

SPECIAL ISSUE

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REPUBLIC OF KENYA

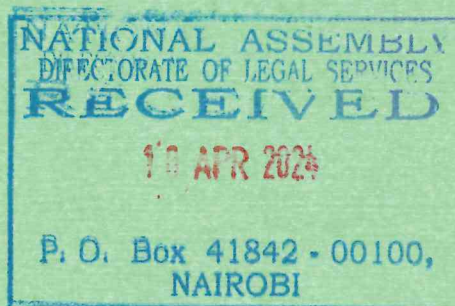
KENYA GAZETTE SUPPLEMENT

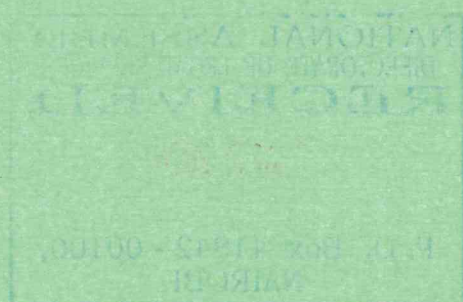
NATIONAL ASSEMBLY BILLS, 2024

NAIROBI, 2nd April, 2024

CONTENT

Bill for Introduction into the National Assembly—	PAGE
The National Police Service Commission (Amendment) Bill, 2024	493





**THE NATIONAL POLICE SERVICE COMMISSION
(AMENDMENT) BILL, 2024**

A Bill for

AN ACT of Parliament to amend the National Police Service Commission Act, 2011

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as National Police Service Commission (Amendment) Act, 2024.

Short title.

2. The National Police Service Commission Act, (in this Act referred to as the “principal Act”) is amended in section 2 by inserting the following new definitions in the proper alphabetical sequence—

Amendment of section 2 of No. 30 of 2011.

“psychosocial support” means the attention given to a person relating to the interrelation of social factors and individual thought and behavior based on their mental state;

“wellness” means practising healthy habits regularly to attain better physical and mental health outcomes;

3. The principal Act is amended in section 10(1) by inserting the following new paragraph immediately after paragraph (q)—

Amendment of section 10 of No. 30 of 2011.

(qa) establish psychosocial units and formulate programs to promote the mental health and wellbeing of police officers.

4. The principal Act is amended by inserting the following new section immediately after section 12—

Insertion of a new section 12A in No. 30 of 2011.

Mental health and wellbeing of police officers.

12(A) Pursuant to section 12, the Commission, in consultation with the Inspector General, shall—

- (a) provide police officers with mental health and wellness resources; and
- (b) in every county, establish well equipped centres in offices, camps, training colleges and communities for police officers to receive psychosocial support.

MEMORANDUM OF OBJECTS AND REASONS

The primary objective of the National Police Service Commission (Amendment) Bill, 2023 is to make provision for the mental wellness and wellbeing of police officers including but not limited to the establishment of psychosocial support centres for police officers.

The Bill recognises that in the execution of their tasks, police officers work in potentially confusing roles alternating between law enforcement and public service and constantly face danger or mortality to ensure the safety of others. In some cases, due to the unique challenges of policing, they inflict harm on human beings as police work is more stressful than other jobs. Numerous studies, including the recent Mental Health Taskforce Report of 2020 have examined the Germane aspect of mental health, but have overlooked the mental health of police officers. The proposed Bill therefore gives the National Police Service Commission various mandates aimed at promotion of the mental health of police officers.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

Statement on whether the Bill concerns county governments

The Bill is not a Bill concerning county governments as it does not affect the functions of the county governments. Police services' is a function of the national government under paragraph 7 of part 1 of the Fourth Schedule to the Constitution.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution

The Bill is a money Bill within the meaning of Article 114 of the Constitution.

Dated the 27th November, 2023.

PETER FRANCIS MASARA,
Member of Parliament.

Section 2 of the principal Act which it is proposed to amend –

2. Interpretation

In this Act, unless the context otherwise requires—

“Association of Professional Societies of East Africa” means the association of that name registered under the Societies Act (Cap. 108);

“chairperson” means the chairperson of the Commission appointed under the Constitution and section 6 of this Act;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to policing;

“Commission” means the National Police Service Commission established under Article 246 of the Constitution;

“Deputy Inspectors-General” means the Deputy Inspectors-General appointed in accordance with Article 245 of the Constitution;

“disciplinary action” means imposition of any punishment against a member of staff of the Service on account of breach of any code of conduct;

“member” means a member of the Commission appointed in accordance with section 6;

“Secretary” means the Secretary appointed under section 15;

“Service” means the National Police Service established under Article 243 of the Constitution;

“Police officer” has the same meaning assigned to it in the National Police Service Act;

“Inspector-General” means the Inspector-General appointed in accordance with article 245 of the Constitution and this Act;

“member of staff” includes civilian members of staff of the Service.

Section 10 of the principal Act which it is proposed to amend –

10. Functions of the Commission

(1) In addition to the functions of the Commission under Article 246 (3) of the Constitution, the Commission shall—

- (a) on the recommendation of the Inspector-General develop and keep under review all matters relating to human resources policies of members of the Service;

- (b) with the advice of the Salaries and Remuneration Commission, determine the appropriate remuneration and benefits for the Service and staff of the Commission;
- (c) approve applications for engagement by police officers in trade and other businesses, in accordance with the law relating to matters of leadership and integrity under Article 80 of the Constitution;
- (d) co-operate with other State agencies, departments or commissions on any matter that the Commission considers necessary;
- (e) provide for the terms and conditions of service and the procedure for recruitment and disciplinary measures for civilian members of the Service;
- (f) develop fair and clear disciplinary procedures in accordance with Article 47 of the Constitution;
- (g) investigate and summon witnesses to assist for the purposes of its investigations;

Provided that—

- i. the Commission shall not undertake investigations on criminal matters;
- ii. where, in the course of disciplinary investigations the Commission identifies violation of any written law, whether civil liability or criminal offence, the Commission shall recommend the prosecution of the offender in accordance with the law:

Provided that disciplinary proceedings by the Commission or the Inspector-General shall not be affected by any criminal or civil action commenced under paragraph (ii).

- (h) exercise disciplinary control over persons holding or acting in office in the Service;
- (i) promote the values and principles referred to in Articles 10 and 232 of the Constitution throughout the Service;
- (j) deleted by Act No. 3 of 2014, s. 3 (c);
- (k) hear and determine appeals from members of the Service on disciplinary matters relating to transfers, promotions and appointments;

- (l) develop policies and provide oversight over training in the Service;
- (m) approve training curricula and oversee their implementation;
- (n) investigate, monitor and evaluate and personnel practices of the Service;
- (o) receive and refer civilian complaints to the Independent Policing Oversight Authority, the Kenya National Commission on Human Rights, the Director of Public Prosecutions or the Ethics and Anti-Corruption Commission, as the case may be, where necessary;
- (p) review and make recommendations to the national government in respect of conditions of service, code of conduct and qualifications of officers in the Service;
- (q) evaluate and report to the President and the National Assembly on the extent to which the values and principles referred to in Articles 10 and 232 are complied with in the Service;
- (r) deleted by Act No. 3 of 2014, s. 3 (f);
- (s) receive complaints and recommendations from police associations registered in accordance with the applicable law;
- (t) perform such other functions as are provided for by the Constitution, this Act or any written law.

(2) Subject to the provisions of the Constitution or any written law, the Commission may delegate to the concerned Inspector-General the recruitment, appointment and promotion of police officers under the rank of superintendent: Provided that the Inspector-General shall, during such recruitment, appointment or promotion, take into account gender, county and ethnic balancing.

(3) Notwithstanding subsection (2), the Commission shall not delegate any of the following functions—

- (a) the making of any regulations, rules, code of conduct or subsidiary legislation under this Act or any other written law;
- (b) the making and submitting of any report to the President and the National Assembly; and
- (c) the performance of any function the delegation of which would amount to unjustified delegation of the Commission's discretion.

(4) The disciplinary control envisaged under Article 246(3)(a) of the Constitution shall mean—

- (a) the development and prescription of fair and clear disciplinary procedures in accordance with Article 47 of the Constitution;
 - (b) development, and prescription of disciplinary procedures and mechanisms;
 - (c) monitoring compliance by the Inspector General with the prescribed disciplinary procedures and guidelines issued by the Commission;
 - (d) monitoring compliance with the due process in disciplining members of the Service;
 - (e) receiving regular reports from the Inspector-General on disciplinary matters handled by the national Police Service;
 - (f) reviewing or ratification of disciplinary actions taken by the Inspector General;
 - (g) hearing and determining appeals on disciplinary matters from members of the Service.
- (5) A delegation under this Act shall—
- (a) be in writing;
 - (b) be subject to any conditions the Commission may impose; and
 - (c) not divest the Commission of the responsibility concerning the exercise of its powers or the performance of the duty delegated.

Section 12 of the principal Act which it is proposed to amend –

12. Standard of service

In the exercise of the powers or the performance of the functions conferred by this Act, the Commission shall—

- (a) strive for the highest standards of professionalism and discipline among the members of the Service;
- (b) prevent corruption, and promote and practise transparency and accountability;
- (c) comply with the constitutional standards of human rights and fundamental freedoms;
- (d) observe the constitutional principles set out under Chapter Thirteen of the Constitution; and
- (e) foster and promote relationships with the broader society.