

**THE PUBLIC OFFICER ETHICS ACT
(No. 4 of 2003)**

**THE (*Name of the County*) COUNTY ASSEMBLY POWERS AND PRIVILEGES
COMMITTEE PROCEDURES FOR ADMINISTRATION OF PART IV OF THE
ACT**

ARRANGEMENT OF PARAGRAPHS

PART I —PRELIMINARY

1. Citation
2. Interpretation
3. Scope of Application

PART II – PROCEDURE IN RELATION TO DECLARATIONS

4. Administration of the Procedures
5. Procedure in Submitting Declarations
6. Completion and Submission of Declarations
7. Register of Declarations
8. Reports on Compliance

PART III—PROCEDURE IN RELATION TO CLARIFICATIONS

9. Requests for Clarifications

**PART IV— PROCEDURE FOR ACCESS OR PUBLICATION OF
INFORMATION IN A DECLARATION**

10. Access and Publication of Information in a Declaration
11. Access by Declarant
12. Proof of Identity
13. Decision to be Final
14. Regulations to Apply to this Part

**PART V— PROCEDURE IN RELATION TO STORAGE, RETENTION AND
RETRIEVAL OF DECLARATION AND CLARIFICATIONS**

15. Mechanisms for Storage, Retention and Retrieval
16. Cessation of Retention of Information

PART VI-GENERAL PROVISIONS

17. Powers of the Committee
18. Matters not covered by these procedures
19. Representations to the Committee
20. Review

THE PUBLIC OFFICER ETHICS ACT
(No. 4 of 2003)

IN EXERCISE of the powers conferred by section 33(1) of the Public Officer Ethics Act, 2003, the (***Name of County***) COUNTY ASSEMBLY POWERS AND PRIVILEGES COMMITTEE establishes the following administrative Procedures:

**THE (*Name of County*) COUNTY ASSEMBLY POWERS AND PRIVILEGES
COMMITTEE PROCEDURES FOR
ADMINISTRATION OF PART IV OF THE ACT**

PART I —PRELIMINARY

1. Citation

These Procedures may be cited as the (***County name***) County Assembly Powers and Privileges Committee Procedures for Administration of Part IV of the Act

2. Interpretation

In these Procedures, unless the context otherwise requires:-

"**Act**" means the Public Officer Ethics Act, 2003;

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

"**Committee**" means the (***County Name***) County Assembly Powers and Privileges Committee established in accordance with
(*Constituting provision*)

"**Declarant**" means a person who has made a declaration under the Act;

"**Declaration form**" means the form set out in the Schedule to the Act in accordance with section 26(2) of the Act;

"**Declaration year**" means the year when the two-year declaration under the Act falls due;

"**Designated Officer**" means A state officer of the Assembly assigned to administer these Procedures or any part thereof in accordance with clause 4(2) of these Procedures;

"Final declaration" means a declaration made in accordance with section 27(5) of the Act;

"Initial declaration" means a declaration made in accordance with section 27(3) of the Act;

"Public Officer" shall take the meaning in Article 260 of the Constitution of Kenya, 2010;

"Regulations" means the Regulations made under the Act;

"Secretary" means the Clerk of the County Assembly or in absence of the Clerk, the person exercising the functions of Secretary to the Committee;

"State Officer" means a Member of County Assembly or other state officer serving in the County Assembly

"Two-year declaration" means a declaration made in accordance with section 26(1) of the Act.

3. Scope of Application

These Procedures shall apply to the administration of Part IV of the Act with respect to state officers serving in the County Assembly;

PART II – PROCEDURE IN RELATION TO DECLARATIONS

4. Administration of the Procedures

- (1) The Secretary shall administer these Procedures on behalf of the Committee;
- (2) The Secretary may designate officer(s) from among the state officers of the County Assembly Service Board to administer the Procedures or any part thereof in respect to any specified category of state officers;
- (3) The designation under sub-paragraph (2) shall be in writing and shall outline the specific tasks to be performed by the Designated Officer.

5. Procedure in Submitting Declarations

- (1) A state officer shall submit a declaration in the Form set out in the Schedule to the Act.
- (2) The Committee may use such measures as may be appropriate to facilitate a state officer to acquire the form referred to in sub-paragraph (1).

- (3) The Committee may publish the declaration form in a format that may permit the declaration form: -
 - a) to be rendered in digital format; or
 - b) to be downloaded from a website and printed out in paper format.
- (4) Where a state officer is required to make an initial, two-year or final declaration, the Secretary or Designated Officer may issue a notification to the state officer not less than thirty (30) days before the due date for the declaration,
- (5) For avoidance of doubt, failure to provide a declaration form or to issue a notification under this paragraph shall not be construed as a waiver of the responsibility of the state officer to submit a declaration under the Act.

6. Completion and Submission of Declarations

- (1) A state officer shall complete and submit the declaration form to the Secretary.

7. Register of Declarations

- (1) The Committee shall maintain a register containing details of each state officer who is required to make a declaration in accordance with the Act. The register shall include-
 - (a) Name; personal number; designation; directorate; department or unit
 - (b) Date the state officer submitted the declaration form;
 - (c) type of declaration (initial, tow-year or final);
 - (d) Name and signature of the designated officer acknowledging receipt of the declaration;
 - (e) Total number of state officers who have submitted declarations a s at the due date;
 - (f) Total number of state officers required to submit declarations; and
 - (g) Any remarks relating to the declarations.

- (2) A register under this part may be maintained in separate documents.

8. Reports on Compliance

1. The Committee shall submit to the Commission a report containing the following information:
 - (a) In relation to two-year declaration –
 - i. The number of state officers on the payroll as at 31st October of the year of declaration;
 - ii. A certified copy of the register maintained in accordance with paragraph 6;
 - iii. The total number of state officers who have complied with the requirement for declarations;
 - iv. The total number of state officers who have not complied with the requirement for declarations;
 - v. Action taken by the Committee in relation to any state officer who has not complied;
 - vi. Any relevant remarks on the submissions.
 - (b) In relation to the initial and final declaration;
 - (i) Number of state officers required to make a declaration;
 - (ii) The number of state officers who have complied with the requirement for declaration;
 - (iii) Number of state officers who have not complied with the requirement for declarations;
 - (iv) Action taken in relation to any state officer who has not complied;
 - (v) Any relevant remarks on the submissions.
2. The report under this part shall;
 - (a) In relation to a two-year declaration, be submitted to the Commission, not later than 31st July, of the year following the declaration;

- (b) In relation to initial and final declarations, be submitted to the Commission not later than 31st July following the end of the financial year within which the declarations were made.

PART III—PROCEDURE IN RELATION TO CLARIFICATIONS

9. Requests for Clarification

1. The Secretary or the Designated Officer shall review each declaration to ascertain if any of the following conditions exist –
 - (a) on the face of the declaration, or in light of any other information the Committee may have, there is reason to suspect the declaration may be false or incomplete;
 - (b) the assets of the declarant appear disproportionate to his or her known income;
 - (c) the income, assets or liabilities of the declarant raise concerns of impropriety or conflict of interest.
- (2) If it is suspected that any of the conditions in subparagraph (1) exist, the Secretary or Designated Officer shall give the declarant an opportunity to make a clarification in accordance with section 28(1) of the Act.
- (3) Request for a clarification shall be made in writing.
- (4) The Secretary or Designated Officer shall, in the register of declarations, document the particulars of clarification sought, the mode of communication, the time given to respond, the date and particulars of response, if any.
- (5) If no explanation is given, or if after considering any explanation the declarant may give, the Secretary or Designated Officer is of the opinion that the conditions in subparagraph 9(1) still exist, the Secretary or Designated Officer may, in addition to any other action including investigations and commencement of civil proceedings, take disciplinary or other appropriate action against the state officer.

PART IV— PROCEDURE FOR THE ACCESS OR PUBLICATION OF INFORMATION IN A DECLARATION

10. Access and Publication of Information in a Declaration

- (1) The Committee or any other person shall not disclose, access, acquire

or publish the information in the declaration form except as may be provided in the Act, the Regulations, these Procedures, or any other written law.

- (2) A person who wishes to gain access or to publish information in relation to a declaration under the Act shall:-
 - (a) apply to the Committee in the form set out in Appendix I; and
 - (b) demonstrate to the Committee that he or she has a legitimate interest in the information; and
 - (c) demonstrate to the Committee that the access to or publication of that information shall be for a good cause and in furtherance of the objectives of the Act.
- (3) Where the information is intended to be disclosed or publicized, the applicant shall expressly state so in the application.
- (4) Where a person has made an application to the Committee in accordance with this paragraph;-
 - (a) the Committee shall issue the applicant with an acknowledgement in the form set out in Appendix II;
 - (b) the Committee shall inform the declarant of the application in writing;
 - (c) the Committee shall give the declarant an opportunity to make a representation in writing in relation to the application within 14 days; and
 - (d) the Committee shall take into consideration the representation by the public officer while determining the application.
- (5) The Committee shall determine an application made in accordance with this paragraph and communicate its decision in writing to the applicant within thirty (30) days of receipt of the application.
- (6) For the avoidance of doubt, the Committee shall not release or part with the original declaration made by any state officer in satisfying the requirement of this paragraph, unless required for investigation by a law enforcement agency or by any written law.

PROVIDED that where an original declaration is released under 10(4) above the Committee shall always retain a certified copy of the declaration;

- (7) The Committee shall maintain a register of applications and decisions made under this paragraph setting out:-
- (a) the name of each applicant;
 - (b) the date each application was received;
 - (c) the name and personal number of the state officer who is the subject of the application;
 - (d) the department or other unit to which the state officer belongs;
 - (e) a brief description of the information applied for;
 - (f) whether the state officer accepts or opposes to the information applied for;
 - (g) a brief description of the decision made in relation to the application including reasons for denial where applicable; and
 - (h) date when the decision was communicated to the applicant.

11. Access by Declarant

An Application for access by A state officer to his or her declaration may be determined by the Secretary.

12. Proof of Identity

The Committee shall not give access to the information in a declaration to: -

- (a) the state officer unless the state officer proves his or her identity; or
- (b) a representative of the state officer unless that representative: -
 - (i) Provides proof of his or her authority to act as a representative of the state officer; and
 - (ii) Provides proof of identity of the state officer.

13. Decision to be Final

(1) Except as provided under the Act, Regulations and these Procedures, the decisions of the Committee in relation to a declaration by A state officer shall be final.

(2) Any person dissatisfied with the decision may appeal in accordance with the procedures set out in the Public Officer Ethics (Management,

Verification, and Access to Financial Declarations) Regulations, 2011.

14. Regulations to Apply to this Part

This part shall be read and construed together with the Public Officer Ethics (Management, Verification, and Access to Financial Declarations) Regulations, 2011.

PART V— PROCEDURE IN RELATION TO STORAGE AND RETENTION OF DECLARATION FORMS

15. Mechanisms for Storage, Retention and Retrieval

- (1) The Committee shall ensure that appropriate mechanisms are put in place for the safe and secure storage, retention and easy retrieval of the declarations
- (2) The mechanisms established under sub-paragraph (1) may include manual, electronic, microfilm or any other form as the Committee may consider appropriate.

16. Cessation of Retention of Information

- (1) Where the period for retaining information obtained in accordance with Part IV of the Act has lapsed, the Committee shall determine the action to be taken in relation to that information.
- (2) The Secretary may make a written proposal to the Committee in relation to the action to be taken by the Committee in accordance with sub-paragraph (1).

PART VI-GENERAL PROVISIONS

17. Powers of the Committee

- (1) Notwithstanding delegation of any function or power by the Committee for the purposes of these Procedures, the Committee may:
 - (a) exercise the delegated power or perform the delegated function;
or
 - (b) on its own motion or request by any person, revise a decision of the Secretary made for the purposes of these Procedures.
- (2) The Committee may from time to time review the operational procedures put in place by the secretary in the application of these procedures.

18. Matters not covered by these Procedures

The Committee may issue written instructions in relation to any matter that has not been provided for in these procedures.

19. Representations to the Committee

The Committee may consider representations from any person in the application of these Procedures.

20. Review

- (1) The Committee may from time to time review the operational arrangements put in place by the Secretary in the application of these Procedures.
- (2) The Committee may review these Procedures from time to time as may be necessary.

APPENDIX I

REQUEST TO ACCESS A DECLARATION OR CLARIFICATION

Note: A separate form to be completed in respect of a request for information for each declarant.

Part I: Information on Applicant

1. Name.....
2. National Identity Card/Passport Number.....
3. Postal Address.....
4. Physical Address.....
5. E-mail Address.....
6. Occupation.....

Part II: Particulars of Information Applied for

- a) Nature of Information (please tick)
 1. Declaration ()
 2. Clarification ()
 - 3 .Declaration and Clarification ()

- b) Declaration period

Part III: Information on the Person whose declaration is sought to be obtained:

- (a) Name.....
- (b) Directorate/Department (if known).....
- (c) Work Station.....
- (d) Reason for requiring the information:-
 - (i) Official.....
 - (ii) Other reason.....

(e) State precisely the purpose for which the declaration sought will be used

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Part IV: Additional Information

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

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Part V: Declaration by Applicant

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

Date:

Signature of Applicant.....

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APPENDIX II

ACKNOWLEDGEMENT OF REQUEST FOR ACCESS FOR A DECLARATION OR CLARIFICATION

Name of Applicant.....

National Identity Card/Passport Number.....

Name of Organization (where applicable).....

Postal Address.....

Date of Application.....

Delivered by.....

Signature.....

A response on this request will be communicated within thirty (30) days from the date of this acknowledgement.

Name of Receiving Officer:.....

Signature

Date

Stamp:
