

SPECIAL ISSUE

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REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2024

NAIROBI, 19th April, 2024

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Kenya Gazette Supplement



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILL NO. 1

NATIONAL LAND BILL

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DIRECTOR LEGAL SERVICES
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NATIONAL ASSEMBLY

**THE TEACHERS SERVICE COMMISSION
(AMENDMENT) BILL, 2024**

A Bill for

AN ACT of Parliament to amend the Teacher's Service Commission Act

ENACTED by the Parliament of Kenya as follows—

1. This Act may be cited as the Teachers Service Commission (Amendment) Act, 2024.

Short title.

2. The Teachers Service Commission Act, in this Act referred to as the 'Principal Act' is amended in section 11 by inserting the following new paragraph immediately after paragraph (f).

Amendment of section 11 of No. 20 of 2012.

“(fa) in consultation with the Salaries and Remuneration Commission facilitate payment of allowances to teachers in the manner set out in the Fourth Schedule”.

3. The principal Act is amended by inserting the following new section immediately after section 32—

Insertion of new section 32A in No. 20 of 2012.

Acting appointment.

32A. (1) The Commission may appoint a teacher in an acting capacity for a period of at least thirty days but not exceeding a period of six months.

(2) A teacher shall not be appointed in an acting capacity unless the person satisfies all the prescribed qualifications.

(3) A teacher appointed under subsection (1) shall only act in one position at a time.

(4) A teacher appointed in an acting capacity shall be entitled to special duty allowance.

4. The principal Act is amended by inserting the following new schedule immediately after the Third Schedule —

Insertion of a new schedule in No. 20 of 2012.

FOURTH SCHEDULE

(s.11.)

(This part provides for allowances that may be granted to teachers in

specified circumstances. The remunerative and reimbursable allowances are non-pensionable except responsibility allowance if earned up to and including the last date of retirement).

a) House allowance

(1) The Commission shall pay house allowance to every teacher in its employment at a rate determined by the Commission from time to time.

(2) Where a teacher is on interdiction and is on half salary, the Commission shall pay the full house allowance until the case is determined.

b) Commuter allowance

(1) The Commission shall determine and pay commuter allowance to a teacher under its employment.

(2) A teacher under interdiction or suspension shall not be entitled to payment of commuter allowance.

c) Hardship allowance

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

d) Special duty allowance

(1) The Commission shall, in the absence of qualified teachers, pay special duty allowance to teachers —

a) appointed to perform administrative duties which are not commensurate to the teachers' grades; or

b) who are stationed in arid and semi-arid lands.

(2) A teacher shall relinquish special duty allowance where the teacher —

(a) is transferred out of the arid and semi-arid lands;

(b) is relieved of administrative duties; or

(c) attains the grade for the post in which the teacher was acting.

(3) The Commission shall from time to time determine and review the payment of special duty allowance depending on the availability of qualified teachers to take up administrative posts and teachers in arid and semi-arid lands.

e) Responsibility allowance

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

(2) Responsibility allowance shall be pensionable only where a teacher receives the allowance on the day immediately before retirement.

(3) The Commission shall stop payment of Responsibility allowance to a teacher where the teacher ceases to perform administrative responsibilities.

f) Special school allowance

(1) The Commission shall from time to time determine —

(a) pay special school allowance to a teacher who possess skills in special education and who is assigned to a special school or special unit; and

(b) determine the rate of payment of special school allowance under this regulation.

(2) A teacher entitled to special school allowance shall claim the payment of the allowance in writing through the head of institution.

(3) The Commission shall stop payment of special school allowance to a teacher who ceases to perform duties in a special school.

g) Reader's facilitation or aid allowance

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

h) Leave Allowance

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

i) Transfer allowance

(1) The Commission shall —

- (a) where at its discretion transfers a teacher from a sub-county to another or in inter county transfer, pay transfer allowance to the teacher; or
- (b) not pay transfer allowance to a teacher who initiates a transfer.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the objects and reasons for the Bill

The principal object of this Bill is to amend the Teachers Service Commission No. 20 of 2012 in order to provide for various allowances that the Commission may pay to teachers over and above their basic pay. The Bill further seeks to entrench fairness in acting positions under the Teachers Service Commission so that the Commission confers acting appointments in a structured manner.

The bill therefore provides for predictability and certainty in the management of allowances in the teaching profession.

Statement on the delegation of legislative power and limitation of fundamental rights and freedoms

The Bill does not limit any fundamental rights or freedom

Statement on whether the Bill concerns county government

The Bill does concern County Governments in terms of Article 109(3) of the Constitution and it does affect the functions a powers of County Governments recognized in the Fourth Schedule to the Constitution.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill shall occasion additional expenditure of public funds.

Dated 11th April, 2024.

ABDUL HARO,
Member of Parliament.

Section 11 of No. 20 of 2012 which it is proposed to amend—

11. Functions of the Commission

In addition to the functions set out in Article 237 of the Constitution, the Commission shall—

- (a) formulate policies to achieve its mandate;
- (b) provide strategic direction, leadership and oversight to the secretariat;
- (c) ensure that teachers comply with the teaching standards prescribed by the Commission under this Act;
- (d) manage the payroll of teachers in its employment;
- (e) facilitate career progression and professional development for teachers in the teaching service including the appointment of head teachers and principals;
- (f) monitor the conduct and performance of teachers in the teaching service; and
- (g) do all such other things as may be necessary for the effective discharge of its functions and the exercise of its powers.

Section 32 of No. 20 of 2012 which it is proposed to amend—

32. Publication of the register

(1) The Commission shall cause to be published and publicized annually, in an accessible manner, a list containing the names, addresses and qualifications of all registered teachers appearing on the register as at the thirty first day of December in the previous year.

(2) Notwithstanding subsection (1), the Commission shall cause any alterations in the entries in the register which have been made since the last publication, to be published one month from the date of such alteration.