, January, April and July, of every year, including —

- (a) the delegated function, duty performed or power exercised;
- (b) particulars of the public officer or persons subject to any decision made by the authorized officer including the name, employment number, County identification card number or passport number, county of birth, rank or seniority, age, gender, race and ethnic group, community, disability status and any other relevant details;
- (c) particulars of the decision made including the status of implementation; and
- (d) any impediment to the exercise of the power and performance of the function or duty.

PART XVIII— MISCELLANEOUS PROVISIONS

Offences under the Act

83. (1) No member or officer of the Board or any other person shall publish or disclose to an unauthorized person concerning any public officer or related to the functions of the Board, any document, communication or information which has come to the knowledge of such member or officer in the course of performing their duties under this Act or any regulation made there under.

(2) Any person who gives false or misleading information to the Board or to any member of the Board in the course of official discharge of the functions assigned by this Act commits an offence.

(3) Any person who fails to provide a document or information to the Board on a matter before it having been so required to provide the document or information, commits an offence.

(4) A person who contravenes this section or any provision of this Act shall be guilty of an offence and liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years, or both.

Management of information and the right of access to information held by the Board

84. (1) The Board shall publish and publicize important information concerning the performance of the functions assigned to the Board by this Act and other legislation.

(2) A citizen may, on request in writing addressed to the Secretary of the Board accompanied with the prescribed fee where such fee is lawfully chargeable and notified to the citizen in writing in advance, be provided with the information subject to the county and national legislation governing the right of access to information.

(3) For purposes of this section, the Secretary of the Board shall be the authorized officer.

Saving of the Board, employment, disciplinary proceedings and contracts etc

85. (1) The Vihiga County Public Service Board which was in existence on the date of commencement of this Act shall continue to function under the same name as if it was established under this Act and any member or officer of the Board who was serving as such member or officer before the commencement of the Act shall continue to serve as such member or officer as though he or she was appointed under this Act and shall be governed by this Act.

(2) Any disciplinary proceedings by or on behalf of the Board which had been commenced and remained unresolved on commencement of this Act shall be continued in accordance with this Act.

(3) Despite subsection (2), any disciplinary proceeding which had been pending for more than six months and remained unresolved, shall abate on the date of commencement of this Act and the affected officer discharged and reinstated to his or her original position and be paid the benefits accrued during the time in case they had been retained.

(4) All contracts and other commitments by the Board before commencement of this Act remain valid and enforceable under this Act or other relevant legislation.

(5) Subsection (1) of this section shall also apply to all officers in the County Public Service employed on contract or on other short basis

Protection from personal liability

86. A member of the Board, officer or agent of the Board shall not be personally held liable in proceedings of civil nature for any act or omission by such member, officer or agent if such act was committed or the omission omitted in the honest and due execution of the functions assigned to the Board by this Act.

Legal advice and representation of the Board in legal proceedings

87. (1) In all matters of law of civil nature including court proceedings, inquiries, drafting of policy, regulations or other legal or

statutory instruments, the Board shall seek and be provided with the required legal services by the Office of the County Attorney:

Provided that the Office of the County Attorney may, even without being requested by the Board, represent the Board in accordance with this section in any proceeding in which the Board is enjoined or involved which comes to his or her attention if such representation is in the best interest of the Board

(2) The County Attorney may, on written request assign, a legal counsel to the Board but such legal counsel so seconded shall remain an officer in the Office of the County Attorney and subject to the direction of the County Attorney.

Application of national laws, policies and procedure

88. (1) All national laws governing public service and human resource management, employment and industrial relations and other matters concerning the welfare and benefits of public officers shall be adopted by the Board and implemented in the County Public Service.

(2) The Human Resource Policies and Procedures Manual 2013 developed by the Public Service Commission is adopted as part of this Act and shall be applied *mutatis mutandis* in the County Public Service

(3) The General Code of Conduct and Ethics provided in Part III of the Public Officer Act No. 4 of 2003 which is adopted in this Act in the Fifth Schedule of this Act shall apply to the Board and the County Public Service as though it was a Specific Code of Conduct and Ethics developed for Vihiga County.

Transfer of assets, etc.

89. All assets acquired by the Board together with ownership documents and all liabilities incurred by the Board before the commencement of this Act shall vest in and be transferred to the Board and the liabilities be recoverable from the Board under this Act.

Regulations

90. (1) The County Executive Committee Member in charge of Public Service may in consultation with the Board and with the approval of the County Executive Committee make regulations prescribing anything required by this Act to be prescribed generally for the better carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), such regulations may provide for—

- (a) the appointment, discipline and removal of staff in the public service;
- (b) the form and method of keeping records under this Act;
- (c) guidelines or criteria on the qualifications of persons entering the public service;
- (d) administration of career progression and professional development programs for public officers;
- (e) operations and procedures of a committee established under the Act;
- (f) guidelines on retirement;
- (g) appointment of a representative of the Board to any other body requiring representation of the Board;
- (h) staff welfare and motivation;
- (i) delegation of authority by the Board;
- (j) the procedure and manner of consultation by the Board;
- (k) regulations on promotion of efficiency and effectiveness in county public service delivery; and
- (l) any other matter incidental to the discharge of the functions and powers of the Board.

SCHEDULES

FIRST SCHEDULE

(Section 29(1))

**THE CONDUCT OF THE BUSINESS AND AFFAIRS OF THE
BOARD**

1. The Board shall meet in plenary as often as may be necessary for the carrying out of its business but it shall meet at least once every calendar month.
2. The Board shall approve its calendar of events and in so doing schedule regular meetings.
3. The Chairperson shall, on the written application of one- third of the members, convene a special meeting of the Board.
4. Unless the majority of the total membership of the Board otherwise agree, at least five days written notice of every meeting of the Board shall be given to every member of the Board.
5. The quorum for the conduct of business at a meeting of the Board shall be at least three members of the Board.
6. The chairperson shall preside at every meeting of the Board and in the absence of the chairperson, the vice-chairperson shall preside and in the absence of both the Chairperson and the vice-chairperson, the members present shall elect one of the members to preside and who shall, with respect to that meeting and the business transacted thereat, have all the powers of the Chairperson.
7. Unless a unanimous decision is reached, a decision on any matter before the Board shall be by concurrence of a majority of all the members present in that meeting. The descending members shall have their decisions recorded in minutes.
8. Subject to paragraph 5, no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.
9. The Board shall cause minutes of all proceedings of meetings of the Board to be recorded for that purpose.
10. Except as provided by this Schedule, the Board may regulate its own procedure.

SECOND SCHEDULE**FORM 1**

[Section 24]

**OATH OR SOLEMN AFFIRMATION OF CHAIRPERSON/
MEMBER OF THE BOARD**

I.....having been appointed as
(Chairperson/Member) of the Vihiga County Public Service Board, do
swear/solemnly affirm, that I will without fear or favour, affection or ill-
will, discharge the functions of the office of (Chairperson/Member) of the
Board, and that I will not, directly or indirectly, reveal to any unauthorized
person or otherwise than in the course of duty, the contents or part of the
contents of any document, communication or information whatsoever
which may come to my knowledge in the course of my duties as a
Chairperson/Member of the Board

(So help me God)

.....

Signed

Sworn/Declared before me this.....day of.....20.....

Magistrate/Commissioner for Oaths

THIRD SCHEDULE

[Section 29(1)]

**PETITION FOR THE REMOVAL OF THE CHAIRPERSON AND
MEMBER OF THE BOARD**

THE PETITION

PART I—PARTICULARS OF THE PETITIONER

Name of the Petitioner -
National ID/No.-
Gender:
Postal address:
Physical address:.....
Village:
Sub-location:.....
Location/ward:
Sub-county:.....
County:
Phone Number:
E-mail:

PART II— PARTICULARS OF THE PROPOSED RESPONDENT

Name of the person-.....
Position held in the Board-
Gender-

**PART III—THE GROUNDS UPON WHICH THE PETITION IS
BROUGHT**

1.
2.
3.
4.
5.
6. -

[Use extra paper where the grounds exceed the space provided above]

**PART IV—SUMMARY OF THE FACTS SUPPORTING THE
GROUNDS OF THE PETITION**

The facts supporting the grounds of the petition are—

1.
2.
3.
4.
5.
6.

[Use Extra Paper Where the Facts Exceed the Space Provided Above]

PART V—THE RELIEFS SOUGHT

This petition therefore seeks the following reliefs from the County Assembly against the respondent:

1.
2.
3.
4.

PART VI—DECLARATION

I,

the Petitioner herein do solemnly declare and state that what I have stated in this petition is true and it forms the basis of my prayer to the County Assembly to resolve and recommend the removal from of Chairperson/Member of Board of Vihiga County Public Service Board and that when called upon, I shall stand by and defend the petition

Signed

Date

In the presence of:.....

MAGISTRATE/COMMISSIONER FOR OATHS

FOURTH SCHEDULE

[Section 65]

CODE OF CONDUCT AND ETHICS FOR VIHIGA COUNTY PUBLIC SERVICE BOARD AND VIHIGA COUNTY PUBLIC SERVICE

Code of Conduct

1. This Schedule sets out the Code of Conduct and Ethics for member or staff of the Board or county public officer.

Performance of duties in general

2. A member or staff of the Board, or county public officer shall, to the best of his or her ability, carry out his or her duties and ensure that the services are rendered efficiently and honestly.

Professionalism

3. A member or staff of the Board or county public officer shall—

- (a) carry out his or her duties in a way that maintains public confidence in the integrity of his or her office;
- (b) treat the public and his or her fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his or her office, seek to improve the standards of performance and level of professionalism in his or her organization;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorization or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene;
- (g) discharge any professional responsibilities in a professional manner.

Rule of law

4. (1) A member or staff of the Board or county public officer shall carry out his duties in accordance with the law.

(2) In carrying out his or her duties, a member or staff of the Board or county public officer shall not violate the rights the rights and freedoms of any person under Part V of the Constitution of Kenya, 2010.

No improper enrichment

5. (1) A member or staff of the Board or a county public officer shall not use his or her office to improperly enrich himself, herself or others.

(2) Without limiting the generality of sub-paragraph (a), a member or staff of the Board or an a county Public officer shall not-

- (a) except as permitted by this paragraph, accept or request gifts or favors from a person who-
 - (i) has an interest that may be affected by the carrying out, or not carrying out, of the member, staff or public officer's duties;
 - (ii) carries on regulated activities with respect to which the member or staff of the Board or county public officer's organization has a role; or
 - (iii) has a contractual or similar relationship with the member or staff of the Board or county public officer's organization.
- (b) Improperly use his or her office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or
- (c) For the personal benefit of himself or herself or another, use or allow the use of information that acquired in connection with the member, staff or public officer's duties and that is not public office.

(3) A member or staff of the Board or county public officer may accept a gift given to him or her in his or her official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by regulation, such a gift shall be deemed to be a gift to the Board or the public officer's organization.

(4) Nothing in this paragraph shall bar a member or staff of the Board or public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom

(5) Sub-paragraph 2(c) does not apply to the use of information for educational or literacy purposes, research purposes or other similar purposes.

Conflict of interest

6. (1) A member or staff of the Board and county public officer shall use his or her best efforts to avoid being in a position in which his or her personal interests conflict with his or her official duties.

(2) Without limiting the generality of sub-paragraph (1), a member or staff of the Board or county public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in the member or staff or county public officer's personal interests conflicting with his or her personal duties.

(3) A member or staff of the Board or county public officer whose personal interests conflict with his or her official duties shall—

- (a) declare the personal interests to his or her superior or other appropriate body and comply with any directions to avoid the conflict;
- (b) refrain from participating in any deliberations with respect to the matter

(4) Notwithstanding any directions to the contrary under paragraph (3), a member or staff of the Board or county public officer shall not award a contract, or influence the award of a contract, to —

- (a) himself;
- (b) a spouse or relative; or
- (c) a business associate; or
- (d) a corporation, partnership or other body in which the member or staff of the Board or county public officer has an interest.

(5) A member or staff of the Board or county public officer shall comply with any national or county regulations developed to govern when the personal interest of a member or staff of the Board or county public officer conflicts with his or her official duties.

(6) "Personal interests includes the interests of a spouse, relative or business associate.

Collections and *Harambees*

7. A member or staff of the Board or county public officer shall not—

- (a) Use his or her office or place of work as avenue for soliciting or collecting harambees;
- (b) Either as a collector or promoter of a public collection, obtain money or other property from a person by using his or her official position in any way to exert pressure.
- (c) "**collection**", "**collector**" and "**promoter**" have the same meanings as in section 2 of the Public Collections Act(Cap.106).

Acting for foreigners

8. (1) No member or staff of the Board or county public officer shall, in a manner that may be detrimental to the security interests of Vihiga and Kenya, be an agent for, or further the interests of, a foreign government, organization or individual.

(2) For the purposes of this paragraph—

- (a) an individual is foreign if the individual is not a citizen of Kenya;
- (b) an organization is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organizations or individuals.

Care of property

9. (1) A member or staff of the Board or public officer shall take all reasonable steps to ensure that property that is entrusted to his or her care is adequately protected and not misused or misappropriated.

(2) A person who contravenes paragraph (1) shall be personally liable for losses resulting from the contravention.

Political neutrality

10. (1) A member or staff of the Board or county public officer shall not, in or in connection with the performance of his or her duties as such—

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

(2) A member or staff of the Board or county public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his or her office.

Nepotism etc

11. A member or staff of the Board or county public officer shall not practice nepotism or favoritism.

Giving of advice

12. A member or staff of the Board or county public officer who has a duty to give advice shall give honest and impartial advice without fear or favour

Misleading the public

13. A member or staff of the Board and county public officer shall not knowingly or negligently give false or misleading information to members of the public or to any other public officer.

Conduct of private affairs

14. (1) A member or staff of the Board or county public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his or her office.

(2) A member or staff of the Board or county public officer shall not evade taxes.

(3) A member or staff of the Board or county public officer shall not neglect his or her financial obligations or neglect to settle them.

Sexual harassment

15. (1) A member or staff of the Board or county public officer shall not sexually harass a member of the public or a fellow public officer.

(2) “Sexually harass” includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome—

- (a) making a request or exerting pressure for sexual activity or favours;
- (b) making intentional or careless physical contact that is sexual in nature;
- (c) making gestures, noises, jokes or comments, including innuendoes, regarding another person’s sexuality.

Selection, etc. of public officers

16. A member or staff of the Board or county public officer shall practice and promote the principal that public officers should be—

- (a) selected on the basis of integrity, competency and suitability; or
- (b) elected in fair elections.

Submitting of declarations, etc

17. A member or staff of the Board or county public officer shall submit declaration of his or her income, assets and liabilities and the income, assets and liabilities of his or her spouse or spouses and his or her dependent children under the age of 18 years required to be submitted or made by him or her under Part IV of the Public Officers Ethics Act (No 4 of 2011), in the form prescribed in the Schedule to that Act, to the Ethics

and Anticorruption Commission through the Head of County Public Service—

- (a) submit an initial declaration on the last day of thirty days following assumption of office on new appointment;
- (b) submit routine declaration in the month of December every second year;
- (c) submit a final declaration on the last day of thirty days following the date on which he or ceased to hold office; and
- (d) provide correction if any on any sought by the Commission or Head of County Public Service if the request for correction is made in writing and within six months of submission of declaration.

Acting through others

18. (1) A member or staff of the Board or county public officer shall have contravened this Code of Conduct and Ethics if—

- (a) he causes anything to be done through another person that would, if a member or staff of the Board or county public officer did it, be a contravention of this Code of Conduct and Ethics.
- (b) he or she allows or directs a person under his or her supervision or control to do anything that is a contravention of this Code of Conduct and Ethics.

(2) Subparagraph (1)(b) does not apply with respect to anything done without a member or staff of the Board or county public officer's knowledge or consent if the member or staff of the Board or county public officer took reasonable steps to prevent it.

Reporting improper orders

19. If a member or staff of the Board or county public officer considers that anything required of him is a contravention of this Code of Conduct and Ethics or is otherwise improper or unethical, he or she shall the matter to an appropriate authority.

ACCEPTANCE OF COMMITMENT TO THE CODE OF CONDUCT AND ETHICS FOR MEMBER AND STAFF OF THE BOARD AND COUNTY PUBLIC OFFICER

I,
having been appointed as County Chief Officer in the Department
of.....
.....

within the County Government of Vihiga and having taken oath to that effect, do hereby commit myself to abide by this Code of Conduct and Ethics at all times during my term of office

Signature-.....

Date-

THE SIXTH SCHEDULE

[Section 117(2)]

**HUMAN RESOURCE MANAGEMENT ADVISORY
COMMITTEES****PART A—ESTABLISHMENT AND FUNCTIONS OF THE
COUNTY HUMAN RESOURCE MANAGEMENT ADVISORY
COMMITTEE**

1. (1) Establishment of the County Human Resource Management Advisory Committee.

(2) There is established the County Human Resource Management Advisory Committee comprising of—

- (a) the County Secretary who shall be the chairperson;
- (b) the County Solicitor;
- (c) all County Chief Officers in the County Public Service; and
- (d) the County Director of Human Resource Management and Development who shall be the Secretary, Municipal Board Manager, Directors of companies or county Agencies whose staff are hired by the Board,

(2) The County Human Resource Management Advisory Committee shall be responsible for the performance of the functions assigned by this Act and other legislation or delegated by the Board and shall be accountable to the County Executive Committee.

(3) The County Human Resource Management Advisory Committee shall be re-constituted by the relevant County Executive Committee member every five years.

Functions of the County Human Resource Management Advisory Committee

2. (1) The functions of the County Human Resource Management Advisory Committee are—

- (a) to oversight the operations of the departmental human resource management advisory committees;
- (b) implement within the county national policies on human resource management;

- (c) draw and implement training programs and capacity building for county public service;
- (d) disciplinary control including hearing of appeals from the departmental human resource Management advisory committees related to disciplinary control under the direction of the Board;
- (e) enforcement of Articles 10 and 232 of the Constitution in the County Public Service;
- (f) receive, analyze and make appropriate recommendations on the reports from the departmental human resource management advisory committees including staff appraisals;
- (g) review and implement with the approval of the County Executive Committee staff welfare schemes;
- (h) consolidate reports on human resource management from departmental human resource management advisory committees and to submit the same to the County Executive Committee; and
- (i) to perform any other function necessary for efficient management of the human resource in the county or as may be delegated by the Board.

(2) The County Human Resource Management Advisory Committee shall, while performing the functions assigned by this Act, regulate its own business and procedure.

PART B —ESTABLISHMENT AND FUNCTIONS OF THE DEPARTMENTAL HUMAN RESOURCE MANAGEMENT ADVISORY COMMITTEE

Establishment of the Departmental Human Resource Management Advisory Committee

1. There is established for every department of the County Government the Departmental Human Resource Management Advisory Committee comprising of—

- (a) the County Chief Officer of the relevant department who shall be the chairperson;
- (b) the officer in-charge of human resource management and development in the department;
- (c) the director of planning;
- (d) the officer of administration;

- (e) Senor officer in department, the union representative, heads of sections in the department

(2) The Departmental Human Resource Management Advisory Committee shall be reconstituted after every five years.

Functions of the Departmental Human Resource Management Advisory Committee

2. (1) The functions of the Departmental Human Resource Management Advisory Committee are—

- (a) advise the County Chief Officer, on matters of human resource management and development;
- (b) oversight human resource performance, management and development;
- (c) appraise staff;
- (d) generate proposals to be considered by the Board on appointments, confirmations, promotions, re-designations, deployments and transfers;
- (e) supervise the administration of decentralized unit and service delivery by those units;
- (f) exercise disciplinary control under the direction of the Board within the department;
- (g) Implement, monitor and evaluate performance contracting;
- (h) preparation of periodic and annual reports; and
- (i) any other function directed by the Board, the County Human Resource Management Advisory Committee or written law.

(2) The Departmental Human Resource Management Advisory Committee shall, while performing the functions assigned by this Act, be governed by guidelines developed for the purpose by the County Executive Committee.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to provide for the framework of uniform norms and standards for county public service required under Article 235 of the Constitution of Kenya 2010, give effect to Articles 10 and 232 of the Constitution of Kenya 2010 and Part VII of the County Governments Act, 2012.

Statement on Constitutionality and Conflict of Laws

The Bill does not contravene any of the provisions of the Constitution and is not ultra vires to any of the provisions of any national law. In case of any conflict between the Act and any national laws the provisions of Article 191 of the Constitution of Kenya, 2010 shall take effect.

Dated 26th March, 2025.

JOYCE MAYODI,
Chairperson, for Public Service and Administration Committee.