

threshold of required competency; suitability and integrity will be removed from service due to:

- ❖ Involvement in corruption and unethical conduct in the discharge of judicial duties.
- ❖ Incompetency to hold office due to qualifications or past favoritism.
- ❖ Conviction of a criminal offence or abuse of office.
- ❖ Professional malpractice and instances of abdication of duty.

l) What outcomes can be expected from the Vetting exercise?

- ❖ **Candidates Who Pass:** will be allowed to continue in service but shall be obligated to hence forth comply with the requirements in Article 10(2) and 159 of the Constitution.
- ❖ **Candidates Who Fail:** those who will not meet the required threshold or to have committed cited actions will be removed from service in the judiciary but granted full terminal benefits.
- ❖ **Voluntary Vetting:** Vetting was not mandatory as the Act gave all judges and magistrates' an option of avoiding the vetting by going for voluntary retirement with entitlement to terminal benefits for early retirement. None of the officers opted for this.



m) What is the type, structure, and procedures of the Vetting process?

The proposed type of vetting process applicable in the Kenyan situation is an administrative review of the past activities of the judges and magistrates. Parliament through the Act established a new set of procedures setting up the Board as a legal vetting body created to perform or oversee the process.

The Board is insulated from court challenges by making its decision final without being subject to appeal or review by an external body. The members were selected in an open, transparent and competitive recruitment process.

The hearings will be held in camera unless the specific judges or magistrates requests for a public hearing. A tripartite panel of three including (a lawyer, non-lawyer and foreign judge) will be constituted.

The panels shall interview the judges/magistrates and receive public memoranda as well as taking evidence from any witnesses it deems crucial and inquiring into official employment records. The judges and magistrates will not have the latitude to cross examine witnesses.

The judges and magistrates will be given notice to appear before the Board and all allegations against them brought to their attention. They will further be required to furnish the Board with any details it deems necessary for the vetting.

n) Which considerations will the board take into account?

1. Whether the constitutional criteria for appointment was met.
2. Past work record including judgements.
3. Competence and diligence,
4. Previous or current criminal cases against concerned officers,
5. Recommendations for prosecution from anti-corruption agencies,
6. Pending complaints received from public agencies, professional bodies and civil society or citizens.
7. Integrity in the sense of a person's adherence to relevant standards of human rights and professional conduct, including her or his financial propriety.

- ❖ Suitability and competency-
- ❖ Written and oral communication skills.
- ❖ Fairness.
- ❖ Temperament,
- ❖ Good judgment,
- ❖ Legal and life experience
- ❖ Demonstrable commitment to public and community service,
- ❖ Personal Integrity
- ❖ Professional Competence
- ❖ Suitability



o) When does Vetting occur and how long does it last?

1. Preparatory Period: 2011 October- January 2012.

From the date of appointment and constitution of the Board, the Act provides for a two (2) months preparatory period to allow it initiate measures to enhance its capability to undertake the vetting such as hiring of staff, setting up a secretariat, formulating regulations and work schedules.

2. Commencement of Sittings: February 23rd 2012.

The Board was inaugurated in October 2011 such that the Preparatory period runs until January 2012. In official communication the Board had scheduled its first sitting to be on January 23rd but that was delayed by a pending court ruling brought by a student challenging the constitutionality of the Vetting of Judges and Magistrates Act.

The High Court dismissed the application whereupon the student appealed but Court of Appeal declined to grant temporary stay orders pending appeal. Effectively the Board began Vetting judges of superior courts as of 23rd February which was the commencement period.

3. Section 23(1) of the Act provides that the vetting is scheduled to take a minimum of one year from commencement with an option of extension by Parliament for a period of not more than one year.

4. Vetting Timetable.

February 23rd - May 23rd 2012.	i Superior Courts Judges: The Act further provides that the Vetting of judges of the Court of Appeal and High Court is to take place within the first three (3) months of the Board's sittings.
May 23rd - November 23rd 2012.	i i. Magistrates: Magistrates will be vetted within a period of six (6) months after the vetting of judges.
November 23rd - 23rd January 2013.	iii. Reviews and Appeals: Judicial officials who will be dissatisfied with the findings of the Board shall within 7 days after final completion of the vetting of all cadres petition the Board to review such decisions within a period of not more than one month.

p) How can i get more information?

Either contact or visit the Secretariat of the Judges and Magistrates Vetting Board as well as the ICJ-Kenya National Section at the following addresses.

**The Chairperson
Judges and Magistrates Vetting Board
Anniversary Towers, University Way, 22nd Floor
P.O. Box 45521 – 00100
Nairobi**



**ICJ –Kenya
Vihiga Road, off Othaya Road, Kileleshwa, Nairobi
P.O. Box 59743 - 00200 Kenya
Call: 254-20- 3875980/1
Fax : 254-20- 3875982
Mobile: 254-720-491549, 254 733-491549**

Promoting a just, free and equitable society