

Reference: PG/KEN/0354

Terms of Reference

POST TITLE:	Legislative Drafter (2 positions)
NATURE OF PROJECT:	Advisory
LOCATION:	Nairobi, Kenya
DURATION:	One (1) Year
DUTY STATION:	Attorney-General's Office and/or Law Reform Commission of Kenya
START DATE:	As soon as possible
RESPONSIBLE TO:	Attorney-General, Attorney General's Office or nominee

Background

The people of Kenya ratified a new Constitution through a referendum held on 04 August 2010. The new Constitution contains an extensive schedule of legislation required to implement its various provisions. In all, there are over 50 specific areas identified which require legislation. The new constitution also prescribes timeframes within which each piece of legislation should be in place. It further requires that Parliament enact any legislation required to be enacted to govern a particular matter within the prescribed period. Line Ministries will continue to be responsible for initiating the requisite legislation in their respective areas. However, the responsibility for preparing the relevant Bills for enactment within the period prescribed is vested in the Office of the Attorney-General and the Kenya Law Reform Commission, in consultation with the Commission for the Implementation of the Constitution.

The Office of the Attorney-General and the Kenya Law Reform Commission require expert support in order to fulfil their mandate to prepare the requisite legislation and to harmonize existing laws with the new constitution within the prescribed periods. In particular, the two offices urgently require the assistance of drafters, who also have some training experience in order that their expertise may be passed on to drafting staff at both the national and local levels.

Purpose of the project

The purpose of this project is to strengthen the capacity of the Attorney General's Office and the Kenya Law Reform Commission with regard to drafting the legislation required to implement the provisions of the new constitution of the Republic of Kenya.

Scope of Work

The expert will work closely with the Office of the Attorney-General, the Kenya Law Reform Commission and the in-house drafters in both offices to harmonize existing laws with the new constitution and strengthen drafting capacity within Kenya.

In collaboration with the in-house drafters, the expert will be expected to undertake the following activities:

- Draft amendments to existing laws in order to harmonize laws with the new constitution
- Undertake assessment of drafting capacity within the Attorney General's Office, the Law Reform Commission and other relevant agencies and make recommendations for long term sustainable measures to address gaps
- Develop and implement training and mentoring programme for drafters in AGO and LRC and other relevant agencies
- Advise Government Ministries and departments on legislative and other legal matters within their area of expertise
- Assist in research on technical matters that need further investigation

The expert will be based in Nairobi but may be required to travel to other towns for purposes of briefing government officials and participating in stakeholder consultative fora on the legislation being developed or to conduct training of local government drafters.

Outputs (Deliverables)

The above activities will be expected to produce the following outputs:

- Laws and regulations necessary to comply with the constitution and international obligations drafted;
- Staff of the Attorney General's Office, Law Reform Commission and other relevant agencies trained in legislative drafting;
- Government Ministries and Departments better advised with regard to legislation in specialised fields.

Transfer of Expertise

The Commonwealth Secretariat attaches particular importance to the transfer of expertise and knowledge to counterparts. Experts appointed will be expected to share their skills and experience with staff of the Attorney General's Office and Kenya Law Reform Commission. A comprehensive training and mentoring programme will be implemented in this regard which will aim to ensure that staff trained will have the necessary skills to fulfil drafting requirements without supervision upon project completion.

Implementation Arrangements

The experts will work closely with Commonwealth Secretariat Advisers in delivering this technical assistance. The experts will be based at the Attorney General's Chambers and/or Kenya Law Reform Commission in Nairobi for a period of one year. This will be subject to review toward the end of the project and renewal upon mutual agreement.

At the start of the assignment the expert will develop a priority and output-oriented workplan in close cooperation with the Attorney-General. The expert will then prepare a quarterly progress report against the workplan that shall be submitted to the Attorney-General. At the end of the assignment the expert will prepare an end of assignment report, noting the achievement of the terms of reference and delivery of the scope of work.

Person Specification

The successful candidate should possess the following experience and qualifications:

- At least 15 years' experience in legislative drafting acquired within commonwealth jurisdictions, particularly in constitutional matters.
- Experience in providing professional advice concerning legislative drafting on constitutional, human rights or other public law issues, at senior level.
- Experience in development and delivery of capacity building programmes and mentoring in the field of legislative drafting.
- Strong communication, writing and IT skills.
- Ability to establish priorities, and to plan, coordinate and monitor own work.
- Good inter-personal skills, ability to work in a consultative and collaborative manner.
- Ability to establish and maintain effective partnerships and working relationships in a political environment.
- Demonstrate leadership in drafting matters.

(March 2014)