



Office of the Chairperson

Ref. No. PSC/ADM/13/(41)

4th April, 2023

All Authorized Officers

All Chief Executive Officers of State Corporations

EXTENSION OF SERVICE UPON ATTAINMENT OF THE MANDATORY RETIREMENT AGE

This circular is further to circular No. PSC/ADM/13 of 19th December, 2020 and is issued to restate the high threshold set for appointments beyond the mandatory retirement age for Public Officers

The constitutional mandate of the Public Service Commission includes, among others, the power to make appointments, manage succession and exit of public officers. This mandate is operationalized by the Public Service Commission Act, 2017 and regulations thereof.

In the execution of its functions, the Commission continuously engages with Authorized Officers who manage, under delegated authority, public officers in Ministries, Departments and Agencies. As such, most requests on human resource matters handled by the Commission including those related to extension of service upon attainment of mandatory retirement age originate from Authorized Officers.

The appointment beyond retirement age should always be in the best interests of the service. The contractual terms assigned to any appointment beyond retirement age shall be in accordance with the provisions of Section 45 of the Public Service Commission Act, 2017, Section 10 of the Employment Act, 2007 and the specific contract of employment which normally contains a separation clause.

Where an Authorized Officer finds it necessary to discontinue a lawful employment contract, the provisions of the contract may be invoked taking into account the legitimate expectations of the public officer without recourse to outright revocation of the appointment. It is therefore imperative that where termination of a contract is contemplated, it be done within the confines of the relevant laws and provisions of the contract.



The Commission routinely receives numerous requests for extension of service of public officers beyond the mandatory retirement age, often without due regard to the requirements for such appointments as espoused under Article 27(4) of the Constitution and Section 80 of the Public Service Commission Act, 2017 which provides for engagement of public officers for service after retirement on the following conditions:

- (a) The public officer possesses rare knowledge, skills and competencies for the time being required in the service as defined in Regulation 70(7)(a) of the Public Service Commission Regulations, 2020;
- (b) The retired officer is willing to be engaged on contract; and
- (c) The retired public officer's performance shall not in any way be impaired by age.

Similarly, existing legislation provides for the terms of service for Chief Executive Officers of State Corporations and Vice Chancellors of Public Universities. Where legislation is silent, the three-year term renewable once in the Mwongozo, the Code of Governance for State Corporations, subject to satisfactory evaluation by the Board shall be used as the guiding principle and the provisions on retirement provided in the PSC Act shall therefore not apply.

Please bring the contents of this circular to all the Officers serving under you.



A. M. Muchiri (Amb.)
CHAIRPERSON

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