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 Date: 02/08/23
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REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT (SECOND SESSION)

THE SENATE

APPROVED
 RT. HON. SEN
 AMASON J. KINGI

02/08/23

THE STANDING COMMITTEE ON EDUCATION

**REPORT ON THE PETITION CONCERNING THE 1997-2007
 RETIRED TEACHERS CLAIMS**

PAPERS LAID	
DATE	03-08-2023
TABLED BY	Chair Education Committee
COMMITTEE	Education
CLERK AT THE TABLE	chetop.

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

August, 2023

Clerk
 Recommended
 for approval for tabling
 02/08/2023

ABBREVIATIONS AND ACRONYMS

KNUT	Kenya National Union of Teachers
KUPPET	Kenya Union of Post Primary Education Teachers
MoE	Ministry of Education
PD	Pension Department
RBA	Retirement Benefits Authority
TSC	Teachers Service Commission

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PRELIMINARIES

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

Membership of the Committee

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

Mandate of the Committee

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

1. Build capacity of Committee Members to undertake their roles in line with Article 96 of the Constitution;
2. Develop and facilitate the development of legal frameworks, policies and guidelines in the Education Sector;
3. Provide oversight for the Education Sector;
4. Facilitate budgetary resources toward the Education Sector; and
5. Any matter that relates to education and training.

CHAIRPERSON'S FOREWORD

Mr. Speaker Sir,

The Petition concerning the payment of the 1997-2007 retired teachers' claims was reported to the Senate on Wednesday 8th March 2023 by the Speaker of the Senate. Pursuant to Standing Orders 238 (1), the Petition was then committed to the Standing Committee on Education to investigate the matter raised by the petitioners, and respond to the petitioners by way of a report within sixty (60) calendar days.

Mr. Speaker Sir,

The Petitioner Mr. Philip K.A. Too, a citizen of the Republic of Kenya and former employee of the Teachers Service Commission (TSC) expressed concern that it has been twenty-five years since the first group of teachers retired and have since been denied payment of their rightful end of term lump sum and monthly pension.

The Petitioner averred that the matter of the claims had been determined by the courts, from Nakuru High Court, through the Court of Appeal to the Supreme Court of Kenya. The petitioner informed the Senate that the courts determined that the Government of Kenya should pay the teachers their rightful pay taking in to consideration the content of the salary increment agreement of 11th October 1997.

Mr. Speaker Sir,

The main contention by the petitioner is the calculation of the end of service lump sum payment and monthly pension. While the TSC has maintained that the retired teachers' dues were correctly calculated giving the last salary as the basis of the calculation, the retired teachers have maintained that the last salary should take into consideration the full salary increment agreed and signed even though the increment was implemented in phases.

Mr. Speaker Sir,

During consideration of the Petition, the Committee received comprehensive submissions from the petitioner and upon analysis observed that the issues raised in the Petition required comprehensive interrogation and expeditious resolution.

Mr. Speaker Sir,

The Committee consequently resolved to invite the Kenya National Union of Teachers (KNUT), the Kenya Union of Post Primary Education Teachers (KUPPET) and the Retirement Benefits Authority (RBA) to provide more information. The Committee further resolved to invite the Secretary/ Chief Executive Officer of the TSC and the Cabinet Secretary, the National Treasury to deliberate on the said issues.

Mr. Speaker Sir,

The TSC submitted to the Committee that it had complied with the court ruling, prepared and submitted the document for the payment of the pension. The Committee was further informed that the teachers who are entitled to enhanced pension emoluments under the Court award are those who retired without earning their respective salary awards and that records of 23, 487 teachers who retired from 1st July, 1998 to 30th June, 2003, had been processed and submitted to the Director of Pensions, the National Treasury for processing and payment.

Mr. Speaker Sir,

Whereas the Committee had also invited the Cabinet Secretary, the National Treasury to appear before it and apprise the Committee on the issues raised in the Petition multiple times, the Cabinet Secretary failed to appear before the Committee as per the invitations, thereby occasioning delay in the consideration of the Petition. The Committee resolved to **summon** the Cabinet Secretary to appear before it in person, pursuant to Article 125 of the Constitution and sections 18 and 20 of the Parliamentary Powers and Privileges Act, 2017.

Mr. Speaker, the Committee held a meeting with the Cabinet Secretary on Thursday, 27th July, 2023 and was informed that the Pensions Department at the National Treasury had received a total of 23,487 revised claims from the TSC. The Committee was further informed that 22,115 of them had been processed and paid.

Mr. Speaker Sir,

During consideration of the Petition, the Committee observes **that-**

- a) processing and payment of pensions, death gratuities and other benefits to retired, deceased or terminated teachers as well as their dependents and legal representatives is the mandate of the Pensions Department;
- b) the TSC and the Pension Department neglected to calculate the retired teachers' benefits on the basis of increments covered in the salary increments of 1997;
- c) there exist extensive and inordinate delays, attributable to administrative reasons and/or lapses, in processing and paying gratuity and pension benefit to teachers who were in the employment of the TSC as at 1st July, 1997 and covered in the salary increments of 1997; and
- d) it takes more than six (6) months to process pension claims for retired teachers even when all the requisite documents have been provided.

Mr. Speaker Sir, with the foregoing, the Committee therefore makes the following recommendations-

- a) the National Treasury through Pension Department should pay all the 23, 487 retired teachers covered by the agreement between the KNUT and the Government of Kenya, dated 11th October, 1997 and gazette as Legal Notice No. 534 of 1997, their enhanced and unpaid gratuity and pension dues within sixty (60) days after tabling this report and present a comprehensive report on the payments to the Senate;
- b) the Teachers Service Commission (TSC) should ensure that the process of preparation of teacher pension claims commences at least twenty (24) months prior to date of retirement. Consequently, the TSC should submit complete claims for all pension and gratuity claims to the Pensions Department in the prescribed manner at least nine (9) months before the date of retirement as provided in the Human Resources Policies and Procedures Manual for Public Service.

- c) the Director of Pension should put in place mechanisms that will ensure all retired teachers pension and gratuity claims are processed within one payroll cycle to avoid delays and submit an implementation report to the Senate within three (3) months after tabling this report and thereafter every six (6) months; and
- d) the National Treasury should initiate a process to automate submission, processing and monitoring the movements of pension claims to minimize human interaction and eliminate corruption and backlog.


Mr. Speaker Sir,

Lastly, I wish to sincerely thank the Members of the Committee for their insightful contributions during the consideration of Petition and developing and adopting of this report.

The Committee also thanks the Offices of the Speaker and the Clerk of the Senate for the support extended to it in the execution of its mandate.

Mr. Speaker, Sir,

I thank you

Signed..........Date.....07/09/2023

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

CHAPTER ONE

1. INTRODUCTION

1. Article 119 of the Constitution accords every person a right to petition Parliament on any matter within its authority including seeking enacting, amending or even repealing of legislation. Petition to Parliament (Procedure) Act, 2012 provides for the right to petition Parliament, the procedure to exercise that right and the enhancement of public participation in the parliamentary and legislative processes.
2. Every petition presented to the Senate stands committed to the relevant standing committee for consideration. Standing Order 238(2) of the Senate Standing Orders requires a committee to which a Petition is committed, within sixty days (60) of such committal, to respond to the Petitioner by way of a report addressed to the Petitioner and laid on the table of the Senate.
3. The petition concerning the 1997 – 2007 retired teachers' claims was reported to the Senate at the sitting held on Wednesday, 8th March, 2023 by the Speaker of the Senate pursuant to the provisions of standing order 238 (1) of the Senate Standing Orders.
4. The salient issues raised in the Petition are-
 - a. **THAT**, 25 years have passed since an agreement was reached between the Kenya National Union of Teachers (KNUT) and the Teachers Service Commission (TSC) to increase teacher's salaries;
 - b. **THAT**, the government has neglected the plight of the retired teachers in particular payment of the claims to the retired teachers between 1997 and 2007;
 - c. **THAT**, when TSC defaulted in the payment of retired teachers' dues the teachers went to court whereupon the Court awarded retired teachers their claims through ruling by the retired Chief Justice Maraga;

- d. **THAT**, the then Minister for Finance, Hon. Uhuru Kenyatta had set aside Kshs. 3.3 billion in the Financial Year 2011/12 budget for this purpose;
 - e. **THAT**, many teachers have perished whilst their dependents are suffering and living in abject poverty; and
 - f. **THAT**, the petitioner has made all efforts to have the matter resolved but the efforts have been futile and the responses unsatisfactory.
5. The Petitioners therefore prayed the Senate-
- a. investigates the reason why the TSC and the Pensions Department have not worked out a plan to make payment to the retired teachers;
 - b. intervenes so that TSC and the Pensions Department expedites the payment claims; and
 - c. should the delay in payment be due to lack of funds, provision be made through supplementary budget.
6. Pursuant to the provisions of standing order 238 (1) of the Senate Standing Orders, the Petition was committed to the Standing Committee on Education for its consideration.

1.1 Background

7. In 1997, the Kenya National Union of Teachers (KNUT) and the Government of Kenya entered into an agreement to increase the remuneration payable to teachers in public service. The increment was to be implemented in five (5) phases as from 1st July, 1997 for a period of five (5) years. The agreement explicitly provided that increment applied to teachers who were in service, those on leave pending retirement and in the process of being retired but were in service as at 1st July 1997.
8. The government implemented the 1st phase of the agreement which was duly paid to all teachers in October 1997. However, due to economic constraints, the subsequent phases from July 1998 were not paid.

9. In February, 2003, parties to the agreement, (the Government and the KNUT) re-negotiated and mutually signed a further agreement to pay the remaining four phases within a period of ten (10) years with effect from 1st July, 2003.
10. Further, in an agreement signed in May 2003, the parties re-negotiated and agreed that the ten (10) phases be reduced to six (6) to be implemented within a period of six (6) years. This was further reduced to five (5) phases in an agreement signed in March, 2007.
11. However, on retirement, teachers learned that their retirement benefits were not inclusive of all other benefits provided for in the 1997 agreement which prompted twenty (20) teachers acting on behalf of their colleagues to move to Court in 2006 to seek legal redress.
12. The retired teachers claimed-
 - a. Declaration that the outcome of the representative suit will apply to all retired teachers;
 - b. Declaration that the Plaintiffs together with all other retired teachers are entitled to their retirement benefits inclusive of all other benefits provided for in the 1997 agreement;
 - c. An order that the defendant pay the Plaintiff's unpaid benefit to-date;
 - d. Costs of the suit; and
 - e. Any other relief that the honorable court would deem fit
13. In October, 2008, the High Court in Nakuru delivered its judgment and ordered that all teachers covered by the Agreement dated 11th October, 1997, are entitled to their retirement benefits based on the entire agreement and attendant circular.
14. Nevertheless, the Government appealed to the Court of Appeal in Nakuru in 2009, which was heard and determined in November, 2010. In its judgement, the Court of Appeal decreed that the last salary be computed in a manner that incorporates all the terms of the agreement between parties.

15. In 2012, the retired filed a Judicial Review Application seeking orders to compel the Teachers Service Commission (TSC) and the Director of Pensions to pay to the teachers their enhanced retirement benefits as per the judgement.
16. However, in 2013, the Government through the Attorney General sought leave from the Court of Appeal to appeal against the judgment to the Supreme Court. The Court of Appeal declined the prayers on the ground that there was unreasonable delay on the part of Government in filling the application.
17. In September 2014, the Attorney General filed an application at the Supreme Court seeking review of orders of the Court of Appeal that denied Government leave to appeal the matter at the Supreme Court. However, on 9th December, 2015, the Supreme Court declined to grant leave on the grounds that there was inordinate delay on the part of the Government.

CHAPTER TWO

2. COMMITTEE INQUIRY INTO THE PETITION

18. At its meetings held on Wednesday, 15th March, Tuesday, 11th April, and Thursday, 4th May, 2023, the Committee considered the petition and resolved to invite the following stakeholders to a meeting of the Committee to deliberate on the issues raised in the petition-

- a. The Secretary/Chief Executive Officer of the Teachers Service Commission;
- b. The Cabinet Secretary, the National Treasury;
- c. The Kenya National Union of Teachers;
- d. The Kenya Union of Post Primary Education Teacher and
- e. The Retirement Benefits Authority

19. The Committee received written submission from the Kenya National Union of Teachers (KNUT) (copy attached) and also held a meeting with the Kenya Union of Post Primary Education Teachers (KUPPET). In their submissions, the two teachers' union supported the petition and urged the Committee to conclude on the consideration of the issues raised and recommend that the National Treasury initiates payments to all the affected teachers or their dependents in the case of those who are deceased.

20. The Secretary/Chief Executive Officer of the Teachers Service Commission (TSC) informed the Committee that the 1997 Agreement was re-negotiated between KNUT and the Government and a new Agreement signed and gazetted as Legislative Supplement No. 10 of 2003 dated 21/02/2003. This agreement was implemented with effect from 1/7/2003.

21. The Committee was further informed that the teachers who are entitled to enhanced pension emoluments under the Court award are those who retired without earning their respective salary awards and that records of 23,487 teachers who retired from 1st July, 1998 to 30th June, 2003, had been processed and submitted to the Director of Pensions, National Treasury for final processing and payment.
22. The Cabinet Secretary, the National Treasury and Economic Planning informed the Committee that the Pensions Department had received a total of 23,487 revised claims from the TSC by April, 2023, out of which 22, 115 have been processed and paid.
23. The Retirements Benefits Authority (RBA) informed the Committee that since independence, the Government has operated a non-contributory Pension Scheme fully financed through the Exchequer. However, in 2012, the Government enacted the **Public Superannuation Scheme Act**, and consequently, directed the conversion of all Defined Benefit (DB)¹ Schemes in the Public Sector to Defined Contributory (DC)² Schemes.

¹ **Defined Benefit** is a pension plan that provides for payment of an amount on retirement determined based on a formula. The amount paid is based on length of service and the annual basic salary at the time of retirement.

² **Defined Contribution** is a retirement plan where both the Government and employees make set contributions to the Scheme for the benefit of the member at retirement. The benefits are based on the scheme credit and investment income.

CHAPTER THREE

3. ANALYSIS OF THE SUBMISSIONS

24. The Agreement to increase the remuneration of teachers entered between the Kenya National Union of Teachers (KNUT) and the Government of Kenya in 1997, and published in *Gazette Notice No. 534*, was to apply to all teachers including those on leave pending retirement and those in the process of being retired, but who were in the teaching service as at 1st July, 1997.
25. Pension funds are the main source of livelihood for this group of retired and elderly teachers; they enable them meet their daily basic needs. The Pensions Department at the National Treasury is responsible for processing and paying retirement benefits, pensions and gratuities to civil servants, their legal personal representatives and dependants. Nevertheless, majority of retired teachers depend on family support systems because of low pension and gratuity and/or non-payment and delays of their retirement benefits.
26. The payment of pensions and gratuities is funded from the Consolidated Funds Services account which is the main bank account of the Government. The Pension Act makes provisions for the granting and regulating the payment of pensions, gratuities and other allowances in respect of the public service for officers such as teachers. However, over the years the civil service pension liability has been increasing with a possibility that this fiscal burden could rise to unsustainable levels and hence impact on other priority expenditures.
27. The enacted of the **Public Superannuation Scheme Act** in 2012, and consequent, directive by the Government requiring shift in the Public Sector from Defined Benefit (DB) Schemes to Defined Contributory (DC) Schemes is likely to reduce the financial strain on the Exchequer, since the pension liability will no longer be borne by few workers supporting a retiring workforce.

28. According to Citizen Delivery Charter for the Pension Department, processing and payment of pension benefits is expected to take twenty-one (21) days from the time a duly completed and supported claim is accepted at the National Treasury. However, payment of pensions and gratuities to retired teachers or their dependents faces unexplained delays in different stages. There is usually inordinate delay between claim submission and actual payment of a claim.

CHAPTER FOUR

4. COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

4.1 Committee Observations

29. The Committee makes the following **observations-**

- a. processing and payment of pensions, death gratuities and other benefits to retired, deceased or terminated public officers as well as their dependents and legal representatives is the mandate of the Pensions Department currently domiciled at the National Treasury and Economic Planning after receiving complete pension claims from the Ministries, Department and Agencies;
- b. that the National Treasury received a total of 23,487 revised claims from the Teachers Service Commission (TSC) out of which 22, 115 have been processed and paid by April, 2023;
- c. the Teachers Service Commission (TSC) and the Pension Department at the National Treasury, neglected to calculate the retired teachers' benefits on the basis of increments covered in the salary increments of 1997;
- d. there exists extensive and inordinate delays, attributable to administrative reasons and/or lapses, in processing and paying gratuity and pension benefits to teachers who were in the employment of the Teachers Service Commission (TSC) as at 1st July, 1997 and covered in the salary increments of 1997;
- e. it takes more than six (6) months to process pension claims for retired officers even when all the requisite documents have been provided attributed partly to file retrieval challenges, missing of files and duplication of work. The effect of delayed processing and payment of claims to retired teachers and their dependents denies them access to their monies in time to cater for their basic and other needs.

4.2 Committee Recommendations

30. with the foregoing, the Committee therefore **recommends** that–

- a. the National Treasury through Pension Department should pay all the 23, 487 retired teachers covered by the agreement between the KNUT and the Government of Kenya, dated 11th October, 1997 and gazette as Legal Notice No. 534 of 1997, their enhanced and unpaid gratuity and pension dues within sixty (60) days after tabling this report and present a comprehensive report on the payments to the Senate;
- b. the Teachers Service Commission (TSC) should ensure that the process of preparation of teacher pension claims commences at least twenty (24) months prior to date of retirement;
- c. the Teachers Service Commission should submit complete claims for all pension and gratuity claims to the Pensions Department in the prescribed manner at least nine (9) months before the date of retirement as provided in the Human Resources Policies and Procedures Manual for Public Service;
- d. the Director of Pension should put in place mechanisms that will ensure all retired teachers pension and gratuity claims are processed within one payroll cycle to avoid delays and submit an implementation report to the Senate within three (3) months after tabling this report and thereafter every six (6) months; and
- e. the National Treasury should initiate a process to automate submission, processing and monitoring the movements of pension claims to minimize human interaction and eliminate corruption and backlog.

Annexures

Annex 1: Copy of the Petition

Annex 2: Minutes of the Committee Sittings

Annex 3: Stakeholder Submissions

please process

28.02.23

Petition Concerning the 1997 - 2007 retired teachers' claims

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

Email: clerk.senate@parliament.go.ke

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27 FEB 2023
DIRECTOR LEGISLATIVE AND PROCEDURAL SERVICES
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THE SENATE RECEIVED
27 FEB 2023
DEPUTY CLERK (M.A.)

23rd February, 2023

RE: PETITION TO THE SENATE CONCERNING THE 1997 - 2007 RETIRED TEACHERS CLAIMS

1. I, Phillip K.A. Too (TSC No. 055289; Pension No. 177530), a Citizen of the Republic of Kenya, and residents of Olengumone, Nakuru County, wish to DRAW the attention of the Senate to the following-
2. That, its 25 years now since an agreement was signed between the Kenya National Union of Teachers (KNUT) and Teachers Service Commission (TSC) to increase our salaries.
3. That, when TSC defaulted in the payment of retired teachers through the late lawyer Mr. Kimattah went to court whereupon the court awarded retired teachers their claims through a ruling by the retired Chief Justice Maraga.
4. That, it is surprising that the TSC Secretaries G. Longoboini and Dr. Nancy Macharia were due for civil jail for contempt of court but were never arrested. Are they above the law?
5. That, the then Minister of Finance, retired President Uhuru Kenyatta had set aside Kshs. 3.3. Billion in the Financial Year 2011/12 budget.
6. Further that, the jubilee government came up with noble ideas on agenda 4 but neglected the payment of claims and plight of the retired teachers.
7. That, the claims have not yet been paid to the retired teachers between 1997 and 2007. Many teachers have perished whilst their dependents are suffering and living in abject poverty;
8. That, we have made every effort to have the matter addressed by the relevant bodies but the responses have been unsatisfactory; and
9. That, none of the issues raised in this Petition are pending before in any court of law, constitutional or any other legal body.

@ Mr. Moge (DO L&PS)

ps deal. This petition has been filed in the past.

27/2/23


(1) D&PS
PLEASE PROCESS
27/2/23

Petition Concerning the Alleged Murder of Environmentalist and Conservationist Juannah Stutchbury and Protection of Our Environment and Natural Resources

10. Wherefore your humble petitioners PRAY that the Senate-

- (i) investigates the reasons at why the Teachers Service Commission and the Pensions Department have not worked out a plan to make the claims;
- (ii) direct the Teachers Service Commission and the Pensions Department to expedite the payment of the claims with immediate effect; and
- (iii) should the delay in payment be due to lack of funds that provision be made through a supplementary budget immediately.

AND I YOUR PETITIONER WILL EVER PRAY

NAME	ADDRESS	I.D. NO.	SIGNATURE
Philip K.A. Too	P.O Box 187-20152, Olengurone, Nakuru Tel. No.: 0720610530/ 0740546225	0473810	

Dated this 27th day of February 2023

PARLIAMENT OF KENYA**THE SENATE****THE HANSARD**

Wednesday, 8th March, 2023

*The House met at the Senate Chamber,
Parliament Buildings, at 2.30 p.m.*

[The Speaker (Hon. Kingi) in the Chair]

PRAYER**DETERMINATION OF QUORUM
AT COMMENCEMENT OF SITTING**

The Speaker (Hon. Kingi): Clerk, do we have quorum? Hon. Members, we are short of quorum. Kindly ring the quorum Bell for four minutes.

(The Quorum Bell was rung)

You may stop the Bell. We now have quorum. Clerk, proceed to read the first Order.

PETITION**DELAY IN PAYMENT OF PENSION TO
TEACHERS WHO RETIRED BETWEEN 1997 AND 2007**

The Speaker (Hon. Kingi): Hon. Senators, I hereby report to the Senate that a Petition has been submitted, through the Clerk, by Mr. Philip K. A. Too, a citizen of the Republic of Kenya and a resident of Olenguruone, Nakuru County.

As you aware Article 119(1) of the Constitution states-

'every person has the right to petition Parliament to consider any matter within its authority including enacting, amending or repealing any legislation.

Hon. Senators, the salient issues raised in the said Petition are as follows-

(i) That 25 years have passed since an agreement was reached between the Kenya National Union of Teachers (KNUT) and the Teachers Service Commission (TSC) to increase teachers' salaries.

(ii) The Government has neglected the plight of the retired teachers and in particular, payment of claims to the retired teachers between 1997 and 2007.

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(iii) That when TSC defaulted in payment of retired teachers' dues, the teachers went to court, where upon the court awarded the retired teachers their claims through a ruling by the Rt. Chief Justice Maraga.

(iv) That the then Minister of Finance, Hon. Uhuru Kenyatta, had set aside Kshs3.3 billion in the budget of Financial Year 2011/2012 for this purpose.

(v) That many teachers have perished while their dependents are suffering and living in abject poverty.

(vi) That the petitioner has made all efforts to have the matter resolved but those efforts have been futile and the responses unsatisfactory.

The Petition therefore prays the Senate to do the following-

(i) Investigate the reasons why TSC and the Pensions Department have not worked out a plan to make payment for the retired teachers from 1997-2007.

(ii) Intervenes so that the TSC and the Pensions Department expedite the payment of the claims and lastly,

(iii) should the delay in payment be due to lack of funds, provision be made through a supplementary budget.

Hon. Senators, pursuant to Standing Order No.231, I shall now allow comments, observations or clarifications in relation to the Petition for not more than 30 minutes. It is now 2.38 p.m. So, those interventions should be done within half an hour from 2.39 p.m.

Proceed, Sen. M. Kajwang'.

Sen. M. Kajwang': Mr. Speaker, Sir, I rise to congratulate and thank the petitioners for deciding to bring this matter before the Senate. This is an indication that they believe that the Senate can find a solution and ensure those retired teachers are paid their dues.

Mr. Speaker, Sir, I had hoped that even before the Petition was read, you would make a Communication to mark the International women's Day which is today.

To mark today being the International Women's Day, the 8th of March is a public holiday in a number of countries. Today, we have a conference on the status of women. I hope that you will address yourself to that because we hold our women in high regard.

Back to the Petition. This is a matter that is similar to the issue of retired or former councillors. This House deliberated on this and a Committee that was led by the Senator for Laikipia looked at it in-depth, came up with a report and the only thing that failed was implementation.

I do hope that the Standing Committee on Education will learn from the Standing Committee on Labour and Social Welfare how they handled the matter of retired councillors because the issues were similar. They retired, they needed some benefits, the amount had been put in the budget, yet the Cabinet Secretary for the National Treasury, I think, was too busy writing texting messages or WhatsApp messages and did not give attention to the plight of the retired councillors.

So, I want to request Sen. Joe Nyutu who is the Chairperson of the Standing Committee on Education just to reflect on that. However, the 60 days that have been provided in the Standing Orders to deal with this matter is very ambitious. I hope that the Standing Committee on Education will drop everything because these retired teachers---I am a son of a teacher. Unfortunately, my father who was a teacher is dead. So, if he was

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to benefit from this pay-out, it will be posthumous. Many teachers are dying, their children are dropping out of school and many teachers are sinking into *chang'aa* and *busaa* in the villages for lack of income and lack of upkeep.

So, I congratulate the petitioners and want to assure them that the Senate will do justice to this and that Sen. Cheruiyot who leads the Majority side will prevail upon the CS, National Treasury to pay the retired councillors and retired teachers as per the resolution of the House.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir, for this chance. I realize that my comments almost mirror word for word with what my good neighbour, Senator for Homa Bay, Sen. M. Kajwang', has spoken about because I wanted to make my first speech today in the House to be a celebration of the girl-child and women in general and to draw your attention to the need that us as House, in future when we have the opportunity like we have today of being International Women's Day, to spare some time to speak on the plight and challenges that our women continue to face in various spheres of life.

I will follow the mood that has been set by Sen. M. Kajwang' and secondly agree with him on the Petition specifically. He speaks about it first as a Senator and I do so too. Secondly, as a son of a teacher. I am a son of a teacher too. So, I understand completely what the petitioners are asking of us, as Senate.

The fact that they brought this Petition before this House yet they know they could have exercised their right to take it to the other House and not here, is testament enough that Kenyans continue to believe that this is the Upper House, is a House of reason and that we can resolve their matters.

We may not have the powers to budget and to decide and input this into the budget, but we can use our influence and speak to the relevant bodies. On many occasions, we have spoken of the plight of our retired teachers and the need for proper consideration one, in terms of their pension and being paid what is due to them in total.

If you happen to interact with any Kenyan; a retired civil servant who visits that building down Harambee Avenue known as Bima House, they will tell you the tribulations and the frustrations that former civil servants continue to face when they are trying to chase their pension and clear this or the other; yet they gave the best of their sweat and energy to us as a nation during the time that they had the energy to do so.

For it to get to this point that they have to plead and we, as a House, have sit, deliberate and make a determination on what to do with them is unfortunate. I hope that when the Committee sits down, they will not just deliberate on the plight of teachers and retired councillors as has been mentioned by Sen. M. Kajwang' but the Public Service in general and rethink our handling of pension.

It is not as secret any more that the biggest funds that have been put together globally for development including the loans that we are taking are from pension funds; money from people that have saved during their time as they worked. Since they reaped the benefits, their countries do not have to struggle paying or raising money from the Exchequer to pay pensioners.

I know that there was an attempt in the National Assembly last term. I hope that this term, somebody comes up with it and we follow through to re-evaluate the Public

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Service Pension Scheme, make it contributory because it is no longer sustainable to always raise Exchequer and collect funds to finance retired civil servants. This will ensure that when you make your contributions during your time like we do as Members of Parliament, in your retirement you can have something that will take care of you. You do not have to wait. Have the pension fund properly managed.

I see what happens in other institutions not necessarily in the Civil Service but in private practice. Those that have good pension funds that are well managed, they wait at the end of the month and receive their dues without having to chase or call any other person. I hope that we can get to that level of organization for the Public Service.

Therefore, I support this Petition and request that the Committee that shall be tasked with the duty of looking through this Petition shall consider it expeditiously and make sure that it is concluded before the 60 days statutory time.

Thank you, Mr Speaker. Sir.

The Speaker (Hon. Kingi): Sen. Mwaruma.

Sen. Mwaruma: Nashukuru, Bw. Spika, kwa fursa hii umenipa ili nichangie hili ombi ambalo limeletwa na mhusika. Kwanza kabisa niseme ya kwamba, ni haki ya kila Mkenya kuleta ombi katika Seneti. Ningependa kusema ya kwamba nashukuru kwa sababu hili swala la malipo ya walimu ambao walistaafu limechukua muda mrefu sana.

Mwaka wa 1997 walimu wa Kenya waligoma. Serikali ya Rais aliyekuwemo, Mhe. Marchemu Moi, aliwapa nyongesa ya mshahara lakini ile Serikali haikutimiza kulipa wale walimu.

Mwaka wa 2002 wakati uongozi ulikuja mpya wa Mhe. Marchemu Rais Kibaki, iliamua kulipa wale walimu malipo yao ya nyongeza ya mishahara. Lakini kuna walimu kati ya 1997 na 2002 walikuwa wamestaafu kabla ya kupata malipo yao ya nyongeza ya mshahara.

Hawa ndio watu wanaomba hili Bunge la Seneti liwasaidie ili wapate malipo yao. Nikiwa katika Kamati ya Bunge la Seneti ya Elimu ama Standing Committee on Education, tutalivalia njuga ili tuangalie ya kwamba hawa walimu ambao wamestaafu na wengine wengi vile Sen. M. Kajwang amesema, wengine washaa kufa tayari, ili wapate hiyo nyongeza, walipwe pesa yao na familia zao pia zipatwe kulipwa.

Imekuwa mtindo wa Serikali ya Kenya kutolipa wananchi wao pesa zao wakati zinahitajika. Katika hili Bunge, kuna Statement imeletwa na Sen. (Dr) Murango kuhusu makansela amabao wamestaafu na hawajapata kulipwa pesa zao. Hili ni swala ambalo tuliliangalia nikiwa Naibu wa Mwenyekiti wa Kamati ya Leba katika Bunge lililopita.

Tulielekea mpaka kwa Mhe. Ukur Yatani ambaye alikuwa Waziri wa Fedha na akaahidi ya kwamba katika bajeti, kutawekwa pesa za kulipa hawa makansela. Mpaka leo, hawa makansela hawajalipwa. Ni vizuri Serikali iheshimu wananchi wake na kuwalipa pesa zao za takrima wakati wanapozihitaji.

Huo ndio utakuwa mchango wangu. Tutalivalia njuga hili swala ili hawa walimu pamoja na makansela walipwe pesa zao kwa wakati unaofaa.

Asante sana, Bw. Spika.

The Speaker (Hon. Kingi): Sen. (Dr) Khalwale.

Sen. (Dr) Khalwale: Thank you, Mr Speaker, Sir. How I wish that you would use your far-reaching powers under Standing Order No.1 so that we see a way of converting

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this Petition to a Motion concerning a national matter of grave importance so that a resolution can be made next week.

There is nothing to investigate or find out. This House has already made a pronouncement on this matter.

We now have a disciplined Cabinet Secretary, a whole professor at the National Treasury, a professor who was in charge of the Central Bank of Kenya, Professor Ndungu, who worked with President Mwai Kibaki that was able to pay teachers. We take advantage now that the looters of National Treasury have gone home.

Let us now pay these people with the money that is there. Who are these people? Remember we were retiring at that time at the age of 55. These are people who are between age 76 and 81. These people are alive. They are not Unfortunately, they take all the little earnings they have from their *Jua kalis* on treating arthritis, diabetes and hypertension. The male ones are treating problems of the prostate. The women are treating problems of enlarged and bleeding uterus. They need money.

Mr. Speaker, Sir, I was expecting that the Salaries and Remuneration Commission (SRC) would also remember things like these once because that is why we created a commission. Instead of doing this, they have gone on a spree of fighting politicians. They have taken away all the little allowances that Members of County Assembly (MCAs) use to get. An MCA now earns Kshs86, 000 and is now unable to operate.

The SRC had jumped and attempted to take away the non-practising allowance paid to doctors, clinical officers, magistrates and judges because they do not know that these are the things to ring-fence.

I congratulate Sen. Maanzo, Sen. Mundigi, Sen. Murango, Sen. More fire, Sen. Mwaruma and Sen. Lomencn. When I spoke to them last night, I did not know they would oblige. We agreed that we put on red ties to appreciate our women on this day of International Women's Day.

Mr. Speaker, Sir, I put on a red tie of love. Look at Sen. Beatrice, Sen. Keroche, Sen. Tabitha and all of them. They have not put on anything red. You are really discouraging.

I support.

(Laughter)

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, instead of inviting the Chair to stretch its powers to exercise Standing Order No.1 to convert this Petition into a Motion, nothing prevents any Member here from bringing a Motion touching on this matter. Therefore, it is upon you, Members. You can prosecute this through a Petition or if anyone of you chooses, bring a substantive Motion to discuss this matter.

Proceed, Sen. Maanzo.

Sen. Maanzo: Thank you, Mr. Speaker, Sir, for giving me an opportunity to support this great Petition. This has been lingering on for long time for many Kenyans. It is a question former teacher and current teachers' organizations of Makueni have been asking on behalf of their colleagues.

Mr. Speaker, Sir, my late parents were first teachers before they went to preach the gospel. I can assure you that many teachers who retired those days have really

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suffered a great deal. The matter has been to and out of court. I have been to the Government which made an allocation which was never honoured.

If these retired teachers got their money, they would have spurred the economy, they would have made investments in agriculture, hardware, shops and would have even paid more taxes to the country. Unfortunately, without investing Kshs3.3 billion through such brilliant people who have been teaching business and good ideas, that money was never given an opportunity.

Sen. (Dr.) Khalwale has said they have now aged and suffered diseases. Some have died out of frustrations, high blood pressure and related diseases.

Mr. Speaker, Sir, it would do a great deal even through this Petition. It can come up with a very pressurizing decision. I believe even the Government should now take some action even before we complete this Petition and have a plan. Even with the current budget, this matter must be included so that these teachers can be honoured.

As we honour women today, many of these people who have not been paid are women who have served this nation a great deal. A teacher, be it a primary school or a nursery school teacher, is a person who begins to build a nation by teaching children on first good manners. I am a creation of teachers and I believe many of us here are.

Therefore, Mr. Speaker, Sir, I plead with the Committee and Government to honour this particular deal and judgement so that retired teachers of this country can get their dues.

The Speaker (Hon. Kingi): Proceed, Sen. Murango.

Sen. (Dr.) Murango: Asante sana, Mstahiki Spika. Ninampa kongole Mwenye Ardhillhali aliyecomba kuhusu malipo ya uzeeni na nyongezo ya mishahara ya walimu. Ni kitu kinafaa kuzingatiwa kwa maana kwa muda mrefu mambo yanayokumba waalimu mengi hayajakuwa ya kutia moyo sana.

Ya kwanza, kuna uhawilisho ambao umekuwa ukiendelea; kupeleka eneo tofauti na bado wanalipwa mishahara ile ile. Kwa hivyo, ni vizuri hiyo nyongeza izingatiwe na ada ya walimu pia iangaliwe.

Nilikuwa nimeomba Ardhillhali ambayo ilienda kwa Kamati ya Leba na Maslahi ya Jamii kuhusu malipo ya wale madiwani waliokuwepo. Ni vizuri pia ile izingatiwe kwa sababu tunapokaa sana bila kuwalipa halafu tunalipa wakati miaka imesonga sana ni sawa tu na kumpatia mtu wembe ama kichana wakati ana na kipara kama mimi hapa. Haitakuwa na maana yeyote kwa mtu ambaye kwa maisha yote amekuwa akitaabika kwa kungojea zile fedha.

The Speaker (Hon. Kingi): Proceed, Sen. Ogola.

Sen. Ogola: Thank you, Mr. Speaker, Sir, for giving me the opportunity. I support the Petition by Philip K.A Too concerning the delayed payment of pension to teachers who retired between 1997 and 2007.

Anytime anybody now addresses pupils in school or students and you ask them how many of them aspire to be teachers, you will be surprised that many of them do not. Why? It is probably because of the miserable states they see in older parents who have been teachers and have contributed a lot to this country. When they retire after giving this service to citizens of this country, they are not able to get their pension.

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Mr. Speaker, Sir, as the rest of the speakers have said, the teachers are languishing in poverty all over in their communities. Teachers by their nature in their communities are still the opinion leaders in different categories. A good number of churches leaders are retired teachers.

Mr. Speaker, Sir, they are in poverty even as they continue to lead in retirement. That gives the teaching profession a very bad image amongst our people. A number of these teachers, as other speakers have said, are sick. Others are taking care of their grandchildren having lost their fathers and mothers. I support that the Government should prioritise payment of pension to teachers, not as a favour but as a right.

Before I sit down, I wish to honour a number of women and ensure that they are celebrated this day. I thank the Senate Majority Whip, who stated that he mobilised a number of male Senators to celebrate us by wearing red ties. We are not in red because we do not care. We only wanted to see how our male counterparts are celebrating us. It is worth noting that the Senate Majority Leader, Sen. Cheruiyot, is not in a red tie. He should wear a red tie even tomorrow and celebrate women.

Women have made great strides in this country. We celebrate all women including those in leadership and business. We also celebrate the great women who are heading families all over the country, against the hard economic times. We do not want to leave behind out single mothers. We celebrate them.

Among those we are celebrating, are great women leaders who made it to the Senate via elections. Examples are the Deputy Majority Leader, Sen. Tabitha Keroche; our senior, Sen. Kavindu Muthama; and Sen. Dullo. They should know that we celebrate them and we are struggling to come back as elected Senators.

Mr. Speaker, Sir, I support the Petition.

(The Speaker consulted the clerk-at-the-Table)

The Speaker (Hon. Kingi): Proceed, Sen. Cherarkey.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. I am in a red tie but the women in the House have not noticed.

(Laughter)

I support the Petition brought by Mr. Too. It is sad that 25 years later, some teachers have perished and their dependents are struggling. A sum of Kshs3.3 billion was allocated years ago by the former President, Hon. Uhuru Kenyatta. If we are losing Kshs15 billion in 26 minutes, what is hard for the former regime to have paid Kshs3.3 billion to teachers?

The greatest teacher of all time was Jesus Christ. The point is; this is a human rights issue and not an ordinary one. It is a labour rights issue. These teachers must be paid their dues in full. If they have beneficiaries and dependents, they must be paid.

The teachers continue to undergo a lot of challenges. We are not saying that teachers are more special than other professionals like journalists, pharmacists, engineers and lawyers. However, let them be considered in a fair way. It is very unfortunate that they cannot be paid Kshs3.3 billion while we are losing Kshs15 billion in 26 minutes.

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I appeal to the Cabinet Secretary (CS), Ezekiel Machogu and our beloved President, Hon. (Dr.) William Ruto, to expedite the payment of Kshs3.3 billion to these teachers.

Finally, teachers continue to suffer, especially with delocalisation. As we talk, I am carrying a list of teachers from Vihiga, Kakamega and Kisumu counties, as well as northern parts.

Mr. Speaker, Sir, you need to give direction as we discuss this Petition. Their only crime was to demand that they be brought back to their home counties. When the ruling Party of Kenya Kwanza came into power, the issue of delocalisation was to be removed.

Why is it that the Teachers Service Commission (TSC) directors in Vihiga, Kisumu, Kakamega and Narok counties are going rogue and denying our teachers an opportunity to be taken back to their home counties? We need to be honest.

I do not know what the Chief Executive Officer (CEO) of TSC, Ms. Nancy Macharia, is doing in office. After their names were submitted to TSC, they received warning, show cause and interdiction letters. Their only crime was to demand to be taken back to their home counties. Is it an offense to demand that you be transferred to your home county? The TSC must be called to order.

The problems that Jesus Christ faced are the same ones that teachers of Kenya are facing. We must address them as a House.

The Speaker (Hon. Kingi): Sen. Wambua, proceed.

Sen. Wambua: Thank you, Mr. Speaker, Sir. I stand in full support of this Petition by Mr. Too. Truth be told, we do not treat our teachers well. We actually mistreat them.

Reading through this Petition, you get the feeling that to a great extent, probably the Kenyan teacher is on his or her own. Twenty five years down the line after a decision was made to pay them money due to them, they are yet to receive it. They continue to die and suffer, whereas new projects are being initiated in every turn and twist and with every Government that comes in to office.

It will be remembered in this House, that in the last Session, the 12th Parliament pushed for payment of former councilors. When that matter came to the Floor of the Senate, we had more than 12,000 former councilors. Today, I think we have less than 10,000. We have lost more than 3,000 of them, while waiting to be paid their money. The previous administration committed on paper to pay them a one off honorarium of only Kshs200,000. To date, that money has not been paid.

Mr. Speaker, Sir, I urge that we begin to treat people in public service better, especially teachers and former councilors.

This Petition could not have come at a better time when this country and the world is celebrating International Women's Day.

I wish to go on record and confirm that the Senator for Kakamega County did not call me with instructions to wear a red tie.

(Sen. (Dr.) Khalwale spoke off record)

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I am in a green tie and I salute the women of this country on this day. To all the women in the House; Sen. Tabitha Mutinda, Sen. Mariam Omar, Sen. Orwoba, Sen. Lemaletian, Sen. Shakila Abdalla, Sen. Ogola, Sen. Kavindu Muthama, Sen. Beth Syengo, Sen. Tabitha Keroche, the clerk-at-the-Table and the serjeant-at-arms including Ms. Sarah; I salute you. I wish you every bit of success in this life and beyond.

The Speaker (Hon. Kingi): Proceed, Sen. Munyi Mundigi.

(Laughter)

Sen. Munyi Mundigi: Bw. Spika, yangu ni machache. Bila walimu hapa Kenya, sisi hatungekuwa hapa. Hatungekuwa na Rais. Dunia nzima, yeyote anayefanya kazi amepitia mkononi mwa mwalimu.

(Applause)

Kama kuna mtu ananyanyaswa katika Kenya ni mwalimu. Walimu wanapatikana vijijini, kanisani, shuleni na kila pahali. Walimu wanakumbwa na shida wanapocenda *retire*. Imekuwa shida. Kwa hivyo, naunga mkono mwalimu aangaliwe mambo yake.

Kama ilivyofanyika mwaka uliopita, walimu walipigwa *transfer* na pia wakatenganishwa na familia zao. Wakati srikali ya Kenya Kwanza ilipata mamlaka iliapa kuwarudisha walimu Hao kwa shule zao na ikawa haijafanyika. Kulipaswa kuwa na mkutano mkubwa wa walimu ulioandaliwa na Kamati ya Elimu ya Seneti. Lakini jambo la ajabu ni kuwa waandalizi hawakuhudhuria kikao hicho. Kwa hivyo, mwalimu anaandelea kunyanyaswa. Ningomba hatua ichukuliwe ili kuonekana kutakuwaje.

Walimu wale wako Kitui, Tharaka-Nithi na wanatoka Embu, hawajarudishwa Embu. Imekuwa ni shida. Shida hiyo haiko Embu peke yake, iko katika kaunti arobaini na saba. Bunge ina mamlaka ya kuangalia vile Wizara ya Elimu itabadilishwa ili waweze kufanya kazi vizuri. Kuongezea, *departments* zote zijue kuwa mkubwa anapoitwa na Seneti, anafaa ahudhuria kikao. Kwa hivyo, ninaomba Seneti ichukulie hatua wale watu ambao hawatatii wito wa kamati za Seneti.

Asante.

The Speaker (Hon. Kingi): Hon. Senators, the half an hour meant for this Petition is long spent. However, now that today is a big day to our female colleagues, I will allow those who are on the queue of the female gender to make their contributions. We will start with Sen. Kavindu Muthama and thereafter Sen. Beth Syengo and then we leave it at that.

Sen. Kavindu Muthama: Bw. Spika, asante kwa kunipa fursa hii ya kuchangia Ardhihali hii ambayo imeletwa Seneti na Bw. Philip K.A. Too. Ni jambo la kuhuzunisha sana kuona walimu wetu ambao wanafanya kazi kubwa sana ya kutoa ujinga kwa wanadamu; wanastaafu na hawapati haki yao.

Wakati mtu anafanya kazi anatarajia kwamba atakapostaafu atapata marupurupu yake ya kujiendeleza katika maisha ya uzee. Mtu anapofikisha miaka 60 na kustaafu huwa anategemea yale marupurupu yake. Ni ajabu kuona ya kwamba kutoka mwaka wa 1997 mpaka mwaka wa 2007, kuna walimu walistaafu na mpaka sasa hawajalipwa.

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Bw. Spika, ninaunga mkono hii ardhilhali ili walimu hao walipwe marupurupu yao. Ningependa pia kugusia swala la madiwani ambao walistaafu. Ilisemekana kuwa watapewa marupurupu yao ili kujiendeleza. Kutoka wakati mjadala huo uliletwa katika Seneti na Sen. Wambua mpaka leo hakuna jambo lolote ambalo limefanyika.

Bw. Spika, ninaomba Rais wetu Bw. William Samoci Ruto, pamoja na *Cabinet Secretary (CS)* wa Elimu waangalie swala hili ili walimu na madiwani wale ambao walistaafu wapokee malipo yao.

Asante, Bw. Spika, kwa kunipa fursa hii.

The Speaker (Hon. Kingi): Proceed, Sen. Beth Syengo.

Sen. Beth Syengo: Thank you, Mr. Speaker, Sir. I also rise to support the Petition on the payment of dues for the retired teachers.

Mr. Speaker, Sir, I am a former teacher. It is demoralizing to see how teachers are treated yet they contribute to community development. They are the ones who are living in the community every day and time. When the retired teachers do not receive their dues, it makes them unproductive and unempowered.

Teachers who retired between 1997 and 2007 are now aged. My colleagues have already indicated that people retire, of course, when they are aged. The Government has been giving social support to the elderly, why not also pay dues to teachers who have retired and they have aged? Allow me to recognize female teachers on this special day of International Women's Day. There are teachers who are women and supporting families. I wonder why the Teachers Service Commission (TSC) delocalized female teachers.

The female teachers who were delocalized are meant to teach in different parts of this country, which are very far from their communities, yet they are the ones who are supposed to support the families. This is contributing to marriage break ups because these women are working very far, leaving their husbands behind. This is not right and it is causing family break ups.

I request the TSC Chief Executive Officer (CEO), Madam Nancy, to think about delocalization. As one of us said, I am also holding a list of delocalized teachers from Kitui County who have been taken to Meru, Embu and Kirinyaga which is very far from their families. They are crying daily on how they are supposed to contribute to support their children. This is because some are young teachers who are still in child bearing age and they cannot support and bring up their children together with their husbands.

Finally, today is our day. The 'bull fighter', Sen. (Dr.) Khalwale, indicated that this life requires both genders. Men should support women. I urge fellow female Senators to organize a way of recognizing men who support women. We will give them a certificate of recognition.

Mr. Speaker, Sir, I thank you.

The Speaker (Hon. Kingi): Very well, we do appreciate the female Senators and we pray for the best for you.

As your Speaker, I request that at the rise of the House, the female Senators should make way to my office so that I give you a message of appreciation.

(Sen. M. Kajwang' applauded)

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

PRESENT

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

ABSENT WITH APOLOGY

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

SENATE SECRETARIAT

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

MIN/SEN/SCE/179/2023

PRELIMINARIES

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

MIN/SEN/SCE/180/2023

ADOPTION OF THE AGENDA

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

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

MIN/SEN/SCE/181/2023

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

1. The Committee Secretariat presented *Committee Paper No. 27(b)* on the Report on the petition concerning the 1997-2007 retired teachers' claims for consideration and adoption;
2. During consideration of the report, the Committee observed that there is need to follow up on the implementation of the recommendations thereto and periodically report to the Senate;
3. The Committee Report on the petition concerning the 1997 – 2007 retired teachers' claim was unanimously adopted after its consideration; and
4. The adoption of the Report was proposed by Sen. Lenku Ole Kanar Seki, MP and seconded by Sen. James Murango, MP.

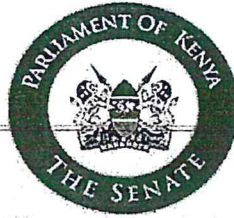
MIN/SEN/SCE/182/2023

ADJOURNMENT AND DATE OF
THE NEXT MEETING

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

SIGNED: DATE: 07/08/23

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



MINUTES OF THE THIRTY-THIRD MEETING OF THE STANDING COMMITTEE ON EDUCATION HELD ON TUESDAY, 18TH JULY, 2023 AT 12:00 NOON AT SHIMBA HILLS, KICC BUILDING

PRESENT

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

ABSENT WITH APOLOGY

- | | |
|----------------------------------|---------------|
| 1. Sen. Joe Nyutu, MP | - Chairperson |
| 2. Sen. Lenku Ole Kanar Seki, MP | - Member |
| 3. Sen. James Kamau Murango, MP | - Member |
| 4. Sen. Joseph Githuku Kamau, MP | - Member |

SENATE SECRETARIAT

- | | |
|------------------------|------------------------|
| 1. Ms. Getrude Nthiri | - Clerk Assistant I |
| 2. Ms. Mary Waqo | - Clerk Assistant III |
| 3. Ms. Carol Cheruiyot | - Senior Legal Counsel |
| 4. Mr. Dennis Amunavi | - Research Officer III |
| 5. Ms. Ann Onsare | - Audio Officer |
| 6. Ms. Hawa Abdi | - Sergeant-at-Arms |

MIN/SEN/SCE/157/2023

PRELIMINARIES

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

MIN/SEN/SCE/158/2023

ADOPTION OF THE AGENDA

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

1. Prayer;
2. Adoption of the Agenda;
3. Meeting with the Cabinet Secretary, National Treasury and Planning to deliberate on issues raised in a petition regarding the 1997-2007 retired teachers' claims (*Committee paper no. 24(b)*)
4. Any Other Business; and
5. Adjournment /Date of the Next Meeting.

MIN/SEN/SCE/159/2023

MEETING WITH THE CABINET
SECRETARY, NATIONAL
TREASURY AND PLANNING
(COMMITTEE PAPER NO 24b)

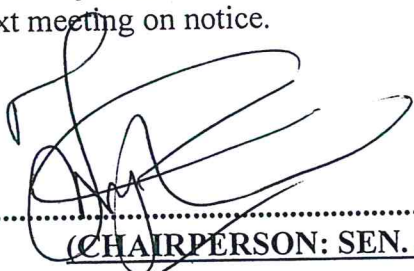
1. The Committee was informed that the Cabinet Secretary, the National Treasury and Planning had been invited to the meeting to deliberate on the issues raised in the petition regarding the 1997 – 2007 retired teachers' claim.
2. The Committee was informed that the Cabinet Secretary vide a letter *Ref: TNT/CONF 268/014 'J' (50)* informed the Committee that he was scheduled to attend a Cabinet meeting on 18th July 2023 and requested its indulgence to reschedule the meeting to 7th August 2023. Further, vide a letter *Ref TNT/CONF 268/014 'J' (44)* the CS had appealed to revoke the decision on the 500,000/= Kshs. penalty imposed by the Committee.
3. The Committee considered the request to reschedule the meeting to 7th August, 2023 and declined to accede to the request by the Cabinet Secretary. It was noted that the timelines to conclude on the Petition as set out in the Standing Orders have lapsed and failure of the Cabinet Secretary to appear before the Committee is causing inordinate delays in the conclusion of the matter.
4. The Committee **resolved** to invite the Cabinet Secretary, National Treasury and Economic Planning to a meeting of the Committee to be held on Thursday, 27th July 2023, to deliberate on the issues raised in the petition.
5. The Committee further considered and declined the appeal by the CS to revoke the decision of the penalty imposed by the Committee.

MIN/SEN/SCE/160/2023

ADJOURNMENT AND DATE OF
THE NEXT MEETING

The meeting was adjourned forty-seven minutes past twelve. The Committee resolved to hold the next meeting on notice.

SIGNED:



DATE:

25/07/2023

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



**MINUTES OF THE THIRTY-SECOND MEETING OF THE STANDING
COMMITTEE ON EDUCATION HELD ON THURSDAY, 29TH JUNE, 2023 AT
12:00 PM AT VIP ANNEX I, FIRST FLOOR, KICC BUILDING**

PRESENT

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

ABSENT WITH APOLOGY

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

SENATE SECRETARIAT

- | | |
|-------------------------|------------------------|
| 1. Mr. Humphrey Ringera | - Research Officer I |
| 2. Ms. Doris Obure | - Clerk Assistant III |
| 3. Ms. Carol Cheruiyot | - Senior Legal Counsel |
| 4. Mr. Kenneth Ndirangu | - Research Officer III |
| 5. Ms. Mumbi Mwaura | - Audio Officer |
| 6. Ms. Hawa Abdi | - Sergeant-at-Arms |

MIN/SEN/SCE/152/2023

PRELIMINARIES

The meeting was called to order at fifteen minutes past twelve noon and the proceedings commenced with a word of prayer said by Sen. Lenku Ole Kanar Seki, MP.

MIN/SEN/SCE/153/2023

ADOPTION OF THE AGENDA

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

1. Prayer;
2. Adoption of the Agenda;
3. Consideration and Adoption of the Committee Report on the petition regarding the 1997 to 2007 retired teachers claim; (*Committee Paper No. 27*);
4. Any Other Business; and
5. Adjournment /Date of the Next Meeting.

MIN/SEN/SCE/154/2023

CONSIDERATION AND ADOPTION OF THE COMMITTEE REPORT ON THE PETITION REGARDING THE 1997-2007 RETIRED TEACHERS CLAIM

1. The Committee Secretariat presented *Committee Paper No. 27* on the draft report on the Petition regarding the 1997-2007 retired teachers claim for consideration and adoption;
2. The Committee deliberated on the report and observed that the written submission presented by the Cabinet Secretary, the National Treasury appeared inaccurate and provided insufficient information to enable the Committee conclude on the matter;
3. The Committee imposed a fine of Kenya Shillings Five Hundred Thousand (500,000/-) pursuant to section 19 (1) of the Parliamentary Powers and Privileges Act, 2017 to the Cabinet Secretary (C.S), the National Treasury; and
4. The Committee further resolved to summon the Cabinet Secretary, the National Treasury to a meeting of the Committee to be held on Tuesday, 18th July, 2023 to deliberate on the issues raised in the Petition.

MIN/SEN/SCE/155/2023

ANY OTHER BUSINESS

1. The Committee directed the Secretariat to prepare a Committee Work plan for the 2023/24 FY for consideration and adoption detailing activities to be undertaken in regard to its mandate and emphasizing on the implementation of different education policies such as the Sector Policy for Learners and Trainees with Disability and Early Childhood Development Education (ECDE) policies;
2. The Committee resolved to invite the Petitioners in the Petition regarding salary arrears for P1 teachers with 'A' Level academic qualifications from 1996-2010 on Thursday, 20th July, 2023 to seek information and further clarification on issues raised in their petition; and
3. The Committee further requested the Secretariat to peruse through the list of the questions to be raised by the Senators during the appearance of the Cabinet Secretary, Ministry of Education and advise the members on supplementary questions to be raised pursuant to standing order 51C (7) (b).

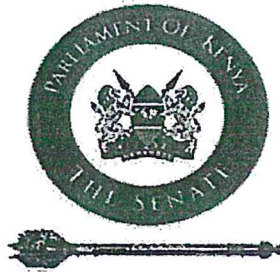
MIN/SEN/SCE/156/2023

ADJOURNMENT AND DATE OF THE NEXT MEETING

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

SIGNED: DATE: 25/07/2023

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



MINUTES OF THE TWENTY-FIFTH MEETING OF THE STANDING COMMITTEE ON EDUCATION HELD ON TUESDAY, 30TH MAY, 2023 AT 9:00 AM AT THE VIP ANNEX II, FIRST FLOOR, KICC

PRESENT

- | | |
|-----------------------------------|---------------|
| 1. Sen. Joe Nyutu, MP | - Chairperson |
| 2. Sen. Agnes Kavindu Muthama, MP | - Member |
| 3. Sen. Lenku Ole Kanar Seki, MP | - Member |
| 4. Sen. Johnes Mwaruma, MP | - Member |

ABSENT WITH APOLOGY

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

SENATE SECRETARIAT

- | | |
|-------------------------|---------------------------|
| 1. Mr. Humphrey Ringera | - Research Officer I |
| 2. Ms. Carol Cheruiyot | - Senior Legal Counsel |
| 3. Ms. Njeri Manga | - Media Relations Officer |
| 4. Mr. Kenneth Ndirangu | - Research Officer III |
| 5. Mr. Denis Amunavi | - Research Officer III |
| 6. Ms. Mumbi Mwaura | - Audio Officer |
| 7. Ms. Hawa Abdi | - Sergeant at Arms |

MIN/SEN/SCE/118/2023

PRELIMINARIES

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

MIN/SEN/SCE/119/2023

ADOPTION OF THE AGENDA

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

1. Prayer;
2. Adoption of the Agenda;
3. Meeting with the Cabinet Secretary, the National Treasury to deliberate on the issues raised in the petition concerning the 1997-2007 retired teachers' claim;
4. Any Other Business;
5. Adjournment /Date of the Next Meeting.

MIN/SEN/SCE/120/2023

MEETING WITH THE CABINET SECRETARY, THE NATIONAL TREASURY

- 1) The Committee was informed that an invitation had been made to the Cabinet Secretary, the National Treasury, vide a letter *Ref: SEN/SCE/CORR/2023/014 (c)/ii*, to appear before the Committee following the resolution during the previous meeting. However, the Cabinet Secretary, the National Treasury had not honoured the invitation and there was no letter received seeking indulgence of the Committee on the matter;
- 2) The Committee deliberated on the matter and observed that the Cabinet Secretary had been invited to appear before the Committee on four different occasions but unfortunately he had not appeared;
- 3) The Committee observed that this continued to occasion delay in the conclusion of the consideration of the petition and **resolved** to summon the Cabinet Secretary pursuant to Article 125 of the Constitution and sections 18 and 20 of the Parliamentary Powers and Privileges Act. No. 29 of 2017.

MIN/SEN/SCE/121/2023

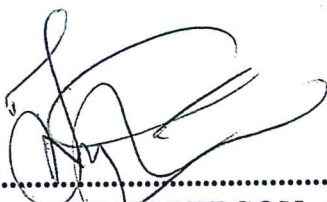
ANY OTHER BUSINESS

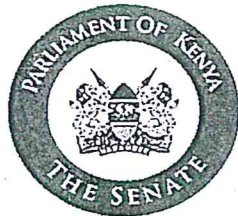
The Committee should consider seeking information and reports from the Cabinet Secretary, Ministry of Education on the implementation status of the Basic Education Curriculum Framework and especially the Junior Secondary Schools and further undertake an oversight visit to at least three counties to confirm and authenticate reports received from the Ministry of Education.

MIN/SEN/SCE/122/2023

ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business, the meeting was adjourned at half past ten. The Committee resolved to hold the next meeting on notice.

SIGNED:  DATE: 13/06/2023
(CHAIRPERSON: SEN. JOE NYUTU, M.P.)



MINUTES OF THE TWENTY-THIRD MEETING OF THE STANDING COMMITTEE ON EDUCATION HELD ON THURSDAY, 18TH MAY, 2023 AT 9:00 AM AT THE LAKE TURKANA ROOM, FIRST FLOOR, KICC

PRESENT

- | | |
|-----------------------------------|---------------|
| 1. Sen. Joe Nyutu, MP | - Chairperson |
| 2. Sen. Agnes Kavindu Muthama, MP | - Member |
| 3. Sen. Lenku Ole Kanar Seki, MP | - Member |
| 4. Sen. Joseph Githuku Kamau, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|---|--------------------|
| 1. Sen. Peris Tobiko, CBS, MP | - Vice-Chairperson |
| 2. Sen. (Prof.) Margaret Kamar, EGH, MP | - Member |
| 3. Sen. Johnes Mwaruma, MP | - Member |
| 4. Sen. John Kinyua Nderitu, MP | - Member |
| 5. Sen. James Kamau Murango, MP | - Member |

SENATE SECRETARIAT

- | | |
|-------------------------|------------------------|
| 1. Mr. Humphrey Ringera | - Research Officer I |
| 2. Ms. Carol Cheruiyot | - Senior Legal Counsel |
| 3. Ms. Hawa Abdi | - Sergeant at Arms |
| 4. Ms. Gradwel Mumbi | - Audio Officer |

IN ATTENDANCE

- | | |
|------------------------|---|
| 1. Mr. Charles Machira | - Chief Executive Officer,
Retirement Benefits Authority (RBA) |
| 2. Ms. Anne K. Mugo | - Chief Manager, Market Conduct,
Retirement Benefits Authority |
| 3. Mr. Jackson Nguthu | - Retirement Benefits Authority |
| 4. Mr. Antony Kiaraho | - Retirement Benefits Authority |
| 5. Mr. Moses Mbora | - Executive Secretary,
Kenya Union of Post Primary Education Teachers (KUPPET) |

MIN/SEN/SCE/109/2023

PRELIMINARIES

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

MIN/SEN/SCE/110/2023

ADOPTION OF THE AGENDA

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

1. Prayer.
2. Adoption of the Agenda.
3. Consideration of the petition concerning the 1997-2007 retired teachers' claim (*Committee Paper No. 22*).
4. Any Other Business.
5. Adjournment /Date of the Next Meeting.

MIN/SEN/SCE/111/2023

PETITION: 1997-2007 RETIRED
TEACHERS' CLAIM

- 1) The Committee was informed that the Kenya National Union of Teachers (KNUT) had sent written submissions (copy attached) and would not be attending the meeting. In attendance however were officials from the Kenya Post Primary Education Teachers (KUPPET) who had been invited to the meeting to provide more information on the petition.
- 2) The KUPPET officials informed the Committee that they supported the petition, and their members were greatly disenfranchised by perennial delays in submitting data and information by the TSC coupled with delays in processing the same by the Director of Pensions at the National Treasury. KUPPET consequently urged the Committee to make recommendations that would compel the National Treasury to expedite payment to all affected teachers or their dependents in the case of those who are deceased.
- 3) The Committee also held a meeting with the Retirement Benefits Authority (RBA) and was informed that-
 - a. RBA is a regulatory body under the National Treasury, established under the Retirement Benefits Act, mandated to regulate, and supervise the establishment and management of retirement benefits schemes and protect the interests of members and sponsors of retirement benefits sector.
 - b. currently there are one thousand and seventy-five (1,075) registered pension schemes and a total of Kshs. 1.58 trillion assets under management.
 - c. The Government has operated a non-contributory Pension Scheme since independence fully financed through the Exchequer. However, in 2012, the Government enacted the **Public Superannuation Scheme Act, 2012**. Consequently, the Government directed the conversion of all Defined Benefit (DB) Schemes in the Public Sector to Defined Contributory (DC) Schemes.
 - d. **Defined Benefit** is a pension plan that provides for payment of an amount on retirement determined on length of service and the annual basic salary at the time of retirement while **Defined Contribution** is a retirement plan where both the Government and employees make set contributions to the Scheme and the benefits are based on the scheme credit and investment income; and

e. The Public Service Superannuation Scheme covers civil servants, teachers employed by the TSC and disciplined services and comprise employees serving on permanent and pensionable terms of service and aged below 45 years as at 1st January, 2021, new employees who join the service on or after 1st January, 2021 on permanent and pensionable terms of service, employees aged 45 years and above as at 1st January, 2021 who opt to join and employees whose services were transferred to the county government and are covered under the Public Service Pension Scheme.

4) The Committee reiterated its resolution that the Cabinet Secretary, the National Treasury should appear before it to respond to the issues raised in the petition.

MIN/SEN/SCE/112/2023

ANY OTHER BUSINESS

The Committee to consider inviting the Retirement Benefits Authority to another meeting to acquaint itself with its roles, functions, and mandate.

MIN/SEN/SCE/113/2023

ADJOURNMENT AND DATE OF THE NEXT MEETING

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

SIGNED:



DATE:

13/06/2023

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





MINUTES OF THE TWENTY-SECOND MEETING OF THE STANDING COMMITTEE ON EDUCATION HELD ON THURSDAY, 4TH MAY, 2023 AT 10:00 AM AT THE VIP ANNEX II, FIRST FLOOR, KICC

PRESENT

- | | |
|---|--------------------|
| 1. Sen. Peris Tobiko, CBS, MP | - Vice-Chairperson |
| 2. Sen. (Prof.) Margaret Kamar, EGH, MP | - Member |
| 3. Sen. Johnes Mwaruma, MP | - Member |
| 4. Sen. Agnes Kavindu Muthama, MP | - Member |
| 5. Sen. Lenku Ole Kanar Seki, MP | - Member |
| 6. Sen. James Kamau Murango, MP | - Member |
| 7. Sen. Joseph Githuku Kamau, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|---------------------------------|---------------|
| 1. Sen. Joe Nyutu, MP | - Chairperson |
| 2. Sen. John Kinyua Nderitu, MP | - Member |

SENATE SECRETARIAT

- | | |
|-------------------------|------------------------|
| 1. Mr. Humphrey Ringera | - Research Officer I |
| 2. Mr. Jackson Wekesa | - Legal Counsel II |
| 3. Mr. Dennis Amunavi | - Research Officer III |
| 4. Mr. Kenneth Ndirangu | - Research Officer III |

IN ATTENDANCE

1. Dr. Nancy Macharia
2. Mr. Cavin Anyuor
3. Dr. Julius O. Olayo
4. Ms. Lilian Mwangi
5. Mr. Njoroge Njuguna

TEACHERS SERVICE COMMISSION

- Chief Executive Officer
- Director Legal
- Director Human Resources Management
- Staffing Officer
- Aide to the Chief Executive Officer

MIN/SEN/SCE/104/2023

PRELIMINARIES

The meeting was called to order at ten minutes past ten and the proceedings commenced with a word of prayer said by Sen. Lenku Ole Kanar Seki, MP.

MIN/SEN/SCE/105/2023

ADOPTION OF THE AGENDA

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

- 4) The TSC informed the Committee that, a total of **23,487** teachers who retired from 1/7/1997 to 30/6/2003 were identified as the beneficiaries of the enhanced pension emoluments and their details and data was submitted to the Director of Pensions, National Treasury for the final processing and payment.
- 5) The Committee further **observed** that-
- a. Teachers who are entitled to benefit under the Court order are those who retired without earning their respective salary awards. However, it is not clear how much money was set aside over the years to settle the retired teachers' claims and the amount of money that was paid to each of the 23,487 teachers;
 - b. the lead petitioner, Mr. Philip K. A. Too, was employed by the TSC as a teacher from 1973 to 31st August, 2005. He benefited from phase 1 of the salary awards which was implemented on 1st July, 1997. His salary was reviewed on 1st July 2003, 1st July 2004 and 1st July 2005. He exited on 31st August, 2005 after fully benefiting from the implementation of the salary agreement.
- 6) The Committee considered the request by the National Treasury and **did not accede** to the request to allow a written submission. Consequently, the Committee **resolved** to invite the Cabinet Secretary, the National Treasury to a meeting of the Committee to deliberate on the issues raised in the petition; and
- 7) The Committee further **resolved** to invite-
- a. The Kenya Union of Post-Primary Education Teachers (KUPPET);
 - b. The Kenya National Union of Teachers (KNUT); and
 - c. The Retirement Benefits Authority
- to also provide more information on the issues raised in the petition.

MIN/SEN/SCE/107/2023

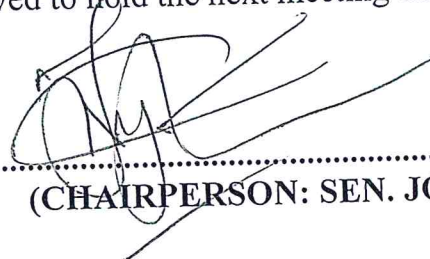
ANY OTHER BUSINESS

The Committee resolved to conduct a county visit to different Special Needs Institutions in Uasin Gishu County to acquaint itself with the implementation status of the Sector Policy for Learners and Trainees with Disability before the conclusion of the debates on the Learners with Disabilities Bill, 2023 (*Senate Bills No. 4 of 2023*) and the Kenyan Sign Language Bill, 2023 (*Senate Bills. No. 9 of 2023*).

MIN/SEN/SCE/108/2023

ADJOURNMENT AND DATE OF THE NEXT MEETING

There being no other business, the meeting was adjourned at ten minutes past one. The Committee resolved to hold the next meeting on notice.

SIGNED:  DATE: 06/06/2023
 (CHAIRPERSON: SEN. JOE NYUTU, M.P.)

STATEMENT BY THE CABINET SECRETARY, NATIONAL TREASURY AND ECONOMIC PLANNING ON THE PETITION TO THE SENATE CONCERNING THE 1997 – 2007 RETIRED TEACHERS CLAIMS ON THURSDAY 27TH JULY, 2023 AT 4.00P.M

Honourable Chairperson and Members of the Standing Committee on Education, I am honored to appear before you to apprise the Committee on the Petition by Mr. Phillip Too concerning teachers who retired in the period 1997-2007.

I would like to respond as follows;

1. BACKGROUND

Honourable Chairperson, allow me to lay the background to the issues that I was requested to respond to, in the following manner;

- 1.1. On **11th October 1997**, the Kenya National Union of Teachers (KNUT) and the Government of the Republic of Kenya entered into an Agreement to increase the remuneration payable to teachers in the public service. This agreement crystalized in **Legal Notice No. 534 of 1997** and was applicable to all teachers in the employment of the Commission at the material time. (*see appendix i*)
- 1.2. It was an integral term of the agreement duly negotiated and agreed by parties that the salary award was to be implemented and paid in five **(5) phases** with effect from **1st July, 1997 to 1st July, 2001** for a period of five (5) years.
- 1.3. The Legal Notice Number **534 of 1997** was followed with an Implementation Circular No. **13 of 1997** which captured and elaborated the terms of the Agreement and stipulated the salaries payable to the teachers under each year.
- 1.4. The Government implemented the **1st phase** of the Agreement which was duly paid to all teachers in October **1997**. However, due to economic constraints the subsequent phases from **July, 1998** were not paid.

- 1.5. On 19th September 2002, the Government issued the Teachers Service Commission (Remuneration of Teachers) (Revocation) Order, 2002 which had the effect of revoking the Agreement of 1997. (*see appendix ii (a)*)
- 1.1. In February, 2003, parties to the revoked agreement of 1997, (the Government and KNUT) re-negotiated and mutually signed a fresh Agreement to pay the four phases that would otherwise have been paid under the revoked agreement within a period of **Ten (10)** years with effect from **1st July, 2003** (*see appendix ii (b)*)
- 1.2. Further, in an Agreement signed on the **24th May, 2003** parties renegotiated and agreed that the ten (10) phases be reduced to six (6) phases to be implemented within a period of six (6) years.
 - 1.1. In the spirit of continued engagement, the payment plan was further reduced to **five (5)** phases in an Agreement signed on **1st March, 2007** *see appendix ii (c)*

Honourable Chairman, the honourable members may be aware of court actions that came in the way of implementing the subject agreements, some of which sucked in the National Treasury by virtue of being the administrator of public service pensions through the Pensions Department. It is significant to mention the cases as they give context to some of the issues we are discussing today.

2. COURT MATTERS

A. Nakuru High Court Civil Suit No 65 of 2006

- 2.1. On **27th March, 2006**, twenty (20) teachers acting on behalf of their colleagues filed a class action suit in the High Court at Nakuru wherein they claimed:-
 - a) *Declaration that the outcome of the representative suit will apply to all retired teachers;*
 - b) *Declaration that the Plaintiffs together with all other retired teachers are entitled to their retirement benefits inclusive of all other benefits*

provided for in the 1997 agreement between the Government of Kenya and the Kenya National Union of Teachers.

- c) *An order that the defendant pay the Plaintiff's all unpaid benefits to-date;*
- d) *Costs of the suit;*
- e) *Any other relief that this Honourable court may deem fit.*

2.2 On **23rd October, 2008**, the Court delivered its judgment and ordered that the 20 teachers, who initiated the suit, together with all other teachers covered by the Agreement dated **11th October, 1997**, are entitled to their **Retirement benefits** based on the entire agreement and Circular.

B. Nakuru Civil Appeal No. 300 of 2009


2.3 The Government being dissatisfied with the judgment of the High Court appealed to the Court of Appeal in **Nakuru Civil Appeal No. 300 of 2009**, which Appeal was heard and determined on **12th November, 2010**. In its judgment, the Court of Appeal decreed that the last salary be computed in a manner that incorporates all the terms of the agreement between parties.

C. Nakuru Judicial Review No. 18 of 2012

2.4 The retired teachers filed a Judicial Review Application seeking orders to compel the Commission Secretary and the Director of Pensions to pay to the teachers their enhanced retirement benefits as per the judgment. The teachers also filed an Application to cite the Commission Secretary for contempt of Court for failing to implement the Court Order.

D. Application for Leave to Appeal to the Supreme Court

2.5 In **2013**, the Government through the Attorney General sought leave from the Court of Appeal to appeal against the Judgment of the Court of Appeal to the Supreme Court. The Court agreed that the Application raised substantial issues of law and fact. However, the prayers were declined on the ground that there was unreasonable delay on the part of Government in filing the application.



E. Supreme Court Application No. 38 of 2014.

2.6 In September 2014, the Attorney General filed an Application at the Supreme Court seeking review of orders of the Court of Appeal that denied Government leave to appeal the matter to the Supreme Court. However on 9th December, 2015, the Supreme Court delivered its Ruling in the matter and declined to grant leave to the Government to file a further Appeal on grounds that there was inordinate delay on the part of the Government.

3 **IMPLEMENTATION OF THE JUDGMENT IN NAKURU HCCC 65 OF 2006**

Honourable Chairman,

- 3.1 After exhausting all judicial avenues provided by law, the Government resolved to implement the Court Judgment and pay the teachers their **enhanced Pension benefits based on the 1997 Agreement.**
- 3.2 The Teachers Service Commission commenced the exercise of identifying the teachers who exited service without benefiting from their respective phases under the Agreement. In keeping with the established procedures, the TSC would originate the revised claims and submit to the Pensions Department of the National Treasury for payment.
- 3.3 The National Treasury has since received a total of **23,487 revised claims** from the TSC out of which **22,115 have been processed and paid.** The total payments amount to **Kshs.16,158,450,143.** The remaining 1,372 revised claims are in the pipeline for payment. *The list of the 22,115 claims has been shared, in soft copy, through email address clerk.senate@parliament.go.ke and copied to the clerk of the committee through email address parliament.go.ke*
- 3.4 The National Treasury has worked determinedly with the TSC to ensure that all inquiries related to specific claims are resolved in an expeditious manner to enable the retired teachers get their rightful dues.

4. Pension benefits for the petitioner

Honourable Chairman, in the instant case of the petitioner – Mr. Phillip K.A. Too, I wish to comment as follows:

- 4.1 The National Treasury notes that **Mr. Philip K.A. Too**, the Petitioner herein, was employed by the TSC as a teacher from **1973 to 31st August 2005**.
- 4.2 We have been informed by the Teachers Service Commission that Mr. Too benefited from **phase I** of the salary awards which was implemented on **1st July 1997**. Additionally, following the **Legislative Supplement No. 10 of 21/02/2003** which re-negotiated the revoked 1997 Agreement, his salary was reviewed on **1st July 2003**, **1st July 2004**, and **1st July 2005**. He exited on **31/8/2005** after fully benefitting from the implementation of the salary agreement hence was correctly paid.
- 4.3 Additionally, The National Treasury was informed that in preparing the Petitioner's Pension Claim, the Commission factored in the salary increase as per the agreement. It is therefore not true that the Commission has not processed his enhanced pension Claim.
- 4.4 The petitioner was accordingly paid his pension on **24th May, 2006** whereby he received a commuted pension of **Ksh.826,710.20** and was enrolled on the monthly payroll at the rate of **Ksh.9,733.90 w.e.f 1st September, 2005**. The petitioner currently draws a monthly pension of **Ksh.13,436.00** upon the 3% biennial pension increases over the time, pursuant to the provisions of the Pensions Increase Act Cap 190. (*copies of the paymenst are attached as appendix iv*)

Honourable members, in conclusion you will have noted from my submission that:


The teachers eligible for revised pension are those who retired between **1st July 1998** and **30th June 2003** since they left service without earning their respective phases of

salary increase under the 1997 agreement, leading to corresponding underpayment of their pension benefits.

Accordingly, the allegation at **Paragraph 7** of the Petition enlarging the period from **1997 to 2007** is erroneous and misleading. The Committee will note that the effect of the 1997 Salary Agreement expired on **19th September 2002** when it was revoked paving way for the new Agreement signed and gazetted as **Legislative Supplement No 10 of 2003** dated **21/02/2003**.

Any teacher who retired after 30th June 2003 was under purview of the new agreement.

This is my submission.



Njuguna Ndung'u, CBS
Cabinet Secretary

APPENDIX I

THE TEACHERS SERVICE COMMISSION ACT
(Cap. 212)

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

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

1. This Order may be cited as the Teachers Service Commission (Remuneration of Teachers) Order, 1997.
2. The remuneration of teachers in the teaching service, of the grades specified in the first column of the Schedule shall be in accordance with the salary scales specified in columns 2, 3, 4, 5, 6 and 7 with effect from the date specified under each column.
3. The automatic house allowance payable to teachers in the teaching service shall be at the rate of 35 per cent of the minimum basic salaries specified in the second column of the First Schedule for the financial year 1997/98; at 45 per cent of the minimum basic salaries specified in the second column of the First Schedule for the year 1998/99 and at 50 per cent of the minimum basic salaries specified in second column of the First Schedule for the year 1999/2000 and the subsequent years.
4. Medical allowances payable to teachers in the teaching service shall be at the rate of 15 per cent of the minimum basic salaries specified in column 2 of the First Schedule for the financial year 1997/98 and at 20 per cent of the minimum basic salaries specified in the second column of the First Schedule for the financial year 1998/99 and the subsequent years.
5. Responsibility allowances payable to teachers in the teaching service shall be payable at the rate of 100 per cent of the current rates contained in the code of regulations for teachers (Code of Regulations for Teachers Revised 1986) for the financial year 1997/98; 250 per cent for the financial year 1998/99; 400 per cent for the financial year 1999/2000 and 500 per cent for the financial year 2000/2001 and the subsequent years.
6. Special allowance payable to teachers in the teaching service who are deployed to teach in special schools/institutions and teachers who possess diplomas or certificates in special education deployed to teach in special units shall be at the rate of 10 per cent of the minimum basic salary with effect from 1st July, 1997.
7. Hardships allowance payable to teachers in the teaching service shall be at the rate of 30 per cent of the minimum basic salary specified in the second column of the first schedule with effect from 1st July, 1997. All the teachers serving in the districts/areas gazetted as hardship areas and those teachers in the areas listed below will qualify for this allowance irrespective of their marital status—

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

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

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

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

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

FIRST SCHEDULE

	COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6	COLUMN 7						
		Present salary	New salary w.e.f. 1-7-97 K£ p.a.	New salary w.e.f. 1-7-98 K£ p.a.	New salary w.e.f. 1-7-99 K£ p.a.	New salary w.e.f. 1-7-2000 K£ p.a.	New salary w.e.f. 1-7-2001 K£ p.a.						
		Min.	Max.	Min.	Max.	Min.	Max.						
U.T. teachers	with/without	1,128	1,416	1,638	2,052	2,142	2,691	2,595	3,255	3,045	3,825	3,384	4,248
K.C.P.E.												
U.T. with K.J.S.E./K.C.E. Div. IV/ K.C.S.E. "D" plain and below		1,332	2,073	1,932	3,009	2,529	3,921	3,063	4,755	3,597	5,589	3,996	6,219
U.T. with K.C.E. Div. I-III/ K.C.S.E. C-/U.T. with K.A.C.E./K.C.S.E. C+ and above		1,568	2,505	2,118	3,393	3,168	4,263	3,834	5,295	4,506	6,249	5,004	6,975
P4 teacher	1,206	1,776	1,752	2,574	2,292	3,378	2,775	4,080	3,255	4,800	3,618	5,328
P3 teacher	1,416	2,361	2,052	3,297	2,691	4,149	3,255	5,160	3,825	6,084	4,248	6,786
P2 teacher	1,722	2,709	2,496	3,771	3,273	4,704	3,957	5,718	4,653	6,579	5,166	7,353
P1 teacher	2,217	4,227	3,105	5,414	3,921	6,771	4,890	8,250	5,754	9,731	6,408	10,995
A.T.S. IV/untrained technical teachers trained certificate technical teacher		2,799	5,322	3,771	6,834	4,704	8,697	5,780	10,536	6,579	12,438	7,353	13,485
Graduate teacher/trained certificate technical teacher II/trained diploma technical teacher III/ diploma teacher (previously SI diploma) A.T.S. III		4,092	6,066	5,313	7,722	6,558	9,897	7,980	12,012	9,420	14,106	10,844	15,354

FIRST SCHEDULE—(Contd.)

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6	COLUMN 7
Teachers grades	Present salary	New salary w.c.f. 1-7-97 K£ p.a.	New salary w.c.f. 1-7-98 K£ p.a.	New salary w.c.f. 1-7-99 K£ p.a.	New salary w.c.f. 1-7-2000 K£ p.a.	New salary w.c.f. 1-7-2001 K£ p.a.
	Min. Max.	Min. Max.	Min. Max.	Min. Max.	Min. Max.	Min. Max.
Trained certificate technical diploma technical U/trained teacher III/A.T.S. U/trained teacher II/assistant lecturer	4,827 7,140	6,168 8,994	7,797 11,407	9,429 13,997	11,187 16,506	12,144 17,922
Trained diploma technical teacher IV A.T.S I trained graduate teacher I lecturer	5,694 8,127	7,278 10,224	9,297 13,083	11,274 15,919	13,272 18,774	14,406 20,397
Tutor graduate/approved teacher, senior lecturer, principal III	6,918 9,837	8,718 12,360	11,142 15,837	13,558 19,285	15,984 22,734	17,364 24,711
Principal graduate/approved teacher II, principal lecturer, principal II	7,872 10,803	9,946 13,405	12,666 17,277	15,397 21,085	18,192 24,831	19,758 26,988
Principal graduate/approved teacher I, senior principal lecturer, princi- pal I	8,937 11,469	11,235 14,355	14,397 18,363	17,485 22,387	20,637 26,397	22,434 28,680
Senior principal teacher	10,137 12,540	12,735 15,660	16,317 20,064	19,895 24,466	23,433 28,854	25,170 31,368
Chief principal teacher	11,469 14,106	14,355 17,640	18,363 22,596	22,387 27,508	26,397 32,454	28,680 35,266

SECOND SCHEDULE

ACCOMMODATION ALLOWANCE

<i>Teachers on the undermentioned salaries per annum</i>	<i>Maximum per night</i>	<i>Present KSh.</i>	<i>New KSh.</i>
KSh 22,968 p.a. and above	—	2,000	2,000
KSh 18,276 and above but under 22,968	400	1,600	1,600
KSh 12,540 and above but under 18,276	300	1,200	1,200
KSh 9,237 and above but under 12,540	200	800	800
KSh 4,992 and above but under 9,237	175	700	700
KSh 4,827 and below	150	600	600

This Order revokes the Legal Notice No. 180 of 1997.

Made on the 11th November, 1997.

J. J. KAMOTIIO,
Minister for Education.



APPENDIX II



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SPECIAL ISSUE

Kenya Gazette Supplement No. 96

24th September, 2002

(Legislative Supplement No. 62)

LEGAL NOTICE NO. 162

THE TEACHERS SERVICE COMMISSION ACT
(Cap. 212)

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

THE TEACHERS SERVICE COMMISSION (REMUNERATION OF TEACHERS) (REVOCATION) ORDER, 2002

1. This Order may be cited as the Teachers Service Commission (Remuneration of Teachers) (Revocation) Order, 2002.
2. The Teachers Service Commission (Remuneration of Teachers) Order, 1997, is revoked:

Provided that this Order shall not apply to any action previously taken pursuant to the provisions of the Order now revoked.

Made on the 19th September, 2002.

H. K. KOSGEY,
Minister for Education.

L.N. 53-1/1997.



(Legislative Supplement No. 10)

LEGAL NOTICE NO. 16

THE TEACHERS SERVICE COMMISSION ACT

(Cap. 212)

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

THE TEACHERS SERVICE COMMISSION (REMUNERATION OF TEACHERS) (AMENDMENT) ORDER, 2003

1. This Order may be cited as the Teachers Service Commission (Remuneration of Teachers) (Amendment) Order, 2003.

2. The Teachers Service Commission (Remuneration of Teachers) Order, 1997, in this Order referred to as "the principal Order", is amended by deleting paragraph 2 and substituting therefor the following new paragraph—

2. The remuneration of teachers in the teaching service, of the grades specified in column 1 of the First Schedule, shall be in accordance with the salary scales specified in columns 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 with effect from the dates specified under each column.

3. The principal Order is amended by deleting paragraph 3 and substituting therefor the following new paragraph—

3. The automatic house allowance payable to teachers in the teaching service shall be as per the Directorate of Personnel Management Circular Ref. No. OP. 18/1A/VIII/141 of 18th June, 2001.

4. The principal Order is amended by deleting paragraph 4 and substituting therefor the following new paragraph—

4. Medical allowance payable to teachers in the teaching service shall be at the rates specified in columns 2, 3 and 4 of the Third Schedule, with effect from the dates specified under each column.

5. The principal Order is amended by deleting paragraph 5 and substituting therefor the following new paragraph—

5. The responsibility allowance payable to teachers in the teaching service, during the financial years specified in the first column of the following table, shall be at the percentage of the rates prescribed in the Code of Regulations for Teachers (Revised 1986) respectively specified in the second column.

<i>Financial year</i>	<i>Percentage rate</i>
2005/2006	150%
2006/2007	200%
2007/2008	250%
2008/2009	300%
2009/2010	350%
2010/2011	400%
2011/2012	450%
2012/2013	500%

6. The principal Order is amended by deleting paragraph 8 and substituting therefor the following new paragraph—

8. The automatic commuter allowance payable to teachers in the teaching service shall be at the rates specified in columns 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of the Fourth Schedule, with effect from the dates specified under each column.

7. The principal Order is amended by deleting paragraph 10 and substituting therefor the following new paragraph—

10. (1) The transfer allowance payable to teachers in the teaching service shall be equivalent to one month's gross basic salary, with effect from 1st July, 2003.

(2) For the purposes of payment of transfer allowance, the working station of a teacher shall be taken to be the teacher's home district.

(3) Transfer allowance shall only be payable to teachers transferred from one station (district) to another station (district) on the initiative of the employer (the Teachers' Service Commission).

FIRST SCHEDULE

COLUMN 1	COLUMN 2		COLUMN 3		COLUMN 4		COLUMN 5		COLUMN 6			
Teachers Grades	Present Salary	New Salary w.e.f. 1-7-2003	New Salary w.e.f. 1-7-2004	New Salary w.e.f. 1-7-2005	New Salary w.e.f. 1-7-2006	Min.	Max.	Min.	Max.	Min.	Max.	
	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
1. U.T. with/without K.C.P.E.	2,730	3,420	3,500	3,827	3,600	4,236	3,706	4,643	4,033	5,052		
2. U.T. with K.J.S.E./K.C.E. Div. IV/ K.C.S.E. "D" plain and below	3,220	5,015	3,603	5,612	3,989	6,212	4,372	6,809	4,756	7,408		
3. U.T. with K.C.E. Div. I-III/ K.A.C.E./K.C.S.E. C+ and above	4,030	5,655	4,510	6,328	4,992	7,005	5,471	7,678	5,953	8,353		
4. P4 teacher	2,920	4,290	3,500	4,783	3,600	5,276	3,925	5,767	4,259	6,257		
5. P3 teacher	3,420	5,495	3,813	6,127	4,206	6,758	4,597	7,386	4,988	8,014		
6. P2 teacher	4,160	6,285	4,559	6,888	4,956	7,488	5,353	8,087	5,749	8,685		
7. P1 teacher	5,175	9,140	5,672	10,017	6,165	10,889	6,658	11,760	7,151	12,630		
8. A.T.S. IV/Untrained technical teacher, trained certificate technical teacher	6,285	11,390	6,675	12,096	7,062	12,798	7,450	13,502	7,838	14,204		

Kenya Subsidiary Legislation, 2003

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6
<i>Teachers Grades</i>	<i>Present Salary</i>	<i>New Salary w.e.f. 1-7-2003</i>	<i>New Salary w.e.f. 1-7-2004</i>	<i>New Salary w.e.f. 1-7-2005</i>	<i>New Salary w.e.f. 1-7-2006</i>
	<i>Min. Max.</i>	<i>KSh. p.m. Min. Max.</i>	<i>KSh. p.m. Min. Max.</i>	<i>KSh. p.m. Min. Max.</i>	<i>KSh. p.m. Min. Max.</i>
1. Graduate teacher/trained certificate technical teacher	8,885 12,870	9,360 13,604	9,865 14,338	10,368 15,069	10,875 15,806
II/trained diploma technical teacher III/diploma technical teacher III/diploma teacher (SI diploma) A.T.S. III	10,280 14,990	10,866 15,844	11,453 16,700	12,037 17,552	12,625 18,410
0. Trained certificate technical teacher I/trained diploma technical teacher III/A.T.S. II/trained graduate teacher II/assistant lecturer	12,130 17,040	12,821 18,011	13,514 18,984	14,203 19,952	14,897 20,928
1. Trained diploma technical teacher I/A.T.S. I trained graduate teacher I/lecturer	14,530 20,600	15,300 21,692	16,064 22,774	16,828 23,858	17,585 24,932
2. Senior graduate/approved teacher/senior lecturer/principal III					

Kenya Subsidiary Legislation, 2003

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6
	Present Salary	New Salary w.e.f. 1-7-2003 KSh. p.m.	New Salary w.e.f. 1-7-2004 KSh. p.m.	New Salary w.e.f. 1-7-2005 KSh. p.m.	New Salary w.e.f. 1-7-2006 KSh. p.m.
	Min. Max.	Min. Max.	Min. Max.	Min. Max.	Min. Max.
13. Principal graduate/approved teacher II/principal lecturer/principal II	16,510 22,475	17,302 23,554	18,098 24,637	18,895 25,721	19,688 26,802
14. Principal graduate/approved teacher I/senior principal lecturer/principal I	18,725 23,925	19,624 25,073	20,526 26,227	21,430 27,381	22,330 28,531
15. Senior principal teacher	21,225 26,100	22,244 27,353	23,267 28,611	24,291 29,870	25,311 31,124
16. Chief principal teacher	23,925 29,400	25,073 30,811	26,227 32,229	27,381 33,647	28,531 35,060

FIRST SCHEDULE—(Contd.)

COLUMN I Teachers Grade	COLUMN 7		COLUMN 8		COLUMN 9		COLUMN 10		COLUMN 11		COLUMN 12	
	New Salary w.e.f. 1-7-2007	KSh. p.m.	New Salary w.e.f. 1-7-2008	KSh. p.m.	New Salary w.e.f. 1-7-2009	KSh. p.m.	New Salary w.e.f. 1-7-2010	KSh. p.m.	New Salary w.e.f. 1-7-2011	KSh. p.m.	New Salary w.e.f. 1-7-2012	KSh. p.m.
	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
1. U.T. without K.C.P.E.	4,359	5,461	4,685	5,869	5,011	6,278	5,338	6,687	5,663	7,095	5,989	7,503
2. U.T. with K.J.S.E./K.C.E. Div. IV/ K.C.S.E. "D" plain and below	5,142	8,008	5,526	8,607	5,911	9,206	6,296	9,805	6,680	10,403	7,064	11,002
3. U.T. with K.C.E. Div. I-III/K.C.S.E C-U.T. with K.A.C.E./K.C.S.E. C+ and above	6,435	9,030	6,916	9,705	7,398	10,381	7,879	11,056	8,360	11,731	8,841	12,407
4. P4 teacher	4,593	6,749	4,928	7,241	5,263	7,732	5,600	8,227	5,935	8,719	6,269	9,211
5. P3 teacher	5,380	8,644	5,772	9,274	6,164	9,904	6,559	10,538	6,951	11,168	7,343	11,798
6. P2 teacher	6,145	9,284	6,543	9,885	6,940	10,485	7,338	11,086	7,735	11,687	8,133	12,287
7. P1 teacher	7,645	13,502	8,139	14,375	8,633	15,248	9,128	16,122	9,623	16,995	10,177	17,869
8. A.T.S. IV/untrained technical teacher, trained, certificate technical teacher	8,228	14,911	8,615	15,612	9,005	16,319	9,395	17,026	9,785	17,732	10,174	18,438
9. Graduate teacher/trained certificate technical teacher II/trained diploma technical teacher III/diploma teacher (SI diploma) A.T.S. III	11,382	16,543	11,890	17,281	12,397	18,019	12,904	18,756	13,412	19,493	18,481	26,861

COLUMN 1	COLUMN 7	COLUMN 9	COLUMN 10	COLUMN 11	COLUMN 12	
Teachers Grade	New Salary w.e.f. 1-7-2007 KSh. p.m.	New Salary w.e.f. 1-7-2009 KSh. p.m.	New Salary w.e.f. 1-7-2010 KSh. p.m.	New Salary w.e.f. 1-7-2011 KSh. p.m.	New Salary w.e.f. 1-7-2012 KSh. p.m.	
	Min. Max.	Min. Max.	Min. Max.	Min. Max.	Min. Max.	
10. Trained certificate technical teacher I/trained diploma technical teacher II/A.T.S. II/trained graduate teacher II/assistant lecturer	13,214 19,268	13,803 20,127	14,392 20,987	14,981 21,845	15,570 22,704	21,455 31,286
11. Trained diploma technical teacher I/A.T.S. I trained graduate teacher I/lecturer	15,592 21,903	16,287 22,880	16,983 23,857	17,677 24,833	18,372 25,808	25,316 35,564
12. Tutor graduate/approved teacher/senior lecturer/ principal III	18,349 26,014	19,119 27,107	19,884 28,191	20,648 29,273	21,412 30,356	22,176 31,440
13. Principal graduate/approved teacher II/principal lecturer/ principal II	20,478 27,876	21,268 28,952	22,055 30,024	22,845 31,098	23,635 32,174	24,425 33,249
14. Principal graduate/approved teacher I/senior principal lecturer/principal I	23,225 29,675	24,122 30,820	25,014 31,961	25,910 33,105	26,806 34,250	27,701 35,394
15. Senior principal teacher	26,326 32,373	27,342 33,622	28,354 34,866	29,369 36,114	30,385 37,364	31,400 38,612
16. Chief principal teacher	29,675 36,466	30,820 37,873	31,961 39,275	33,105 40,681	34,250 42,088	35,394 43,494

9. The principal Order is amended by inserting the following new Schedules in proper numerical sequence:

THIRD SCHEDULE
MEDICAL ALLOWANCE

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
	<i>Present Medical Allowance KSh. p.m.</i>	<i>New Medical Allowance w.e.f. 1-7-2003 KSh. p.m.</i>	<i>New Medical Allowance w.e.f. 1-7-2004 KSh. p.m.</i>
<i>Teachers Grade</i>			
1. U.T. with/without K.C.P.E.	439	497	555
2. U.T. with K.J.S.E./K.C.E. Div. IV/ K.C.S.E. "D" plain and below	513	571	629
3. U.T. with K.C.E. Div. 1-III/K.S.C.E. C-/U.T. with K.A.C.E./K.C.S.E. C+ and above	624	700	777
4. P4 teacher	513	571	629
5. P3 teacher	513	571	629
5. P2 teacher	624	700	777
7. P1 teacher	776	861	947
3. A.T.S. IV/Untrained technical teacher, trained certificate technical teacher	942	1,058	1,173
9. Graduate teacher/trained certificate technical teacher II/trained diploma technical teacher III/diploma teacher (S1 diploma) A.T.S. III	1,328	1,486	1,644
10. Trained certificate technical teacher I/trained diploma technical teacher II/A.T.S. II/trained graduate teacher II/assistant lecturer	1,542	1,728	1,914
11. Trained diploma technical teacher I/A.T.S. I trained graduate teacher I/lecturer	1,819	2,039	2,258
12. Tutor graduate/approved teacher/senior lecturer/principal III	2,179	2,446	2,713
13. Principal graduate/approved teacher II/principal lecturer/principal II	2,476	2,780	3,083
4. Principal graduate/approved teacher I/senior principal lecturer/Principal I	2,808	3,153	3,497
5. Senior principal teacher	3,183	3,574	3,965
6. Chief principal teacher	3,588	4,030	4,472

COLUMN 1		COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6	COLUMN 7	COLUMN 8	COLUMN 9	COLUMN 10	COLUMN 11
Teachers Grade		New Commuter Allowance w.e.f. 1-7-2003 KSh. p.m.	New Commuter Allowance w.e.f. 1-7-2004 KSh. p.m.	New Commuter Allowance w.e.f. 1-7-2005 KSh. p.m.	New Commuter Allowance w.e.f. 1-7-2006 KSh. p.m.	New Commuter Allowance w.e.f. 1-7-2007 KSh. p.m.	New Commuter Allowance w.e.f. 1-7-2008 KSh. p.m.	New Commuter Allowance w.e.f. 1-7-2009 KSh. p.m.	New Commuter Allowance w.e.f. 1-7-2010 KSh. p.m.	New Commuter Allowance w.e.f. 1-7-2011 KSh. p.m.	New Commuter Allowance w.e.f. 1-7-2012 KSh. p.m.
U.T. with/ without K.C.P.E.		54	108	162	216	270	324	378	432	486	540
U.T. with K.I.S.E./ K.C.E. Div. IV/ K.C.S.E. "D" plain and below		64	127	191	254	318	382	445	509	572	636
1. U.T. with K.C.E. Div. I-III/K.C.S.E. C-U.T. with K.A.C.E./ K.C.S.E. C+ and above		80	159	239	318	398	478	557	637	716	796
1. P4 teacher		57	115	172	230	287	344	402	459	517	574
1. P3 teacher		67	134	202	269	336	403	471	538	605	672
3. P2 teacher		80	161	241	321	402	482	562	643	723	803
7. P1 teacher		100	200	300	400	500	600	700	799	899	999
3. A.T.S. IV/Untrained technical teacher, trained certificate technical teacher		118	235	353	470	588	705	823	940	1,058	1,175
3. Graduate teacher/trained certificate technical teacher II/trained diploma technical teacher III/diploma teacher (S1 diploma) A.T.S. III		165	330	494	659	824	989	1,153	1,318	1,483	1,648

FOURTH SCHEDULE—(Contd.)										
COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6	COLUMN 7	COLUMN 8	COLUMN 9	COLUMN 10	COLUMN 11
Teachers Grade	New Commuter Allowance 1-7-2003 KSh. p.m.	New Commuter Allowance 1-7-2004 KSh. p.m.	New Commuter Allowance 1-7-2005 KSh. p.m.	New Commuter Allowance 1-7-2006 KSh. p.m.	New Commuter Allowance 1-7-2007 KSh. p.m.	New Commuter Allowance 1-7-2008 KSh. p.m.	New Commuter Allowance 1-7-2009 KSh. p.m.	New Commuter Allowance 1-7-2010 KSh. p.m.	New Commuter Allowance 1-7-2011 KSh. p.m.	New Commuter Allowance 1-7-2012 KSh. p.m.
0. Trained certificate technical teacher I/trained diploma technical teacher III/A.T.S. II/trained graduate teacher II/assistant lecturer	191	383	574	765	956	1,148	1,339	1,530	1,722	1,913
1. Trained diploma technical teacher I/A.T.S. I trained graduate teacher I/lecturer	226	451	677	903	1,129	1,354	1,580	1,806	2,031	2,257
2. Tutor graduate/approved teacher/senior lecturer/principal III	269	538	807	1,076	1,346	1,615	1,884	2,153	2,422	2,691
3. Principal graduate/approved teacher II/principal lecturer/principal II	304	609	913	1,217	1,522	1,826	2,130	2,435	2,739	3,043
4. Principal graduate/approved teacher I/senior principal lecturer/principal I	345	690	1,035	1,381	1,726	2,071	2,416	2,761	3,106	3,452
5. Senior principal teacher	391	782	1,174	1,565	1,956	2,347	2,739	3,130	3,521	3,912
6. Chief principal teacher	441	882	1,323	1,764	2,205	2,646	3,087	3,528	3,969	4,410

10. The Teachers Service Commission (Remuneration of Teachers) (Revocation) Order, 2002, is revoked with effect from the 24th September, 2002.

Made on the 12th February, 2003.

GEORGE SAITOTI,
*Minister for Education,
Science and Technology.*

~~LN 26/2002~~

~~M 162/2002~~

orig. agenda
suppl no. 16/03

APPROVED ✓

11 (C)

136

AGREEMENT BETWEEN THE GOVERNMENT OF KENYA AND THE KENYA NATIONAL UNION OF TEACHERS (KNUT) ON RESCHEDULING OF THE PAYMENT OF AGREED TEACHERS' SALARIES AWARD OF 1997.

The Government of Kenya and the Kenya National Union of Teachers have held negotiations and consultations on ways and means of reducing the period of payment of agreed teachers' package from six years to a shorter period.

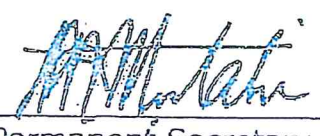
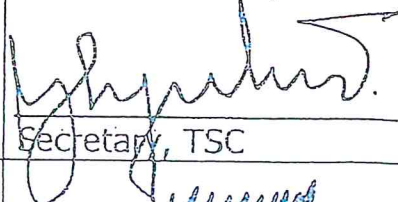
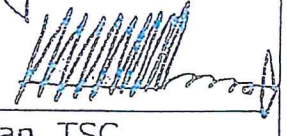

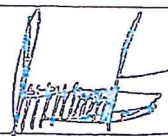
After a series of meetings culminating with the last meeting of February 26, 2007, it is agreed as follows:

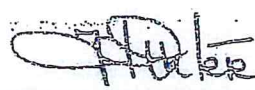
- (a) That the payment of the package, set for six years on 24th March, 2003 be reduced to five years.
- (b) That to effect the reduction of the period to five years, the last instalment of Kshs. 4.9 billion due from 1st July, 2008, be split into two equal amounts of Kshs. 2.45 billion each.
- (c) That the first half of Kshs. 2.45 billion be integrated into teachers' salaries of the year 2006/2007 and be paid by 30th June, 2007.
- (d) That during the financial year 2007/08 the second half of Kshs. 2.45 billion be added to the Kshs. 4.9 billion due in the next financial year to make a total of Kshs. 7.35 billion and paid to teachers with effect from 1st July, 2007.
- (e) That in consequence of this agreement the payments will now be as in the schedule herein marked schedule X: -

SCHEDULE X

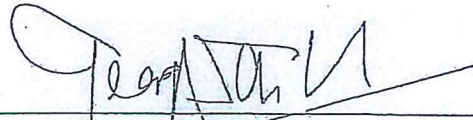
Phase	Financial Year	Amount Payable (Ksh)
1	2003/2004	4.00 billion
2	2004/2005	4.90 billion
3	2005/2006	4.90 billion
4	2006/2007	(a) 4.90 billion (b) 2.45 billion (arrears)
5	2007/2008	(a) 4.90 billion (b) 2.45 billion
TOTAL		28.5 billion

Agreed and concluded by: -

	Official/Personnel	Signature	Date
a	Prof. Karega Mutahi, EBS, CBS	 Permanent Secretary Ministry of Education	01/03/07
b	Mr. Gabriel K. Lengoiboni, EBS	 Secretary, TSC	01/03/07
c	Mr. Ibrahim Hussein, EBS	 Chairman, TSC	01/03/07
d	Mr. Francis M. Ng'ang'a	 Secretary General KNUT	1/3/007
e	Mr. Joseph T. Chirchir	 National Chairman KNUT	1/3/2007

f	Mr. Fred O. Ontere	 National Treasurer KNUT	11/3/07
---	--------------------	--	---------

Confirmed:



**HON. PROF. GEORGE SAITOTI, EGH MP
MINISTER FOR EDUCATION
CHAIRMAN**

Date:

1st March 2007

APPENDIX IV



Copies of pension payment in the regard
to Mr. Philip K. A. Too.



REPUBLIC OF KENYA

MINISTRY OF FINANCE
PENSIONS DEPARTMENT
P O BOX 20191
NAIROBI

REPORT DATE: 17/05/2006

REF: APN/PC177530

PHILIP KIPYEGON ARAP TOO
95, SIGOR
BOMET

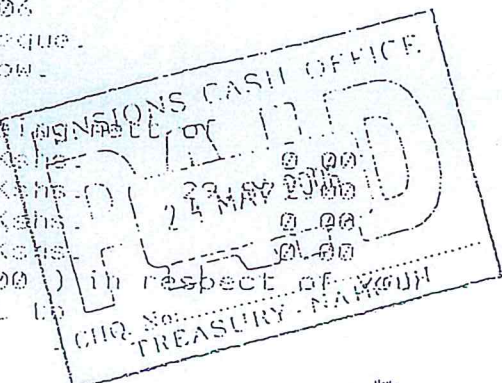
Dear Pensioner,

You have been awarded a pension gratuity of
Kshs 778,710.00 and a monthly pension of
Kshs 9,733.90 with effect from 01/07/2005

Your monthly pension is payable in arrears and payments
for the period 01/07/2005 to 30/04/2006
have been included in the gratuity cheque.
Subsequent monthly payments will follow.

A cheque for Kshs	826,710.00	being	
(i) Govt. liability	---	Kshs	0.00
(ii) Income Tax (Cap 470)	---	Kshs	0.00
(ii) Abatement	---	Kshs	0.00
(iii) WCPS Recovery	---	Kshs	0.00
(all totalling to Kshs.	29,871.00)		

gratuity/Pension arrears has been sent to
KIPSIGIS TEACHERS SAC, SOC-KERICHO



Please note that NO CHANGES TO THE BANK ACCOUNT you have provided will be processed within SIX MONTHS from the date of this letter and thereafter not more than ONCE A YEAR.

Yours faithfully,

FOR: DIRECTOR OF PENSIONS

C.C.

Am C Wang
18/5/06

Ref No: 55289

TEACHERS SERVICE COMMISSION
THE BAZAAR, MOI AVE/BIACHARA DISTRICT
PRIVATE BAG
NAIROBI



I certify that the Pensions/Gratuity which may be paid to the officer/Legal personal Representative in accordance with the Pensions Act, as amended and the Pensions Regulations now in force amounts to K£.....7787-02-00 cts * per year commencing From..... 01/09/2005

*As he exercised the option for Reduced Pension and Gratuity, the reduced pension Amounts to K£.....5840-06-50 per year with a gratuity of K£.38935-10-00 cts.....

Date..... 12th May 2006

Chief Pensions Officer

*Delete as necessary

THE CONTROLLER AND AUDITOR-GENERAL, NAIROBI.

Forwarded for favour of verification and return.

Date..... 12th May 2006

PASSED TO VOTE BOOK

NAME A. I. Gacaga

SIGNATURE A. I. Gacaga

DATE 12/5/06

Chief Pensions Officer

DIRECTOR OF PENSIONS, PENSIONS DEPARTMENT, TREASURY, NAIROBI.

Ref. No.

APN/PC/77530

Computation agreed.

Date..... 15/5/06

Controller and Auditor-General

A reduced pension of K£ Five Thousand eight hundred forty kshs six cts fifty p.a W.E.F. 01/09/2005

Together with a gratuity of K£ Thirty Eight Thousand Nine Hundred Thirty Five Kshs Ten Cts Zero Only.

Date..... 16th May 2006

Director of Pensions, Treasury

COPY TO: ALIMENTARY ALLOWANCE APPROVED

The Accounting Officer,

Mr./Miss/Mrs..... SECRETARY TEACHERS SERVICE COM PRIVATE BAG NAIROBI

PHILIP KIPYEGON ARAP' TOO 95, SIGOR BOMET

A reduced pension of Kshs One Hundred Sixteen Thousand Eight Hundred Six Cts Fifty p.a. W.E.F 01/09/2005 Together with a gratuity of Kshs Seven Hundred Seventy Eight Thousand Seven Hundred Ten Cents Zero Only.



**PAYMENT VOUCHER
(VOTED PROVISION)**

Payer's Name and Address

Particulars	LPO/LSO No.	Invoice No.	AMOUNT	
			Sh.	Cts.
Kshs		0.00		
Kshs		0.00		
Kshs		0.00		
Kshs		0.00		
Kshs		0.00		
Kshs		0.00		
Kshs		0.00		
Kshs		0.00		
Kshs		0.00		
TOTAL			856,581.00	

Amount payable (in words) SIX THOUSAND HUNDRED EIGHTY ONE PENS TWENTY SHILLINGS

TOTAL Sh.

Authority Reference No.

Voucher Examined by EXAMINATION
Date 17/5/16

Internal Audit

VBC CERTIFICATE

I certify that the expenditure has been entered in the Voucher Book and that adequate funds to cover it are available against the chargeable item as shown here below.

Approved Estimate/Allocation

Item No. _____ KSh. _____
 Less: Total expenditure plus commitments KSh. _____
 Balance _____ KSh. _____
 Date _____ Signature _____
 Accountant in Charge

AIE HOLDER CERTIFICATE

I certify that the expenditure detailed above has been incurred for the authorized purpose and should be charged to the A/c shown here below.

Signature _____ Designation of AIE Holder _____
 Date 20 MAY 2016

AUTHORIZATION

I certify that the expenditure charged here according to regulations/contract, rate and reasonable, that the expenditure has been incurred on proper authority and should be charged as under. Where appropriate a certificate overleaf has been completed. I hereby AUTHORIZE payment of the amount shown above without any alteration.

Signature M. Wanjau
 Date 18/5/16
 Accounting Officer / District Accountant

Vote	Head	Sub-Head	Item
------	------	----------	------

A.L.B. No.	Account No.	Dept. Vch. No.	Station	Cash Book		AMOUNT	
				Vch. No.	Date	Sh.	Cts.
	014120						

*Delete inapplicable title.

I certify that the Pensions/Gratuity which may be paid to the officer/Legal personal Representative in accordance with the Pensions Act, as amended and the Pensions Regulations now in force amounts to K£..... 7787-02-00 cts..... * per year commencing From..... 01/09/2005

*As he exercised the option for Reduced Pension and Gratuity, the reduced pension Amounts to K£..... 5840-06-50 cts per year with a gratuity of K£.38935-10-00 cts.....

Date..... 12th May, 2006

Chief Pensions Officer

*Delete as necessary

THE CONTROLLER AND AUDITOR-GENERAL, NAIROBI.

Forwarded for favour of verification and return.

Date..... 12th May, 2006

PASSED TO VOTE BOOK
NAME: I. Gacaga
SIGNATURE: [Signature] DATE: 12/5/06

Chief Pensions Officer

DIRECTOR OF PENSIONS, PENSIONS DEPARTMENT, TREASURY, NAIROBI.

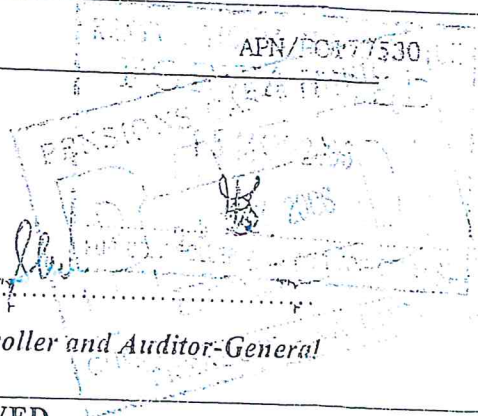
Ref. No.

APN/PCW/7530

Computation agreed.

Date..... 15/5/2006

Controller and Auditor-General



AWARD APPROVED
A reduced pension of K£ Five thousand eight hundred forty kshs six cts fifty p.a
W.E.F. 01/09/2005

Together with a gratuity of K£ Thirty Eight Thousand Nine Hundred Thirty Five Kshs Ten Cts Zero Only.

Date..... 16th May, 2006

Director of Pensions, Treasury

COPY TO: ALIMENTARY ALLOWANCE APPROVED
The Accounting Officer,.....

Mr./Miss/Mrs..... SECRETARY TEACHERS SERVICE COM PRIVATE BAG NAIROBI

PHILIP KIPYEGON ARAP TOO 95, SICOR BOMET

A reduced pension of Kshs One Hundred Sixteen Thousand Eight Hundred Six Cts Fifty p.a.
W.E.F 01/09/2005
Together with a gratuity of Kshs Seven Hundred Seventy Eight Thousand Seven Hundred Ten Cents Zero Only.



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

Ref. MOF/TE 200/01 'F' (49)

Date: 21st July, 2023

~~Mr. J.M Nyegenye, CBS
Clerk of Senate/Secretary
Parliamentary Service Commission
Parliament Buildings
Nairobi~~

Dear

Chair

Re: MEETING WITH SENATE STANDING COMMITTEE ON
EDUCATION

Reference is made to your letter No. SEN/SCE/CORR/2023/029 dated 18th July, 2023. I have been invited to appear before the Senate Standing Committee on Education to apprise the Committee on a Petition concerning claims by teachers who retired between 1997 and 2007. The meeting is scheduled for **Thursday, 27th July, 2023 at 10.00a.m** in Committee Room 5, first Floor, Main Parliament Buildings.

This is to inform you that I will be travelling back from Dar es Salaam on the material date attending the 'Africa Heads of State Human Capital Summit'. In light of this, I seek your indulgence to request the Committee to reschedule the same from **10.00a.m to 4.00pm on the same date**. The National Treasury & Economic Planning appreciates your consideration and support.

Yours

Njuguna Ndung'u, CBS
Cabinet Secretary

Copy:

✓ **The Chairperson**
Senate Standing Committee on Education
Senate
Parliament Buildings,
Nairobi.

Kindly deal

Kindly deal
18/5/23

18/05/2023
MAY 2023

STATEMENT BY THE CABINET SECRETARY, NATIONAL TREASURY AND ECONOMIC PLANNING ON THE PETITION TO THE SENATE CONCERNING THE 1997 - 2007 RETIRED TEACHERS CLAIMS - 18TH MAY, 2023

Mr. Longene
Kindly deal
Robert
18/5/23

Honourable Chairman and Members of the Standing Committee on Education, I am privileged to join you in the deliberation of issues contained in the petition to the Senate, by Mr. Phillip Too concerning teachers who retired in the period 1997-2007.

THE SENATE
RECEIVED
18 MAY 2023

1. BACKGROUND

Honourable Chairman, allow me to lay the background to the issues that I was requested to respond to, in the following manner;

- 1.1. On 11th October 1997, the Kenya National Union of Teachers (KNUT) and the Government of the Republic of Kenya entered into an Agreement to increase the remuneration payable to teachers in the public service. This agreement crystalized in **Legal Notice No. 534 of 1997** and was applicable to all teachers in the employment of the Commission at the material time. *(see appendix i)*
- 1.2. It was an integral term of the agreement duly negotiated and agreed by parties that the salary award was to be implemented and paid in five (5) **phases** with effect from **1st July, 1997 to 1st July, 2001** for a period of five (5) years.
- 1.3. The Legal Notice Number **534 of 1997** was followed with an Implementation Circular **No. 13 of 1997** which captured and elaborated the terms of the Agreement and stipulated the salaries payable to the teachers under each year.
- 1.4. The Government implemented the **1st phase** of the Agreement which was duly paid to all teachers in October 1997. However, due to economic constraints the subsequent phases from **July, 1998** were not paid.

THE SENATE
RECEIVED
18 MAY 2023
DIRECTOR COMMITTEE SERVICES
(DSEC)

18

- 1.5. On 19th September 2002 the Government issued the Teachers Service Commission (Remuneration of Teachers) (Revocation) Order, 2022 which had the effect of revoking the Agreement of 1997. (*see appendix ii*)
- 1.6. In February, 2003, parties to the revoked agreement of 1997, (the Government and KNUT) re-negotiated and mutually signed a fresh Agreement to pay the four phases that would otherwise have been paid under the revoked agreement within a period of **Ten (10)** years with effect from **1st July, 2003.**
- 1.7. Further, in an Agreement signed on the **24th May, 2003** parties renegotiated and agreed that the ten (10) phases be reduced to six (6) phases to be implemented within a period of six (6) years.
- 1.8. In the spirit of continued engagement, the payment plan was further reduced to **five (5)** phases in an Agreement signed on **1st March, 2007.**

Honourable Chairman, the honourable members may be aware of court actions that came in the way of implementing the subject agreements, some of which sucked in the National Treasury by virtue of being the administrator of public service pensions through the Pensions Department. It is significant to mention the cases as they give context to some of the issues we are discussing today.

2. COURT MATTERS

A. Nakuru High Court Civil Suit No 65 of 2006

- 2.1. On **27th March, 2006**, twenty (20) teachers acting on behalf of their colleagues filed a class action suit in the High Court at Nakuru wherein they claimed:-
 - a) *Declaration that the outcome of the representative suit will apply to all retired teachers;*
 - b) *Declaration that the Plaintiffs together with all other retired teachers are entitled to their retirement benefits inclusive of all other benefits provided for in the 1997 agreement between the Government of Kenya and the Kenya National Union of Teachers.*
 - c) *An order that the defendant pay the Plaintiff's all unpaid benefits to-date;*
 - d) *Costs of the suit;*

e) *Any other relief that this Honourable court may deem fit.*

2.2 On **23rd October, 2008**, the Court delivered its judgment and ordered that the 20 teachers, who initiated the suit, together with all other teachers covered by the Agreement dated **11th October, 1997**, are entitled to their **Retirement benefits** based on the entire agreement and Circular.

B. Nakuru Civil Appeal No. 300 of 2009

2.3 The Government being dissatisfied with the judgment of the High Court appealed to the Court of Appeal in **Nakuru Civil Appeal No. 300 of 2009**, which Appeal was heard and determined on **12th November, 2010**. In its judgment, the Court of Appeal decreed that the last salary be computed in a manner that incorporates all the terms of the agreement between parties.

C. Nakuru Judicial Review No. 18 of 2012

2.4 The retired teachers filed a Judicial Review Application seeking orders to compel the Commission Secretary and the Director of Pensions to pay to the teachers their enhanced retirement benefits as per the judgment. The teachers also filed an Application to cite the Commission Secretary for contempt of Court for failing to implement the Court Order.

D. Application for Leave to Appeal to the Supreme Court

2.5 In **2013**, the Government through the Attorney General sought leave from the Court of Appeal to appeal against the Judgment of the Court of Appeal to the Supreme Court. The Court agreed that the Application raised substantial issues of law and fact. However, the prayers were declined on the ground that there was unreasonable delay on the part of Government in filing the application.

E. Supreme Court Application No. 38 of 2014.

2.6 In **September 2014**, the Attorney General filed an Application at the Supreme Court seeking review of orders of the Court of Appeal that denied Government leave to appeal the matter to the Supreme Court. However on **9th December, 2015**, the Supreme Court delivered its Ruling in the matter and declined to grant leave to the Government to file a

further Appeal on grounds that there was inordinate delay on the part of the Government.

3 IMPLEMENTATION OF THE JUDGMENT IN NAKURU HCCC 65 OF 2006

Honourable Chairman,

- 3.1 After exhausting all judicial avenues provided by law, the Government resolved to implement the Court Judgment and pay the teachers their **enhanced Pension benefits based on the 1997 Agreement.**
 - 3.2 The Teachers Service Commission commenced the exercise of identifying the teachers who exited service without benefiting from their respective phases under the Agreement. In keeping with the established procedures, the TSC would originate the revised claims and submit to the Pensions Department of the National Treasury for payment.
 - 3.3 The National Treasury has since received a total of **23,487 revised claims** from the TSC out of which **22,017 have been processed and paid.** The total payments **amount to Kshs.16,084,776,584.075.** The remaining 1,470 revised claims are in the pipeline for payment. *The list of the 22,017 claims has been shared, in soft copy, through email address cna@parliament.go.ke*
 - 3.4 The National Treasury has worked determinedly with the TSC to ensure that all inquiries related to specific claims are resolved in an expeditious manner to enable the retired teachers get their rightful dues.
4. **Pension benefits for the petitioner**
Honourable Chairman, in the instant case of the petitioner – Mr. Phillip K.A. Too, I wish to comment as follows:
- 4.1 The National Treasury notes that **Mr. Philip K.A. Too,** the Petitioner herein, was employed by the TSC as a teacher from **1973 to 31st August 2005.**
 - 4.2 We have been informed by the Commission that Mr. Too benefited from phase 1 of the salary awards which was implemented on 1st July 1997. Additionally, following the **Legislative Supplement No. 10** of

21/02/2003 which re-negotiated the revoked 1997 Agreement, his salary was reviewed on 1st July 2003, 1st July 2004, and 1st July 2005. He exited on 31/8/2005 after fully benefitting from the implementation of the salary agreement hence was correctly paid.

4.3 Additionally, The National Treasury was informed that in preparing the Petitioner's Pension Claim, the Commission factored in the salary increase as per the agreement. It is therefore not true that the Commission has not processed his enhanced pension Claim.

4.4 The petitioner was accordingly paid his pension on 24th May, 2006 whereby he received a commuted pension of Ksh.826,710.20 and was enrolled on the monthly payroll at the rate of Ksh.9,733.90 w.e.f 1st September, 2005. The petitioner currently draws a monthly pension of Ksh.13,436.00 upon the 3% biennial pension increases over the time, pursuant to the provisions of the Pensions Increase Act Cap 190. (*copies of the paymentst are attached as appendix iv*)

Honourable members, in conclusion you will have noted from my submission that:

The teachers eligible for revised pension are those who retired between 1st July 1998 and 30th June 2003 since they left service without earning their respective phases of salary increase under the 1997 agreement, leading to corresponding underpayment of their pension benefits.

Accordingly, the allegation at **Paragraph 7** of the Petition enlarging the period from 1997 to 2007 is erroneous and misleading. The Committee will note that the effect of the 1997 Salary Agreement expired on 19th September 2002 when it was revoked paving way for the new Agreement signed and gazetted as **Legislative Supplement No 10 of 2003** dated 21/02/2003.

Any teacher who retired after 30th June 2003 was under purview of the new agreement.



Njuguna Ndung'u, CBS
CABINET SECRETARY

WILLIS OGOLA OKENDO
RARIEDA SOCIAL WATCH FUTA MAGENDO CHAPTER
P.O BOX 93 – 40604
RAGENG'NI
EMAIL: ogolawillisokendo@gmail.com

21/12/2022

THE DIRECTOR OF PENSIONS
TEACHERS PENSION DEPARTMENT
NATIONAL TREASURY
P.O BOX 20191 – 00200
NAIROBI
EMAIL: pensions@treasury.go.ke
DEAR MADAM,

RE: AGREEMENT AND PAYMENT OF SALARY INCREMENT BETWEEN TEACHERS SERVICE COMMISSION (TSC) AND KENYA NATIONAL UNION OF TEACHERS (KNUT) IN 1997

My Pension No. APN-PC- 160692 – TSC 089122 following my discussion with you about Payment of retired teachers between 1997 and 2006 as reported by the then Director of Pensions Mr. Shem Nyakutu and he submitted in Court (HCC No. 65 of 2006 at Nakuru: Simon P. Kamau and 19 others versus Teachers Service Commission and covered by Daily Nation of Wednesday 27 March 2019 states

1. The truth is that KNUT fought for salary increment for teachers who by 1997 had taught for more than 20 years and above without increment.
2. That in July 1997 the teachers who had taught for years without increment were paid first increment. I was among those who were paid.
3. That the TSC and KNUT agreed that the payment was to be yearly for 10 years and the second payment was to be in July 1998 which TSC defaulted payment, in July 1999, 2000, 2001, 2002, 2003, 2004, 2005 and the tenth year 2006.
4. During these years teachers were retiring at retirement age respectively.
5. Those teachers who missed their increment between 1998 and 2006 and had retired have to demand increment as retired teachers.
6. So it is wrong to say that this payment was for retired teachers between 1998 and 2003.
7. In the Court record it is Teachers who retired between 1997 and 2006. The attached Daily Nation reads: Why have you failed to sue Mr. Shem Nyakutu and The Daily Nation for giving Teachers facts and details you feel is not correct? I am among people fighting corruption. Do you want me to come to Nairobi to buy my payment?

Thanks

Willis Ogola Okendo

Cc:

1. Secretary-Teachers Service Commission

Email: info@tse.go.ke

2. Secretary General
KNUT

WILLIS OGOLA OKENDO

NA. The 4300 teachers paid in July 1997 including me were not retirees. Payment was for Salary Increment. It is forcing me to dispute plaintiff claim under order 1 rule 15c if you refuse to pay me or fail to respond to my comment.

WILLIS OGOLA OKENDO
RARIEDA SOCIAL WATCH, FUTA MAGENDO CHAPTER
P.O BOX 93-40604
RAGENG'NI

2ND JAN 2023

HIS EXCELLENCY THE PRESIDENT OF THE REPUBLIC OF KENYA
DR. WILLIAM SAMOI RUTO
STATE HOUSE NAIROBI
P.O BOX 30510-00100
NAIROBI.

Dear Sir,

RE: RETIRED TEACHERS BETWEEN 1997 AND 2006 HOPES AND DREAMS FOR 2023

I Willis Ogola Okendo 77 years old and chairperson of the above mentioned Chapter under Social Development Network [SODNET] Kenya .

The chapter was opened on 18TH September 2008. The Chapter is acting as a watch dog on behalf of the citizens on economic and human injustices/issues within the County in collaboration with the Government and Civil Society Agencies across the Country.

The chapter is having a ^{dormant} ~~dominant~~ account No. 750299907070 at Bondo Equity Bank Branch as from 9-11-2012.

On my behalf as a retired Primary School Teacher as from 31st August 2004 and on behalf of all retired teachers between 1997 and 2006 who have been fraudulently denied their salary increment until they retire on age ground, we expect the government in 2023 under the leadership of Dr. Ruto whom I am taking as God given President through what he is doing and to what he has done to Kenyans within only four months in the office as a President of Republic of Kenya.

I hope and request you to intervene and order the payment of unpaid salary increment to teachers agreed on by Government (T.S.C) and (K.N.U.T) in order to end teachers strike in 1997.

The agreement between the Government and Kenya National Union of Teachers (K.N.U.T) was that the salary increment was to be paid yearly for 10 years that was from 1997 to 2006 just as stated in Court by the then Director of Pension Mr. Shem Nyakutu in Nakuru High Court and covered by Nation Newspapers of 27th March 2019 photocopy attached.

The first salary increment payment was implemented only in July 1997. The payment of the other years was 1998 to 2006 were all breached by T.S.C despite K.N.U.T called off the strike in 1997

Your Excellency Dr Ruto, the former Government used their powers to rule teachers.

Sir you have used Gods wisdom to equalize the six Judges and they are now enjoying your leadership.

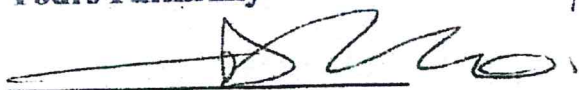
Let these teachers benefit from your leadership.

It has forced me to write to you because you have the spirit of truth and love whom the former Government did not have .I am among the people in Siaya who is not a politician but loves a leader of your kind.

The attached photocopies will make you agree with what I have stated here in.

Sir continue keeping Gods Commandment to make the New Year come 2023 come with blessings ,wealth and happiness.

Yours Faithfully



Willis Ogola Okendo

Chairman *Rarieda Social Watch Chapter*



HEAD OFFICE
KNUT HOUSE
MFANGANO STREET

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.

May 16th, 2023

Mr. J. M. Nyegenye, CBS,
The Clerk of the Senate,
Clerk's Chambers,
Parliament Building,
P. O. Box 41842 – 00100,
NAIROBI.

RESPONSE BY THE SECRETARY-GENERAL OF KENYA NATIONAL UNION OF TEACHERS, BROTHER COLLINS OYUU TO A PETITION FILED BY MR. PHILIP TOO A FORMER TEACHER, TSC NO. 055289 AND A PENSIONER, PENSION NO. 177530 CONCERNING THE 1997-2007 RETIRED TEACHERS' CLAIMS|:

SYNOPSIS

The Kenya National Union of Teachers (KNUT) called off a 12-day strike on October 12th, 1997 after the Government gave in to teachers' demands for salary and allowance increase. The deal was to raise the salaries and allowances of teachers employed by Teachers Service Commission (TSC) by between 150% and 200%, depending on one's rank.

The salary/allowance increment which was to be implemented over five years had initially been proposed in 1987 by Teachers Service Remuneration Committee (TSRC) chaired by Dr Taaita Toweett. However, the demand made by KNUT and TSRC to have the pay implemented over a two-year period was not met.

The increment meant that the lowest paid P1 teacher would earn a monthly salary of Shs2,726 up from Shs1,880. The highest paid teacher would earn Shs23,893 a month, up from Shs19,115.

The deal offered five allowances namely: House (50% of the basic salary), Medical (20%), Responsibility (45%), Special Hardship (10%) and Automatic Commuter (10%).

The people behind the new pay deal were KNUT Secretary-General, Ambrose Adongo and a committee appointed by President Daniel arap Moi on October 10th, 1997 which comprised of Mr Fares Kuindwa (then Head of Public Service), Simeon Lesirma (then Permanent Secretary Treasury) and Justice Aaron Ringera (then Solicitor-General).

The final report which was transmitted to the Head of State (Moi) proposed that the Government offers teachers employed by TSC a salary increment of between 10% and 28%. This proposal offered far less than the 1987 Agreement. The Minister for Education, Mr Joseph Kamotho argued that if the Government implemented the 1987 demands, it would lose 56% of its total tax revenue.

KNUT remained firm and focused that the increment proposed in 1987 could be implemented in phases of two years and not in one-go.

When Kamotho and KNUT could not agree, Adongo issued a 21-day strike notice on September 3rd, 1997, arguing that teachers would only call off the strike when their pay increment demand was met.

The deadlock was broken when Moi formed a four-man committee to dialogue with KNUT to find an amicable solution to the problem. KNUT was represented by the National Chairman, John Katumanga, Secretary-General (Adongo) and the National Treasurer, John Bosco Mboga, while the Government side had Kuindwa, Lesirma and Ringera.

On October 12th, 1997, the committee recommended that the 150% and 200% increment be effected over five years, with the pay being backdated to July 1st, 1997 and ending in July 2001.

The Government/KNUT Agreement was gazetted as ***Legal Notice No. 534 of 1997.***

Why Teachers' Petitions:

Since the initial 1997 pay deal was to be paid in two phases until 2002, teachers who retired between those years, and who retired thereafter moved to court demanding to be paid their share since they could have benefited from the deal had it been paid on time.

The case was filed in High Court in Nakuru against TSC by disgruntled teachers who were in service between July 1st, 1997 and June 30th, 2007 but had since retired. Teachers sought orders, ***“for the declaration that together with other retired teachers, they were entitled to retirement benefits inclusive of all other benefits provided for in the 1997 KNUT/TSC Agreement.”*** Besides, several teachers through the assistance of KNUT petitioned the National Assembly to intercede and force the Directorate of Pensions and TSC to pay them enhanced pension based on 1997 KNUT/TSC Agreement (Legal Notice No. 534 of 1997).

As a result of the case, the High Court in its judgement on October 23rd, 2008 ordered TSC to process teachers' pensions based on the salary award in the **1997 Agreement**. Attempts by TSC and Attorney-General to lodge an appeal against the judgement failed as higher courts re-affirmed the judgement of the High Court, thereby dismissing the appeals.

At some point, the retired teachers moved to the High Court seeking orders to hold in contempt the former Commission Secretary/Chief Executive Officer, Gabriel Lengoiboni.

It is instructive to recall that on December 18th, 2006 President Mwai Kibaki revisited the contentious issue of the 1997-2007 retired teachers' claims. During a high-profile meeting with KNUT officials at Nakuru State House, the Head of State assured teachers that the Government would implement the remaining phases of teachers' salary award arising from Legal Notice No. 534 of 1997. The President directed the Permanent Secretary for Education, Prof Karega Mutahi in liaison the TSC and the Treasury to work on the modalities of settling the claims once-and-for-all.

Important to note, during the 2002 presidential election campaign, Kibaki pledged to ensure that teachers' claims arising from the Legal Notice 534 are fully paid upon ascending to the presidency.

On August 19th, 2012, KNUT issued a strike notice to TSC demanding a 300% salary increase and the immediate implementation of Legal Notice No. 534 of 1997.

On September 3rd, 2012, KNUT staged a nationwide strike demanding salary increments and allowances totalling more than Shs43 billion – part of this demand was from a deal they sealed with TSC in 1997 which was not fully implemented despite President Mwai Kibaki repeatedly assuring that his Government would address the pending salary/allowance issue.

In the 2011/2012 Financial Year, the then Minister for Finance, Hon Uhuru Mwigai Kenyatta set aside Shs3.3 billion as part of payment of the 1997-2007 retired teachers' claims. No money was ever paid.

In mid-September 2012, Salaries and Remuneration Commission (SRC) disowned the pact teachers signed with TSC in 1997 – the Agreement commonly referred to as the Legal Notice No. 534 of 1997. The matter was aggravated when SRC in a circular to all trade unions directed that all the current Agreements would expire by June 30th, 2013. KNUT, however filed a petitioned in the Employment and Labour Relations Court where SRC circular was summarily dismissed.

Angered by the SRC circular, KNUT said: "SRC was a stranger to the discussions that led to the signing of the Legal Notice 534 of 1997 – hence, SRC should not purport to write off previous Agreements that are legally binding."

At one stage, TSC Secretary/Chief Executive Officer, Gabriel Lengoiboni said the Government would not honour the Legal Notice as teachers' allowances were pegged at 20% of basic salary for Medical, Commuter (10%), Special School (10%), Hardship (30%) and so-on and so-forth. TSC's

position was also dismissed by the court. The High Court decision fired up retired teachers to continue with the struggle.

It should also be recalled that in 2009, teachers entered into an Agreement with TSC that saw their basic salaries increase for a period of three years. The deal was signed after teachers staged a strike that paralysed learning in all Public schools nationwide.

The Agreement gave the lowest-paid teacher at Job Group F Shs13,070 and the highest-paid teacher (Job Group R) Kshs.12,0270 which was expected to increase to Shs41,250 and Shs360,810 respectively. This deal which was also tied on 1997 TSC/KNUT Agreement never materialised.

On April 10th, 2018, TSC told the Departmental Committee on Education and Research that it would review pensions for 23,811 teachers who retired in 1997. The Commission indicated that the pension was to be paid out to teachers who had been in service when the Government agreed to pay salary increases of up to 150% in five phases beginning from 1997.

On July 3rd, 2020 TSC reported to the Departmental Committee on Education and Research that it had completed a review of the pensions of the 23,811 teachers who retired in 1997. The Chief Executive Officer (Dr Nancy Macharia) on June 30th, 2020 told the Education Committee that they had submitted 16,523 revised claims to the Director of Pensions at the National Treasury. At the time, the pension arrears was estimated to be more than Shs17 billion. To date, no money has been released to retired teachers – some of whom have since passed on due to stress-related diseases before getting their rightful benefits. A few who are still alive are

depressed, socially and economically restricted, and indeed lead sorrowful lives.

On January 2nd, 2023, retired teachers under the auspices of Rarieda Social Watch (Futa Magendo Chapter) appealed to the Head of State to arbitrate and bring the matter to rest as regards the 1997 – 2007 retired teacher's claims.

Through a letter addressed to His Excellency Dr. William Samoei Ruto, teachers said they had been fraudulently denied their salary increment until they retired on age ground.

The letter signed by their Chairman, Willis Ogola Okendo said they expect the Government in 2023 under the leadership of president Ruto to address the matter. "We hope and request that His Excellency to intervene and order the payment of unpaid salary increment rising out of the TSC/KNUT Agreement of 1997 (Legal Notice No. 534)", said Mr. Ogola who retired in 2004.

The Agreement between the Government and KNUT was that the salary increment was to be paid yearly for 10 years that was from 1997 to 2006 it was stated by the then Director of Pensions, Mr. Shem Nyakutu in Nakuru High Court on March 26th, 2019.

The first salary increment payment was implemented only in July 1997. The payment of the other subsequent years that is 1998 – 2006 were all breached by TSC.

Attached to the letter to the Head of State were several correspondences to the Director of Pensions, Clerk to the Senate and the Ministry of Interior and Coordination of National Government.

TSC proposed that the law should be amended to allow the Commission to process and pay retired teachers in order to avoid the inconveniences they go through. Nothing much has been realised so far.

The Departmental Committee on Education and Research in 2019 promised to propose an amendment to the Pensions Act to enable the Commission to process and pay teachers' pensions after they have retired in order to end the agony of waiting for several years to get their pensions. To date, nothing has been achieved – the Committee has since gone mute over the proposed amendments of the Pension Act (Cap. 189) which makes the provisions for the granting and regulating the payment of pensions, gratuities and other allowances in respect of the Public Service officers under the Government of Kenya.

IN CONCLUSION:

Pensioners have been denied their lawful dues, after dedicatedly and loyally serving the nation for decades. Retired teachers unfortunately are now enumerated among the extremely poor people in Kenya who are socially disadvantaged.

As dedicated teachers, they gave out the best, and it is unfair and regrettable for the Government to treat retired teachers as second-class citizens or lesser taxpayers.

Indeed, it is unfortunate and inappropriate that this cadre of teachers have turned the fight for their retirement benefits as their full-time occupation after retirement – as a matter of fact, it is a herculean task for retired teachers to revolve around corridors of justice – in courts and the National Assembly seeking for fair play and equity.

It is puzzling to learn that the National Assembly approved allocation of immense resources to the National Treasury to enable the Director of Pensions to address the teachers' plight but this has not been met in line with the law. This speaks volumes about the impunity in the Government.

Retired teachers have been subjected to the indignity of being perpetual paupers – this is unfair and unlawful and has to end.

Labour Relations Act provides that once a Trade union and an employer sign beneficial pacts between themselves and employees, all workers therein on the payroll must benefit to the fullest, period of implementation notwithstanding. Hence, teachers who were in service when the legal Notice No. 534 of 1997 came into existence but retired on age deserve to benefit from the pact. This pact would enhance their retirement benefits, and the Pension.

The National Treasury's action to deny retired teachers their lawful dues (pensions) is not only criminal, but also demeaning and contrary to the **Bill of Rights** which applies to all laws and binds all State organs and all persons. Every person shall enjoy the rights and fundamental freedoms in

the **Bill of Rights** to the greatest extent consistent with the nature of rights or fundamental freedoms.



COLLINS HENRY OYUU
SECRETARY GENERAL
K.N.U.T.



KENYA UNION OF POST-PRIMARY EDUCATION TEACHERS

**MEMORANDUM TO THE SENATE
STANDING COMMITTEE ON EDUCATION
CONCERNING THE 1997-2007 RETIRED TEACHERS**

17 May 2023

The Kenya Union of Post-Primary Education Teachers is the most influential teachers' union in East Africa. The union draws its members from the post-primary sector which includes secondary schools, teachers' training colleges and non-degree granting technical training institutions.

The union lends its voice to the Petition by Mr Philip Too, a retired teacher with TSC No. 055289 and Pension No. 177530, concerning outstanding claims on benefits by teachers who retired between 1997 and 2007.

1. BACKGROUND TO THE CLAIMS

Subsequent to the national strike by teachers in 1997, the government entered into a binding agreement (signed in a Legal Notice) with the sole teachers' union at the time, namely the Kenya National Union of Teachers (KNUT).

The agreement awarded teachers a salary benefit which was staggered over several phases for a maximum 10-year period, i.e., ending in 2007. In the course of the agreement implementation, some teachers, including the Petitioner, retired from service, before earning their full benefits.

Initially, the government was reluctant to honour its commitment to the teachers who had retired during the agreement's implementation, insisting that their pensions and annuities be pegged on the last pay scale they attained in service.

However, in a major blow for labour rights, the Judiciary affirmed the teachers' right to their full benefits in a judgement delivered by the Rt. Chief Justice David Maraga in Civil Case No. 65 of 2006 (*Simon P. Kamau & 19 Others vs The Teachers Service Commission*).

2. GOVT ALLOCATED FUNDS FOR THE TEACHERS

During the budget for the 2011/2012 Financial Year, the government allocated Sh3.3 billion towards the affected teachers' benefit. Despite this huge financial outlay, few teachers reported being paid. Most have continued to languish in poverty, hoping that the government they served with dedication for decades will ultimately come to its senses and pay them their deserved dues.

3. PARLIAMENT SHOULD UNLOCK THE PUZZLE

Since KUPPET's formation in 1998, we have supported these teachers' right to their full benefits. Mr Too's Petition brings up human rights issues, labour rights issues and issues of grave macroeconomic significance.

Many of these teachers are between 71 and 81 years. They need sustenance income, money for medicines and other needs. Some of them have borrowed heavily for their upkeep.

From where KUPPET stands, only Parliament, as representatives of the people and the supreme determinant of public spending, can bring to an end the ping-pong games between the National Treasury and the Teachers Service Commission over these teachers' benefits.

We urge you to compel the Teachers Service Commission to immediately provide the list of all the affected teachers and initiate payment to them or their dependants in the case of those who are deceased.



AKELO M.T. MISORI,
SECRETARY GENERAL
17 May 2023

TEACHERS SERVICE COMMISSION



**RESPONSE TO PARLIAMENTARY PETITION REGARDING THE
1997- 2007 RETIRED TEACHERS' PENSION CLAIM**

Presented by:

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

17TH APRIL, 2023

1. **BACKGROUND INFORMATION**

1.1. The Teachers Service Commission (hereinafter, "the Commission") is established under **Article 237 (1)** of the Constitution as a constitutional commission with primary functions being to: -

- a) Register trained teachers;
- b) **Recruit and employ registered teachers;**
- c) **Assign teachers for service in any public school or institution;**
- d) Promote and transfer teachers;
- e) Exercise disciplinary control over teachers;
- f) Terminate the employment of teachers engaged in public service.

1.2 The Commission is further mandated Under **Article 237 (3)** of the Constitution to: -

- a) Review the standards of education and training of persons entering the teaching service;
- b) Review the national demand for, and the supply of teachers; and
- c) Advise the National Government on matters relating to the teaching profession.

1.3 On the other hand, section **11** of the Teachers Service Commission Act (hereinafter, "The Act") requires the Commission to: -

- a) Formulate policies to achieve its mandate,
- b) Provide strategic leadership and direction,
- c) Prescribe teaching standards and ensure compliance,
- d) Manage the Teachers payroll,
- e) Facilitate career progression & professional development,
- f) Monitor the Conduct and Performance of teachers, and
- g) Do all such other things as may be necessary for the effective discharge of its functions and the exercise of its powers.

2. **HISTORICAL BACKGROUND**

- 2.1. On **11th October 1997**, the Kenya National Union of Teachers (KNUT) and the Government of the Republic of Kenya entered into an Agreement to increase the remuneration payable to teachers in the public service. This agreement crystalized in **Legal Notice No. 534 of 1997** and was applicable to all teachers in the employment of the Commission at the material time.
- 2.2. It was an integral term of the agreement duly negotiated and agreed by parties that the salary award was to be implemented and paid in five **(5) phases** with effect from **1st July, 1997 to 1st July, 2001** for a period of five (5) years.
- 2.3. The Legal Notice Number **534 of 1997** was followed with an Implementation Circular **No. 13 of 1997** which captured and elaborated the terms of the Agreement and stipulated the salaries payable to the teachers under each year.
- 2.4. The Government implemented the **1st phase** of the Agreement which was duly paid to all teachers in October **1997**. Due to economic constraints, the subsequent phases from **July, 1998** were not paid.
- 2.5. In February, **2003**, parties to the agreement, (the Government and KNUT) re-negotiated and mutually signed a further Agreement to pay the remaining four phases within a period of **Ten (10)** years with effect from **1st July, 2003**.
- 2.6. Further, in an Agreement signed on the **24th May, 2003** parties renegotiated and agreed that the ten (10) phases be reduced to six (6) to be implemented within a period of six (6) years.

- 2.7. In the spirit of continued engagement, the payment plan was further reduced to **five (5)** phases in an Agreement signed on **1st March, 2007**.

COURT MATTERS

A. Nakuru High Court Civil Suit No 65 of 2006

- 2.8. On **27th March, 2006**, twenty (20) teachers acting on behalf of their colleagues filed a class action in the High Court at Nakuru wherein they claimed:-
- a) *Declaration that the outcome of the representative suit will apply to all retired teachers;*
 - b) *Declaration that the Plaintiffs together with all other retired teachers are entitled to their retirement benefits inclusive of all other benefits provided for in the 1997 agreement between the Government of Kenya and the Kenya National Union of Teachers.*
 - c) *An order that the defendant pay the Plaintiff's all unpaid benefits to-date;*
 - d) *Costs of the suit;*
 - e) *Any other relief that this Honourable court may deem fit.*

- 2.9. On **23rd October, 2008**, the Court delivered its judgment finding for the teachers and ordered that together with all other teachers covered by the Agreement dated **11th October, 1997**, they are entitled to their **Retirement benefits** based on the entire agreement and Circular.

B. Nakuru Civil Appeal No. 300 of 2009

- 2.10. The Government being dissatisfied with the judgment of the High Court appealed to the Court of Appeal in **Nakuru Civil Appeal No. 300 of 2009**, which Appeal was heard and determined on **12th November, 2010**.

In its judgment, the Court of Appeal decreed that the last salary be computed in a manner that incorporates all the terms of the agreement between parties.

C. Nakuru Judicial Review No. 18 of 2012

- 2.11. The retired teachers filed a Judicial Review Application seeking orders to compel the Commission Secretary and the Director of Pensions to pay to the teachers their enhanced retirement benefits as per the judgment. The teachers also filed an Application to cite the Commission Secretary for contempt of Court for failing to implement the Court Order.

D. Application for Leave to Appeal to the Supreme Court

- 2.12. In **2013**, the Government through the Attorney General sought leave from the Court of Appeal to appeal against the Judgment of the Court of Appeal to the Supreme Court. The Court agreed that the Application raised substantial issues of law and fact. However, the prayers were declined on one ground that there was unreasonable delay on the part of Government in filing the application.

E. Supreme Court Application No. 38 of 2014.

- 2.13. In **September 2014**, the Attorney General filed an Application at the Supreme Court seeking review of orders of the Court of Appeal that denied Government leave to appeal the matter to the Supreme Court. However on **9th December, 2015**, the Supreme Court delivered its Ruling in the matter and declined to grant leave to the Government to file a further Appeal on grounds that there was inordinate delay on the part of the Government.

3. **IMPLEMENTATION OF THE JUDGMENT IN NAKURU HCCC 65 OF 2006**

- 3.1 After exhausting all judicial avenues provided by law, the Government resolved to implement the Court Judgment and pay the teachers their enhanced Pension benefits based on the 1997 Agreement.
- 3.2 The Commission commenced the exercise under strict supervision by the Court. The process commenced with identifying the teachers who exited service without benefiting from their respective phases under the Agreement.
- 3.3 According to Government records a total of **23, 487** teachers who retired from **1/7/1998 to 30/6/2003** are entitled to enhanced pension emoluments under the Court award.
- 3.4 Accordingly, to date, the Commission has processed a total of **23,487 revised pension Claims** in respect of teachers entitled to the award and submitted the same to the Director of Pensions, National Treasury for final processing and payment. **Appendix 1 is a list of the Claims processed and submitted to National Treasury.**
- 3.5 The Commission has worked tirelessly with the National Treasury to ensure that all inquiries related to specific claims are resolved in an expeditious manner to enable the teachers get their rightful dues.

4. **PETITIONER'S PENSION BENEFITS**

- 4.1 The Commission wish to inform the Committee that **Mr. Philip K.A. Too**, the Petitioner herein, was employed by the Commission as a teacher from **1973 to 31st August 2005.**

- 4.2 Mr. Too benefited from phase 1 of the salary awards which was implemented in 1st July 1997. Additionally, following the **Legislative Supplement No. 10 of 21/02/2003** which re-negotiated the 1997 Agreement, his salary was reviewed on **1st July 2003**, **1st July 2004**, and **1st July 2005**. He exited on **31/8/2005** after fully benefitting from the implementation of the salary agreement hence was correctly paid.
- 4.3 In preparing the Petitioner's Pension Claim, the Commission factored in the salary increase as per the agreement. It is therefore not true that the Commission has not processed his enhanced pension Claim.

5. **NECESSARY CLARIFICATIONS**

- 5.1 Honourable members should note that the teachers who are entitled to benefit under the Court order are those who retired without earning their respective salary awards as per the phases contained in the agreement.
- 5.2 To this end, only teachers who retired between **1st July 1998 and 30th June 2003** are entitled to benefit under the agreement since they left service without earning their respective salary phases leading to underpayment of their pension emoluments.
- 5.3 Accordingly the allegation at **Paragraph 7** of the Petition enlarging the period from **1997 to 2007** is erroneous and misleading.

The Committee should note that the 1997 Salary Agreement was **re-negotiated** between KNUT and the Government and a new Agreement signed and gazetted as **Legislative Supplement No 10 of 2003** dated **21/02/2003**.

- 5.4 The same was implemented with effect from **1/7/2003** by the NARC Government. Any teacher who retired after **July 2003** earned their respective phases and their pension benefit were correctly paid hence not entitled for a further revision. It is only those teachers who retired between **1/7/1998** and **30/6/2003** who exited without earning a single phase.
- 5.5 Honourable members may further note that when the teachers' representatives filed the suit, they only sought for enhanced pension benefits. Accordingly the Government obligation under the judgment was to pay enhanced pension emoluments as per the Judgment. This was clarified in the Court's Ruling dated **17/10/2017** (Copy attached).
- 5.6 Lastly, the Committee may also note that both the 1997 Agreement and the re-negotiated Agreement were payable in phases. Accordingly a teacher could not claim payment for a future phase that is yet to crystalize. For example, a teacher who retired in 1997 and was paid could not claim the 1998 phase.
6. **CONCLUSION**
- 6.1 Upon exhausting all legal avenues, the Government committed to fully comply with the Judgment and commenced processing the Pension claims for the teachers who are entitled to the same. On its part, the Commission has processed all the relevant documents for the **23, 487** and submitted to the National Treasury for payment as per the law.

.....**THE END**.....

THE TEACHERS SERVICE COMMISSION ACT
(Cap. 212)

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

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

1. This Order may be cited as the Teachers Service Commission (Remuneration of Teachers) Order, 1997.
2. The remuneration of teachers in the teaching service, of the grades specified in the first column of the Schedule shall be in accordance with the salary scales specified in columns 2, 3, 4, 5, 6 and 7 with effect from the date specified under each column.
3. The automatic house allowance payable to teachers in the teaching service shall be at the rate of 35 per cent of the minimum basic salaries specified in the second column of the First Schedule for the financial year 1997/98; at 45 per cent of the minimum basic salaries specified in the second column of the First Schedule for the year 1998/99 and at 50 per cent of the minimum basic salaries specified in second column of the First Schedule for the year 1999/2000 and the subsequent years.
4. Medical allowances payable to teachers in the teaching service shall be at the rate of 15 per cent of the minimum basic salaries specified in column 2 of the First Schedule for the financial year 1997/98 and at 20 per cent of the minimum basic salaries specified in the second column of the First Schedule for the financial year 1998/99 and the subsequent years.
5. Responsibility allowances payable to teachers in the teaching service shall be payable at the rate of 100 per cent of the current rates contained in the code of regulations for teachers (Code of Regulations for Teachers Revised 1986) for the financial year 1997/98; 250 per cent for the financial year 1998/99; 400 per cent for the financial year 1999/2000 and 500 per cent for the financial year 2000/2001 and the subsequent years.
6. Special allowance payable to teachers in the teaching service who are deployed to teach in special schools/institutions and teachers who possess diplomas or certificates in special education deployed to teach in special units shall be at the rate of 10 per cent of the minimum basic salary with effect from 1st July, 1997.
7. Hardships allowance payable to teachers in the teaching service shall be at the rate of 30 per cent of the minimum basic salary specified in the second column of the first schedule with effect from 1st July, 1997. All the teachers serving in the districts/areas gazetted as hardship areas and those teachers in the areas listed below will qualify for this allowance irrespective of their marital status—

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

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

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

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

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

FIRST SCHEDULE

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7						
Teachers grades	Present salary	New salary w.e.f. 1-7-97 Kf p.a.	New salary w.e.f. 1-7-98 Kf p.a.	New salary w.e.f. 1-7-99 Kf p.a.	New salary w.e.f. 1-7-2000 Kf p.a.	New salary w.e.f. 1-7-2001 Kf p.a.						
	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
U.T. teachers	1,128	1,416	1,638	2,052	2,142	2,691	2,595	3,255	3,045	3,825	3,384	4,248
K.C.P.E.												
U.T. with K.J.S.E./K.C.E. Div. IV/ K.C.S.E. "D" plain and below	1,332	2,073	1,932	3,009	2,529	3,921	3,063	4,755	3,597	5,589	3,996	6,219
U.T. with K.C.E. Div. I-III/ K.C.S.E. C-/U.T. with K.A.C.E./K.C.S.E. C+ and above	1,668	2,505	2,418	3,393	3,168	4,263	3,834	5,295	4,506	6,249	5,004	6,975
P4 teacher	1,206	1,776	1,752	2,574	2,292	3,378	2,775	4,080	3,255	4,800	3,618	5,328
P3 teacher	1,416	2,361	2,052	3,297	2,691	4,149	3,255	5,160	3,825	6,084	4,248	6,786
P2 teacher	1,722	2,799	2,496	3,771	3,273	4,704	3,957	5,700	4,653	6,579	5,166	7,353
P1 teacher	2,217	4,227	3,105	5,484	3,921	6,771	4,890	8,250	5,754	9,731	6,408	10,995
A.T.S. IV/untrained teachers trained technical teacher	2,799	5,322	3,771	6,834	4,704	8,697	5,700	10,536	6,579	12,438	7,353	13,485
Graduate teacher/trained technical teacher												
diploma technical teacher (previously diploma) A.T.S. III	4,092	6,066	5,313	7,722	6,558	9,897	7,980	12,012	9,420	14,106	10,644	15,354

First Schedule—(Contd.)

	Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7					
Teachers grades	Present salary	New salary w.e.f. 1-7-97 Kf p.a.	New salary w.e.f. 1-7-98 Kf p.a.	New salary w.e.f. 1-7-99 Kf p.a.	New salary w.e.f. 1-7-2000 Kf p.a.	New salary w.e.f. 1-7-2001 Kf p.a.						
	Min.	Max.	Min.	Max.	Min.	Max.	Min. Max.					
Trained certificate technical teacher I/trained technical teacher II/A.T.S. I/trained graduate teacher II/assistant lecturer	4,827	7,140	6,168	8,994	7,797	11,487	9,429	13,997	11,187	16,506	12,144	17,922
Trained diploma technical teacher I/A.T.S. I trained graduate lecturer	5,694	8,127	7,278	10,224	9,297	13,083	11,274	15,919	13,272	18,774	14,406	20,397
Tutor graduate/approved teacher, senior lecturer, principal III	6,918	9,837	8,718	12,360	11,142	15,837	13,558	19,285	15,984	22,734	17,364	24,711
Principal graduate/approved teacher II, principal lecturer, principal II	7,872	10,803	9,906	13,485	12,666	17,277	15,397	21,085	18,192	24,831	19,758	26,988
Principal graduate/approved teacher I, senior principal lecturer, principal I	8,937	11,469	11,235	14,355	14,397	18,363	17,485	22,387	20,637	26,397	22,434	28,680
Senior principal teacher	10,137	12,540	12,735	15,660	16,317	20,064	19,895	24,466	23,433	28,854	25,170	31,368
Chief principal teacher	11,469	14,106	14,355	17,640	18,363	22,596	22,387	27,508	26,397	32,454	28,680	35,266

SECOND SCHEDULE
ACCOMMODATION ALLOWANCE

Teachers on the undermentioned salaries per annum Maximum per night

	<i>Present K.Sh.</i>	<i>New K.Sh.</i>
K.L. 22,968 p. a. and above	—	2,000
K.L. 18,276 and above but under 22,968	400	1,600
K.L. 12,540 and above but under 18,276	300	1,200
K.L. 9,237 and above but under 12,540	200	800
K.L. 4,992 and above but under 9,237	175	700
K.L. 4,827 and below	150	600

This Order revokes the Legal Notice No. 180 of 1997.
Made on the 11th November, 1997.

J. J. KAMOTIIO,
Minister for Education.

TSRC file 31

SPECIAL ISSUE

1277

Kenya Gazette Supplement No. 96

24th September, 2002

(Legislative Supplement No. 62)

LEGAL NOTICE NO. 162

THE TEACHERS SERVICE COMMISSION ACT
(Cap. 212)

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

THE TEACHERS SERVICE COMMISSION (REMUNERATION OF TEACHERS) (REVOCATION) ORDER, 2002

1. This Order may be cited as the Teachers Service Commission (Remuneration of Teachers) (Revocation) Order, 2002.
2. The Teachers Service Commission (Remuneration of Teachers) Order, 1997, is revoked:

L.N. 534/1997.

Provided that this Order shall not apply to any action previously taken pursuant to the provisions of the Order now revoked

Made on the 19th September, 2002.

H. K. KOSGEY,
Minister for Education.

MEMORANDUM OF AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA AND THE KENYA NATIONAL UNION OF TEACHERS ON THE IMPLEMENTATION OF TEACHERS SALARY AWARD AS CONTAINED IN LEGAL NOTICE NO.534 of 1997.

Following deliberations between the Government of the Republic of Kenya and the Kenya National Union of Teachers, which culminated in the conciliation by the National Tripartite Consultative Committee, the parties have voluntarily agreed as follows: -

1. That, the Government will irrevocably honour the Teachers Salary Award as contained in Legal Notice No. 534 of 1997 within the agreed framework as tabulated herein below.

2. That, taking into consideration the revenue forecast, Government fiscal constraints and the country's external and domestic commitments, the pending Teachers Salary Award will be phased over a period of Ten (10) years with effect from 1st July 2003. Towards this end the Government will automatically release funds as follows: -

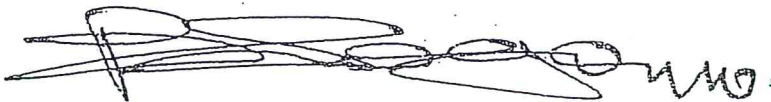
Year	Wage Award Over 10 years (Kshs. Million)
2002/03	
2003/04	2,850
2004/05	2,850
2005/06	2,850
2006/07	2,850
2007/08	2,850
2008/09	2,850
2009/10	2,850
2010/11	2,850
2011/12	2,850
2012/13	2,850
Cumulative	28,500

3. That, for purposes of gazetting the award, a technical sub-committee be formed to undertake the apportionment of the agreed funds. The sub-committee will submit its report, for approval, to the main committee within two weeks from the date of signing this agreement.
4. That, no arrears will be demanded, as the implementation of the award will not be backdated.
5. That, the Teachers Service Commission (Remuneration) order contained in Legal Notice No.534 of 1997 be amended pursuant to this agreement.

1. **Signed: For and on behalf of the Teachers Service Commission**



Ibrahim M. Hussein, HSC.
Chairman – Teachers Service Commission

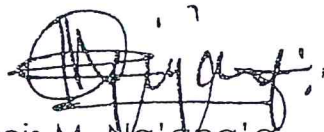


Benjamin K. Sogomo, OGW.
Secretary - Teachers Service Commission

2. **Signed: For and on behalf of the Kenya National Union of Teachers**



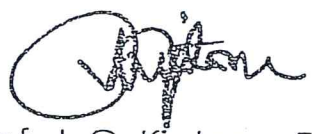
John M. Katumanga
National Chairman - Kenya National Union of Teachers




Francis M. Ng'ang'a
Secretary- General - Kenya National Union of Teachers



Peter M. Mutulu
National Treasurer- Kenya National Union of Teachers
3. **Signed: For and on behalf of the Government of the Republic of Kenya**



Prof. J. C. Kiptoon, EBS.; Phd.
Permanent Secretary – Ministry of Education, Science and Technology

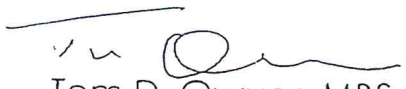


Joseph K. Kinyua
Permanent Secretary – Ministry of Finance and Planning

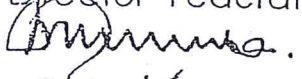


James E.O. Ongwae, EBS.;OGW.
Permanent Secretary/Director – Directorate of Personnel Management

4. Witnessed by:



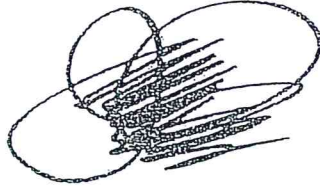
Tom D. Owuor, MBS.;OGW
Executive Director -Federation of Kenya Employers (FKE)



ISAAC KWARAI

For: Francis Atwoli
Secretary – General - Central Organization of Trade Unions, Kenya (COTU)

Amb. Joshua K. Terer
Permanent Secretary - Ministry of Labour and Human
Resources Development.



Hon. Joseph K. Ngutu, EGH; EBS.; MP.,
Minister for Labour,
Chairman.



Dated at Nairobi this... 3rd ... day of... December ... 2002

(Legislative Supplement No. 10)

LEGAL NOTICE NO. 16

THE TEACHERS SERVICE COMMISSION ACT

(Cap. 212)

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

THE TEACHERS SERVICE COMMISSION (REMUNERATION OF TEACHERS) (AMENDMENT) ORDER, 2003

1. This Order may be cited as the Teachers Service Commission (Remuneration of Teachers) (Amendment) Order, 2003.
2. The Teachers Service Commission (Remuneration of Teachers) Order, 1997, in this Order referred to as "the principal Order", is amended by deleting paragraph 2 and substituting therefor the following new paragraph—
 2. The remuneration of teachers in the teaching service, of the grades specified in column 1 of the First Schedule, shall be in accordance with the salary scales specified in columns 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 with effect from the dates specified under each column.
3. The principal Order is amended by deleting paragraph 3 and substituting therefor the following new paragraph—
 3. The automatic house allowance payable to teachers in the teaching service shall be as per the Directorate of Personnel Management Circular Ref. No. OP. 18/1A/VIII/141 of 18th June, 2001.
4. The principal Order is amended by deleting paragraph 4 and substituting therefor the following new paragraph—
 4. Medical allowance payable to teachers in the teaching service shall be at the rates specified in columns 2, 3 and 4 of the Third Schedule, with effect from the dates specified under each column.
5. The principal Order is amended by deleting paragraph 5 and substituting therefor the following new paragraph—
 5. The responsibility allowance payable to teachers in the teaching service, during the financial years specified in the first column of the following table, shall be at the percentage of the rates prescribed in the Code of Regulations for Teachers (Revised 1986) respectively specified in the second column.

<i>Financial year</i>	<i>Percentage rate</i>
2005/2006	150%
2006/2007	200%
2007/2008	250%
2008/2009	300%
2009/2010	350%
2010/2011	400%
2011/2012	450%
2012/2013	500%

6. The principal Order is amended by deleting paragraph 8 and substituting therefor the following new paragraph—

8. The automatic commuter allowance payable to teachers in the teaching service shall be at the rates specified in columns 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 of the Fourth Schedule, with effect from the dates specified under each column.

7. The principal Order is amended by deleting paragraph 10 and substituting therefor the following new paragraph—

10. (1) The transfer allowance payable to teachers in the teaching service shall be equivalent to one month's gross basic salary, with effect from 1st July, 2003.

(2) For the purposes of payment of transfer allowance, the working station of a teacher shall be taken to be the teacher's home district.

(3) Transfer allowance shall only be payable to teachers transferred from one station (district) to another station (district) on the initiative of the employer (the Teachers' Service Commission).

FIRST SCHEDULE

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6
Teachers Grades	Present Salary	New Salary w.e.f. 1-7-2003	New Salary w.e.f. 1-7-2004	New Salary w.e.f. 1-7-2005	New Salary w.e.f. 1-7-2006
	Min. Max.	KSh. p.m. Min. Max.	KSh. p.m. Min. Max.	KSh. p.m. Min. Max.	KSh. p.m. Min. Max.
1. U.T. with/without K.C.P.E.	2,730 3,420	3,500 3,827	3,600 4,236	3,706 4,643	4,033 5,052
2. U.T. with K.J.S.E./K.C.E. Div. IV/ K.C.S.E. "D" plain and below	3,220 5,015	3,603 5,612	3,989 6,212	4,372 6,809	4,756 7,408
3. U.T. with K.C.E. Div. I-III/ K.A.C.E./K.C.S.E. C+ and above	4,030 5,655	4,510 6,328	4,992 7,005	5,471 7,678	5,953 8,353
4. P4 teacher	2,920 4,290	3,500 4,783	3,600 5,276	3,925 5,767	4,259 6,257
5. P3 teacher	3,420 5,495	3,813 6,127	4,206 6,758	4,597 7,386	4,988 8,014
6. P2 teacher	4,160 6,285	4,559 6,888	4,956 7,488	5,353 8,087	5,749 8,685
7. P1 teacher	5,175 9,140	5,672 10,017	6,165 10,889	6,658 11,760	7,151 12,630
8. A.T.S. IV/Untrained technical teacher, trained certificate technical teacher	6,285 11,390	6,675 12,096	7,062 12,798	7,450 13,502	7,838 14,204

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6
Teachers Grades	Present Salary	New Salary w.e.f. 1-7-2003	New Salary w.e.f. 1-7-2004	New Salary w.e.f. 1-7-2005	New Salary w.e.f. 1-7-2006
	Min. Max.	KSh. p.m. Min. Max.	KSh. p.m. Min. Max.	KSh. p.m. Min. Max.	KSh. p.m. Min. Max.
0. Graduate teacher/trained certificate technical teacher II/trained diploma technical teacher III/diploma technical teacher III/diploma teacher (S1 diploma) A.T.S. III	8,885	9,360 13,604	9,865 14,338	10,368 15,069	10,875 15,806
0. Trained certificate technical teacher I/trained diploma technical teacher II/A.T.S. II/trained graduate teacher II/assistant lecturer	10,280	10,866 15,844	11,453 16,700	12,037 17,552	12,625 18,410
1. Trained diploma technical teacher I/A.T.S. I trained graduate teacher I/lecturer	12,130	17,040 18,011	13,514 18,984	14,203 19,952	14,897 20,928
2. Senior graduate/approved teacher/senior lecturer/principal III	14,530	20,600 21,692	16,064 22,774	16,828 23,858	17,585 24,932

Kenya Subsidiary Legislation, 2003

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6
<i>Teachers Grades</i>	<i>Present Salary</i>	<i>New Salary w.e.f. 1-7-2003 KSh. p.m.</i>	<i>New Salary w.e.f. 1-7-2004 KSh. p.m.</i>	<i>New Salary w.e.f. 1-7-2005 KSh. p.m.</i>	<i>New Salary w.e.f. 1-7-2006 KSh. p.m.</i>
	<i>Min. Max.</i>	<i>Min. Max.</i>	<i>Min. Max.</i>	<i>Min. Max.</i>	<i>Min. Max.</i>
13. Principal graduate/approved teacher II/principal lecturer/principal II	16,510 22,475	17,302 23,554	18,098 24,637	18,895 25,721	19,688 26,802
14. Principal graduate/approved teacher I/senior principal lecturer/principal I	18,725 23,925	19,624 25,073	20,526 26,227	21,430 27,381	22,330 28,531
15. Senior principal teacher	21,225 26,100	22,244 27,353	23,267 28,611	24,291 29,870	25,311 31,124
16. Chief principal teacher	23,925 29,400	25,073 30,811	26,227 32,229	27,381 33,647	28,531 35,060

FIRST SCHEDULE—(Contd.)

COLUMN 1 <i>Teachers Grade</i>	COLUMN 7		COLUMN 8		COLUMN 9		COLUMN 10		COLUMN 11		COLUMN 12	
	<i>New Salary</i> w.e.f. 1-7-2007 <i>KSh. p.m.</i>	<i>Min.</i> <i>Max.</i>	<i>New Salary</i> w.e.f. 1-7-2008 <i>KSh. p.m.</i>	<i>Min.</i> <i>Max.</i>	<i>New Salary</i> w.e.f. 1-7-2009 <i>KSh. p.m.</i>	<i>Min.</i> <i>Max.</i>	<i>New Salary</i> w.e.f. 1-7-2010 <i>KSh. p.m.</i>	<i>Min.</i> <i>Max.</i>	<i>New Salary</i> w.e.f. 1-7-2011 <i>KSh. p.m.</i>	<i>Min.</i> <i>Max.</i>	<i>New Salary</i> w.e.f. 1-7-2012 <i>KSh. p.m.</i>	<i>Min.</i> <i>Max.</i>
1. U.T. with/without K.C.P.E.	4,359	5,461	4,685	5,869	5,011	6,278	5,338	6,687	5,663	7,095	5,989	7,503
2. U.T. with K.J.S.E./K.C.E. Div. IV/ K.C.S.E. "D" plain and below	5,142	8,008	5,526	8,607	5,911	9,206	6,296	9,805	6,680	10,403	7,064	11,002
3. U.T. with K.C.E. Div. 1-III/K.C.S.E. C-U.T. with K.A.C.E./K.C.S.E. C+ and above	6,435	9,030	6,916	9,705	7,398	10,381	7,879	11,056	8,360	11,731	8,841	12,407
i. P4 teacher	4,593	6,749	4,928	7,241	5,263	7,732	5,600	8,227	5,935	8,719	6,269	9,211
ii. P3 teacher	5,380	8,644	5,772	9,274	6,164	9,904	6,559	10,538	6,951	11,168	7,343	11,798
iii. P2 teacher	6,145	9,284	6,543	9,885	6,940	10,485	7,338	11,086	7,735	11,687	8,133	12,287
iv. P1 teacher	7,645	13,502	8,139	14,375	8,633	15,248	9,128	16,122	9,623	16,995	10,177	17,869
3. A.T.S. IV/untrained technical teacher, trained, certificate technical teacher	8,228	14,911	8,615	15,612	9,005	16,319	9,395	17,026	9,785	17,732	10,174	18,438
3. Graduate teacher/trained certificate technical teacher II/trained diploma technical teacher III/diploma teacher (SI diploma) A.T.S. III	11,382	16,543	11,890	17,281	12,397	18,019	12,904	18,756	13,412	19,493	18,481	26,861

COLUMN 1 Teachers Grade	COLUMN 7		COLUMN 8		COLUMN 9		COLUMN 10		COLUMN 11		COLUMN 12	
	Min.	Max.	New Salary w.e.f. 1-7-2007	New Salary w.e.f. 1-7-2008	New Salary w.e.f. 1-7-2009	New Salary w.e.f. 1-7-2010	New Salary w.e.f. 1-7-2011	New Salary w.e.f. 1-7-2012	Min.	Max.	Min.	Max.
			KSh. p.m.	KSh. p.m.	KSh. p.m.	KSh. p.m.	KSh. p.m.	KSh. p.m.	KSh. p.m.	KSh. p.m.	KSh. p.m.	KSh. p.m.
10. Trained certificate technical teacher I/trained diploma technical teacher II/A.T.S. II/trained graduate teacher II/assistant lecturer	13,214	19,268	13,803	20,127	14,392	20,987	14,981	21,845	15,570	22,704	21,455	31,286
11. Trained diploma technical teacher I/A.T.S. I trained graduate teacher I/lecturer	15,592	21,903	16,287	22,880	16,983	23,857	17,677	24,833	18,372	25,808	25,316	35,564
12. Tutor graduate/approved teacher/senior lecturer/ principal III	18,349	26,014	19,119	27,107	19,884	28,191	20,648	29,273	21,412	30,356	22,176	31,440
13. Principal graduate/approved teacher II/principal lecturer/ principal II	20,478	27,876	21,268	28,952	22,055	30,024	22,845	31,098	23,635	32,174	24,425	33,249
14. Principal graduate/approved teacher I/senior principal lecturer/principal I	23,225	29,675	24,122	30,820	25,014	31,961	25,910	33,105	26,806	34,250	27,701	35,394
15. Senior principal teacher	26,326	32,373	27,342	33,622	28,354	34,866	29,369	36,114	30,385	37,364	31,400	38,612
16. Chief principal teacher	29,675	36,466	30,820	37,873	31,961	39,275	33,105	40,681	34,250	42,088	35,394	43,494

9. The principal Order is amended by inserting the following new Schedules in proper numerical sequence:

THIRD SCHEDULE
MEDICAL ALLOWANCE

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
<i>Teachers Grade</i>	<i>Present Medical Allowance KSh. p.m.</i>	<i>New Medical Allowance w.e.f. 1-7-2003 KSh. p.m.</i>	<i>New Medical Allowance w.e.f. 1-7-2004 KSh. p.m.</i>
1. U.T. with/without K.C.P.E.	439	497	555
2. U.T. with K.J.S.E./K.C.E. Div. IV/ K.C.S.E. "D" plain and below	513	571	629
3. U.T. with K.C.E. Div. I-III/K.S.C.E. C-/U.T. with K.A.C.E./K.C.S.E. C+ and above	624	700	777
4. P4 teacher	513	571	629
5. P3 teacher	513	571	629
6. P2 teacher	624	700	777
7. P1 teacher	776	861	947
8. A.T.S. IV/Untrained technical teacher, trained certificate technical teacher	942	1,058	1,173
9. Graduate teacher/trained certificate technical teacher II/trained diploma technical teacher III/diploma teacher (S1 diploma) A.T.S. III	1,328	1,486	1,644
10. Trained certificate technical teacher I/trained diploma technical teacher II/A.T.S. II/trained graduate teacher II/assistant lecturer	1,542	1,728	1,914
11. Trained diploma technical teacher I/A.T.S. I trained graduate teacher I/lecturer	1,819	2,039	2,258
12. Tutor graduate/approved teacher/senior lecturer/principal III	2,179	2,446	2,713
13. Principal graduate/approved teacher II/principal lecturer/principal II	2,476	2,780	3,083
14. Principal graduate/approved teacher I/senior principal lecturer/Principal I	2,808	3,153	3,497
15. Senior principal teacher	3,183	3,574	3,965
16. Chief principal teacher	3,588	4,030	4,472

(para. 7)

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6	COLUMN 7	COLUMN 8	COLUMN 9	COLUMN 10	COLUMN 11
Teachers Grade	New Commuter Allowance w.e.f. 1-7-2003 KSh. p.m.	New Commuter Allowance w.e.f. 1-7-2004 KSh. p.m.	New Commuter Allowance w.e.f. 1-7-2005 KSh. p.m.	New Commuter Allowance w.e.f. 1-7-2006 KSh. p.m.	New Commuter Allowance w.e.f. 1-7-2007 KSh. p.m.	New Commuter Allowance w.e.f. 1-7-2008 KSh. p.m.	New Commuter Allowance w.e.f. 1-7-2009 KSh. p.m.	New Commuter Allowance w.e.f. 1-7-2010 KSh. p.m.	New Commuter Allowance w.e.f. 1-7-2011 KSh. p.m.	New Commuter Allowance w.e.f. 1-7-2012 KSh. p.m.
1. U.T. with/ without K.C.P.E. Div. IV/ K.C.S.E./ K.C.E. and below	54	108	162	216	270	324	378	432	486	540
2. U.T. with K.C.E. Div. I-III/K.C.S.E. C-/U.T. with K.A.C.E./ K.C.S.E. C+ and above	64	127	191	254	318	382	445	509	572	636
3. P4 teacher	80	159	239	318	398	478	557	637	716	796
4. P3 teacher	57	115	172	230	287	344	402	459	517	574
5. P2 teacher	67	134	202	269	336	403	471	538	605	672
6. P1 teacher	80	161	241	321	402	482	562	643	723	803
7. A.T.S. IV/Untrained technical teacher, trained certificate technical teacher	100	200	300	400	500	600	700	799	899	999
8. Graduate teacher/trained certificate technical teacher II/trained diploma technical teacher III/diploma teacher (S1 diploma) A.T.S. III	118	235	353	470	588	705	823	940	1,058	1,175
9. (S1 diploma) A.T.S. III	165	330	494	659	824	989	1,153	1,318	1,483	1,648

FOURTH SCHEDULE—(Contd.)

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6	COLUMN 7	COLUMN 8	COLUMN 9	COLUMN 10	COLUMN 11
Teachers Grade	New Commuter Allowance 1-7-2003 KSh. p.m.	New Commuter Allowance 1-7-2004 KSh. p.m.	New Commuter Allowance 1-7-2005 KSh. p.m.	New Commuter Allowance 1-7-2006 KSh. p.m.	New Commuter Allowance 1-7-2007 KSh. p.m.	New Commuter Allowance 1-7-2008 KSh. p.m.	New Commuter Allowance 1-7-2009 KSh. p.m.	New Commuter Allowance 1-7-2010 KSh. p.m.	New Commuter Allowance 1-7-2011 KSh. p.m.	New Commuter Allowance 1-7-2012 KSh. p.m.
0. Trained certificate technical teacher I/trained diploma technical teacher II/A.T.S. II/trained graduate teacher II/assistant lecturer	191	383	574	765	956	1,148	1,339	1,530	1,722	1,913
1. Trained diploma technical teacher I/A.T.S. I trained graduate teacher I/lecturer	226	451	677	903	1,129	1,354	1,580	1,806	2,031	2,257
2. Tutor graduate/approved teacher/senior lecturer/principal III	269	538	807	1,076	1,346	1,615	1,884	2,153	2,422	2,691
3. Principal graduate/approved teacher II/principal lecturer/principal II	304	609	913	1,217	1,522	1,826	2,130	2,435	2,739	3,043
4. Principal graduate/approved teacher I/senior principal lecturer/principal I	345	690	1,035	1,381	1,726	2,071	2,416	2,761	3,106	3,452
5. Senior principal teacher	391	782	1,174	1,565	1,956	2,347	2,739	3,130	3,521	3,912
6. Chief principal teacher	441	882	1,323	1,764	2,205	2,646	3,087	3,528	3,969	4,410

10. The Teachers Service Commission (Remuneration of Teachers) (Revocation) Order, 2002, is revoked with effect from the 24th September, 2002.

Made on the 12th February, 2003.

GEORGE SAITOTI,
*Minister for Education,
Science and Technology.*

~~APPENDIX~~ ✓

13b

AGREEMENT BETWEEN THE GOVERNMENT OF KENYA AND THE KENYA NATIONAL UNION OF TEACHERS (KNUT) ON RESCHEDULING OF THE PAYMENT OF AGREED TEACHERS' SALARIES AWARD OF 1997.

The Government of Kenya and the Kenya National Union of Teachers have held negotiations and consultations on ways and means of reducing the period of payment of agreed teachers' package from six years to a shorter period.

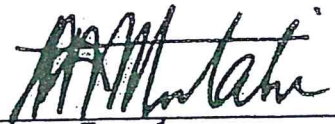
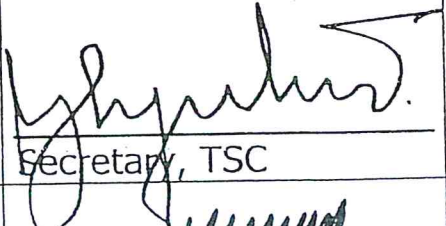
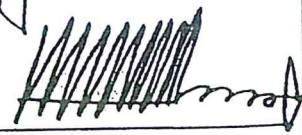

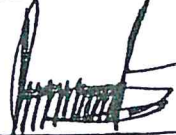
After a series of meetings culminating with the last meeting of February 26, 2007, it is agreed as follows:


- (a) That the payment of the package, set for **six years** on 24th March, 2003 be reduced to **five years**.
- (b) That to effect the reduction of the period to five years, the last instalment of Kshs.4.9 billion due from 1st July, 2008, be split into two equal amounts of Kshs. 2.45 billion each.
- (c) That the first half of Kshs. 2.45 billion be integrated into teachers' salaries of the year 2006/2007 and be paid by 30th June, 2007.
- (d) That during the financial year 2007/08 the second half of Kshs. 2.45 billion be added to the Kshs. 4.9 billion due in the next financial year to make a total of Kshs. 7.35 billion and paid to teachers with effect from 1st July, 2007.
- (e) That in consequence of this agreement the payments will now be as in the schedule herein marked schedule **X**: -

SCHEDULE X


Phase	Financial Year	Amount Payable (Ksh)
1	2003/2004	4.00 billion
2	2004/2005	4.90 billion
3	2005/2006	4.90 billion
4	2006/2007	(a) 4.90 billion (b) 2.45 billion (arrears)
5	2007/2008	(a) 4.90 billion (b) 2.45 billion
TOTAL		28.5 billion

Agreed and concluded by: -

	Official/Personnel	Signature	Date
a	Prof. Karega Mutahi, EBS, CBS	 Permanent Secretary Ministry of Education	01/03/07
b	Mr. Gabriel K. Lengoiboni, EBS	 Secretary, TSC	01/03/07
c	Mr. Ibrahim Hussein, EBS	 Chairman, TSC	01/03/07
d	Mr. Francis M. Ng'ang'a	 Secretary General KNUT	1/3/007
e	Mr. Joseph T. Chirchir	 National Chairman KNUT	1/3/2007

f	Mr. Fred O. Ontere	 National Treasurer KNUT	1/3/07
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Confirmed:



**HON. PROF. GEORGE SAITOTI, EGH MP
MINISTER FOR EDUCATION
CHAIRMAN**

Date:

1st March 2007

