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THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026

DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON EDUCATION

REPORT ON:

ON THE CONSIDERATION OF THE TEACHERS SERVICE COMMISSION
(AMENDMENT)

(NATIONAL ASSEMBLY BILL NO. 27 OF 2024)

THE NATIONAL ASSEMBLY PAPERS LAID		DAY. Wednesday
DATE: 18 FEB 2026		
TABLED	Hon. Julius Melly (Chairperson, Departmental Committee on Education)	
CLERK-AT THE-TABLE:	Irene Nduku	

CLERKS CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS



NAIROBI

FEBRUARY 2026

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LIST OF ABBREVIATIONS AND ACRONYMS

AG	-	Attorney General
ASAL	-	Arid and Semi-Arid Lands
CBA	-	Collective Bargaining Agreement
CORT	-	Code of Regulation for Teachers
FDSE	-	Free Day Secondary Education
HR	-	Human Resource
IHRM	-	Institute of Human Resource Management
KESSHA	-	Kenya Secondary Schools Heads Association
KLRC	-	Kenya Law Reform Commission
KNUT	-	Kenya National Union of Teachers
KUPPET	-	Kenya National Union of Post Primary Teachers
NCPWD	-	National Council for Persons with Disability
NHIF	-	National Health Insurance Fund
TSC	-	Teachers Service Commission
SRC	-	Salaries and Remunerations Commission
TVET	-	Technical and Vocational, Education and Training

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CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committees on Education on its consideration of the Teachers Service Commission (Amendment) Bill (National Assembly Bill No 27 of 2024) which was published on 11th April 2024. The Bill went through the First Reading on 2nd April 2025 and was thereafter committed to the Departmental Committee on Education for consideration and reporting to the House pursuant to the provision of Standing Order 127.

The Bill has four (4) clauses and seeks to amend the Teachers Service Commission Act No. 20 of 2012 to provide for the payment of various allowances for teachers employed by the government. Additionally, the Bill seeks to entrench fairness in acting position and ensure predictability and certainty in the management of allowances in the teaching profession.

Following placement of advertisements in the print media on 18th April 2025 seeking public and stakeholder views on the Bill pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3), the Committee received three (3) written memoranda. The Committee also invited stakeholders for engagement meeting on the Bill which were held within Parliament Buildings. In total, the Committee received submissions from twelve (12) stakeholders who made oral presentations.

In considering the Bill, Members observed that the legislation was timely because while the Teachers Service Commission Act, the Teachers Service Commission Code of Regulations, 2015 and the Teachers Career Progression Guideline make attempts to provide for the allowances, there is lack of predictability, strict enforcement and certainty in the management of the allowances. The Committee also noted that the Salaries and Remuneration Commission has the Constitutional mandate to advice on the remuneration and benefits of all public officers.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee further wishes to thank the sponsor of the Bill, Hon. Abdul Ibrahim Haro, MP, Leader of the Majority Party, Members of the Departmental Committee on Education for the contribution that they made on the Bill and all stakeholders who submitted their comments on the Bill. Finally, I wish to express my appreciation to the Honorable Members of the Committee and Secretariat who made useful contributions towards consideration of the Bill and production of this report.

On behalf of the Departmental Committee on Education and pursuant to provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Teachers Service Commission (Amendment) Bill (*National Assembly Bill No. 27 of 2024*). It is my pleasure to report that the Committee has considered the Teachers Service Commission (Amendment) Bill (*National Assembly Bill No. 27 of 2024*) and I have the honor to report back to the National Assembly with the recommendation that the Bill be approved with amendments as proposed by the Committee.

Hon. Julius K. Melly, CBS, M.P.
Chairperson, Departmental Committee on Education

PART ONE

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Education is one of the twenty Departmental Committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:

- i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
- ii. *To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;*
- iii. *On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
- iv. ***To study and review all the legislation referred to it;***
- v. *To study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
- vi. *To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
- vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on appointments);*
- viii. *To examine treaties, agreements and conventions;*
- ix. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
- xi. *To examine any questions raised by Members on a matter within its mandate.*

1.2 MANDATE OF THE COMMITTEE

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider matters regarding: -
 - a) Education
 - b) Training
 - c) Curriculum development and
 - d) Research
3. In executing its mandate, the Committee oversees
 - a. The Ministry of Education and all its Agencies.
 - b. The Teachers' Service Commission
4. The State Departments and the agencies the Committee oversees are as listed;
 - a) **State Department for Basic Education**
 - i. Kenya National Examination Council
 - ii. Kenya Institute of Curriculum Development
 - iii. Kenya institute of Special Education
 - iv. Kenya Literature Bureau
 - v. Kenya Institute for the Blind
 - vi. Centre for Mathematics, Science and Technology in Africa
 - vii. Kenya National Commission for UNESCO
 - viii. Kenya Education Management Institute
 - ix. School Equipment Production Unit
 - x. Jomo Kenyatta Foundation

xi. National Commission for Nomadic Education

b) State Department for Technical and Vocational Education

- i. Technical and Vocational Education and Training Authority
- ii. Technical Vocational Education Training Fund Board
- iii. Curriculum Development Assessment and Certification Council
- iv. Kenya National Qualification Authority
- v. Kenya National Qualification Authority
- vi. Kenya School of TVET

c) State Department for Higher Education

- i. Commission for University Education
- ii. Kenya Universities and Colleges Placement Service
- iii. Higher Education Loans Board
- iv. University Funding Board
- v. Forty (40) Public Universities (Under Universities Act, Cap. 210)
- vi. University of Nairobi Enterprises
- vii. University of Nairobi Press

d) State Department for Science, Research and Innovation

- i. National Commission for Science Technology and Innovation
- ii. National Research Fund
- iii. Kenya National Innovation Agency

1.3 COMMITTEE MEMBERSHIP

1. The Committee was re-constituted by the House on 6th March 2025 and comprises the following Members:

Chairperson

Hon. Julius Kibiwott Melly, CBS, MP
Tinderet Constituency

UDA

Vice Chairperson

Hon. Eve Akinyi Obara, MBS, MP
Kabondo-Kasipul Constituency

ODM

MEMBERS

Hon. Dr. Christine Oduor Ombaka, MP
Siaya County
ODM

Hon. Mary Emaase, MP
Teso South
UDA

Hon. Nabii Nabwera Daraja, MP
Lugari Constituency
ODM

Hon. Jerusha Mongina Momanyi, MP
Nyamira County
JP

Hon. Peter Ochieng Orero, MP
Kibra Constituency
ODM

Hon. Abdul Ebrahim Haro, MP
Mandera South Constituency
UDA

Hon. Rebecca Noonaihi Tonkei, MP
Narok County
UDA

Hon. Clive Gisairo, MP
Kitutu Masaba, Constituency,
ODM

Hon. Joseph Makilap, MP
Baringo North Constituency,
UDA

Hon Julius Taitumu M'Anaiba, MP
Igembe North Constituency,
UDA

Hon. Elijah Kururia, MP
Gatundu North Constituency
IND

Hon. (Prof.) Phylis Jepkemoi Bartoo, MP
Moiben Constituency
UDA

Hon. Dick Maungu, MP
Luanda Constituency
DAP-K

1.4 COMMITTEE SECRETARIAT

5. The Committee is facilitated by the following staff:

Mr. Douglas Katho
Head of Secretariat

Mr. Clive Onyancha
Clerk Assistant II

Mr. Dennis Amunavi
Clerk Assistant III

Ms. Fiona Wanjiru
Legal Counsel II

Mr. Eric Kanyi
Fiscal Analyst I

Ms. Noelle Chelagat
Media Relations Officer II

Dr. Mburu Maina
Research Officer III

Ms. Pauline Njuguna
Hansard Reporter II

Mr. Richard Sang
Serjeant-At-Arms

Mr. Jared Onyancha
Public Communications Officer III

Mr. Nimrod Ochieng'
Audio Recording Officer

Ms. Christabel Naisula
Parliamentary Internship Programme

Ms. Luisa Koki
Parliamentary Attachment Programme

PART TWO

2 BACKGROUND OF ALLOWANCES IN KENYA

2.1 SITUATIONAL ANALYSIS

6. The issue of acting appointments and allowances for teachers in Kenya reflects a persistent challenge in the country's education management system. The Teachers Service Commission (TSC), empowered by the Constitution and the Teachers Service Commission Act (2012), is responsible for teacher recruitment, promotion, and remuneration in public schools. In reality however, many teachers take up acting responsibilities such as Head Teachers, Deputies, or Heads of Department without formal recognition or the corresponding allowances. Some educators hold these positions for prolonged periods, at times exceeding two years, without receiving any acting allowances.
7. Kenya's teacher remuneration framework provides for several allowances, including hardship, commuter, housing, and responsibility allowances, with provisions for acting or special duty allowances. However, the application of these benefits is often inconsistent. Teachers in acting positions, particularly in remote or hard-to-staff regions, sometimes miss out on their rightful allowances due to administrative delays, lack of official appointment letters, or funding gaps. This situation negatively affects teacher morale and undermines leadership stability in schools.
8. The challenge is intensified by financial pressures in the education sector. Schools already experience strain from delayed and reduced capitation funds, as highlighted by the recent shortfalls in the Free Day Secondary Education (FDSE) allocation of KES 22,244 per student. These resource limitations make it difficult for school management to handle interim appointments effectively or meet allowance obligations. Moreover, the absence of a robust enforcement framework means that even when acting appointments are made, payment of allowances is not always guaranteed.
9. Prolonged acting appointments without compensation erode teacher motivation, discourage retention in remote regions, and weaken succession planning in school leadership. To cure this, there is need to ensure formal recognition of acting positions, timely allowance disbursement, and strengthened policy enforcement to ensure fair treatment of all teachers.
10. Although Kenya has established a system of allowances to recognize teachers' responsibilities, acting positions remain a weak point in policy implementation. Failure to consistently pay acting allowances undermines morale and disrupts school management. Enhancing legislation, ensuring timely budgeting, and enforcing TSC regulations will be essential to protect teachers' welfare and sustain quality education delivery.

2.2 COMPARATIVE ANALYSIS

11. Finland prioritizes high base salaries and professional autonomy rather than multiple allowances to attract and retain teachers. Acting appointments are clearly defined and compensated within structured career progression frameworks, ensuring fairness and supporting professional growth without heavy reliance on supplementary pay.
12. South Africa has developed a structured system of teacher incentives, including rural hardship allowances, housing benefits, and scarce-skills incentives for teachers in technical and science subjects. Acting appointments are formally recognized, with eligible teachers receiving acting

allowances after assuming duties for a stipulated period. This approach helps motivate teachers and ensures retention in hard-to-staff schools.

13. In East Africa, Uganda provides a notable contrast. Teacher allowances remain minimal, primarily limited to hardship postings in remote regions, while recognition of acting appointments is inconsistent. Teachers often hold acting roles for extended periods without compensation, leading to low morale and difficulty in staff retention in rural schools.
14. The Teachers Service Commission (Amendment) Bill (National Assembly Bill No 27 of 2024z), seek to formalize acting appointments and streamline allowances. This represents a step closer to South Africa's structured model, while still diverging from global best practice, which emphasizes strong base pay. Targeted allowances remain vital in Kenya to motivate teachers, enhance equity, and facilitate deployment in remote areas.

PART THREE

3 OVERVIEW OF THE TEACHERS SERVICE COMMISSION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO 27 OF 2024)

3.1 INTRODUCTION

15. The principal object of the Bill is to amend the Teachers Service Commission Act no. 20 of 2012 to provide for various allowances that the Commission may pay to teachers over and above the basic pay. Further, the Bill seeks to entrench fairness for teachers appointed by the Teachers Service Commission in acting positions by ensuring the appointments are done in a structured manner. This Bill will thus provide for predictability and certainty in management of allowances in the teaching profession.

3.2 Committal of the Bill

16. Upon First Reading of the Bill on 2nd April 2025 pursuant to Standing Orders 127(1) and (3) of the National Assembly Standing Orders, the Rt. Hon. Speaker referred the Bill to the Departmental Committee on Education for consideration and to facilitate public participation on the Bill.

3.3 REVIEW OF THE BILL

17. The Bill has four clauses and a Schedule.
18. The Bill makes provision for the Teachers Service Commission (TSC) to appoint teachers in acting capacity. The Bill further defines the period for acting in a position which is between one to six months.
19. The Bill provides for the qualification and remuneration for appointment in acting capacity and prohibits appointment of a teachers in more than one position.
20. The Bill proposes a new Fourth Schedule which outlines the allowances that may be granted to a teacher for specified circumstances. The allowances include:
 - a. House allowance;
 - b. Commuter allowance;
 - c. Hardship allowance;
 - d. Special duty allowance;
 - e. Responsibility allowance;
 - f. Special school allowance;
 - g. Reader's facilitation or aid allowance;
 - h. Leave allowance; and
 - i. Transfer allowance.
21. The Bill does not affect functions of county governments as set out in the Fourth Schedule to the Constitution and is therefore not a Bill concerning county governments.

PART FOUR
PUBLIC PARTICIPATION/STAKEHOLDERS CONSULTATION

22. Following the call for memoranda from the public through placement of adverts in the print media on Friday, 18th April 2025 and invitation to stakeholders for a meeting, the Committee received memoranda from the following stakeholders:

- i. The Attorney General
- ii. Teachers Service Commission
- iii. Salaries and Remuneration Commission
- iv. The National Treasury
- v. Kenya Law Reform Commission
- vi. Public Service Commission
- vii. Kenya Union of Post Primary Education Teachers
- viii. Kenya Special Needs Education Teachers Group
- ix. Institute of Human Resource Management
- x. Kenya National Union of Teachers
- xi. Elimu Bora Working Group
- xii. World Vision
- xiii. Kenya Secondary Schools Heads Association

23. The stakeholders submitted as follows:

1. The Office of the Attorney General

24. The of the Attorney General in their presentation noted that the Bill seeks to provide for appointment of teachers in acting capacity, payment of allowances including house, commuter, hardship, special duty, responsibility, special school, readers facilitator/aid, leave, transfer and subsistence allowance.

25. However, the AGs office noted that the issues the Bill seeks to address have been comprehensively provided for in the Teachers Service Commission Act Cap. 212, the Teachers Service Commission Code of Regulations 2015 and the Teachers Career Progression guidelines.

2. The Teachers Service Commission (TSC)

26. The TSC submitted that the Commission is established under Article 237 and the Teachers Service Commission Act No. 20 of 2012. That the establishing legislation empowers the Commission to develop regulations and teachers management strategies.

27. The TSC submitted that the Commission has developed the Code of Regulations for Teachers, administrative circulars and guidelines. On responsibility allowance, the TSC submitted that after a job evaluation was conducted by the Commission and SRC in 2016, administrative position holders' remuneration were reviewed and they were placed in special salary scales. Responsibility allowance was then scrapped in the teaching service.

28. On leave allowances, the Commission noted that the content of the Amendment are similar to the provision of the Code of Regulations for Teachers (CORT) and should not be included in the parent Act to ensure flexibility and more specific rules. That the CORT provides comprehensively for allowances that include house, commuter, hardship, special duty, special school, reader's facilitation/aid, transfer and leave allowances.

29. The Commission concluded that the Sector is currently undergoing comprehensive reforms informed by the report of the Presidential Working Party on Education Reforms which will

also include review of the Teachers Service Commission Act and therefore proposed the deletion of all Clauses of the Bill.

3. The Salaries and Remuneration Commission

30. The Salaries and Remuneration Commission (SRC) submitted that Article 230(4) (b) of the Constitution mandates the Commission to advise the national and county governments on the remunerations and benefits for all public officer, and that the Supreme Court in the **S.C Petition E023 of 2024 NHIF –vs- KUCFAW & Anor**, upheld that the advice of SRC under Article 230 (4) (b) of the Constitution is binding.
31. The SRC noted that majority of the allowances enumerated in the Bill, the proposed administrative mechanisms, eligibility criteria, and nomenclature deviates from and contradicts either the prevailing SRC's advice, statute provisions or government policy as enumerated in the matrix.

4. The National Treasury

32. The National Treasury submitted that, currently, teachers are entitled to various allowances on top of the Basic Salary.. The allowances include:
 - i. House allowance;
 - ii. Commuter /Transport allowance;
 - iii. Hardship allowance;
 - iv. Acting/ Special duty allowance;
 - v. Leave Travel / Leave allowance;
 - vi. Transfer allowance.
 - vii. Special Salary/ Special School allowance; and
 - viii. Disability guide/ Reader's facilitation or Aid Allowance;
33. The National Treasury noted that the allowances above are already being paid to teachers and therefore will not occasion additional funding.
34. However, the National Treasury noted that the Bill proposes to introduce Responsibility Allowance to Heads, Deputy Heads and Senior Teachers of institutions. This proposal disregards the fact that appointment to these position is based on promotion with attendant compensation by adjustment on Basic Salary and applicable allowance. Further, it noted that where there are no substantive holders of the positions, then the appointed officer(s) earns Special Duty/ Acting Allowance.
35. The National Treasury pointed that the Bill provisions are against Article 230 (4) of the Constitution which mandates SRC to advice on the remuneration of all public officers. Therefore, determination of allowances to public officers should be through the recommendation of the SRC and not legislation as proposed in the Bill.
36. The National Treasury noted that there is need for government to contain the growing public sector wage bill.

5. Kenya Law Reforms Commission (KLRC)

37. The Kenya Law Reforms Commission submit a memorandum in opposition to the Bill. They submitted that Article 237 of the Constitution established the TSC with the functions of recruiting and employing registered teachers. The remuneration of teachers are determined by the TSC in consultation with SRC. Further, KLRC submitted that the SRC is guided by the principles of Article 230 (5) of the Constitution and section 12 of the SRC Act 2012 which

include sustainability of the wage bill, attraction and recruitment of skilled employees in the public service, recognition of productivity and performance among others.

38. The KLRC submitted that allowances paid to teachers can be determined by TSC in consultation with SRC without being set out in statute and that the Bill proposes amendments that infringe on the constitutional role of TSC. KLRC also noted that the SRC issued Allowance Policy Guidelines for Public Sector in 2021 to streamline management of allowance to improve accountability, transparency, equity and fairness of pay as per its constitutional mandate.

6. The Public Service Commission (PSC)

39. The Public Service Commission (PSC) submitted that it was not in the purview of the PSC to advise on remuneration for staff in independent office. However, PSC submitted that it is open and ready to provide technical assistance. On the issue of enactment of the provision, the PSC was of the opinion that the proposed amendments should be incorporated in the Code of Regulations as regulations are flexible and easy to amend. Further, PSC submitted that acting capacity appointment should not exceed the legal six (6) months for qualified officers and those not qualified are entitled to special duty allowance and the position advertised. PSC submitted that the allowance should be provided for in the CORT and proposed that the Act or CORT should provide for sanctions on officers who fail to comply with requirement to pay allowances.

7. Kenya Union of Post Primary Education Teachers (KUPPET)

40. The Kenya Union of Post Primary Education Teachers (KUPPET) supported the Bill with amendments to provide for allowance for teachers in integrated schools, provision for daily subsistence allowance for teachers on official duty outside the normal work station, allowance for teachers with laboratory lesson and post-graduate allowance. The union submitted the matrix of its proposed amendments.
41. The KUPPET submitted that the signed CBA did not envision teachers working on acting capacity for lengthy period hence it was not a matter for negotiation. Further, KUPPET submitted that currently over 99,000 teachers are on acting capacity without commensurate allowance and proposed that the all the allowances should be in the Act as is the case with the Employment Act.

8. Kenya Special Needs Education Teachers Group

42. The Kenya Special Needs Education Teachers Group submitted that only responsibility allowance is pensionable and proposed that special school allowance should also be included as pensionable.
43. They group also proposed that special school allowance should be automatic once a teacher is posted to a special school and not to be applied for through the head of institution. The group also proposed that the Disability Guide Allowance should be paid after certification by the National Council for Persons with Disability (NCPWD).

9. Institute of Human Resource Management (IHRM)

44. The Institute of Human Resource Management (IHRM) submitted that it supported the Bill since the provisions of the Bill, if enacted, will improve the welfare of teachers through structured allowances, and ensure fairness in acting appointment. IHRM submitted that the proposed amendments aim to enhance transparency, equity and sustainability that align with best HR practices and constitutional principles.

45. IHRM proposed amendment to the Bill to provide for TSC to engage teacher unions, education stakeholders and SRC to develop a framework on acting allowances and appointments. This is aimed at ensuring constitutional compliance and public participation.
46. IHRM proposed the establishment of a robust grievance redress mechanism to address allowance and acting appointment related disputes. IHRM proposed that this be enshrined in the Code of Regulation for Teachers.
47. IHRM also proposed periodic impact assessment of allowances and acting appointments to evaluate their effectiveness and in improving teacher welfare and career progression to inform policy adjustment. IHRM proposed three year review of the allowances.
48. IHRM submitted that TSC should prioritize equitable distribution of allowances to teachers in marginalized and special needs education schools to reduce disparities and enhance retention.

10. Kenya National Union of Teachers

49. The Kenya National Union of Teachers (KNUT) supported the Bill.
50. KNUT proposed to amend the Bill to include provision for consultation with the SRC to adhere to Article 230 of the Constitution.
51. KNUT proposed additional amendment to provide that a teacher who completes acting period should be considered for permanent appointment to the position based on their qualifications. KNUT also proposed amendment of the Schedule under E from “job group K and below” to “job group C5 and below”.

11. Elimu Bora Working Group

52. The Elimu Bora Working Group appeared before the Committee and submitted that it supports the proposed amendments.
53. On Succession and Merit Appointments: Elimu Bora proposed automatic appointments of next-in-merit teachers to vacant positions. The Committee opposed this, noting the risk of circumventing merit-based and competitive recruitment processes.
54. On Leave Allowance: The Group proposed legislating teacher leave allowances. The Committee observed that leave benefits are a human resource matter to be managed by the employer (TSC), not by legislation.
55. On Special Duty Allowances in ASAL Areas: Elimu Bora proposed extending special duty allowances to teachers in ASAL regions. The Committee noted that such teachers already receive hardship allowances and the proposal may amount to duplication.
56. On Shift of HR from Union to Legislative Domain: The Committee questioned the rationale for moving matters historically negotiated under Collective Bargaining Agreements (CBAs) into legislation.
57. On Gazettement of Hardship Areas: Elimu Bora noted that not all ASAL regions are gazetted as hardship areas and urged the Committee to intervene.
58. Provisions for Long-Serving Acting Teachers: The Group welcomed the Bill’s effort to address the plight of teachers acting without promotion or compensation.

12. World Vision

59. The submissions by World Vision were stood down on procedural grounds under the rule of relevance, as they were not directly related to the provisions of the Bill.

13. Kenya Secondary Schools Heads Association

60. The Kenya Secondary Schools Heads Association (KESSHA) expressed support for the Bill.

61. KESSHA proposed that inclusion of additional allowances as listed;

- i. Teaching Service Allowance in recognition of the demanding nature of the teaching profession to handle the current generation of students. This allowance will also acknowledge the unique contribution of teachers in providing and shaping the country's workforce for economic development; and
- ii. Extraneous allowance to compensate for the extra duties undertaken by teachers in the schools. These include: attending school trips; mentoring students; managing students behavioral and emotional challenges; parent-teacher communication and meetings; early morning and late evening school activities; rehearsal and practice for co-curricular activities among others.

62. KESSHA submitted that the government should avail funds to finance the proposals in the Bill once enacted.

PART FIVE

5 COMMITTEE OBSERVATIONS

63. The Committee made the following observations:
64. The Teachers Service Commission in consultation with the Salaries Remunerations Commission are constitutionally mandated to provide for the remuneration of teachers employed by the government.
65. Currently, allowances paid to teachers are guided by the Code of Regulation for Teachers, circulars and the SRC Allowance Policy Guidelines for Public Sector.
66. There are instances where teachers are appointed on acting capacity for long periods without commensurate allowance and later bypassed when substantive appointment in the position are made.
67. The process of amending statute/Act of parliament is complex and lengthy while changes in regulations and circulars are more flexible and easy.
68. The anticipated legislative changes in the Presidential Working Party on Education Reforms report do not limit the legislative role of Parliament in originating legislation.
69. The matter on payment of Domestic Subsistence Allowance for teachers is currently active in court.
70. Acting capacity appointment should not exceed the legal six (6) months for qualified officers and those not qualified are entitled to special duty allowance and the position should be advertised.
71. The Committee, having considered the Teachers Service Commission (Amendment) Bill (National Assembly Bill No. 27 of 2024) and the submissions from stakeholders, recommends that the House approves the Bill with amendments contained in the Schedule of Amendments forming Part Six.

PART SIX

6 COMMITTEE RECOMMENDATION

72. The Committee having reviewed the Teachers Service Commission (Amendment) Bill (National Assembly Bill No. 27 of 2024) recommends that the House approves the Bill with amendments as proposed in the Schedule in Part Seven of this report.

PART SEVEN

7 SCHEDULE OF PROPOSED AMENDMENTS

73. The Committee proposed the following amendments to the Bill—

74. **CLAUSE 3**

THAT Clause 3 of the Bill is amended by inserting the following new subsection immediately after subsection (4)—

75. “(5) Where a teacher serves in an acting capacity in a higher office or grade for a continuous period exceeding six months without the Teachers Service Commission having taken any action to confirm, extend, or revoke such appointment, the teacher shall be deemed to have been substantively appointed to that office or grade with effect from the day immediately following the expiry of the six-month period.

76. Provided that the teacher shall not be deemed to have been substantively appointed where the Commission demonstrates that the delay in confirming, extending, or revoking the acting appointment was occasioned by the teacher’s pending disciplinary proceedings, failure to meet prescribed qualifications, or any other lawful and justifiable cause.”

77. **Justification** - The proposed amendment seeks to address the persistent challenge of teachers serving in acting capacities for prolonged periods without formal confirmation, which creates uncertainty and limits their career progression. It compels the Teachers Service Commission to make timely decisions on acting appointments by introducing a six-month cap and a presumption of substantive appointment where no action is taken. At the same time, it preserves the Commission’s discretion by allowing exceptions where delays are lawfully justified, such as pending disciplinary cases or failure to meet the required qualifications.

78. **CLAUSE 4**

THAT Clause 4 of the Bill is amended by—

(1) deleting paragraph (e);


(2) inserting the following new sub-paragraph in immediately after sub-paragraph (b) in paragraph (i)—


79. “(c) A teacher who is transferred from one duty station to another shall be entitled to a transfer allowance, which shall be paid within thirty days of the effective date of the transfer.”

80. **Justification**

1. The proposed amendment seeks to harmonize the law with the current remuneration framework for teachers. The responsibility allowance was consolidated into the basic salary with effect from 1st July 2017 during the implementation of Phase I of the Collective Bargaining Agreement for Teachers (1st July 2017–30th June 2018). Retaining this allowance in law is therefore redundant, and its deletion is recommended to align the legislation with the existing pay structure.

2. The proposed requirement for payment of a transfer allowance within thirty days of a teacher’s transfer is intended to safeguard the welfare of teachers and ensure administrative efficiency. Transfers often impose immediate financial burdens on teachers, including relocation, housing, and transport costs, which cannot be deferred without causing hardship. By imposing a clear statutory timeline, the amendment compels the Teachers Service Commission to process allowances promptly, eliminates uncertainty, and upholds principles of fairness and timely compensation for work-related obligations

SIGNED.......... DATE.....18/2/2026.
HON. JULIUS K. MELLY, CBS, MP
CHAIRPERSON,
DEPARTMENTAL COMMITTEE ON EDUCATION

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 18 FEB 2026	
DAY: <u>Wednesday</u>	
TABLED BY:	<u>Hon Julius Melly (Chairperson, Departmental Committee on Education)</u>
CLERK-AT THE-TABLE:	<u>Irene Nduku</u>

**ANALYSIS OF THE TEACHERS SERVICE COMMISSION (AMENDMENT) BILL 2024 (NATIONAL ASSEMBLY BILLS NO.27)
SPONSORED BY HON. ABDUL HARO**

PRESENTED TO THE DEPARTMENTAL COMMITTEE ON EDUCATION AND RESEARCH

The Bill aims to amend the Teachers Service Commission Act (*Cap. 212*) “the Act” to allow for additional allowances beyond basic pay for teachers and to ensure fairness and structure in acting appointments. It seeks to promote predictability and certainty in managing allowances within the teaching profession.

CLAUSE	AMENDMENT	ANALYSIS OF AMENDMENT	STAKEHOLDER	COMMENT-ANALYSIS AND RECOMMENDATION
1.	This clause provides the short title of the Bill.		-	-
2.	Amendment in section 11 by inserting a new paragraph immediately under paragraph (f)— “(fa) in consultation with the Salaries and Remuneration Commission facilitate payment of allowances to teachers in the manner set out in the Fourth Schedule.”	<p>1. Consultative Requirement:</p> <ul style="list-style-type: none"> - The phrase “in consultation with the Salaries and Remuneration Commission (SRC)” indicates that the Teachers Service Commission (TSC) cannot act unilaterally. It must work with the SRC, which is constitutionally mandated to determine and advise on public sector pay. - This ensures checks and balances, promoting fiscal discipline and uniformity in public service remuneration. <p>2. Facilitation Role:</p> <ul style="list-style-type: none"> - The TSC is given the role of facilitating (not necessarily initiating or determining) allowance payments. This may imply implementation responsibility once terms are agreed upon with the SRC. 	Office of the Attorney General	<p>1. Delete this clause.</p> <p>Justification The clause proposes to address issues that have been comprehensively addressed in the Teachers Service Commission Act, <i>Cap. 212</i>, the Teachers Service Commission Code of Regulation, 2015 and the Teachers Career Progression Guidelines.</p> <p>We note that, under Article 95 of the Constitution, it is the role of the National Assembly to enact legislation, and in Kenya’s hierarchy of laws, statutes rank higher than subsidiary legislation. Enshrining allowances currently provided under regulations into statute ensures greater legal certainty, stability, and enforceability, as statutory provisions cannot be amended or revoked without Parliamentary approval. This approach protects the allowances from frequent policy or regulatory changes, aligns them</p>

		<p>3. Structure as per the Fourth Schedule:</p> <ul style="list-style-type: none"> - Referencing the “Fourth Schedule” introduces a formal, structured guide for how allowances are to be determined and paid. - This ensures predictability, transparency, and standardization, aligning with the stated objectives of the Bill. <p>Implications:</p> <ul style="list-style-type: none"> - Positive: It may enhance fairness and consistency in how teacher allowances are handled across the country, reducing ad hoc or opaque payments. - Challenge: Delays or disagreements between the TSC and SRC could slow down the implementation of new or revised allowances. 	<p>Institute of Human Resource Management</p>	<p>with constitutional principles under Articles 230 and 237, and strengthens accountability in public finance management by anchoring expenditure obligations in primary legislation.</p> <p>1. Retain the proposed clause and add: <i>“(fa) in consultation with the Salaries and Remuneration Commission and the consultative committee established under section 13(5), facilitate payment of allowances to teachers in the manner set out in the Fourth Schedule, ensuring transparency, equity, and periodic review of allowance structures.”</i></p> <p>Justification</p> <p>Including the consultative committee under section 13(5) ensures broader stakeholder input, particularly from teachers’ union, enhancing inclusivity as per Article 10 of the Constitution. Further, adding “<i>transparency, equity, and periodic review</i>” aligns with HR best practices ensuring allowances are managed fairly, consistently and sustainably, addressing potential disparities and maintaining teacher motivation. Periodic review of accounts will ensure allowances remain relevant.</p> <ul style="list-style-type: none"> • We note that the consultative committee under Section 13(5) of the Act serves an advisory role and cannot operate as a co-decision maker with constitutional commissions such as the TSC and SRC. Articles 230 and 237 vest remuneration and benefits mandates solely in these Commissions, which must act independently
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				<p>as per Article 249(2). While the committee may provide stakeholder input, final decisions rest exclusively with the Commissions to preserve their constitutional independence and mandate.</p>
			Kenya Law Reform Commission	<p>1. Not in agreement with the proposal.</p> <p>Justification</p> <p>The role of the Salaries and Remuneration Commission includes to advise the national and county governments on the remuneration and benefits of all public officers.</p> <p>Further, the Allowance Policy Guidelines for the Public Sector issued by SRC in 2021 provides for the categorization of allowances to include house, commuter, job-related, task-related and labour market adjustment allowances. In addition to the proposed allowances, these can be paid to teachers upon consultation with the SRC without resorting to amending the Teachers Service Commission Act.</p> <p>• Refer to response to Office of the Attorney General above.</p>
			Teachers Service Commission	<p>1. Delete the clause.</p> <p>Justification:</p> <p>That the proposed amendment is unnecessary as it is the mandate of the TSC under Article 237 of the Constitution to provide or remuneration and compensation of registered teachers. This right is retained under Part VII and VIII of the Code of Regulation of Teachers.</p>

				<ul style="list-style-type: none"> • We note that the TSC and SRC operate in an interdependent framework, where the TSC manages the employment, promotion, and remuneration of teachers under Article 237 of the Constitution, while the SRC, under Article 230, sets and advises on remuneration and benefits for public officers. The TSC is bound to implement teacher remuneration strictly in line with SRC’s advice, ensuring harmonisation, fiscal sustainability, and compliance with constitutional and public finance principles.
			Kenya Union of Post Primary Education Teachers	<ol style="list-style-type: none"> 1. Amend to include “<i>after negotiating withThe Union shall</i>” <p>Justification: This will ensure fairness and equity in salary determination and allowance.</p> <ul style="list-style-type: none"> • We note that consultation between the TSC and SRC with unions on determining or paying allowances must align with their exclusive mandates under Articles 230 and 237, upholding the independence of constitutional commissions under Article 249, and follow the statutory process where SRC advises and TSC implements. Such engagement should also comply with the Labour Relations Act, <i>Cap.233</i>, observe public finance laws, and safeguard SRC’s harmonisation role while ensuring equal treatment of public officers.

			Kenya National Union of Teachers	<p>1. Amend the proposal to read “<i>Facilitate payment of allowances to teachers in the manner set out in the fourth schedule</i>”</p> <p>Justification: The Constitution under Article 230 that the function of SRC is to advise the national and benefits of all other public officers and should be limited to that.</p> <ul style="list-style-type: none"> • We note that consultation does not alter the constitutional position under Article 230, which vests SRC with the function of advising the national and county governments on the remuneration and benefits of all other public officers.
			Kenya Secondary Schools Heads Association	<p>1. Supports the proposal because it will the platform for entrenching the proposed allowances into law</p>
				<ul style="list-style-type: none"> • We however note that the responsibility allowance was amalgamated into the basic salary as of the 1st of July, 2017 as Implementation of Phase 1 of the Collective Bargaining Agreement for Teachers (1st July, 2017-30th June, 2018). We therefore recommend the deletion of this allowance to align with the current position.
3.	Amendment by inserting a new section immediately after section 32— 32A. (1) The Commission may appoint a teacher in	This amendment aligns the Teachers Service Commission Act with the provisions of subsection 2 and 3 of the Public	Office of the Attorney General	<p>1. Delete this clause.</p> <p>Justification This clause seeks to address the issue of appointment of teachers in an acting capacity</p>

<p>an acting capacity for a period of at least thirty days but not exceeding a period of six months.</p> <p>(2) A teacher shall not be appointed in an acting capacity unless the person satisfies all the prescribed qualifications.</p> <p>(3) A teacher appointed under sub-section (1) shall only act in one position at a time.</p>	<p>Service Commission Act (Cap. 185) which provides—</p> <p><i>“(2) A person shall not be appointed to hold a public office in an acting capacity unless the person satisfies all the prescribed qualifications for holding the public office.</i></p> <p><i>(3) An officer may be appointed in an acting capacity for a period of at least thirty days but not exceeding a period of six months.”</i></p> <p>This amendment would—</p> <ul style="list-style-type: none"> • ensure fairness and prevent prolonged informal appointments; • encourage timely recruitment or confirmation to permanent roles; and • protects acting officers from being exploited without due remuneration or stability. 	<p>Institute of Human Resource Management</p>	<p>and payment of special duty allowance. This is however provided for in regulation 92 of The Teachers Service Commission Code of Regulations for Teachers, 2015, which provides that the Commission shall, in the absence qualified teachers, pay special duty allowance to teachers appointed to perform administrative duties which are not commensurate to the teachers’ grades and who are stationed in arid and semi-arid lands.</p> <ul style="list-style-type: none"> • Refer to response to Office of the Attorney General in clause 2. <p>Proposal: Amend section 32A to include:</p> <p><i>“(5) The Commission shall develop and publish a policy on acting appointments, specifying eligibility criteria, selection procedures, duration limits, and mechanisms for addressing grievances.</i></p> <p><i>(6) Acting appointments exceeding six months shall require formal promotion or reappointment, subject to a competitive process.</i></p> <p><i>(7) The Commission shall report annually on acting appointments, including their duration and outcomes, to ensure transparency.”</i></p> <p>Justification: The proposed amendments enhance fairness and transparency in acting appointments, aligning with HR principles of meritocracy and accountability. A clear policy prevents</p>
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				<p>arbitrary appointments, while the six-month limit with mandatory promotion or reappointment prevents exploitation of teachers in acting roles without career progression. Annual reporting ensures oversight and compliance with Article 232 of the Constitution on fair public service practices.</p> <p>We note that the proposed provisions are already addressed under Section 11 of the Teachers Service Commission Act, and the Teachers Service Commission Code of Regulations for Teachers, 2015 which empowers the Commission to manage human resource functions, including acting appointments, in line with Article 232 of the Constitution. The TSC's internal Human Resource Policies and Procedures, aligned with the Public Service Commission Human Resource Policies and Procedures Manual, set out eligibility, selection, duration limits, grievance mechanisms, and reporting requirements, ensuring transparency, merit, and fairness in acting appointments.</p>
			Kenya Law Reform Commission	<p>1. Not in agreement with the proposal.</p> <p>Justification: The appointment of a teacher to a position on acting capacity can be done administratively and may not require amendments to the Act. These teachers may be paid allowances as per the aforesaid Allowances Policy Guidelines for</p>

				<p>the Public Sector by SRC in 2021 which provides for allowances paid for a temporary period to public officers appointed to carry out assignment outside the scope of their responsibility.</p> <ul style="list-style-type: none"> • We note that adding this provision to the Teachers Service Commission Act would align acting appointment rules with Section 34 of the Public Service Commission Act, which similarly limits acting appointments to qualified persons for a maximum of six months. This would elevate the rules from policy to binding statutory requirements, set clear duration limits, require prescribed qualifications, and restrict acting to one position at a time and would also limit TSC's discretion and flexibility in exceptional staffing situations.
			Teachers Service Commission	<p>1. Delete the proposal.</p> <p>Justification: This function is entrenched in Part V of the Code of Regulations for Teachers. Regarding subsection (4) on the issue of special duty allowance, Regulation 92 of the Code, already provided that teachers appointed inter-alia to perform administrative duties in an acting capacity to special duty allowance. It is therefore the Commission's view that the proposed amendment shall amount to duplicity hence unnecessary in the circumstances.</p>

				<ul style="list-style-type: none"> • Refer to response to Kenya Law Reform Commission above.
			Kenya Union of Post Primary Education Teachers	<ol style="list-style-type: none"> 1. Amend to include; “...or acting allowance, whichever is applicable” <p>Justification: This will ensure fairness and equity in salary determination and allowance.</p> <ul style="list-style-type: none"> • We note that the Special Duty Allowance adequately provides for administrative duties assigned to a teacher in an acting capacity as contemplated in the proposed amendment to Schedule Four. This allowance is intended to compensate for the additional responsibilities undertaken during the acting period, thereby addressing the objective of the proposed provision without necessitating further statutory amendment.
			Kenya National Union of Teachers	<ol style="list-style-type: none"> 1. Amend to introduce subsection 5 to read “<i>On the completion of the acting period the said teacher should be considered for a permanent appointment to the position based on their qualification</i>” <p>Justification: The teacher once appointed in an acting capacity means that they are already qualified for the position. It will only be fair and just if they are considered for the position.</p>

				<ul style="list-style-type: none"> • We note that this provision serves as a safeguard to ensure the Teachers Service Commission observes timelines for teachers serving in an acting capacity while facilitating their career progression. • We recommend an amendment stating— “(4) <i>Where a teacher serves in an acting capacity for the maximum prescribed period of six months and is not reassigned thereafter, the teacher shall be deemed appointed to the substantive position.</i>”
			Kenya Secondary Schools Heads Association	<ol style="list-style-type: none"> 1. We support the proposal as it is a way of ensuring fairness for the many teachers who hold positions in acting capacities and for whom Kenya Secondary Schools Heads Association has been fighting for recognition.
			Elimu Bora Working Group	<ol style="list-style-type: none"> 1. Add the following amendment— “(2A) <i>In the absence of teacher with requisite skills for a particular duty in a station/school, the next merited teacher in terms of qualifications and experience shall be appointed to act.</i>” <ul style="list-style-type: none"> • We note that the proposed subsection (2A) would introduce a qualification hierarchy, allowing appointment of the next most merited teacher by qualifications and experience when no fully qualified teacher is available in the station or school. This however is already provided for under the Teachers Service Commission’s internal Human Resource Policies and Procedures Manual.

<p>4.</p>	<p>An amendment by insertion of a new schedule immediately under the Thirds Schedule providing for allowances that may be granted to teachers in specified circumstances—</p> <p>(a) House allowance</p> <p>(1) The Commission shall pay house allowance to every teacher in its employment at a rate determined by the Commission from time to time.</p> <p>(2) Where a teacher is on interdiction and is on half salary, the Commission shall pay the full house allowance until the case is determined.</p> <p>(b) Commuter allowance.</p> <p>(1) The Commission shall determine and pay commuter allowance to a teacher under its employment.</p> <p>(2) A teacher under interdiction or suspension s</p>	<p>This provision outlines the framework for various allowances that the Teachers Service Commission (TSC) may grant to teachers. It establishes that house allowance is payable to all teachers, even during interdiction, to support their housing needs regardless of employment status. In contrast, commuter allowance is restricted and not payable during interdiction or suspension, reflecting its link to active duty. Hardship allowance compensates teachers working in officially recognized difficult areas, while special duty allowance supports those temporarily performing higher duties or working in arid and semi-arid regions without the requisite grade. The policy promotes fairness and flexibility by addressing varying working conditions, but also places clear conditions for discontinuation, ensuring accountability and prudent financial management.</p>	<p>Institute of Human Resource Management.</p>	<p>1. Amend the Fourth Schedule to include:</p> <p><i>“(j) General Provisions: (1) The Commission shall, in consultation with the Salaries and Remuneration Commission and the committee under section 13(5), establish a framework for reviewing allowance rates every three years to reflect economic conditions and teacher needs; (2) All allowances shall be administered through a transparent process, with clear eligibility criteria and grievance redress mechanisms published in the Commission’s code of regulations; (3) The Commission shall ensure equitable access to allowances, particularly for teachers in marginalized areas, and monitor their impact on teacher retention and motivation.”</i></p> <p>Justification:</p> <p>Triennial review ensures allowances remain fair and sustainable, addressing inflation and regional disparities, which is critical for teacher welfare in hardship areas. Transparency in administration and grievance mechanisms aligns with the need for fair Human Resource processes and Article 27 of the Constitution on nondiscrimination. Monitoring impact supports evidence-based policy adjustments, enhancing teacher retention and motivation, especially in underserved regions.</p> <ul style="list-style-type: none"> • We note that Subparagraph (1) conflicts with Article 230 of the Constitution, which gives the SRC the exclusive mandate to set and advise on remuneration and benefits for
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	<p>shall not be entitled to payment of commuter allowance.</p> <p>(c) Hardship allowance</p> <p>The Commission shall at a determined rate, pay hardship allowance to a teacher assigned to teach in a school situated in a designated and gazetted hardship area.</p> <p>(d) Special duty allowance</p> <p>(1) The Commission shall, in the absence of qualified teachers, pay special duty allowance to teachers-</p> <p>a) appointed to perform administrative duties which are not commensurate to the teachers' grades; or</p> <p>b) who are stationed in arid and semi-arid lands.</p> <p>(2) A teacher shall relinquish special duty allowance where the teacher-</p> <p>(a) is transferred out of the arid and semi-arid lands;</p>			<p>public officers, including teachers. While TSC may consult SRC, establishing a statutory "framework" for reviewing allowance rates jointly with the committee under Section 13(5) risks infringing on SRC's constitutional independence and replacing its advisory role with a co-decision-making arrangement.</p> <ul style="list-style-type: none"> • We further note that Subparagraphs (2) and (3)—relating to transparency, eligibility criteria, grievance redress, equitable access, and monitoring impact—fall within TSC's human resource management mandate under Article 237 and the Teachers Service Commission Act, and could be provided for through regulations or policy without conflicting with SRC's role.
			Teachers Service Commission	<p>1. Delete the proposal in its entirety</p> <p>Justification:</p> <p>The payment of allowances is not only the Constitutional mandate of the Commission but also a Statutory duty under the Employment Act. Further Part VIII of the CORT provides for the payment of various allowances to teachers. Therefore, it is the Commission's view that the allowances have been adequately provided in the Regulations hence, the proposed amendments will lead to duplicity.</p> <ul style="list-style-type: none"> • Refer to response to Office of the Attorney General in clause 2.

	<p>(b) is relieved of administrative duties; or</p> <p>(c) attains the grade for the post in which the teacher was acting.</p> <p>(3) The Commission shall from time to time determine and review the payment of special duty allowance depending on the availability of qualified teachers to take up administrative posts and teachers in arid and semi-arid lands.</p>		<p>Kenya Union of Post Primary Education Teachers</p>	<ol style="list-style-type: none"> 1. Amend Paragraph (e) on Responsibility Allowance by inserting “<i>appointed into positions of responsibility</i>” 2. Amend Paragraph (f) on Special School Allowance by inserting “<i>or who is teaching in a special school or integrated school</i>” 3. Delete clause (2) – A teacher entitled to special school allowance shall claim the payment of the allowance in writing through the head of institution 4. Amend Paragraph (h) on Leave Allowance by inserting; “<i>the rate of one month’s basic salary applicable at the teacher’s current salary scale</i>” 5. Amend Paragraph (i) on Transfer Allowance by inserting “<i>within one month of the transfer</i>” <p>Justification: This will ensure fairness and equity in salary determination and allowance.</p> <p>We note that best practice in public service administration, jurisdictions such as South Africa and the United Kingdom provide for payment of transfer or relocation allowances within fixed periods, often 30 days, after assumption of duty, to protect employees from undue financial hardship. In Kenya, the principle is supported by Article 41 of the Constitution on fair labour</p>
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				<p>practices, the Employment Act, Cap. 226 requiring timely payment of remuneration, and Article 201 on prudent use of public funds. Embedding timelines for transfer allowance in law would mirror international standards that emphasise predictability and efficiency in employee relocation benefits.</p> <p>6. <i>Amend to insert new clause—</i></p> <p><i>“(j) The Commission shall from time to time pay an acting allowance to a teacher appointed to perform administrative duties for which the teacher qualifies but has not been substantively appointed.</i></p> <ul style="list-style-type: none"> • We note that this is already provided for under an acting allowance. <p><i>(k) Per Diem/Subsistence allowance The Commission shall from time to time pay a daily subsistence or per diem to a teacher who is assigned to perform an official duty outside the teacher’s work station at the prevailing rate for public servants as determined by the Salaries and Remuneration Commission;</i></p> <ul style="list-style-type: none"> • We note that payment of a daily subsistence or per diem allowance to a teacher assigned official duty outside their work station is already provided for under the Teachers Service Commission Human Resource Policies and Procedures Manual and aligned to the prevailing public service rates as determined by the SRC in accordance with Article 230 of the Constitution. This is a
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				<p>standard facilitative allowance in the public service and is not a contentious benefit, as it is intended to reimburse expenses incurred while on official duty rather than confer an additional remuneration benefit.</p> <p><i>(l) Risk Allowance</i> The Commission shall from time to time pay a risk allowance to science teachers who handle laboratory chemicals in the course of their duty;--</p> <p><i>(m) Post-Graduate Allowance</i> The Commission shall from time to time pay post-graduate allowance to teachers who have attained a Master's and PhD Degree while in-service;”</p> <ul style="list-style-type: none"> • We note that the constitutional mandate of SRC-Article 230(4) of the Constitution vests the Salaries and Remuneration Commission (SRC) with exclusive authority to set and review remuneration and benefits for State officers, and to advise on the same for other public officers, including teachers. The SRC has not set or approved a risk allowance, postgraduate allowance for teachers. That the binding role of SRC Advice on TSC under Article 237(2) of the Constitution and the TSC Act the Teachers Service Commission (TSC) can only set or adjust remuneration for teachers in line with SRC advice. Without SRC's approval, TSC is legally barred from creating or paying
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				<p>such an allowance. Further Public Finance Law Constraints-Article 201 of the Constitution and the Public Finance Management Act require public funds to be used lawfully. Paying a postgraduate allowance without legal provision would amount to irregular and unlawful expenditure, attracting audit queries and possible surcharge of responsible officers. Existing Remuneration Structures-Current teacher pay structures and grading (as per SRC-approved salary scales) already integrate qualification-based progression through job groups. Any additional allowance for postgraduate qualifications would duplicate benefits already factored into the salary structure. Risk of Policy and Budgetary Disruption-Introducing an unapproved postgraduate allowance could create precedent pressure from other public service cadres, leading to wage bill escalation and undermining SRC's harmonization role.</p>
			<p>Kenya National Union of Teachers</p>	<p>1. Amend the provision E of the schedule to read; <i>“The commission shall pay Responsibility Allowance to a head of institution, deputy head of institution and senior teacher who are in the job group C5 and below”</i></p> <ul style="list-style-type: none"> • We note that what is commonly referred to as Responsibility Allowance for heads of

				<p>institutions, deputy heads, and senior teachers in job group C5 and below is currently covered under the Special Duty Allowance as provided in the TSC Human Resource Policies and Procedures Manual and aligned to SRC's approved allowances framework. This means the proposed amendment would essentially be duplicating an allowance that is already recognised and provided for administratively, and which is not contentious because it has SRC approval under Article 230 of the Constitution.</p>
			Kenya Secondary Schools Heads Association	1. Supports the proposal.
			Elimu Bora Working Group	<p>1. Provide an amendment by inserting the following—</p> <p>(1) The Commission shall, in the absence of teachers with requisite qualifications for the particular duties in a school, pay special duty allowance to teachers-</p> <p>a) Appointed to perform administrative duties which are not commensurate to the teachers' grades; or</p> <p>b) Who are stationed in arid and semi-arid areas.</p> <p>(1A) The Commission shall pay Special Duty Allowance to any other teacher appointed in an</p>

				<p>acting capacity in accordance with section 32A <i>(NOTE: a teacher with requisite qualifications but without prior appointment to the job group--- during pendency of the consideration)</i></p> <p>Justification: Automatic qualification should be adopted so that at every given moment, there exists teachers with the requisite qualifications for the desired position.</p> <ul style="list-style-type: none"> • Refer to clause 3 response to Kenya National Union of Teachers.
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PROPOSALS FOR NEW CLAUSES

1. Institute of Human Resource Management.

(a) Section 47 (Regulations)-Not subject of the Bill.

Proposal: Amend section 47 (1) of CAP. 212 to include:

“(m) prescribing the criteria, procedures, and periodic review mechanisms for the payment of allowances under the Fourth Schedule;

(n) establishing procedures for the selection, duration, compensation, and oversight of acting appointments under section 32A.”

Justification: We note that Regulations provide a legal basis for implementing the Bill’s provisions, ensuring consistency and compliance with HR standards. Clear criteria and oversight mechanisms for allowances and acting appointments enhance transparency and fairness, aligning with Article 237 of the Constitution, which mandates the Commission to

(b) Section 13 (Committees of the Commission)- Not subject of the Bill-This is however provided for under section 4 of the Teachers Service Commission Act.

Proposal: Amend Section 13(2) of CAP. 212 to include:

“(2A) The committee responsible for appointments and promotions shall oversee the implementation of acting appointments under section 32A and the administration of allowances under the Fourth Schedule, ensuring compliance with prescribed policies and reporting annually to the Commission.”

Justification: We note that assigning oversight to a committee ensures accountability in managing acting appointments and allowances, reducing risks of favouritism or mismanagement. Annual reporting aligns with HR governance principles and Article 254 of the Constitution, which requires the Commission to report on its functions, enhancing public trust.

National News

Bad bet Lawmakers expressed concern over the numerous cases of students gambling with their school fees

MPs move to tame gambling frenzy

House team to present report on the operations of betting and gaming firms next Thursday



Gilgil MP Martha Wangari. FILE NATION

SAMWEL OWINO

The National Assembly has launched investigations into the operations of betting and gaming companies in the country in a bid to curb the vice that has taken a toll on the nation's youth.

The National Assembly Committee on Finance and National Planning is expected to present a report on the operations of the betting and gaming companies next Thursday, with lawmakers demanding critical details of their activities.

Speaker of the National Assembly, Moses Wetang'ula, directed the committee, chaired by Molo MP Kimani Kuria, to submit its report next week on the betting craze, which he regretted had adversely affected many people

across the country.

"I know people who have been affected by this betting. The committee should endeavour to table a report in this House on Thursday next week," Mr Wetang'ula said.

The issue was raised by Gilgil MP Martha Wangari, who specifically mentioned a betting game known as Aviator, which she said was being heavily advertised on

one of the popular local radio stations.

Ms Wangari stated that Aviator gambling has been widely promoted in the local media and is now strangling the livelihoods of families in both rural and urban areas.

The lawmaker noted that while the practice is particularly popular among young people, both men and women are also deep-

THE NUMBERS Gun on bookmakers

Data from KRA indicates that in the eight months to March this year, the authority collected Sh12 billion in taxes from betting companies. Statistics show that Kenyans spent Sh766 billion on betting last year - an average of Sh2.1 billion a day, or over Sh24,000 every second.

the youth and has left many of them destitute," she said.

MPs expressed concern that gaming activities hyped on local TV stations promise instant winnings with minimal effort, and that one does not need any knowledge of football or any team to participate in the game.

As part of the Finance Committee's investigations, lawmakers now want the government to clarify the legal status of Aviator gambling in Kenya, the taxes and revenues collected from all betting and gaming activities, and to provide statistics through the Ministry of Planning on how much Kenyans spend annually on such activities.

Additionally, the committee will inform the House of the measures being taken by the Betting Control and Licensing Board to regulate the proliferation of advertisements - across audio, visual, and print media - related to Aviator and other betting games.

The Betting Control and Licensing Board is also expected to provide the Finance Committee with information on all ongoing and completed disciplinary cas-

es involving errant betting and gaming companies and media outlets over the past year.

This move to rein in the country's betting craze comes at a time when data shows a growing number of Kenyans are deeply engaged in gambling.

According to a GeoPoll report titled Betting in Africa 2024, 83 per cent of Kenyans surveyed admitted to having placed a bet.

Currently, the betting industry is subject to an excise tax of 15 per cent on stakes, a withholding tax of 20 per cent on net winnings, and a betting and gaming tax of 50 per cent.

Betting companies are taxed on gross gaming revenue (i.e. turnover less winnings paid out), in addition to paying corporation tax on profits.

Data from the Kenya Revenue Authority (KRA) indicates that in the eight months to March this year, the authority collected Sh12 billion in taxes from betting companies.

Statistics show that Kenyans spent Sh766 billion on betting last year - an average of Sh2.1 billion a day, or over Sh24,000 every second.

ly involved.

Lawmakers expressed concern over the numerous cases of students gambling with their school fees and parents depleting their savings to participate. Ms Wangari added that there has been a surge in the registration of gambling companies in the country recently, with advertisements frequently aired on mainstream media during prime time.

"This game of chance called Aviator, in which a virtual plane flies and carries odds for the players, has become addictive among



THIRTEENTH PARLIAMENT - FOURTH SESSION (2025)
THE NATIONAL ASSEMBLY

IN THE MATTER OF ARTICLE 118 (1)(b) OF THE CONSTITUTION

AND

IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF THE PYRETHRUM (REPEAL) BILL (NATIONAL ASSEMBLY BILLS NO. 40 OF 2024)

INVITATION TO SUBMIT MEMORANDA

WHEREAS, Article 118(1)(b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees, and National Assembly Standing Order 127(3) requires House Committees considering Bills to facilitate public participation;

AND WHEREAS, the Pyrethrum (Repeal) Bill (National Assembly Bill No. 40 of 2024) was read a First Time on Tuesday, 8th April, 2025 and thereafter referred to the Departmental Committee on Agriculture and Livestock for consideration and reporting to the House.

IT IS NOTIFIED that the Pyrethrum (Repeal) Bill (National Assembly Bills No. 40 of 2024) is sponsored by the Leader of the Majority Party and seeks to repeal the Pyrethrum Act, Cap. 340 that is inconsistent with the harmonization of the regulation of scheduled crops under one legislative framework in the Crops Act, Cap. 318. The repeal of the Pyrethrum Act (Cap. 340) shall address the conflict between the Act and the provisions of the Crops Act, Cap. 318.

NOW THEREFORE, in compliance with Article 118(1)(b) of the Constitution and National Assembly Standing Order 127(3), the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on the Bill to the Departmental Committee on Agriculture and Livestock.

A copy of the Bill is available at the National Assembly Table Office, Main Parliament Building, and on www.parliament.go.ke/the-national-assembly/house-business/bills.

The memoranda may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Building, Nairobi; or emailed to cna@parliament.go.ke to be received on or before Friday, 9th May, 2025 at 5.00p.m.

S. NJOROGE, CBS
CLERK OF THE NATIONAL ASSEMBLY
18th April, 2025



THIRTEENTH PARLIAMENT - FOURTH SESSION (2025)
THE NATIONAL ASSEMBLY

IN THE MATTER OF ARTICLE 118 (1)(b) OF THE CONSTITUTION

AND

IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF:

1. THE TEACHERS SERVICE COMMISSION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 27 OF 2024); AND
2. THE KENYA ROADS (AMENDMENT) (NO. 2) BILL (NATIONAL ASSEMBLY BILL NO. 16 OF 2025).

INVITATION TO SUBMIT MEMORANDA

WHEREAS, Article 118(1)(b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees and Standing Order 127(3) of the National Assembly Standing Orders requires House Committees considering Bills to facilitate public participation;

AND WHEREAS, the Teachers Service Commission (Amendment) Bill (National Assembly Bill No. 27 of 2024) and the Kenya Roads (Amendment) (No. 2) Bill (National Assembly Bill No. 16 of 2025) have been read a First Time and referred to the relevant Departmental Committees for consideration and reporting back to the House;

IT IS NOTIFIED that-

- (1) The Teachers Service Commission (Amendment) Bill (National Assembly Bill No. 27 of 2024) is a Bill sponsored by Hon. Abdul Haro, MP that seeks to amend the Teachers Service Commission Act, Cap. 212 to provide for predictability and certainty in the management of allowances in the teaching profession and to entrench fairness in career progression for teachers.
- (2) The Kenya Roads (Amendment) (No. 2) Bill (National Assembly Bill No. 16 of 2025) is a Bill sponsored by the Leader of Majority Party that seeks to amend section 13 of the Kenya Roads Act, Cap. 408, to align the Act with the Mwongozo Code of governance for State Corporations by limiting the term of office of the Director General of each roads agency to a period of three years, renewable once.

NOW THEREFORE, in compliance with Article 118(1)(b) of the Constitution and National Assembly Standing Order 127(3), the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on the Bills to the respective Departmental Committees as listed below-

NO.	BILL	COMMITTEE
1.	The Teachers Service Commission (Amendment) Bill (National Assembly Bill No. 27 of 2024)	Education
2.	The Kenya Roads (Amendment) (No. 2) Bill (National Assembly Bill No. 16 of 2025)	Transport and Infrastructure

Copies of the Bills are available at the National Assembly Table Office, Main Parliament Building, and on www.parliament.go.ke/the-national-assembly/house-business/bills.

The memoranda may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Building, Nairobi; or emailed to cna@parliament.go.ke to be received on or before Friday, 9th May, 2025 at 5.00p.m.

S. NJOROGE, CBS
CLERK OF THE NATIONAL ASSEMBLY
18th April, 2025



**THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK**

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: **NA/DDC/EDU/2025/(073)**

23rd May, 2025

Hon. Dorcas Oduor, OGW, EBS

The Attorney-General of the Republic of Kenya,
Sheria House, Harambee Avenue,
NAIROBI

FCPA Nancy Gathungu, CBS

Auditor General of the Republic of Kenya
Anniversary Towers, 3rd Floor, University Way
P.O. Box 30084-00100

NAIROBI

✓ **Amb. Prof. Julius Kibet Bitok, PhD., CBS**

Principal Secretary
State of Department of Basic Education
Ministry of Education
Jogoo House, Harambee Avenue

NAIROBI

Dr. Chris K. Kiptoo, PhD, CBS

The Principal Secretary
The National Treasury
Harambee Avenue, Treasury Building
P.O. Box 30007-00100

NAIROBI

Dr. Nancy Macharia, CBS

Chief Executive Officer /Secretary
Teachers Service Commission
TSC House, Upper Hill

NAIROBI

Mr. Paul Famba, MBS

Chief Executive Officer/Commission Secretary
Public Service Commission
Commission House,
Harambee Avenue

NAIROBI

Dr. Anne R. Gitau, PhD, EBS, MBS, CHRP
Chief Executive Officer/Commission Secretary
Salaries and Remuneration Commission
Williamson House 6th Floor, 4th Ngong Avenue
NAIROBI

Mr. Collins Henry Oyuu
Secretary General
Kenya National Union of Teachers (KNUT)
KNUT House Mfangano Street
NAIROBI

Mr Akelo M.T Misori
Secretary General
Kenya Union of Post-Primary Education Teachers (KUPPET)
NextGen Mall, 2nd Floor, Mombasa Road
NAIROBI

CHRP Quresha Abdullahi
Executive Director
Institute of Human Resource Management (IHRM)
Prism Towers, 24th Floor, Third Ngong Ave
NAIROBI

Dear *Nadom,*

RE: INVITATION TO SUBMIT COMMENTS ON THE TEACHERS SERVICE COMMISSION (AMENDMENT) BILL, 2024 (NATIONAL ASSEMBLY BILL NO. 27 OF 2024)

The Departmental Committee on Education is established pursuant to Standing Order 216 of the National Assembly and is mandated, inter alia, to study and review all legislation referred to it.

The Teachers Service Commission (Amendment) Bill (National Assembly Bill No. 27 of 2024), sponsored by Hon. Abdul Haro, MP, is currently under consideration by the Committee for review and reporting back to the House. The Bill seeks to amend the Teachers Service Commission Act (Cap. 212) to provide for additional allowances beyond the basic pay for teachers, ensure fairness and structure in acting appointments, and promote predictability and certainty in managing allowances within the teaching profession.

Pursuant to Article 118(1)(b) of the Constitution and Standing Order 127(3) of the National Assembly Standing Orders, Parliament is required to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees. In line with this requirement, the Committee placed a public notice in the local dailies on 18th April 2025.

Owing to the critical importance of the Bill to the education sector, the Committee has resolved to engage stakeholders through in-person meetings to deliberate on the Bill. You are therefore requested to send your representative to attend the scheduled meeting on **Thursday, 29th May 2025 from 10:00 am**. at a venue to be communicated in due course.

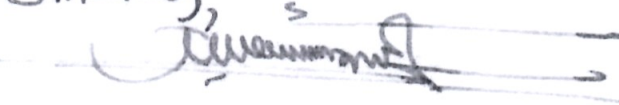
You are kindly requested to prepare and present your written submissions in a matrix format, clearly indicating the Section of the Act; specific clause in the Bill; proposed amendment; and the justification for amendment.

Please avail twenty (20) hard copies of your submissions at the meeting. A soft copy should also be submitted in advance to the Office of the Clerk, Main Parliament Building, or emailed to: cna@parliament.go.ke. Physical copies of the Bill are available at the Table Office, Main Parliament Building, while an electronic version can be accessed via the Parliament website at: www.parliament.go.ke/the-national-assembly/house-bills.

Your valued input will be instrumental in enriching the legislative process and ensuring the Bill reflects the needs and aspirations of the teaching profession

Our liaison officers for this activity are **Mr. Douglas Katho**, Tel No. **0722333145** or email: douglaskatho@gmail.com; and **Mr. Clive Onyancha**, Tel. No. **0725993500** or email: clive.onyancha@parliament.go.ke.

Yours

Sincerely,


Samuel Njoroge, CBS
CLERK OF THE NATIONAL ASSEMBLY



REPUBLIC OF KENYA

OFFICE OF THE ATTORNEY-GENERAL
&
DEPARTMENT OF JUSTICE

Mr. Katto
pls TWA
Aware
H/25

D/DC
Please deal
03/06/25

Our Ref: AG/LDD/478/1/6

28th May, 2025

Samuel Njoroge, CBS
Clerk of the National Assembly
Clerk's Chambers
Parliament Buildings
P. O. Box 41842-00100
NAIROBI.

Abenayo Wasike
pls deal
4/6/25



RE: INVITATION TO SUBMIT COMMENTS ON THE TEACHERS SERVICE COMMISSION (AMENDMENT) BILL, 2024, (NATIONAL ASSEMBLY BILL NO. 27 OF 2024)

We make reference to your letter dated the 23rd May, 2025, under Ref. NA/DDC/EDU/2025/(073) requesting for the comments on the above captioned Bill.

We have reviewed the Bill and our views on the specific clauses are as follows—

Clause 2 of the Bill proposes the Teachers Service Commission to pay allowances to teachers in the manner set out in the proposed Fourth Schedule in consultation with the Salaries and Remuneration Commission. The allowances proposed include house allowance, commuter allowance, hardship allowance, special duty allowance, responsibility allowance, special school allowance, reader's facilitation or aid allowance, leave allowance and transfer allowance.

Section 37 of the Teachers Service Commission Act, Cap. 212, states that the registered teachers recruited by the Commission shall serve under such terms and conditions as the Committee established under section 13(5) of the Act may, in consultation with the Salaries and Remuneration Commission, determine.

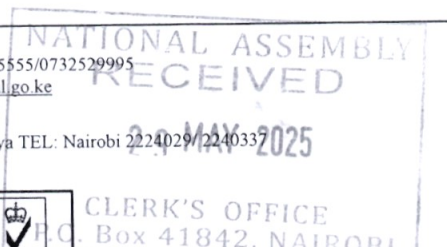
Section 13(5) of the Teachers Service Commission Act provides as follows—

"(5) In addition to the committees established under subsection (1), the Commission shall constitute a consultative committee on the terms and conditions of service of registered teachers employed by the Commission."



SHERIA HOUSE, HARAMBEE AVENUE
P.O. Box 40112-00100, NAIROBI, KENYA. TEL: +254 20 2227461/2251355/07119445555/0732529995
E-MAIL: info.statelawoffice@kenya.go.ke WEBSITE: www.attorney-general.go.ke

DEPARTMENT OF JUSTICE
CO-OPERATIVE BANK HOUSE, HAILLE SELLASIE AVENUE P.O. Box 56057-00200, Nairobi-Kenya TEL: Nairobi 2224029/2240337
E-MAIL: legal@justice.go.ke WEBSITE: www.justice.go.ke



The allowances that may be granted to teachers as listed in the proposed Fourth Schedule are already provided for by Part VIII of the Teachers Service Commission Code of Regulations for Teachers, 2015, which lists all the allowances payable to teachers which include house allowance, commuter allowance, hardship allowance, special duty allowance, responsibility allowance, special school allowance, reader's facilitation or aid allowance, leave allowance, transfer allowance and subsistence allowance.

It is our considered view that the clause proposes to address issues that have been comprehensively addressed in the Teachers Service Commission Act, the Teachers Service Commission Code of Regulations, 2015, and Teachers Career Progression Guidelines.

Clause 3 of the Bill seeks to provide for the appointment of a teacher in an acting capacity and the payment of a special duty allowance.

Regulation 92 of the Teachers Service Commission Code of Regulations for Teachers, 2015, provides that the Commission shall, in the absence of qualified teachers, pay special duty allowance to teachers appointed to perform administrative duties which are not commensurate to the teachers' grades and who are stationed in arid and semi-arid lands.

It's our considered view that this clause seeks to address issues that have been comprehensively addressed in the Teachers Service Commission Act, the Teachers Service Commission Code of Regulations, 2015, and Teachers Career Progression Guidelines.

Conclusion

From the foregoing, the issues that the Bill seeks to address have been comprehensively provided for in the Teachers Service Commission Act, Cap. 212, the Teachers Service Commission Code of Regulations, 2015, and Teachers Career Progression Guidelines. Therefore, there is no need to provide for matters that have already been addressed in the existing legislative framework.

We trust this is in order.



DORCAS A. ODUOR, SC, OGW, EBS
ATTORNEY-GENERAL

TEACHERS SERVICE COMMISSION



**MEMORANDUM ON THE PROPOSED TEACHERS SERVICE COMMISSION
(AMENDMENT) BILL, 2024 SPONSORED BY HON. ABDUL HARO, MP**

MEMORANDUM ON THE ON THE PROPOSED TEACHERS SERVICE COMMISSION (AMENDMENT) BILL, 2024 SPONSORED BY HON. ABDUL HARO, MP

INTRODUCTION

- 1) The Teachers Service Commission (the Commission) is a Constitutional body established Article 237 of the Constitution. Its broad mandate is to regulate and manage the Country's teaching service. To efficiently facilitate the role and functions of the Commission, Parliament has enacted the Teachers Service Commission Act No. 20 of 2012 (the Act) that encapsulates appropriate provisions that enhance effective delivery of service. The key objective of the Act is to inter alia, provide for its composition; functions and powers; the qualification and procedure for appointment of members; and for connected purposes. The "connected purpose" in this regard relate to various Regulatory and teacher management strategies.
- 2) Section 48 of the Act has mandated the Commission to develop Regulations. Hence, the Code of Regulations for Teachers (hereinafter referred to as CORT) among other legal and Policy instruments including Administrative circulars and guidelines that are issued from time to time. The CORT has in turn prompted the formulation of relevant policy frameworks, guidelines and Administrative Circulars in the endeavor to leave no stone untouched in the implementation of the Commission's mandate.
- 3) **Responsibility Allowances**
Following the Job Evaluation conducted by the Commission and the Salaries and Remuneration Commission in 2016, Administrative positions in the teaching service were made "substantive". By so doing, the remuneration of these Officers were reviewed to reflect the net worth of their jobs.

As a result, all Institutional Administrators were placed in special salary scales in recognition of the additional responsibilities besides teaching that they undertake. To this end, "**Responsibility Allowance**" was scrapped following an advisory opinion of the Salaries and Remuneration Commission. We need not emphasize the binding nature of the SRC Advisory in this regard. According this allowance is no-longer payable in the teaching service.

- 4) Except for '**Leave Allowance**' the content of the Amendment appears to have been picked from the existing Regulations (TSC) CORT; now proposed and presented in the TSC Act. The Commission holds the position that; in any legal system, the laws exist and are packaged in a hierarchical order. In the Kenyan context, the Constitution is obviously the apex law effected through legislation of its enabling Acts/Statutes. An Act being a broader piece of legislation that outlines general principles and Rules of law. It is through a legislation or statute that subsidiary regulations are in turn formulated. Regulations (Subsidiary legislation) are, in this regard, a more specific set of Rules and requirements developed to ease and fully operationalize the spirit and tenor of a statute.

Of equal importance, are Policy frameworks and Administrative Guidelines that often precede or follow the stipulations of statute law. They are a set of principles, guidance or documents that facilitate the Institutional mandate.

- 5) Further, the Education and teaching sector is currently undergoing comprehensive reforms as proposed by the "**Presidential Working Party on Education Reforms**". Unquestionably, some of these reforms will involve the extensive review of the Teachers Service Commission Act and indeed, the relevant regulatory and Policy Frame works.

6) It is thus the Commission's considered position that all the legislative amendments proposed by the Hon. Member should await the expected law reforms in the Education and teaching sector. It is against this background that the Commission proffers its position on the proposed amendments on the TSC Act as hereunder.

MATRIX

S/N	CLAUSE	THE COMMISSION'S POSITION	RECOMMENDATIONS
1.	<p>Section 11 (fa): in consultation with the Salaries and Remuneration Commission facilitate payment of allowances to teachers in the manner set out in the Fourth Schedule.</p>	<p>The mandate of the Commission under Article 237 of the Constitution involves the remuneration/ compensation of its employees, specifically, the teachers engaged in public service. This right is reiterated under Part VII and VIII of the Code of Regulations for Teachers.</p> <p>It is noteworthy that this is a right given by the Employment Act to all employers in Kenya. The role of the Commission in remunerating its Employees is complimented by the Salaries and Remuneration Commission whose Constitutional mandate is to advise the national government on remuneration and benefits of State and public officers.</p> <p>To this end, it is the Commission's view that the proposed amendment is unnecessary.</p>	<p>To be deleted.</p>

2.	Section 32A (1) (2) (3) and (4)	<p>Article 237 of the Constitution empowers the Commission to inter-alia recruit and employ registered teachers. This function is entrenched in Part V of the Code of Regulations for Teachers.</p> <p>The Code provides for different forms of employment for instance, the contractual terms of engagement or permanent and Pensionable terms. It is noteworthy that the regulations thereunder were drafted and endorsed within the parameters of the Employment Act and received the approval of Parliament.</p> <p>Regarding subsection (4) on the issue of special duty allowance, Regulation 92 of the Code, already provided that teachers appointed inter-alia to perform administrative duties in an acting capacity to special duty allowance.</p> <p>It is the Commission's view that the proposed amendment shall amount to duplicity hence unnecessary in the circumstances.</p>	The be deleted.
3.	Fourth Schedule (a) (b) (c) (d) (e) (f) (g) (h).	<p>The Commission takes the view that Payment of allowances is not only the Constitutional mandate of the Commission but also a Statutory duty/role under the Employment Act.</p> <p>It is against this background that under Part VIII of the CORT the</p>	To be deleted in its entirety.

provides for the payment of various allowances to teachers. The Allowances include; **house allowance, Commuter allowance, hardship allowance, special duty allowance, special school allowance, reader's facilitation or aid allowance and transfer allowance.**

With regards to leave allowance, **Regulation 109** of the CORT, entitles all employed teachers a maximum of thirty (30) days leave with full pay in respect of each calendar worked irrespective of the terms and conditions of service.

It is the Commission's view that the allowances have already been adequately provided in the Regulations hence, the proposed amendments will lead to duplicity.



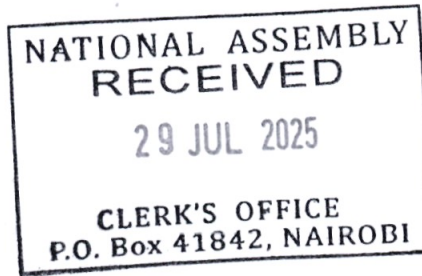
Salaries & Remuneration
Commission
Rewarding productivity

DDC
8
29/7/25

Abenayo Wasike
to process
in my
30/7/25
25th July, 2025

Ref. No: SRC/TS/8 VOL.II(48)

Mr. Samuel Njoroge, CBS
Clerk of the National Assembly
National Assembly
Parliament Buildings
P.O Box 41842- 00100
NAIROBI



Mr. Katho
pls TWA
Aware
30/7/25

Dear Mr. Njoroge,

MEMORANDUM ON TEACHERS SERVICE COMMISSION AMENDMENT BILL, 2024

Reference is made to the captioned Bill.

The Salaries and Remuneration Commission (SRC) has reviewed the Teachers Service Commission Amendment Bill, 2024 and notes that the principal object of the Bill is to amend the Teachers Service Commission Act No. 20 of 2012 in order to provide for various allowances that the Teachers Service Commission (TSC) may pay to teachers over and above their basic pay. The Bill further seeks to entrench fairness in acting positions under the Teachers Service Commission so that TSC confers acting appointments in a structured manner.

SRC has examined the Bill and wishes to submit its views as indicated below:

A. SRC's views on the proposed amendments

a) Constitutional and legal framework

1. Article 230 (4) (b) of the Constitution mandates SRC to advise the national and county governments on the remuneration and benefits for all other public officers. The Supreme Court in **S.C Petition E024 of 2024 NHIF -vs- KUCFAW & Anor**, held that SRC's advice under Article 230 (4) (b) of the Constitution is binding.
2. Pursuant to this mandate, SRC has advised TSC on the remuneration and benefits, including allowances, for all teachers. This advice, therefore, is binding on TSC unless reviewed by the Commission.
3. We note, however, that, majority of the allowances enumerated in the proposed Bill, together with their proposed administration mechanisms, eligibility criteria, and

nomenclature, in various instances deviate from and contradict either the prevailing SRC's advice, statute provisions or government policy as enumerated below:

Bill proposal	Existing SRC advice or Existing legislation	Analysis
<p>House allowance</p> <p>(1) The Commission shall pay house allowance to every teacher in its employment at a rate determined by the Commission from time to time.</p>	<p>SRC has advised the national and county governments on harmonized house allowance rates applicable to the public service.</p> <p>Vide letter dated 17th June, 2021, SRC advised TSC to retain the current rates of house allowance as provided in SRC Circulars.</p>	<p>The Bill empowers TSC to determine house allowance rates, disregarding the harmonized public service structure advised by SRC. This undermines uniformity, fiscal equity, and centralized wage control as envisioned under Article 230.</p>
<p>Commuter allowance</p> <p>(1) The Commission shall determine and pay commuter allowance to a teacher under its employment.</p>	<p>Vide letter dated 17th June, 2021, SRC advised TSC to retain current rates of Commuter allowance which is harmonized with the rates applicable in the civil service.</p>	<p>The proposed amendment detaches the allowance from the harmonized framework, fragmenting public sector pay structure. It disregards SRC's constitutional mandate and promotes sectoral inconsistency.</p>
<p>Hardship allowance</p> <p>The Commission shall at a determined rate, pay hardship allowance to a teacher assigned to teach in a school situated in a designated and gazette hardship area.</p>	<p>Vide letter dated 17th June, 2021, SRC advised TSC to retain current rates of Hardship allowance awaiting conclusion of a survey to re-designate hardship areas in the country.</p>	<p>The Bill preempts SRC's pending review process and authorizes unilateral rate-setting by TSC, violating the coordinated management envisioned under Article 230.</p>
<p>Special duty allowance</p> <p>(1) The Commission, shall, in the absence of qualified teachers, pay special duty allowance to teachers-</p> <p>a) appointed to perform administrative duties which are not commensurate to the teachers' grades; or</p> <p>b) who are stationed in arid and semi-arid lands.</p>	<p>Vide letter dated 11th July, 2023, SRC advised TSC on payment of Special duty allowance as follows:</p> <p>"SRC advises that officers who are called upon to perform duties of a higher post, but do not possess the necessary qualifications for appointment to that post, should be paid Special Duty Allowance at the rate of</p>	<p>The Bill overextends the scope and eligibility for this allowance without adherence to SRC's conditional framework. It allows broader discretion than permitted, contravening binding advice and creating risk of abuse and fiscal strain.</p>

fifteen percent (15%) of the officer's basic salary for a period of up to a maximum of six months.

SRC further advises TSC as follows:

- i. Officers performing duties of a higher post under this provision shall be eligible for travelling privileges, accommodation allowance, subsistence allowance or an extraneous allowance and entertainment allowance as applicable. However, such officers shall not qualify for house allowance or other remunerative allowances applicable to the higher post.
- ii. It is advised that TSC does not include the Special Duty Allowance in the Collective Bargaining Agreement for the Teaching Service.
- iii. TSC to develop internal guidelines

	to operationalize implementation of the Special Duty Allowance for the Teaching Service.	
<p>Responsibility allowance</p> <p>(1) The Commission shall pay Responsibility Allowance to a head of institution, deputy head of institution and Senior teacher who are in job group 'K' and below.</p> <p>(2) Responsibility allowance shall be pensionable only where a teacher receives the allowance on the day immediately before retirement.</p> <p>(3) The commission shall stop payment of Responsibility allowance to a teacher where the teacher ceases to perform administrative responsibilities.</p>	<p>SRC has not advised TSC on payment of special duty allowance.</p> <p>In addition, the proposal to include Responsibility allowance as part of pensionable pay is contrary to the Public Service Superannuation Scheme Act which defines the term "pensionable emoluments as follows:</p> <p>"pensionable emoluments" means the annual basic salary as determined by the Government and does not include allowances or any special remuneration, honorarium or other fluctuating emoluments received by the member.</p>	<p>The proposal introduces a new benefit outside SRC's approval, and attempts to make it pensionable contrary to statute. It violates both SRC's constitutional role and prevailing pension law, risking legal invalidity.</p>
<p>Special school allowance</p> <p>(1) The Commission shall from time to time determine—</p> <p>(a) Pay special school allowance to a teacher who possesses skills in special education and who is assigned to a special school or special unit; and</p> <p>(b) Determine the rate of payment of special school allowance under this regulation.</p>	<p>Vide letter dated 17th June, 2021, SRC advised TSC not to introduce special school allowance since special schools education teachers jobs were evaluated and upgraded by one grade, upon conclusion of the job evaluation exercise conducted in 2021.</p>	<p>The proposal ignores SP's prior job evaluation outcomes and introduces an allowance previously rejected. This bypasses due process, undermines pay equity, and contradicts SRC's job-based compensation framework.</p>

<p>(2) A teacher entitled to special school allowance shall claim the payment of the allowance in writing through the head of institution.</p> <p>(3) The Commission shall stop payment of special school allowance to a teacher who ceases to perform duties in a special school.</p>		
<p>Reader's facilitation or aid allowance</p> <p>The Commission shall determine and pay a Reader's facilitation or aid allowance to a teacher who is blind, deaf, dumb or with physical disabilities, as certified by the National Council of Persons with Disabilities indicating the extent of the disability or any written law.</p>	<p>Vide letter dated 17th June, 2021, SRC advised TSC on payment of a Disability and Guide Allowance at rates which are in accordance with SRC's Circular of 26th August, 2019.</p>	<p>The Bill duplicates an existing allowance under a new name and grants TSC discretion to set rates, bypassing SRC's centralized policy. This creates risk of double payment and naming inconsistency.</p>
<p>Leave allowance</p> <p>The Commission shall pay annual leave allowance to teachers on its payroll at rates to be determined by the Commission.</p>	<p>Vide letter dated 17th June, 2021, SRC advised TSC to retain current rates until advised otherwise by SRC</p>	<p>The proposal enables unilateral adjustment by TSC without SRC concurrence, contrary to the harmonized system and binding advisory framework under Article 230.</p>
<p>Transfer allowance</p>	<p>Vide letter dated 17th June, 2021, SRC advised TSC to retain transfer allowance as an absolute figure of one month basic salary obtaining as at June, 2021.</p>	<p>The Bill fails to codify the existing SRC-approved rate and opens the door to discretionary or inconsistent implementation by TSC, eroding harmonization and transparency.</p>

b) Operational and administrative concerns

4. By embedding teacher allowances directly into legislation, the Bill effectively usurps SRC's constitutional mandate under Article 230 (4) (b) of the Constitution, which specifically empowers the Commission to advise the national and county governments on the remuneration and benefits for all other public officers, including teachers. This legislative approach circumvents the established constitutional framework for determining public sector remuneration and undermines SRC's independence and authority in executing one of its core constitutional functions. Such a precedent could potentially erode the centralized remuneration advisory system envisioned under the Constitution and create inconsistencies in public sector compensation structures across different cadres of public officers.

5. The proposed amendments, while well-intentioned, have the effect of introducing unnecessary rigidity into what should remain flexible administrative processes which TSC may best address through policy directives, circulars, and administrative guidelines without the need for statutory amendments. By embedding such operational details in primary legislation, it may inadvertently constrain TSC's ability to adapt these provisions to changing circumstances and emerging needs.
6. We are of the further considered view, that, the substantive issues proposed to be addressed by the TSC Amendment Bill, 2024 do not necessitate legislative intervention but can be more effectively and efficiently managed administratively through existing Human Resource Policy frameworks and Mechanisms.

The purpose of this letter therefore, is to submit the SRC's views in opposition to the proposed amendments as set out in the Teachers Service Commission Amendment Bill, 2024 for your consideration.

The Commission appreciates your continued cooperation and support as we discharge our respective mandates.

Yours


CPA Margaret Njoka
AG. COMMISSION SECRETARY/CEO



REPUBLIC OF KENYA
THE NATIONAL TREASURY AND ECONOMIC PLANNING

Telegraphic Address: 22921
FINANCE – NAIROBI
Fax No. 315779
Telephone: 2252299

THE NATIONAL TREASURY
P.O. Box 30007 - 00100
NAIROBI
KENYA

When replying please quote

Ref: ES 1/014 'D' (68)

12th June, 2025

Mr. Samuel Njoroge, CBS

Clerk of the National Assembly
Parliament Building
NAIROBI

(1) D/DC
Please deal.
[Signature]
17/06/25

(2) Abenayo Wasike, HoD
Place before the Dept. Committee on Education
DM 17/06/2025

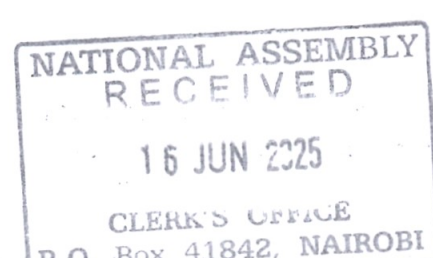
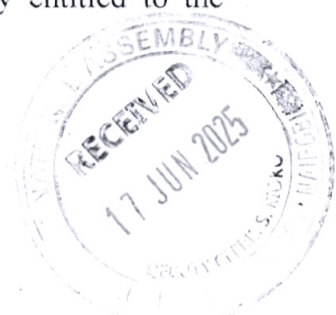
Dear *[Signature]*

RE: INVITATION TO SUBMIT COMMENTS ON THE TEACHERS SERVICE COMMISSION (AMENDMENT) BILL, 2024 (NATIONAL ASSEMBLY BILL NO. 27 OF 2024)

Reference is made to letter Ref. NA/DDC/EDU/2025/ (073) dated 23rd May, 2025 requesting for written submission on the Teachers Service Commission (Amendment) Bill, 2024 (National Assembly Bill No. 27 Of 2024).

After a thorough review of the proposed amendments in the Bill, the National Treasury wish to make the following observations:

- (i) **Objective of the Bill:** The objective of the Bill is to provide for additional allowances beyond the basic salary for teachers, ensure fairness and structure in acting appointments and promote predictability and certainty in managing allowances within the teaching profession;
- (ii) **Prevailing Allowances for Teachers:** Teachers are currently entitled to the following allowances on top of their Basic Salary:
 - House Allowance;
 - Commuter/Transport Allowance;
 - Hardship Allowance;
 - Acting/ Special Duty Allowance;
 - Leave Travel/Leave Allowance;
 - Transfer Allowance;
 - Special Salary/Special School Allowance; and
 - Disability Guide/ Readers Facilitation or Aid Allowance.




Douglas Kallho
pls bring to the
attention of the
Committee.

These allowances are already being paid to Teachers and therefore will not occasion any additional funding;

- (iii) **Proposed New Allowances:** The Bill seeks to introduce Responsibility Allowance to Heads, Deputy Heads and Senior Teachers of institutions. While we recognize the additional administrative responsibilities assumed in these positions, teachers are appointed to these roles/Job Groups on promotional basis and are appropriately compensated by adjustments in their Basic Salary and other applicable allowance. In cases where there are no substantive holders of those positions then the Special Duty/Acting Allowance should be applicable and therefore there is no proper justification for the new allowance;
- (iv) **Possible Conflict with Existing Laws:** Article 230 (4) of the Constitution of Kenya mandates the Salaries and Remuneration Commission (SRC) to advise on benefits and remuneration of all public officers. In view of this, the determination of any allowance payable to public officers should be implemented through recommendations by the SRC and not through a separate legislation as proposed in the Bill but rather by the Human Resource Instruments and Policies of the Commission; and
- (v) **Containment of Public Sector Wage Bill:** The public wage bill has over the years depicted an upward trend. In addition, the prevailing fiscal constraints have negatively impacted the ability of Government to provide critical services and implement its development agenda. In view of this, there is need to contain the escalation of additional allowances to ensure that public wage bill is affordable and guarantee fiscal sustainability.

In view of the foregoing, we recommend that the Bill should be amended to take into account the above-mentioned observations.

Yours

Sincerely


DR. CHRIS K. KIPTOO, CBS
PRINCIPAL SECRETARY/THE NATIONAL TREASURY



**KLRC COMMENTS ON THE PROPOSED TEACHERS SERVICE COMMISSION
(AMENDMENT) BILL, 2024 (NATIONAL ASSEMBLY BILL NO. 27 OF 2024) BY
HON ABDUL HARO**

Introduction

The Teachers Service Commission (Amendment) Bill, 2024 by Hon. Abdul Haro proposes to amend the Teachers Service Commission Act Cap. 212 to provide for various allowances that the Commission may pay to teachers over and above their basic pay. The Bill further makes provision for the appointment of teachers on acting capacity.

The Kenya Law Reform Commission has analyzed the proposed amendments and makes the following proposals.

COMMENTS ON THE BILL

STATUTE	SECTION/ PROPOSED AMENDMENT	KLRC PROPOSAL	RATIONALE
The Teachers Service Commission Act, No. 20 of 2012.	Section 11 By inserting new paragraph (fa) immediately after paragraph (f) to introduce schedule of allowances payable to registered teachers.	Not in agreement.	Article 237 of the Constitution establishes the Teachers Service Commission (TSC) with functions including recruiting and employing registered teachers. The salaries and allowances payable to teachers are determined by TSC in consultation with the Salaries and Remuneration Commission (SRC). In discharging its mandate, the SRC is guided by the constitutional principles set out in Article 230 (5) of the Constitution and section 12 of the SRC Act, 2011. The principles include the need to ensure that the total public

		<p>compensation bill is fiscally sustainable; the need to ensure that the public services are able to attract and retain the skills required to execute their functions; the need to recognise productivity and performance; and transparency and fairness.</p> <p>The SRC is further required under section 11 of the SRC Act, No. 10 of 2011 to inquire into and advise on the salaries and remuneration to be paid out of public funds, to keep under review all matters relating to the salaries and remuneration of public officers and to advise the national and county governments on the harmonization, equity and fairness of remuneration for the attraction and retention of requisite skills in the public sector.</p> <p>Section 37 (3) of the Teachers Service Commission Act provides that the registered teachers recruited by the Commission under Article 237(2)(b) of the Constitution shall serve under such terms and conditions as the Committee established under section 13 (5) of the Act in consultation with the Salaries and Remuneration Commission may determine.</p> <p>This Committee in section 13(2) Teachers Service Committee provides that the committee may deal with issues relating to recruitment, promotion, dispute resolution and discipline of registered teachers.</p> <p>This amendment is likely to oust the role of the SRC to advise the national and county governments on the remuneration and benefits of all public officers.</p>
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			Further, the Allowances Policy Guideline for the Public Sector issued by SRC in 2021 provides for the categorization of allowances to include house, commuter, job-related, task-related and labour market adjustment allowances. In addition to the proposed allowances in the Bill, these can be paid to teachers upon consultation with the SRC without resorting to amending the TSC Act.
	Section 32. Insertion of new section 32A immediately after section 32 to introduce appointment of teachers on acting capacity.	Not in agreement.	The appointment of a teacher to a position on acting capacity can be done administratively and may not require amendment to the Act. These teachers may be paid allowances as per the aforesaid Allowances Policy Guideline for the Public Sector issued by SRC in 2021 which provides for allowances paid for a temporary period to public officers appointed to carry out assignments outside the scope of their responsibilities.

Conclusion

The allowances to be paid to teachers can be determined by TSC in consultation with SRC without the same being set out in statute.

The amendment as proposed would infringe on the role of the Teachers Service Commission in the execution of its mandate in teacher management under Article 237 (2) (b) of the Constitution and the functions of the Salaries and Remuneration Commission as set out under Article 230 (4) (b) of the Constitution.

The SRC further issued Allowances Policy Guideline for the Public Sector in 2021 to streamline the management of allowances to improve transparency, accountability, equity and fairness of pay, pursuant to SRC's mandate, as set out in Article 230 (4) of the constitution, and in line with the principles provided in Article 230 (5) of the constitution. The guidelines address challenges associated with high administrative and management cost of processing allowances, and payment of allowances that lead to distortions in remuneration and violation of the principle of equal pay for work of equal value.

D/D C
Please deal.
[Signature]
29/05/25



Abenayo Wasike
pls deal
[Signature]
4/6/25

Mr. Katho
pls TNA
Aware
4/6/25

**KENYA UNION OF POST PRIMARY EDUCATION
TEACHERS**

(KUPPET)

**SUBMISSION TO THE NATIONAL ASSEMBLY
COMMITTEE ON EDUCATION AND RESEARCH
CONCERNING THE TSC ACT AMENDMENT BILL 2024**

NATIONAL ASSEMBLY
RECEIVED
29 MAY 2025
CLERK'S OFFICE
P.O. Box 41842, NAIROBI



**SUBMISSION OF COMMENTS ON THE TEACHERS SERVICE COMMISSION
(AMENDMENT) BILL, 2024 (NATIONAL ASSEMBLY BILL NO. 27 OF 2024)**

	Short title	Proposed amendments
1	Amend to include “after negotiations with the Unions shall”	<p>2. The Teachers Service Commission Act, in this Act referred to as the ‘Principal Act’ is amended in Section 11 by inserting the following new paragraph immediately after paragraph (f).</p> <p>(fa) “in consultation with the Salaries and Remuneration Commission and after negotiation with the unions shall facilitate payment of allowances to teachers in the manner set out in the Fourth Schedule.”</p>
2		<p>3. The Principal Act is amended by inserting the following new Section immediately after Section 32.</p> <p>32A. (1) The Commission may appoint a teacher in an acting capacity for a period of at least thirty days but not exceeding a period of six months. After the six months, the teacher shall be confirmed substantively into the position.</p>

3	Amend to include, “or acting allowance, whichever is applicable”	(4) A teacher appointed in an acting capacity shall be entitled to special duty allowance or acting allowance, whichever is applicable.
4		<p><u>FOURTH SCHEDULE</u></p> <p>(This part provides for allowances that may be granted to teachers in specified circumstances. The remunerative and reimbursable allowances are non-pensionable except responsibility allowance if earned up to an including the last date of retirement).</p>
5	Insert “ appointed into positions of responsibility”	<p>(e) Responsibility Allowance</p> <p>(1) The Commission shall pay Responsibility Allowance to a head of institution, deputy head of institution and senior teacher who are appointed into positions of responsibility.</p>
	Amend by inserting “ or who is teaching in a special school or integrated school”	<p>(f) Special School Allowance</p> <p>(1) The Commission shall from time to time –</p> <p>(a) pay special school allowance to a teacher who possesses skills in special education or who is teaching in a special school or integrated school.</p>

	Delete clause (2)	(2) A teacher entitled to special school allowance shall claim the payment of the allowance in writing through the head of institution.
	Amend by inserting, "the rate of one month's basic salary applicable at the teacher's current salary scale"	(h) Leave Allowance The Commission shall pay an annual leave allowance to teachers on its payroll at the rate of one month's basic salary applicable at the teacher's current Salary Scale.
	Amend by inserting, "within one month of the transfer"	(i) Transfer Allowance The Commission shall – (a) where at its discretion transfers a teacher from a sub-county to another or in inter-county transfer, pay transfer allowance to the teacher within one month of the transfer.
	Amend to Insert new clause	(j) Acting Allowance The Commission shall from time to time pay an acting allowance to a teacher appointed to perform administrative duties for which the teacher qualifies but has not been substantively appointed.
		(k) Per Diem/Subsistence Allowance

	Amend to Insert new clause	The Commission shall from time to time pay a daily subsistence or per diem to a teacher who is assigned to perform an official duty outside the teacher's work station at the prevailing rate for public servants as determined by the Salaries and Remuneration Commission.
	Amend to Insert new clause	(l) Risk Allowance The Commission shall from time to time pay a risk allowance to science teachers who handle laboratory chemicals in the course of their duties.
	Amend to Insert	(m) Post-Graduate Allowance The Commission shall from time to time pay a post-graduate allowance to teachers who have attained Master's and PhD degrees while in service.

**Justifications of the Proposed Amendments to the Teachers Service Commission
Amendment (TSC) Bill, 2024**

1. Ensures Fairness and Equity in Salary Determination

When salaries and allowances are determined through collective bargaining with teachers' unions, it creates a more objective and predictable system and provides a legal protection for teachers. This process allows for transparent negotiations over compensation, leading to enforceable agreements that provide stability for educators and their families. It also helps reduce arbitrary or unilateral decisions by the employer, ensuring fairness and equity across the teaching workforce. Negotiations based on mutual interest encourage joint problem-solving, leading to agreements that address the needs of both parties.

2. Ensure equity in allowances.

Risk allowance clause into the bill is a justified and necessary measure to address the real and present risks faced by teachers. It will not only improve their welfare and job satisfaction but also enhance the overall quality and stability of the education sector. Teachers are exposed to hazardous materials and they require the compensation. Teachers with post-graduate qualification require a remuneration that suits there qualification.

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**KENYA UNION OF POST PRIMARY EDUCATION
TEACHERS**

(KUPPET)

**SUBMISSION TO THE NATIONAL ASSEMBLY
COMMITTEE ON EDUCATION AND RESEARCH
CONCERNING THE TSC ACT AMENDMENT BILL 2024**

**SUBMISSION OF COMMENTS ON THE TEACHERS SERVICE COMMISSION
(AMENDMENT) BILL, 2024 (NATIONAL ASSEMBLY BILL NO. 27 OF 2024)**

	Short title	Proposed amendments
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2		<p>3. The Principal Act is amended by inserting the following new Section immediately after Section 32.</p> <p>32A. (1) The Commission may appoint a teacher in an acting capacity for a period of at least thirty days but not exceeding a period of six months. After the six months, the teacher shall be confirmed substantively into the position.</p>

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4		<p><u>FOURTH SCHEDULE</u></p> <p>(This part provides for allowances that may be granted to teachers in specified circumstances. The remunerative and reimbursable allowances are non-pensionable except responsibility allowance if earned up to an including the last date of retirement).</p>
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	Amend to Insert new clause	(j) Acting Allowance The Commission shall from time to time pay an acting allowance to a teacher appointed to perform administrative duties for which the teacher qualifies but has not been substantively appointed.
		(k) Per Diem/Subsistence Allowance

THE KENYA SPECIAL NEEDS EDUCATION TEACHERS GROUP

MEMORANDUM

CDDC
8
6/5/25

TO : The Clerk of the National Assembly

From : Kenya Special Needs Education Teachers Group- (Snets)

Date : 5th MAY 2025

Subject: OUR PROPOSED AMENDMENTS TO THE TEACHERS SERVICE COMMISSION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO 27 OF 2024-THE TSC ACT CAP 2012 ON MANAGEMENT AND PREDICTABILITY OF TEACHER ALLOWANCES

(2) Abenayo Wairike, A.D
To place before the
Depr. Comm. on
Education.
Dm
7/5/25

FOURTH SCHEDULE

..... The remunerative and reimbursable allowance are non-pensionable except responsibility allowance *and special schools allowance/salary* (insert) if earned up to and including the last date of retirement.

(e) Responsibility Allowance

- 1) The commission shall pay responsibility allowance to a head of institution /deputy head of institution ,Senior teacher and *Sne teacher incharge of a unit* (insert) who are in job group *C3 and below* (align this with career progression guidelines – CPG)

(f) Special School Allowance / Salary

- 2) A teacher entitled to Special school allowance/ salary shall *AUTOMATICALLY on being deployed to a special school or unit qualify for special school allowance /salary* (remove application through the head of institution)



Mr. Douglas Katho
pls. facilitate consideration
by the Committee
Kaskei
08/05/25

Add (4). Special school allowance/salaries shall be paid within the first 30 days and not exceeding 90 days of deployment to a special school /unit.

Add (5). The commission shall commit itself to pay with accrued interest all special school allowances /salaries that are delayed beyond the 90 days period.

(g) Readers facilitation or aid allowance

Update this to : **DISABILITY GUIDE ALLOWANCE –DGA**

1) The commission shall determine and pay a **Disability Guide Allowance** (update) to a teacher who is Blind, Deaf, Dumb or with Physical Disabilities **that require a guide for functionality** (insert) as certified by NCP WD indicating

Add 2)....**The Disability Guide Allowance – DGA shall UNINTERRUPTEDLY be paid upto the time the teacher retires from service.**

Thank you for your consideration

Sign

Steven Achesa Ahindikha

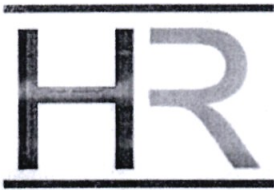
Mobile number:+254722593204

Email:Email: steveachesa@gmail.com

National Co-ordinator / Treasurer

For Snets Group, Kenya





**Institute of
Human
Resource
Management**

The Professional Body of HR Practitioners in Kenya

When replying please quote:

Ref. No. IHRM/L/3/ (05/08) 2025

26th May 2025

Mr. Samuel Njoroge, CBS
Clerk of the National Assembly
Main Parliament Buildings
P.O. Box 41842 - 00100
NAIROBI.

Dear

RE: SUBMISSIONS BY THE INSTITUTE OF HUMAN RESOURCE MANAGEMENT (IHRM) ON THE TEACHERS SERVICE COMMISSION (AMENDMENT) BILL, 2024.

Prism Towers, 24th Floor,
3rd Ngong Avenue
P.O. Box 6132 -00300 Nairobi,
Tel: +254 777 792 001
Mobile: + 254 727 792 001
Email: info@ihrm.or.ke
Website: www.ihrm.or.ke

DDC
Please deal
[Signature]
03/06/25

Mr. Katho
pls TNA
[Signature]

Abenayo Wasike
pls deal
[Signature]
4/6/25

The Institute of Human Resource Management (IHRM) is a Statutory Professional Body established under the Human Resource Management Professionals (HRMP) Act, No. 52 of 2012. Its mandate is to regulate the Human Resource (HR) profession in Kenya and enhance competencies and capabilities while supporting innovative and transformative HR practices and standards. The Institute is a State Corporation under the Ministry of Public Service and Human Capital Development.

The Institute appreciates the opportunity to provide comments on the Teachers Service Commission (Amendment) Bill, 2024, as invited by your letter Ref: NA/DDC/EDU/2025(073) dated 23rd May 2025. As a professional body committed to advancing human resource management practices in Kenya, the Institute's submissions focus on ensuring fairness, transparency, equity, and alignment with best HR practices in the proposed amendments to the Teachers Service Commission Act, No. 20 of 2012.

SECTION OF CAP. 212	CLAUSE IN THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
<i>Section 11 (Functions of the Commission)</i>	Clause 2 Inserts new paragraph (fa) in section 11: " <i>(fa) in consultation with the Salaries and Remuneration Commission facilitate payment of allowances to teachers in the manner set out in the Fourth Schedule.</i> "	Retain the proposed clause but add: " <i>(fa) in consultation with the Salaries and Remuneration Commission and the consultative committee established under Section 13 (5), facilitate payment of allowances to teachers in the manner set out in the Fourth Schedule, ensuring transparency,</i>	Including the consultative committee under Section 13 (5) ensures broader stakeholder input, particularly from teacher unions, enhancing inclusivity as per Article 10 of the Constitution. Adding "transparency, equity, and periodic

		<i>equity, and periodic review of allowance structures.”</i>	<p><i>review”</i> aligns with HR best practices, ensuring allowances are managed fairly, consistently, and sustainably, addressing potential disparities and maintaining teacher motivation.</p> <p>Periodic review accounts for economic changes, ensuring allowances remain relevant.</p>
New Section 32A (Acting Appointment)	<p>Clause 3</p> <p>Inserts new section 32A: “(1) <i>The Commission may appoint a teacher in an acting capacity for a period of at least thirty days but not exceeding a period of six months.</i></p> <p>(2) <i>A teacher shall not be appointed in an acting capacity unless the person satisfies all the prescribed qualifications.</i></p> <p>(3) <i>A teacher appointed under subsection (1) shall only act in one position at a time.</i></p> <p>(4) <i>A teacher appointed in an acting capacity shall be entitled to special duty allowance.”</i></p>	<p>Amend section 32A to include:</p> <p>“(5) <i>The Commission shall develop and publish a policy on acting appointments, specifying eligibility criteria, selection procedures, duration limits, and mechanisms for addressing grievances.</i></p> <p>(6) <i>Acting appointments exceeding six months shall require formal promotion or re-appointment, subject to a competitive process.</i></p> <p>(7) <i>The Commission shall report annually on acting appointments, including their duration and outcomes, to ensure transparency.”</i></p>	<p>The proposed amendments enhance fairness and transparency in acting appointments, aligning with HR principles of meritocracy and accountability.</p> <p>A clear policy prevents arbitrary appointments, while the six-month limit with mandatory promotion or re-appointment prevents exploitation of teachers in acting roles without career progression.</p> <p>Annual reporting ensures oversight and compliance with Article 232 of the Constitution on fair public service practices.</p>
Fourth Schedule (Allowances)	<p>Clause 4</p> <p>Inserts new <i>Fourth Schedule, detailing</i></p>	<p>Amend the Fourth Schedule to include:</p> <p>“(j) <i>General Provisions:</i></p>	<p>A triennial review ensures allowances remain fair and sustainable,</p>

	<p><i>allowances (house, commuter, hardship, special duty, responsibility, special school, reader's facilitation or aid, leave, and transfer allowances).</i></p>	<p><i>(1) The Commission shall, in consultation with the Salaries and Remuneration Commission and the committee under section 13(5), establish a framework for reviewing allowance rates every three years to reflect economic conditions and teacher needs;</i></p> <p><i>(2) All allowances shall be administered through a transparent process, with clear eligibility criteria and grievance redress mechanisms published in the Commission's code of regulations;</i></p> <p><i>(3) The Commission shall ensure equitable access to allowances, particularly for teachers in marginalized areas, and monitor their impact on teacher retention and motivation."</i></p>	<p>addressing inflation and regional disparities, which is critical for teacher welfare in hardship areas.</p> <p>Transparency in administration and grievance mechanisms aligns with the need for fair Human Resource processes and Article 27 of the Constitution on non-discrimination.</p> <p>Monitoring impact supports evidence-based policy adjustments, enhancing teacher retention and motivation, especially in underserved regions.</p>
<p>Section 47 (Regulations)</p>	<p>There is no specific clause in the Bill, but this is relevant for implementing the Fourth Schedule and section 32A.</p>	<p>Amend section 47 (1) of CAP. 212 to include:</p> <p><i>"(m) prescribing the criteria, procedures, and periodic review mechanisms for the payment of allowances under the Fourth Schedule;</i></p> <p><i>(n) establishing procedures for the selection, duration, compensation, and oversight of acting appointments under section 32A."</i></p>	<p>Regulations provide a legal basis for implementing the Bill's provisions, ensuring consistency and compliance with HR standards.</p> <p>Clear criteria and oversight mechanisms for allowances and acting appointments enhance transparency and fairness, aligning with Article 237 of the Constitution, which mandates the Commission to</p>

			regulate the teaching service effectively.
Section 13 (Committees of the Commission)	There is no specific clause in the Bill, but relevant to oversight of allowances and acting appointments.	Amend section 13 (2) of CAP. 212 to include: <i>“(2A) The committee responsible for appointments and promotions shall oversee the implementation of acting appointments under section 32A and the administration of allowances under the Fourth Schedule, ensuring compliance with prescribed policies and reporting annually to the Commission.”</i>	Assigning oversight to a committee ensures accountability in managing acting appointments and allowances, reducing risks of favouritism or mismanagement. Annual reporting aligns with HR governance principles and Article 254 of the Constitution, which requires the Commission to report on its functions, enhancing public trust.

General Comments:

- i. The Institute recommends that the Teachers Service Commission (TSC) engages teacher unions, education stakeholders, and the Salaries and Remuneration Commission extensively to finalize the frameworks for allowances and acting appointments. This ensures compliance with Article 10 of the 2020 Constitution on public participation and fosters buy-in from teachers;
- ii. TSC should provide training for its HR staff and committee members on managing allowances and acting appointments to ensure consistent, professional, and transparent application of the new policies, aligning with the Institute’s advocacy for HR capacity development;
- iii. A robust grievance redress mechanism should be established for teachers to address disputes related to allowances or acting appointments. This should be enshrined in the Commission’s code of regulations, promoting trust and fairness as per Article 47 of the Constitution on fair administrative action;
- iv. TSC should conduct periodic impact assessments of the allowances and acting appointments to evaluate their effectiveness in improving teacher welfare and career progression, particularly in hardship areas, and adjust policies accordingly; and
- v. The Institute commends the inclusion of hardship and special school allowances but urges TSC to prioritize equitable distribution, particularly for teachers in marginalized and special needs education settings, to address disparities and enhance retention.

The Institute supports the Teachers Service Commission (Amendment) Bill, 2024, for its focus on improving teacher welfare through structured allowances and ensuring fairness in acting

appointments. The proposed amendments aim to enhance transparency, equity, and sustainability, aligning with HR best practices, constitutional principles, and the Institute's commitment to fair employment practices.

We remain available for further consultations to refine these proposals and support their implementation. For more information, please visit our website www.ihrm.or.ke or contact us via our email legal@ihrm.or.ke.

We look forward to hearing from you.

Yours Sincerely,



CHRP QURESHA ABDULLAHI
EXECUTIVE DIRECTOR.



KENYA NATIONAL UNION OF TEACHERS

Bankers : KENYA COMMERCIAL BANK
STANDARD CHARTERED BANK
EQUITY BANK (K)
Auditors: OMWENGA ONYANCHA & CO.

Mobile: 0710 600981, 0710 600983,
0733 600880, 0701 139446
SMS: 22551
Email: knut@knut.or.ke
Website: www.knut.or.ke

Address all Correspondence(s) to:
The Secretary General
P.O. Box 30407, 00100
NAIROBI - KENYA.

INVITATION TO SUBMIT COMMENTS ON THE TEACHERS SERVICE COMMISSION (AMENDMENT) BILL 2024 (NATIONAL ASSEMBLY BILL NO. 27 OF 2024)

Kenya National Union of Teachers is in conformity with the proposed amendments in the fourth schedule that touch on:

- a) Housing Allowance
- b) Commuter Allowance
- c) Hardship Allowance
- d) Special Duty Allowance
- e) Responsibility Allowance
- f) Special School Allowance
- g) Reader Facilitation or Aid Allowance
- h) Leave Allowance
- i) Transfer Allowance

The Union however has issues with some of the amendments as indicated in the matrix below.

No.	Provisions of the proposed bill.	KNUT'S Proposal	Justification
1	The proposal to amend Section 11 introducing a new subsection (fa) "in consultation with the Salaries and Remuneration Commission facilitate payment of allowances to teachers in the manner set out in the fourth schedule"	Amending the proposal to read "Facilitate payment of allowances to teachers in the manner set out in the fourth schedule."	The Constitution of Kenya 2010 provides under Article 230 that the function of SRC is to advise the national and county governments on the remuneration and benefits of all other public officers and should be limited to that.
2	The proposal to amend Section 32 by introducing a new subsection 32A.	KNUT proposes an amendment to the bill by introducing subsection 5 to read "On completion of the acting period the said teacher should be considered for a permanent appointment to the position based on their qualifications."	The teacher once appointed in an acting capacity means that they are already qualified for the position. It will only be fair and just if they are considered for the position.
3	Fourth Schedule provision E 1 "The commission shall pay Responsibility Allowance to a head of institution, deputy head of institution and senior teacher who are in job group 'K' and below "	Proposal to change provision E of the schedule to read "The commission shall pay Responsibility Allowance to a head of institution, deputy head of institution and senior teacher who are in job group C5 and below "	



COLLINS HENRY OYUU
SECRETARY GENERAL
KENYA NATIONAL UNION OF TEACHERS

Elimu Bora Working Group

849 Amboseli Road, off Gitanga Road,
P. O. Box 41079-00100 Nairobi, Kenya

Tel: 254-020-2044545/2106763
Email: elimuboraworkinggroup@khrc.or.ke

ELIMU BORA WORKING GROUP MEMORANDUM

Submitted on Wednesday, 9 July 2025

In the Matter of The Teachers Service Commission (Amendment) Bill (National Assembly Bill No. 27 of 2024)

Brief introduction of EBWG

Elimu Bora Working Group (EBWG) is a network of Civil Society Organizations¹ working to promote the right to Education in Kenya through awareness creation, research, advocacy and partnership building. Elimu Bora - and not *bora elimu* - recognizes and is committed to the nurturing of an education system that guarantees access by all to quality, inclusive and lifelong learning for responsible and productive citizenship. Elimu Bora Working Group is currently hosted at Kenya Human Rights Commission²

As such the Specific Objectives of Elimu Bora Working Group are

- a) To promote awareness on the need for a holistic, learner centered approach to education that's founded on an enabling philosophy
- b) To promote advocacy on equitable access to quality public education by all citizens.
- c) To promote the formulation of a comprehensive national policy on education
- d) To promote research into social and economic issues affecting education i

EBWG Position on the referenced Bill

Based on the Memorandum of Objects and Reasons provided, that the Bill seeks to amend the TSC Act 2012 in order to provide for various allowances that the Commission may pay to teachers over and above their basic pay; entrench fairness in acting positions under the TSC so that the Commission confers acting appointments in a structured manner; and therefore provide for predictability and certainty in the management of allowances in the teaching profession

EBWG endorses the Bill and make the following suggestions for consideration and incorporation in the amendments -

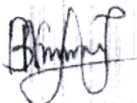
Section	Proposed Amendment Contained in the Bill	EBWG Additional Suggestion
Section 32A (2)	A teacher shall not be appointed in an acting capacity unless the person satisfies all the prescribed qualifications	<p>Please Add</p> <p>(2A) In the absence of a teacher with requisite skills for a particular duty in a station/school, the next merited teacher in terms of qualifications and experience shall be appointed to act</p>
Fourth Schedule (1)	(1) The Commission shall in the absence of qualified teachers, pay special duty allowance to teachers -	<p>(1) The Commission shall, in the absence of teachers with requisite qualifications for the particular duties in a school, pay special duty allowance to teachers -</p> <ul style="list-style-type: none"> a) Appointed to perform administrative duties which are not commensurate to the teachers' grades; or b) Who are stationed in arid and semi-arid areas <p>(1A) The Commission shall pay Special Duty Allowance to any other teachers appointed in an acting capacity in accordance with Section 32A (NOTE: a teacher with requisite qualifications but without prior appointment to the job group---- during pendency of the</p>

		<i>consideration - AUTOMATIC QUALIFICATION SHOULD BE ADOPTED SO THAT AT EVERY GIVEN MOMENT, THERE EXISTS TEACHERS WITH THE REQUISITE QUALIFICATIONS FOR THE DESIRED POSITION/S)</i>
h) Leave Allowance	The Commission shall pay annual leave allowance to teachers on its payroll at rates to be determined by the Commission	Add Such an allowance shall be paid once and in full every year when the teacher proceeds on leave Leave allowance shall be reviewed upwards every three years

Further note the following -

- a) Designation of hardship areas (arid and semi-arid areas) should be streamlined so that considerations are not made based on prevailing political climate
- b) Appeals mechanism for Special Duty Allowance should be provided for in case a teacher with legitimate expectations for the same fails to get the allowance

Signed for and on Behalf of EBWG



Boaz WARUKU

EBWG Policy & Strategy Advisor

Abenayo Wroble

*Pls deal
15/7/25*

*DDC
8/15/07/25*



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MEMORANDUM BY THE KENYA SECONDARY SCHOOLS HEADS ASSOCIATION (KESSHA), ON THE TEACHERS SERVICE COMMISSION (AMENDMENT) BILL, 2024 (NATIONAL ASSEMBLY BILL NO. 27 OF 2024)

Date: 11.7.25.

Presented to: The Departmental Committee on Education, National Assembly

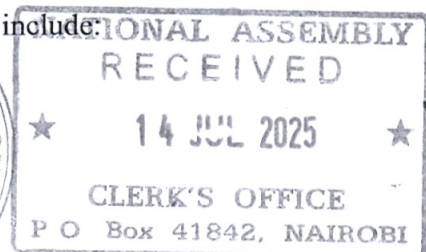
*Mr. Katho
Please deal
15/07/25*

Introduction

Kenya Secondary Schools Heads Association (KESSHA) wish to commend the National Assembly for inviting views and input from various stakeholders on the Teachers Service Commission (Amendment) Bill, 2024. As stakeholders in the education sector, KESSHA fully supports efforts aimed at improving the governance, efficiency, and accountability of the Teachers Service Commission (TSC). We present the following views in support of the provisions of the Bill.

Positive Aspects of the Amendment Bill

1. The principal object of this Bill is to amend the Teachers Service Commission No. 20 of 2012 in order to provide for various allowances that the Commission may pay to teachers over and above their basic pay.
2. The Bill entrenches substantial fairness in acting positions under the Teachers Service Commission so that the Commission confers acting appointments in a structured manner.
3. The Bill provides for predictability and certainty in the management of allowances in the teaching profession.
4. The amendment of section 11 of no 20 of 2012 to add on the functions of the commission to include "(fa) in consultation with the Salaries and Remuneration Commission facilitate payment of allowances to teachers in the manner set out in the Fourth Schedule" is a welcome addition because it will be the platform for entrenching the proposed allowances into law.
5. The insertion of new section 32A in the principal act to include:



- The commission may appoint a teacher in an acting Capacity for a period of at least thirty days but not exceeding a period of six months.
- A teacher shall not be appointed in an acting capacity unless the person satisfies all the prescribed qualifications.
- A teacher appointed under sub-section (1) shall only act in one position at a time.
- A teacher appointed in an acting capacity shall be entitled to special duty allowance.

Is a way of ensuring fairness for the many teachers who hold positions in acting capacities and for whom KESSHA has been fighting for recognition.

6. The insertion of a new schedule (Fourth schedule) provides for allowances that will be inalienable and which will henceforward be anchored in law. We appreciate and support the provision of the following allowances:

House allowance

- The Commission shall pay house allowance to every teacher in its employment at a rate determined by the Commission from time to time.
- Where a teacher is on interdiction and is on half salary, the Commission shall pay the full house allowance until the case is determined.

Commuter allowance

- The Commission shall determine and pay commuter allowance to a teacher under its employment.
- A teacher under interdiction or suspension shall not be entitled to payment of commuter allowance.

Hardship allowance

The Commission shall at a determined rate, pay hardship allowance to a teacher assigned to teach in a school situated in a designated and gazette hardship area.

Special duty allowance

The Commission shall, in the absence of qualified teachers, pay special duty allowance to teachers –

- appointed to perform administrative duties which are not commensurate to the teachers' grades; or
- who are stationed in arid and semi-arid lands.

Responsibility allowance

- The Commission shall pay Responsibility Allowance to a head of institution, deputy head of institution and senior teacher who are in job group 'K' and below.

Special school allowance

The Commission shall from time to time determine –

- Pay special school allowance to a teacher who possess skills in special education and who is assigned to a special school or special unit; and
- Determine the rate of payment of special school allowance under this regulation.
- A teacher entitled to special school allowance shall claim the payment of the allowance in writing through the head of institution.

Reader's facilitation or aid allowance

The Commission shall determine and pay a Reader's, facilitation or aid allowance to a teacher who is blind, deaf, dumb or with physical disabilities, as certified by the National Council of Persons with disabilities indicating the extent of the disability or any written law.

Leave Allowance

The Commission shall pay annual leave allowance to teachers on its payroll at rates to be determined by the Commission.

Transfer allowance

The Commission shall –

- where at its discretion transfers a teacher from a sub-county to another or in inter county transfer, pay transfer allowance to the teacher.

PROPOSAL:

KESSHA proposes the consideration, adoption and entrenchment of two additional allowances:

- ❖ **Teaching service allowance**-KESSHA proposes the inclusion of an additional allowance to be known as the teaching service allowance in recognition of the demanding nature of the teaching profession and the delicate and the sensitive handling required of a more vibrant, empowered and emboldened youth. It is also to acknowledge the teacher's unique contribution to providing and shaping the workforce which is key to development across all sectors of our economy
- ❖ **Extraneous Allowance**-Teachers are central to the success of any education system, not only through classroom instruction but also through a wide range of responsibilities that fall outside their formal teaching duties. These **extraneous duties**, while essential to the overall functioning and development of the school, are often performed without additional compensation or recognition. They include inter-alia:

- Organizing **and attending school trips**, camps, and excursions.
- Rehearsals **and practices** after school or on weekends.
- Counseling **and mentoring** students outside of class hours.
- Managing students with **behavioral or emotional challenges**.
- Parent-**teacher communication and meetings** after regular hours.
- Following up on **at-risk students** or those with special need
- Waking them up in the morning and ensuring that they go to bed at night
- Forfeiting one's worship to instead worship with the students.

From the above listed duties among others, it is evident that teachers consistently go above and beyond their core instructional roles and it is only fair that they be formally appreciated by according them extraneous allowance.

OBSERVATIONS

The enactment of this Bill shall occasion additional expenditure of public funds and KESSHA would urge for timely and expeditious appropriation to actualize the objects of the bill once it is enacted and passed into law.

Conclusion

KESSHA reaffirms its commitment towards supporting any progressive endeavours towards provision of quality education and professional teacher management. We support reforms that are initiated to benefit the Kenyan teacher whose well-being eventually cascades to the learner. Equally, KESSHA welcomes further engagement with Parliament on any matter that is in furtherance of the education agenda in this country.



Willie Kuria (HSC)
National Chairman
Kenya Secondary Schools Heads Association (KESSHA)