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THE CONFLICT OF INTEREST ACT

(*No*. 11 *of* 2025)

ADMINISTRATIVE MECHANISMS FOR IMPLEMENTATION OF PART IV OF THE ACT

IN EXERCISE of the powers conferred by section 40 of the Conflict of Interest Act, the Ethics and Anti-Corruption Commission makes the following administrative mechanisms for the implementation of the requirements of Part IV of the Act—

ADMINISTRATIVE MECHANISMS FOR IMPLEMENTATION OF PART IV OF THE ACT

PART I–PRELIMINARY

Citation

1. These Administrative Mechanisms may be cited as the Administrative Mechanisms for the Implementation of Requirements of Part IV of the Conflict of Interest Act.

Interpretation

2. In these Administrative Mechanisms, unless the context otherwise requires—

"Act" means the Conflict of Interest Act;

"Automation" refers to the process of creation, adoption and utilization of information management software and systems that replace or reduce manual interventions.

"Biennial declaration" means a declaration made in accordance with section 34(2) of the Act.

"Commission" or "EACC" means the Ethics and Anti-Corruption Commission established under section 3 of the Ethics and Anti-Corruption Commission Act;

"Declaration form" means the form for declaration of income, assets and liabilities set out in the First Schedule to the Act in accordance with section 31(2);

"Final declaration" means a declaration made in accordance with section 34(3) of the Act.

"Initial declaration" means a declaration made in accordance with section 34(1) of the Act.

"Regulations" means the Conflict of Interest Regulations made pursuant to section 50 of the Act;

"Repealed Act" means the Public Officer Ethics Act;

"Responsible Commission" includes all responsible Commissions established under section 32 of the Act or the Regulations thereunder.

Application of the Administrative Mechanisms

3. These Administrative Mechanisms shall apply to—

(1) Reporting entities, reporting authorities and public officers in management of recusals pursuant to section 30 of the Act; and

(2) Responsible Commissions and public officers in management of declarations of income, assets and liabilities required under the Act.

Commencement

4. These Administrative Mechanisms shall commence upon publication in the Gazette.

PART II–RECUSAL

When a declaration of conflict and recusal shall be made.

5. (1) A conflict of interest may be declared—

(a) prior to a discussion, decision, debate or vote where the officer is aware of any real, apparent or potential conflict before the discussion, decision, debate or vote is set to take place;

(b) in the course of a discussion, decision, debate or vote where the officer immediately becomes aware of any real, apparent or potential conflict during the discussion, decision, debate or vote;

(2) A public officer who declares a conflict pursuant to Paragraph (1) shall recuse himself or herself from such discussion, decision, debate or vote, and the recusal shall be recorded in the minutes of the transaction in question.

Manner of recusal

6. (1) A recusal by a public officer as required under section 30 of the Act may entail—

(a) Not physically attending, or physically removing oneself from the discussion, decision, debate or vote; or

(b) Refraining from contributing to a discussion or debate on an agenda where the public officer has a conflict of interest;

(2) A public officer may seek guidance or advice from a reporting authority of the public officer or any other person chairing or otherwise in control of the discussion, decision, debate or vote on the appropriate manner of recusal, and any such guidance or advice shall be recorded in the minutes of the transaction.

Transmission of a declaration of recusal to the Commission

7. (1) The reporting authority of a public officer who has recused himself or herself from a discussion, decision, debate or vote shall, within sixty days after a day on which the recusal took place, transmit a declaration of the recusal to the Commission in the prescribed format

(2) A declaration of recusal transmitted to the Commission shall-

(a) contain the details of the public officer;

(b) state the particulars of the conflict of interest declared;

(c) specify the manner in which the public officer has recused himself or herself

(3) The Commission may develop a system for online submission of declarations of recusal.

Commission may issue directions or advisory on a recusal

8. The Commission may issue directions to, or otherwise advise a reporting authority, reporting entity or a public officer in writing on any matter arising from a declaration of recusal.

PART III – DECLARATION OF INCOME, ASSETS AND LIABILITIES

A–FILLING THE DECLARATION FORM

Contents of a declaration

9. (1) Pursuant to section 31 of the Act, a public officer shall submit to the responsible Commission a declaration of income, assets and liabilities for the officer, spouse or spouses, and any dependent children under the age of 18 years, including any material changes as defined in section 31(4) of the Act.

Statement date for initial, biennial and final declarations

10. (1) A public officer is required to complete an initial declaration within thirty days of appointment and the statement date of the declaration will be the date the officer became a public officer.

(2) A public officer is required to make a biennial declaration on or before the 31st day of December every other year or as may be provided for under the Act. The statement date for the biennial declaration will be 1st of November of the year in which the declaration is required.

(3) A public officer is required to make a final declaration within thirty days of ceasing to be a public officer. The statement date of the final declaration shall be the date the public official ceased to be a public official.

Income, assets, and liabilities outside Kenya

11. Any income, assets and liabilities that a public officer may have outside Kenya, should be declared.

Jointly held income, Assets and liabilities

12. Any income, assets and liabilities that a public officer holds jointly with any other person or entity should be declared, stating the extent of interest or share that is attributable to the public officer.

Declarations to be made to responsible Commission

13. Declarations shall only be made to the responsible Commission of the public officer, unless the responsible Commission has delegated its functions to another person or body in accordance with the Act.

Obligation to make declaration

14. The obligation to make a declaration applies to all state and public officers including those on leave, under disciplinary action, secondment and overseas assignments, unless the Attorney General has granted a dispensation exempting an officer or a certain category of public officers from filing their declarations, for reasons to be published in the gazette.

Declaration in respect of a spouse who is separated

15. A public officer who is separated from his or her spouse or spouses is required to submit a declaration for the separated spouse or spouses, in so as far as they can reasonably ascertain the income, assets and liabilities of the spouse.

Declaration in respect of a spouse who is also a public officer

16. A public officer whose spouse is also a public officer is required to submit a separate declaration for the spouse, notwithstanding the fact that the spouse shall also make a declaration to his or her responsible Commission.

Declaration by a public officer who has more than one responsible Commission

17. A public officer who, by virtue of the position or positions they hold, are required to make a declaration to more than one responsible Commission shall submit a separate declaration to each of the applicable responsible Commissions.

Transfer of service by a public officer.

18. Where a public officer transfers service from one reporting entity to another, by virtue of which the officer falls under the jurisdiction of a different responsible Commission, he or she shall not be required to submit a declaration to the new responsible Commission until when a declaration is due.

Provided that the responsible Commission that assumes jurisdiction over the officer by virtue of the transfer of service may request the responsible Commission that was previously prescribed for the officer to access the declaration of the officer, in accordance with the procedure for access to declarations.

Final declarations upon end of term for public office

19. (1) When the term for an elected state or public officer lapses, the officer shall make a final declaration irrespective of whether the officer intends to seek a re-election to the position.

(2) When the term for an appointed state or public officer lapses, and the terms of service provide for a renewal of the term, the state or public officer shall be required to make a final declaration unless the term is in fact renewed.

B–ADMINISTRATION AND MANAGEMENT OF DECLARATIONS

Responsible Commission to administer and manage declarations

20. A responsible Commission prescribed in accordance with the Act or the Regulations shall administer the declarations of income, assets and liabilities for the public officers for which it is prescribed, save for where the responsible Commission has delegated the responsibility in accordance with the Act.

Delegated powers and functions

21. Where a responsible Commission has delegated its powers and functions to another person or body in relation to declaration of income, assets and liabilities in accordance with the Act, the provisions of these administrative mechanisms shall apply to that other person or body.

Responsible Commission may establish committee

22. A responsible Commission may establish a committee to oversee the management, verification, analysis and access to declarations of income assets and liabilities.

Designation of administration officer

23. A responsible Commission may, in writing, designate an officer or officers who shall assist the responsible Commission in the administration of these administrative mechanisms.

Responsible Commission to facilitate public officer with declaration Form

24. (1) Where a public officer is required to make an initial, two–year or final declaration, the responsible Commission may issue a notification to the public officer at least thirty days before the due date for the declaration.

(2) A responsible Commission may use such measures as may be appropriate to facilitate a public officer to acquire the Declaration Form. However, the failure to provide a declaration form or to issue a notification shall not be construed as a waiver of the responsibility of the public officer to submit a declaration under the Act.

Register of declarations

25. A responsible Commission shall maintain a register of declarations received from public officers for which it is prescribed, containing the following details in respect of the declarant:-

(a) name; personnel number, and designation;

(b) date the public officer submitted the declaration;

(c) for manual declarations, name and signature of the designated officer acknowledging receipt of the declaration;

(d) total number of public officers required to submit declarations;

(e) total number of public officers who submitted declarations as at the due date;

(f) any action taken against public officers who did not comply, and whether the officers eventually complied;

(g) any other relevant information.

Administrative action to enforce compliance

26. (1) Where a public officer fails to submit a declaration required under the Act, or fails to make a declaration within the prescribed time, a responsible Commission may, in addition to recommending prosecution, take such administrative measures as it may deem appropriate against the public officer to enforce compliance.

(2) The administrative measures envisaged in Paragraph (1) may include but not limited to -

(a) Issuance of a notice to comply;

(b) Issuance of a warning;

(c) Stoppage of salary pending compliance;

(d) Disciplinary proceedings;

(e) Any other administrative sanction deemed relevant.

Codes of conduct and Administrative Procedures under the repealed Act

27. Any code of conduct or administrative procedures developed and gazetted by a responsible Commission in accordance with the repealed Act may continue to be applied by the responsible Commission for purposes of ensuring compliance with requirements for declarations under this Part, in so far as they are not inconsistent with the Act, the Regulations or these Administrative Mechanisms.

C–ACCESS TO INFORMATION IN A DECLARATION OR CLARIFICATION

Procedure on request for access to information in a declaration or clarification

28. Upon receiving an application for access to information in a declaration or clarification, a responsible Commission shall—

(a) acknowledge receipt of the application for access, in writing;

(b) inform, in writing, the public officer in respect of whose declaration or clarification the application for access relates, of the application to access his or her declaration;

(c) give the public officer an opportunity to make a representation in writing in relation to the application within seven days; and

(d) take into consideration the representation by the declarant when determining the application for access.

Time for determination of an application for access

29. A responsible Commission shall determine an application for access to a declaration and communicate its decision in writing to the applicant within thirty days upon receipt of the application.

Decision of responsible Commission

30. Any person dissatisfied with the decision of a responsible Commission in relation to an application for access to a declaration or clarification may apply for review or seek relevant relief from the court.

Manner of granting access

31. (1) A responsible Commission that grants the request for access to information contained in a declaration or clarification shall provide only the information requested, and not the contents of the entire declaration or clarification.

(2) A responsible Commission shall not part with the original declaration or clarification in granting access pursuant to an application for access, unless the original is required in accordance with any law.

(3) Where a responsible Commission grants access by way of an original declaration or clarification, it shall retain a certified copy of the declaration or clarification.

Access by a declarant to his or her declaration or clarification

32. (1) A declarant may, in person or through a representative, apply for access to his or her declaration or clarification.

(2) An application for access by the declarant shall be in writing, and the responsible Commission may request the declarant to provide proof of identity.

(3) Where the application is made through a representative, the representative shall provide proof of his or her identity and written authority from the declarant to make the request.

(4) Upon receipt of an application, the responsible Commission shall within fourteen days) furnish the declarant with a certified copy of the declaration or clarification.

Access by a law enforcement agency

33. (1) A law enforcement agency that seeks to have access to a declaration by a public officer shall—

(a) make a request in writing to the responsible Commission disclosing the reason for access;

(b) be granted access to the original or certified copy of the declaration, as circumstances may require.

(2) Where access to the original declaration or clarification is granted, the responsible Commission shall retain a certified copy thereof.

(3) Access to a declaration or clarification upon a request by a law enforcement agency shall be granted within fourteen days upon receipt of the application.

Register of applications for access and determinations

34. A responsible Commission shall maintain a register of applications and decisions made for access to information in a declaration or clarification, setting out—

(a) The name of each applicant;

(b) The date each application was received;

(c) The name and staff personal number of the public officer whose declaration or clarification was the subject of the application;

(d) The employer of the public officer;

(e) A brief description of the information applied for;

(f) The decision made in respect to the application; and

(g) Where the application was allowed, the date, to whom, and the manner in which access was granted.

D – STORAGE, RETENTION AND RETRIEVAL

Mechanisms for storage, retention and retrieval of information

35. A responsible Commission shall ensure appropriate mechanisms are put in place for the safe and secure storage, retention and easy retrieval of information obtained in accordance with the Act.

Cessation of retention of information

36. Where the period for retaining information obtained in accordance with the Act has lapsed, a responsible Commission shall determine the appropriate action to be taken in relation to that information, which may include—

(a) continued retention of the information, in the same status of storage;

(b) archival of the information, in which case the responsible Commission shall establish and maintain an archival register;

(c) deletion or destruction of the information, in which case the responsible Commission shall ensure a secure method of deletion or destruction and shall establish and maintain a deletion register.

E–AUTOMATION OF PROCESSES TO MANAGE DECLARATIONS

Automation of processes

37. A responsible Commission may utilize an automated system for management of declarations of income, assets and liabilities, and such a system shall have the capability to:-

(a) issue reminders or notifications as may be required;

(b) enable public officers to fill and submit declarations through an online platform;

(c) process and submit an acknowledgement to a public officer or the responsible Commission;

(d) analyse the information contained in a declaration submitted by a public officer to-

(i) ensure completeness of the information required in a declaration;

(ii) detect any discrepancy or inconsistency in the information; and;

(iii) flag out possible issues of conflict of interest;

(e) interconnect with other information systems and databases that have information relevant to analyse a declaration;

(f) receive and process requests for access to declarations;

(g) generate and submit any reports required in management of declarations;

(h) safeguard confidentiality and integrity of information;

(i) ensure safe and secure storage, retention and easy retrieval of information contained in a declaration and clarification.

Signature, etc., not required in declarations submitted electronically

38. Where a declaration is submitted electronically in accordance with an automated system adopted by a responsible Commission in accordance with these administrative mechanisms, the declaration shall be valid notwithstanding the absence of a signature or acknowledgement stamp or receipt or slip.

Options for automation by responsible Commissions

39. For purposes of automation of procedures for management of declarations in accordance with these administrative mechanisms, a responsible Commission shall elect and adopt any of the following options—

(a) A Modular System to be developed by the EACC, that will be a stand-alone solution capable of operating independently while also allowing seamless integration with existing systems within the responsible Commission;

(b) A Centralized Multi-Tenant Platform to be developed and hosted by the EACC, where any responsible Commission may create an account and operate as a separate tenant within the platform;

(c) An Internally Developed System where a responsible Commission may develop its own automation system, provided that such a system must comply with automation guidelines issued by the EACC.

F – COMPLIANCE REPORT BY RESPONSIBLE COMMISSION

Compliance reports to the Commission

40. (1) A responsible Commission shall submit to the Commission a report containing the following information:-

(i) In relation to two-year declaration-

(a) the number of public officers on the payroll as at 31st October of the year of declaration;

(b) the total number of public officers who have complied with the requirement for declarations;

(c) the total number of public officers who have not complied with the requirement for declarations;

(d) a list of public officers who have not complied;

(e) the administrative actions taken by the responsible Commission in relation to the non-compliant public officers;

(f) number of declarations in respect of which clarification have been sought and number of clarifications received; and

(g) any relevant remarks on the submissions.

(ii) In relation to the initial and final declaration-

(a) number of public officers required to make a declaration;

(b) the number of public officers who have complied with the requirement for declarations;

(c) the number of public officers who have not complied with the requirement for declarations;

(d) a list of public officers who have not complied;

(e) the administrative actions taken by the responsible Commission in relation to any public officer who has not complied;

(f) number of declarations in respect of which clarifications have been sought and number of clarifications received; and

(g) 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 by 31st July of the year following the declaration year;

(b) in relation to initial and final declarations, be submitted to the Commission by 31st July following the end of the financial year;

(3) The reports on compliance may be transmitted to the Commission electronically or in such other manner that the Commission may, from time to time direct.

PART IV – MISCELLANEOUS

Matters not covered in the Administrative Mechanisms

41. The Commission may issue written instructions or advisories in relation to any matter that has not been provided for in these Administrative Mechanisms on implementation of requirements in Part IV of the Act.

Contradiction between the Administrative Mechanisms and the Act

42. Where there is any contradiction between the provisions in these Administrative Mechanisms and the Act or Regulations, the Act and Regulations shall prevail.

Review and amendment

43. The Commission may, from time to time, review and amend these Administrative Mechanisms as may be necessary.

Dated the 17th August, 2026.

DAVID OGINDE,
Chairperson.

ABDI A. MOHAMUD,
Secretary/Chief Executive Officer.

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