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REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT (THIRD SESSION)

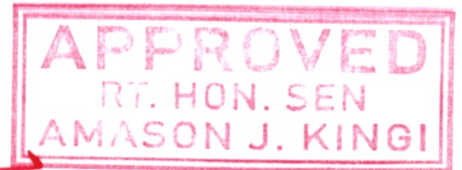


THE SENATE

Rt. Hon. Speaker  
You may approve for tabling  
J. M. Nyegenye, C.B.S.,  
Clerk of the senate/secretary, PSC  
Date: 03/10/24

THE STANDING COMMITTEE ON EDUCATION

REPORT ON THE PETITION REGARDING THE DISCRIMINATION ON PAYMENT  
OF HARDSHIP ALLOWANCE TO SOME TEACHERS IN TAITA/TAVETA COUNTY



03/10/24

Clerk's Chambers,  
Parliament Buildings,  
P.O. Box 41842-00100,  
NAIROBI.

PAPERS LAID	
DATE	08/10/2024
TABLED BY	Chair
COMMITTEE	—
CLERK AT THE TABLE	Angela

October, 2024

Mr. Hon. Speaker  
The Honorable Speaker for the House  
U.S. Capitol Building  
Washington, D.C. 20541  
Dear Mr. Speaker:

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## **ABBREVIATIONS AND ACRONYMS**

ASAL	Arid and Semi- Arid Lands
CBA	Collective Bargaining Agreement
CRA	Commission for Revenue Allocation
KNUT	Kenya National Union of Teachers
KUPPET	Kenya Union of Post Primary Education Teachers
KUSNET	Kenya Union of Special Needs Education Teachers
SRC	Salaries and Remuneration Commission
TSC	Teachers Service Commission

## PRELIMINARIES

The Standing Committee on Education is established pursuant to standing order 228(3) and the Fourth Schedule of the Senate Standing Orders. The Committee is mandated to *“Consider all matters related to education and training.”*

### Membership of the Committee

1. Sen. Joe Nyutu, MP	<b>Chairperson</b>
2. Sen. Peris Tobiko, CBS, MP	<b>Vice Chairperson</b>
3. Sen. (Prof) Margaret Kamar, EGH, MP	Member
4. Sen. Johnes Mwaruma, MP	Member
5. Sen. John Kinyua Nderitu, MP	Member
6. Sen. Agnes Kavindu Muthama, MP	Member
7. Sen. Joseph Githuku Kamau, MP	Member
8. Sen. James Kamau Murango, MP	Member
9. Sen. Lenku Ole Kanar Seki, MP	Member

### Mandate of the Committee

Pursuant to the provisions of the Fourth Schedule of the Senate Standing Orders, the Standing Committee on Education is mandated to *consider all matters relating to education and training.*

The Committee is specifically mandated to-

1. investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration and operations of assigned Ministries and departments;
2. study and review all legislation referred to it;
3. study, assess and analyze the relative success of the Ministries and departments based on their results compared to their stated objectives;
4. consider the Budget Policy Statement in line with Committee’s mandate;
5. report on all appointments where the Constitution or any law requires the Senate to approve;
6. consider reports of Commissions and Independent Offices submitted to the Senate pursuant to the provisions of Article 254 of the Constitution;
7. examine any statements raised by Senators on a matter within its mandate; and
8. follow-up and report on the status of implementation of resolutions within their mandate.

## CHAIRPERSON'S FOREWORD

The Petition on discrimination on payment of hardship allowance to some teachers in Taita/Taveta County was reported to the Senate on Wednesday, 20<sup>th</sup> September, 2023 by Sen. Johnes Mwaruma, MP. The Petition thereafter stood committed to the Standing Committee on Education pursuant to Standing Orders 238 (1), which was required to investigate the prayers raised by the petitioners, and respond to the petitioners by way of a report.

During the consideration of the Petition, the Committee held eleven meetings and sought information and reports on the issues raised from the Cabinet Secretary, Ministry of Public Service and Human Capital Development and the Teachers Service Commission. The Committee further conducted an oversight visit to Taita/Taveta County to meet with the petitioners and acquaint itself with the issues raised in the Petition.

The Committee observed that Taita/Taveta County is characterized by shortage of health personnel, inadequate critical working health equipment, infrastructure, health products and technologies. It was also observed that there have been frequent disputes arising from human-wildlife conflicts, land disputes and human encroachment in riparian areas. Teachers also reported experiencing poor communication and disruption of phone networks from the neighbouring country.

The Committee further observed that hardship allowance was introduced after independence to partially compensate public servants working in hardship designated areas and also to compensate public servants due to isolation and separation from their families. This allowance was further provided to compensate for lack of amenities, infrastructure and a challenging environment.

The Committee established that the mandate of classifying and gazetting hardship areas rests with the Ministry of Public Service and Human Capital Development following a weighted criterion. This criterion is based on the parameters such as availability and accessibility of food, potable water, social services and amenities; adequacy of transport and communication services and social economic indicators

During the analysis of stakeholder submissions, the Committee observed that there were discrepancies in the designation of hardship areas within various sectors of the public service. This poses challenges regarding categorization and payment of the hardship allowances. Additionally, there exists diverse and varied policies, circulars, and guidelines concerning the designation of hardship areas and the payment of hardship allowance. The criterion for designation of hardship areas in the country has not been standardized across the entirety of the public service and is characterized by multiple sector players.

However, there has been an attempt to address challenges regarding the categorization and payment of hardship allowances and to rectify existing disparities. In 2019, the Ministry of Public Service and Gender established an Inter-Agency Technical Committee which was tasked with examining policies on hardship allowances and streamline payment.

With the foregoing, the Committee recommends that:

- 1) the Ministry of Public Service and Human Capital Development should, within sixty (60) days of tabling and adoption of this report, and in consultations with all relevant stakeholders, prepare and present to the Senate for consideration, an appropriate policy and statutory instrument on identification and designation of hardship areas;
- 2) The criteria for identification and designating hardship areas should be standardized across the entire public service and the weighted criterion for designating these areas should be based on the smallest administrative units used in identification of marginalized areas; and
- 3) Areas of Ronge Zone in Mwatate sub county, Taita sub county and Taveta sub county meet the criteria for designation as hardship areas by the Ministry of Public Service and Human Capital Development and consequently teachers in these areas qualify to be paid hardship allowances.

On behalf of the Committee, I wish to sincerely thank Sen. Johnes Mwaruma, MP, for reporting this Petition to the Senate. Further the Committee wishes to register the appreciation of the committee to the Kenya National Union of Teachers Taita/Taveta County Branch for their well-researched and articulate oral and written submissions on the issues raised in the Petition.

The Committee also appreciates the Cabinet Secretary, Ministry of Public Service and Human Capital Development and the Chief Executive Officer of the Teachers Service Commission (TSC) for their submissions during the consideration of the Petition.

As I conclude, I wish to sincerely thank the Members of the Committee for their insightful contributions during the consideration of this Petition and development of the report. The Committee also thanks the Offices of the Speaker and the Clerk of the Senate for the support extended to it in the execution of its mandate.

It is now my pleasant duty, pursuant to standing order 238 (2) of the Senate Standing Orders, to present the Report of the Standing Committee on Education on Petition on discrimination by the Teachers Service Commission on payment of hardship allowance to some teachers in Taita/Taveta County.

I thank you

Signed..........Date.....01/10/2024.....

**SEN. JOE NYUTU, MP**  
**CHAIRPERSON, STANDING COMMITTEE ON EDUCATION**

## CHAPTER ONE

### 1. INTRODUCTION

1. Article 119 of the Constitution provides every person with the right to petition Parliament on any matter within its authority including seeking enacting, amending or even repealing of legislation. The Petition to Parliament (Procedure) Act, 2012 provides for the right to petition Parliament, the procedure to exercise that right and the enhancement of public participation in the parliamentary and legislative processes.
2. Every petition presented to the Senate stands committed to the relevant standing committee for consideration. Standing Order 238(2) of the Senate Standing Orders requires a committee to which a petition is committed, to respond to the petitioner by way of a report addressed to the petitioner and laid on the table of the Senate.
3. The petition concerning the discrimination in the payment of hardship allowance to teachers in Taita/Taveta (*Annex 2*) was presented to the Senate pursuant to the provisions of Standing Order 238(1) of the Senate Standing Orders on Wednesday, 20<sup>th</sup> September, 2023 by Sen. Johnes Mwaruma, MP on behalf of the Kenya National Union of Teachers (KNUT) Taita/Taveta branch.
4. The salient issues raised in the Petition are that-
  - a) all Taita/Taveta teachers qualify to be paid hardship allowances as per Legal Notice No. 534 of 1997 and as per the 13<sup>th</sup> July, 2021 on Collective Bargaining Agreement (CBA) between Teachers Service Commission (TSC) and Kenya National Union of Teachers (KNUT), KUPPET and KUSNET;
  - b) despite the existence of Legal Notice 534 of 1997 and the Collective Bargaining Agreement of 13<sup>th</sup> July, 2021, not all teachers working in Taita/Taveta County benefit from hardship allowance;
  - c) TSC pays hardship allowance to teachers in Voi and part of Mwatate sub counties leaving out the following areas:
    1. Taveta Sub County;
    2. Taita Sub County;
    3. Ronge zone of Mwatate sub-county; and
    4. Mbololo and John Mark Mwajuma Secondary Schools in Voi.
  - d) teachers in these areas need the allowance to cushion them against:
    1. insecurity caused by marauding wild animals from Tsavo National Park;
    2. high cost of water due to lack of clean water and drought;
    3. high cost of travel due to impassable roads and occasional floods;
    4. high cost of housing due to lack of rental houses within the vicinity;
    5. too much work caused by understaffing;

- 6. high cost of medical care due to unavailability of medical facilities;  
and
  - 7. high communication costs due to poor network coverage.
- e) it is surprising that some of the most marginalized areas in the County like Ronge Zone in Mwatate sub-County, Kishushe in Taita sub-County and Challa in Taveta sub County are denied hardship allowance;
  - f) unlike TSC, the Commission on Revenue Allocation (CRA) identified Challa ward in Taveta sub-County as the most marginalized areas in Taita/Taveta County benefit from Equalization Fund;
  - g) teachers are reluctant to take up teaching positions in areas that are not entitled to hardship allowances and thus causing staffing problems which has adversely affected performance and general development of these areas;
  - h) teachers Service Commission failure to pay hardship allowance to teachers working in Taveta and Wundanyi sub-Counties amounts to discrimination and unfair remuneration and thus contravening article 27 and 41 of the Constitution of Kenya;
5. The petitioners prayed that the Senate through the Committee on Education-
- 1) Investigates and finds that Teachers Service Commission's selective payment of hardship allowance to some teachers in Taita/Taveta County leaving out others, is unjustified and discriminatory;
  - 2) Recommends that TSC pays hardship allowance to all teachers working in Taita/Taveta County without any further discrimination; and
  - 3) Takes any other appropriate action it deems fit.

## CHAPTER TWO

### 2. COMMITTEE INQUIRY INTO THE PETITION

6. During consideration of the Petition, the Committee on Education held eleven (11) meetings during which it sought information and reports on the issues raised from the Cabinet Secretary, Ministry of Public Service and Human Capital Development (*Annex 3*) (*Report from the Cabinet Secretary, Ministry of Public Service and Human Capital Development*) and the Chief Executive Officer (C.E.O.) of the Teachers Service Commission (TSC) (*Annex 4*) (*Report from the Teachers Service Commission*). The Committee further conducted an oversight visit to Taita/Taveta County to meet with the petitioners and acquaint itself with the issues raised in the Petition.
7. The Committee held two meetings with the TSC and was informed that the TSC has no legal mandate to gazette any area as a hardship area. However, under Regulation 91 of the Code of Regulations for Teachers (CoRT), the TSC is mandated to pay hardship allowance to teachers who qualify in designated areas. The Committee further considered written submissions from the Ministry of Public Service and Human Capital Development and observed that the Ministry has a weighted criterion for designating hardship areas.
8. The Committee additionally conducted an oversight visit to Taita/Taveta County to meet with the petitioners and acquaint itself with the issues raised in the Petition. The Committee visited Rong'e zone of Mwatate sub-county, Mbololo, and John Mark Mwajuma Secondary Schools in Voi, Lumi area and Timbila schools amongst other areas in the County. During the oversight visit the Committee observed that these areas face a multitude of challenges including, inaccessibility of learning institutions, impassable roads and human-wildlife conflict from roaming elephants.
9. Following the oversight visit and analysis of written submissions, the Committee resolved to invite the Cabinet Secretary, Ministry of Public Service and Human Capital Development to a meeting to respond to the issues raised in the petition and provide clarification and supplementary information to the written submissions submitted on the Petition.
10. However, the Cabinet Secretary vide letters dated 6<sup>th</sup> May, 10<sup>th</sup> June and 17<sup>th</sup> September, 2024 informed the Committee that consideration of the report on the review of all hardship areas and attendant harmonization of the hardship allowances across the public service was still pending.

## CHAPTER THREE

### 3. ANALYSIS OF SUBMISSIONS

#### 3.1. Taita/Taveta County

11. Taita/Taveta County, covers a total area of 17,084.1km<sup>2</sup> with 10,649.9 km<sup>2</sup> (62.3%) being within Tsavo East and Tsavo West National Parks. The size of the county arable land is 2,055 km<sup>2</sup> while non-arable land is 14,307 Km<sup>2</sup>. The county borders Kitui, Makueni and Tana River Counties to the north; Kilifi and Kwale Counties to the east; Kajiado County to the north-west and the Republic of Tanzania to the South<sup>1</sup>.
12. The County is characterised by shortage of health personnel with a doctor: population ratio standing at 1:6191 and the nurse: population ratio standing at 1:741. There is inadequate critical working health equipment, infrastructure and insufficient health products and technologies (HPTs) limiting specialized service provision. There has also been disputes arising from human-wildlife conflicts, land disputes, human encroachment in riparian areas and inadequate water.
13. Most of the areas in Mwatate sub-county face a multitude of challenges including, inaccessibility of learning institutions, impassable roads and human-wildlife conflict from roaming elephants. Indeed, teachers and students in Mwarungo Rutimi Primary School, in Kimurigo zone, narrated to the Committee how they periodically face threats from crocodiles, hippos, and pythons in floodwaters while those in Lumi area experience poor communication and disruption of phone networks from the neighbouring country, Tanzania.
14. Transportation challenges were witnessed during the visit to Timbila Primary School (photos attached) and frequent absenteeism possibly caused by the presence of marauding elephants from time to time. The Committee was also informed that occasional flooding is responsible for high prevalent rates of health challenges such as Bilharzia and Elephantiasis affecting learners and teachers.
15. On 13<sup>th</sup> July, 2021, the Teachers Service Commission (TSC) signed a Collective Bargaining Agreement (CBA) with the Kenya National Union of Teachers (KNUT) on regulating the terms and conditions of employment of teachers in the public service (*Annex 5*) (*The Collective Bargaining Agreement between the KNUT, KUPPET, KUSNET and the TSC*). The agreement was established to foster quality advanced teaching standards, harmonious industrial relationship between parties and protection of the learners' interests and highlighted issues among them promotion and payment of hardship allowance. The agreement was to commence on 1<sup>st</sup> July, 2021 and be in place for four years, up to 30<sup>th</sup> July, 2025.

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<sup>1</sup> Taita/Taveta County Government County Integrated Development Plan III, 2023 - 2027

16. Petitioners averred that, all teachers stationed in Taita/Taveta qualified to be paid hardship allowances as per legal Notice No. 534 of 1997, and the Collective Bargaining Agreement (CBA) between Teachers Service Commission (TSC) and KNUT, KUPPET and KUSNET dated 13<sup>th</sup> July, 2021. The teachers stationed in within Mwatate sub-county in Rong'e, Mwatate, Bura, Chawia and Kishamba, Mbololo in Voi sub-county and the whole of Taita and Taveta sub-counties do not receive hardship allowance.

### **3.2. Classification of Hardship Areas and Payment of Hardship Allowance**

17. Hardship allowance was introduced after independence to partially compensate public servants working in hardship designated areas. This allowance was granted as an inducement to work in zones which were particularly seen as difficult and also to compensate public servants due to resultant isolation and separation from their families. This allowance was further provided to compensate for lack of amenities, infrastructure and a challenging environment.

18. The mandate of classifying and gazettement hardship areas rests with the Ministry of Public Service and Human Capital Development. As outlined by the Ministry, the weighted criterion for designating hardship areas is based on the following parameters:

- a) limited availability and accessibility of food;
- b) limited access to potable water;
- c) inadequate transport and communication services;
- d) limited availability of social services and amenities;
- e) harsh climatic conditions;
- f) insecurity and high possibility of security threats; and
- g) social economic indicators such as poverty index.

19. The TSC indicated in their submissions, that there are thirty-four (34) areas designated as hardship areas for teaching service. However, the legal notice No 534 which was attached in these submissions, annexed to this report, listed only twenty-five (25) areas. This lack of coherence and consistency in identifying and defining hardship areas across the teaching service poses challenges regarding the categorization and payment of hardship allowances. However, the TSC informed the Committee that it has no legal mandate to gazette any area as a hardship area, but, under Regulation 91 of the Code of Regulations for Teachers, the TSC is mandated to pay hardship allowance to teachers who qualify in the designated areas.

20. The mismatch in payment of hardship allowance has the effect of frequent calls for industrial action by unions, reduced employee morale, led to staff shortage, and an increased high turnover due to transfers, resignation, desertion and inability to attract qualified personnel in identified hard-to-staff areas. This in the long run may

increase the disadvantage of hardship areas, otherwise known as hard-to-staff areas in terms of access to government services, manpower and socio-economic development, which leads to further marginalisation, poverty and inequalities.

21. **There exists diverse and varied policies, circulars, and guidelines** concerning the designation of hardship areas and the payment of hardship allowance. For instance, the Ministry of Public Service and Human Capital Development informed the Committee that hardship areas were increased from thirty-six (36) to forty-four (44) designated hardship areas for teaching service in 2005. However, there was no evidence in form of a policy document or circular provided to confirm how the revision was realised. Indeed, the Ministry attached a document provided in *Appendix 1* which appeared to be extracted from another document that was not availed to the Committee.
22. **The criterion for designation of hardship areas in the country has not been standardised** across the entirety of the public service and is characterised by multiple sector players. Currently, there are three separate categories of designated hardship areas covering the Civil Service (National and County Governments), the Judiciary and the TSC.
23. However, there has been an attempt to address challenges regarding the categorisation and payment of hardship allowances and rectifying existing disparities. The Ministry of Public Service and Gender established an **Inter-Agency Technical Committee** in 2019 which was tasked with examining policies on hardship allowances and streamline payment. This Technical Committee comprised of representatives from the Ministry of Public Service and Gender, Ministry of Interior and Coordination of National Government, Ministry of Education, the National Treasury and Planning, the Judiciary, Public Service Commission, Teachers Service Commission, Salaries and Remunerations Commission, Commission on Revenue Allocation, the Kenya Bureau of Statistics (KNBS) and the Council of Governors.

## CHAPTER FOUR

### 4. COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

#### 4.1 Committee Observations

24. Following extensive deliberations and analysis of the submissions on the issues raised in the Petition, the Committee observes that-

- a) There exists diverse and varied policies, circulars, guidelines and inconsistent criterion in the designation of hardship areas which have led to discrepancies and mismatch in payment of hardship allowances;
- b) Payment of hardship allowances is not standard across the entirety of the public service and is characterized by separate categories of designated hardship areas covering the public service. This has consequently resulted in reduced employee morale, staff shortage, resignation, desertion and inability to attract teachers in hardship areas, otherwise known as hard-to-staff areas; and
- c) Whereas the Ministry of Public Service established an Inter-Agency Technical Committee to examine policies on hardship allowances and streamline payment of hardship allowance, the report of the Technical Committee was not availed to the Committee and had not been implemented.

#### 4.2 Committee Recommendations

25. With the foregoing, the Committee therefore recommends the following-

- a) The Ministry of Public Service and Human Capital Development should, within sixty (60) days of tabling and adoption of this report, and in consultations with all relevant stakeholders, prepare and present to the Senate for consideration, an appropriate policy and statutory instrument on identification and designation of hardship areas;
- b) The criteria for identification and designating hardship areas should be standardized across the public service and the weighted criterion for designating these areas should be based on the smallest administrative units used in identification of marginalized areas; and
- c) Areas of Ronge Zone in Mwatate sub-county, Taita sub-county and Taveta sub county meet the criteria for designation of an area as a hardship area by the Ministry of Public Service and Human Capital Development and consequently teachers in these areas qualify to be paid hardship allowances.

## **Annexures**

- Annex 1: Minutes of the Committee Sitings
- Annex 2: Copy of the Petition
- Annex 3: Reports from the Cabinet Secretary, Ministry of Public Service and Human Capital Development
- Annex 4: Reports from the Chief Executive Officer of the Teachers Service Commission
- Annex 5: The Collective Bargaining Agreement between the Teachers Service Commission, the KNUT, KUPPET and KUSNET

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# **ANNEX 1**

## **Minutes of the Committee Sittings**



**MINUTES OF THE THIRTY-SEVENTH (37<sup>TH</sup>) MEETING OF THE STANDING COMMITTEE ON EDUCATION HELD ON THURSDAY, 26<sup>TH</sup> SEPTEMBER, 2024 IN COMMITTEE ROOM 8, FIRST FLOOR, BUNGE TOWER AT 12:00 NOON.**

**PRESENT**

- |                                   |               |
|-----------------------------------|---------------|
| 1. Sen. Joe Nyutu, MP             | - Chairperson |
| 2. Sen. Agnes Kavindu Muthama, MP | - Member      |
| 3. Sen. John Kinyua Nderitu, MP   | - Member      |
| 4. Sen. Johnes Mwaruma, MP        | - Member      |
| 5. Sen. James Kamau Murango, MP   | - Member      |

**APOLOGIES**

- |   |                    |
|---|--------------------|
| 1. Sen. Peris Tobiko, CBS, MP           | - Vice-Chairperson |
| 2. Sen. (Prof.) Margaret Kamar, EGH, MP | - Member           |
| 3. Sen. Lenku Ole Kanar Seki, MP        | - Member           |
| 4. Sen. Joseph Githuku Kamau, MP        | - Member           |

**SENATE SECRETARIAT**

- |                         |                                    |
|-------------------------|------------------------------------|
| 1. Mr. Humphrey Ringera | - Senior Research Officer          |
| 2. Mr. Crispus Njogu    | - Clerk Assistant I                |
| 3. Ms. Doris Obure      | - Clerk Assistant III              |
| 4. Ms. Njeri Manga      | - Media Relations Officer          |
| 5. Mr. Jackson Wekesa   | - Legal Counsel                    |
| 6. Mr. Simon Muinde     | - Audio and Hansard Officer        |
| 7. Mr. Robert Tonkei    | - Research Officer                 |
| 8. Mr. Jahzeal Obara    | - Media Relations Officer (Intern) |

**MIN/SEN/SCE/190/2024**

**PRELIMINARIES**

The meeting was called to order at fifteen minutes past noon and the proceedings commenced with a word of prayer said by Sen. Joe Nyutu, MP.

**MIN/SEN/SCE/191/2024**

**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted with amendments having been proposed by Sen. Agnes Kavindu Muthama, MP and seconded by Sen. John Kinyua Nderitu, MP as follows:

1. Prayer;
2. Adoption of the Agenda;
3. Consideration and Adoption of Committee Reports on the following petitions (*Committee Paper No. 071*) -

- a) discrimination by the Teachers Service Commission with regard to payment of hardship allowance and enhanced house allowance to some teachers in Kilifi County; and
  - b) discrimination in payment of hardship allowance to some teachers in Taita Taveta County.
4. Any Other Business; and
5. Adjournment /Date of the Next Meeting.

**MIN/SEN/SCE/192/2024**

**CONSIDERATION AND ADOPTION OF COMMITTEE REPORTS ON PETITIONS**

1. The Committee Secretariat presented a *Committee Paper No.071* on the Reports of the two petitions that were pending before it and whose consideration had been concluded by the Committee. These petitions are on-
  - a) the discrimination by the Teachers Service Commission with regard to payment of hardship allowance and enhanced house allowance to some teachers in Kilifi County; and
  - b) the discrimination in payment of hardship allowance to some teachers in Taita Taveta County.
2. The Committee considered the reports on the petitions and resolved to amend the report to the petition on discrimination in payment of hardship allowance to some teachers in Taita Taveta to include the smallest administrative units of Taita Sub County, Taveta Sub county and Ronge Zone of Mwatate Sub County.
3. The two Reports on the petitions were unanimously adopted after being proposed by Sen. John Kinyua Nderitu, MP and Seconded by Sen. Agnes Kavindu Muthama, MP.

**MIN/SEN/SCE/193/2024**

**ANY OTHER BUSINESS**

1. The Committee resolved to conduct County Oversight and Networking Engagement in Murang'a and Kirinyaga counties and noted that there is limited time for such visits observing that schools were scheduled to take their Christmas breaks early due to the scheduled national examinations; and
2. The Committee directed the Secretariat to commence arrangement for a foreign visit to be undertaken by the Committee in advance aware of the limited resources and the need to plan early to avoid last minute rush that would escalate the travel expenses.

**MIN/SEN/SCE/194/2024**

**ADJOURNMENT AND DATE OF THE NEXT MEETING**

There being no other business, the meeting was adjourned thirty-five minutes past noon. The Committee resolved to hold the next meeting on notice.

SIGNED: ..... DATE: 20/10/2024  
 (CHAIRPERSON: SEN. JOE NYUTU, M.P.)



**MINUTES OF THE THIRTY-SEVENTH MEETING OF THE STANDING  
COMMITTEE ON EDUCATION HELD ON TUESDAY, 1<sup>ST</sup> AUGUST, 2023 AT  
12:00 PM AT ROOM 22, FIFTH FLOOR, BUNGE TOWER**

**PRESENT**

- |   |                    |
|---|--------------------|
| 1. Sen. Joe Nyutu, MP                   | - Chairperson      |
| 2. Sen. Peris Tobiko, CBS, MP           | - Vice-Chairperson |
| 3. Sen. John Kinyua Nderitu, MP         | - Member           |
| 4. Sen. (Prof.) Margaret Kamar, EGH, MP | - Member           |
| 5. Sen. Lenku Ole Kanar Seki, MP        | - Member           |
| 6. James Kamau Murango, MP              | - Member           |

**ABSENT WITH APOLOGY**

- |                                   |          |
|-----------------------------------|----------|
| 1. Sen. Johnes Mwaruma, MP        | - Member |
| 2. Sen. Joseph Githuku Kamau, MP  | - Member |
| 3. Sen. Agnes Kavindu Muthama, MP | - Member |

**SENATE SECRETARIAT**

- |                         |                        |
|-------------------------|------------------------|
| 1. Mr. Humphrey Ringera | - Research Officer I   |
| 2. Ms. Doris Obure      | - Clerk Assistant III  |
| 3. Mr. Kenneth Ndirangu | - Research Officer III |
| 4. Mr. Denis Amunavi    | - Research Officer III |
| 5. Ms. Ann Onsare       | - Audio Officer        |
| 6. Ms. Hawa Abdi        | - Sergeant-at-Arms     |
| 7. Ivy Wachira          | - Protocol Officer     |

**MIN/SEN/SCE/179/2023**

**PRELIMINARIES**

The meeting was called to order at thirty minutes past twelve and the proceedings commenced with a word of prayer said by Sen. Peris Tobiko, MP.

**MIN/SEN/SCE/180/2023**

**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted with amendments having been proposed by Sen. Peris Tobiko, CBS, MP, and seconded by Sen. John Kinyua Nderitu, MP as follows:

1. Prayer;
2. Adoption of the Agenda;
3. Consideration and Adoption of the Committee Report on the Petition concerning the 1997-2007 retired teachers' claims (*Committee Paper No. 27b*);
4. Any Other Business; and
5. Adjournment /Date of the Next Meeting.

MIN/SEN/SCE/181/2023

CONSIDERATION AND ADOPTION  
OF THE COMMITTEE REPORT ON  
THE PETITION CONCERNING  
THE 1997-2007 RETIRED  
TEACHERS' CLAIMS

1. The Committee Secretariat presented *Committee Paper No. 27(b)* on the report on the Petition concerning the 1997-2007 retired teachers' claims for consideration and adoption;
2. The Committee observed that there is need to inquire into the implementation of the recommendations proposed in this report and prepare periodic report for the consideration by the House;
3. The Committee report was unanimously adopted after being proposed by Sen. Lenku Ole Kanar Seki, MP and seconded by Sen. James Murango, MP.

MIN/SEN/SCE/182/2023

ANY OTHER BUSINESS

1. The Committee was informed that a Petition had been reported at the Senate regarding the discrimination by Teachers Service Commission (TSC) on payment of hardship allowance and enhanced house allowance to some teachers in Kilifi County; and
2. The Committee resolved that the Chief Executive Officer of the Teachers Service Commission should be invited to respond to the issues raised in the two petition pending before the Committee.

MIN/SEN/SCE/183/2023

ADJOURNMENT

There being no other business, the meeting was adjourned twenty minutes past one o'clock.

SIGNED: ..... DATE: 18/08/2023  
(CHAIRPERSON: SEN. JOE NYUTU, M.P.)



**MINUTES OF THE FOURTY-SEVENTH (47<sup>TH</sup>) MEETING OF THE STANDING COMMITTEE ON EDUCATION HELD ON TUESDAY, 3<sup>RD</sup> OCTOBER, 2023 AT 10:00 AM AT COMMITTEE ROOM 23, BUNGE TOWER, PARLIAMENT BUILDINGS**

**PRESENT**

- |                                  |                    |
|----------------------------------|--------------------|
| 1. Sen. Joe Nyutu, MP            | - Chairperson      |
| 2. Sen. Peris Tobiko, CBS, MP    | - Vice-Chairperson |
| 3. Sen. Lenku Ole Kanar Seki, MP | - Member           |
| 4. Sen. Johnes Mwaruma, MP       | - Member           |
| 5. Sen. James Kamau Murango, MP  | - Member           |

**ABSENT WITH APOLOGY**

- |   |          |
|---|----------|
| 1. Sen. (Prof.) Margaret Kamar, EGH, MP | - Member |
| 2. Sen. John Kinyua Nderitu, MP         | - Member |
| 3. Sen. Joseph Githuku Kamau, MP        | - Member |
| 4. Sen. Agnes Kavindu Muthama, MP       | - Member |

**IN ATTENDANCE**

- |                               |                           |
|-------------------------------|---------------------------|
| 1. Sen. Alexander Mundigi, MP | - Friend of the Committee |
|-------------------------------|---------------------------|

**SENATE SECRETARIAT**

- |                         |                        |
|-------------------------|------------------------|
| 1. Mr. Humphrey Ringera | - Research Officer I   |
| 2. Ms. Doris Obure      | - Clerk Assistant III  |
| 3. Mr. Jackson Wekesa   | - Legal Counsel II     |
| 4. Mr. Dennis Amunavi   | - Research Officer III |
| 5. Mr. Kenneth Ndirangu | - Research Officer III |
| 6. Ms. Fatuma Abdi      | - Audio Officer        |
| 7. Ms. Ivy Wachira      | - Protocol Officer     |
| 8. Ms. Hawa Abdi        | - Sergeant-at-Arms     |

**IN-ATTENDANCE**

- |                       |   |
|-----------------------|---|
| 1. Mr. Cavin Anyuor   | - Director, Legal, Labour and Industrial Relations  |
| 2. Dr. Julius Olayo   | - Director, Human Resource Management & Development |
| 3. Ms. Edwina Musindi | - Legal Officer                                     |

**TEACHERS SERVICE COMMISSION**

**MIN/SEN/SCE/220/2023**

**PRELIMINARIES**

The meeting was called to order at thirty minutes past ten and the proceedings commenced with a word of prayer said by Sen. James Murango, MP.

MIN/SEN/SCE/221/2023

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted with amendments having been proposed by Sen. James Murango, MP, and seconded by Sen. Johnes Mwaruma, MP as follows:

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of Minutes of the 39<sup>th</sup> meeting held on 10<sup>th</sup> August, 2023;
4. Matters arising from the Minutes;
5. Meeting with the CEO of the Teachers Service Commission to deliberate on the issues raised in the petitions regarding:
  - a. *Salary arrears for P1 teachers with `A` level academic qualification from 1996 to 2010 (Committee paper No. 28B); and*
  - b. *Discrimination by the Teachers Service Commission (TSC) on payment of hardship allowance and enhanced house allowance to teachers in Kilifi County (Committee paper No. 35)*
6. Consideration of a response to the Statement sought by Sen. Alexander Mundigi, MP regarding the wellbeing of teachers' post-retirement;
7. Any other Business; and
8. Adjournment /Date of the Next Meeting.

MIN/SEN/SCE/222/2023

CONFIRMATION OF MINUTES OF  
THE 39<sup>TH</sup> MEETING HELD ON 10<sup>TH</sup>  
AUGUST, 2023

The Minutes of the 39<sup>th</sup> meeting held on 10<sup>th</sup> August, 2023 were confirmed as a true record of the deliberations after being proposed by Sen. Johnes Mwaruma, MP and seconded by Sen. James Murango, MP.

MIN/SEN/SCE/223/2023

MATTERS ARISING

There were no matters arising from the minutes.

MIN/SEN/SCE/224/2023

MEETING THE TEACHERS  
SERVICE COMMISSION (TSC)

- 1) The Committee was informed that the Chief Executive Officer of the Teachers Service Commission would be represented in the meeting by two Directors and the same had been communicated vide a letter **Ref: CS/TSC/76/VOL.V** dated **2<sup>nd</sup> October, 2023**.
  - a) **Petition regarding salary arrears for P1 teachers with `A` level academic qualification from 1996 to 2010**
- 2) The Committee was informed that-
  - a) In 1996 the Untrained Teachers with "A" level academic qualifications undertook a two weeks in-service course training at Kagumo and Bondo Teacher Training Colleges and were subsequently promoted to Grade S1, Job Group 'H' and their salaries and allowances adjusted accordingly; and

- b) The decision by the Ministry of Education Science and Technology (MOEST) to promote Untrained teachers was challenged by the P1 “A” level teachers who were already in service. This prompted the Kenya National Union of Teachers (KNUT) to sign three agreements with TSC in 2003, 2010 and 2014. These agreements provided for promotion of P1 “A” level teachers and sought to address the disparity in terms of grade between Untrained and Trained teachers;
- 3) The Committee **observed** that-
- a) The promotions that took place in 1996 were exclusively for untrained “A” level teachers who undertook an in-service training at Kagumo and Bondo Teachers Training Colleges;
  - b) The P1 “A” level teachers were promoted in 2003, 2010 and 2014 upon negotiations between TSC and KNUT. Consequently, their salaries and corresponding allowances were adjusted and paid as per their respective job groups; and
  - c) Whereas there was a career progression for the teachers, trained teachers were disadvantaged during promotions undertaken by the MOEST between 1996 and 2003 partly due poor implementation of the promotion policies.
- b) **Discrimination by the TSC on payment of hardship allowance and enhanced house allowance to teachers in Kilifi County**
- a) The Committee was informed that the designated hardship arrears in Kilifi County are Ganze Division in former Kilifi District Magarini, Marafa and Kakoneni Divisions in the former Malindi District, however, the Teachers Service Commission (TSC) has no legal mandate to gazette any area as hardship area;
  - b) Following deliberations, the Committee **resolved** to invite the Cabinet Secretary, Ministry of Public Service, Performance and Delivery Management to a meeting to respond to the issues raised in the petitions pending before the Committee regarding payment of hardship allowances.

MIN/SEN/SCE/225/2023

CONSIDERATION OF A  
RESPONSE TO THE STATEMENT  
REGARDING THE WELLBEING  
OF TEACHERS POST-  
RETIREMENT

- a) The Committee was informed that the Teachers Service Commission has put in place initiatives to prepare and build psychological resilience to about 20,000 teachers who retire per annum. These initiatives include sensitization programs, retirement awareness and notice of retirement;
- b) In expediting the payment of retirement benefits to teachers upon retirement, the Teachers Service Commission:
  - a. notifies the teachers of the documents required to process their pension through the retirement notice;

- b. encourages teachers to submit the required documents to its County/or subcounty offices for verification prior to forwarding to the headquarters;
  - c. commenced the automation of aspects pension process to ensure that the tedious manual process is hastened with view to improve the turnaround time; and
  - d. established a systematic processing of claims through the first in first out principle with their employees in the pension department set a daily target to ensure timely processing of claims.
- c) The Committee was further informed that in collaboration with National Treasury, the TSC has established an office operated by officers from the Pension Department in fast tracking and processing of pension claims for onward transmission to the National Treasury

**MIN/SEN/SCE/226/2023**


**ANY OTHER BUSINESS**

- a) The Committee was informed that a petition by the Kenya National Union of Teachers (KNUT), Taita-Taveta Branch, regarding the discrimination in payment of hardship allowances had been reported in the Senate;
- b) The Committee was informed that the World Teachers Day was scheduled to be marked on Thursday, 5<sup>th</sup> October. Consequently, a Committee Statement pursuant to Standing Order 52 (1) would be prepared;
- c) The Committee sought to undertake a county visit to Taita Taveta in relation to the petition before the Committee on assessment and classification of hardship zones

**MIN/SEN/SCE/227/2023**

**ADJOURNMENT /DATE OF THE NEXT MEETING**

There being no other business, the meeting adjourned at fifty-five minutes past twelve o'clock. The Committee resolved to hold the next meeting on notice.

SIGNED:  DATE: 12/10/2023

**(CHAIRPERSON: SEN. JOE NUTU, M.P.)**



**MINUTES OF THE FOURTY-NINETH (49<sup>TH</sup>) MEETING OF THE STANDING COMMITTEE ON EDUCATION HELD ON THURSDAY, 19<sup>TH</sup> OCTOBER, 2023 AT 12.00 PM AT VIP ANNEX II, FIRST FLOOR, KICC BUILDING**

**PRESENT**

- |   |                    |
|---|--------------------|
| 1. Sen. Peris Tobiko, CBS, MP           | - Vice-Chairperson |
| 2. Sen. (Prof.) Margaret Kamar, EGH, MP | - Member           |
| 3. Sen. Lenku Ole Kanar Seki, MP        | - Member           |
| 4. Sen. John Kinyua Nderitu, MP         | - Member           |
| 5. Sen. Joseph Githuku Kamau, MP        | - Member           |

**ABSENT WITH APOLOGY**

- |                                   |               |
|-----------------------------------|---------------|
| 1. Sen. Joe Nyutu, MP             | - Chairperson |
| 2. Sen. Agnes Kavindu Muthama, MP | - Member      |
| 3. Sen. Johnes Mwaruma, MP        | - Member      |
| 4. Sen. James Kamau Murango, MP   | - Member      |

**SENATE SECRETARIAT**

- |                         |                           |
|-------------------------|---------------------------|
| 1. Mr. Humphrey Ringera | - Research Officer I      |
| 2. Ms. Doris Obure      | - Clerk Assistant III     |
| 3. Mr. Jackson Wekesa   | - Legal Counsel II        |
| 4. Mr. Dennis Amunavi   | - Research Officer III    |
| 5. Mr. Kenneth Ndirangu | - Research Officer III    |
| 6. Ms. Fatuma Abdi      | - Audio Officer           |
| 7. Ms. Felistus Mutune  | - Media Relations Officer |

**MIN/SEN/SCE/234/2023**

**PRELIMINARIES**

The meeting was called to order at thirty minutes past noon and the proceedings commenced with a word of prayer by Sen. John Kinyua Nderitu, MP.

**MIN/SEN/SCE/235/2023**

**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Sen. Lenku Ole Kanar Seki, MP, and seconded by Sen. John Kinyua Nderitu, MP as follows:

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of Minutes of the 48<sup>th</sup> meeting held on 12<sup>th</sup> October, 2023
4. Matters arising from the Minutes;
5. Consideration of the Committee brief on categorization and classification of hardship areas in the country (**Committee Paper No. 37**)

6. Meeting with the Cabinet Secretary, Public Service, Performance and Delivery Management to respond to issues raised in the petitions regarding:
  - a. *Discrimination by the Teachers Service Commission (TSC) on payment of hardship allowance and enhanced house allowance to teachers in Kilifi County (Committee paper No. 35B); and*
  - b. *Discrimination in payment of hardship allowance to teachers in Taita Taveta County (Committee Paper No. 36)*
7. Any other Business; and
8. Adjournment /Date of the Next Meeting.

MIN/SEN/SCE/236/2023

CONFIRMATION OF MINUTES OF  
THE 48<sup>TH</sup> MEETING HELD ON 12<sup>TH</sup>  
OCTOBER, 2023

The Minutes of the 48<sup>th</sup> meeting held on 12<sup>th</sup> October, 2023 were confirmed as a true record of the deliberations after being proposed by Sen. John Kinyua Nderitu, MP and seconded by Sen. Lenku Ole Kanar Seki, MP.

MIN/SEN/SCE/237/2023

CONSIDERATION OF THE  
COMMITTEE BRIEF ON  
CLASSIFICATION OF HARDSHIP  
AREAS IN THE COUNTRY

- a) The Secretariat presented Committee Paper No.37 (*attached*) on the classification and categorization of hardship areas in the country as requested during the previous Committee meeting;
- b) The Committee observed that there is need to revise the formula used by the Commission on Revenue Allocation (CRA) in provision of Equalization Fund to counties; and
- c) Following the deliberations, the Committee **resolved** to invite the Cabinet Secretary, Public Service, Performance and Delivery Management to deliberate on the allocation of hardship areas and detailed information in regards to the report of the Inter-Agency Technical Committee that was established to study the prevailing policies, circulars and guidelines on designated hardship areas and the modalities of payment; and apprise the Committee on the allocations and classification of urban-poor areas as hardship areas in cushioning teachers based on harsh living conditions encountered.

MIN/SEN/SCE/238/2023

MEETING WITH THE CABINET  
SECRETARY, PUBLIC SERVICE,  
PERFORMANCE AND DELIVERY  
MANAGEMENT

1. The Committee was informed that the Cabinet Secretary, Ministry of Public Service, Performance and Delivery Management had sent a letter Ref. No.

MPSG&AA.6 seeking indulgence of the Committee to reschedule the meeting to another day; and

2. The Committee considered and acceded to the request and resolved to invite the Cabinet Secretary to the meeting to be held on Thursday, 2<sup>nd</sup> November, 2023.

MIN/SEN/SCE/239/2023

ANY OTHER BUSINESS

The Committee was informed that the County oversight visit to Taita Taveta regarding the classification of hardship zones was scheduled and the logistics plans would be communicated for the Committee's consideration.

MIN/SEN/SCE/240/2023

ADJOURNMENT /DATE OF THE NEXT MEETING

There being no other business, the meeting adjourned at twenty-five minutes past one o'clock. The Committee resolved to hold the next meeting on notice.

SIGNED: ..... DATE: 28/11/2023

(CHAIRPERSON: SEN. JOE NYUTU, M.P.)



**MINUTES OF THE FIFTIETH (50<sup>TH</sup>) MEETING OF THE STANDING COMMITTEE ON EDUCATION HELD ON THURSDAY, 2<sup>ND</sup> NOVEMBER, 2023 AT 12:00 PM AT VIP ANNEX II, FIRST FLOOR, KICC BUILDING.**

**PRESENT**

- |   |                    |
|---|--------------------|
| 1. Sen. Peris Tobiko, CBS, MP           | - Vice-Chairperson |
| 2. Sen. (Prof.) Margaret Kamar, EGH, MP | - Member           |
| 3. Sen. Lenku Ole Kanar Seki, MP        | - Member           |
| 4. Sen. Agnes Kavindu Muthama, MP       | - Member           |
| 5. Sen. Johnes Mwaruma, MP              | - Member           |

**ABSENT WITH APOLOGY**

- |                                  |               |
|----------------------------------|---------------|
| 1. Sen. Joe Nyutu, MP            | - Chairperson |
| 2. Sen. John Kinyua Nderitu, MP  | - Member      |
| 3. Sen. Joseph Githuku Kamau, MP | - Member      |
| 4. Sen. James Kamau Murango, MP  | - Member      |

**SECRETARIAT**

- |                         |                        |
|-------------------------|------------------------|
| 1. Mr. Humphrey Ringera | - Research Officer I   |
| 2. Ms. Doris Obure      | - Clerk Assistant III  |
| 3. Mr. Jackson Wekesa   | - Legal Counsel II     |
| 4. Mr. Dennis Amunavi   | - Research Officer III |
| 5. Ms. Fatuma Abdi      | - Audio Officer        |

**MIN/SEN/SCE/241/2023**

**PRELIMINARIES**

The meeting was called to order at thirty minutes past noon and the proceedings commenced with a word of prayer said by Sen. Agnes Kavindu Muthama, MP.

**MIN/SEN/SCE/242/2023**

**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted with amendments having been proposed by Sen. Johnes Mwaruma, MP, and seconded by Sen. Agnes Kavindu Muthama, MP, as follows:

1. Prayer;
2. Adoption of the Agenda;
3. Meeting with the Cabinet Secretary, Public Service, Performance and Delivery Management to respond to issues raised in the petitions regarding:
  - a. *Discrimination by the Teachers Service Commission (TSC) on payment of hardship allowance and enhanced house allowance to teachers in Kilifi County; and*

b. *Discrimination in payment of hardship allowance to teachers in Taita Taveta County.*

4. Any other Business; and
5. Adjournment /Date of the Next Meeting.

**MIN/SEN/SCE/243/2023**

**MEETING WITH THE CABINET SECRETARY, PUBLIC SERVICE, PERFORMANCE AND DELIVERY MANAGEMENT**

1. The Committee was notified of a letter from the Ministry of Public Service, Performance and Delivery Management informing the Committee that the Cabinet Secretary would be away from the office on official duty and unable to attend the scheduled meeting;
2. The Committee considered the written submissions from the Cabinet Secretary, Ministry of Public Service, Performance and Delivery Management to the issues raised in the petition regarding payment of hardship allowances;
3. It was **observed** that there was disparity in categorization and provision of hardship and enhanced house allowances in the various government agencies; and the need to establish a formula in designating hardship zones. The Committee further sought for a detailed brief on the Legal Framework and Policy Framework guiding the designation of hardship areas in the Country; and
4. The Committee **resolved** to invite the Cabinet Secretary, the Ministry of Public Service, Performance, and Delivery Management; and the Chief Executive Officer of the Teachers Service Commission (TSC) to a meeting of the Committee to deliberate on the issues raised in the petitions and provide clarification to the written submissions on the issues regarding the payment of hardship and enhanced house allowances.

**MIN/SEN/SCE/244/2023**

**ANY OTHER BUSINESS**

The Committee was informed that the oversight visits to Taita Taveta and Kilifi counties regarding the classification of hardship zones was re-scheduled due to the on-going National Examinations and would be scheduled again during the recess in January, 2024.

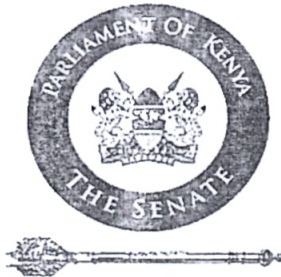
**MIN/SEN/SCE/245/2023**

**ADJOURNMENT /DATE OF THE NEXT MEETING**

There being no other business, the meeting adjourned at forty minutes past one o'clock. The Committee resolved to hold the next meeting on notice.

SIGNED: ..... DATE: 28/11/2023 .....

**(CHAIRPERSON: SEN. JOE NYUTU, M.P.)**



**MINUTES OF THE FIFTY-SECOND (52<sup>ND</sup>) MEETING OF THE STANDING COMMITTEE ON EDUCATION HELD ON TUESDAY, 28<sup>TH</sup> NOVEMBER, 2023 AT 12.00 PM AT VIP ANNEX II, FIRST FLOOR, KICC BUILDING.**

**MEMBERS PRESENT**

- |   |                    |
|---|--------------------|
| 1. Sen. Joe Nyutu, MP                   | - Chairperson      |
| 2. Sen. Peris Tobiko, CBS, MP           | - Vice-Chairperson |
| 3. Sen. (Prof.) Margaret Kamar, EGH, MP | - Member           |
| 4. Sen. John Kinyua Nderitu, MP         | - Member           |
| 5. Sen. Agnes Kavindu Muthama, MP       | - Member           |
| 6. Sen. Johnes Mwaruma, MP              | - Member           |
| 7. Sen. Joseph Githuku Kamau, MP        | - Member           |

**MEMBERS ABSENT WITH APOLOGY**

- |                                  |          |
|----------------------------------|----------|
| 1. Sen. Lenku Ole Kanar Seki, MP | - Member |
| 2. Sen. James Kamau Murango, MP  | - Member |

**SECRETARIAT**

- |                         |                       |
|-------------------------|-----------------------|
| 1. Mr. Humphrey Ringera | - Research Officer I  |
| 2. Ms. Doris Obure      | - Clerk Assistant III |
| 3. Mr. Jackson Wekesa   | - Legal Counsel II    |
| 4. Ms. Fatuma Abdi      | - Audio Officer       |
| 5. Ms. Hawa Abdi        | - Sergeant-at-arms    |

**MIN/SEN/SCE/250/2023**

**PRELIMINARIES**

The meeting was called to order at thirty minutes past noon and the proceedings commenced with a word of prayer said by Sen. John Kinyua Nderitu, MP.

**MIN/SEN/SCE/251/2023**

**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Sen. Agnes Kavindu, MP, and seconded by Sen. (Prof.) Margaret Kamar, EGH, MP, as follows:

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of Minutes of the previous meetings-
  - a. Minutes of the 49th meeting held on 19<sup>th</sup> October, 2023;
  - b. Minutes of the 50th meeting held on 2<sup>nd</sup> November, 2023; and
  - c. Minutes of the 51st meeting held on 21<sup>st</sup> November, 2023
4. Matters arising from the Minutes of the Previous Meeting;
5. Consideration of a response by the Teacher Service Commission (TSC) to the petition on the discrimination on payment of hardship allowance and enhanced house allowance to teachers in Kilifi County; (*Committee Paper No. 038 (b)*);

6. Any Other Business; and
7. Adjournment /Date of the Next Meeting.

MIN/SEN/SCE/252/2023

CONFIRMATION OF MINUTES OF  
THE PREVIOUS MEETINGS

1. The Minutes of the 49<sup>th</sup> meeting held on 19<sup>th</sup> October, 2023 were confirmed as a true record of the deliberations after being proposed by Sen. John Kinyua Nderitu, MP and seconded by Sen. Joseph Githuku Kamau, MP;
2. The Minutes of the 50<sup>th</sup> meeting held on 19<sup>th</sup> November, 2023 were confirmed as a true record of the deliberations after being proposed by Sen. (Prof.) Margaret Kamar, EGH, MP and seconded by Sen. Johnes Mwaruma, MP; and
3. The Minutes of the 51<sup>st</sup> meeting held on 21<sup>st</sup> November, 2023 were confirmed as a true record of the deliberations after being proposed by Sen. (Prof.) Margaret Kamar, EGH, MP and seconded by Sen. Peris Tobiko, CBS, MP.

MIN/SEN/SCE/253/2023

MATTERS ARISING FROM THE  
PREVIOUS MEETINGS

**EX-MIN/SEN/SCE/244/2023: ANY OTHER BUSINESS**

The Committee resolved to conduct county oversight visits to-

1. Taita Taveta and Kilifi County on the week commencing on Monday, 22<sup>nd</sup> January, 2024 to acquaint itself with the issues raised in the petition regarding the discrimination by TSC on payment of hardship allowances and enhanced house allowances to teachers in the two counties;
2. Machakos and Kajiado County on the week commencing on Monday, 29<sup>th</sup> January, 2024 to acquaint itself with the implementation status of the Early Childhood Development Education (ECDE), Technical Vocational Education Training (TVET) and Sector Policy for Learners and Trainees with Disabilities in the two counties; and
3. Murang'a County on the week commencing Monday 5<sup>th</sup> February, 2024 to acquaint itself with the implementation of the Digital Learning Programme being implemented by the EIDU in Murang'a County.

MIN/SEN/SCE/254/2023

CONSIDERATION OF A RESPONSE BY  
TSC REGARDING A PETITION ON  
DISCRIMINATION ON PAYMENT OF  
HARSHIP AND ENHANCED HOUSE  
ALLOWANCE TO TEACHERS IN  
KILIFI COUNTY

1. The Committee Secretariat presented *Committee Paper No. 38 (b)* on the petition on payment of hardship and enhanced house allowances to teachers in Kilifi and Taita Taveta Counties for consideration. The paper detailed the salient features of the petition, the prayers and the summary of the submissions by the TSC and the Ministry of Public Service;

2. The Committee **observed** that-

- a. There exists discrepancies in designation and payment of hardship areas and hardship allowances amongst different government agencies within the same locality;
- b. Whereas, the Ministry of Public Service, Performance and Delivery Managements submitted an appendix in their report extracted from a Circular dated 2005 designating 44 areas as hardship areas in teaching profession, the TSC listed 34 areas as contained in the **Legal Notice No. 534 of 1997** as the basis for payment of hardship allowances in the teaching profession; and
- c. The process of effecting payment of enhanced house allowances following upgrading of municipalities and towns from one category to the other was not clearly spelt out in the written submissions.

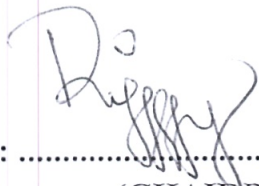
3. The Committee **resolved** to seek clarification on the issues raised in the two petitions during scheduled meeting with the TSC on Thursday, 30<sup>th</sup> November, 2023

MIN/SEN/SCE/255/2023

ADJOURNMENT AND DATE OF  
NEXT MEETING

There being no other business, the meeting was adjourned at forty-five minutes past one o'clock. The Committee resolved to hold the next meeting on Thursday, 30<sup>th</sup> November, 2023 at 10:00 am.

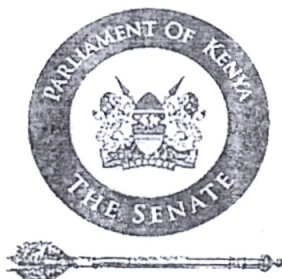
SIGNED: .....



DATE: .....

5/12/2023

(CHAIRPERSON: SEN. JOE NYUTU, M.P.)



**MINUTES OF THE FIFTY-THIRD (53<sup>RD</sup>) MEETING OF THE STANDING COMMITTEE ON EDUCATION HELD ON THURSDAY, 30<sup>TH</sup> NOVEMBER, 2023 AT 10.00 AM AT VIP ANNEX II, FIRST FLOOR, KICC BUILDING.**

**PRESENT**

- |                                   |                    |
|-----------------------------------|--------------------|
| 1. Sen. Peris Tobiko, CBS, MP     | - Vice-Chairperson |
| 2. Sen. John Kinyua Nderitu, MP   | - Member           |
| 3. Sen. Agnes Kavindu Muthama, MP | - Member           |
| 4. Sen. Johnes Mwaruma, MP        | - Member           |
| 5. Sen. Lenku Ole Kanar Seki, MP  | - Member           |

**ABSENT WITH APOLOGY**

- |   |               |
|---|---------------|
| 1. Sen. Joe Nyutu, MP                   | - Chairperson |
| 2. Sen. (Prof.) Margaret Kamar, EGH, MP | - Member      |
| 3. Sen. James Kamau Murango, MP         | - Member      |
| 4. Sen. Joseph Githuku Kamau, MP        | - Member      |

**SECRETARIAT**

- |                         |                           |
|-------------------------|---------------------------|
| 1. Mr. Humphrey Ringera | - Research Officer I      |
| 2. Ms. Doris Obure      | - Clerk Assistant III     |
| 3. Mr. Jackson Wekesa   | - Legal Counsel II        |
| 4. Ms. Njeri Manga      | - Media Relations Officer |
| 5. Ms. Fatuma Abdi      | - Audio Officer           |
| 6. Mr. Felix Ogutu      | - Audio officer           |
| 7. Ms. Hawa Abdi        | - Sergeant-at-arms        |

**IN ATTENDANCE**

1. Dr. Nancy N. Macharia, CBS
2. Mr. Cavin Anyuor
3. Dr. Julius Olayo
4. Ms. Antonina Lentoijoni

**TEACHERS SERVICE COMMISSION**

- Chief Executive Officer
- Director, Legal Services
- Director, Human Resource and Management
- Acting Director, Staffing

**MIN/SEN/SCE/256/2023**

The meeting was called to order at thirty minutes past ten and the proceedings commenced with a word of prayer said by Sen. Peris Tobiko, CBS, MP.

**PRELIMINARIES**

**MIN/SEN/SCE/257/2023**

The agenda of the meeting was adopted with amendments having been proposed by Sen. Agnes Kavindu Muthama, MP, and seconded by Sen. Johnes Mwaruma, MP.

**ADOPTION OF THE AGENDA**

a. **Consideration of Statements** (*Committee Paper No. 039*)-

1. The Committee Secretariat presented Committee Paper No. 39 on Statements sought from the Committee regarding the inordinate delay in the promotion of teachers in Isiolo County and the interdiction of teachers seeking transfers from the North-Eastern region over alleged insecurity.
2. The TSC informed the Committee that-
  - a. The TSC has not been allocated budget for teacher promotion since 2011/2012 Financial Year (FY) and as such teachers were being promoted are to replace those who have exited service through natural attrition. However, in the 2023/2024 Financial Year, the Commission was allocated Kshs 1 billion for teacher promotion;
  - b. A total of one hundred and forty (140) teachers in Isiolo County have been promoted since the year 2020 and promotion is continuous dependent on among other factors, budgetary allocation and availability of vacancies;
  - c. As of 1<sup>st</sup> July, 2023, a total of **34,970 teachers** are awaiting promotions with 21,051 being senior teachers at grade C3 to grade C4 (deputy head teachers); and 13,919 teachers at grade C4 awaiting promotion to grade C5 (head teachers);
  - d. The TSC stopped the implementation of delocalization policy and is progressively carrying out transfers. As at October, 2023, they have received a total of six hundred and sixty-one (661) transfer applications from teachers in the North Eastern region of which a total of twenty-five (25) transfers have been effected to the counties of choice and the remaining six hundred and thirty-six (636) transfers shall be considered when there are available suitable replacements to ensure seamless learning across the country;
  - e. The TSC held a meeting with the teachers from North Eastern Region and requested them to report to their work stations and make applications as provided in the Code of Regulation for Teachers (CORT). Consequently, ninety-four (94) teachers resumed duties while one hundred and twenty-nine (129) teachers declined to report to work. Eighteen (18) teachers were transferred to safer areas within Mandera County and Seven (7) out of the One hundred and twenty-nine (129) teachers duly reported to work;
  - f. The TSC resolved to commence a disciplinary process against the one hundred and twenty-two (122) teachers who had failed to report for duty. The Committee was further informed that majority of the one hundred and twenty-nine (129) teachers were teaching under the Board of Management previously in the region for several years and only raised the issue of insecurity when they were employed by the TSC on Permanent and Pensionable terms; and
  - g. The 5-year retention policy, which required that a teacher may only request for transfer upon expiry of 5 years after the 1<sup>st</sup> appointment, has been reduced to (three) 3 years, prompted by the insecurity challenge in the North-Eastern Region.

3. The Committee observed that the Commission considers the shortage of teachers in specific schools/regions as a basis for recruitment and transfers and grant the first priority to areas with acute teacher shortage so as to accord learners their right to basic quality education.
4. The Committee resolved to invite-
  - a. The Cabinet Secretary, Ministry of Education;
  - b. The Cabinet Secretary, Ministry of Interior and National Administration;
  - c. The Inspector General of police; and
  - d. The salaries and Remuneration Commission,to deliberate on the issues concerning the payment of hardship and enhanced house allowances and the alleged insecurity for the teaching service in the North-Eastern region.

b. **Consideration of Petitions (Committee Paper No. 040) -**

a. **Petition on the 1996 to 2010 salary arrears for P1 teachers with "A" level academic qualification-**

5. The TSC informed the Committee that the decision to promote Untrained Teachers with 'A' level qualifications in 1995/96 was driven by the need to address an acute teacher shortage in secondary schools and hence did not cover primary school teachers. Such teachers should have taught for a minimum of six (6) years and had one principle and two subsidiaries excluding general paper;
6. The Untrained 'A' level teachers who were promoted to Job Group H after undertaking two weeks in-service course in 1996 progressed systematically from SI, ATS III, ATS II and ATS I after three years of service in each job group upon satisfactory individual performance. The teachers were to progress to subsequent grades by undertaking a Teacher Proficiency Course (TPC) or by pursuing a relevant Diploma or Degree Programmes in line with the Scheme of Service for Non-Graduate Teachers;
7. The decision to promote S1 was challenged by P1 teachers through KNUT who expressed dissatisfaction with the parameters used in the promotion of the Untrained 'A' Level Teachers. This led to signing of different agreements in the years between 2000 and 2003 between TSC, the Ministry of Education and Kenya National Union of Teachers (KNUT) and culminated in promotion of 78, 204 primary school teachers which had a financial implication of Kshs. 332,194,522;
8. While the Untrained teachers systematically progressed from S1, ATS III, ATS II and ATS 1 after three years of service in each job group and upon satisfactory performance. On the other hand, KNUT demanded that P1 A-level teachers to be promoted directly to ATS1 without considering any performance or productivity contrary to the requirements of their Scheme of Service;
9. Pursuant to negotiations between the MOEST, the TSC, the National Treasury and the KNUT between 2003 and 2014, promotions undertaken between 2005 and 2007

and in 2010 under the Scheme of Service for non-graduate teachers had a cost implication of Kshs. 1.4 billion. Further, in all these promotions, teachers' salaries were adjusted accordingly commensurate to their respective new grades.

**b. Petition on the payment of hardship allowance and enhanced house allowance-**

10. The Committee observed that there is need to review the TSC Code of Regulation for Teachers (CORT) to effect the amendments on designation of hardship allowance;
11. The Committee was informed that enhanced house allowances for the teachers in the affected areas was effected after the Salaries and Remuneration Commission (SRC) advisory; and
12. The Committee noted that there is unwarranted delay in payment of allowances even after they are legally issued which is attributed by budgetary constraints.

MIN/SEN/SCE/259/2023

ADJOURNMENT AND DATE OF  
NEXT MEETING

There being no other business, the meeting was adjourned at thirty-five minutes past one o'clock. The Committee resolved to hold the next meeting on notice.

SIGNED: ..... DATE: 5/14/2023

(CHAIRPERSON: SEN. JOE NYUTU, M.P.)



**MINUTES OF THE NINETEETH MEETING OF THE STANDING COMMITTEE ON  
EDUCATION HELD ON THURSDAY, 25<sup>TH</sup> APRIL, 2024 AT 12:00 PM IN  
COMMITTEE ROOM 5, FIRST FLOOR, MAIN PARLIAMENT BUILDINGS.**

**PRESENT**

- |   |                    |
|---|--------------------|
| 1. Sen. Joe Nyutu, MP                   | - Chairperson      |
| 2. Sen. Peris Tobiko, CBS, MP           | - Vice-Chairperson |
| 3. Sen. (Prof.) Margaret Kamar, EGH, MP | - Member           |
| 4. Sen. Joseph Githuku Kamau, MP        | - Member           |
| 5. Sen. Agnes Kavindu Muthama, MP       | - Member           |
| 6. Sen. Johnes Mwaruma, MP              | - Member           |

**ABSENT WITH APOLOGY**

- |                                  |          |
|----------------------------------|----------|
| 1. Sen. Lenku Ole Kanar Seki, MP | - Member |
| 2. Sen. James Kamau Murango, MP  | - Member |
| 3. Sen. John Kinyua Nderitu, MP  | - Member |

**SENATE SECRETARIAT**

- |                         |                          |
|-------------------------|--------------------------|
| 1. Mr. Humphrey Ringera | - Research Officer I     |
| 2. Ms. Doris Obure      | - Clerk Assistant III    |
| 3. Mr. Jackson Wekesa   | - Legal Counsel II       |
| 4. Ms. Valarie Chemweno | - Research Officer III   |
| 5. Ms. Lexxie Mumo      | - Audio Officer (Intern) |

**MIN/SEN/SCE/090/2024**

**PRELIMINARIES**

The meeting was called to order at twenty-five minutes past twelve and the proceedings commenced with a word of prayer said by Sen. Agnes Kavindu Muthama, MP.

**MIN/SEN/SCE/091/2024**

**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Sen. Agnes Kavindu Muthama, MP, and seconded by Sen. Joseph Githuku Kamau, MP as follows:

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of the Minutes of the Previous Meetings-
  - a. *Minutes of the 4<sup>th</sup> sitting held on 27<sup>th</sup> February, 2024; and*
  - b. *Minutes of the 18<sup>th</sup> sitting held on 18<sup>th</sup> April, 2024*
4. Matters arising from Minutes of the Previous Committee Meetings;
5. Meeting with the Cabinet Secretary, Ministry of Public Service, Performance and Delivery Management to deliberate on the pending petitions (Committee Paper No. 057);
6. Consideration and Adoption of the Committee Report on the Early Childhood Education (Amendment) Bill (Senate Bills No. 54 of 2023) (*Committee Paper No. 56*);
7. Any Other Business; and
8. Adjournment /Date of the Next Meeting.

**MIN/SEN/SCE/092/2024**

**CONFIRMATION OF MINUTES OF THE PREVIOUS MEETINGS**

1. The Minutes of the 4<sup>th</sup> meeting held on 27<sup>th</sup> February, 2024 were confirmed as a true record of the deliberations after being proposed by Sen. Agnes Kavindu Muthama, MP and seconded by Sen. Joe Nyutu, MP; and
2. The Minutes of the 18<sup>th</sup> meeting held on 18<sup>th</sup> April, 2024 were confirmed as a true record of the deliberations after being proposed by Sen. Peris Tobiko, CBS, MP and seconded by Sen. Joseph Githuku Kamau, MP.

**MIN/SEN/SCE/093/2024**

**MATTERS ARISING FROM MINUTES OF THE PREVIOUS MEETINGS**

**Ex-MIN/SEN/SCE/087/2024** – The Committee resolved to hold a consultative retreat with the Intergovernmental Relations Technical Committee (IGRTC), from 9<sup>th</sup> to 12<sup>th</sup> May, 2024 to deliberate on the Bills in the Senate that require further intervention, the mandate, roles and functions of the IGRTC; emerging issues on devolution, transfer of functions and intergovernmental relations; and priority areas in Education Sector requiring legislative intervention.

**MIN/SEN/SCE/094/2024**

**MEETING WITH THE CABINET SECRETARY, MINISTRY OF PUBLIC SERVICE, PERFORMANCE AND DELIVERY MANAGEMENT**

- a) The Committee secretariat presented *Committee Paper No. 057* on the pending petitions on the discrimination in payment of hardship allowance to teachers in Taita Taveta and Kilifi Counties and informed Members that the Cabinet Secretary, Ministry of Public Service, Performance and Delivery Management had been invited to respond to the issues raised in the two petitions;

- b) The Committee was further informed vide a letter, Ref No.MPSG&DM/3/7, the Cabinet Secretary, Ministry of Public Service, Performance and Delivery Management had requested for more time to finalize the approval of the report by the Inter-Agency Technical Committee by the relevant agencies before engaging the Committee on the issues raised in the petitions; and
- c) Following consideration of the letter, the Committee **resolved** to invite the Cabinet Secretary, Public Service, Performance and Delivery Management to a meeting on Tuesday, 7<sup>th</sup> May, 2024 to provide information and timelines for conclusion of the Inter-Agency Technical Committee report.

MIN/SEN/SCE/095/2024

CONSIDERATION AND ADOPTION OF THE  
COMMITTEE REPORT ON THE EARLY  
CHILDHOOD EDUCATION (AMENDMENT) BILL,  
2023 (SENATE BILLS NO. 54 OF 2023)

1. The Committee Secretariat presented *Committee Paper No.56* on the report on the Early Childhood Education (Amendment) Bill (Senate Bills No. 54 of 2023) for consideration and adoption;
2. The Committee considered the report and adopted the Committee amendments to be moved during the Committee of the Whole House Stage; and
3. The Committee unanimously adopted its report on the Early Childhood Education (Amendment) Bill, 2023 (Senate Bills No. 54 of 2023) after being proposed by Sen. Johnes Mwaruma, MP and seconded by Sen. (Prof.) Margaret Kamar, EGH, MP.

MIN/SEN/SCE/096/2024

ADJOURNMENT AND DATE OF THE NEXT  
MEETING

There being no other business, the meeting was adjourned ten minutes past two o'clock. The Committee resolved to hold the next meeting on notice.

SIGNED: Joe  DATE: 7<sup>th</sup> 5 / 2024 .  
(CHAIRPERSON: SEN. JOE NYUTU, M.P.)



**MINUTES OF THE TWENTIETH (20<sup>TH</sup>) MEETING OF THE STANDING COMMITTEE ON EDUCATION HELD ON TUESDAY, 7<sup>TH</sup> MAY, 2024 AT 12:00 PM IN COMMITTEE ROOM 8, FIRST FLOOR, BUNGE TOWER, PARLIAMENT BUILDINGS.**

**PRESENT**

- |                                   |                    |
|-----------------------------------|--------------------|
| 1. Sen. Peris Tobiko, CBS, MP     | - Vice-Chairperson |
| 2. Sen. Agnes Kavindu Muthama, MP | - Member           |
| 3. Sen. Johnes Mwaruma, MP        | - Member           |

**ABSENT WITH APOLOGY**

- |   |               |
|---|---------------|
| 1. Sen. Joe Nyutu, MP                   | - Chairperson |
| 2. Sen. (Prof.) Margaret Kamar, EGH, MP | - Member      |
| 3. Sen. Joseph Githuku Kamau, MP        | - Member      |
| 4. Sen. John Kinyua Nderitu, MP         | - Member      |
| 5. Sen. Lenku Ole Kanar Seki, MP        | - Member      |
| 6. Sen. James Kamau Murango, MP         | - Member      |

**SENATE SECRETARIAT**

- |                         |                             |
|-------------------------|-----------------------------|
| 1. Mr. Humphrey Ringera | - Senior Research Officer   |
| 2. Ms. Doris Obure      | - Clerk Assistant III       |
| 3. Mr. Jackson Wekesa   | - Legal Counsel II          |
| 4. Mr. Simon Muinde     | - Audio and Hansard Officer |
| 5. Ms. Valarie Chemweno | - Research Officer III      |
| 6. Mr. Robert Tonkei    | - Research Officer III      |
| 7. Ms. Angelica Wachira | - Protocol Officer          |
| 8. Mr. John Chege       | - Sergeant-At-Arms          |

**MIN/SEN/SCE/097/2024**

**PRELIMINARIES**

The meeting was called to order at fifteen minutes past twelve and the proceedings commenced with a word of prayer said by Sen. Johnes Mwaruma, MP.

**MIN/SEN/SCE/098/2024**

**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted having been proposed by Sen. Agnes Kavindu Muthama, MP, and seconded by Sen. Johnes Mwaruma, MP as follows:

1. Prayer;
2. Adoption of the Agenda;

3. Confirmation of the Minutes of the 19<sup>th</sup> meeting of the Committee
4. Matters arising from the Minutes;
5. Meeting with the Cabinet Secretary, Ministry of Public Service, Performance and Delivery Management to deliberate on the pending petitions (**Committee Paper No. 057**);
6. Any Other Business; and
7. Adjournment /Date of the Next Meeting.

MIN/SEN/SCE/099/2024

CONFIRMATION OF MINUTES OF THE PREVIOUS MEETINGS

The Minutes of the 19<sup>th</sup> meeting held on 25<sup>th</sup> April, 2024 were confirmed as a true record of the deliberations after being proposed by Sen. Agnes Kavindu Muthama, MP and seconded by Sen. Johnes Mwaruma, MP.

MIN/SEN/SCE/100/2024

MEETING WITH THE CABINET SECRETARY, MINISTRY OF PUBLIC SERVICE, PERFORMANCE AND DELIVERY MANAGEMENT

- a) The Committee secretariat presented *Committee Paper No. 057* informing the Committee on the pending petitions on the discrimination in payment of hardship allowance to teachers in Taita Taveta and Kilifi Counties;
- b) The Committee was informed that the Cabinet Secretary, Ministry of Public Service, Performance and Delivery Management had been invited to respond to the issues raised in the two petitions. However, the Cabinet Secretary vide a letter Ref No: MPSG&DM/3/7 dated 6<sup>th</sup> May, 2024 informed the Committee that the Ministry had formally lodged the matter with the Salaries and Remuneration Commission (SRC) Inter Agency Committee who were scheduled to have a meeting on 7<sup>th</sup> May to adopt the Report;
- c) The Committee observed that the frequent postponement and unavailability of the Cabinet Secretary, Ministry of Public Service, Performance and Delivery Management continuous to delay the expeditious disposal of the petitions pending before the Committee;
- d) Following consideration of the request, the Committee **resolved** to invite the Cabinet Secretary, Public Service, Performance and Delivery Management to a meeting of the Committee at the expiry of seven (7) days to deliberate on the issues raised in the petitions and present the report of the Inter Agency Committee formally.

MIN/SEN/SCE/102/2024

ANY OTHER BUSINESS

1. The Committee directed the Secretariat to explore possibilities of holding a joint retreat with the Council of Governors to deliberate on the plight of Early Childhood Development Education (ECDE) teachers in the Counties, the implementation of the ECDE policies in the counties and the infrastructural development in the ECDE centres; and

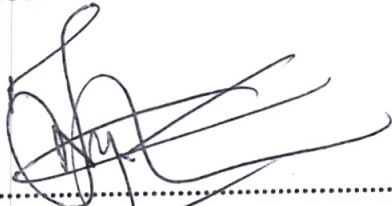
2. The Committee resolved to invite the Teachers Service Commission to a meeting of the Committee to respond to Statements regarding the provision of medical insurance to teachers in Taita Taveta County, the implementation of Disability Guide Allowance and the welfare of teachers on fixed term contracts.

MIN/SEN/SCE/103/2024

ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business, the meeting was adjourned forty-five minutes past noon. The Committee resolved to hold the next meeting on notice.

SIGNED: .....



DATE: .....

09/05/2024

(CHAIRPERSON: SEN. JOE NYUTU, M.P.)



**MINUTES OF THE THIRTY-FOURTH (34<sup>TH</sup>) MEETING OF THE STANDING COMMITTEE ON EDUCATION HELD ON TUESDAY, 30<sup>TH</sup> JULY, 2024 IN COMMITTEE ROOM 8, FIRST FLOOR, BUNGE TOWER AT 12:00 NOON.**

**PRESENT**

- |   |                    |
|---|--------------------|
| 1. Sen. Joe Nyutu, MP                   | - Chairperson      |
| 2. Sen. Peris Tobiko, CBS, MP           | - Vice-Chairperson |
| 3. Sen. (Prof.) Margaret Kamar, EGH, MP | - Member           |
| 4. Sen. Agnes Kavindu Muthama, MP       | - Member           |
| 5. Sen. John Kinyua Nderitu, MP         | - Member           |
| 6. Sen. Johnes Mwaruma, MP              | - Member           |

**APOLOGIES**

- |                                  |          |
|----------------------------------|----------|
| 1. Sen. James Kamau Murango, MP  | - Member |
| 2. Sen. Lenku Ole Kanar Seki, MP | - Member |
| 3. Sen. Joseph Githuku Kamau, MP | - Member |

**SENATE SECRETARIAT**

- |                         |                             |
|-------------------------|-----------------------------|
| 1. Mr. Humphrey Ringera | - Senior Research Officer   |
| 2. Mr. Crispus Njogu    | - Clerk Assistant I         |
| 3. Ms. Doris Obure      | - Clerk Assistant III       |
| 4. Mr. Jackson Wekesa   | - Legal Counsel             |
| 5. Mr. Simon Muinde     | - Audio and Hansard Officer |
| 6. Ms. Valarie Chemweno | - Research Officer          |
| 7. Mr. Robert Tonkei    | - Research Officer          |
| 8. Ms. Sinti Sission    | - Legal Counsel (Attaché)   |

**MIN/SEN/SCE/172/2024**

**PRELIMINARIES**

The meeting was called to order at twenty minutes past noon and the proceedings commenced with a word of prayer said by Sen. Peris Tobiko, CBS, MP.

**MIN/SEN/SCE/173/2024**

**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted with amendments having been proposed by Sen. Agnes Kavindu Muthama, MP and seconded by Sen. (Prof.) Margret Kamar, EGH, MP as follows:

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of Minutes of the previous meetings-
  - a) *Minutes of the 31<sup>st</sup> meeting held on 25<sup>th</sup> June, 2024;*
  - b) *Minutes of the 33<sup>rd</sup> meeting held on 25<sup>th</sup> July, 2024;*

- c) Minutes of the 8<sup>th</sup> meeting held on 8<sup>th</sup> March, 2024;
  - d) Minutes of the 9<sup>th</sup> meeting held on 9<sup>th</sup> March, 2024; and
  - e) Minutes of the 10<sup>th</sup> meeting held on 9<sup>th</sup> March, 2024.
4. Matters arising from the Minutes;
  5. Consideration and adoption of reports of the Committee on the petitions on-  
(Committee Paper No. 067) -
    - a) discrimination by the Teachers Service Commission with regard to payment of hardship allowance and enhanced house allowance to some teachers in Kilifi County; and
    - b) discrimination in payment of hardship allowance to some teachers in Taita Taveta County.
  6. Any Other Business; and
  7. Adjournment /Date of the Next Meeting.

**MIN/SEN/SCE/174/2024**

**CONFIRMATION OF MINUTES OF THE PREVIOUS MEETINGS**

- a) The Minutes of the 33<sup>rd</sup> meeting held on 25<sup>th</sup> July, 2024 were confirmed as a true record of the deliberations after being proposed by Sen. (Prof.) Margaret Kamar, EGH, MP and seconded by Sen. Agnes Kavindu Muthama, MP;
- b) The Minutes of the 8<sup>th</sup> meeting held on 8<sup>th</sup> March, 2024 in Taita Taveta County were confirmed as a true record of the deliberations after being proposed by Sen. Agnes Kavindu Muthama, MP and seconded by Sen. Johnes Mwaruma, MP;
- c) The Minutes of the 9<sup>th</sup> meeting held on 9<sup>th</sup> March, 2024 in Taita Taveta County were confirmed as a true record of the deliberations after being proposed by Sen. Agnes Kavindu Muthama, MP and seconded by Sen. Johnes Mwaruma, MP; and
- d) The Minutes of the 10<sup>th</sup> meeting held on 10<sup>th</sup> March, 2024 in Taita Taveta County were confirmed as a true record of the deliberations after being proposed by Sen. Agnes Kavindu Muthama, MP and seconded by Sen. Johnes Mwaruma.

**MIN/SEN/SCE/175/2024**

**MATTERS ARISING**

*Ex-MIN/SEN/SCE/169/2024:*

*Consideration of the report of the Parliamentary Budget Office on Budget Implementation in the education sector*

The Committee resolved to develop a workplan for the Committee activities that would include the oversight county visits to counties with low budgetary allocations to the education sector such as Nandi, Embu and Nairobi and to acquaint the Committee with implementation status of Early Childhood Development Education (ECDE) policies in those counties.

**MIN/SEN/SCE/176/2024**

**CONSIDERATION AND ADOPTION OF COMMITTEE REPORTS ON PETITIONS**

1. The Committee Secretariat presented *Committee Paper No.067* on the pending petitions before the Committee. These petitions are on-

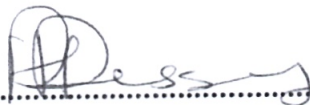
- a) the discrimination by the Teachers Service Commission with regard to payment of hardship allowance and enhanced house allowance to some teachers in Kilifi County; and
  - b) the discrimination in payment of hardship allowance to some teachers in Taita Taveta County. meeting with the Distance, Open, and E-Learning Practitioners of Kenya.
2. The Committee considered the reports on the petitions and observed that-
- a) There exists delays in issuance of circulars, policies and advisories by the Salaries and Remuneration Commission (SRC) to the Ministries, Departments and Government Agencies on current compensation levels and trends which leads to possible arrears to employees; and
  - b) The reports should indicate the situation analysis of the areas as mentioned in the petitions and clearly demonstrate how they meet the criterion to be classified as hardship areas in line with the prayers by the petitioners.
3. Following deliberations, the Committee **resolved** to-
- a) invite the Teachers Service Commission (TSC) and the Salaries and Remuneration Commission (SRC) to a meeting of the Committee to deliberate on the timely issuance of circulars, policies and advisories to the Ministries, Departments and Government Agencies and their attendant implementation;
  - b) follow up with the TSC on the implementation of the payment of enhanced house allowance to teaches in Kilifi County following a review by SRC in upgrade from Kilifi Township to municipality status in 2019 in which they had reported to pay in two phases in July, 2023 with full harmonization to be realized in July 2024; and
  - c) Review the recommendations of the Committee reports to include the specific areas as mentioned in the petitions to cater the prayers of the petitioners for consideration and adoption in the next meeting.

MIN/SEN/SCE/177/2024

ADJOURNMENT AND DATE OF THE  
NEXT MEETING

There being no other business, the meeting was adjourned fifteen minutes past two o'clock. The Committee resolved to hold the next meeting on notice.

SIGNED: .....



DATE: .....

24/09/2024

(CHAIRPERSON: SEN. JOE NYUTU, M.P.)

**ANNEX 2**

**Copy of the Petition**

THE CLERK OF THE SENATE  
PARLIAMENT BUILDINGS  
P.O. BOX 41842-00100,  
NAIROBI.

EMAIL: csenate@parliament.go.ke



THE SENATE  
RECEIVED  
05 SEP 2023

DIRECTOR LEGISLATIVE AND  
PARLIAMANTARY SERVICES

As process  
5/9/23  
DRPS  
Please deal  
4/9/23

RE: PETITION TO THE SENATE ON DISCRIMINATION IN THE PAYMENT OF HARDSHIP ALLOWANCE TO TEACHERS IN TAITA TAVETA COUNTY

We the undersigned;

Citizens of the republic of Kenya, being officials of Kenya National Union of Teachers (KNUT) Taita Taveta Branch, wish to present this petition to the senate, on behalf all the teachers who do not get hardship allowance in Taita Taveta County.

We humbly draw the attention of the senate on the following:

1. That all Taita Taveta county teachers qualify to be paid hardship allowance as per legal Notice No 534 of 1997 and as per the 13 th July 2021 Collective Bargaining Agreement between Teachers Service Commission (TSC) and KNUT, Kenya Union of Post Primary Education Teachers (KUPPET) and Kenya Union of Special Needs Education Teachers (KUSNET)
2. THAT despite the existence of legal notice 534 of 1997 and the 13 th July 2021 Collective Bargaining Agreement ,not all teachers working in Taita Taveta County benefit from hardship allowance.
3. THAT TSC pays hardship allowance to teachers teaching in Voi and part of Mwatate sub counties leaving out the following areas:
  - a) Taveta sub county
  - b) Taita sub county
  - c) Ronge zone of Mwatate sub county
  - d) Mbololo Secondary and John Mark Mwajuma Secondary school of Voi sub county.
4. THAT teachers in these areas need the allowance to cushion them against the following:
  - a) Insecurity caused by marauding wild animals from Tsavo National Park.
  - b) High cost of water due to lack of clean water and drought.
  - c) High cost of travel due to impassable roads, occasional floods and due to remoteness.
  - d) High cost of housing due to Lack of rental houses within the vicinity.
  - e) Too much work caused by understaffing.
  - f) High cost of medical care due to unavailability of medical facilities
  - g) High communication costs due to Poor network coverage.
5. THAT there is no justification to discriminately pay hardship allowance to some areas in Taita Taveta County and leave out others since these areas have comparatively similar characteristics in terms of climate ,topography, security situation and availability of social amenities.

3) Ms. Chanzia  
Please deal.  
24  
11.09.23

4) Mr. Natabona  
Please review the problem  
and facilitate  
J. Chanzia  
12/09/2023

PETITION TO THE SENATE ON DISCRIMINATION IN THE PAYMENT OF HARDSHIP ALLOWANCE TO TEACHERS IN TAITA TAVETA COUNTY

6. THAT it is surprising that some of the most marginalized areas in the county like Ronge Zone in Mwatate sub county, Kishushe in Taita sub county and Challa in Taveta sub county are denied hardship allowance while others are getting.

7. THAT unlike TSC, the Commission on Revenue Allocation (CRA) identified Challa ward in Taveta sub county as the most marginalized areas in Taita Taveta County to benefit from Equalization Fund.

8. THAT teachers are reluctant to take up teaching positions in areas that are not entitled to hardship allowances and thus causing staffing problems which has adversely affected performance and general development of these areas.

9. THAT Teachers Service Commissions failure to pay hardship allowance to teachers working in Taveta and Wundanyi sub counties amounts to discrimination and unfair remuneration and thus contravening article 27 and 41 of the Constitution of Kenya.

10. THAT KNUT officials and other leaders have made every effort to resolve the matters raised in this petition without success.

11. THAT there is no case pending in a court of law, constitutional or any other legal body on the matters raised in this petition.

HEREFORE your humble petitioners pray that the senate through its relevant committee:

1. Investigates and finds that Teachers Service Commissions selective payment of hardship allowance to some teachers in Taita Taveta County and leaving out others, is unjustified and discriminatory.
2. Recommends that TSC pays hardship allowance to all teachers working in Taita Taveta County without any further discrimination.
3. Takes any other appropriate action it deems fit.

And your Petitioners will ever pray.

Dated this 17th day of August 2023..

COUNTERSIGNED BY:

HON SENATOR JOHNES MWARUMA



SENATOR FOR TAITA TAVETA COUNTY.

## **ANNEX 3**

# **Reports from the Cabinet Secretary, Ministry of Public Service and Human Capital Development**



**REPUBLIC OF KENYA**

**MINISTRY OF PUBLIC SERVICE, PERFORMANCE AND DELIVERY  
MANAGEMENT**

**RESPONSE TO PETITIONS BEFORE THE SENATE STANDING COMMITTEE  
ON EDUCATION SUBMITTED BY THE CABINET SECRETARY, MINISTRY OF  
PUBLIC SERVICE, PERFORMANCE AND DELIVERY MANAGEMENT**

**2<sup>nd</sup> NOVEMBER, 2023**

**PETITIONS BY KENYA UNION OF POST PRIMARY EDUCATION TEACHERS (KUPPET) – KILIFI BRANCH AND KENYA NATIONAL UNION OF TEACHERS (KNUT) – TAITA TAVETA BRANCH**

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**INTRODUCTION**

**Hon. Chairman,** I take this opportunity to thank you and Hon. Senators of the Senate Standing Committee on Education for inviting me to respond to the following two Petitions:

- 1. Petition by Kenya Union of Post Primary Education Teachers (KUPPET), Kilifi Branch regarding the alleged discrimination by the Teachers Service Commission (TSC) on payment of hardship allowance and enhanced housing allowance to teachers in Kilifi County, reported to the Senate on Thursday, 27<sup>th</sup> July, 2023; and**
- 2. Petition by Kenya National Union of Teachers (KNUT), Taita Taveta Branch concerning discrimination in the payment of hardship allowance to teachers in Taita Taveta County, reported to the Senate on Wednesday, 20<sup>th</sup> September, 2023.**

**Hon. Chairman,** allow me to respond as follows:

**Background**

- i. Designated hardship areas in the Public Service for purposes of payment of hardship allowance are remote areas categorized as lacking or having inadequate basic social services, amenities and infrastructure.
- ii. Prior to 1997, the Civil and Teaching Services had similar designated Hardship Areas, which included the former North Eastern Province (Wajir, Mandera & Garissa), Samburu, Isiolo, Lamu, Marsabit, Tana River, West Pokot, Turkana and Northern area of Baringo. This comprised of eleven (11) fairly distinct hardship areas.

**Hon. Chairman,**

- iii. Designation of such areas was undertaken in consultation with the Office of the President - the then Directorate of Personnel Management and Provincial Administration and Internal Security.
- iv. In 1997, the Minister for Education through Legal Notice No. 534 of 11<sup>th</sup> November, 1997 Gazetted an additional twenty-five (25) Hardship Areas for the Teaching Service following a recommendation by the Teachers Service Remuneration Committee. This followed a Collective Bargaining Agreement with the Kenya National Union of Teachers. The recommendation was based on the agreement that teachers work in more remote areas as compared to Civil Servants who are mostly posted to District and Divisional Headquarters.
- v. In 2005, the number of designated Hardship Areas for the Teaching Service was increased from thirty-six (36) to the current forty-four (44) as indicated in **Appendix I** (attached).
- vi. Currently, the Civil Service (National and County Governments) have sixteen (16) Designated Hardship Areas as shown in **Appendix I** (attached), while the Judiciary has twenty-one (21) areas designated as hardship based on location of the law courts as shown in **Appendix I** (attached).

**Constitution of an Inter-Agency Technical Committee to address existing disparities**

**Hon. Chairman,**

- i. The Government in cognizance of the existing disparities in designated hardship areas in the Public Service and in order to address the same, across the Public Service and to promote fairness and parity of treatment of Public Servants, the Ministry of Public Service and Gender vide letter Ref: MPYG.DPSM.HRM/2/1/5/TY (30) dated 21<sup>st</sup> March, 2019 constituted an Inter-Agency Technical Committee.
- ii. The Inter-Agency Committee comprised representatives from the Ministry of Public Service and Gender, Ministry of Interior and Co-ordination of National

- iii. Government, Ministry of Education, The National Treasury and Planning, the Judiciary, Public Service Commission, Teachers Service Commission, Salaries and Remuneration Commission, Commission on Revenue Allocation, the Kenya National Bureau of Statistics (KNBS) and the Council of Governors.

### **Terms of Reference for the Inter- Agency Technical Committee**

The Terms of Reference for the Committee were as follows: -

- i. Study the current policies and applicable Circulars on Designated Hardship Areas and payment of Hardship Allowance in the Civil Service;
- ii. Undertake a comparative analysis of other existing policies on Designated Hardship Areas and payment of Hardship Allowance in the Public Service and other jurisdictions;
- iii. Study the issues in petitions presented to the National Assembly on the matter of Designated Hardship Areas and payment of Hardship Allowance to Public Servants;
- iv. Study concerns raised by the Union of Kenya Civil Servants (UKCS) regarding Designated Hardship Areas and payment of Hardship Allowance as provided in the Collective Bargaining Agreement (CBA), 2017;
- v. Address any other issues incidental to the matter on Designated Hardship Areas and payment of Hardship Allowance; and
- vi. Prepare a Report on the study with recommendations and way forward on categorization of Designated Hardship Areas and payment of Hardship Allowance.

### **Status of Country wide data collection exercise on Designated Hardship Areas**

**Hon. Chairman,**

The Inter-Agency Technical Committee undertook country wide field visits and surveys and prepared a report awaiting submission to the Cabinet for approval.

## **Status of Kilifi County**

Currently in Kilifi County, Ganze Division is the only area designated as hardship for Teachers under the Teachers Service Commission.

Kilifi County was visited by the Inter Agency Technical Committee during the data collection exercise and will be assessed against the criteria set by the Kenya National Bureau of Statistics to determine whether it qualifies for designation as a hardship area.

## **Status of Taita Taveta County**

Currently, the entire Taita Taveta County, is designated as hardship area for Teachers under the Teachers Service Commission.

## **Criteria used to Categorize Designated Hardship areas**

### **Hon. Chairman,**

The Kenya National Bureau of Statistics (KNBS) identified and weighted seven (7) parameters in the FY 2008/2009 which were re-examined in FY 2019/2020 to guide the determination and re-categorization of hardship areas.

The parameters are: food, water, transport & communication services, social services, climate & terrain, security and poverty index.

### **Hon. Chairman,**

These parameters are explained as follows:

#### **a) Food - Unavailability and Inaccessibility**

Food is a basic need for human beings and therefore a necessity. Lack/inadequate food in any working environment demotivates workers and may lead to loss of productivity.

### **Hon. Chairman,**

Factors considered under the criteria include: whether the area receives relief food/or not, availability of a market place, agricultural productivity, cost/expense on food and distance to food markets.

### **b) Water - Unavailability and Inaccessibility**

Water is a basic human need and supports the achievement of other basic needs such as health. Any worker therefore requires the availability and accessibility of water in order to perform assigned duties optimally.

**Hon. Chairman,**

The factors used are as follows: availability of piped water, whether area gets water from seasonal rivers/borehole, whether area has permanent river, private water tanks supply water to the area and distance to water points.

### **c) Transport and Communication Services – Inadequacy**

An effective transport system is fundamental in enabling sustainable economic development. Transport facilitates the movement of people, goods, services and resources and improves access to markets. Transport is also essential for providing access to basic public services, such as health and education.

The factors considered under the criteria include: availability of /distance from tarmac roads, availability of /distance from all-weather roads, availability of /reliability of mode of public transport, roads accessibility during rainy season and mobile phones connectivity.

**Hon. Chairman,**

### **d) Social services – Unavailability and Inaccessibility**

Schools and health facilities (among other social services- Electricity, Housing, Banks) are integral part of any community and are best located close to these communities.

The factors considered under the criteria include: availability of / distance from schools, availability of /distance from hospitals/health facilities, availability of electricity, availability of housing facilities and availability of /distance from Bank/Postal services.

### **e) Climatic conditions and Terrain**

**Hon. Chairman,**

Factors considered under the criteria include: availability of rainfall, whether the region is arid / semi- arid, hot and dry, terrain of the area and floods during rainy season.

### **f) Security/High possibility security threats**

Factors considered under the criteria include: human and wildlife conflict, banditry/cattle rustling/snakes.

**Hon. Chairman,**

### **g) Severity of Poverty**

Widespread existence of poverty in an area affects the development of the area. The availability of social amenities would be limited if an area is very poor.

**Hon. Chairman,**

### **Regarding the payment of hardship allowance and enhanced housing allowance for teachers in Kilifi County and Taita Taveta County**

Gazettement of the hardship areas and implementation of the designated hardship areas will therefore, be undertaken upon approval by the Cabinet.

The issue of enhancement of house allowance for teachers in Kilifi County falls within the mandate of the Teachers Service Commission (TSC) and the Salaries and Remuneration Commission (SRC). The house allowance rates approved by the SRC are applicable to all public officers as per the region of deployment of the officers.

### **CONCLUSION**

**Hon. Chairman,** once again, I thank you for this opportunity to appear before the Senate Standing Committee on Education to respond to the Petitions regarding payment of hardship allowance and enhanced housing allowance to teachers in Kilifi and Taita Taveta Counties.

**Hon. Chairman,** the Ministry of Public Service, Performance and Delivery Management looks forward to continued partnership with the Senate and will continue undertaking its mandate of guiding the Service and creating the enabling work environment for efficient and effective service delivery to all citizens.

I hereby submit.



**Hon. Moses K. Kuria, HSC**  
**CABINET SECRETARY**

### Designated Areas in the Public Service (Civil Service, Teaching Service and the Judiciary)

#### COMPARISON OF HARDSHIP DESIGNATED AREAS IN PUBLIC SERVICE

Civil Service/ Parastatal	Status	Judicial Service Commission	Status	Teachers Service Commission	Status
1 Tana River	Entire County	1. Daadab	Town/Centre	1 Suba	Mfangano and Rusinga Islands
2 Lamu	Entire County	2. Garissa	Town/Centre	2 Kuria	Kegonga Division
3 Garissa	Entire County	3. Garsen	Town/Centre	3 Busia	Budalangi Division
4 Wajir	Entire County	4. Habaswein	Town/Centre	4 Kajiado	Entire District
5 Mandera	Entire County	5. Hola	Town/Centre	5 Nakuru	Mbogoini and Makongeni Divisions (lower Solai)
6 Marsabit	Entire County	6. Kabarnet	Town/Centre	6 Laikipia	Entire District
7 Isiolo	Entire County	7. Kakuma	Town/Centre	7 Kitui	Entire District
8 Makueni	Entire County	8. Kapenguria	Town/Centre	8 Kilifi	Ganze Division
9 Turkana	Entire County	9. Kehancha	Town/Centre	9 Keiyo	Entire District
10 West Pokot	Entire County	10. Kyuso	Town/Centre	10 Marakwet	Entire District
11 Samburu	Entire County	11. Lamu	Town/Centre	11 Kwale	Kinango and Samburu Divisions
12 Elgeyo	Entire County	12. Lodwar	Town/Centre	12 Trans Mara	Entire District
13 Laikipia	Entire County	13. Mandera	Town/Centre	13 Mwingi	Entire District
14 Baringo	Excludes Koibatek Sub-county	14. Mararal	Town/Centre	14 Tharaka	Entire District
15 Nandi	Tinderet Sub-county only	15. Marimanti	Town/Centre	15 Mbeere	Entire District
16 Taita Taveta	Manyani Area in Ngolia Ward	16. Marsabit	Town/Centre	16 Malindi	Magarini, Marafa and Kakoneni Division
<b>Total: 16 Areas</b>		17. Moyale	Town/Centre	17 Machakos	Yatta and Masinga Division
		18. Mutomo	Town/Centre	18 Nyeri	Kieni Division
		19. Mwingi	Town/Centre	19 Kiambu	Ndeiya and Karai locations
		20. Taveta	Town/Centre	20 Maragwa	Makuyu Division
		21. Wajir	Town/Centre	21 Nyandarua	Nyahururu High school
		<b>Total: 21 Areas</b>		22 Nyandarua	Nyandarua Boarding Primary
				23 Kericho	Divisions
				24 Kisumu	Muhoroni Valley and Sondu Divisions
				25 Thika	Kakuzi Division
				26 Koibatek	King'orom Divisions
				27 Narok	Eastern Mau, Osupuko, Mara, Loita and Southern Olulunga Divisions
				28 Makueni	Entire District
				29 Isiolo	Entire District
				30 Moyale	Entire District
				31 Marsabit	Entire District
				32 Garissa	Entire District
				33 Mandera	Entire District
				34 Wajir	Entire District
				35 Lamu	Entire District
				36 Tana River	Entire District
				37 Taita Taveta	Entire District
				38 Baringo	Entire District
				39 Samburu	Entire District
				40 Turkana	Entire District
				41 West Pokot	Entire District
				42 Ijara	Entire District
				43 Nandi	Tinderet Division
				44 Meru North (Nyambene)	Mutuati, Ndoleli and Igembe East Divisions; Buuri, Giika locations; Linjoka, Ankamia Sub-locations; Amung'enti, Thangatha, Mumui, Kiujuiline and Akithi zones
				<b>Total: 44 Areas</b>	

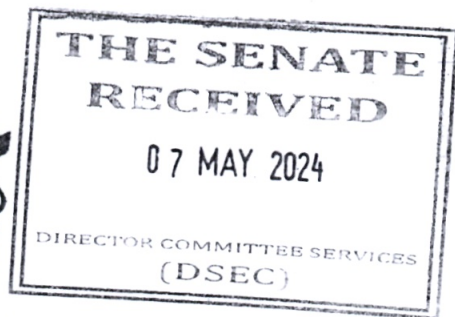
(2005)

## Appendix II

### WEIGHTED CRITERIA FOR RE-EXAMINATION OF HARDSHIP AREAS *(edited*

*2020/03/19)*

Sno	Criterion	How to Give Full Mark	Weight
1.	<b>Food – Unavailability and Inaccessibility</b>		<b>25</b>
	i) Area on (perpetual) relief food	Yes	5
	ii) Availability of market place	None	5
	iii) Average Distance to food markets	Long	5
	iv) Cost of food expensive	High	5
	v) Low agricultural productivity of the area/ supply of food	Low	5
2.	<b>Water – Unavailability and Inaccessibility</b>		<b>15</b>
	i) Availability of piped water	None	3
	ii) Area gets water from seasonal rivers/borehole/springs	Yes	3
	iii) Area has permanent river	None	3
	iv) Private water tanks/vendor supply water to the area	Yes	3
	v) Average Distance to water point	Long	3
3.	<b>Transport and Communication Service - Inadequacy</b>		<b>20</b>
	i) Availability/Distance of tarmac roads	None	4
	ii) Availability/Distance of all-weather roads	None	4
	iii) Mobile-phone connectivity	None	4
	iv) Availability/Reliability of mode of public transport	None	4
	v) Roads impassable during rainy season	Yes	4
4.	<b>Social Services – Unavailability and Inaccessibility</b>		<b>15</b>
	i) Schools are available/Distance	None	3
	ii) Availability/Average Distance of Bank/Postal services	None	3
	iii) Availability/Distance of hospitals/health facilities	None	3
	iv) Electricity available	None	3
	v) Housing for Public Servants / Availability of housing facilities	None	3
5.	<b>Climate and Terrain - Harshness</b>		<b>15</b>
	i) Area dries with erratic rainfall	Yes	5
	ii) Area gets flooding during rainy season	Yes	2.5
	iii) The region is hot and dry	Yes	2.5
	iv) The region is semi- arid	Yes	2.5
	v) Difficult terrain (mountainous with deep gullies)	Yes	2.5
6.	<b>Security – High Possibility of Threats</b>		<b>5</b>
	i) Human wildlife conflict	Yes	2.5
	ii) Banditry / cattle rustling	Yes	2.5
7.	<b>Poverty – Severity</b>	<b>High Index</b>	<b>5</b>
	<b>TOTAL</b>		<b>100</b>



**REPUBLIC OF KENYA  
MINISTRY OF PUBLIC SERVICE, PERFORMANCE AND DELIVERY  
MANAGEMENT**

**RESPONSE TO A PETITION BEFORE THE SENATE STANDING  
COMMITTEE ON EDUCATION SUBMITTED BY THE CABINET  
SECRETARY, MINISTRY OF PUBLIC SERVICE, PERFORMANCE AND  
DELIVERY MANAGEMENT**

**7<sup>th</sup> May, 2024**

# **PETITION CONCERNING PAYMENT OF HARDSHIP ALLOWANCE TO TEACHERS IN KILIFI AND TAITA TAVETA COUNTIES**

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## **INTRODUCTION**

**Hon. Chairman,** I take this opportunity to thank you and Hon. Senators of the Senate Education Committee for once again inviting me to respond to this Petition regarding payment of Hardship Allowance to teachers in Kilifi and Taita Taveta Counties.

Following the Ministry's earlier submission on 1<sup>st</sup> November, 2023, I take note that your Committee has requested for additional information to provide further clarifications on the following four issues:

1. The list of all designated hardship areas for the teaching service, the current legal and policy framework used to pay hardship allowance and the criteria used and considered for an area to be classified as a hardship area;
2. Explain why areas in Taveta sub-county, Taita sub-county and Rong'e Zone are not designation as hardship areas for teachers in the area to be eligible for hardship allowance despite satisfying the conditions to be designated as such;
3. Enumerate efforts and strategies employed by the Ministry for Public Service to ensure public servants deployed in Taveta sub-county, Taita sub-county and Rong'e Zone benefit from hardship allowance;
4. The implementation status of the report of the Inter-Agency Technical Committee established in March 2019 to study the prevailing policies, circulars and guidelines on designated hardship areas and payment of hardship allowance.

**Hon. Chairman,** allow me to respond as follows:

## 1. a) The list of all designated hardship areas for the teaching service

The list of all designated hardship areas for the teaching service are as follows:

### DESIGNATED HARDSHIP AREAS FOR TEACHERS SERVICE COMMISSION

S/No.	Area	Status
1	Suba	Mfangano and Rusinga Islands
2	Kuria	Kegonga Division
3	Busia	Budalangi Division
4	Kajiado	Entire District
5	Nakuru	Mbogoini and Makongeni Divisions (Lower Solai)
6	Laikipia	Entire District
7	Kitui	Entire District
8	Kilifi	Ganze Division
9	Keiyo	Entire District
10	Marakwet	Entire District
11	Kwale	Kinango and Samburu Divisions
12	Trans Mara	Entire District
13	Mwingi	Entire District
14	Tharaka	Entire District
15	Mbeere	Entire District
16	Malindi	Magarini, Marafa and Kakoneni Division
17	Machakos	Yatta and Masinga Division
18	Nyeri	Kieni Division
19	Kiambu	Ndeiya and Karai Locations
20	Maragwa	Makuyu Division
21	Nyandarua	Nyandarua High School
22	Nyandarua	Nyandarua Boarding Primary
23	Kericho	Muhoroni, Fort Ternan, Soin and Sondu Divisions
24	Kisumu	Muhoroni Valley and Sondu Divisions
25	Thika	Kakuzi Divisions
26	Koibatek	King'orom Divisions
27	Narok	Eastern Mau, Osupuko, Mara, Loita and Southern Olulunga Divisions
28	Makueni	Entire District
29	Isiolo	Entire District
30	Moyale	Entire District
31	Marsabit	Entire District
32	Garissa	Entire District
33	Mandera	Entire District
34	Wajir	Entire District
35	Lamu	Entire District
36	Tana River	Entire District
37	Taita Taveta	Entire District
38	Baringo	Entire District
39	Samburu	Entire District
40	Turkana	Entire District
41	West Pokot	Entire District
42	Ijaara	Entire District
43	Nandi	Tinderet Division
44	Meru North (Nyambene)	Mutuati, Ndoleli and Igembe East Divisions Buuri, Giika Locations Linjoka, Ankamia Sub Locations Amung'enti, Thangatha, Mumui, Kiujuline and Akithi Zones
<b>Total : 44 Areas</b>		

**Hon. Chairman,**

**b) The current legal and policy framework used to pay hardship allowance**

The current legal and policy framework used to pay hardship allowance is Salaries and Remuneration Commission (SRC) Circular Ref No. SRC/ADM/CIR/1/13 Vol. III (126) of 10<sup>th</sup> December 2014 which stipulates the rates of payment of hardship allowance in the Public Service ***Appendix III***.

**Hon. Chair,**

**c) The criteria used and considered for an area to be classified as a hardship area**

The Kenya National Bureau of Statistics (KNBS) identified and weighted seven (7) parameters to guide the determination and re-categorization of hardship areas.

The criteria used and considered for an area to be classified as a hardship area are food, water, transport & communication services, social services, climate & terrain, security and poverty index as shown in ***Appendix II***.

**2. Explain why areas in Taveta sub-county, Taita sub-county and Rong'e Zone are not designation as hardship areas for teachers in the area to be eligible for hardship allowance despite satisfying the conditions to be designated as such.**

**Hon. Chair,**

The process of reviewing Designated Hardship Areas and rates of Payment for Hardship Allowance has not been finalized. The Inter-Agency Technical Committee Report has been submitted to the Salaries and Remuneration Commission (SRC) for concurrence and subsequent approval by the Cabinet.

**3. Enumerate efforts and strategies employed by the Ministry for Public Service to ensure public servants deployed in Taveta sub-county, Taita sub-county and Rong'e Zone benefit from hardship allowance.**

**Hon. Chairman,**

### **Background**

- i. Designated hardship areas in the Public Service for purposes of payment of hardship allowance are remote areas categorized as lacking or having inadequate basic social services, amenities and infrastructure.
- ii. Prior to 1997, the Civil and Teaching Services had similar designated Hardship Areas, which included the former North Eastern Province (Wajir, Mandera & Garissa), Samburu, Isiolo, Lamu, Marsabit, Tana River, West Pokot, Turkana and Northern area of Baringo. This comprised of eleven (11) fairly distinct hardship areas.

**Hon. Chairman,**

- iii. Designation of such areas was undertaken in consultation with the Office of the President - the then Directorate of Personnel Management and Provincial Administration and Internal Security.
- iv. In 1997, the Minister for Education through Legal Notice No. 534 of 11<sup>th</sup> November, 1997 Gazetted an additional twenty-five (25) Hardship Areas for the Teaching Service following a recommendation by the Teachers Service Remuneration Committee. This followed a Collective Bargaining Agreement with the Kenya National Union of Teachers. The recommendation was based on the agreement that teachers work in more remote areas as compared to Civil Servants who are mostly posted to District and Divisional Headquarters.
- v. In 2005, the number of designated Hardship Areas for the Teaching Service was increased from thirty-six (36) to the current forty-four (44) as indicated in ***Appendix I***.
- vi. Currently, the Civil Service (National and County Governments) have sixteen (16) Designated Hardship Areas while the Judiciary has twenty-one (21) areas designated as hardship based on location of the law courts as shown in ***Appendix I***.

### **Constitution of an Inter-Agency Technical Committee to address existing disparities**

**Hon. Chairman,**

- i. The Government in cognizance of the existing disparities in designated hardship areas in the Public Service and in order to address the same, across the Public Service and to promote fairness and parity of treatment of Public Servants, the Ministry of Public Service and Gender vide letter

Ref: MPYG.DPSM.HRM/2/1/5/TY (30) dated 21<sup>st</sup> March, 2019 constituted an Inter-Agency Technical Committee.

- ii. The Inter-Agency Committee comprised representatives from the Ministry of Public Service and Gender, Ministry of Interior and Co-ordination of National Government, Ministry of Education, The National Treasury and Planning, the Judiciary, Public Service Commission, Teachers Service Commission, Salaries and Remuneration Commission, Commission on Revenue Allocation, the Kenya National Bureau of Statistics (KNBS) and the Council of Governors.

### **Terms of Reference for the Inter- Agency Technical Committee**

The Terms of Reference for the Committee were as follows: -

- i. Study the current policies and applicable Circulars on Designated Hardship Areas and payment of Hardship Allowance in the Civil Service;
- ii. Undertake a comparative analysis of other existing policies on Designated Hardship Areas and payment of Hardship Allowance in the Public Service and other jurisdictions;
- iii. Study the issues in petitions presented to the National Assembly on the matter of Designated Hardship Areas and payment of Hardship Allowance to Public Servants;
- iv. Study concerns raised by the Union of Kenya Civil Servants (UKCS) regarding Designated Hardship Areas and payment of Hardship Allowance as provided in the Collective Bargaining Agreement (CBA), 2017;
- v. Address any other issues incidental to the matter on Designated Hardship Areas and payment of Hardship Allowance; and
- vi. Prepare a Report on the study with recommendations and way forward on categorization of Designated Hardship Areas and payment of Hardship Allowance.

### **Status of Country wide data collection exercise on Designated Hardship Areas**

**Hon. Chairman,**

The Inter-Agency Technical Committee undertook country wide field visits and surveys and prepared a report awaiting submission to the Cabinet for approval.

**Hon. Chairman,**

**Regarding the payment of hardship allowance for public servants deployed in Taveta Sub-County, Taita Sub-County and Rong'e Zone.**

Determination of designation of the specified areas as hardship and payment of hardship allowance shall be done upon approval by Salaries and Remuneration Commission (SRC) and the Cabinet.

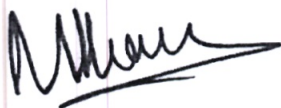
**4. The implementation status of the report of the Inter-Agency Technical Committee established in March 2019 to study the prevailing policies, circulars and guidelines on designated hardship areas and payment of hardship allowance.**

**Hon. Chairman,** the report on the review of designated hardship areas and rates for hardship allowances has been submitted to the Salaries and Remuneration Commission (SRC) for consideration. Once a response is received from SRC, the report will then be forwarded to Cabinet for approval.

#### **CONCLUSION**

**Hon. Chairman,** once again, I thank you for this opportunity to respond to the Petitions regarding payment of hardship allowance and enhanced housing allowance to teachers in Kilifi and Taita Taveta Counties.

I hereby submit.



**Hon. Moses K. Kuria, HSC**  
**CABINET SECRETARY**

**Designated Areas in the Public Service (Civil Service, Teaching Service and the Judiciary)**

COMPARISON OF HARDSHIP DESIGNATED AREAS IN PUBLIC SERVICE

Civil Service/ Parastatal	Status	Judicial Service Commission	Status	Teachers Service Commission	Status
1 Tana River	Entire County	1. Daadab	Town/Centre	1 Suba	Mfangano and Rusinga Islands
2 Lamu	Entire County	2. Garissa	Town/Centre	2 Kuria	Kegonga Division
3 Garissa	Entire County	3. Garsen	Town/Centre	3 Busia	Budalangi Division
4 Wajir	Entire County	4. Habaswein	Town/Centre	4 Kajiado	Entire District
5 Mandera	Entire County	5. Hola	Town/Centre	5 Nakuru	Mbogoini and Makongeni Divisions (lower Solai)
6 Marsabit	Entire County	6. Kabarnet	Town/Centre	6 Laikipia	Entire District
7 Isiolo	Entire County	7. Kakuma	Town/Centre	7 Kitui	Entire District
8 Makueni	Entire County	8. Kapenguria	Town/Centre	8 Kilifi	Ganze Division
9 Turkana	Entire County	9. Kehancha	Town/Centre	9 Keiyo	Entire District
10 West Pokot	Entire County	10. Kyuso	Town/Centre	10 Marakwet	Entire District
11 Samburu	Entire County	11. Lamu	Town/Centre	11 Kwale	Kinango and Samburu Divisions
12 Elgeyo	Entire County	12. Lodwar	Town/Centre	12 Trans Mara	Entire District
13 Laikipia	Entire County	13. Mandera	Town/Centre	13 Mwingi	Entire District
14 Baringo	Excludes Koibatek Sub-county	14. Mararal	Town/Centre	14 Tharaka	Entire District
15 Nandi	Tinderet Sub-county only	15. Marimanti	Town/Centre	15 Mbeere	Entire District
16 Taita Taveta	Manyani Area in Ngolia Ward	16. Marsabit	Town/Centre	16 Malindi	Magarini, Marafa and Kakoneni Division
		17. Moyale	Town/Centre	17 Machakos	Yatta and Masinga Division
		18. Mutomo	Town/Centre	18 Nyeri	Kieni Division
		19. Mwingi	Town/Centre	19 Kiambu	Ndeiya and Karai locations
		20. Taveta	Town/Centre	20 Maragwa	Makuyu Division
		21. Wajir	Town/Centre	21 Nyandarua	Nyahururu High school
				22 Nyandarua	Nyandarua Boarding Primary
				23 Kericho	Divisions
				24 Kisumu	Muhoroni Valley and Sondu Divisions
				25 Thika	Kakuzi Division
				26 Koibatek	King'orom Divisions
				27 Narok	Eastern Mau, Osupuko, Mara, Loita and Southern Olulunga Divisions
				28 Makueni	Entire District
				29 Isiolo	Entire District
				30 Moyale	Entire District
				31 Marsabit	Entire District
				32 Garissa	Entire District
				33 Mandera	Entire District
				34 Wajir	Entire District
				35 Lamu	Entire District
				36 Tana River	Entire District
				37 Taita Taveta	Entire District
				38 Baringo	Entire District
				39 Samburu	Entire District
				40 Turkana	Entire District
				41 West Pokot	Entire District
				42 Ijara	Entire District
				43 Nandi	Tinderet Division
				44 Meru North (Nyambene)	Mutuati, Ndoleli and Igembe East Divisions; Buuri, Giika locations; Linjoka, Ankamia Sub-locations; Amung'enti, Thangatha, Mumui, Kiujuline and Akithi zones

**WEIGHTED CRITERIA FOR RE-EXAMINATION OF HARDSHIP AREAS***(edited 2020/03/19)*

Sno	Criterion	How to Give Full Mark	Weight
<b>1.</b>	<b>Food – Unavailability and Inaccessibility</b>		<b>25</b>
	i) Area on (perpetual) relief food	Yes	5
	ii) Availability of market place	None	5
	iii) Average Distance to food markets	Long	5
	iv) Cost of food expensive	High	5
	v) Low agricultural productivity of the area/ supply of food	Low	5
<b>2.</b>	<b>Water – Unavailability and Inaccessibility</b>		<b>15</b>
	i) Availability of piped water	None	3
	ii) Area gets water from seasonal rivers/borehole/springs	Yes	3
	iii) Area has permanent river	None	3
	iv) Private water tanks/vendor supply water to the area	Yes	3
	v) Average Distance to water point	Long	3
<b>3.</b>	<b>Transport and Communication Service - Inadequacy</b>		<b>20</b>
	i) Availability/Distance of tarmac roads	None	4
	ii) Availability/Distance of all-weather roads	None	4
	iii) Mobile-phone connectivity	None	4
	iv) Availability/Reliability of mode of public transport	None	4
	v) Roads impassable during rainy season	Yes	4
<b>4.</b>	<b>Social Services – Unavailability and Inaccessibility</b>		<b>15</b>
	i) Schools are available/Distance	None	3
	ii) Availability/Average Distance of Bank/Postal services	None	3
	iii) Availability/Distance of hospitals/health facilities	None	3
	iv) Electricity available	None	3
	v) Housing for Public Servants / Availability of housing facilities	None	3
<b>5.</b>	<b>Climate and Terrain - Harshness</b>		<b>15</b>
	i) Area dries with erratic rainfall	Yes	5
	ii) Area gets flooding during rainy season	Yes	2.5
	iii) The region is hot and dry	Yes	2.5
	iv) The region is semi- arid	Yes	2.5
	v) Difficult terrain (mountainous with deep gullies)	Yes	2.5
<b>6.</b>	<b>Security – High Possibility of Threats</b>		<b>5</b>
	i) Human wildlife conflict	Yes	2.5
	ii) Banditry / cattle rustling	Yes	2.5
<b>7.</b>	<b>Poverty – Severity</b>	<b>High Index</b>	<b>5</b>
	<b>TOTAL</b>		<b>100</b>



**Salaries & Remuneration  
Commission**

Rewarding productivity

**Ref. No: SRC/ADM/CIR/1/13 Vol. III (126)**

**10th December, 2014**

Attorney General

Controller of Budget

Auditor General

All Principal Secretaries/Accounting Officers

Chief Registrar of Judiciary

Director of Public Prosecutions

Clerk, of the Senate;

Clerk, National Assembly

Secretaries, Constitutional Commissions

Vice-Chancellors of all Public Universities

Secretaries County Public Service Boards

Secretary, State Corporation Advisory Committee

Chief Executives of All State Corporations and Statutory Bodies

Clerk, County Assembly Service Boards

County Secretaries, County Governments

**REVIEW OF ALLOWANCES IN THE PUBLIC SERVICE**

The Salaries and Remuneration Commission in fulfillment of its mandate of reviewing remuneration and benefits for public officers embarked on a study of all allowances payable in the Public Service. The study was concluded in September 2014 and the Commission has analyzed the report and adopted positions as a way forward.

The results of the study on allowances revealed that there exist significant variations on allowances payable across Public Service institutions in Kenya. The variations range from duplications and wide disparities (both vertical and horizontal) to varied eligibility criteria for payments that hamper harmonization and standardization.

· Arising from the study findings therefore, the Commission adopted the following positions; the Commission will consolidate allowances that perform similar functions but have different names, abolish allowances whose rationale is redundant or the purpose of paying them overlaps with that of the basic salary and restructure allowances whose attached economic value/rates are not commensurate with the intended purpose and opt for a better method of compensation. However, for purposes of rationalization, harmonization, standardization, equity, fairness, compensation for the cost of living adjustment and regulation in the Public Service, some allowances have been reviewed.

### **Critical Allowances**

From the results of the study, the following critical allowances with high levels of disparities in the Public Service were identified for review to; harmonize them (both vertically and horizontally) across the Service, to compensate for the cost of living that has appreciated considerably and to standardize and regulate their application.

These allowances include; House Allowance, Hardship Allowance and Subsistence Allowances. Details of the reviews are as follows.

## 1 Hardship Allowance

In an effort to compensate for the cost of living and for attraction of skills to Hardship areas in the Republic, the Commission has reviewed hardship allowance to be paid at a flat rate for all equivalent grades across the Public Service both at National and County Governments. Subsequently, The Commission has abolished pegging the allowance as a percentage of basic salary. The approved rates of Hardship Allowance are shown in **Table 1**.

**Table 1: New Rates of Hardship Allowance**

Civil Service Job Groups and Equivalent Grades	Rate of hardship Allowance P.m.
A	2,800
B	3,000
C	3,000
D	3,300
E	3,700
F	4,300
G	5,700
H	6,600
J	8,200
K	10,900
L	12,300
M	14,650
N	17,100
P	27,300
Q	31,500
R	38,100
S	45,000
T	60,000

**NB: An elected or nominated State officer shall not be in receipt of any Hardship Allowance**

## 2. House Allowance

The Commission has reviewed house allowance payable to all public Servants. This review has been done to eliminate the existing disparities (both vertically and horizontally) in the payment of house allowance and to compensate for the cost of housing that has appreciated considerably since the last review of the allowance in the year 2001. The Public Servants whose existing rates of house allowances are above the rates provided shall retain at existing levels until or unless otherwise reviewed by the Commission while Public Servants whose existing house allowances are below the approved rates to adopt the new rates. The reviewed rates of house allowance are shown in **Table 2**.



**Table 2: New House Allowance Rates**

1 Job Group	2		3		4		5	6
	Nairobi		County Headquarters Only		County Headquarters Only		Other County Headquarters and all other areas	
	Current	New	Current	New	Current	New	Current	NEW
A	3,000	3,750	2,500	3,125	2,000	2,500	1,800	2,250
B	3,000	3,750	2,500	3,125	2,000	2,500	1,800	2,250
C	3,000	3,750	2,500	3,125	2,000	2,500	1,800	2,250
D	3,300	4,125	2,700	3,375	2,200	2,750	1,900	2,375
E	3,500	4,500	2,900	3,730	2,300	2,960	2,100	2,700
F	3,500	4,500	2,900	3,730	2,300	3,000	2,100	2,700
G	5,000	6,750	3,500	4,500	3,000	3,850	2,300	3,200
H	5,000	6,750	3,500	4,500	3,000	3,850	2,300	3,200
J	6,000	10,000	4,500	7,500	3,500	5,800	3,000	4,200
K	10,000	16,500	8,000	12,800	6,000	9,600	5,000	7,500
L	20,000	28,000	15,000	22,000	12,000	16,500	10,000	13,000
M	20,000	28,000	15,000	22,000	12,000	16,500	10,000	13,000
N	24,000	35,000	17,000	25,500	13,000	18,000	11,000	15,400
P	40,000	45,000	20,000	28,000	15,000	21,000	12,000	16,800
Q	40,000	45,000	20,000	28,000	15,000	21,000	12,000	16,800
R	40,000	50,000	20,000	35,000	15,000	25,000	12,000	20,000
S	60,000	60,000	56,000	56,000	52,000	52,000	-	-
T	80,000	80,000	-	-	-	-	-	-

**NB: This review does not apply to State officers**

**3 Daily Subsistence Allowance (Local Travel)**

The Commission noted from the results of study that there were different circulars in the Public Service providing different rates for subsistence allowance. Subsequently, for purposes of standardization and regulation of the application of this facilitative allowance in the Public Service, the Commission has decided that all the allowances in the Public Service that are paid to facilitate officers to attend to official assignments away from their duty stations within the country be renamed Daily Subsistence Allowance (Local travel) and be paid at the rates shown in **Table 3**.

**Table 3: New Rates of Daily Subsistence Allowance (Local travel)**

Jog Group (Civil Service & State Officers Grades'	Cluster 1	Cluster 2	Cluster 3
	Nairobi, Mombasa, Kisumu, Malindi, Kilifi, Lamu, Kwale &	Nyeri, Eldoret, Kericho, Kakamega, Kisii, Embu, Nanyuki, Nakuru Lodwar&	All Other Towns
F4	22,000	18,000	12,000
U-V F1, F2, E5	18,200	12,600	10,500
S-T E 3,	16,800	12,600	10,500
P-R E2,E1, D5	14,000	10,500	8,400
K-N D4	11,200	8,400	7,000
F-J	6,300	4,900	4,200
A-E	4,200	3,500	2,100

See Table 5 for definition of State Officer Grading.

#### 4 Daily Subsistence Allowance (Foreign Travel)

Similarly, the Commission has decided that all the allowances in the Public Service that are paid to facilitate officers to attend to official assignments out of the country be renamed and called Daily Subsistence Allowance (Foreign Travel) and be paid at the rates shown in **Table 4**

**Table 4: New Rates of Daily Subsistence Allowance (Foreign Travel)**

Proposed new rates for foreign travel (USD)							
Civil Service grading <sup>2</sup>		JG U-V	JG S-T	JG P-R	JG K-N	JG F-J	JG A-E
State Officer Grading <sup>2</sup>	F4	F2, F1, E5	E3, E4	E2, E1, D5	D4		
Country	Rates ( US\$ )						
Afghanistan	575	523	369	293	243	208	179
Albania	572	520	382	311	264	239	223
Algeria	669	608	437	350	294	256	234
Angola	788	716	529	436	386	360	345
Antigua & Barbuda	627	570	448	387	348	321	300
Argentina	615	559	443	386	352	332	321
Armenia	949	862	546	386	301	253	224
Aruba	747	679	504	416	363	330	306
Australia	730	663	480	387	1 31	301	285
Austria	787	715	519	420	359	323	304
Azerbaijan	949	862	578	436	356	310	281
Bahamas	898	816	598	488	415	360	312
Bahrain	601	547	438	383	352	333	320
Bangladesh	558	507	370	301	264	243	231
Barbados	732	666	484	394	332	295	274
Belarus	612	557	409	334	292	263	243
Belgium	843	767	591	502	437	399	376
Belize	530	482	358	296	261	240	227
Benin	615	559	398	318	271	245	230
Bermuda	779	708	515	417	353	305	272
Bhutan	500	454	284	198	152	127	111
Bolivia	456	415	298	239	207	189	179
Bosnia & Herzegovina	612	557	363	266	213	184	164
Botswana	567	516	373	301	263	240	227
Brazil	644	585	474	418	372	331	297
Brunei	1027	934	608	444	356	305	273
Bulgaria	456	415	352	321	301	287	277
Burkina Faso	601	547	387	308	257	220	194
Burundi	554	504	377	314	278	259	247
Cambodia	476	432	325	271	241	223	211
Cameroon	659	600	429	344	289	256	238
Canada	772	702	536	452	406	378	362
Cape Verde	509	463	370	323	295	277	265
Central African Republic	643	584	416	331	277	237	207
Chad	674	613	498	439	406	383	369
Chile	500	454	342	285	254	238	228
China	643	584	457	393	344	317	301
Colombia	537	488	371	312	270	237	212
Comoros	749	681	493	399	337	290	260
Congo	647	589	420	337	282	252	235

2

See Table 5 for definition of State Officer Grading.

Proposed new Rates for foreign travel

Civil Service grading	JG U-V	JG S-T	JG P-R	JG K-N	JG F-J	JG A-E
State Officer Grading <sup>2</sup>	F4	F2, F1, E5	E3, E4	E2, E1, D5	D4	
Country	Rates ( US\$ )					
Costa Rica	537	488	371	312	270	232
Cote d'Ivoire	653	594	435	354	299	231
Croatia	612	557	448	393	356	310
Cuba	457	416	336	295	272	249
Cyprus	474	431	362	327	306	284
Czech Republic	552	502	444	416	397	374
Denmark	699	636	498	430	392	359
Djibouti	574	522	384	314	276	242
Dominica	473	430	336	288	259	222
Dominican Republic	627	570	403	318	271	221
DRC Congo	820	746	543	442	374	289
Ecuador	513	466	347	286	252	220
Egypt	529	481	381	331	303	266
El Salvador	457	416	325	279	252	224
Equatorial Guinea	500	454	376	338	314	284
Eritrea	724	658	385	248	177	117
Estonia	612	557	407	331	287	240
Ethiopia	809	736	536	435	367	286
Fiji	546	496	359	289	250	215
Finland	914	831	609	498	424	321
France	796	724	586	517	418	337
French Guiana	626	569	417	341	289	224
Gabon	656	596	466	402	358	283
Gambia	518	471	363	0	270	210
Georgia	949	862	541	381	295	218
Germany	922	838	616	504	429	341
Ghana	505	459	331	266	230	195
Greece	541	492	425	391	371	348
Grenada	509	463	424	403	389	367
Guadeloupe	639	581	415	331	277	224
Guatemala	509	463	339	277	242	206
Guinea	603	548	389	310	259	197
Guinea Bissau	627	570	418	341	250	169
Guyana	484	440	323	264	232	201
Haiti	469	427	356	321	299	274
Honduras	572	520	367	292	249	209
Hungary	741	673	506	422	364	289
Iceland	635	578	447	381	344	311
India	626	569	430	361	322	290
Indonesia	615	559	398	318	271	232
Iran	949	862	635	521	443	345
Iraq	1245	1132	846	702	603	472
Ireland	727	661	492	406	361	319
Israel	1105	1004	745	614	525	391
Italy	924	840	647	549	477	398
Jamaica	622	565	428	360	321	288
Japan	1111	1010	749	619	529	439
Jordan	787	715	519	421	355	290
Kazakhstan	949	862	579	436	358	282
Kiribati	770	700	454	331	264	202
Korea	600	546	425	363	330	299
Kosovo	612	557	407	331	287	240

Proposed new rates for foreign travel (USD)							
Civil Service grading&		JG U-V	JG S-T	JG P-R	JG K-N	JG F-J	JG A-E
State Officer Grading <sup>2</sup>	F4	F2, FI, E5	E3,E4	E2, E1, D5	D4		
Country	Rates ( US\$ )						
Kuwait	1162	1056	787	652	559	486	435
Kyrgyzstan	949	862	520	350	260	210	182
Laos	391	355	256	207	179	162	153
Latvia	612	557	428	364	323	297	277
Lebanon	1077	979	726	600	513	446	399
Lesotho	445	405	277	213	174	154	141
Liberia	699	636	468	384	337	311	296
Libya	854	777	568	463	393	354	331
Liechtenstein	1111	1010	749	586	505	453	418
Lithuania	612	557	400	322	277	249	229
Luxembourg	666	605	435	349	303	278	264
Macedonia	770	700	440	309	240	201	177
Madagascar	699	636	458	369	310	267	235
Malawi	554	504	388	330	298	278	266
Malaysia	759	690	501	405	342	296	264
Maldives	461	419	309	254	223	206	194
Mali	613	558	424	356	310	286	272
Malta	749	681	494	399	348	319	303
Marshall Islands	770	700	465	348	283	245	221
Mauritania	577	525	384	314	266	231	207
Mauritius	509	463	398	365	345	334	328
Mexico	572	520	473	450	432	420	413
Micronesia	770	700	514	420	365	330	305
Moldova	612	557	428	364	323	297	277
Monaco	1100	1000	743	613	525	455	409
Mongolia	598	543	385	306	255	218	194
Montenegro	612	557	455	404	370	344	323
Morocco	928	844	619	507	416	366	331
Mozambique	505	459	332	270	233	213	202
Myanmar	444	404	276	212	173	150	136
Namibia	473	430	309	248	208	179	162
Nauru	770	700	427	290	219	178	155
Nepal	500	454	316	245	202	173	155
Netherlands	747	679	518	438	395	370	354
New Zealand	983	893	659	541	461	400	359
Nicaragua	627	570	409	329	273	233	206
Niger	630	573	409	327	274	234	208
Nigeria	796	724	526	427	370	339	320
North Korea	600	546	377	293	245	217	197
Norway	606	551	420	354	317	296	284
Oman	964	877	673	572	497	437	395
Pakistan	610	554	402	326	284	256	240
Palau	770	700	493	388	330	294	268
Panama	541	492	374	316	282	263	253
Papua New Guinea	770	700	508	413	349	300	268
Paraguay	584	531	376	298	255	230	217
Peru	702	638	460	370	312	279	261
Philippines	666	605	433	347	292	250	222
Poland	627	570	429	359	320	298	284
Portugal	674	613	465	391	350	327	314
Puerto Rico	444	404	323	283	260	244	234
Qatar	745	678	491	396	334	296	268

Proposed new rates for foreign travel (USD)								
Civil	Service grading&		JG U-V	JG S-T	JG P-R	JG K-N	JG F-J	JG A-E
State Officer Grading <sup>2</sup>	F4	F2, FI, E5	E3,E4	E2, EI, D5	D4			
Country	Rates ( US\$ )							
Reunion	589	536	380	300	256	231	215	
Romania	657	597	453	381	342	320	308	
Russia	949	862	658	556	501	469	449	
Rwanda	588	535	397	328	290	268	252	
Samoa	525	477	363	305	264	231	207	
San Marino	924	840	647	549	490	449	418	
Sao Tome & Principe	605	550	341	237	182	150	132	
Saudi Arabia	930	846	622	508	432	374	336	
Senegal	618	562	405	327	284	261	248	
Serbia	612	557	399	320	274	246	227	
Seychelles	618	562	462	413	384	367	358	
Sierra Leone	893	812	594	485	413	356	319	
Singapore	1297	1 179	832	658	523	431	366	
Slovakia	612	557	451	398	363	338	317	
Slovenia	612	557	430	367	328	300	281	
Solomon Islands	770	700	451	326	259	220	197	
Somalia	477	434	298	230	187	163	150	
South Africa	515	469	356	300	270	252	241	
South Sudan	719	653	471	381	323	293	276	
Spain	935	850	626	513	436	377	333	
Sri Lanka	525	477	334	262	217	185	164	
St. Kitts and Nevis	627	570	436	369	328	299	279	
St. Lucia	627	570	428	356	314	285	265	
St. Vincent and Grenadines	627	570	464	411	376	350	329	
Sudan	719	653	471	381	323	293	276	
Surinam	1059	963	713	587	502	436	392	
Swaziland	549	499	369	304	267	246	232	
Sweden	829	754	561	465	411	383	366	
Switzerland	1111	1010	749	619	529	460	413	
Syria	774	704	510	414	350	301	271	
Tajikistan	949	862	515	341	250	200	172	
Tanzania	663	603	422	332	282	253	235	
Thailand	588	535	408	344	298	274	260	
Timor - Lestor	770	700	439	309	239	200	176	
Tobago	639	581	461	400	366	348	336	
Togo	554	504	366	297	259	237	222	
Tonga	467	425	310	253	215	188	173	
Trinidad	482	438	389	364	348	339	331	
Tunisia	462	420	314	261	231	215	206	
Turkey	1037	943	697	574	491	426	382	
Turkmenistan	949	862	532	366	279	230	201	
Tuvalu	770	700	424	286	212	173	150	
Uganda	677	615	429	335	283	253	235	
Ukraine	612	557	408	334	290	262	242	
United Arab Emirates	944	858	656	553	481	421	380	
United Kingdom	848	771	578	481	429	402	382	
Uruguay	416	378	331	307	290	279	270	
USA	724	658	527	462	425	405	393	
Uzbekistan	949	862	509	332	240	190	162	
Vanuatu	770	700	513	419	364	329	304	
Venezuela	552	502	440	408	387	365	350	

Proposed new rates for foreign travel (USD)

Civil	Service grading&		JG U-V	JG S-T	JG P-R	JG K-N	JG F-J	JG A-E
Equivalent								
State Officer Grading <sup>2</sup>	F4	F2, FI, E5	E3,E4	E2, EI, D5	D4			
Country	Rates ( US\$ )							

Vietnam	440	400	300	250	219	201	190
Yemen	813	739	539	438	371	320	287
Zambia	664	604	432	347	277	241	220
Zimbabwe	482	438	330	275	244	228	208

## 5. Scope of Application

1. The reviews shall apply to all State and other Public officers both at National and County Government as appropriate.
2. The rates that have been set by the Commission for Daily Subsistence Allowance (Local and Foreign travel) shall apply to all State and other Public officer in all public service institutions in Kenya. All other existing Circulars on the same subject therefore, cease to apply forthwith and the respective Accounting officer is personally responsible for prudent management of this facilitative allowance.
3. The new rates of House Allowance shall apply to all public officers other than State officers at the National and County Government including State Corporations from the scheduled effective date of implementation.
4. **The respective employers in the civil service should initiate Collective Bargaining Agreements with the relevant Unions in the implementation of the reviewed/harmonized allowances herein.**

## 6. Implementation Schedule

Please note that subject to budgetary provisions, implementation of all the reviewed allowances takes effect as follows:

- (i) **Daily Subsistence Allowance (Local & Foreign Travel) to be implemented with effect from the date of this Circular; and**
- (ii) **All the other Allowances reviewed will be implemented in a phased approach commencing in the Financial Year 2015/2016 as guided by the National Treasury through Budgetary provisions.**

Your Office is hereby requested to ensure compliance with the contents of this Circular and bring it to the attention of all employees in your organization for information



**Sarah J. C. Serem (Mrs.), EBS  
CHAIRPERSON**

All Cabinet Secretaries

Chief of Staff and Head of Public Service Chairpersons, Constitutional Commissions Chairperson, Council of Governors

Chairpersons County Public Service Boards

Registrar, Industrial Court of Kenya

Clerk, National Assembly

All County Governors

All Speakers, County Assemblies

Inspector General, Inspectorate of State Corporations Secretary, State Corporations  
Advisory Committee

**APPENDIX**

The Grading and Equivalent Job Groups of All State officers shall be used when applying General Government Circulars as Shown in **Table 5**.

**Table 5: The grades and Equivalent Job Groups for all State Officers**

<b>State Officer</b>	<b>Job Grade</b>	<b>Job Group Equivalent</b>
Speaker of the National Assembly Speaker of the Senate, Chief Justice	<b>F4</b>	
Deputy Chief Justice, Cabinet Secretary, Secretary to the Cabinet, Deputy Speaker of the Senate, Deputy Speaker of the National Assembly, Attorney General, Auditor General, Judge of the Supreme Court, Chairman, IEBC,	<b>F2</b>	<b>V</b>
Principal Secretary, Controller of Budget ,Judge of the Court of Appeal County Governor Director of Public Prosecution, Vice Chair IEBC, Vice Chair CIC, Chairpersons, other Constitutional Commission	<b>F1</b>	
Member of the National Assembly, Member of the Senate, Members of Independent Constitutional Commissions, Judge of the High Court, Register of Political parties	<b>E5</b>	<b>U</b>
Secretaries of Independent Constitutional Commissions, Deputy County Chief Magistrate	<b>E3</b>	<b>S</b>
Senior Principal Residence Magistrate Principal Residence Magistrate	<b>E2</b>	<b>R</b>
Speaker, County Assembly, County Executive Committee Member	<b>E1</b>	<b>Q</b>
Senior Resident Magistrate	<b>D5</b>	<b>P</b>
Resident Magistrate Member of County Assembly	<b>D4</b>	<b>N</b>

## **ANNEX 4**

# **Report from the Chief Executive Officer of the Teachers Service Commission**

# TEACHERS SERVICE COMMISSION

RECEIVED  
21 NOV 2023

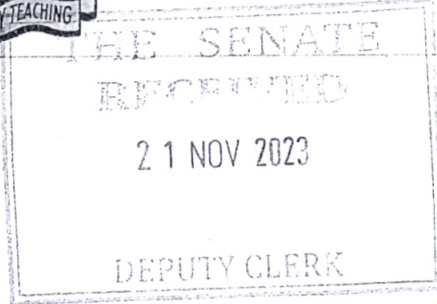
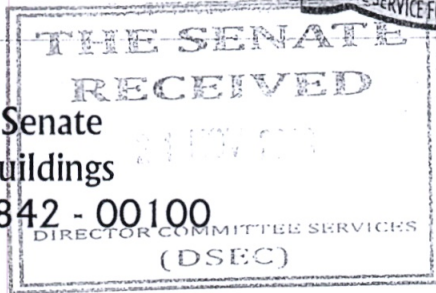
Telephone: Nairobi 2892000  
Email: [ceo@tsc.go.ke](mailto:ceo@tsc.go.ke)  
Web: [www.tsc.go.ke](http://www.tsc.go.ke)



TSC HOUSE  
KILIMANJARO ROAD  
UPPER HILL  
PRIVATE BAG- 00100  
NAIROBI, KENYA

When replying please quote  
Ref. N<sup>o</sup>:  
TSC/LLIR/SEN/86/VOL.II/140

20<sup>th</sup> November, 2023.



Clerk of the Senate  
Parliament Buildings  
P.O Box 41842 - 00100  
**NAIROBI**

## **PETITION CONCERNING THE DISCRIMINATION BY THE TEACHERS SERVICE COMMISSION ON PAYMENT OF HARDSHIP ALLOWANCE AND ENHANCED HOUSE ALLOWANCE TO TEACHERS IN KILIFI COUNTY**

The above captioned matter and your letter Ref: SEN/SCE/CORR/2023/058 dated 3<sup>rd</sup> November, 2023 refers.

Attached, herewith, is the detailed response to the questions raised for your further action.

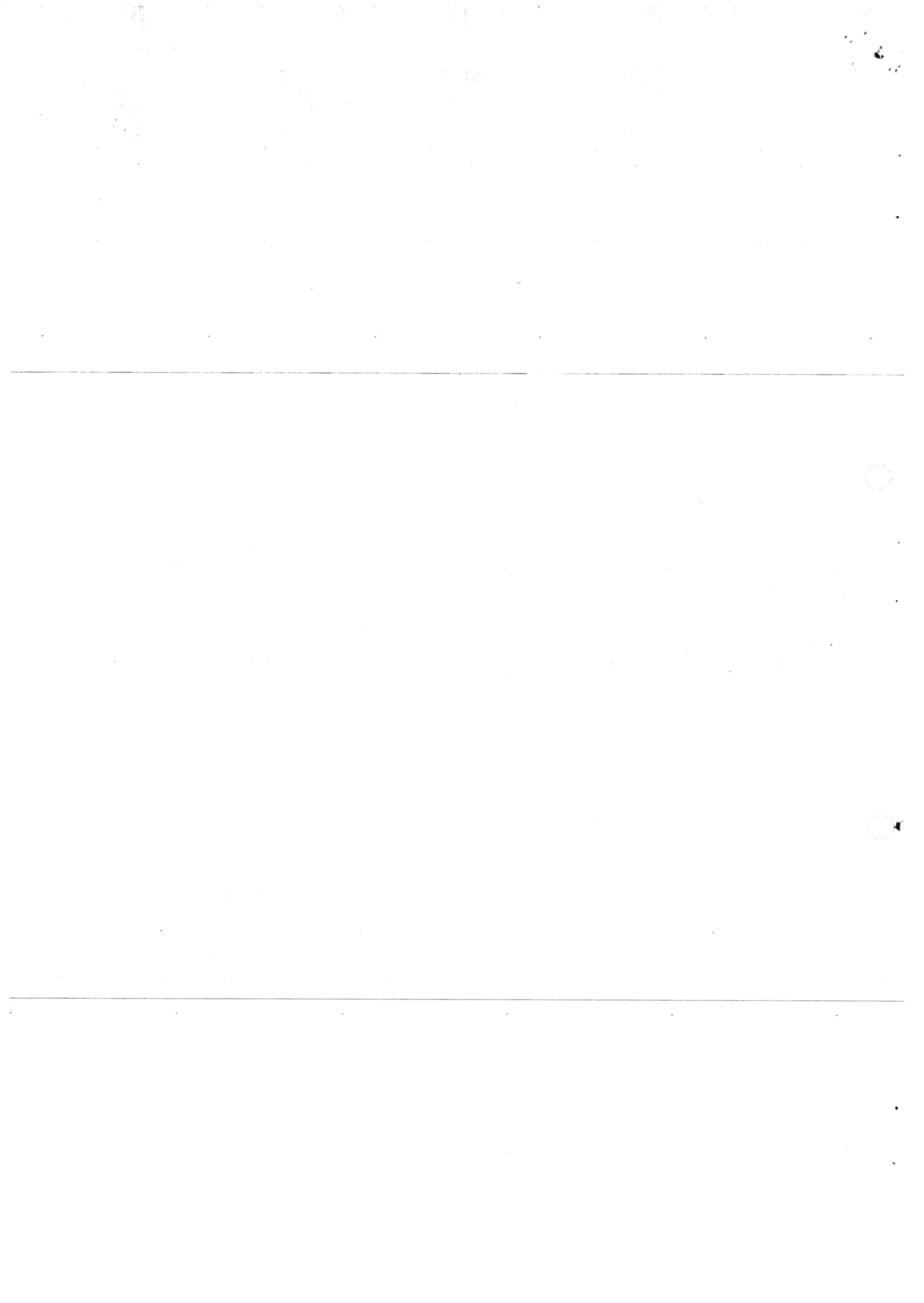
*Kla.*  
**C.O. ANYUOR**  
**FOR: SECRETARY/CHIEF EXECUTIVE**  
**TEACHERS SERVICE COMMISSION**

① DSEC  
kindly deal.

*Eg*  
21/11/2023

③ Mr. Rongera  
kindly deal.  
Kibach  
22/11/2023

② HOD - NK  
kindly deal  
21/11/2023



**TEACHERS SERVICE COMMISSION**



**RESPONSE TO PETITION CONCERNING THE DISCRIMINATION BY THE  
TEACHERS SERVICE COMMISSION ON PAYMENT OF HARDSHIP  
ALLOWANCE AND ENHANCED HOUSE ALLOWANCE TO TEACHERS IN  
KILIFI COUNTY.**

**17<sup>TH</sup> NOVEMBER 2023**

## **1.0. BACKGROUND**

- 1.1 The Teachers Service Commission is established under Article 237 (1) of the Constitution with its primary functions set out in Article 237 (2) and (3) to include teacher management functions and regulation of the teaching sector.
- 1.2 Further, the Commission draws powers necessary for the execution of its constitutional functions from the Teachers Service Commission Act. Section **47** and **48** of the Act empowers the Commission to publish a Code of Regulations and Code of Conduct for Teachers to assist the Commission in regulating the teaching service. In this regard, the Commission published the two codes which came into effect on **1<sup>st</sup> July 2016**.
- 1.3 Further in compliance with the provisions of **Article 41** of the Constitution the Commission has negotiated and signed **Collective Bargaining Agreement 2021-2025 (CBA)** with the teacher unions.
- 1.4 Accordingly, the constitution of Kenya, the Teachers Service Commission Act, the Code of Regulations and Code of Conduct for Teachers, Collective Bargaining Agreement (CBA) 2021-2025 forms the legal framework underpinning the Commission's operations.

## **2.0. COULD THE COMMISSION PROVIDE FURTHER CLARIFICATION AND INFORMATION ON THE LIST OF ALL DESIGNATED HARDSHIP AREAS FOR THE TEACHING SERVICE AND THE CURRENT POLICY USED BY THE TEACHERS SERVICE COMMISSION (TSC) TO PAY HARDSHIP ALLOWANCES.**

- 2.1 The mandate to designate an area as hardship area vests with the Ministry of Public Service, Gender, and Affirmative Action. Accordingly, the designated hardship areas were gazetted in Legal Notice **534 of 1997** annexed herein as **annexure 1**.

2.2 **Regulation 91** of the Code of Regulations for Teachers requires the Commission to pay hardship allowance to a teacher assigned to teach in a school situated in a designated and gazetted hardship area.

2.3 To this end the designated hardship areas are as shown in Table 1 below.

**Table 1: Designated hardship areas**

No.	County	Designated hardship area
1	Baringo	Former Baringo District and Kisanana, Mogotio, Emining, Sirwa and Kimng'orom Divisions in previous Koibatek District
2	Elgeyo Markwet	Former Marakwet & Keiyo districts
3	Embu	Former Mbeere District
4	Garissa	Entire County
5	Homa Bay	Mfangano and Rusinga Islands in former Suba District
6	Isiolo	Entire County
7	Kajiado	Entire County
8	Kericho	Muhoroni, Fort Ternan, Soin and Sondu Divisions in previous Kericho District
9	Kiambu	Ndeiya Division
10	Kilifi	Ganze Division in former Kilifi District and Magarini, Marafa and Kakoneni Divisions in former Malindi District.
11	Kisumu	Muhoroni Valley and Sondu Divisions
12	Kitui	Former Kitui and Mwingi District
13	Kwale	Kinango and Samburu Divisions
14	Laikipia	Entire County
15	Lamu	Entire County
16.	Machakos	Masinga and Yatta Divisions in former Machakos District.
17.	Makueni	Entire County
17	Mandera	Entire County
18	Marsabit	Entire County

No.	County	Designated hardship area
19	Meru	Mutuati, Ndoleli and Igembe East Division, Buuri and Giika Locations, Amung'enti and Thangatha zones; Muimui, Kiujuine, Akithi zone Linjoka and Ankamia sub-locations in former Meru North District
20	Migori	Kegonga Division in former Kuria District
21	Murang'a	Makuyu Division, Maragwa District and Kakuzi Divisions former Thika District
22	Nakuru	Mbogoini Division and Makongeni Zone
23	Nandi	Tinderet Division
24	Narok	Former Trans Mara District, Eastern Mau, Osupuko, Mara, Loita and Southern Olulunga Divisions in former Narok District
27	Nyeri	Kieni Division in previous Nyeri District
28	Samburu	Entire County
29	Taita Taveta	Mbololo, Mwatate and Voi Divisions
30	Tana River	Entire County
31	Tharaka Nithi	Former Tharaka District
32	Turkana	Entire County
33	Wajir	Entire County
34	West Pokot	Entire County

**3.0. COULD THE COMMISSION PROVIDE FURTHER CLARIFICATION AND INFORMATION ON THE REASONS WHY ALL TEACHERS IN TAITA TAVETA COUNTY DO NOT BENEFIT FROM HARDSHIP ALLOWANCE DESPITE THE COUNTY BEING AMONG AREAS DESIGNATED AS HARDSHIP AREAS FOR TEACHING.**

3.1. The designated hardship areas were gazetted in Legal Notice **534 of 1997**. In Taita Taveta County, the gazetted areas are **Mbololo, Mwatate and Voi Divisions in former Taita Taveta District** and not the entire County.

3.2. Notably, since the gazettement of hardship areas in 1997, the Legal Notice 534 has not been revised to date.

**4.0. COULD THE COMMISSION PROVIDE FURTHER CLARIFICATION AND INFORMATION ON THE CRITERIA USED IN DETERMINING AND CLASSIFYING TOWNS FOR PURPOSES OF PAYING HOUSE ALLOWANCE FOR THE TEACHING SERVICE.**

4.1. Pursuant to Article 230 of the Constitution, the Salaries and Remuneration Commission (SRC) has the mandate to advice on remuneration and benefits of Public officers including the teaching service. In exercise of this mandate, SRC issued an advisory vide letter **ref: SRC/TS/MDP/3/1/2 (2)** dated **11<sup>th</sup> August, 2015** on the payment of House Allowance for public officers. ***Annexure 2 is a copy of the letter.***

4.2. In the said advisory, the SRC categorized the Country into **4 clusters** for purposes of payment of House Allowance namely **Nairobi, former Major Municipalities, other former municipalities** and **other areas**.

4.3. Accordingly, Honorable Members, the Commission has no mandate to classify/categorize towns for purposes of payment of House Allowance. This mandate is a preserve of the SRC.

**5.0. COULD THE COMMISSION PROVIDE FURTHER CLARIFICATION AND INFORMATION ON THE LIST OF ALL AREAS WITHIN KILIFI COUNTY WHERE TEACHERS RECEIVE ENHANCED HOUSE ALLOWANCES AND THE RESPECTIVE CATEGORIES**

5.1. In accordance with Article 230 of the Constitution, the SRC has the mandate to advice on remuneration and benefits of Public officers including the teaching service.

5.2. In exercise of this mandate, SRC issued an advisory vide letter **ref: SRC/TS/MDP/3/1/2 (2)** dated **11<sup>th</sup> August, 2015** on the payment of House Allowance for public officers.

- 5.3. At the time the advisory was issued, Kilifi was a township and was gazetted as such as per **Gazette Notice Number 10557** of **2007** hence fell under Cluster 4. Cluster 4 rates are payable to teachers stationed in townships and rural areas. ***Appendix 3 is a copy of the Gazette Notice Number 10557 of 2007.***
- 5.4. Accordingly, in compliance with the advisory of the SRC teachers in Kilifi have been receiving House Allowance under cluster 4.
- 5.5. While the Commission is aware that Kilifi Township was gazetted as a Municipality in **March, 2019**, the SRC did not review or render an advisory on the review of House allowance payable to teachers in Kilifi town until **31/7/2023**.
- 5.6. The Commission has now received an advisory from SRC recommending the review of **cluster 4** House Allowances payable to teachers. to this end, House Allowance for **cluster 3** and **cluster 4** shall be harmonized in two phases with full harmonization to be realized on **1<sup>st</sup> July 2024**.
- 5.7. On **29/8/2023**, the Commission signed an addendum to the 2021-2025 CBA with teacher unions effective **1<sup>st</sup> July 2023** as per the SRC advisory. Accordingly phase 1 of the harmonization has already been effected.

**\*\*\*THANK YOU\*\*\***

# LEGAL NOTICE 534

## APPENDIX I

1234

Kenya Subsidiary Legislation, 1997

LEGAL NOTICE No. 534

### THE TEACHERS SERVICE COMMISSION ACT (Cap. 212)

IN EXERCISE of the powers conferred by section 14 (3) of the Teachers Service Commission Act, the Minister for Education makes the following Order:—

#### THE TEACHERS SERVICE COMMISSION (REMUNERATION OF TEACHERS) ORDER, 1997

1. This Order may be cited as the Teachers Service Commission (Remuneration of Teachers) Order, 1997.

2. The remuneration of teachers in the teaching service, of the grades specified in the first column of the Schedule shall be in accordance with the salary scales specified in columns 2, 3, 4, 5, 6 and 7 with effect from the date specified under each column.

3. The automatic house allowance payable to teachers in the teaching service shall be at the rate of 35 per cent of the minimum basic salaries specified in the second column of the First Schedule for the financial year 1997/98; at 45 per cent of the minimum basic salaries specified in the second column of the First Schedule for the year 1998/99 and at 50 per cent of the minimum basic salaries specified in second column of the First Schedule for the year 1999/2000 and the subsequent years.

4. Medical allowances payable to teachers in the teaching service shall be at the rate of 15 per cent of the minimum basic salaries specified in column 2 of the First Schedule for the financial year 1997/98 and at 20 per cent of the minimum basic salaries specified in the second column of the First Schedule for the financial year 1998/99 and the subsequent years.

5. Responsibility allowances payable to teachers in the teaching service shall be payable at the rate of 100 per cent of the current rates contained in the code of regulations for teachers (Code of Regulations for Teachers Revised 1986) for the financial year 1997/98; 250 per cent for the financial year 1998/99; 400 per cent for the financial year 1999/2000 and 500 per cent for the financial year 2000/2001 and the subsequent years.

6. Special allowance payable to teachers in the teaching service who are deployed to teach in special schools/institutions and teachers who possess diplomas or certificates in special education deployed to teach in special units shall be at the rate of 10 per cent of the minimum basic salary with effect from 1st July, 1997.

7. Hardships allowance payable to teachers in the teaching service shall be at the rate of 30 per cent of the minimum basic salary specified in the second column of the first schedule with effect from 1st July, 1997. All the teachers serving in the districts/areas gazetted as hardship areas and those teachers in the areas listed below will qualify for this allowance irrespective of their marital status—



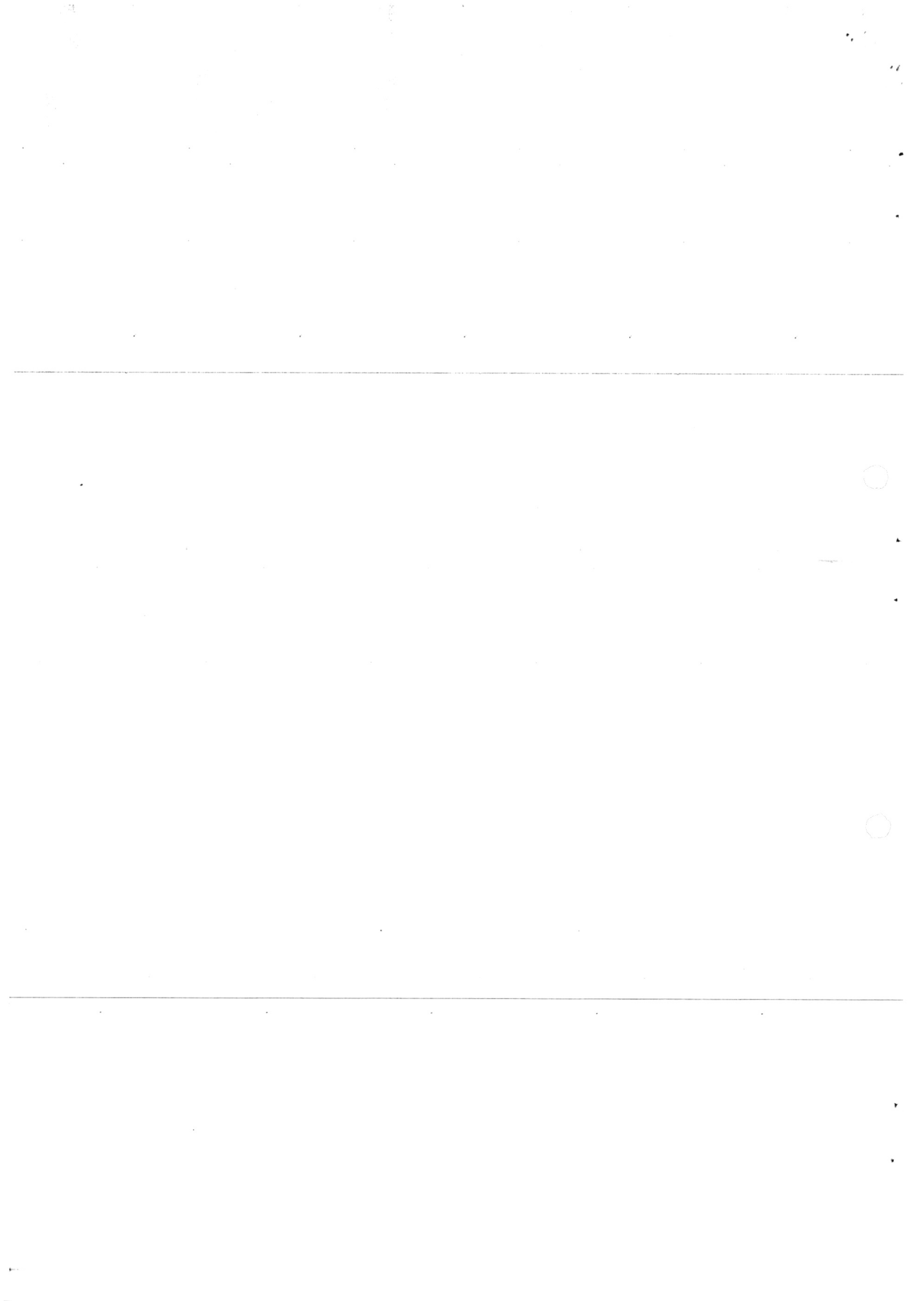
- (a) Mfangano and Rusinga Islands in Suba District.
- (b) Nyamutiro Division, Kuria District.
- (c) Osiyeko Division, Busia District.
- (d) Musiro Division, Busia District.
- (e) Kajiado District.
- (f) Lower Solai, Koibatek District.
- (g) Laikipia District.
- (h) Kitui District.
- (i) Nganze Division, Kilifi District.
- (j) Kerio Valley Division, Keiyo District.
- (k) Marakwet District.
- (l) Kinango and Samburu Divisions, Kwaie District.
- (m) Trans-Mara District.
- (n) Mwingi District.
- (o) Tharaka Division, Tharaka/Nithi District.
- (p) Mbeere District.
- (q) Kiqa Division, Nyambene District.
- (r) Magarini, Mafara and Kakoeni Divisions, Malindi District.
- (s) Masinga and Yatta Divisions, Machakos District.
- (t) Kieni Division, Nyeri District.
- (u) Ndeiya Division, Kiambe District.
- (v) Makuyu Division, Maragua District.
- (w) Muhoroni, Fortenani Soini and Sondu, Kericho District.
- (x) Muhoroni Valley and Sondu Divisions, Kisumu District.
- (y) Kakuzi Division in Thika District.

8. Automatic commuter allowance payable to teachers in the teaching service shall be at the rate of 10 per cent of the minimum basic salaries with effect from 1st July, 1998.

9. Accommodation allowance payable to teachers in the teaching service shall be in accordance with the rates specified in the Second Schedule, with effect from 1st July, 1998.

10. Transfer allowances payable to teachers in the teaching service shall be equivalent to one month's gross basic salary with effect from 1st July, 1998. For the purpose of payment of this allowance the working station of a teacher shall be taken to be the teacher's home district and this allowance will only be payable to teachers transferred from one station (district) to another station (district) on the initiative of the employer (the Teachers Service Commission).

11. Advances for purchase of motor vehicles for teachers in the teaching service with effect from 1st July, 1998, will be in accordance with governing regulations on such advances issued by the Treasury from time





SRC 027/08/2015

Salaries & Remuneration  
Commission  
*Rewarding productivity*

Ref. No: SRC/TS/MDP/3/1/2 (2)

11<sup>th</sup> August, 2015

Mrs. Grace A. Otieno, MBS  
Principal Administrative Secretary  
Directorate of Public Service Management  
Ministry of devolution and planning  
NAIROBI

Dear Mrs. Otieno

**IMPLEMENTATION OF THE REVISED HOUSE ALLOWANCE IN THE PUBLIC SERVICE**

Reference is made to your letter Ref. No. MDP/DPSM/2/6/4A VOL.X (47) dated 8<sup>th</sup> July, 2015 on the above subject.

The Salaries and Remuneration Commission deliberated on the issue during its Commission meeting held on 5<sup>th</sup> August, 2015 and acknowledged the challenges raised in the implementation of the Circular Ref. No: SRC/ADM/CIR/1/13 Vol. III (126) dated 10<sup>th</sup> December, 2014 through the IPPD System. Subsequently, the Commission decided that to enable effective implementation of the reviewed rates of House Allowance, the clustering of regions revert back to the former clustering and be implemented as shown in Table 1.

Table 1: New Rates of House Allowance

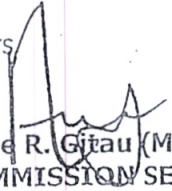
JG	Nairobi		Former Major Municipalities (Mombasa, Kisumu, Nakuru, Nyeri, Eldoret, Thika, Kisii Malindi, Kitale)		Other former Municipalities		Other Areas	
	Current	New	Current	New	Current	New	Current	New
A	3,000	3,750	2,500	3,125	2,000	2,500	1,800	2,250
B	3,000	3,750	2,500	3,125	2,000	2,500	1,800	2,250
C	3,000	3,750	2,500	3,125	2,000	2,500	1,800	2,250
D	3,300	4,125	2,700	3,375	2,200	2,750	1,900	2,375
E	3,500	4,500	2,900	3,730	2,300	2,960	2,100	2,700
F	3,500	4,500	2,900	3,730	2,300	3,000	2,100	2,700
G	5,000	6,750	3,500	4,500	3,000	3,850	2,300	3,200
H	5,000	6,750	3,500	4,500	3,000	3,850	2,300	3,200
J	6,000	10,000	4,500	7,500	3,500	5,800	3,000	4,200
K	10,000	16,500	8,000	12,800	6,000	9,600	5,000	7,500
L	20,000	28,000	15,000	22,000	12,000	16,500	10,000	13,000
M	20,000	28,000	15,000	22,000	12,000	16,500	10,000	13,000
N	24,000	35,000	17,000	25,500	13,000	18,000	11,000	15,400
P	40,000	45,000	20,000	28,000	15,000	21,000	12,000	16,800
Q	40,000	45,000	20,000	28,000	15,000	21,000	12,000	16,800
R	40,000	50,000	20,000	35,000	15,000	25,000	12,000	20,000
S	60,000	60,000	56,000	56,000	52,000	52,000	-	-
T	80,000	80,000	70,000	70,000	60,000	60,000	-	-
U	-	80,000	-	70,000	-	-	-	-
V	-	100,000	-	-	-	-	-	-

Note: All the other terms remain as per the provisions on the Circular of 10<sup>th</sup> December, 2014



The purpose of this letter therefore, is to convey the decision and advice of the Commission on the request for clarification on the implementation of the revised house allowance in the public service, for your further necessary action.

Yours



**Anne R. Gitau (Mrs.)**  
**COMMISSION SECRETARY**

**CC:**

**Eng. Peter O. Mangiti**  
Principal Secretary  
Ministry of Devolution and Planning  
**NAIROBI**

**Dr. Kamau Thugge, EBS**  
Principal Secretary  
National Treasury  
**NAIROBI**

**Mr. Edward R. Ouko**  
Auditor General  
Kenya National Audit Office  
**NAIROBI**

**Mrs Agnes Odhiambo**  
Controller of Budget  
BIMA House  
**NAIROBI**

**Mrs. Alice A. Otawala, CBS**  
Secretary/CEO  
Public Service Commission  
**NAIROBI**





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**THE PRESIDENCY**

**MINISTRY OF PUBLIC SERVICE, YOUTH AND GENDER**

**REPORT ON REVIEW OF HARDSHIP AREAS AND PAYMENT OF HARDSHIP  
ALLOWANCE IN TAITA TAVETA COUNTY**

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**DECEMBER, 2019**

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## CHAPTER ONE:

### REVIEW OF DESIGNATED HARDSHIP AREAS IN TAITA TAVETA COUNTY

#### 1.0 INTRODUCTION

##### 1.1 Background

Designated hardship areas in the Public Service for purposes of payment of hardship allowance are remote areas categorized as lacking basic social services, amenities and infrastructure. In the Public Service, various institutions have employees stationed in different areas designated as hardship and they are currently paid Hardship Allowance.

The Government policy on designated hardship areas and payment of hardship allowance has undergone a number of changes before and after independence. Before independence, European officers were paid an allowance which was known as Family Separation Allowance. Other Public Servants working in the designated hardship areas were also paid the same but was known as Frontier Allowance. In post-independence period, Hardship Allowance was introduced to partially compensate Public Servants working in the Designated Hardship Areas. It was paid to officers as an inducement to work in Hardship Areas due to resultant isolation and separation from families.

Determination of designated hardship areas is currently not harmonized across the Public Service. This has created disparities and led to inequity in payment of Hardship Allowance among Public Servants deployed in the same geographical area. These discrepancies have created discontent among the public officers deployed in such areas giving rise to enquiries and petitions by Teachers, Civil Servants and Unions representing the Teachers and Civil Servants and also members of Parliament from the affected areas.

The Clerk to the National Assembly invited the Cabinet Secretary, Ministry of Public Service, Youth and Gender to appear before the Departmental Committee on Education and Research on 26th November, 2019 to respond to a petition submitted by teachers serving in parts of Taita Taveta County.

The teachers sought to know the following issues that were raised in the petition:

- i. The criteria used to identify and consequently gazette hardship areas and a list of such areas in Taita Taveta County;
- ii. Rationale for discrepancies in the criteria of gazetting the areas as hardship areas as exemplified by the fact that Kungu Primary School and Elijah Mzee Secondary School both in Mwatate Constituency, share the same compound but only teachers in Elijah Mzee Secondary School are paid hardship allowance; and
- iii. Why hardship allowance for teachers in Rong'e Ward in Mwatate Constituency was withdrawn when Rong'e Ward's educational administrative boundaries were transferred from Voi Constituency to Mwatate Constituency.

## **1.2 Presentations by the Cabinet Secretary – Ministry of Public Service Youth and Gender**

The Cabinet Secretary appeared before the Departmental Committee and made presentations as follows:

### **A. Criteria for Determination of designated Hardship Areas in the Civil Service**

- I. A taskforce constituted in 2007, comprising of Teachers Service Commission (TSC), Ministry of Finance, Ministry of State for Public Service, Ministry of Planning, and Permanent Public Service Remuneration Review Board (PPSRRB) developed weighted criteria for re-examining hardship areas after visiting the areas that were contested as hardship (Areas designated by TSC and Civil Service as proposed by the Provincial Administration and Internal Security and some proposed by members of Parliament).
- II. The weighted criteria was based on the following parameters:
  - a) Non/limited availability and accessibility to food;
  - b) Non availability/limited access to portable water;
  - c) Non/inadequate transport and communication services;
  - d) Non/limited availability of social services and amenities;
  - e) Harsh climatic conditions;
  - f) Insecurity and high possibility of security threats; and
  - g) Socio economic indicators such as poverty index from the Kenya National Bureau of Statistics.

The taskforce submitted its recommendations to the Cabinet in 2008 vide a Cabinet Memo No. 19 recommending de-gazettement and gazetting of some hardship areas and regular

reviews of areas categorized as hardship and gazettelement or de-gazettelement as appropriate by the Minister responsible for Public Service among other recommendations.

### **B. Designated hardship areas for the Civil Service.**

There are currently sixteen (16) regions which have so far been designated as hardship areas in the Civil Service according to the Head of Public Service vide Circular Ref. No. OP/CAB/1/31A of 7th December 2015. **(Appendix 1).**

### **C. Criteria for Determination of designated hardship areas in the Teaching Service**

- (i) Prior to 1997, the Civil and Teaching services had similar designated Hardship Areas, which included North Eastern Province (Wajir, Mandera & Garissa), Samburu, Isiolo, Lamu, Marsabit, Tana River, West Pokot, Turkana and Northern area of Baringo. This comprised of eleven (11) fairly distinct hardship areas.
- (ii) In 1997, the Minister for Education through legal Notice No. 534 of 11<sup>th</sup> November, 1997 gazetted an **additional twenty-five (25) Hardship Areas** for the Teaching Service following a recommendation by the Teachers Service Remuneration Committee. This followed a Collective Bargaining Agreement with the Kenya National Union of Teachers. The recommendation was based on the agreement that teachers work in more remote areas as opposed to Civil Servants who are mostly posted to District and Divisional Headquarters only. In 2005, the number of designated hardship areas for the Teaching Service was increased from thirty - six (36) to the current forty - four (44) as indicated in the Code of Regulation for Teachers (CORT) 2005. **(Appendix II)**
- (iii) The Civil Service currently (National and County Governments) has sixteen (16) Designated Hardship Areas. Hardship allowance is paid based on the prevailing categorization and rates guided by the Salaries and Remuneration Commission.

In order to address the challenges relating to the categorization and payment of hardship allowance with a view to eliminating the existing disparities across Public Service, the Ministry vide letter Ref: MPYG.DPSM.HRM/2/1/5/TY (30) dated 21st March, 2019 constituted an Inter-Agency Technical Committee comprising of representatives from the Ministries of

Public Service, Interior and Co-ordination of National Government, Education, The National Treasury and Planning, Public Service Commission, Teachers Service Commission and Kenya National Bureau of Statistics to study the prevailing policies, circulars and guidelines on designated hardship areas and payment of hardship allowance and make appropriate recommendations.

The Interagency technical committee studied the various policies, circulars and current practices on determination of hardship areas and payment of hardship allowance across the Public Service and came up with modalities of accomplishing the assignment. To facilitate the exercise, the Ministry of Public Service vide letter Ref.No. MPYG.DPSM.2/7/3A dated 13<sup>th</sup> September, 2019 requested the Kenya National Bureau of Statistics to review unit of analysis from current County/sub county/Division/location//town/urban center/ zone to sub location level and study the development levels of current designated hardship areas to inform areas to be gazzeted as hardship and those to be de-gazzeted based on the levels of development to enable the Team finalize the assignment. Kenya Bureau of Statistics is yet to undertake the study.

### **1.3 Recommendations of the Parliamentary Committee**

The Parliamentary Committee on Education and Research recommended as follows: -

- i. The Inter-Agency Technical Committee to visit Taita Taveta (Mwatate) to observe and ascertain the actual condition of the specified areas where the Kungu Primary School and Elijah Mzae Secondary School both in Mwatate constituency are located;
- ii. Status Review of designated hardship areas in Taita Taveta County;
- iii. The Inter-Agency committee to undertake a nationwide exercise and submit a report covering the entire nation and which should be county based and the parameters to be reviewed and the scope broadened.
- iv. The Inter-Agency Committee to provide an official government list of the designated hardship areas after the exercise.
- v. The unit of analysis for designated hardship areas to be harmonised.

### **1.4 Field Visit**

A sub Committee of the Inter-Agency Committee comprising of officers from State Department for Public Service, Ministry of Interior and Coordination of National Government, Teachers Service Commission and Kenya National Bureau of Statistics visited Taita Taveta County from 2nd to 4th December, 2019 to:-

- i. Ascertain the actual condition of the specified areas where the Kungu Primary School and Elijah Mzae Secondary School both in Mwatate constituency are located;
- ii. Undertake a status review of the designated hardship areas in Taita Taveta County; and
- iii. Prepare report on the status of Taita Taveta County in respect of hardship areas.

### 1.5 Overview of Taita Taveta County

- i. Taita Taveta County is one of the six counties in Coast Region. It borders Kitui, Makueni, Kajiado, Kwale and Kilifi Counties. It shares an international boundary with Tanzania. Tsavo East and West National Park is in Taita Taveta County and covers over sixty percent (60%) of the total land mass of the county.
- ii. The county has 4 sub counties, 9 divisions, 33 locations and 89 sub locations as indicated in the table 1.

**Table 1: Summary of Administrative Units in Taita Taveta County**

S/NO	Sub County	Division	Location	Sub Location
1.	Mwatate	2	9	27
2.	Taita	1	7	23
3.	Taveta	3	11	23
4.	Voi	3	6	16
<b>Total</b>	<b>4</b>	<b>9</b>	<b>33</b>	<b>89</b>

A list of Divisions, locations, and sub locations is as indicated in (**Appendix III**)

## CHAPTER II

### METHODOLOGY

#### 2.0 Introduction

The Inter-Agency Team developed a weighted criterion for re-examining hardship areas in general. The weighted criteria comprised economic indices used to assess the level of

development of a given area to ensure objectivity and parity in classification of hardship areas. The weighted criteria for rating the hardship areas is as shown in Table 2.

**Table 2: Criteria for Weighting**

<b>S/No.</b>	<b>Criteria</b>	<b>Score</b>
<b>1.</b>	<b>Non/limited availability and accessibility of food (each 5 points)</b>	<b>25</b>
	i) Area on relief food	5
	ii) Availability of market place	5
	iii) Low agricultural productivity of the area/ supply of food	5
	iv) Area dry with erratic rainfall	5
	v) Cost of food expensive	5
	vi) Distance to food markets	
<b>2</b>	<b>Non/Availability limited access to portable water (each 5 points)</b>	<b>20</b>
	i) Availability of piped water	5
	ii) Area gets water from seasonal rivers/borehole	5
	iii) Area has permanent river	5
	iv) Private water tanks supply water to the area	5
<b>3.</b>	<b>Non/Inadequate transport and communication services (each 5 points)</b>	<b>20</b>
	i) Availability/Distance of tarmac roads	5
	ii) Availability/Distance of all-weather roads	5
	iii) Availability/Reliability of mode of public transport	5
	iv) Roads impassable during rainy season	5
<b>4.</b>	<b>Non/Limited availability of social services (each 3 points)</b>	<b>15</b>
	i) Schools are available/Distance	3
	ii) Availability/Distance of hospitals/health facilities	3
	iii) Electricity available	3
	iv) Housing for Public Servants/ Availability of housing facilities	3
	v) Availability/Distance of Bank/Postal services	3
<b>5.</b>	<b>Harsh Climate conditions an Terrain (each 2.5 points)</b>	<b>10</b>
	i) The regions is semi- arid	2.5
	ii) The region is hot and dry	2.5
	iii) Difficult terrain (mountainous with deep gullies)	2.5
	iv) Area gets flooding during rainy season	2.5
<b>6.</b>	<b>Insecurity and high possibility of security threats (each 2.5 points)</b>	<b>5</b>
	i) Human-wildlife conflict	2.5
	ii) Tribal/inter-clan conflicts	2.5
<b>7.</b>	<b>High Poverty Index</b>	<b>5</b>
	<b>TOTAL</b>	<b>100</b>

## 2.1 Sources of Information

The sub-committee used the following as sources of information:

- i) Petition by the Member of Parliament for Mwatate and submissions by the Ministry of Public Service, Youth and Gender and Teachers Service Commission;
- ii) Face to face interviews with officers from Ministry of Interior and Coordination of National Government, County Director of Education and Teachers Service Commission (TSC) County Director who assisted the team to identify areas perceived to experience harsh climatic conditions and therefore would be considered as hardship areas;
- iii) Field observations;
- iv) Submitted reports from Deputy County Commissioners of the respective Sub-Counties;
- v) Literature review on poverty indices in the Country as indicated in annual reports by the Commission on Revenue Allocation and Equalization Fund, Economic Survey 2019 report; and
- vi) The ratings by the Team on application of the Weighted Criteria on specific identified areas visited in the four sub-counties of Taita-Taveta County.

## 2.2 Grading of the Areas

- i. Based on the interviews, submissions by the Deputy County Commissioners and observations made during the visits, the Team awarded scores as per the weighted criteria to all identified areas.
- ii. The weighted scores for the areas were aggregated and a cut-off point of 50 agreed for determining an area as **“Moderate Hardship Area”** and a score of 75 points and above as **“Extreme Hardship Area”**. Details of the areas and weighted scores are shown in **Appendix II**.

## CHAPTER III

### DATA COLLECTION

#### 3.0 Introduction:

The team visited the County and paid courtesy call to the Deputy County Commissioners who gave overview of each of the Sub Counties.

### **3.1 Mode of data collection:**

The team visited the County Headquarter of Taita Taveta at Mwatate and all the Sub-Counties offices at Taita, Voi and Taveta. The team also sampled specific divisions, locations and sub-locations considered hardship areas as guided by the Deputy County Commissioners and collected information through: -

- i. Interviews with the local Administration –Deputy/Assistant County Commissioners, Chiefs and Assistant Chiefs, TSC and Ministry of Education field officers and KNBS field officer; and
- ii. Observations by visiting specific areas/locations.

### **3.2 Findings and Observations**

The following were the observations and findings from each of the Sub Counties.

#### **3.2.1 Mwatate Sub County**

Mwatate Sub County has two (2) Divisions: Mwatate and Mwambirwa.

The following are the findings and observations.

##### **a) Non /Limited availability and Accessibility of Food**

- i. The area receives but does not rely on relief food. School feeding programme is available in some areas especially schools in Ronge location;
- i. Most residents depend on small scale farming for their agricultural produce;
- ii. The area experiences erratic rainfall;
- iii. shopping centers /markets are available in the areas; and
- iv. The cost of food is average since there are agricultural activities in the area and others travel to Wundanyi town for their food supplies.

##### **b) Non/Limited Availability access to portable water**

- i. Mwatate Location has piped water supplied by Tavevo Water and Sewerage Co. limited;
- ii. Other areas get water from boreholes, springs and streams;
- iii. The area has no permanent rivers though seasonal rivers are available during the rainy season; and
- iv. Private Water boozers also supply water to the residents of Mwatate Sub County.

##### **c) Non/Inadequate transport and communication services**

- i. Mwatate Division is connected to all sub counties headquarters by tarmac road;

- ii. The rest of the division is served by all-weather roads except for some areas of Ronge and Kishau roads are impassable during the rainy season
- iii. Mobile phone technology and network is also available in the division; and
- iv. Public transport in the division is by few scheduled matatus and motorcycles to reach the remote areas;

**d) Non/limited availability of social services**

- i. Primary and Secondary schools are evenly distributed in the division
- ii. dispensaries and health centers are available in the division;
- iii. Electricity is available in most areas of the Division;
- iv. Rental houses are not available in most sub locations, Public Servants live rented houses in Mwatate town and commute to work stations daily;
- v. Banking services and Postal services are available in Mwatate town.

**e) Harsh Climatic conditions and terrain (Score 5)**

- i. Kidaya/Ngerenyi, Mwachabo and Ronge Juu locations are hilly and mountainous;
- ii. Areas of Ronge Nyika occasionally gets flooded during the rainy season;

**f) Insecurity and high possibility of security threats**

- i. Security is generally good in most areas of the Sub- County
- ii. There are few cases of Human wildlife conflict.

**g) High Poverty Index**

- i. The area residents mainly rely on small scale agricultural activities including such as livestock keeping; macadamia farming in Kidaya Ngerenyi location for their income; and
- ii. Employment in the sisal plantations and mines as laborers are also other forms on economic activities in the area.

**3.2.2 Taita Sub-County**

Taita Sub- County has only (1) Division called Wundanyi. Currently, there is no administrative region or sub location in Taita Sub County designated as hardship for both Teaching service, civil service and the disciplined service.

**a) Non-limited availability and accessibility of food**

- i. Some areas such as Kishushe location receive relief food during the dry season;
- ii. There is small scale farming in the highlands and livestock keeping in lowlands areas;

- iii. The area receives fairly reliable rainfall in most areas. However, some areas such as Kishushe that are classified as semi-arid;
- iv. The sub county relies on the market in Wundanyi and Voi towns for food supplies which is mainly sourced from Taveta; and
- v. Cost of food is average.

**b) Non-availability limited access to portable water**

- i) The Sub-County is well served by piped water in most sub locations;
- ii) The area has one (1) permanent river Weso-Wundanyi river; and
- iii) Residents also rely on seasonal rivers, springs and boreholes.

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**c) Non/ Inadequate transport and communication services**

- i. Taita Sub County is connected to the county headquarters by tarmac road;
- ii. All-weather roads serve the rest of the sub county. Some parts of the roads are impassible during rainy season;
- iii. Mobile phone network communication is available in most parts of the sub county;
- iv. The transport in the sub locations is fairly reliable;

**d) Non/Limited availability of social services**

- i. Schools are fairly distributed and adequate throughout the sub- county;
- ii. Health centers are fairly distributed in the sub county. The main hospitals are Weso and Wundanyi hospitals;
- iii. Electricity is available in most parts of the sub county and;
- iv. Rental housing for public servants is available;
- v. Shopping centers/shops available, however banking and postal services are only available in Wundanyi town.

**e) Harsh Climate conditions and Terrain**

- i. The sub county has highland areas which are mountainous and with forests cover. Other parts of the sub county such as Kishushe are lowlands and classified as semi - arid;
- ii. Flooding is occasionally experienced in some parts of the lowlands during rainy season;

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**f) Insecurity and high possibility of security threats**

- i. There is generally no major insecurity;
- ii. Human wildlife conflict is experienced in some parts of the sub-county;

**g) High Poverty Index**

- i. The area residents mainly rely on small scale agricultural activities including such as livestock keeping; and subsistence farming for their income; and
- ii. Employment in the mines as laborers are also other forms on economic activities in the area.

**3.2.3 Voi Sub-County**

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Voi Sub-County comprises of three (3) divisions Tausa, Voi and Nyangala.

The following are the findings and observations on the sub-county.

**a) Non/limited availability and accessibility to food**

- i. Voi has one of the largest market centers in Taita Taveta County;
- ii. Food is accessed from the market in Voi town which is supplied from Taveta Sub County;
- iii. Rains are erratic and there is small scale agricultural activity;
- iv. The cost of food is moderately high;
- v. The division occasionally receives relief food especially areas like Ngolia, Mbololo, Kasigua and Sagalla locations.

**b) Non - availability limited access to portable water**

- i. There is adequate supply of piped water in the Voi division while Tausa division has no piped water
- ii. Private water tankers supply water to the sub location
- iii. The sub county has one permanent river River Voi; and
- iv. Residents also depend on water from Seasonal rivers and Mzima Springs;

**c) Non/Inadequate transport and communication services**

- i. Voi Sub County is connected to the county headquarters by tarmac road;
- ii. All-weather roads serve the rest of the sub county;
- iii. Some parts of the roads in Ngolia and Mbololo locations are impassible during rainy season;
- iv. Public is fairly reliable however, in Wongonyi sub location there is unreliable public transport due to rough terrain.

**d) Non/ limited availability of social services**

- i. Schools are adequate and well distributed in the sub county;
- ii. Health facilities are adequate and are well spread;

- iii. supply of electricity is available in most areas;
  - iv. Rental houses are available and most public servants commute daily to their work stations;
  - v. Postal and Banking services are available in Voi town. Residents from other locations travel to Voi town for these services;
- e) Harsh Climatic conditions and Terrain**
- i. The area is semi- arid;
  - ii. Tausa Division is hot and dry with difficult terrain in Wongonyi sub locations (steep hills with deep gullies);
  - iii. Sagalla location in Voi Division is hilly and rough terrain;
  - iv. River Voi sometimes floods during rainy season.
- f) Insecurity and high possibility of security threat**
- i. There is minimal insecurity in the division.
  - ii. Human wildlife conflict in Tausa and Nyangala are common during dry season due to proximity to Tsavo National Park.
- g) Poverty Index.**
- i. Residents rely on small scale agricultural activities and livestock keeping for their income; and
  - ii. Employment in the gemstone mines as laborers are also other forms on economic activities in the area.

#### ***3.2.4 Taveta Sub County***

The team visited the sub county on 4th December 2019. The team was received and briefed by the Deputy County Commissioner (DCC) for Taveta Sub County, later visited Mata location in Jipe Division and Njukini location in Chala division.

The following are findings and observations for Taveta Sub County.

- a) Non/limited availability and accessibility of food**
- i. Agricultural activities especially banana farming by irrigation in Bomeni Division and Livestock rearing in some parts of the division;
  - ii. Chala Division has reliable rainfall with agricultural activities including horticultural farming – tomatoes and onions and livestock farming;
  - iii. Low agricultural activities in Jipe Division, however the area relies on livestock keeping and fishing;
  - iv. The area receives food from Taveta Market and neighboring Tanzania;

- v. The cost of food is fair in the Sub county and the rest of county sources their food from Taveta;

**b) Non/availability limited access to portable water**

- i. Bomeni and Chala Division have piped water however, there is no piped water in the Jipe division;
- ii. Chala Division has two permanent rivers, Njukini and Lumi River.
- iii. Some parts of the Sub county have boreholes and residents of Jipe Division also use water from lake Jipe;
- iv. There are seasonal rivers in the sub county; and
- v. Private water supply was reported in the ranches.

**c) Inadequate transport and communication services**

- i. Taveta sub county is connected to the county headquarter by tarmac roads. The rest of the sub county is served by all-weather roads;
- ii. Some roads in the sub county are impassable during the rainy season such as the road from Taveta to Lake Jipe;
- iii. Flooding is noted in some areas bordering Lumi River and also Kitobo location that borders Tanzania;
- iv. Public transport on the main tarmac road is available and also Boda boda is available in the other areas.

**d) Non/limited availability of social services**

- i. Schools are available and well distributed in the sub county;
- ii. Health facilities such as Taveta Hospital and health centers/dispensaries are available;
- iii. Electricity is available in most parts of the sub county;
- iv. Housing is available for Public Servants. However, in Mata location is scarce and offered by the community; and
- v. Banking and Postal services are only found in Taveta Town and some shopping centers have Agency banking

**e) Harsh Climatic conditions and Terrain**

- i. The terrain is flat and gently lying;
- ii. Some areas in Jipe division are hot and dry
- iii. Flooding is experienced in some parts during heavy rains;

**f) Insecurity and high possibility of security threats**

- i. Security is generally good in the Sub County;

- ii. Human wildlife conflict was reported especially the elephants from the Tsavo East National Park and hippos from lake Jipe.

**g) Poverty index**

- i. Residents rely on agricultural activities crop and horticultural farming as well as livestock keeping for their income;
- ii. Banana farming through irrigation for subsistence as well as commercial purposes;
- iii. The sub county is a source of food stuff for the entire Taita Taveta county; and
- iv. There is cross border trading in the sub county with neighboring Tanzania.

**Table 3: Aggregated scores for the Visited areas**

S/NO.	Criteria	weight	Mwatate Sub county			Wunda Sub county	Taveta Sub	Voi Sub county	
			Ronge location	Ronge Juu location	Kidaya/Ngerenyi location	Kishushe location	Mata location	Mbololo location	Ngolia locatio

1.	Non/ Limited availability of Food	25	13	13	8	13	12.5	15	15.
2.	Non/ Limited access availability of potable water	20	8	7	8	10	10	12	12.
3.	Non/inadequate transport and communication services	20	11	14	10	8	12	9	9
4.	Non/Limited availability of social services and amenities	15	12	13	10	12	10	10	10
5.	Harsh Climatic Conditions	10	7	6.5	5	7	6	6	6
6.	Insecurity and high possibility of Security Threat	5	2	2	2	2	3	3	3
7.	High Poverty Index	5	3	2	2	3	2	2.5	2.5
	<b>TOTAL</b>	<b>100</b>	56	57.5	45	55	55.5	57.5	57.!

## CHAPTER IV

### SUMMARY OF FINDINGS, OBSERVATIONS AND RECOMMENDATIONS

#### 4.0 Introduction

Based on the field visit, discussions with the area administrative officers and County Directors of Education, representatives of the Teachers Service Commission in Taita Taveta County, the following are the team's general findings and observations.

#### **4.1 Findings and Observations**

1. Changes in administrative boundaries are not harmonized with registration of schools. For example, Elijah Mzae Secondary school is registered under Mwatate Sub County a classified hardship area by TSC while Kungu Primary school which shares the same compound with the secondary school was registered under Wundanyi Sub County an area which is not a classified hardship area.
2. Some areas currently classified as hardship are no longer hardship given the prevailing conditions on the ground while some that should be designated as hardship are not. For example, under TSC the entire Voi sub county including Voi town is designated as hardship while locations such as Ronge in Mwatate, Mata in Taveta and Kishushe in Taita sub counties are not.
3. The team observed that there are inconsistencies in implementation of the circular on designated hardship areas where gazzeted areas like Manyani in Ngolia location under the Civil Service are not paid hardship allowance. Under TSC, some areas in Mwatate Sub County which is designated as hardship are not receiving hardship allowance for example Ronge location;
4. The county receives most of its food from Taveta sub county which has banana farming under irrigation and also receives food supplies from Tanzania;
5. The water supply within the county is from boreholes, seasonal rivers, piped water from springs and private water tankers. The county receives long rains between October and December and short rains between April and May.
6. All sub counties headquarters are connected by tarmac roads where as there are some pockets that are impassible during rainy season. The rest of the county are served by all-weather roads;
7. The county is well served with social amenities including, schools, health facilities electricity and mobile communication network;
8. The county is home to Tsavo West and Tsavo East National Parks which accounts for over 60% of the total area and as a result, some parts of the county is exposed to Human Wildlife Conflict.

#### **4.2 RESPONSE FROM KENYA NATIONAL BUREAU OF STATISTICS**

1. The Inter-Agency Committee recommended that Kenya National Bureau of Statistics (KNBS) undertake the following: -
  - a) Review unit of analysis from the current County/Sub-county/Division/Location/Town/Urban Center/Zone so as to have a uniform criteria for identifying, classifying and designating hardship areas for the entire Public Service

- b) Study on development levels of current designated hardship areas to inform areas to be gazzeted as hardship and those to be de-gazzeted base on the levels of development.
2. A report on the above exercise was to be used by the Inter-Agency Committee to make appropriate recommendations on the prevailing policies, circulars and guidelines on designated hardship areas and payment of hardship allowance.
- 4.3. The Ministry vide a letter Ref. No MPYG.DPSM.2/7/3A dated 13<sup>th</sup> September, 2019 requested KNBS to undertake the task as recommended. A response from KNBS dated 13<sup>th</sup> December, 2019 indicated that: -
- i. The unit of analysis can be reviewed to sub-location subject to availability of data at sub-location level which can be availed using the 2009 Census.
  - ii. In applying the weighted parameters provided by the Inter-Agency Committee, the Bureau is only able to provide data on access to piped water, access to sewer system, electricity, and poverty levels.
  - iii. The Bureau does not maintain data on the following parameters which the Committee identified as significant in designating hardship areas; Non/limited availability and access to food, Non/inadequate transport and Communication services, Harsh Climatic conditions, Insecurity and high possibility to threats. The Bureau therefore recommended that; a team be constituted to collect data on these parameters.
- 4.5 On the study of development levels of current designated areas in order to inform either gazzetment or de-gazzetment of the existing areas, the Bureau recommended that jointly a taskforce be formed to carry out the evaluation of the development levels in the sub locations. However according to the Bureau, they do not have a budget to carry out the exercise.

#### **4.6 RECOMMENDATIONS**

In view of the above findings and observations, the following are the team's recommendations: -

1. The Ministry of Interior should gazette all changes in administrative boundaries so that all Government Agencies including TSC align their operations appropriately.
2. Payment of Hardship allowance for teachers in Kungu Primary school and Elijah Mzae Secondary School be handled administratively by TSC for parity of treatment.
3. The hardship areas under TSC and the entire Public Service should be reviewed and harmonized for gazzetment and de-gazzetment.

4. Inconsistencies in implementation of circulars on designated hardship areas and payment of hardship allowance to be handled administratively by state Department for Public Service and TSC.
5. The lowest unit of assessment for designated hardship areas to be a location as opposed to the entire county or sub county. In addition, the classification should be categorized into two: moderate and extreme hardship areas.
6. Based on the response received from KNBS, the team is working on modalities to undertake the exercise.

**LIST OF DESIGNATED HARDSHIP AREAS FOR THE CIVIL SERVICE***(OP/CAB/1/31A of 7<sup>th</sup> December, 2015)*

<b>S/No.</b>	<b>Counties</b>
1.	Tana River
2.	Lamu
3.	Garissa
4.	Wajir
5.	Mandera
6.	Marsabit
7.	Isiolo
8.	Makueni
9.	Turkana
10.	West Pokot
11.	Samburu
12.	Elgeyo Markwet
13.	Laikipia
14.	Baringo (Excluding Koibatek Sub-county)
15.	Tinderet Sub-county in Nandi County
16.	Manyani Area in Ngolia Ward in Taita Taveta County

## LIST OF HARDSHIP AREAS FOR THE TEACHING SERVICE

S/No	District	Hardship Areas
1.	Suba	Mfangano and Rusinga Islands
2.	Kuria	Kegonga Division
3.	Busia	Budalangi Division
4.	Kajiado	Entire District
5.	Nakuru	Mbogoini Division and Makongeni Zone (Part of Lower Solai)
6.	Laikipia	Entire District
7.	Kitui	Entire District
8.	Kilifi	Ganze Division
9.	Keiyo	Entire District
10.	Marakwet	Entire District
11.	Kwale	Kinango and Samburu Divisions
12.	Trans Mara	Entire District
13.	Mwingi	Entire District
14.	Tharaka	Entire District
15.	Mbeere	Entire District
16.	Malindi	Magarini, Marafa and Kakoneni Divisions
17.	Machakos	Masinga and Yatta Divisions
18.	Nyeri	Kieni Division
19.	Kiambu	Ndeiya Division and Karai Location

S/No	District	Hardship Areas
20.	Maragwa	Makuyu Division
21.	Nyandarua	<u>Nyandarua Boarding Primary School</u>
22.	Nyandarua	<u>Nyahururu High School</u>
23.	Kericho	Muhoro, Fort Ternan, Soin and Sondu Divisions
24.	Kisumu	Muhoroni Entire District and Sondu Divisions
25.	Thika	Kakuzi Division
26.	Koibatek	Kisanana, Mogotio, Emining, Sirwa and Kimg'orom Divisions
27.	Narok	Eastern Mau, Osupuko, Mara, Loita and Southern Olulunga Divisions
28.	Makueni	Entire District
29.	Isiolo	Entire District
30.	Moyale	Entire District
31.	Marsabit	Entire District
32.	Garissa	Entire District
33.	Mandera	Entire District
34.	Wajir	Entire District
35.	Lamu	Entire District
36.	Tana River	Entire District
37.	TaitaTaveta	Mbololo, Mwatate and Voi Divisions
38.	Baringo	Entire District
39.	Samburu	Entire District
40.	Turkana	Entire District

S/No	District	Hardship Areas
41.	West Pokot	Entire District
42.	Ijara	Entire District
43.	Nandi	Tinderet Division
44.	Meru North	-Mutuati, Ndoleli and Igembe East Divisions
45.		-Buuri and Giika Locations
46.		-Amung'enti and Thangatha Zones
47.		-Mumui, Kiujuline, Akithi Zones
48.		-Linjoka, Ankamia Sub-Locations

Appendix: III

List of Administrative Units in Taita Taveta County

Sub County	Division	Location	Sub Location	
Taveta	Bomeni	Mboghoni	Njoro	
			Mboghoni	
			Kimorigo	Eldoro
				Kimorigo
			Mahoo	Malukiloriti
				Mahoo
			Kitobo	Mrabani
				Kitobo
			Ngarighashi	Lesesia
				Mjini
			Chala	Kidong'u
				Nakruto
				Chala
			Mahandakini	
			Njukini	
			Chumvini	
			Njukini	
			Lumi	
		Jipe	Kimala	Rekeke
				Kimala
			Timbila	Msengoni
				Timbila
			Mata	Kachero
			Mata	
Voi	Voi	Voi	Kaloleni	
			Mwangea	
			Sagalla	
			Ndara	
			Kishamba	
			Teri	
			Talio	
	Tausa	Ngolia	Ghazi	
			Ndome	
			Wongonyi	
		Mbololo	Tausa	

			Mraru
	Nyangala	Marungu	Maungu
			Miasenyi
		Kasigau	Buguta
			Makwasinyi
			Rukanga
Mwatate	Mwatate	Bura	Ilole
			Mnamu
			Saghaighu
			Nyolo
			Mrughua
		Mwatate	Mwatate
			Modambogho
			Sembe
		Kishamba	Kishamba
			Mwachawaza
			Kaya Ilole
			Mengo
		Mwachabo	Mwachabo
			Mruru Manganga
			Wumari Sechu
		Kidaya/Ngerenyi	Kidaya
		Chawia	Chawia
			Wusi
		Mwakitau	Mwakitau
			Mlughu/Mwashuma
			Godoma
	Mwambirwa	Rong'e	Msau/Rahai
			Kighombo/Marumbenyi
			Rong'e Nyika
		Rong'e Juu	Kishau/Kiweto
			Ndembonyi/Baghau
			Kironge/Makaleri
Taita	Wundanyi	Wundanyi	Wundanyi
			Shigharo
			Sungululu
			Mteni
		Mbale	Mbale
			Choke
			Mlechi
			Mogho
		Werugha	Werugha

			Mlondo
			Saghasa
			Marumange
		Wumingu	Wumingu
			Mghambonyi
			Nyache
		Kishushe	Kishushe
			Paranga
		Mgange	Lushangonyi
			Mwaroko
			Mgange Dawida
			Mgange Nyika
		Mwanda	Mwanda
			Njawuli

**Members of the Inter-Agency Sub Committee**

<b>S/No.</b>	<b>Name</b>	<b>Ministry/Department</b>		<b>SIGN</b>
1.	Mary Maungu	Public Service, Youth and Gender	Team Leader	
2.	Samuel Kipruto	Kenya National Bureau of Statistics	Member	
3.	Jennifer Ndege	Teachers Service Commission	Member	
4.	Erick Kipkorir	Interior & Coordination of National Government	Member	
5.	Beatrice Adieri	Public Service, Youth and Gender	Member	
6.	Florence Kigo	Public Service, Youth and Gender	Member	
7.	Joyce Nkoru	Public Service, Youth and Gender	Member	



(b) Commuter Allowance

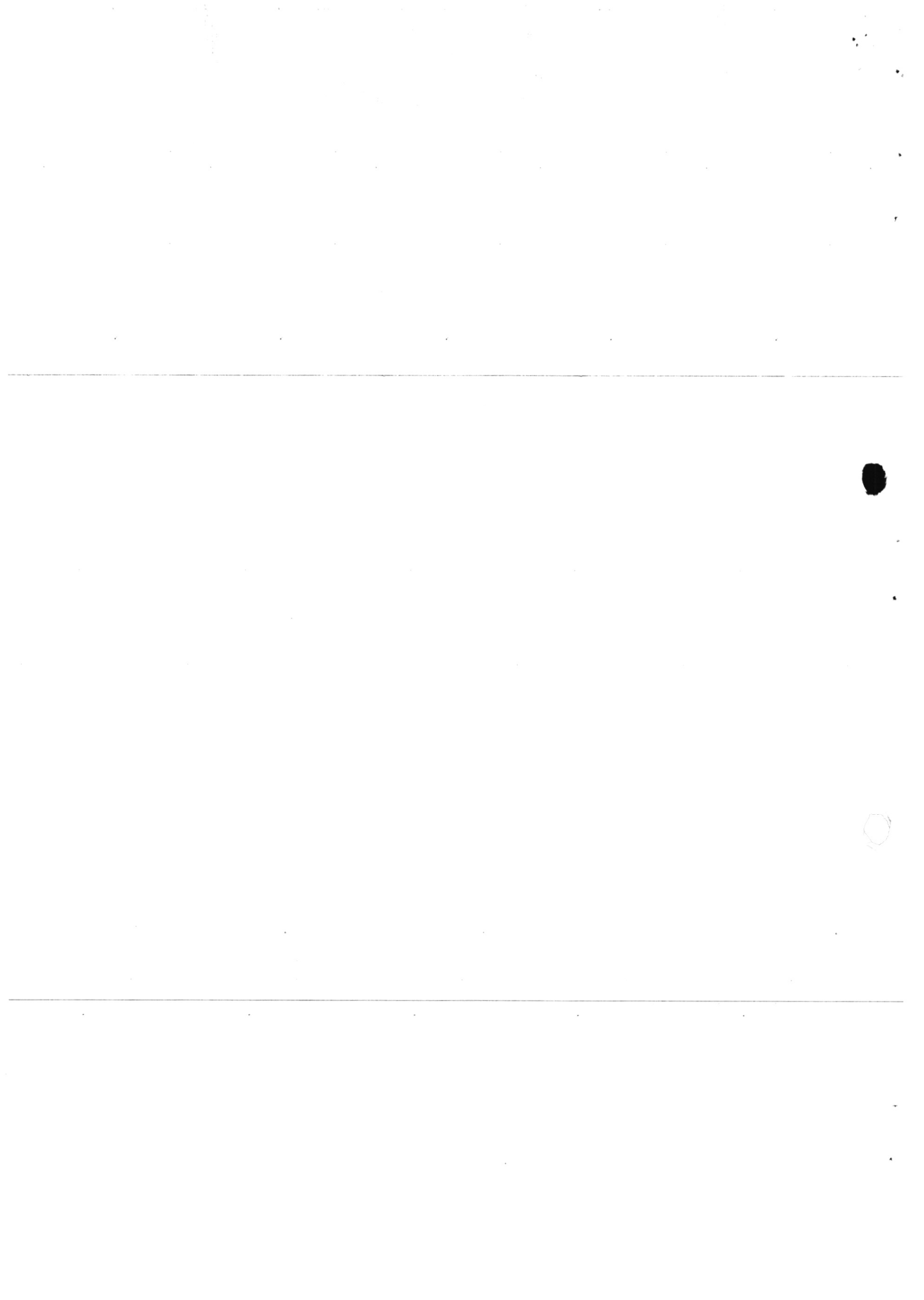
37. Hardship Allowance in a designated hardship area

A teacher who is assigned by the Commission to teach in a school in a designated hardship area shall be paid a Hardship Allowance at the rate of thirty percent of his/her basic salary irrespective of his/her marital status and whether or not he/she is a resident of the area.

The Gazetted hardship areas are listed below:

1. Mfangano and Rusinga Islands in Suba District
2. Kegonga Division in Kuria District
3. Budalangi Division in Busia District
4. Kajiado District
5. Mbogoini Division and Makongeni Zone in Nakuru District
6. Laikipia District
7. Kitui District
8. Ganze Division, Kilifi District
9. Keiyo District
10. Marakwet District
11. Kinango and Samburu Divisions, Kwale District
12. Trans Mara District
13. Mwingi District
14. Tharaka District
15. Mbeere District
16. Magarini, Mafara and Kakoneni Divisions, Malindi District.
17. Masinga and Yatta Divisions, Machakos District
18. Kieni Division, Nyeri District

19. Ndeiya Division, Kiambu District
20. Makuyu Division, Maragwa District
21. Nyandarua Boarding Primary
22. Nyahururu High School
23. Muhoroni, Fort Ternan, Soin and Sondu Divisions, Kericho District
24. Muhoroni Valley and Sondu Divisions, Kisumu District
25. Kakuzi Division, Thika District
26. Kisanana, Mogotio, Emining, Sirwa and Kimng'orom Divisions, Koibatek District
27. Eastern Mau, Osupuko, Mara, Loita and Southern Olulunga Divisions in Narok District
28. Makueni District
29. Isiolo District
30. Moyale District
31. Marsabit District
32. Garissa District
33. Mandera District
34. Wajir District
35. Lamu District
36. Tana River District
37. Mbololo, Mwatate and Voi Division in Taita Taveta District
38. Baringo District
39. Samburu District
40. Turkang District
41. West Pokot District



42. Ijara District  
 43. Tinderet Division in Nandi District  
 44. Mutuati, Ndoleli and Igembe East Divisions; Buuri and Giika Locations; Amung'enti and Thangatha Zones; Mumui, Kiujuline, Akithi Zone Linjoka and Ankamia Sub-locations in Meru North District.

**38. Acting Allowance**

Acting Allowance shall be payable to a teacher whose Acting Appointment has been made and approved by the Commission to hold and act in a higher post, referred to in Regulation 33(1), for more than thirty days as follows:-

- (a) the full responsibility payment (referred to in Regulation 39) for the post; or  
 (b) the full difference between the teacher's salary and the minimum of the salary scale attached to the higher administrative post, for which a substantive scale, and not an allowance is given.

**39 (a). Responsibility Allowance**

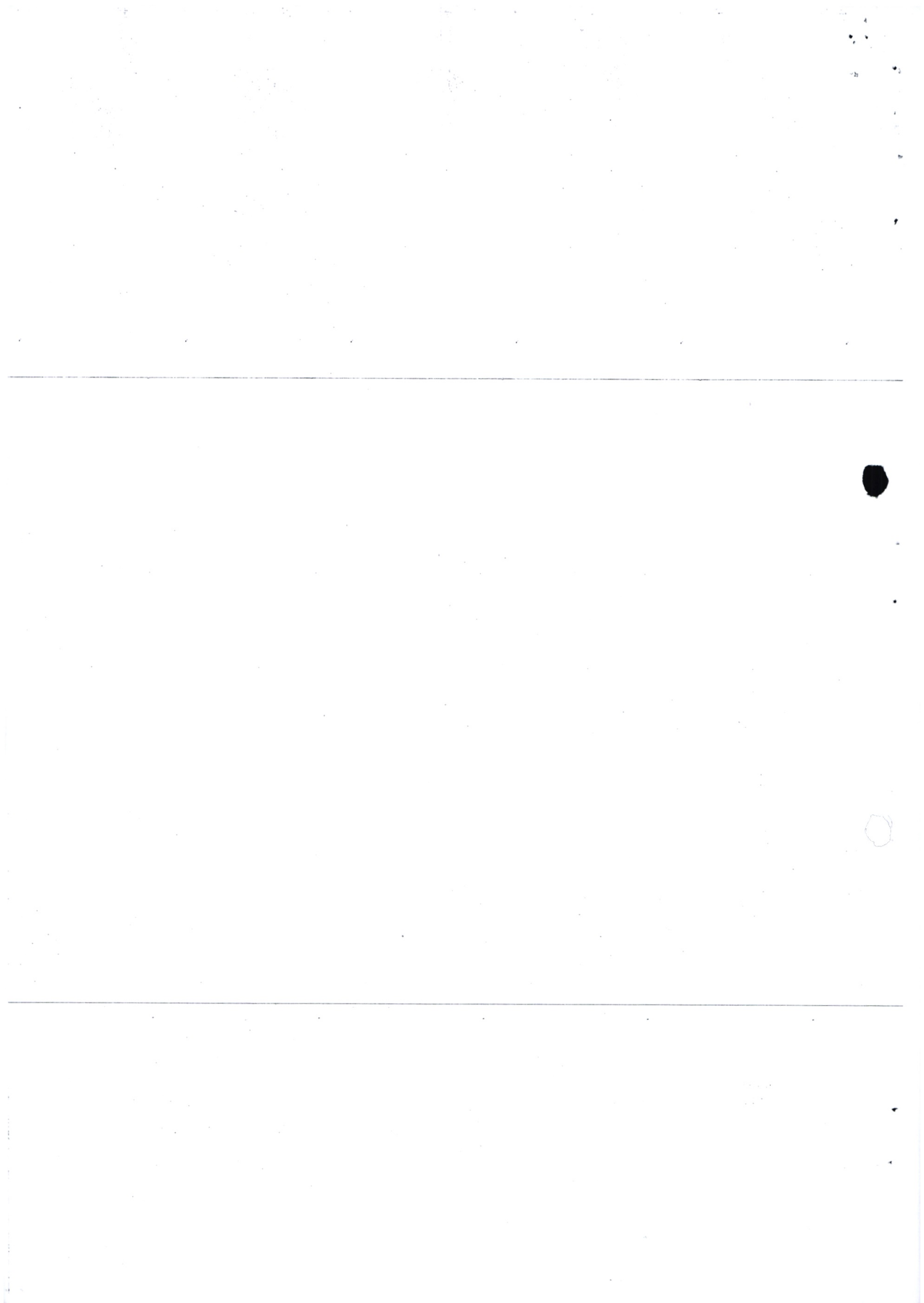
Responsibility Allowance will be paid to a Graduate teacher II/ Approved Teacher II on Job Group 'K' and below who is deployed on administrative duties in a teaching institution. Responsibility Allowance is pensionable only if a teacher is in receipt of the allowance on the day immediately before retirement. The allowance ceases once a teacher is no longer performing administrative duties.

**Table 1.1: Responsibility Allowance for Day Primary Schools**

<i>Streams</i>	<i>Headteacher</i>	<i>Deputy Headteacher</i>	<i>Senior Teacher</i>
	<i>KSh P.M</i>	<i>KSh P.M</i>	<i>KSh P.M</i>
Single	338	90	68
Double	675	180	135
Triple	1013	270	135
Four	1350	360	135
Five	1688	450	135
Six	2025	540	135
Seven	2363	630	135
Eight	2700	720	135
Nine	3038	810	135
Ten	3375	900	135

**Table 1.2: Responsibility Allowance for Approved Boarding Primary Schools**

<i>Type</i>	<i>Headteacher</i>	<i>Deputy Head</i>	<i>Senior Teacher</i>
	<i>KSh P.M</i>	<i>KSh P.M</i>	<i>KSh P.M</i>
(a) With upto 60 boarders	360	120	60
(b) For additional group of 60 boarders or part thereof	225	75	38



**ANNEX 5**

**The Collective Bargaining Agreement  
between  
the Teachers Service Commission, the  
KNUT,  
KUPPET and KUSNET**

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

THE TEACHERS SERVICE COMMISSION



AND

THE KENYA NATIONAL UNION OF TEACHERS (KNUT)



For TSC ..... *[Signature]* ..... For KNUT ..... *[Signature]* ..... Page i

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J.M.B.

[Signature]

[Signature]

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ACCRONYMS

ASAL	Arid and Semi -Arid Lands
CBA	Collective Bargaining Agreement
COCE	Code of Conduct and Ethics for Teachers
CORT	Code of Regulations for Teachers
CSO	Curriculum Support Officer
EARC	Education Assessment Resource Centers
FKE	Federation of Kenya Employers
ILO	International Labour Organization
KNUT	Kenya National Union of Teachers
SRC	Salaries and Remuneration Commission
TSC	Teachers Service Commission

THIS AGREEMENT is made on the.....13<sup>th</sup>.....Day of .....July.....2021.

**BETWEEN**

The **TEACHERS SERVICE COMMISSION**, a constitutional Commission established under Article 237 (1) of the Constitution of Kenya (hereinafter referred to as “the Employer”) of Post Office Box Private Bag - 00100, Nairobi, in the Republic of Kenya of the one part;

**AND**

**THE KENYA NATIONAL UNION OF TEACHERS**, a trade union registered under section 19 of the Labour Relations Act (hereinafter referred to as “the Union”) of Post Office Box 30407 - 00100, Nairobi in the Republic of Kenya, of the other part.

**PREAMBLE**

- a. The parties to this Agreement meeting together freely and voluntarily have determined to regulate industrial relations between them in the interest of mutual understanding and co-operation by signing this Agreement on the terms and Conditions of employment of teachers in the public service.
- b. Regulations, policies, procedures and practices of the Employer in effect on the effective date of this Agreement dealing with matters of terms and conditions of employment, published by the Employer shall remain in force and the Employer reserves the right to make, adopt and implement other policies, rules and regulations and procedures not in conflict with the law and this Agreement.
- c. The parties agree to mutually recognize, declare and reaffirm their common commitment to maintain a collaborative relationship aimed at realizing quality teaching service in an environment of continuous improvement of terms and conditions of service for teachers.
- d. Towards meeting the needs of a progressive and competent teaching service, the parties herein express a mutual obligation and responsibility to promote quality teaching and to protect the best interest of the learners on whose behalf the parties hereto have been called to serve.

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For TSC...../..... *J.M.S.* For KNUT...../..... *[Signature]* Page 1

- e. The Employer and the Union wish to declare their mutual intent to work towards the achievement of common aims as follows:
- i. Advancement of quality teaching and standards through performance contracting and appraisal.
  - ii. The development of a system of communication and consultation designed for harmonious industrial relations between the parties.
  - iii. Protection of the best interest of learners for whom they are individually, severally and collectively held in trust.

**WHEREAS:**

- a. The Commission is the sole employer of all teachers in the public service in the Republic of Kenya; and
- b. The Union is duly recognized by the employer in accordance with the law; and
- c. Article 41 (5) of the Constitution of Kenya and Section 54 of the Labour Relations Act gives parties the right to enter into this Agreement; and
- d. The parties are desirous to establish harmonious industrial relations through agreed upon terms and conditions of service.

**NOW, THEREFORE**, in consideration of the mutual agreements herein contained, the parties do hereby covenant as follows: -

1. **DEFINITIONS AND INTERPRETATIONS**

**“Agent”** means any person or body appointed by the Commission in accordance with section 20 of the Teachers Service Commission Act;

**“Allowance”** means a monetary compensation paid to a member in addition to the basic salary;

“Basic salary” means the amount of money paid to a member on a monthly basis and excludes the allowances;

“Bipartite” means an engagement between TSC and KNUT;

“Court” means Employment and Labour Relations Court of Kenya.

“Commission” means the Teachers Service Commission

“Dismissal” means the decision by the Commission to terminate the services of a member pursuant to due process under the CORT;

“Family” means teacher-teacher marriage;

“Grievance” means an industrial complaint that affects the terms and conditions of employment which has not been escalated to a trade dispute;

“Head of institution” means the lead educator or administrator in a public educational institution appointed by the Commission as such and responsible for the implementation of the educational curriculum, policy and professional practices;

“Industrial action” means a strike or lockout;

“Performance appraisal system” means a process of evaluation of a member’s performance over a period of time based on agreed performance standards;

“Redundancy” means the loss of employment, occupation, job or career by involuntary means through no fault of an employee, involving termination of employment at the initiative of the employer, where the services of an employee are superfluous and the practices commonly known as abolition of office, job or occupation and loss of employment;

**“Release”** means allowing a teacher who has been offered employment by public institution, teachers unions, county government and public educational institution to leave the teaching service to take up the appointment, without loss of pension benefits;

**“Member”** shall mean a person trained and registered as a teacher as provided for in law and has subscribed to the union.

**“Union”** means the Kenya National Union of Teachers.

2. OBJECTIVE AND PURPOSE.

2.1 The primary objective of this Agreement is to ensure that both parties work harmoniously in negotiating the terms and conditions of service for members aimed at improving the teaching standards and performance of teachers in public service.

2.2 This Agreement is intended to facilitate structured and constructive social dialogue between parties for the purpose of maintaining industrial peace and harmony in the education sector.

3. EFFECTIVE DATE AND DURATION

3.1 The term of this Agreement shall commence on **1<sup>st</sup> JULY, 2021**.

3.2 This Agreement shall remain in force for a period of **four (4) years** with effect from **1<sup>st</sup> JULY, 2021 to 30<sup>th</sup> June 2025**.

3.3 Notwithstanding **Clause 3.2** herein above, this Agreement shall remain in force and bind upon parties until and unless by mutual consent of both parties, it is either reviewed or repealed by a new one.

4. CODE OF REGULATIONS & CODE OF CONDUCT AND ETHICS FOR TEACHERS

The Code of Regulations for Teachers and Code of Conduct and Ethics for Teachers shall form an integral part of this Agreement.

5 PROBATION PERIOD

Parties hereby agree that they shall be guided by the probation terms under Regulation 61 of CORT.

6 OBLIGATIONS OF THE PARTIES

6.1 Obligations of the Employer

6.1.1 To ensure expeditious settlement of reported industrial grievances and strictly observe the grievance handling mechanism recommended in this Agreement and the law.

6.1.2 To implement this Agreement once registered in Court.

6.1.3 To expeditiously implement bipartite settlements, agreement and decisions.

6.1.4 To avoid engaging in any activities or programmes contrary to this Agreement.

## 6.2 Obligations of the Union

6.2.1 To discourage any breach of the peace or cause of civil unrest by union members that may disrupt learning and erode dignity of the profession.

6.2.2 To ensure that the union's representatives/officials do not engage or cause their members to engage in any union activities in the course of their official duties that may disrupt learning and duties of its members;

6.2.3 To ensure that the union and its representatives/officials obtain permission of the Commission in the event of activities that may disrupt learning, school programmes and activities in line with prevailing policies of the Commission.

6.2.4 Not to engage in any activities or programmes which contravene this Agreement;

6.2.5 To ensure that the union's collective grievances are reported and/or communicated by its Secretary General directly to the Commission Secretary for remedial action;

6.2.6 To encourage professionalism in the teaching service by discouraging its members from: -

- a) Causing damage to institutional property during industrial action
- b) Intimidating their colleagues who are not participating in industrial action.
- c) Denying employer's officers/agents access to Institutions of learning during industrial action.
- d) Using abusive/inappropriate language towards learners, their colleagues, employer or its officers/agents and other members of the society.

## 7 REMUNERATION

Parties hereby agree that remuneration payable to members shall be directly negotiated by both the employer and the union in strict adherence to the provisions of Articles 41,

237, and 230(4) of the Constitution of Kenya. Accordingly, parties hereby agree to the following monetary benefits: -

7.1 Basic Salary

7.1.1 Basic salary shall be paid as per **Appendix 1**.

7.1.2 Parties mutually agree that the employer shall continue to pay annual increments to members to compensate them for annual inflation.

7.2 Commuter Allowance

The Commuter Allowance shall be paid as per **Appendix 2**.

7.3 Disability Guide Allowance

Disability Guide Allowance shall be payable at the rate of Kenya Shillings **Twenty Thousand (20,000)** per Month as per **Appendix 3** to members who are blind, deaf and those confined to wheelchairs by virtue of their disability.

7.4 Leave Allowance

Leave allowance shall be payable as per **Appendix 4** to all members once per annum.

7.5 House Allowance

House Allowance shall be payable as per **Appendix 5** to members.

7.6 Hardship Allowance

Hardship Allowance shall be payable as per **Appendix 6** to members assigned duties in designated hardship areas.

7.7 Medical Benefit

Medical benefit shall be drawn as per Part IX of the Code of Regulations for Teachers.

8 Reimbursable Allowances

The Parties agree to the payment of the following facilitative allowances to members: -

8.1 Transfer allowance

Transfer Allowance shall be payable at a rate of one month's Basic Salary as per Regulation 97 of the CORT.

For TSC

For KNUT

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8.2 Travelling expense.

Reimbursement of travelling expenses shall be paid as per Regulations **98, 99, 100, 101, 102** and **103** of the CORT.

9 PROMOTIONS

9.1 Parties agree that promotion of members shall be in accordance to Career Progression Guidelines in force.

9.2 To standardize the terms and conditions of service and align the grading structure with the Job Evaluation results of 2016, parties hereby mutually agree to replace the Schemes of Service for Teachers and to formally adopt the provisions of the Career Progression Guidelines as per the employer's **Circular No. 7 of 2018** dated **2<sup>nd</sup> May 2018** at **Appendix-7**.

9.3 Further, the employer shall endeavor to promote members serving in ASAL and hard to staff areas holding administrative positions progressively until they attain grades that are commensurate to their respective positions. Meanwhile, they shall be retained in their current stations/areas until attainment of the substantive grades.

9.4 For purposes of clause 9.3 above, ASAL and hard to staff areas shall include:

- a) Baringo North, Tiaty East, Tiaty West and Marigat sub-counties in Baringo County.
- b) Garissa County
- c) Suba and Mbita sub-counties in Homa Bay County
- d) Isiolo County
- e) Mashuuru, Loitoktok and Kajiado West sub-counties in Kajiado County
- f) Kwale County
- g) Magarini and Ganze in Kilifi County
- h) Lamu County
- i) Mandera County

- j) Marsabit County
- k) Mumoni, Mutito North and Tseikuru Sub-Counties in Kitui County
- l) Narok South and Narok North sub-counties in Narok County
- m) Samburu County
- n) Taita Taveta County
- o) Tana River County
- p) Turkana County
- q) Wajir County
- r) West Pokot County

#### 10 TRANSFERS

10.1 The parties agree that transfer of members shall be done in line with Part V of the Code of Regulation for teachers.

10.2 Further, in promotion of family values provided for under **Article 45** of the Constitution of Kenya, the Commission shall consider transfer requests for married couples to appropriate stations/ locations subject to:

- 10.2.1 Availability of vacancies in the proposed station;
- 10.2.2 The need for a suitable replacement;
- 10.2.3 Need for equitable distribution and optimal utilization of teachers;
- 10.2.4 Existing staffing norms; and
- 10.2.5 Proof of marriage.

#### 11 LEAVES

11.1 The parties agree that members shall take leaves as provided under Part X of the Code of Regulations for Teachers.

11.2 Notwithstanding clause 11.1 herein above, a female member shall be entitled to maternity leave of **one hundred and twenty (120) calendar days** with full salary pay with effect from the date of delivery.

For TSC

For KNUT

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11.3 The Commission shall grant members a pre-adoptive leave of **forty five (45) calendar days** with full salary pay from the date of adoption.

11.4 The Commission shall grant male members paternity leave of **Twenty One (21) calendar days** with full salary pay once a year.

12 PUBLIC HOLIDAYS

The Commission shall observe public holidays as stipulated in the Constitution, national legislation or any other holiday as may be gazetted by the Government.

13 PERFORMANCE MANAGEMENT AND EVALUATION

13.1 In recognition of the fundamental shift in policy in public service and with a view to promote, enhance and maintain high performance standards in the teaching service, parties hereby agree that the Commission shall implement continuous Teacher Professional Development Programmes and Performance Evaluation system.

13.2 To this end, in compliance with **Regulation 48 (1)** of the **CORT**, parties reiterate that every member shall undertake the Professional Teacher Development programmes prescribed by the Commission from time to time.

13.3 Further in compliance with **Regulation 49 (1)** of the **CORT**, parties reiterate that every member who successfully completes a professional teacher development programme as provided in clause 13.2 above shall be issued with a teaching certificate by the Commission as evidence of compliance.

13.4 Parties agree that the Commission shall undertake performance evaluation of all members as per the Code of Regulations for Teachers.

13.5 The Commission undertakes to comply with Part IV of the Code of Regulations for Teachers in developing and facilitating career development programs with a view to enhance productivity among members.

14 CAREER PROGRESSION

Parties agree that career progression shall be based on the Career Progression Guidelines in force.

15 DISCIPLINE

The parties have agreed that the Discipline of members shall be undertaken as provided under Part XI of the Code of Regulations for Teachers and Code of Conduct and Ethics for Teachers.

16 EXIT FROM THE TEACHING SERVICE

16.1 A member may exit service through any of the following means: -

- 16.1.1 Resignation
- 16.1.2 Retirement
- 16.1.3 Redundancy
- 16.1.4 Termination
- 16.1.5 Dismissal
- 16.1.6 Transfer of service
- 16.1.7 Release to other organizations
- 16.1.8 Death

16.2 The parties have agreed that the exit from service by members shall be undertaken as provided under Part XII of the Code of Regulation for Teachers.

17 CERTIFICATE OF SERVICE

The Commission shall in accordance with the Employment Act issue a Certificate of Service to a member exiting the service of the Commission.

18 WORK INJURY BENEFITS

A member who is injured or dies while and in the course of employment will be compensated as per the Provisions of the Work Injury Benefits Act.

19 GRIEVANCE HANDLING PROCEDURE.

19.1 Parties agree that at all times attempts will be made to resolve all their grievances in an amicable manner with a view to achieving sustainable industrial peace in the teaching sector.

19.2 Accordingly, parties agree to exhaust all the Alternative Dispute Resolution mechanisms provided under the Labour Relations Act and any other relevant law before resorting to any form of industrial action.

19.3 In case Alternative Dispute Resolution fails, either party shall be at liberty to refer the grievance to the Cabinet Secretary for Labour as provided under the Labour Relations Act.

20 INDUSTRIAL ACTION

20.1 In the event of an industrial action, Parties shall adhere to Part VIII and Part X of the Labour Relations Act.

20.2 With a view to maintain the nobility of the teaching profession, parties agree that in the event of an industrial action, they shall conduct themselves with dignity, civility and decorum, protect the property of the school and safeguard the safety of learners directly or indirectly through their respective officers, representatives and/or members.

21 NON-DISCRIMINATION

Parties to this Agreement shall be bound by the provisions under regulation 16 of the Code of Regulation for teachers on Non-Discrimination.

22 SEXUAL HARASSMENT

Parties shall be guided by the Sexual Harassment clauses in the Commission's Gender Policy revised in 2011 and regulation 23 of the Code of Conduct and Ethics for Teachers.

### 23 REVIEW OF RECOGNITION AGREEMENTS

23.1 Taking into consideration the new constitutional and statutory framework in the labour sector and the provisions of ILO Convention 98 on the right to organize and collectively bargain, parties hereby mutually agree:

23.1.1 To jointly review their Recognition Agreement to align it with the obtaining constitutional, institutional and legal framework in the teaching service.

23.1.2 That the review of the Recognition Agreement will enable the union to have a defined constituency protected by law.

23.1.3 That parties will engage in structured negotiations for specific and defined constituency of the Union as required by law.

23.1.4 That the reviewed recognition agreement shall form part and parcel of this Agreement and shall be registered in the Employment and Labour Relations Court as an addendum to this Agreement.

### 24 AMENDMENT/VARIATION

24.1 In the event that any provisions of this Agreement are to be modified after the Agreement has been signed, the modifications shall be by mutual consent of parties, made in writing and signed by the authorized representatives of the Parties.

24.2 Notwithstanding sub-clause 24.1 above, any variation and/or amendment of this agreement affecting remuneration and benefits shall be subject to the Salaries and Remuneration Commission's advice.

### 25 GOVERNING LAW AND JURISDICTION

This Agreement shall be subject to the laws of Kenya and parties shall submit to the jurisdiction of the Kenyan Courts where appropriately invoked.

### 26 COSTS

Each party shall bear its own costs incidental to the negotiation, preparation, settling, signing and implementation of this Agreement.

**IN WITNESS WHEREOF**, both parties execute this Collective Bargaining Agreement in multiple originals to be executed the date hereinabove appearing.

**SIGNED FOR AND ON BEHALF OF THE TEACHERS SERVICE COMMISSION**

BY:

**DR. NANCY NJERI MACHARIA, CBS**  
**SECRETARY/CHIEF EXECUTIVE**

*Fachau*  
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**DR. JAMLECK MUTURI JOHN**  
**COMMISSION CHAIRMAN**



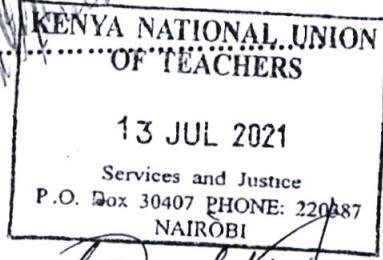
In the presence of  
**ADVOCATE**

**SIGNED FOR AND ON BEHALF OF KENYA NATIONAL UNION OF TEACHERS**  
BY:

**COLLINS HENRY OYUU**  
**SECRETARY GENERAL**  
**KENYA NATIONAL UNION OF TEACHERS**

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**PATRICK KARINGA MUNUHE**  
**NATIONAL CHAIRMAN**  
**KENYA NATIONAL UNION OF TEACHERS**



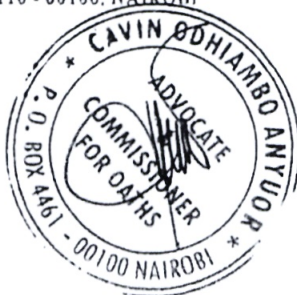
In the presence of  
**ADVOCATE**

**OYUCHO B. OCHIENG'**  
**ADVOCATE**  
P.105/18378/20  
TEL: 0727 840 247  
P. O. Box 52110 - 00100, NAIROBI

*Handwritten signature*

**DRAWN BY**

Cavin Anyuor, Advocate  
TSC House - 7<sup>th</sup> Floor, Upper Hill  
Kilimanjaro Road, Off Mara Road  
Private Bag - 00100  
**NAIROBI.**



APPENDICES

APPENDIX 1: BASIC SALARY

Grade	TSC Scale	Basic Salary p.m.		No. of notches
		Minimum	Maximum	
B5	5	21,756	27,195	6
C1	6	27,195	33,994	6
C2	7	34,955	43,694	6
C3	8	43,154	53,943	6
C4	9	52,308	65,385	7
C5	10	62,272	77,840	7
D1	11	77,840	93,408	7
D2	12	91,041	109,249	7
D3	13	104,644	125,573	7
D4	14	118,242	141,891	7
D5	15	131,380	157,656	7

APPENDIX 2: COMMUTER ALLOWANCE

Grade	TSC Scale	Commuter Allowance p.m.
B5	5	4,000
C1	6	4,000
C2	7	5,000
C3	8	6,000
C4	9	8,000
C5	10	8,000
D1	11	12,000
D2	12	12,000
D3	13	14,000
D4	14	14,000
D5	15	16,000

APPENDIX 3: DISABILITY GUIDE ALLOWANCE

Grade	TSC Scale	Disability Guide Allowance p.m
B5	5	20,000
C1	6	20,000
C2	7	20,000
C3	8	20,000
C4	9	20,000
C5	10	20,000
D1	11	20,000
D2	12	20,000
D3	13	20,000
D4	14	20,000
D5	15	20,000

APPENDIX 4: LEAVE ALLOWANCE

Grade	TSC Scale	Annual Leave Allowance p.a
B5	5	4,000
C1	6	4,000
C2	7	6,000
C3	8	6,000
C4	9	6,000
C5	10	6,000
D1	11	10,000
D2	12	10,000
D3	13	10,000
D4	14	10,000
D5	15	10,000

APPENDIX 5: HOUSE ALLOWANCE

Grade	TSC Scale	Hse1 Nairobi	Hse2 -Major Municipalities- Mombasa, Kisumu, Nakuru, Nyeri, Eldoret, Thika, Kisii and Kitale	Hse3 -Other former Minor Municipalities	Hse4 -all other areas
B5	5	6,750	4,500	3,850	3,200
C1	6	10,000	7,500	5,800	4,200
C2	7	16,500	12,800	9,600	7,500
C3	8	28,000	22,000	16,500	13,000
C4	9	28,000	22,000	16,500	13,000
C5	10	35,000	25,500	18,000	15,400
D1	11	45,000	28,000	21,000	16,800
D2	12	45,000	28,000	21,000	16,800
D3	13	45,000	28,000	21,000	16,800
D4	14	45,000	28,000	21,000	16,800
D5	15	50,000	35,000	25,000	20,000

APPENDIX 6: HARDSHIP ALLOWANCE

Grade	TSC Scale	Hardship Allowance p.m
B5	5	6,600
C1	6	8,200
C2	7	10,900
C3	8	12,300
C4	9	14,650
C5	10	17,100
D1	11	27,300
D2	12	27,300
D3	13	31,500
D4	14	31,500
D5	15	38,100

# TEACHERS SERVICE COMMISSION

Telephone: Nairobi 2892000  
Email: [info@tsc.go.ke](mailto:info@tsc.go.ke)  
Web: [www.tsc.go.ke](http://www.tsc.go.ke)

When replying please quote

Ref No:  
**TSC/ADM/192A/VOL.IX/37**



TSC HOUSE  
KILIMANJARO ROAD  
UPPER HILL  
PRIVATE BAG- 00100  
NAIROBI, KENYA

Date: 2<sup>nd</sup> MAY 2018

## **CIRCULAR NO:7/2018**

**TO:** All TSC County Directors  
All TSC Sub-County Directors  
All Principals, National Polytechnics  
All Principals, Technical Training Institutes  
All Principals, Institutes of Science & Technology  
All Principals, Diploma Teacher Colleges  
All Principals, Primary Teacher Training Colleges  
The Director, CEMASTE  
The Director, Kenya Institute of Special Education  
The Chairperson, KEPSHA  
The Chairperson, KESSHA

## **CAREER PROGRESSION GUIDELINES FOR THE TEACHING SERVICE**

---

The Commission has developed Career Progression Guidelines for the teaching service which became operational with effect from 8<sup>th</sup> November, 2017.

These Guidelines provide for the policies and procedures that have standardized teachers' professional development. The grading structure has taken into account the Job Evaluation report.

The Guidelines provide all basic requirements for career progression, training and promotion of teachers.

*AM*

Pathways for teachers have been defined and clear job descriptions/specifications have been provided at every level.

The Guidelines have provided the broad framework in school management, administration and ensure that curriculum implementation is structured and every teacher is clear on what is expected upon joining the teaching career.

The Guidelines effectively replaces the following:

- (i) Schemes of Service for non-Graduate teachers
- (ii) Schemes of Service for Graduate teachers
- (iii) Schemes of Service for Technical teachers and Lecturers

The comprehensive Career Guidelines have been uploaded for access on the TSC Website [www.tsc.go.ke](http://www.tsc.go.ke). All teachers and Education stakeholders are advised to read the provisions in the Guidelines.

The following are the major highlights:-

- (i) Minimum entry requirement for entry into the teaching profession;
- (ii) Basic requirement for promotion from one grade to another;
- (iii) Entry to Administrative Grade;
- (iv) Additional responsibilities for School Administrators; and
- (v) Requirements for deployment to teach in:-
  - (a) Primary School
  - (b) Secondary School
  - (c) Teacher Training College
  - (d) Special Institution
  - (e) Centre for Mathematics, Science and Technology Education in Africa (CEMASTEA)
  - (f) Kenya Institute of Special Education (KISE)
  - (g) Technical Colleges and Polytechnics

*NM*

All employees of the Commission and any prospective professional teacher is advised to note the strict entry requirements that form the standards for the teaching profession.

  
**DR. NANCY NJERI MACHARIA, CBS**  
**SECRETARY/CHIEF EXECUTIVE**

**Copy to:**

Mr. Henry Rotich, EGH  
Cabinet Secretary  
The National Treasury  
P.O. Box 30007-00100  
**NAIROBI**

Amb.(Dr.) Amina C. Mohamed, EGH, CAV  
Cabinet Secretary  
Ministry of Education  
P.O. Box 30040-00100  
**NAIROBI**

Hon. Wilson Sossion  
Secretary General,  
Kenya National Union of Teachers (KNUT),  
P. O. Box 30407-00100,  
**NAIROBI**

Mr. Akelo M.T. Misori  
Secretary General  
Kenya Union for Post Primary Education Teachers (KUPPET)  
P.O. Box 30412 - 00100  
**NAIROBI**

Vice Chancellor  
Laikipia University College  
P.O. Box 1100 – 20300  
**NYAHURURU**

Vice Chancellor  
Kisii University College  
P.O. Box 408 - 40200  
**KISII**

Vice Chancellor  
Karatina University College  
P.O. Box 1957 - 10101  
**KARATINA**

Vice Chancellor  
Presbyterian University of East Africa  
P.O. Box 387 - 00902  
**KIKUYU**

Vice Chancellor  
Embu University College  
P.O. Box 956 - 60100  
**EMBU**

Vice Chancellor  
Catholic University of Eastern Africa  
P.O. Box 62157 - 00200  
**NAIROBI**

Vice Chancellor  
Mt. Kenya University  
P.O. Box 13495 - 00100  
**NAIROBI**

Vice Chancellor  
Kenyatta University  
P.O. Box 43844 - 00100  
**NAIROBI**

*AM*

Vice Chancellor  
Moi University, Main Campus  
P.O. Box 3900 - 30100  
**ELDORET**

Vice Chancellor  
University of Nairobi  
P.O. Box 30197 - 00100  
**NAIROBI**

Vice Chancellor  
Maasai Mara University  
P.O. Box 861 - 20500  
**NAROK**

Vice Chancellor  
Maseno University Main Campus  
P.O. Box 333 - 40105  
**MASENO**

Vice Chancellor  
University of Eldoret (UOE)  
P.O. Box 1125 - 30100  
**ELDORET**

Vice Chancellor  
Chuka University  
P.O. Box 109 - 60400  
**CHUKA**

Vice Chancellor  
Kenya Methodist University  
P.O. Box 267 - 60200  
**MERU**

Vice Chancellor  
Daystar University  
P.O. Box 17 - 90145  
**ATHI RIVER**

*Nm*

Vice Chancellor  
Machakos University  
P.O. Box 136 - 90100  
**MACHAKOS**

Vice Chancellor  
South Eastern Kenya University (SEKU)  
P.O. Box 170 - 90200  
**KITUI**

Vice Chancellor  
University of Eastern Africa Baraton  
P.O. Box 2500 - 30100  
**ELDORET**

Vice Chancellor  
Masinde Muliro University  
P.O. Box 190 - 50100  
**KAKAMEGA**

Vice Chancellor  
Pwani University  
P.O. Box 195-80108  
**KILIFI**

*AM*

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

THE TEACHERS SERVICE COMMISSION



AND

THE KENYA UNION OF POST PRIMARY EDUCATION TEACHERS (KUPPET)



For TSC ..... *[Signature]* ..... *[Signature]* .....

*M.A.*

For KUPPET ..... *[Signature]* ..... *[Signature]* ..... Page i

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For TSC ..... *[Signature]* / *S. M. S.*

For KUPPET ..... *[Signature]* / *[Signature]* Page iii

ACCRONYMS

ASAL	Arid and Semi -Arid Lands
CBA	Collective Bargaining Agreement
COCE	Code of Conduct and Ethics for Teachers
CORT	Code of Regulations for Teachers
CSO	Curriculum Support Officer
EARC	Education Assessment Resource Centers
FKE	Federation of Kenya Employers
ILO	International Labour Organization
KUPPET	Kenya Union of Post Primary Education Teachers
SRC	Salaries and Remuneration Commission
TSC	Teachers Service Commission

THIS AGREEMENT is made on the.....13<sup>th</sup>.....Day of .....July.....2021.

**BETWEEN**

The **TEACHERS SERVICE COMMISSION**, a constitutional Commission established under Article 237 (1) of the Constitution of Kenya (hereinafter referred to as "the Employer") of Post Office Box Private Bag - 00100, Nairobi, in the Republic of Kenya of the one part;

**AND**

**THE KENYA UNION OF POST PRIMARY EDUCATION TEACHERS**, a trade union registered under section 19 of the Labour Relations Act (hereinafter referred to as "the Union") of Post Office Box 30412- 00100, Nairobi in the Republic of Kenya, of the other part.

**PREAMBLE**

- a. The parties to this Agreement meeting together freely and voluntarily have determined to regulate industrial relations between them in the interest of mutual understanding and co-operation by signing this Agreement on the terms and Conditions of employment of teachers in the public service.
- b. Regulations, policies, procedures, and practices of the Employer in effect on the effective date of this Agreement dealing with matters of terms and conditions of employment, published by the Employer shall remain in force and the Employer reserves the right to make, adopt and implement other policies, rules and regulations and procedures not in conflict with the law and this Agreement.
- c. The parties agree to mutually recognize, declare and reaffirm their common commitment to maintain a collaborative relationship aimed at realizing quality teaching service in an environment of continuous improvement of terms and conditions of service for teachers.
- d. Towards meeting the needs of a progressive and competent teaching service, the parties herein express a mutual obligation and responsibility to promote quality teaching and to protect the best interest of the learners on whose behalf the parties hereto have been called to serve.

For TSC .....

For KUPPET ..........Page 1

- e. The Employer and the Union wish to declare their mutual intent to work towards the achievement of common aims as follows:
  - i. Advancement of quality teaching and standards through performance contracting and appraisal.
  - ii. The development of a system of communication and consultation designed for harmonious industrial relations between the parties.
  - iii. Protection of the best interest of learners for whom they are individually, severally, and collectively held in trust.

**WHEREAS:**

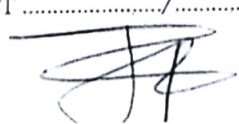
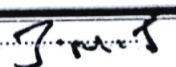
- a. The Commission is the sole employer of all teachers in the public service in the Republic of Kenya; and
- b. The Union is duly recognized by the employer in accordance with the law; and
- c. Article 41 (5) of the Constitution of Kenya and Section 54 of the Labour Relations Act gives parties the right to enter into this Agreement; and
- d. The parties are desirous to establish harmonious industrial relations through agreed upon terms and conditions of service.

**NOW, THEREFORE,** in consideration of the mutual agreements herein contained, the parties do hereby covenant as follows: -

**1. DEFINITIONS AND INTERPRETATIONS**

**"Agent"** means any person or body appointed by the Commission in accordance with section 20 of the Teachers Service Commission Act;

**"Allowance"** means a monetary compensation paid to a member in addition to the basic salary;



"**Basic salary**" means the amount of money paid to a member on a monthly basis and excludes the allowances;

"**Bipartite**" means an engagement between TSC and KUPPET;

"**Court**" means Employment and Labour Relations Court of Kenya;

"**Commission**" means the Teachers Service Commission;

"**Dismissal**" means the decision by the Commission to terminate the services of a member pursuant to due process under the CORT;

"**Family**" means teacher-teacher marriage;

"**Grievance**" means an industrial complaint that affects the terms and conditions of employment which has not been escalated to a trade dispute;

"**Head of institution**" means the lead educator or administrator in a public educational institution appointed by the Commission as such and responsible for the implementation of the educational curriculum, policy and professional practices;

"**Industrial action**" means a strike or lockout;

"**Performance appraisal system**" means a process of evaluation of a member's performance over a period of time based on agreed performance standards;

"**Redundancy**" means the loss of employment, occupation, job or career by involuntary means through no fault of an employee, involving termination of employment at the initiative of the employer, where the services of an employee are superfluous, and the practices commonly known as abolition of office, job or occupation and loss of employment;

**"Release"** means allowing a teacher who has been offered employment by public institution, teachers unions, county government and public educational institution to leave the teaching service to take up the appointment, without loss of pension benefits;

**"Member"** shall mean a person trained and registered as a teacher as provided for in law and has subscribed to the union.

**"Union"** means the Kenya Union of Post Primary Education Teachers.

## 2. OBJECTIVE AND PURPOSE.

2.1 The primary objective of this Agreement is to ensure that both parties work harmoniously in negotiating the terms and conditions of service for members aimed at improving the teaching standards and performance of teachers in public service.

2.2 This Agreement is intended to facilitate structured and constructive social dialogue between parties for the purpose of maintaining industrial peace and harmony in the education sector.

## 3. EFFECTIVE DATE AND DURATION

3.1 The term of this Agreement shall commence on **1<sup>st</sup> JULY, 2021**.

3.2 This Agreement shall remain in force for a period of **four (4) years** with effect from **1<sup>st</sup> JULY, 2021 to 30<sup>th</sup> June 2025**.

3.3 Notwithstanding **Clause 3.2** herein above, this Agreement shall remain in force and bind upon parties until and unless by mutual consent of both parties, it is either reviewed or repealed by a new one.

## 4. CODE OF REGULATIONS & CODE OF CONDUCT AND ETHICS FOR TEACHERS

The Code of Regulations for Teachers and Code of Conduct and Ethics for Teachers shall form an integral part of this Agreement.

## 5 PROBATION PERIOD

Parties hereby agree that they shall be guided by the probation terms under Regulation 61 of CORT.

## 6 OBLIGATIONS OF THE PARTIES

### 6.1 Obligations of the Employer

6.1.1 To ensure expeditious settlement of reported industrial grievances and strictly observe the grievance handling mechanism recommended in this Agreement and the law.

6.1.2 To implement this Agreement once registered in Court.

6.1.3 To expeditiously implement bipartite settlements, agreement, and decisions.

For TSC .....

*J.M.S.*

For KUPPET .....

*A*

*[Signature]*

- 6.1.4 To avoid engaging in any activities or programmes contrary to this Agreement.
- 6.2 Obligations of the Union
- 6.2.1 To discourage any breach of the peace or cause of civil unrest by union members that may disrupt learning and erode dignity of the profession.
- 6.2.2 To ensure that the union's representatives/officials do not engage or cause their members to engage in any union activities in the course of their official duties that may disrupt learning and duties of its members;
- 6.2.3 To ensure that the union and its representatives/officials obtain permission of the Commission in the event of activities that may disrupt learning, school programmes and activities in line with prevailing policies of the Commission.
- 6.2.4 Not to engage in any activities or programmes which contravene this Agreement;
- 6.2.5 To ensure that the union`s collective grievances are reported and/or communicated by its Secretary General directly to the Commission Secretary for remedial action;
- 6.2.6 To encourage professionalism in the teaching service by discouraging its members from: -
- a) Causing damage to institutional property during industrial action
  - b) Intimidating their colleagues who are not participating in industrial action.
  - c) Denying employer`s officers/agents access to Institutions of learning during industrial action.
  - d) Using abusive/inappropriate language towards learners, their colleagues, employer or its officers/agents and other members of the society.

## 7 REMUNERATION

Parties hereby agree that remuneration payable to members shall be directly negotiated by both the employer and the union in strict adherence to the provisions of Articles **41, 237, and 230(4)** of the Constitution of Kenya. Accordingly, parties hereby agree to the following monetary benefits: -

### 7.1 Basic Salary

7.1.1 Basic salary shall be paid as per **Appendix 1**.

7.1.2 Parties mutually agree that the employer shall continue to pay annual increments to members to compensate them for annual inflation.

### 7.3 Commuter Allowance

The Commuter Allowance shall be paid as per **Appendix 2**.

### 7.4 Disability Guide Allowance

Disability Guide Allowance shall be payable at the rate of Kenya Shillings **Twenty Thousand (20,000)** per Month as per **Appendix 3** to members who are blind, deaf and those confined to wheelchairs by virtue of their disability.

### 7.5 Leave Allowance

Leave allowance shall be payable as per **Appendix 4** to all members once per annum.

### 7.6 House Allowance

House Allowance shall be payable as per **Appendix 5** to members.

### 7.7 Hardship Allowance

Hardship Allowance shall be payable as per **Appendix 6** to members assigned duties in designated hardship areas.

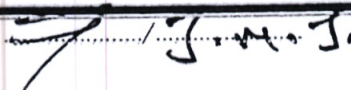
### 7.8 Medical Benefit

Medical benefit shall be drawn as per Part IX of the Code of Regulations for Teachers.

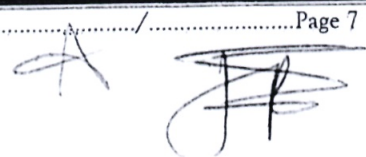
## 8 Reimbursable Allowances

The Parties agree to the payment of the following facilitative allowances to members: -

For TSC



For KUPPET



Page 7

## 8.2 Transfer allowance

Transfer Allowance shall be payable at a rate of one month's Basic Salary as per Regulation 97 of the CORT.

## 8.3 Travelling expense.

Reimbursement of travelling expenses shall be paid as per Regulations 98, 99, 100, 101, 102 and 103 of the CORT.

## 9 PROMOTIONS

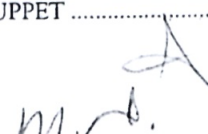
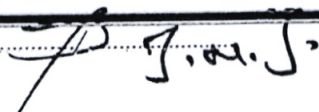
9.2 Parties agree that promotion of members shall be in accordance with the Career Progression Guidelines in force.

9.3 To standardize the terms and conditions of service and align the grading structure with the Job Evaluation results of 2016, parties hereby mutually agree to replace the Schemes of Service for Teachers and to formally adopt the provisions of the Career Progression Guidelines as per the employer's **Circular No. 7 of 2018** dated 2<sup>nd</sup> May 2018 at **Appendix-7**.

9.4 Further, the employer shall endeavor to promote members serving in ASAL and hard to staff areas holding administrative positions progressively until they attain grades that are commensurate to their respective positions. Meanwhile, they shall be retained in their current stations/areas until attainment of the substantive grades.

9.5 For purposes of clause 9.3 above, ASAL and hard to staff areas shall include:

- a) Baringo North, Tiaty East, Tiaty West and Marigat sub-counties in Baringo County.
- b) Garissa County
- c) Suba and Mbita sub-counties in Homa Bay County
- d) Isiolo County
- e) Mashuuru, Loitoktok and Kajiado West sub-counties in Kajiado County
- f) Kwale County
- g) Magarini and Ganze in Kilifi County
- h) Lamu County



- i) Mandera County
- j) Marsabit County
- k) Mumoni, Mutito North and Tseikuru Sub-Counties in Kitui County
- l) Narok South and Narok North sub-counties in Narok County
- m) Samburu County
- n) Taita Taveta County
- o) Tana River County
- p) Turkana County
- q) Wajir County
- r) West Pokot County

## 10 TRANSFERS

10.2 The parties agree that transfer of members shall be done in line with Part V of the Code of Regulation for teachers.

10.3 Further, in promotion of family values provided for under **Article 45** of the Constitution of Kenya, the Commission shall consider transfer requests for married couples to appropriate stations/ location subject to:

10.3.2 Availability of vacancies in the proposed station;

10.3.3 The need for a suitable replacement;

10.3.4 Need for equitable distribution and optimal utilization of teachers;

10.3.5 Existing staffing norms; and

10.3.6 Proof of marriage.

## 11 LEAVES

11.2 The parties agree that members shall take leaves as provided under Part X of the Code of Regulations for Teachers.

11.3 Notwithstanding clause 11.1 herein above, a female member shall be entitled to maternity leave of **one hundred and twenty (120) calendar days** with full salary pay with effect from the date of delivery.

*A* *[Signature]*

11.4 The Commission shall grant members a pre-adoptive leave of forty five (45) calendar days with full salary pay from the date of adoption.

11.5 The Commission shall grant male members paternity leave of Twenty One (21) calendar days with full salary pay once a year.

## 12 PUBLIC HOLIDAYS

The Commission shall observe public holidays as stipulated in the Constitution, national legislation or any other holiday as may be gazetted by the Government.

## 13 PERFORMANCE MANAGEMENT AND EVALUATION

13.2 In recognition of the fundamental shift in policy in public service and with a view to promote, enhance and maintain high performance standards in the teaching service, parties hereby agree that the Commission shall implement continuous Teacher Professional Development Programmes and Performance Evaluation system.

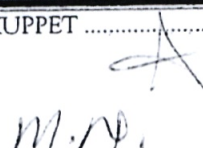
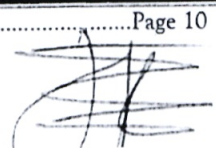
13.3 To this end, in compliance with **Regulation 48 (1)** of the **CORT**, parties reiterate that every member shall undertake the Professional Teacher Development programmes prescribed by the Commission from time to time.

13.4 Further in compliance with **Regulation 49 (1)** of the **CORT**, parties reiterate that every member who successfully completes a professional teacher development programme as provided in clause 13.2 above shall be issued with a teaching certificate by the Commission as evidence of compliance.

13.5 Parties agree that the Commission shall undertake performance evaluation of all members as per the Code of Regulations for Teachers.

13.6 The Commission undertakes to comply with Part IV of the Code of Regulations for Teachers in developing and facilitating career development programs with a view to enhance productivity among members.



**14 CAREER PROGRESSION**

Parties agree that career progression shall be based on the Career Progression Guidelines in force.

**15 DISCIPLINE**

The parties have agreed that the Discipline of members shall be undertaken as provided under Part XI of the Code of Regulations for Teachers and Code of Conduct and Ethics for Teachers.

**16 EXIT FROM THE TEACHING SERVICE**

16.2 A member may exit service through any of the following means: -

16.2.2 Resignation

16.2.3 Retirement

16.2.4 Redundancy

16.2.5 Termination

16.2.6 Dismissal

16.2.7 Transfer of service

16.2.8 Release to other organizations

16.2.9 Death

16.3 The parties have agreed that the exit from service by members shall be undertaken as provided under Part XII of the Code of Regulation for Teachers.

**17 CERTIFICATE OF SERVICE**

The Commission shall in accordance with the Employment Act issue a Certificate of Service to a member exiting the service of the Commission.

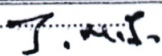
**18 WORK INJURY BENEFITS**

A member who is injured or dies while and in the course of employment will be compensated as per the Provisions of the Work Injury Benefits Act.

**19 GRIEVANCE HANDLING PROCEDURE.**

19.2 Parties agree that at all times attempts will be made to resolve all their grievances in an amicable manner with a view to achieving sustainable industrial peace in the teaching sector.

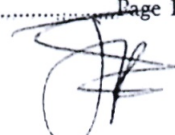
For TSC .....



For KUPPET .....



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19.3 Accordingly, parties agree to exhaust all the Alternative Dispute Resolution mechanisms provided under the Labour Relations Act and any other relevant law before resorting to any form of industrial action.

19.4 In case Alternative Dispute Resolution fails, either party shall be at liberty to refer the grievance to the Cabinet Secretary for Labour as provided under the Labour Relations Act.

## 20 INDUSTRIAL ACTION

20.2 In the event of an industrial action, Parties shall adhere to Part VIII and Part X of the Labour Relations Act.

20.3 With a view to maintain the nobility of the teaching profession, parties agree that in the event of an industrial action, they shall conduct themselves with dignity, civility, and decorum, protect the property of the school and safeguard the safety of learners directly or indirectly through their respective officers, representatives and/or members.

## 21 NON-DISCRIMINATION

Parties to this Agreement shall be bound by the provisions under regulation 16 of the Code of Regulation for teachers on Non-Discrimination.

## 22 SEXUAL HARASSMENT

Parties shall be guided by the Sexual Harassment clauses in the Commission's Gender Policy revised in 2011 and regulation 23 of the Code of Conduct and Ethics for Teachers.

## 23 REVIEW OF RECOGNITION AGREEMENT

Taking into consideration the new constitutional and statutory framework in the labour sector and the provisions of ILO Convention 98 on the right to organize and collectively bargain, parties hereby mutually agree:

23.2.2 To jointly review their Recognition Agreement to align it with the obtaining constitutional, institutional and legal framework in the teaching service.

23.2.3 That the review of the Recognition Agreement will enable the union to have a defined constituency protected by law.

23.2.4 That parties will engage in structured negotiations for specific and defined constituency of the Union as required by law.

23.2.5 That the reviewed recognition agreement shall form part and parcel of this Agreement and shall be registered in the Employment and Labour Relations Court as an addendum to this Agreement.

#### 24 AMENDMENT/VARIATION

24.2 In the event that any provisions of this Agreement are to be modified after the Agreement has been signed, the modifications shall be by mutual consent of parties, made in writing and signed by the authorized representatives of the Parties.

24.3 Notwithstanding sub-clause 24.1 above, any variation and/or amendment of this agreement affecting remuneration and benefits shall be subject to the Salaries and Remuneration Commission's advice.

#### 25 GOVERNING LAW AND JURISDICTION

This Agreement shall be subject to the laws of Kenya and parties shall submit to the jurisdiction of the Kenyan Courts where appropriately invoked.

#### 26. COSTS

Each party shall bear its own costs incidental to the negotiation, preparation, settling, signing and implementation of this Agreement.

For TSC ..... *[Signature]*

For KUPPET ..... *[Signature]* / ..... *[Signature]* Page 13

IN WITNESS WHEREOF, both parties execute this Collective Bargaining Agreement in multiple originals to be executed the date hereinabove appearing.

**SIGNED FOR AND ON BEHALF OF THE TEACHERS SERVICE COMMISSION**

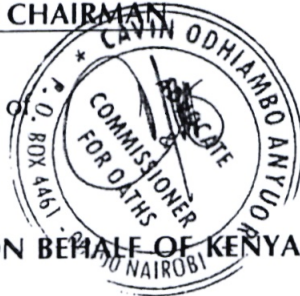
BY:

**DR. NANCY NJERI MACHARIA, CBS  
SECRETARY/CHIEF EXECUTIVE**

*for chow*  
].....  
] SECRETARY  
] TEACHERS SERVICE COMMISSION  
] *[Signature]*  
].....  
]

**DR. JAMLECK MUTURI JOHN  
COMMISSION CHAIRMAN**

In the presence of  
ADVOCATE



**SIGNED FOR AND ON BEHALF OF KENYA UNION OF POST PRIMARY EDUCATION TEACHERS**

BY:

**AKELO M.T. MISORI  
SECRETARY GENERAL  
KENYA UNION OF POST-PRIMARY  
EDUCATION TEACHERS**



*Amile*  
].....  
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]

**JEREMIAH OMBOKO MILEMBA  
NATIONAL CHAIRMAN  
KENYA UNION OF POST PRIMARY  
EDUCATION TEACHERS**

**WITNESSED BY: WICKS NJENGA MWETHI  
TREASURER**

*M.G.*  
].....  
]

**DRAWN BY**

Cavin Anyuor, Advocate  
TSC House - 7<sup>th</sup> Floor, Upper Hill  
Kilimanjaro Road, Off Mara Road  
Private Bag – 00100  
**NAIROBI.**



APPENDICES

APPENDIX 1: BASIC SALARY

Grade	TSC Scale	Basic Salary p.m.		No. of notches
		Minimum	Maximum	
B5	5	21,756	27,195	6
C1	6	27,195	33,994	6
C2	7	34,955	43,694	6
C3	8	43,154	53,943	6
C4	9	52,308	65,385	7
C5	10	62,272	77,840	7
D1	11	77,840	93,408	7
D2	12	91,041	109,249	7
D3	13	104,644	125,573	7
D4	14	118,242	141,891	7
D5	15	131,380	157,656	7

APPENDIX 2: COMMUTER ALLOWANCE

Grade	TSC Scale	Commuter Allowance p.m.
B5	5	4,000
C1	6	4,000
C2	7	5,000
C3	8	6,000
C4	9	8,000
C5	10	8,000
D1	11	12,000
D2	12	12,000
D3	13	14,000
D4	14	14,000
D5	15	16,000

*J.M.S.* *M.H.P.* *[Signature]*

**APPENDIX 3: DISABILITY GUIDE ALLOWANCE**

Grade	TSC Scale	Disability Guide Allowance p.m
B5	5	20,000
C1	6	20,000
C2	7	20,000
C3	8	20,000
C4	9	20,000
C5	10	20,000
D1	11	20,000
D2	12	20,000
D3	13	20,000
D4	14	20,000
D5	15	20,000

**APPENDIX 4: LEAVE ALLOWANCE**

Grade	TSC Scale	Annual Leave Allowance p.a
B5	5	4,000
C1	6	4,000
C2	7	6,000
C3	8	6,000
C4	9	6,000
C5	10	6,000
D1	11	10,000
D2	12	10,000
D3	13	10,000
D4	14	10,000
D5	15	10,000

*[Handwritten signatures and initials]*

**APPENDIX 5: HOUSE ALLOWANCE**

Grade	TSC Scale	Hse1 Nairobi	Hse2 -Major Municipalities- Mombasa, Kisumu, Nakuru, Nyeri, Eldoret, Thika, Kisii and Kitale	Hse3 -Other former Minor Municipalities	Hse4 -all other areas
B5	5	6,750	4,500	3,850	3,200
C1	6	10,000	7,500	5,800	4,200
C2	7	16,500	12,800	9,600	7,500
C3	8	28,000	22,000	16,500	13,000
C4	9	28,000	22,000	16,500	13,000
C5	10	35,000	25,500	18,000	15,400
D1	11	45,000	28,000	21,000	16,800
D2	12	45,000	28,000	21,000	16,800
D3	13	45,000	28,000	21,000	16,800
D4	14	45,000	28,000	21,000	16,800
D5	15	50,000	35,000	25,000	20,000

**APPENDIX 6: HARDSHIP ALLOWANCE**

Grade	TSC Scale	Hardship Allowance p.m
B5	5	6,600
C1	6	8,200
C2	7	10,900
C3	8	12,300
C4	9	14,650
C5	10	17,100
D1	11	27,300
D2	12	27,300
D3	13	31,500
D4	14	31,500
D5	15	38,100

# TEACHERS SERVICE COMMISSION

Telephone: Nairobi 2892000  
Email: [info@tsc.go.ke](mailto:info@tsc.go.ke)  
Web: [www.tsc.go.ke](http://www.tsc.go.ke)

When replying please quote

Ref No:  
**TSC/ADM/192A/VOL.IX/37**



TSC HOUSE  
KILIMANJARO ROAD  
UPPER HILL  
PRIVATE BAG- 00100  
NAIROBI, KENYA

Date: 2<sup>nd</sup> MAY 2018

## CIRCULAR NO:7/2018

**TO:** All TSC County Directors  
All TSC Sub-County Directors  
All Principals, National Polytechnics  
All Principals, Technical Training Institutes  
All Principals, Institutes of Science & Technology  
All Principals, Diploma Teacher Colleges  
All Principals, Primary Teacher Training Colleges  
The Director, CEMASTEAM  
The Director, Kenya Institute of Special Education  
The Chairperson, KEPSHA  
The Chairperson, KESSHA

## **CAREER PROGRESSION GUIDELINES FOR THE TEACHING SERVICE**

---

The Commission has developed Career Progression Guidelines for the teaching service which became operational with effect from 8<sup>th</sup> November, 2017.

These Guidelines provide for the policies and procedures that have standardized teachers' professional development. The grading structure has taken into account the Job Evaluation report.

The Guidelines provide all basic requirements for career progression, training and promotion of teachers.

  
  
  
M.W.

Pathways for teachers have been defined and clear job descriptions/specifications have been provided at every level.

The Guidelines have provided the broad framework in school management, administration and ensure that curriculum implementation is structured and every teacher is clear on what is expected upon joining the teaching career.

The Guidelines effectively replaces the following:

- (i) Schemes of Service for non-Graduate teachers
- (ii) Schemes of Service for Graduate teachers
- (iii) Schemes of Service for Technical teachers and Lecturers

The comprehensive Career Guidelines have been uploaded for access on the TSC Website [www.tsc.go.ke](http://www.tsc.go.ke). All teachers and Education stakeholders are advised to read the provisions in the Guidelines.

The following are the major highlights:-

- (i) Minimum entry requirement for entry into the teaching profession;
- (ii) Basic requirement for promotion from one grade to another;
- (iii) Entry to Administrative Grade;
- (iv) Additional responsibilities for School Administrators; and
- (v) Requirements for deployment to teach in:-
  - (a) Primary School
  - (b) Secondary School
  - (c) Teacher Training College
  - (d) Special Institution
  - (e) Centre for Mathematics, Science and Technology Education in Africa (CEMASTEIA)
  - (f) Kenya Institute of Special Education (KISE)
  - (g) Technical Colleges and Polytechnics

All employees of the Commission and any prospective professional teacher is advised to note the strict entry requirements that form the standards for the teaching profession.

  
**DR NANCY NJERI MACHARIA, CBS**  
**SECRETARY/CHIEF EXECUTIVE**

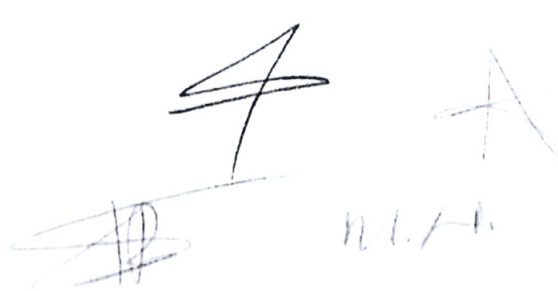
**Copy to:**

Mr. Henry Rotich, EGH  
Cabinet Secretary  
The National Treasury  
P.O. Box 30007-00100  
**NAIROBI**

Amb.(Dr.) Amina C. Mohamed, EGH, CAV  
Cabinet Secretary  
Ministry of Education  
P.O. Box 30040-00100  
**NAIROBI**

Hon. Wilson Sossion  
Secretary General,  
Kenya National Union of Teachers (KNUT),  
P. O. Box 30407-00100,  
**NAIROBI**

Mr. Akelo M.T. Misori  
Secretary General  
Kenya Union for Post Primary Education Teachers (KUPPET)  
P.O. Box 30412 - 00100  
**NAIROBI**



Vice Chancellor  
Laikipia University College  
P.O. Box 1100 – 20300  
NYAHURURU

Vice Chancellor  
Kisii University College  
P.O. Box 408 - 40200  
KISII

Vice Chancellor  
Karatina University College  
P.O. Box 1957 - 10101  
KARATINA

Vice Chancellor  
Presbyterian University of East Africa  
P.O. Box 387 - 00902  
KIKUYU

Vice Chancellor  
Embu University College  
P.O. Box 956 - 60100  
EMBU

Vice Chancellor  
Catholic University of Eastern Africa  
P.O. Box 62157 - 00200  
NAIROBI

Vice Chancellor  
Mt. Kenya University  
P.O. Box 13495 - 00100  
NAIROBI

Vice Chancellor  
Kenyatta University  
P.O. Box 43844 - 00100  
NAIROBI

*JP*

*S*

*M.M.*

Vice Chancellor  
Moi University, Main Campus  
P.O. Box 3900 - 30100  
**ELDORET**

Vice Chancellor  
University of Nairobi  
P.O. Box 30197 - 00100  
**NAIROBI**

Vice Chancellor  
Maasai Mara University  
P.O. Box 861 - 20500  
**NAROK**

Vice Chancellor  
Maseno University Main Campus  
P.O. Box 333 - 40105  
**MASENO**

Vice Chancellor  
University of Eldoret (UOE)  
P.O. Box 1125 - 30100  
**ELDORET**

Vice Chancellor  
Chuka University  
P.O. Box 109 - 60400  
**CHUKA**

Vice Chancellor  
Kenya Methodist University  
P.O. Box 267 - 60200  
**MERU**

Vice Chancellor  
Daystar University  
P.O. Box 17 - 90145  
**ATHI RIVER**

*[Handwritten signatures and marks]*

Vice Chancellor  
Machakos University  
P.O. Box 136 - 90100  
**MACHAKOS**

Vice Chancellor  
South Eastern Kenya University (SEKU)  
P.O. Box 170 - 90200  
**KITUI**

Vice Chancellor  
University of Eastern Africa Baraton  
P.O. Box 2500 - 30100  
**ELDORET**

Vice Chancellor  
Masinde Muliro University  
P.O. Box 190 - 50100  
**KAKAMEGA**

Vice Chancellor  
Pwani University  
P.O. Box 195-80108  
**KILIFI**

*A*

*JR*

*A*

*m.n.*

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

THE TEACHERS SERVICE COMMISSION



AND

THE KENYA UNION OF SPECIAL NEEDS EDUCATION TEACHERS (KUSNET)



For TSC ..... / ..... / .....  
For KUSNET ..... / ..... Page i

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*[Handwritten Signature]*

ACCRONYMS

ASAL	Arid and Semi -Arid Lands
CBA	Collective Bargaining Agreement
COCE	Code of Conduct and Ethics for Teachers
CORT	Code of Regulations for Teachers
CSO	Curriculum Support Officer
EARC	Education Assessment Resource Centers
FKE	Federation of Kenya Employers
ILO	International Labour Organization
KUSNET	Kenya Union of Special Needs Education Teachers
SRC	Salaries and Remuneration Commission
TSC	Teachers Service Commission

THIS AGREEMENT is made on the 13/ Day of July 2021.  
BETWEEN

The **TEACHERS SERVICE COMMISSION**, a constitutional Commission established under Article 237 (1) of the Constitution of Kenya (hereinafter referred to as "the Employer") of Post Office Box Private Bag - 00100, Nairobi, in the Republic of Kenya of the one part;

AND

**THE KENYA UNION OF SPECIAL NEEDS EDUCATION TEACHERS**, a trade union registered under section 19 of the Labour Relations Act (hereinafter referred to as "the Union") of Post Office Box 79418 - 00100, Nairobi in the Republic of Kenya, of the other part.

PREAMBLE

- a. The parties to this Agreement meeting together freely and voluntarily have determined to regulate industrial relations between them in the interest of mutual understanding and co-operation by signing this Agreement on the terms and Conditions of employment of teachers in the public service.
- b. Regulations, policies, procedures and practices of the Employer in effect on the effective date of this Agreement dealing with matters of terms and conditions of employment, published by the Employer shall remain in force and the Employer reserves the right to make, adopt and implement other policies, rules and regulations and procedures not in conflict with the law and this Agreement.
- c. The parties agree to mutually recognize, declare and reaffirm their common commitment to maintain a collaborative relationship aimed at realizing quality teaching service in an environment of continuous improvement of terms and conditions of service for teachers.
- d. Towards meeting the needs of a progressive and competent teaching service, the parties herein express a mutual obligation and responsibility to promote quality teaching and to protect the best interest of the learners on whose behalf the parties hereto have been called to serve.

For TSC [Signature]

For KUSNET [Signature] Page 1

[Signature]

- e. The Employer and the Union wish to declare their mutual intent to work towards the achievement of common aims as follows:
- i. Advancement of quality teaching and standards through performance contracting and appraisal.
  - ii. The development of a system of communication and consultation designed for harmonious industrial relations between the parties.
  - iii. Protection of the best interest of learners for whom they are individually, severally and collectively held in trust.

**WHEREAS:**

- a. The Commission is the sole employer of all teachers in the public service in the Republic of Kenya; and
- b. The Union is duly recognized by the employer in accordance with the law; and
- c. Article 41 (5) of the Constitution of Kenya and Section 54 of the Labour Relations Act gives parties the right to enter into this Agreement; and
- d. The parties are desirous to establish harmonious industrial relations through agreed upon terms and conditions of service.

**NOW, THEREFORE,** in consideration of the mutual agreements herein contained, the parties do hereby covenant as follows: -

**1. DEFINITIONS AND INTERPRETATIONS**

**“Agent”** means any person or body appointed by the Commission in accordance with section 20 of the Teachers Service Act;

**“Allowance”** means a monetary compensation paid to a member in addition to the basic salary;

**“Basic salary”** means the amount of money paid to a member on a monthly basis and excludes the allowances;

**“Bipartite”** means an engagement between TSC and KUSNET;

**“Court”** means Employment and Labour Relations Court of Kenya;

**“Commission”** means the Teachers Service Commission;

**“Dismissal”** means the decision by the Commission to terminate the services of a member pursuant to due process under the CORT;

**“Family”** means teacher-teacher marriage;

**“Grievance”** means an industrial complaint that affects the terms and conditions of employment which has not been escalated to a trade dispute;

**“Head of institution”** means the lead educator or administrator in a public educational institution appointed by the Commission as such and responsible for the implementation of the educational curriculum, policy and professional practices;

**“Industrial action”** means a strike or lockout;

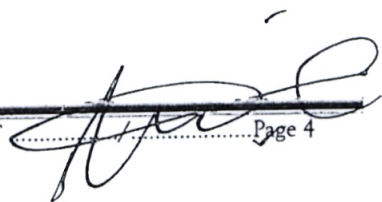
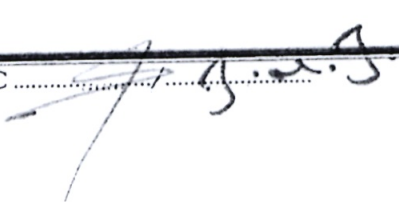
**“Performance appraisal system”** means a process of evaluation of a member’s performance over a period of time based on agreed performance standards;

**“Redundancy”** means the loss of employment, occupation, job or career by involuntary means through no fault of an employee, involving termination of employment at the initiative of the employer, where the services of an employee are superfluous, and the practices commonly known as abolition of office, job or occupation and loss of employment;

**“Release”** means allowing a teacher who has been offered employment by public institution, teachers unions, county government and public educational institution to leave the teaching service to take up the appointment, without loss of pension benefits;

**“Member”** shall mean a person trained and registered as a teacher as provided for in law and has subscribed to the union.

**“Union”** means the Kenya Union of Special Needs Education Teachers.



2. OBJECTIVE AND PURPOSE.

- 2.1 The primary objective of this Agreement is to ensure that both parties work harmoniously in negotiating the terms and conditions of service for members aimed at improving the teaching standards and performance of teachers in public service.
- 2.2 This Agreement is intended to facilitate structured and constructive social dialogue between parties for the purpose of maintaining industrial peace and harmony in the education sector.

3. EFFECTIVE DATE AND DURATION

- 3.1 The term of this Agreement shall commence on **1<sup>st</sup> JULY, 2021**.
- 3.2 This Agreement shall remain in force for a period of **four (4) years** with effect from **1<sup>st</sup> JULY, 2021 to 30<sup>th</sup> June 2025**.
- 3.3 Notwithstanding **Clause 3.2** herein above, this Agreement shall remain in force and bind upon parties until and unless by mutual consent of both parties, it is either reviewed or repealed by a new one.

4. CODE OF REGULATIONS & CODE OF CONDUCT AND ETHICS FOR TEACHERS

The Code of Regulations for Teachers and Code of Conduct and Ethics for Teachers shall form an integral part of this Agreement.

5. PROBATION PERIOD

Parties hereby agree that they shall be guided by the probation terms under Regulation 61 of CORT.

6. OBLIGATIONS OF THE PARTIES

6.1 Obligations of the Employer

6.1.1 To ensure expeditious settlement of reported industrial grievances and strictly observe the grievance handling mechanism recommended in this Agreement and the law.

6.1.2 To implement this Agreement once registered in Court

For TSC

For KUSNET

Page 5

6.1.3 To expeditiously implement bipartite settlements, agreement, and decisions.

6.1.4 To avoid engaging in any activities or programmes contrary to this Agreement.

6.2 Obligations of the Union

6.2.1 To discourage any breach of the peace or cause of civil unrest by union members that may disrupt learning and erode dignity of the profession.

6.2.2 To ensure that the union's representatives/officials do not engage or cause their members to engage in any union activities in the course of their official duties that may disrupt learning and duties of its members;

6.2.3 To ensure that the union and its representatives/officials obtain permission of the Commission in the event of activities that may disrupt learning, school programmes and activities in line with prevailing policies of the Commission.

6.2.4 Not to engage in any activities or programmes which contravene this Agreement;

6.2.5 To ensure that the union's collective grievances are reported and/or communicated by its Secretary General directly to the Commission Secretary for remedial action;

6.2.6 To encourage professionalism in the teaching service by discouraging its members from: -

- a) Causing damage to institutional property during industrial action
- b) Intimidating their colleagues who are not participating in industrial action.
- c) Denying employer's officers/agents access to Institutions of learning during industrial action.
- d) Using abusive/inappropriate language towards learners, their colleagues, employer or its officers/agents and other members of the society.

7 REMUNERATION

Parties hereby agree that remuneration payable to members shall be directly negotiated by both the employer and the union in strict adherence to the provisions of Articles 41, 237, and 230(4) of the Constitution of Kenya. Accordingly, parties hereby agree to the following monetary benefits: -

7.1 Basic Salary

7.1.1 Basic salary shall be paid as per **Appendix 1**.

7.1.2 Parties mutually agree that the employer shall continue to pay annual increments to members to compensate them for annual inflation.

7.2 Commuter Allowance

The Commuter Allowance shall be paid as per **Appendix 2**.

7.3 Disability Guide Allowance

Disability Guide Allowance shall be payable at the rate of Kenya Shillings **Twenty Thousand (20,000)** per Month as per **Appendix 3** to members who are blind, deaf and those confined to wheelchairs by virtue of their disability.

7.4 Leave Allowance

Leave allowance shall be payable as per **Appendix 4** to all members once per annum.

7.5 House Allowance

House Allowance shall be payable as per **Appendix 5** to members.

7.6 Hardship Allowance

Hardship Allowance shall be payable as per **Appendix 6** to members assigned duties in designated hardship areas.

7.7 Medical Benefit

Medical benefit shall be drawn as per Part IX of the Code of Regulations for Teachers.

8 Reimbursable Allowances

The Parties agree to the payment of the following facilitative allowances to members:-

For TSC

For KUSNET

Page 7

8.1 Transfer allowance

Transfer Allowance shall be payable at a rate of one month's Basic Salary as per Regulation 97 of the CORT.

8.2 Travelling expense.

Reimbursement of travelling expenses shall be paid as per Regulations 98, 99, 100, 101, 102 and 103 of the CORT.

9 PROMOTIONS

9.1 Parties agree that promotion of members shall be in accordance with the Career Progression Guidelines in force.

9.2 To standardize the terms and conditions of service and align the grading structure with the Job Evaluation results of 2016, parties hereby mutually agree to replace the Schemes of Service for Teachers and to formally adopt the provisions of the Career Progression Guidelines as per the employer's **Circular No. 7 of 2018** dated **2<sup>nd</sup> May 2018** at **Appendix-7**.

9.3 Further, the employer shall endeavor to promote members serving in ASAL and hard to staff areas holding administrative positions progressively until they attain grades that are commensurate to their respective positions. Meanwhile, they shall be retained in their current stations/areas until attainment of the substantive grades.

9.4 For purposes of clause 9.3 above, ASAL and hard to staff areas shall include:

- a) Baringo North, Tiaty East, Tiaty West and Marigat sub-counties in Baringo County.
- b) Garissa County
- c) Suba and Mbita sub-counties in Homa Bay County
- d) Isiolo County
- e) Mashuuru, Loitoktok and Kajiado West sub-counties in Kajiado County
- f) Kwale County

- g) Magarini and Ganze in Kilifi County
- h) Lamu County
- i) Mandera County
- j) Marsabit County
- k) Mumoni, Mutito North and Tseikuru Sub-Counties in Kitui County
- l) Narok South and Narok North sub-counties in Narok County
- m) Samburu County
- n) Taita Taveta County
- o) Tana River County
- p) Turkana County
- q) Wajir County
- r) West Pokot County

#### 10 TRANSFERS

10.1 The parties agree that transfer of members shall be done in line with Part V of the Code of Regulation for teachers.

10.2 Further, in promotion of family values provided for under **Article 45** of the Constitution of Kenya, the Commission shall consider transfer requests for married couples to appropriate stations/ locations subject to:

- 10.2.1 Availability of vacancies in the proposed station;
- 10.2.2 The need for a suitable replacement;
- 10.2.3 Need for equitable distribution and optimal utilization of teachers;
- 10.2.4 Existing staffing norms; and
- 10.2.5 Proof of marriage.

#### 11 LEAVES

11.1 The parties agree that members shall take leaves as provided under Part X of the Code of Regulations for Teachers.

For TSC

For KUSNET

Page 9

11.2 Notwithstanding clause 11.1 herein above, a female member shall be entitled to maternity leave of one hundred and twenty (120) calendar days with full salary pay with effect from the date of delivery.

11.3 The Commission shall grant members a pre-adoptive leave of forty five (45) calendar days with full salary pay from the date of adoption.

11.4 The Commission shall grant male members paternity leave of Twenty One (21) calendar days with full salary pay once a year.

## 12 PUBLIC HOLIDAYS

The Commission shall observe public holidays as stipulated in the Constitution, national legislation or any other holiday as may be gazetted by the Government.

## 13 PERFORMANCE MANAGEMENT AND EVALUATION

13.1 In recognition of the fundamental shift in policy in public service and with a view to promote, enhance and maintain high performance standards in the teaching service, parties hereby agree that the Commission shall implement continuous Teacher Professional Development Programmes and Performance Evaluation system.

13.2 To this end, in compliance with **Regulation 48 (1)** of the **CORT**, parties reiterate that every member shall undertake the Professional Teacher Development programmes prescribed by the Commission from time to time.

13.3 Further in compliance with **Regulation 49 (1)** of the **CORT**, parties reiterate that every member who successfully completes a professional teacher development programme as provided in clause 13.2 above shall be issued with a teaching certificate by the Commission as evidence of compliance.

13.4 Parties agree that the Commission shall undertake performance evaluation of all members as per the Code of Regulations for Teachers.

13.5 The Commission undertakes to comply with Part IV of the Code of Regulations for Teachers in developing and facilitating career development programs with a view to enhance productivity among members.

14 CAREER PROGRESSION

Parties agree that career progression shall be based on the Career Progression Guidelines in force.

15 DISCIPLINE

The parties have agreed that the Discipline of members shall be undertaken as provided under Part XI of the Code of Regulations for Teachers and Code of Conduct and Ethics for Teachers.

16 EXIT FROM THE TEACHING SERVICE

16.1 A member may exit service through any of the following means: -

- 16.1.1 Resignation
- 16.1.2 Retirement
- 16.1.3 Redundancy
- 16.1.4 Termination
- 16.1.5 Dismissal
- 16.1.6 Transfer of service
- 16.1.7 Release to other organizations
- 16.1.8 Death

16.2 The parties have agreed that the exit from service by members shall be undertaken as provided under Part XII of the Code of Regulation for Teachers.

17 CERTIFICATE OF SERVICE

The Commission shall in accordance with the Employment Act issue a Certificate of Service to a member exiting the service of the Commission.

18 WORK INJURY BENEFITS

A member who is injured or dies while and in the course of employment will be compensated as per the Provisions of the Work Injury Benefits Act.

For TSC

For KUSNET

Page 11

19 GRIEVANCE HANDLING PROCEDURE.

19.1 Parties agree that at all times attempts will be made to resolve all their grievances in an amicable manner with a view to achieving sustainable industrial peace in the teaching sector.

19.2 Accordingly, parties agree to exhaust all the Alternative Dispute Resolution mechanisms provided under the Labour Relations Act and any other relevant law before resorting to any form of industrial action.

19.3 In case the Alternative Dispute Resolution fails, either party shall be at liberty to refer the grievance to the Cabinet Secretary for Labour as provided under the Labour Relations Act.

20 INDUSTRIAL ACTION

20.1 In the event of an industrial action, Parties shall adhere to Part VIII and Part X of the Labour Relations Act.

20.2 With a view to maintain the nobility of the teaching profession, parties agree that in the event of an industrial action, they shall conduct themselves with dignity, civility, and decorum, protect the school property and safeguard the safety of learners directly or indirectly through their respective officers, representatives and/or members.

21 NON-DISCRIMINATION

Parties to this Agreement shall be bound by the provisions under regulation 16 of the Code of Regulation for teachers on Non-Discrimination.

22 SEXUAL HARASSMENT

Parties shall be guided by the Sexual Harassment clauses in the Commission's Gender Policy revised in 2011 and regulation 23 of the Code of Conduct and Ethics for Teachers.

23 AMENDMENT/VARIATION

23.1 In the event that any provisions of this Agreement are to be modified after the Agreement has been signed, the modifications shall be by mutual consent of

parties, made in writing and signed by the authorized representatives of the Parties.

23.2 Notwithstanding sub-clause 23.1 above, any variation and/or amendment of this agreement affecting remuneration and benefits shall be subject to the Salaries and Remuneration Commission's advice.

#### 24 GOVERNING LAW AND JURISDICTION

This Agreement shall be subject to the laws of Kenya and parties shall submit to the jurisdiction of the Kenyan Courts where appropriately invoked.

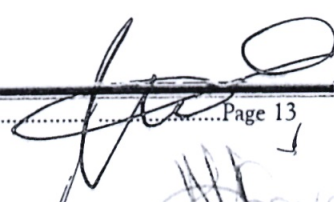
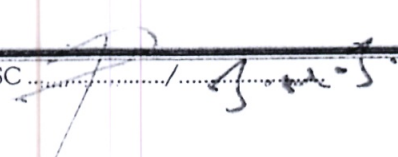
#### 25 COSTS

Each party shall bear its own costs incidental to the negotiation, preparation, settling, signing and implementation of this Agreement.

For TSC .....

For KUSNET .....

Page 13



IN WITNESS WHEREOF, both parties execute this Collective Bargaining Agreement in multiple originals to be executed the date hereinabove appearing.

**SIGNED FOR AND ON BEHALF OF THE TEACHERS SERVICE COMMISSION**

BY:

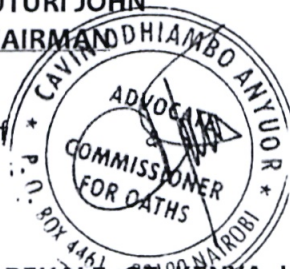
**DR. NANCY NJERI MACHARIA, CBS  
SECRETARY/CHIEF EXECUTIVE**

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SECRETARY  
TEACHERS SERVICE COMMISSION

**DR. JAMLECK MUTURI JOHN  
COMMISSION CHAIRMAN**

In the presence of  
**ADVOCATE**



**SIGNED FOR AND ON BEHALF OF KENYA UNION OF SPECIAL NEEDS EDUCATION TEACHERS**

BY:

**AMOS KARANJA  
NATIONAL CHAIRMAN  
KENYA UNION OF SPECIAL NEEDS  
EDUCATION TEACHERS**

*[Signature]*  
].....  
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].....  
].....

**JAMES TOROME  
GENERAL SECRETARY  
KENYA UNION OF SPECIAL NEEDS  
EDUCATION TEACHERS**

*[Signature]*  
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**WITNESSED BY: JACKSON ONDINDO  
TRUSTEE**

*[Signature]*  
].....  
].....  
].....  
].....

**DRAWN BY**

Cavin Anyuor, Advocate  
TSC House - 7<sup>th</sup> Floor, Upper Hill  
Kilimanjaro Road, Off Mara Road  
Private Bag - 00100  
**NAIROBI.**



*[Signature]*

APPENDICES

APPENDIX 1: BASIC SALARY

Grade	TSC Scale	Basic Salary p.m.		No. of Notches
		Minimum	Maximum	
B5	5	21,756	27,195	6
C1	6	27,195	33,994	6
C2	7	34,955	43,694	6
C3	8	43,154	53,943	6
C4	9	52,308	65,385	7
C5	10	62,272	77,840	7
D1	11	77,840	93,408	7
D2	12	91,041	109,249	7
D3	13	104,644	125,573	7
D4	14	118,242	141,891	7
D5	15	131,380	157,656	7

APPENDIX 2: COMMUTER ALLOWANCE

Grade	TSC Scale	Commuter Allowance p.m.
B5	5	4,000
C1	6	4,000
C2	7	5,000
C3	8	6,000
C4	9	8,000
C5	10	8,000
D1	11	12,000
D2	12	12,000
D3	13	14,000
D4	14	14,000
D5	15	16,000

For TSC *[Signature]*

For KUSNET *[Signature]* Page 15

*[Signature]*

APPENDIX 3: DISABILITY GUIDE ALLOWANCE

Grade	TSC Scale	Disability Guide Allowance p.m
B5	5	20,000
C1	6	20,000
C2	7	20,000
C3	8	20,000
C4	9	20,000
C5	10	20,000
D1	11	20,000
D2	12	20,000
D3	13	20,000
D4	14	20,000
D5	15	20,000

APPENDIX 4: LEAVE ALLOWANCE

Grade	TSC Scale	Annual Leave Allowance p.a
B5	5	4,000
C1	6	4,000
C2	7	6,000
C3	8	6,000
C4	9	6,000
C5	10	6,000
D1	11	10,000
D2	12	10,000
D3	13	10,000
D4	14	10,000
D5	15	10,000



APPENDIX 5: HOUSE ALLOWANCE

Grade	TSC Scale	Hse1 Nairobi	Hse2 -Major Municipalities- Mombasa, Kisumu, Nakuru, Nyeri, Eldoret, Thika, Kisii and Kitale	Hse3 -Other former Minor Municipalities	Hse4 -all other areas
B5	5	6,750	4,500	3,850	3,200
C1	6	10,000	7,500	5,800	4,200
C2	7	16,500	12,800	9,600	7,500
C3	8	28,000	22,000	16,500	13,000
C4	9	28,000	22,000	16,500	13,000
C5	10	35,000	25,500	18,000	15,400
D1	11	45,000	28,000	21,000	16,800
D2	12	45,000	28,000	21,000	16,800
D3	13	45,000	28,000	21,000	16,800
D4	14	45,000	28,000	21,000	16,800
D5	15	50,000	35,000	25,000	20,000

APPENDIX 6: HARDSHIP ALLOWANCE

Grade	TSC Scale	Hardship Allowance p.m
B5	5	6,600
C1	6	8,200
C2	7	10,900
C3	8	12,300
C4	9	14,650
C5	10	17,100
D1	11	27,300
D2	12	27,300
D3	13	31,500
D4	14	31,500
D5	15	38,100

# TEACHERS SERVICE COMMISSION

Telephone: Nairobi 2892000  
Email: [info@tsc.go.ke](mailto:info@tsc.go.ke)  
Web: [www.tsc.go.ke](http://www.tsc.go.ke)

When replying please quote

Ref No:  
TSC/ADM/192A/VOL.IX/37



TSC HOUSE  
KILIMANJARO ROAD  
UPPER HILL  
PRIVATE BAG- 00100  
NAIROBI, KENYA

Date: 2<sup>nd</sup> MAY 2018

## CIRCULAR NO:7/2018

**TO:** All TSC County Directors  
All TSC Sub-County Directors  
All Principals, National Polytechnics  
All Principals, Technical Training Institutes  
All Principals, Institutes of Science & Technology  
All Principals, Diploma Teacher Colleges  
All Principals, Primary Teacher Training Colleges  
The Director, CEMASTE  
The Director, Kenya Institute of Special Education  
The Chairperson, KEPSHA  
The Chairperson, KESSHA

## CAREER PROGRESSION GUIDELINES FOR THE TEACHING SERVICE

The Commission has developed Career Progression Guidelines for the teaching service which became operational with effect from 8<sup>th</sup> November, 2017.

These Guidelines provide for the policies and procedures that have standardized teachers' professional development. The grading structure has taken into account the Job Evaluation report.

The Guidelines provide all basic requirements for career progression, training and promotion of teachers.

Pathways for teachers have been defined and clear job descriptions/specifications have been provided at every level.

The Guidelines have provided the broad framework in school management, administration and ensure that curriculum implementation is structured and every teacher is clear on what is expected upon joining the teaching career.

The Guidelines effectively replaces the following:

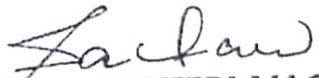
- (i) Schemes of Service for non-Graduate teachers
- (ii) Schemes of Service for Graduate teachers
- (iii) Schemes of Service for Technical teachers and Lecturers

The comprehensive Career Guidelines have been uploaded for access on the TSC Website [www.tsc.go.ke](http://www.tsc.go.ke). All teachers and Education stakeholders are advised to read the provisions in the Guidelines.

The following are the major highlights:-

- (i) Minimum entry requirement for entry into the teaching profession;
- (ii) Basic requirement for promotion from one grade to another;
- (iii) Entry to Administrative Grade;
- (iv) Additional responsibilities for School Administrators; and
- (v) Requirements for deployment to teach in:-
  - (a) Primary School
  - (b) Secondary School
  - (c) Teacher Training College
  - (d) Special Institution
  - (e) Centre for Mathematics, Science and Technology Education in Africa (CEMASTEIA)
  - (f) Kenya Institute of Special Education (KISE)
  - (g) Technical Colleges and Polytechnics

All employees of the Commission and any prospective professional teacher is advised to note the strict entry requirements that form the standards for the teaching profession.

  
**DR NANCY NJERI MACHARIA, CBS**  
**SECRETARY/CHIEF EXECUTIVE**

**Copy to:**

Mr. Henry Rotich, EGH  
Cabinet Secretary  
The National Treasury  
P.O. Box 30007-00100  
**NAIROBI**

Amb.(Dr.) Amina C. Mohamed, EGH, CAV  
Cabinet Secretary  
Ministry of Education  
P.O. Box 30040-00100  
**NAIROBI**

Hon. Wilson Sossion  
Secretary General,  
Kenya National Union of Teachers (KNUT),  
P. O. Box 30407-00100,  
**NAIROBI**

Mr. Akelo M.T. Misori  
Secretary General  
Kenya Union for Post Primary Education Teachers (KUPPET)  
P.O. Box 30412 - 00100  
**NAIROBI**





Vice Chancellor  
Laikipia University College  
P.O. Box 1100 - 20300  
**NYAHURURU**

Vice Chancellor  
Kisii University College  
P.O. Box 408 - 40200  
**KISII**

Vice Chancellor  
Karatina University College  
P.O. Box 1957 - 10101  
**KARATINA**

Vice Chancellor  
Presbyterian University of East Africa  
P.O. Box 387 - 00902  
**KIKUYU**

Vice Chancellor  
Embu University College  
P.O. Box 956 - 60100  
**EMBU**

Vice Chancellor  
Catholic University of Eastern Africa  
P.O. Box 62157 - 00200  
**NAIROBI**

Vice Chancellor  
Mt. Kenya University  
P.O. Box 13495 - 00100  
**NAIROBI**

Vice Chancellor  
Kenyatta University  
P.O. Box 43844 - 00100  
**NAIROBI**

7

Vice Chancellor  
Moi University, Main Campus  
P.O. Box 3900 - 30100  
**ELDORET**

Vice Chancellor  
University of Nairobi  
P.O. Box 30197 - 00100  
**NAIROBI**

Vice Chancellor  
Maasai Mara University  
P.O. Box 861 - 20500  
**NAROK**

Vice Chancellor  
Maseno University Main Campus  
P.O. Box 333 - 40105  
**MASENO**

Vice Chancellor  
University of Eldoret (UOE)  
P.O. Box 1125 - 30100  
**ELDORET**

Vice Chancellor  
Chuka University  
P.O. Box 109 - 60400  
**CHUKA**

Vice Chancellor  
Kenya Methodist University  
P.O. Box 267 - 60200  
**MERU**

Vice Chancellor  
Daystar University  
P.O. Box 17 - 90145  
**ATHI RIVER**



Vice Chancellor  
Machakos University  
P.O. Box 136 - 90100  
**MACHAKOS**

Vice Chancellor  
South Eastern Kenya University (SEKU)  
P.O. Box 170 - 90200  
**KITUI**

Vice Chancellor  
University of Eastern Africa Baraton  
P.O. Box 2500 - 30100  
**ELDORET**

Vice Chancellor  
Masinde Muliro University  
P.O. Box 190 - 50100  
**KAKAMEGA**

Vice Chancellor  
Pwani University  
P.O. Box 195-80108  
**KILIFI**



