Salaries & Remuneration Commission

Rewarding productivity

REMUNERATION GUIDELINES FOR THE PUBLIC SECTOR

November 2020

1. Rationale for Development of Remuneration Guidelines for the Public Sector

The Salaries and Remuneration Commission (SRC) is established under Article 230(1) of the Constitution to set and regularly review the remuneration and benefits of all State Officers; and advice the national and county governments on the remuneration and benefits of all other Public Officers. The Constitution outlines the remuneration principles as follows:

(i) the need to ensure that the total public compensation bill is fiscally sustainable;

(ii) the need to ensure that the public services are able to attract and retain the skills required to execute their functions;

(iii) the need to recognize productivity and performance; and

(iv) transparency and fairness.

Equal remuneration to persons for work of equal value is a statutory requirement based on Section 12(1) of the Salaries and Remuneration Commission Act (2011).

Article 230 (5) of the Constitution and Section 12 (1) of the SRC Act, 2011 specifies Remuneration and benefits principles upon which SRC reviews and sets remuneration and benefits for state officers and advises on remuneration and benefits for other state officers at the National and county governments. The Remuneration Guidelines for the Public Sector is a remuneration and benefits policy instrument that operationalizes the remuneration principles. The constitutional and legal provisions, therefore, give SRC authority to develop guidelines to anchor its advisory to public sector employers, workers and their representative trade unions, and the Employment and Labour Relations Court.

Kenya has had a system of wage guidelines since 1973. The guidelines are national in scope, covering labour market players in both public and private sectors of the economy. Being a national instrument, the wage guidelines do not take into account the intrinsic benefits in public sector employment and the effect that compensation practices in the sector may have on overall labour market competiveness. Furthermore, the guidelines were last reviewed in 2005 and, therefore, outdated and non-responsive to the changing socioeconomic dynamics at national, regional and global levels. In addition, the guidelines have a number of gaps, which continue to undermine its implementation, compliance and effectiveness.

The constitutional and legal requirements together with inadequacies in the design and implementation of the national wage guidelines give SRC authority to develop Remuneration Guidelines for the Public Sector to facilitate its mandate of setting and regularly reviewing remuneration and benefits of State Officers, and advising on the remuneration and benefits of all other Public Officers. The Guidelines will also support SRC's advisory services to public sector employers, workers and their representative trade unions, and the Employment and Labour Relations Court.

2. Scope of the Guidelines

Remuneration Guidelines for the Public Sector is a remuneration and benefits policy instrument that outlines the factors that should be considered in reviewing remuneration of State Officers and other Public Officers as mandated by the Constitution. The Guidelines cover all public sector institutions.

3. Remuneration Guidelines

3.1 Guideline No. 1: Remuneration Structure

Article 41(2a) of the Constitution confers every worker the right to fair remuneration. Article 230(5) of the Constitution identify the need to ensure that public services are able to attract and retain the skills required to execute their functions, and transparency and fairness as some of the principles in setting and reviewing remuneration and benefits in the public sector. Section 12(1) of the Salaries and Remuneration Commission Act (2011) establishes equal remuneration to persons for work of equal value as another principle in determining remuneration and benefits in the public sector.

Remuneration in the public sector consist of basic salary and remunerative and facilitative allowances, which are paid depending on the nature of work, designation and locality. The allowances, which supplement basic pay account for 48% of the country's total wage bill. Top thirteen (13) allowances account for 80% of expenditure on allowances and 38% of the government's expenditure on gross pay. Housing allowance alone accounts for 33% of expenditure on allowances and 16% of expenditure on gross pay. Some of the allowances earned by public sector workers may, however, not be linked to human capital based elements of remuneration. Furthermore, the purpose for which the allowance is paid for some positions could have already been factored in the relative worth of the job through job evaluation exercise. This may result into double payment and increase earnings distortion.

Guideline No. 1: Remuneration Structure

Salaries and overall remuneration is a primary measure of workers' standard of living. Public sector workers are entitled to remuneration that reflects the relative worth of jobs, enables attainment and protection of the desired minimum standard of living and ensures a measure of stability in their income. In this respect:

(i) the SRC will continue to review remuneration of State Officers and all other Public Officers to reflect the relative worth of their jobs;

(ii) the SRC will continue to review and consolidate remunerative and facilitative allowances to make the proportion of basic pay to gross salary to be no less than 60%; and

(iii) the Employment and Labour Relations Court, public sector employers, workers and trade unions while maintaining the desired balance will discourage any reviews that favour allowances over basic pay.

3.2 Guideline No. 2: Pay Disparities

Remuneration in the public sector is anchored on overlapping pay model with multiple scales and vertical salary overlap between grades. Consequently, salary scales for Civil Service, County Governments, Teachers Service Commission and State Corporations have compression ratios of between 4.2 and 22.8 against international norm of seven (7). Public sector compression ratios depict existence of salary differentials within grades. The differentials range between 13.3% and 293.7% in the civil service and county governments, and between 36.5% and 186.8% in the Teachers Service Commission. Wage differentials in service and commercial State Corporations are more pronounced at higher bands.

Pay disparities in the public sector also arise from variations in the ease of flexibility for promotion, which is inherent in career progression guidelines applicable to various occupations in the sector. Disparities in pay for workers with similar qualifications, skills and in comparable occupations is counter to the principle of equal pay for work of equal value. Unjustified pay differentials lead to low morale and productivity, spiral agitation for increments in remuneration and benefits, unwarranted labour market mobility and instability.

> ***Guideline No. 2: Pay Disparities***
> *Salaries of public sector workers shall reflect the relative value of their jobs and the salary ranges within and between grades should not be wide. A ratio of at most 1.5 times between the grade minimum and grade maximum salary points is desired.*

3.3 Guideline No. 3: Performance and Productivity

Kenya has relatively low levels of competitiveness, ranking position 95 globally in 2019. Competitiveness relates to productivity, which is the most important determinant of long-term economic growth. Kenya's annual labour productivity growth averaged 1.4% in 2001-2019, lower than Africa's average (1.6%). The low levels of national and global competitiveness undermine achievement of high and sustained economic growth, and creation of productive and sustainable employment opportunities contrary to the goal of *Kenya Vision 2030*.

> ***Guideline No. 3: Performance and Productivity***
> *The ability, motivation and productivity of public sector workers are key determinants of the capability of the Government to implement policies and deliver infrastructure and services to citizens effectively. Consequently:*
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> *Remuneration in the public sector and any pay reviews of such remuneration shall take into account individual employee performance, institutional and sectoral productivity, and performance of the national economy as prime elements.*

3.4 Guideline No. 4: Productivity-linked Pay

Long-term macroeconomic stability, national competitiveness and sustained employment creation require that growth in remuneration lags growth in labour productivity. However, nominal wage earnings per employee in the public sector grew by an average of 8% in 2002-2018 compared 1.3% annual average growth in labour productivity. Trade unions and employers also negotiated collective bargaining agreements, which resulted in an average annual labour cost increase of 19%, some 17.7 percentage points above the annual growth rate in labour productivity. The trends signal a broken link between labour productivity and pay contrary to Article 230(5) of the Constitution that require productivity and performance to be considered in determining remuneration and benefits in the public sector. A weak nexus between labour productivity and remuneration and benefits has a dampening effect on overall public sector productivity and national competitiveness.

> ***Guideline No. 4: Productivity-linked Pay***
> *Public sector wage bill constitutes an important component of the country's output and impacts directly on government spending, ability to render public services, and capacity of the country to attain global competitiveness.*
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> *To maintain cost competitiveness and achieve desired level of competitiveness, any increases in remuneration is expected to align to economic growth and be closely linked to institutional productivity and individual performance.*

3.5 Guideline No. 5: Public-Private Sector Remuneration Balance

Public sector employment and compensation practices have significant implications for labour market competeviness. Low remuneration in the public sector can result in difficulties in recruiting and retaining qualified workers while large earnings premiums for public sector workers can discourage private sector jobs and lead to search unemployment. Public sector workers in Kenya earn slightly above their private sector counterparts. The earnings premium in favour of public sector workers may be higher if remunerative and facilitative allowances in the public sector are considered. Full parity with private sector comparators should, therefore, not be the goal of public sector compensation systems due to inherent compensating differentials in the nonpecuniary benefits of public sector work.

> ***Guideline No. 5: Public-Private Sector Remuneration Balance***
> *The Employment and Labour Relations Court in making its awards will consider how public sector workers and employees in the private sector compare, and the competitiveness of the total remuneration across different skills in the public sector.*

3.6 Guideline No. 6: Compensation Parameters

Remuneration and benefits in the public sector in Kenya is determined through collective bargaining and administered approaches. Except for state officers, public officers are appointed to salary scales with annual automatic increments ranging between 1.9% and 12.2%. Review of remuneration and benefits is mostly based on changes in the consumer price indices, performance of the economy, and institutional factors such as job evaluation exercises, career progression guidelines and involvement of trade unions through collective bargaining and negotiations. Collective bargaining agreements in the public sector run for a period of four years.

Kenya aspires to establish and maintain a productivity linked remuneration system with remuneration structure that has fixed and flexible componets, and productivity based payments made as one-off payments so as not to become a permanent part of the basic pay.

Guideline No. 6: Compensation Parameters

Collective bargaining agreements and revision of salaries in the public sector shall be in line with productivity increases in order to protect Kenya's competitiveness and ensure sustained economic growth and employment creation. Salary claims by State Officers and all other Public Officers arising from erosion of their purchasing power due to increases in the cost of living, or claims emanating from greater labour productivity should be considered along the following lines:

(i) *Allow public sector workers in the lower income group as per the most current income group classification by the Kenya National Bureau of Statistics* ***up to*** *100% compensation for the rise in the cost of living as measured by the changes in the Nairobi Lower Income Group Consumer Price Index since the most recent revision of wages.*

(ii) *Compensation as a declining percentage of the rise in the cost of living as measured by changes in New Kenya Consumer Price Index since the most recent revision of wages should be awarded to the higher wage earners so as to narrow overall wage differentials.*

(iii) *The predetermined automatic annual increments that are inbuilt in the salary scales of public sector workers shall be offset against the computed cost of living compensation entitlement in (i) and (ii) to arrive at the permissible cost of living compensation quantum. No double compensation shall be allowed in applying this provision.*

(iv) *Notwithstanding the provisions in Guideline 6(iii), any salary increment awarded to public sector workers should not exceed the average annual rate of growth in labour productivity for the period under consideration.*

(v) *Compensation for price increases shall be spread out equally throughout the life of the collective bargaining agreement or contract of employment.*

(vi) *Any award for demonstrable and verifiable gains in labour productivity in the public sector shall be made as a one-off payment so that the payment for increased productivity does not become a permanent part of the basic pay.*

3.7 Guideline No. 7: Equity and Fairness

Article 230(5) of the Constitution identifies equity and fairness as a key principle in determining remuneration and benefits in the public sector. This is an important principle that increases confidence in setting and administration of public sector remuneration.

> ***Guideline No. 7: Equity and Fairness***
> *The SRC shall endeavor to establish and maintain equity and fairness in remuneration in the public sector. In this respect:*
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> *(i) Trends in salaries in any occupation or grade in any public sector institution shall be specific to that institution, relating to actual returns and competitiveness of the institution emanating from increased labour productivity and efficiency;*
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> *(ii) Salary demands based on salary trends or awards in other occupations or grade, or public sector institutions or private sector per se shall not be allowed.*

3.8 Guideline No. 8: Equal Pay for Work of Equal Value

Article 230(5) of the Constitution gives transparency and fairness as one of the principles in determining remuneration and benefits in the public sector. Section 12(1) of the Salaries and Remuneration Commission Act (2011) establishes equal remuneration to persons for work of equal value as another principle. Public sector workers in comparable occupations and with same skills and competencies should get equal pay to promote fairness and equity in the sector.

> ***Guideline No. 8: Equal Pay for Work of Equal Value***
> *Ability to pay higher remuneration by any public sector institution shall not be regarded as necessary and sufficient condition for the increase in remuneration if it means that one group of public sector workers will earn a remuneration, which is out of step with those of comparable groups of workers in the sector.*

3.9 Guideline No. 9: Fiscal Sustainability

Article 230(5) of the Constitution requires SRC to ensure that the public compensation bill is fiscally sustainable. Public sector wage bill constitute a significant proportion of Kenya's output estimated at 48.1% of ordinary revenue and 7.9% of the Gross Domestic Product in 2018/2019. A high public sector wage bill crowds out spending on development and negatively impacts a government's ability to render services.

Guideline No. 9: Fiscal Sustainability

A key principle of remuneration specified in Article 230(5) of the Constitution is fiscal sustainability. Consequently, any demand for salary or salary review proposal, which alters the remuneration parameters established in these Guidelines and is likely to have any impact on the wage bill shall be subject to affordability and fiscal sustainability. In this respect:

(i) Any proposal in respect to remuneration in the public sector shall be accompanied with an analysis of its likely affordability and fiscal impact.

(ii) Any proposal in respect to remuneration and benefits in the public sector together with its affordability and fiscal impact analysis shall be reviewed by the SRC in line with its constitutional principles.

(iii) The foregoing provisions would prohibit public sector employers and trade unions or other such representatives of the subsets of the public sector concluding collective bargaining negotiations on remuneration and other terms and conditions of employment without first obtaining advice from the SRC.

3.10 Reinforcing Guidelines

Guideline No. 10: Sustainability of Labour Cost

Ability of the economy to sustain increased labour costs shall be considered in determining the level and timing of any awards on remuneration.

Guideline No. 11: Review Cycle

(i) Remuneration and benefits shall be reviewed periodically taking into account the constitutional principles and parameters outlined in the Guidelines and other socioeconomic circumstances;

(ii) Remuneration and benefits shall not be reviewed more often than once in four (4) years' interval; and

(iii) Review of remuneration and benefits shall coincide with the renewal of the collective bargaining agreements and/or employment contracts.