

EXPLANATORY MEMORANDUM

[Pursuant to Section 8 of the Statutory Instruments Act, 2013]



EXPLANATORY MEMORANDUM EXPLANATORY MEMORANDUM TO

THE TEACHERS SERVICE COMMISSION (CODE OF CONDUCT AND ETHICS FOR
TEACHERS) 2015

2015 No. 57



PART I

Name of the Statutory Instrument: The Teachers Service Commission (Code of Conduct and Ethics for Teachers) 2015.

Name of the Parent Act: Teachers Service Commission Act, No. 20 of 2012.

Enacted Pursuant to: Section 48 of the Teachers Service Commission Act, No. 20 of 2012.

Name of the Ministry/Department: Teachers Service Commission.

Gazetted on: 7TH August, 2015

Tabled on:

7. 26

PART II

1. Purpose of the Statutory instrument

- 1.1 The Teachers Service Commission (Code of Conduct and Ethics for Teachers) 2015 is part and parcel of the terms and conditions of service for registered teachers.

The subsidiary legislation purposes to provide guidelines to registered teachers on the expected conduct and ethical standards commensurate with public service generally and the teaching profession in particular.

2. Legislative Context

- 2.1 The Teachers Service Commission has an obligation pursuant to Chapter Six of the Constitution of Kenya to instill in its employees the principles of leadership and integrity as a basis for the provision of public service.

Section 48 of the Teachers Service Commission Act empowers the Teachers Service Commission Act to develop a code of conduct for its members and staff and registered teachers.

3. Policy Background

- 3.1 Teachers Service Commission is a constitutional Commission with the mandate to; register trained teachers; recruit and employ registered teachers; to assign teachers employed by the Commission for service in any public school or institution; promote and transfer teachers; Exercise disciplinary control over teachers; to terminate the employment of teachers; review the standards of education and training of persons entering the teaching service; review the demand for and the supply of teachers; and

advise the national government on matters relating to the teaching profession.

The Commission has powers under the Teachers Service Commission Act, No. 20 of 2012 to develop a code of conduct for its members and staff and registered teachers.

3.2 No consolidation whatsoever is intended by the subsidiary legislation.

4. Consultation outcome

4.1 Teachers Service Commission consulted the following stakeholder: the Commission for the Implementation of the Constitution; the Kenya National Union of Teachers (KNUT); the Kenya Union of Post Primary Education Teachers (KUPPET); the Kenya Parents Teachers Association and the public at large on 13th May 2014 and 22nd May 2014. All the fora unanimously agreed on the content of the subsidiary legislation before the same was submitted to the Attorney General. Upon wider consultation, the Attorney General forwarded the draft Code to the Government Printer for Gazettement.

5. Guidance

5.1 The Commission intends to partner with a donor agency for the printing and distribution of copies to all schools and educational institutions in the country.

6. Impact

6.1 The impact on Fundamental Rights and Freedoms

The Code of Conduct and Ethics for Teachers 2015 preserves the teachers' fundamental rights and freedoms as provided in Chapter Four of the

Constitution of Kenya to the fullest extent that such fundamental rights and freedoms are applicable in an employer/employee relation.

6.2 The impact on the Private Sector

The subsidiary legislation is a Code of Conduct and Ethics for all registered teachers. It sets and regulates standards of conduct and ethics in line with Chapter Six of the Constitution of Kenya for the entire teaching profession.

6.3 The impact on the public sector

The Code of Conduct and Ethics for Teachers 2015 forms part of the terms and conditions of service for teachers employed by the Commission.

It aims at setting uniform standards of conduct and ethics as the basis of public service in Kenya.

6.4 There is no need for an impact assessment report since the proposed subsidiary legislation does not in any way disadvantage the teachers to whom it applies. In addition, it is substantially complementary with the parent statute, the Leadership and Integrity Act, 2012.

7. Monitoring and review

7.1 The Code of Conduct and Ethics for Teachers 2015 is an administrative tool for continually accessing the ethical conduct of registered teacher. A breach of the regulations may lead to disciplinary action against the teacher with the ultimate decision to deregister a teacher from the register of teachers.

8. Contact

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