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KENYA NATIONAL ASSEMBLY

TENTH PARLIAMENT – FOURTH SESSION

REPORT OF THE SELECT COMMITTEE
ON DELEGATED LEGISLATION ON THE PETITION BY THE KENYA
NATIONAL UNION OF TEACHERS ON THE LEGAL STATUS OF LEGAL
NOTICE NO. 16 OF 2003

Clerks Chambers,
Parliament Buildings,
NAIROBI.

December, 2012

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PREFACE

Mr. Speaker,

On Thursday 13th March, 2012, the Hon. Martha Karua, M.P tabled a Petition signed by twenty one (21) members of the Kenya National Union of Teacher (hereafter referred to as KNUT) and related to a Collective Bargaining Agreement (CBA) entered into between the Teachers Service Commission (TSC) and KNUT in 1997. The CBA resulted into the gazettelement of the Teachers Service Commission (Remuneration of the Teachers) Order, 1997 vide Legal Notice No. 534 of 1997 (hereafter referred to as Legal Notice No. 534 of 1997).

In the petition, the petitioners contend that, when they demanded for the full implementation of the 1997 CBA, they were given another Teachers Service Commission (Remuneration of the Teachers) (Amendment) Order, 2003 gazetted vide Legal Notice No. 16 of 2003 (hereafter referred to as Legal Notice No. 16 of 2003) which in effect revoked and altered the terms and condition including allowances negotiated and agreed between the KNUT and the TSC in 1997.

In particular, the petitioners contend that the Legal Notice No. 16 of 2003 is a nullity because according to them, Legal Notice No. 16 of 2003 was not arrived at through the laid down procedure for negotiation of teacher's terms and condition of service set out under section 13 and 14 of the TSC Act, (Cap. 212), Laws of Kenya (repealed by the TSC Act No. 20 of 2012).

Mr. Speaker Sir,

The petitioners' prayer was that the Parliament of the Republic of Kenya;

1. Legal Notice No. 16 of 2003 be declared illegitimate; and

2. A declaration that Legal Notice No. 534 of 1997 is still in force and has not been revoked and therefore immediate implementation of Legal Notice No. 534 of 1997 with regard to teacher's allowance.

Mr. Speaker Sir,

Following the tabling of the petition and in line with the Standing Order No. 210 (1), the Chair referred *this petition to the Select Committee on Delegated Legislation to investigate the matter and report to the House.*

Pursuant to the directive, the Committee held a total of four meetings to examine the matter. Mr. Speaker Sir, we further wish to report to the House that, despite four (4) invitations to appear before the Committee, the Hon. Minister for Education for one reason or the other, failed to appear before the Committee and the Committee therefore resolved to table its report without the benefits of the Minister's evidence.

Mr. Speaker,

The Committee on Delegated Legislation is established under Standing Order 197 to, among other functions:

- i) ensure that statutory instruments are laid before the House as may be provided under any written law and scrutinize such instruments to ensure that they are consistent with parent statutes;
- ii) Unless otherwise provided for either expressly or by implication under any written law, all subsidiary legislation shall be tabled before the House upon publication in the Kenya Gazette; and
- iii) The Committee may recommend that the House resolves that any particular subsidiary legislation be annulled.

Mr. Speaker,

The membership of the Committee was as follow:-

- (i) The Hon. Amina Abdalla, M.P - Chairperson

- (ii) The Hon. Ababu Namwamba, M.P. (later appointed as a Cabinet Minister)
- (iii) The Hon (Dr) Julius Kones, M.P.
- (iv) The Hon. Olago Aluoch, M.P.
- (v) The Hon. Baiya Njoroge, M.P.
- (vi) The Hon. B.C. Muturi Mwangi, MP
- (vii) The Hon. Fahim Twaha, MP
- (viii) The Hon. Gitobu Imanyara, MP
- (ix) The Hon Kiema Kilonzo, M.P.

Mr. Speaker,

In its examination of the matter, the Committee sought to answer the following questions: -

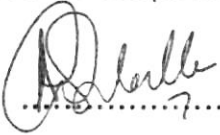
Whether the Teachers Service Commission (Remuneration of the Teachers) (Amendment) Order, 2003, Legal Notice No. 16 of 2003 is ultra vires the parent statute i.e. section 13 and 14 of the TSC Act, (Cap. 212), Laws of Kenya (repealed by the TSC Act No. 20 of 2012).

The Committee held a meeting with the senior officials of KNUT led by the Chairperson Mr. Wilson Sossoin and also examined additional information submitted before it. The findings of the Committee are contained in this report.

The Committee wishes to thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate.

Mr. Speaker,

It is our pleasant duty, on behalf of the Committees to present and commend this report to the House for adoption.

Signed: 

Hon. Amina Abdalla, MP, Chairperson.

Date: 2/1/2012

INTRODUCTION

1. On Thursday, 13th September, 2012, the Member for Gichungu (Hon. Martha Karua) tabled a Petition signed by twenty one (21) members of the Kenya National Union of Teacher and related to a Collective Bargaining Agreement (CBA) entered into between the Teachers Service Commission (TSC) and KNUT IN 1997. The CBA resulted into the gazettment of the Remuneration of the Teacher's Order vide Legal Notice No. 534 of 1997.

2. Pursuant thereto the Chair directed as follows:-

"I direct that this petition be committed to the Committee on Delegated Legislation."

3. Pursuant to the directive, the select Committee on Delegated Legislation held meetings to examine the matter.

Meetings of the Committee

4. The Committee held a total of four meetings, the first one being on September 17, 2012, wherein the Committee sought to seek the advice of the Office of the Legal Counsel, Kenya National Assembly, to furnish the Committee with a legal opinion on the status of Legal Notice No. 534 of 1997 and Legal Notice No. 16 of 2003 and on the maintainability of the Petition as a whole.

5. Thereafter, on 20th September 2012, the Committee held a meeting with the representative of KNUT who were represented by its senior officials led by the Chairperson of KNUT. Despite his request for a meeting with the Committee and subsequent four invitations to appear before the Committee, the Minister for Education for one reason or the other did not appear before the Committee. The report was adopted at the Committee's meeting of December 19, 2012.

EVIDENCE BY THE CHAIRPERSON OF KNUT, MR. WILSON SOSSION

6. Appearing before the Committee on September 20, 2012, the Chairperson of KNUT accompanied by other key official of the Union informed the Committee as follows:-

- (a) That, section 13 of the TSC Act, (Cap. 212), Laws of Kenya (repealed by the TSC Act No. 20 of 2012) (hereafter referred to as the repealed Act) established the Teacher's Service Remuneration Committee (TSRC) which is a committee established for the purpose of considering the remuneration payable to teachers in the Teachers Service and is chaired by an independent and neutral chair;
- (b) That, under section 14 of the repealed Act, once the Committee has deliberated, reviewed and agreed on the remuneration payable to teacher's, its recommendations are transmitted to the Minister for gazette as an Order and that once gazette, it is irreversible ;
- (c) That, on 2nd July 1997, there was a TSRC meeting chaired by the late Hon. Taita Towett, which upon agreeing on a review of the teacher's remunerations, submitted its signed minutes to the Minister as per the repealed Act;
- (d) That, this was the only TSRC meeting and KNUT is not aware of any other subsequent TRSC meeting;
- (e) That, the then Minister for education, ignored the minutes of the TSRC meeting of 1997 and gazetted general salary raise under Legal Notice No. 180 of 1997 which was objected to by KNUT forcing them to go on strike in September, 1997 which was only called off upon the intervention of the then President who ordered for revocation of Legal Notice No. 180 of 1997 by Legal Notice No. 534 of 1997;

- (f) That, on 13th October, 1997, there was a return to work formula in which the government undertook to improve the teacher's remuneration over a period of five years. The agreement contained a **schedule "A"** indicating how the teacher's salary increment would escalate in percentage over the five year period. **Schedule "B"** indicated how the allowance (house, medical; responsibility; special; hardship and commuter allowances) would be improved over the period to end in 2001.
- (g) That, the government failed to live up to its promise and on 3rd December 2002, it was agreed that the teachers' salaries as reflected in the Teachers Remuneration Order, 1997 would be paid over a period of ten years ending in 2013. The government proceeded to honor the payments of salaries as per **schedule "A"**; while leaving the allowances in **schedule "B"** in suspended animation.
- (h) That, in May, 2003, pursuant to a series of meetings, the government agreed to shorten the period of payment as agreed in 2002 from ten (10) years to six (6) years and that in the subsequent year the two parties would meet to see whether the period can be reduced to five (5) years depending on the growth of the national economy.
- (i) That, on 1st March, 2007, the KNUT and the government agreed to reduce the period agreed earlier from six (6) to five (5) years. This marked the fulfillment of salaries as per **schedule "A"** of the Teachers' Remuneration Order, 1997. However, KNUT kept reminding the government that there was a **schedule "B"** of the 1997 agreement that was yet to be fulfilled.
- (j) That, during the on-going teacher's strike, it has come to the attention of KNUT about the existence of the **Teachers Service Commission (Remuneration of Teachers)(Amendment) Order, 2003** gazetted on 21st February, 2003 as

Legal Notice No. 16 of 2003 which purported to amend Legal Notice No. 534 of 1997.

(k) That, KNUT submits that:-

- i. It is not aware of Legal Notice No. 16 of 2003 and that it is a stranger to the same;
- ii. any variation to Legal Notice No. 534 of 1997 must be done through a circular and KNUT has never seen a circular to that effect;
- iii. Legal Notice No. 16 of 2003 did not originate from TSRC as provided for under the law and the same should not have varied the benefits previously accorded to teachers downwards;
- iv. There was no other TSRC after the 1997 one was disbanded and there was an attempt to establish a TSRC in 2009 but the same collapsed.
- v. Legal Notice No. 16 of 2003 varies the allowances which are at the core of teacher's benefits;
- vi. It destroys Legal Notice No. 534 of 1997.

(l) Further, the union opposes the legitimacy of this Legal Notice No. 16 of 2003 for the following reasons:

- The procedural structure of negotiating of teacher's terms and condition of service as at 1997 is provided for in TSC Act Cap. 212 (now repealed) at Section 13 onwards. A perusal of this section will reveal that Legal Notice No. 16 of 2003 did not pass through any procedure as stipulated by the TSC Act;
- Teacher's terms and condition of service and any variation thereto are negotiated by the TSRC. The minutes of the Committee form part of the formal proceedings. The committee makes recommendation to the Minister for Education, who gazettes the

terms of service in accordance with the recommendations of the Committee:

- TSRC was not convened to discuss the proposed amendments all the amendments contained in the Legal Notice No. 16 of 2003 were not negotiated by TSRC;
- The union has verified its record of Gazette Notices and it is evident that the Notice was never published but just appeared when the strike notice expired.

(m) That, Legal Notice No. 534 of 1997 has been saved by the new TSC Act No. 20 of 2012 at section 50 and the same remains binding to TSC as it forms part of the agreement and decisions of the commission entered into under the repealed TSC Act.

(n) That, all the Legal Notices with respect to teacher's remuneration gazetted after Legal Notice No. 534 of 1997 do not meet the standards of the TSC Act;

(o) That, in conclusion, KNUT therefore pray that the law should be followed as it were irrespective of errors of omission and commission from TSC and KNUT and therefore Legal Notice No. 534 of 1997 should be recognized and the other Legal Notices including Legal Notice No. 16 of 2003 should be nullified.

7. On the claim that KNUT is demanding for a 300% salary increment, the Chairperson informed the Committee that the 300% increase was not tied to Legal Notice No. 534 of 1997 but rather it was a new demand based on new economic realities and that these were new issues to be dealt with under the proper framework.
8. Asked why KNUT was blatantly disobeying court orders, the chairperson informed the Committee that there has never been a strike in Kenya which had not been declared illegal and furthermore, KNUT has never been served with any court orders.

COMMITTEE OBSERVATIONS AND FINDINGS:

9. In its observations, the Committee sought to answer the following questions-
- (i) Whether the Committee has the mandate or jurisdiction to deal with this matter?
 - (ii) What is the legal status of a Gazette Notice?
 - (iii) What is the legal status of Legal Notice No. 16 of 2003?

Mandate of the Committee on Delegated Legislation:

10. The Select Committee on Delegated Legislation is established by Standing Order 197 of the Standing Orders of the National Assembly provides as follows-

197. (1) there shall be a select committee to be designated the Committee on Delegated Legislation.

(2) The Committee shall ensure that statutory instruments are laid before the House as may be provided under any written law and scrutinize such instruments to ensure that they are consistent with parent statutes.

(3) Unless otherwise provided for either expressly or by necessary implication under any written law, all subsidiary legislation shall be tabled before the House upon publication in the Kenya Gazette.

(4) The Committee may recommend that the House resolves that any particular subsidiary legislation be annulled.

11. A plain reading of the Standing Order No. 197 (2) indicates that the core mandate of the Committee is to ensure that statutory instruments are consistent with parent statutes. However, the Committee is alive to the limitations imposed upon its mandate by the provisions of Section 34(1) of the Interpretation and General Provisions Act (Cap. 2. Which states:

34. (1) All rules and regulations made under an Act shall, unless a contrary intention appears in the Act, be laid before the National Assembly without unreasonable delay, and, if a resolution is passed by the Assembly within twenty days on which it next sits after the rule or regulation is laid before it that the rule or regulation be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder, or to the making of any new rule or regulation.

What is the legal status of a Gazette Notice?

12. The preliminary question on the legal status of a Gazette Notice was conclusively answered by the joint sitting of the Departmental Committee on Justice and Legal Affairs and the Committee on Delegated Legislation in its report on the appointment of the Director and two assistant directors of the Kenya Anti- Corruption Commission adopted by the House in September, 2009.
13. In its report, the joint Committees found that:

“The Committee also considered whether the Gazette Notices under which the appointments were made were subsidiary legislation thus subject to the jurisdiction of the Committee on Delegated legislation.

The committee noted that Standing Order No. 197 makes reference to the term “subsidiary legislation” without specifically defining the same. Indeed the word “subsidiary legislation” is used interchangeably with the term “delegated legislation” in that Standing Order.

In the absence of such definition the Committee used the definition of the term as used in section 3 of the Interpretation and General Provisions Act, Cap 2 Laws of Kenya, as follows:

“Subsidiary legislation” means any legislative provision (including a transfer or delegation of powers or duties) made in exercise of a power in that behalf conferred by a written law, by way of by-law, notice, order, proclamation, regulation, rule, rule of court or other instrument.

From the foregoing it is clear that Gazette Notice No. 9300 and No. 9301 is subsidiary legislation because if the notices are issued by the President in exercise of a power in that behalf conferred by the Anti-Corruption and Economic Crimes Act. As such the notice falls within the mandate of the committee on delegated legislation and are liable to be recommended for annulment under Standing Order 197(4).

The committee rejects the argument that Parliament does not have power to annul Gazette Notices. How can a Parliament which has power to amend the constitution, power to enact and amend statutes, power to annul rules and regulations not have power to annul mere Gazette Notices, especially when such Gazette Notices are published in flagrant disregard of the enabling law?”

14. The Committee holds that the above finding is the correct interpretation of the law and the position still holds today.

Legal Status of Legal Notice No. 16 of 2003

15. The authority to review the remuneration of teacher's service between 1997 and 2003 was set out in the repealed TSC Act. Section 13 of the repealed Act required the Minister to establish a committee to be known as the Teacher's Service Remuneration Committee (TSRC) for the purposes of consideration the remuneration payable to teachers in the teacher's service. The KNUT is represented in the TSRC by five (5) members appointed by the Minister pursuant to section 13 (2) (c) of the repealed TSC Act.
16. Further, section 14 of the repealed TSC Act provided:-
- 14. (1) The Committee shall, whenever they think fit or are required by the Minister to do so, review the remuneration of teachers in the teachers service as that remuneration exists (whether in pursuance of this Act or of any previous enactment or otherwise) at the time of the review.*
 - (2) Where, in consequence of such a review, the Committee agrees on any recommendations with respect to the remuneration of teachers in the teacher's service, they shall transmit those recommendations to the Minister.*
 - (3) Upon the receipt of any recommendations agreed by the Committee the Minister shall, after preparing a draft order to give effect to those recommendations, and after consulting the Committee with respect to that draft and considering any representations made by the Committee with respect thereto, make and publish in the Gazette an order directing that the remuneration of teachers in the teachers service shall be determined in accordance with the provisions thereof.*
 - (4) Any order made under this section shall take effect on the date specified in the order, may be made to have retrospective effect, and may revoke or amend any previous order.*
 - (5) The remuneration due and payable by the Commission to teachers employed by the Commission shall be in accordance with any order having effect under this section.*
17. From the foregoing, it is clear that section 14 of the repealed TSC Act is worded in mandatory terms to imply that the Minister cannot revoke any gazette Remuneration Order without representation from the TSRC. This section when read together with section 29 of the Interpretation and the General Provisions Act (Cap. 2), Laws of Kenya clearly shows that the Minister cannot by Legal Notice No. 16 of 2003; revoke the remuneration agreed between the TSC and KNUT without having received recommendations to that effect from TSRC, under section 14 of the repealed TSC Act.

18. Section 29 of Cap. 2 provides that:

“29. Where an Act confers power to make subsidiary legislation, expressions used in the subsidiary legislation shall, except where a contrary intention appears, have the same respective meanings as in the Act conferring the power, and a reference in the subsidiary legislation to “the Act” shall mean the Act conferring the power to make the subsidiary legislation.”

19. Accordingly, for Legal Notice No. 16 of 2003 to have legal effect intended by the legislation, the Minister and by extension the TSC must establish that:-

1. The teacher's terms and conditions of service and any the variations thereto were negotiated by the TSRC. Records of the TSRC including the minutes should form part of the TSRC recommendations to the Minister before gazettelement of the remuneration order;
2. The draft order to give effect to the amended recommendation must also show that the Minister consulted the Committee with respect to that draft and considered any representation.

20. Accordingly, the Committee is of the firm view that the law does not give the Minister for Education, any power to unilaterally alter the terms and condition without the concurrence of the TSRC and such action will be a nullity.

21. The committee is of a further view that, all agreements entered into by the TSC under the repealed TSC Act, were transited and saved by section 50 of the TSC Act No. 20 of 2012 which came into effect on 31st August, 2012. This is in line with section 6 in the Sixth Schedule to the Constitution. The CBA entered into between the TSC and the KNUT in 1997, would continue as rights and obligations of the National government and therefore valid unless established that it was revoked legally.

CONCLUSION

22. The Committee finds that:

- (i) On the 12th February, 2003, the then Minister for Education, Science and Technology the late Hon. George Saitoti, did indeed formulate the Teachers Service Commission (Remuneration of Teachers)(Amendment) Order, 2003 as Legal Notice No. 16 of 2003 which were gazette in the Kenya Gazette Supplement No. 17 of 21st February, 2003;
- (ii) The provisions of Legal Notice No. 16 of 2003 (which was an amended Order) amended various provisions of Legal Notice No. 534 of 1997 which touched on teachers allowances and benefits;
- (iii) The mandatory provisions of Section 14 of the repealed TSC Act provide that the Minister for Education *cannot revoke any gazette Remuneration Order without representation from TSRC*;
- (iv) Legal Notice No. 16 of 2003 is therefore ultra vires to section 14 of the repealed TSC Act and therefore a nullity ab initio ;
- (v) Section 50 of the TSC Act No. 50 of 2012 which came into effect on 31st August, 2012 saved all agreements entered into by TSC under the repealed TSC Act and this is in line with section 6 in the Sixth Schedule to the Constitution.
- (vi) The Committee further finds that although Standing Order No. 197 (4) gives the Committee power to recommend to the house for annulment of any subsidiary legislations, Section 34(1) of the Interpretation and General Provisions Act (Cap. 2) states that such resolution must be passed by the Assembly within twenty days on which it next sits after the rule or regulation is laid before the House. This provision greatly impends upon the powers of the Committee to recommend for annulment of Legal Notice No. 16 of 2003 when the time prescribed by the statute has lapsed.

ANNEX I:

MINUTES OF THE COMMITTEE

MINUTES OF THE SIXTY EIGHTH SITTING OF THE COMMITTEE ON DELEGATED
LEGISLATION HELD IN THE SMALL DINING HALL, MAIN PARLIAMENT BUILDING
ON WEDNESDAY 19TH DECEMBER 2012 AT 10.00.A.M.

PRESENT

1. Hon. Amina Abdalla, M.P. -Chairing
2. Hon. Gitobu Imanyara, MP
3. Hon. (Dr.) Julius Kones, M.P
4. Hon. Kiema Kilonzo, M.P.
5. Hon. B.C. Muturi Mwangi, MP

ABSENT WITH APOLOGIES

1. Hon. Olago Aluoch, M.P.
2. Hon. Fahim Twaha, MP
3. Hon. Baiya Njoroge, M.P

IN ATTENDANCE

Mr. Jacob Ngwele

NATIONAL ASSEMBLY

- Third Clerk Assistant

MIN.NO.70/2012 PRELIMINARIES

The Chairperson called the meeting to order at 10.30 AM and opened with a word of prayer by the Committee Clerk.

MIN. NO. 071/2012 MATTER OF PUBLIC PETITION BY KNUT

The Committee noted that notwithstanding four invitations, the Minister for Education has failed to appear before the Committee and respond to the KNUT Petition, and the Committee had no option but to table its report without taking the Ministers evidence.

MIN. NO. 072/2012 COMMITTEE DELIBERATIONS

The Committee deliberated on its report and concluded that:

- (i) The on the 12th February, 2003, the then Minister for Education, Science and Technology the late Hon. George Saitoti, did indeed formulate the Teachers Service Commission (Remuneration of Teachers)(Amendment) Order, 2003 as Legal Notice No. 16 of 2003 which were gazette in the Kenya Gazette Supplement No. 17 of 21st February, 2003;

- (ii) The provisions of Legal Notice No. 16 of 2003 (which was an amended Order) amended various provisions of Legal Notice No. 534 of 1997 which touched on teachers allowances and benefits;
- (iii) The mandatory provisions of Section 14 of the repealed TSC Act provide that the Minister for Education *cannot revoke any gazette Remuneration Order without representation from TSRC*;
- (iv) Legal Notice No. 16 of 2003 is therefore *ultra vires* to section 14 of the repealed TSC Act and therefore a nullity *ab initio* ;
- (v) Section 50 of the TSC Act No. 50 of 2012 which came into effect on 31st August, 2012 saved all agreements entered into by TSC under the repealed TSC Act and this is in line with section 6 in the Sixth Schedule to the Constitution.
- (vi) The Committee further finds that although Standing Order No. 197 (4) gives the Committee power to recommend to the house for annulment of any subsidiary legislations, Section 34(1) of the Interpretation and General Provisions Act (Cap. 2) states that such resolution must be passed by the Assembly within twenty days on which it next sits after the rule or regulation is laid before. This provisions greatly impends the power of the Committee to recommend for annulment the time prescribed by the statute having lapsed.

The Committee recommended that the House resolves:-

- a. **The Committee hereby recommends that, the House urges the Minister for Education to de-gazette the Teachers Service Commission (Remuneration of Teachers)(Amendment) Order, 2003 gazetted in the Kenya Gazette Supplement No. 17 of 21st February, 2003 as Legal Notice No. 16 of 2003;**

Having considered all the evidence and additional information, the Committee adopted the report unanimously and also resolved to Table the report to the House, with the above-mentioned recommendation, soonest.

MIN. NO. 073/2012

ADJOURNMENT

And there being no other business, the Chair adjourned the Sitting at 11.45 am. The next meeting will be on notice.

Signed: .....
(CHAIRPERSON)

MINUTES OF THE SIXTY SEVENTH SITTING OF THE COMMITTEE ON DELEGATED
LEGISLATION HELD IN THE RESTAURANT, 7TH FLOOR, CONTIENTAL HOUSE ON
TUESDAY 4TH DECEMBER 2012 AT 10.00.A.M.

PRESENT

1. Hon. Amina Abdalla, M.P
2. Hon. Baiya Njoroge, M.P
3. Hon.B.C.Muturi Mwangi, MP

–Chairing

ABSENT WITH APOLOGIES

1. Hon. (Dr.)Julius Kones, M.P
2. Hon. Kiema Kilonzo, M.P.
3. Hon. Olago Aluoch, M.P.
4. Hon.Fahim Twaha, MP
5. Hon.Gitobu Imanyara, MP

IN ATTENDANCE

Mr. Jacob Ngwele

NATIONAL ASSEMBLY

- Third Clerk Assistant

MIN.NO.67/2012 PRELIMINARIES

The Chairperson called the meeting to order at 10.30 AM and opened with a word of prayer by the Committee Clerk.

MIN. NO. 068/2012 MATTER OF PUBLIC PETITION BY KNUT

The Committee noted the letter dated 30th November, 2012 by the Clerk of the National Assembly inviting the Hon. Minister for Education to the Committee meeting of 4th December, 2012 in order for the Hon. Minister to give his evidence with respect to the Public Petition by KNUT.

Members noted that there was a letter dated 3rd December, 2012 by Hon. Minister for Education requesting for postponement of the meeting in view of the fact that he was attending a function by his political party.

The Committee deliberated on the Minister's letter and observed that this was the third time the Minister was requesting for postponement of the meeting and that the Committee will nevertheless grant him the last postponement and if he does not appear

the next time, the Committee will proceed and file its report without the Ministers evidence.

The Committee thereafter resolved to reschedule the meeting with the Hon. Minister to Thursday 6th December, 2012.

MIN. NO. 069/2012

ADJOURNMENT

And there being no other business, the Chair adjourned the Sitting at 10.45 am. The next meeting will be held on December 6th, 2012 at 10.00 am.

Signed:

.....

(CHAIRPERSON)

Date:

.....
2nd - Jan - 2013

MINUTES OF THE SIXTY SIXTH COMMITTEE ON DELEGATED LEGISLATION HELD IN
THE COMMITTEE ROOM , 2ND FLOOR, CONTINENTAL BUILDING ON THURSDAY
20TH SEPTEMBER 2012 AT 10.00 A.M.

PRESENT

1. Hon. Amina Abdalla, M.P. -Chairing
2. Hon.B.C.Muturi Mwangi, MP
3. Hon. Olago Aluoch, M.P.
4. Hon. Ababu Namwamba, M.P.

ABSENT WITH APOLOGIES

1. Hon. (Dr.)Julius Kones, M.P
2. Hon. Kiema Kilonzo, M.P.
3. Hon.Fahim Twaha, MP
4. Hon.Gitobu Imanyara, MP
5. Hon. Baiya Njoroge, M.P

IN ATTENDANCE

1. Mr. Jacob Ngwele

NATIONAL ASSEMBLY

- Third Clerk Assistant

MIN.NO.63/2012 PRELIMINARIES

The Chairperson called the meeting to order at 11.00 a.m. and welcomed the representatives of KNUT and the Permanent Secretary (PS) Ministry of Education. The Chair explained the basis of the meeting and the proposed procedure for the enquiry.

MIN. NO. 064/2011 EVIDENCE BY THE MINISTER FOR EDUCATION

The PS tendered to the Committee the apology of the Minister for Education and stated that he was attending a special cabinet meeting which had been called that morning. He informed the Committee that the Minister has requested for the postponement of the Meeting. The Chair informed the PS that the meeting will proceed but the Minister will be accorded another opportunity to appear before the Committee.

The Chairman of KNUT, Mr. Wilson Sossion, appeared before the Committee accompanied by the following KNUT officials:

- (i) Albanus P Mutisya - KNUT Treasurer
- (ii) Xavier Nyamu - KNUT Deputy Secretary Genral
- (iii) Mudzo Nzili - KNUT Asstistant Secretary Genral
- (iv) Wycliffe Omucheyi - KNUT 2nd VNC
- (v) Richard Kibagendi - KNUT ANT-
- (vi) Dorothy Muthoni - KNUT 1ST NWR
- (vii) Jacinta Ndegwa - KNUT Official
- (viii) S. M Kagumo - KNUT official

Appearing before the Committee on September 20, 2012, the Chairperson of KNUT accompanied by other key official of the Union informed the Committee as follows:-

- (p) That, section 13 of the TSC Act, (Cap. 212), Laws of Kenya (repealed by the TSC Act No. 20 of 2012) (hereafter referred to as the repealed Act) established the Teacher's Service Remuneration Committee (TSRC) which is a committee established for the purpose of considering the remuneration payable to teachers in the Teachers Service and is chaired by an independent and neutral chair;
- (q) That, under section 14 of the repealed Act, once the Committee has deliberated, reviewed and agreed on the remuneration payable to teacher's, its recommendations are transmitted to the Minister for gazettelement as an Order and that once gazette, it is irreversible ;
- (r) That, on 2nd July 1997, there was a TSRC committee chaired by the late Hon. Taita Towett, which upon agreeing on a review of the teacher's remunerations, submitted its signed minutes to the Minister as per the repealed Act;

- (s) That, this was the only TSRC meeting and KNUT is not aware of any other subsequent TRSC meeting;
- (t) That, the then Minister for education, ignored the minutes of the TSRC meeting of 1997 and gazetted general salary raise under Legal Notice No. 180 of 1997 which was objected to by KNUT forcing them to go on strike in September, 1997 which was only called off upon the intervention of the then President who ordered for revocation of Legal Notice No. 180 of 1997 by Legal Notice No. 534 of 1997;
- (u) That, on 13th October, 1997, there was a return to work formula in which the government undertook to improve the teacher's remuneration over a period of five years. The agreement contained a **schedule "A"** indicating how the teacher's salary increment would escalate in percentage over the five year period. **Schedule "B"** indicated how the allowance (house, medical; responsibility; special; hardship and commuter allowances) would be improved over the period to end in the year 2001.
- (v) That, the government failed to live up to its promise and on 3rd December 2002, it was agreed that the teachers' salaries as reflected in the Teachers Remuneration Order, 1997 would be paid over a period of ten years ending in 2013. The government proceeded to honor the payments of salaries as per **schedule "A"**; while leaving the allowances in **schedule "B"** in suspended animation.
- (w) That, in May, 2003, pursuant to a series of meetings, the government agreed to shorten the period of payment as agreed in 2002 from ten (10) years to six (6) years and that in the subsequent year the two parties would meet to see whether the period can be reduced to five (5) years depending on the growth of the national economy.

- (x) That, on 1st March, 2007, the KNUT and the government agreed to reduce the period agreed earlier from six (6) to five (5) years. This marked the fulfillment of salaries as per **schedule "A"** of the Teachers' Remuneration Order, 1997. However, KNUT kept reminding the government that there was a **schedule "B"** of the 1997 agreement that was yet to be fulfilled.
- (y) That, during the on-going teacher's strike, it has come to the attention of KNUT about the existence of the **Teachers Service Commission (Remuneration of Teachers)(Amendment) Order, 2003** gazetted on 21st February, 2003 as **Legal Notice No. 16 of 2003** which purported to amend Legal Notice No. 534 of 1997.
- (z) That, KNUT submits that:-
- vii. It is not aware of Legal Notice No. 16 of 2003 and that it is a stranger to the same;
 - viii. any variation to Legal Notice No. 534 of 1997 must be done through a circular and KNUT has never seen a circular to that effect;
 - ix. Legal Notice No. 16 of 2003 did not originate from TSRC as provided for under the law and the same should not have varied the benefits previously accorded to teachers downwards;
 - x. There was no other TSRC after the 1997 one was disbanded and there was an attempt to establish a TSRC in 2009 but the same collapsed.
 - xi. Legal Notice No. 16 of 2003 varies the allowances which are at the core of teacher's benefits;
 - xii. It destroys Legal Notice No. 534 of 1997.
- (aa) Further, the union opposes the legitimacy of this Legal Notice No. 16 of 2003 for the following reasons:
- The procedural structure of negotiating of teacher's terms and condition of service as at 1997 is provided for in TSC Act Cap. 212

(now repealed) at Section 13 onwards. A perusal of this section will reveal that Legal Notice No. 16 of 2003 did not pass through any procedure as stipulated by the TSC Act;

- Teacher's terms and condition of service and any variation thereto are negotiated by the TSRC. The minutes of the Committee form part of the formal proceedings. The committee makes recommendation to the Minister for Education, who gazettes the terms of service in accordance with the recommendations of the Committee;
- TSRC was not convened to discuss the proposed amendments; all the amendments contained in the Legal Notice No. 16 of 2003 were not negotiated by TSRC;
- The union has checked its record of Gazette Notices and it is evident that the Notice was never published. The Notice just appeared when the strike notice expired.

(bb) That, Legal Notice No. 534 of 1997 has been saved by the new TSC Act No. 20 of 2012 at section 50 and the same remains binding to TSC as it forms part of the agreement and decisions of the commission entered into under the repealed TSC Act.

(cc) That, all the Legal Notices with respect to teacher's remuneration gazetted after Legal Notice No. 534 of 1997 do not meet the standards of the TSC Act;

(dd) That, in conclusion, KNUT therefore pray that the law should be followed as it were irrespective of errors of omission and commission from TSC and KNUT and therefore Legal Notice No. 534 of 1997 should be recognized and the other Legal Notices including Legal Notice No. 16 of 2003 should be nullified.

(ee) On the claim that KNUT is demanding for a 300% salary increment, the Chairperson informed the Committee that the 300% increase was not tied to Legal Notice No. 534 of 1997 but rather it was a new demand based on new economic realities and that these were new issues to be dealt with under the proper framework.

(ff) Asked why KNUT was blatantly disobeying court orders, the chairperson informed the Committee that there has never been a strike in Kenya which had not been declared illegal and furthermore, KNUT has never been served with any court orders.

MIN. NO. 066/2012

ADJOURNMENT

And there being no other business, the Chair adjourned the Sitting at 12.45 pm. The next meeting will be by notice.

Signed: 

(CHAIRPERSON)

Date: 2nd Jan 2013

MINUTES OF THE SIXTY FIFTH SITTING OF THE COMMITTEE ON DELEGATED
LEGISLATION HELD IN THE MAIN COMMITTEE ROOM 7, MAIN PARLIAMENT
BUILDINGS ON MONDAY 8TH MARCH 2010 AT 2.55.P.M.

PRESENT

1. Hon. Amina Abdalla, M.P. -Chairing
2. Hon. Baiya Njoroge, M.P.
3. Hon.B.C.Muturi Mwangi, MP

ABSENT WITH APOLOGIES

1. Hon. (Dr.)Julius Kones, M.P
2. Hon. Kiema Kilonzo, M.P.
3. Hon. Olago Aluoch, M.P.
4. Hon.Fahim Twaha, MP
5. Hon.Gitobu Imanyara, MP

IN ATTENDANCE

1. Ms. Rachael Kairu
2. Mr. Jacob Ngwele
3. Mr. Sherrifsam Mwendwa

NATIONAL ASSEMBLY

- Second Clerk Assistant
- Third Clerk Assistant
- Legal Counsel

MIN.NO.60/2012 PRELIMINARIES

The Chairperson called the meeting to order at 2.45 PM and opened with a word of prayer by the Committee Clerk.

MIN. NO. 061/2011 MATTER OF PUBLIC PETITION BY KNUT

Members deliberated at length the matter of the Public Petition by Kenya National Union of Teachers (KNUT) and:

- (i) noted the contents of the *direction by the Chair* of September 13, 2013, that the Committee agreed to examine the matter;
- (ii) noted the contents of the letter by the Minister for Education requesting to appear before the Committee to shed some more light on the matter at issue;
- (iii) resolved to review Legal Notice No. 534 of 1997 and Legal Notice No. 16 of 2003 and ascertain whether they are inconsistent with the parent statute;

(iv) broadly analysed the legal opinion submitted by the Office of the Legal Counsel and;

(v) asserted the need request the Minister for Education, Teachers Service Commission and KNUT to appear before them, as scheduled, on 20th September, 2012 ;

The Committee also outlined the following as lead issues to be pursued during the inquiry-

- (i) There is need to have a report to the House responding to the Petition;
- (ii) The report should recommend whether or not to annul the impugned Legal Notices ;
- (iii) The Minister must avail to the Committee:
 - a. Proof of gazettelement of Legal Notice No. 16 of 2003
 - b. Proof of the meeting that took place leading to the gazettelement of Legal Notice No. 16 of 2003
 - c. Minutes of the said Meeting
- (iv) The financial implications of annulling Legal Notice No. 16 of 2003

MIN. NO. 062/2012

ADJOURNMENT

And there being no other business, the Chair adjourned the Sitting at 3.45 pm. The next meeting will be held on September 20th 2012 at 10.30 am.

Signed:


(CHAIRPERSON)

Date:

19th September 2012

ANNEX II:

COPY OF THE KNUT PETITION



HEAD OFFICE
KNUT HOUSE
MFANGANO STREET

KENYA NATIONAL UNION OF TEACHERS

Bankers: KENYA COMMERCIAL BANK
STANDARD CHARTERED BANK
NATIONAL BANK OF KENYA
Auditors: OMWENGA ONYANCHA & CO.




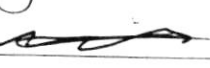


Tel: 254(0) 20 2220387, 340301
2223509, 2223849
Mobile: 0710 600981, 0710 600983,
0733 600880
Fax: 254(0)20 2222701
Email: knut@knut.or.ke
Website: www.knut.or.ke

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

PETITION PRESENTED TO THE PARLIAMENT OF THE REPUBLIC OF KENYA ON THE TEACHERS STRIKE OF 2012.

WE, the undersigned,

NO	NAME	I.D No.	Address/Contact	Signature
1.	Wilson Sossion	8602111	30407-00100	<i>[Signature]</i>
2.	Xavier Nyamu	1877602	30407-00100	<i>[Signature]</i>
3.	ALBANUS P. MUTUYA	1804316	30407-00100	<i>[Signature]</i>
4.	S.M. Kaguma	0605913	0722774898	<i>[Signature]</i>
5.	WYCHITZE OMWATZI	1973225	30407-00100	<i>[Signature]</i>
6.	MUNZO NZILI	4596382	30407-00100	<i>[Signature]</i>
7.	RICHARD KIBAGENDI	0399515	0726818435	<i>[Signature]</i>
8.	Dorothy Muthoni	2474062	0723855226	<i>[Signature]</i>
9.	JACINTA NDEGWA	3414891	30407-00100	<i>[Signature]</i>
10.	EKIRAPA G. OKWARA	6107596	0724-763904	<i>[Signature]</i>
11.	DANIEL MZIGO	11229114	0721697351	<i>[Signature]</i>
12.	KAZUNGI MWALINGO	8521518	30407	<i>[Signature]</i>
13.	Wesley Kibui	129507	30407/00100	<i>[Signature]</i>
14.	RICHARD NJOROGE	14568480	0727007057	<i>[Signature]</i>
15.	SHABAN, P.	23965417	Box 22	<i>[Signature]</i>

16.	HELENETH KIMANI	147816	23096	
17.	HARISON MTUKU	1320542	-30467	
18.	EDWIN KERRA	2436845	301107/0110	
19.	Bisthromo	14415267	238015	
20.	AMINA SAID	9277543	740MLD	
21.	Kabiru Malheria	11619704	2020-00200	
22.				
23.				
24.				
25.				
26.				
27.				
28.				

DRAW the attention of the house to the following: THE TEACHERS STRIKE OF 2012.

Pertaining to the above issue the Kenya National Union of Teachers (KNUT) wishes to share with you as follows:-

1. HISTORICAL BACK GROUND OF LEGAL NOTICE NO. 534 OF 1997

In 1997 the union under the stewardship of the late **Ambrose Adongo** entered into an agreement with the government as contained in the **Remuneration of Teachers Order of 1997**. This agreement was signed at **Kabarak** in order to end the strike of 1997 and in accordance with the directive of the then President and now retired his Excellency the **Daniel Arap Moi**.

In the agreement the government undertook to improve the teachers' remuneration over a period of five years, and hence teachers were required to resume duty on **13th October 1997**. The agreement contained a **schedule "A"** indicating how the teacher salary increment would escalate in percentage over the five year period. **Schedule "B"** indicated how the allowances (house, medical, responsibility, special & hardship and commuter allowances) would be improved over the period to end in the year 2001. **We have attached a copy of the agreement marked I**

The government failed to live up to its promise and in 2002 following a period of disagreement between the teachers and the government (and with the threat of another strike), **The National Conciliation Committee** was formed and KNUT was engaged in further negotiations under the stewardship of **Brother Francis Ng'ang'a**. **Attached is a copy of the agreement marked II**

On 3rd December 2002 it was agreed that the teachers' salaries as reflected in the Teachers' Remuneration Order Of 1997 would be paid over a period of ten years ending 2013. The government proceeded to honor the payments of salaries as per schedule **"A"**; while leaving the allowances in schedule **"B"** in suspended animation. **Attached is a copy of the agreement marked II**

In **May of 2003**, pursuant to a series of meetings the government agreed to shorten the period of payment as agreed in 2002 from **ten (10)** years to **six (6)** and that in the subsequent year the two parties would meet to see whether the period can be reduced to **five (5) years**, depending on the growth of the national economy. **Attached is a copy of the agreement marked III**

In 2007, March 1, the KNUT and the government engaged and agreed to reduce the period agreed earlier from **six (6) to five (5) years**. This marked the fulfillment of salaries as per schedule A of the Teachers' Remuneration Order Of 1997. **Attached is a copy of the agreement marked IV**

HOWEVER, the KNUT kept on reminding the government that there was schedule **B** of the 1997 agreement, that was yet to be fulfilled and to

that end the union has been in correspondence with the TSC for a long period now. **Attached are bundles of such correspondences marked B2, &B3.**

It has been brought to our attention that there is a revocation order that was gazette as **Legal Notice No. 162, of 19th September 2002**; our position is that in 1997 it was agreed that the remuneration order made on **25th September 1997 (Legal Notice 180)** be revoked and hence the agreement dated **11th October 1997** was signed which clearly stipulated the remuneration to be paid in two schedules; A for salaries and B for the allowances.

Besides, KNUT went to court in 2002 and challenged Legal Notice No. 162 of 2002 of 2002 and the government came to court and ceded by withdrawing the contentious notice. It is therefore not contestable that **Legal Notice No. 162 of 2002** was withdrawn and that ended the KNUT's case.

Again as illustrated herein the government **THERE-AFTER**, engaged the teachers in negotiations as to how the provisions of the October 1997 agreement would be implemented; clearly the revocation order issued by the same ministry of education was not intended to affect these provisions. Furthermore the revocation order does not refer to **Legal Notice 534**, which is the teachers' basis for making their claim. Attached are copies of **LN 162 of 2002, and LN 534 of 1997**, marked **V & VI** respectively.

It is not possible that the Minister for Education revoked **Legal Notice 534 of 1997 in 2002**, and then in 2003 the same Ministry called the Union to discuss the payment of the same salary increments in ten phases and subsequently five phases.

Pertaining to Legal Notice No. 16 of 2002; The union opposes the legitimacy of this Notice for the following reasons;

i. Procedural flaws

The procedural structure of negotiations of teachers' terms and conditions of service as at 1997 is provided for in TSC act cap 212 at

Sections 13 onwards. A perusal of this sections will reveal that L.N NO. 16 did not pass through any procedure as is stipulated by the TSC Act Cap 212.

The teachers' terms and conditions of service and any variations thereto are negotiated by the TSRC. The minutes of the committee form part of the formal proceedings. The committee makes recommendations to the Minister for Education, who gazettes the terms of service in accordance with the recommendations of the committee.

Legal notice no. 16 of 2003 has no record of proceedings to back its amendments. In fact there is no record of recommendations of the TSRC to the minister for education. The gazette notice was issued by the minister acting unilaterally (without consulting the union).

The T.S.R.C was not convened to discuss the proposed amendments; all the amendments contained in Legal Notice No. 16 of 2003 were not negotiated by the TSRC.

The union has checked its record of Gazette Notices and it is evident that the Notice was never published. The Notice has just appeared when the strike notice expired.

ii. The Technical Flaws

The provisions of an agreement are negotiated between parties who come to a consensus that is presented in the form of an agreement. It is a requirement of the law that consensus be demonstrated, otherwise an agreement becomes voidable.

In the case of **Legal Notice 534 of 1997** the teachers and the government reached a consensus at the TSRC. Later in 2003 the government **unilaterally purported to have altered the terms and conditions** in of the agreement vide an illegitimate **Legal Notice 16 of 2003**. The Minister did not write to the KNUT to notify it that he was preparing to issue a notice, neither did he write to the union to inform that he had issued a Notice to vary the agreement. On the other hand the TSC did not issue any circular to effect these variations.

2. NEW DEVELOPMENTS AFTER 2004

HCCC. 65 OF 2006; Simon Kamau & 19 other VS TSC

In the year 2006 a group of teachers went to court seeking a declaration that their retirement benefits be pegged on the Teachers Remuneration Order Of 1997 and the court declared to their favor. **Attached as J1.**

These teachers are waiting for the payment of their retirement benefits and the government continues to dodge the suffering teachers

A. JANUARY 2009 AGREEMENT;

The TSRC was properly convened by the Minister of Education in 2002 under the chairmanship of **Mr. Kanore**. The Knut submitted its memorandum to the committee and the TSC presented a counter position. During negotiations the parties hit a deadlock The TSC was of the opinion that the TSRC should have as its first agenda harmonization of teachers' salaries with those for civil servants. The KNUT on its part wanted the issue of allowances given priority and that the TSRC should discuss the full implementation of the allowances as agreed in teachers' remuneration order of 1997. Negotiations broke down; hence the teachers strike of January 2009.

While the strike was on going the government through the minister for finance offered to facilitate an interim agreement between the employer and the Union so as to allow the TSRC to resume sittings.

These led to the 2009 agreement; and parties resumed negotiations; the union believed that the TSRC would proceed to conclude its deliberations and more so; the implementation of allowances in line with **Legal Notice 534 of 1997**.

This was not to be, as the Minister For Education promptly dissolved the TSRC, and refused to re convene it; in spite of the unions numerous efforts and pleas, that the minister allows the TSRC to clear its agenda.

We have attached Mr. Kanore's letters to the minister of the correspondences marked K1, & K2.

CURRENT POSITION.

TEACHERS went on strike on strike as from 3rd September 2012 after issuing **seven (7) days** Strike Notice to the TSC, the MOE and the Minister of Labor. We are privy to the statements uttered by the secretary Teachers Service Commission seeking to intimidate teachers into reporting to their station of work. The Minister and employer had all the time to deal with the issues raised and to avert the strike; but they chose to dilly dally until this matter went out of control. We have **attached copies of correspondence to TSC and Notices of strike to the TSC & the two Ministers marked S1, S2, S3, S4, & S5 respectively.**

In light of the above teachers remain on strike because;

Article 41: of the constitution guarantees the right of workers to go on strike as they seek better terms of service and remuneration

Article 37: gives teachers "the rights to assemble, demonstrate and picket, peaceably and un armed".

The Labor Relations Act Of 2007 is explicit on the procedure to follow when calling for strike. And the union has duly complied with the requirements of **Sections 76 -81** thereof.

It is against this back ground that we asked our members not to report for the roll call in schools, **BUT** rather to their respective KNUT branch offices and assemble for prayers and subsequent roll call by the branch officials as will be communicated by the KNUT head office.

We reporting to this committee that teacher have been subjected to barbaric treatment by the Kenya police and we wish that this committee comes to their aid by reminding the police that we teachers are law abiding citizens of this nation; and that in accordance with the

constitution the police are under obligation to provide security to our members, when they demonstrate peacefully; after all our strike could be to their benefit as well.

Honorable members we want you to know that negotiations are stalling because the Government is not putting anything tangible on the table, with respect to the three demands of the KNUT.

The government keeps reciting **Legal Notice No. 16 Of 2003** which to teachers is null and void to the extent that **Legal Notice No. 534 of 1997** continued being alive and was partially implement up to the year **2007**; in spite of the existence of the alleged **Legal Notice 16 Of 2003**.

We posit that **Legal Notice No. 534 of 1997** has been saved by the new TSC Act 2012 at section 50. The same remains binding to the TSC as it forms part of agreement and decisions of the commission entered into under the old TSC cap 212.

It has been grossly misrepresented that teachers are demanding a whopping **half (1/2) a trillion**; the fact of the matter is that the KNUT's demands amount to a meager **forty five (45) billion** against a National Annual Budget of **1.4 Trillion (A Mere 0.03 % Of the National Budget)**

From last year's budget of **1.1 trillion**, it is in public knowledge that the various ministries of government returned over **100 billion** in unspent funds to the treasury! **Why can't the government take half of the returned amount and use it to meet the teachers' demands?** Where else will that money be taken? **We know the money is there!** That is why our demands are the same as they were and will remain the same until government meets our demands.

Honorable members the KNUT wants to take this opportunity to thank the Members of Parliament who have vocalized the concerns of teachers; and to ask you to continue supporting us during this difficult moment;

THEREFORE your humble petitioners PRAY the Parliament of the Republic of Kenya:-

1. **Legal Notice Number 16 of 2003** be declared illegitimate.

2. A declaration that **Legal Notice 534 of 1997 is still in force and has not been revoked** and therefore immediate implementation of **Legal Notice 534 of 1997** with regard to teachers' allowances.

And your PETITIONERS will ever pray.

Name of petitioner address National I.D signature

PETITION concerning

THE TEACHERS STRIKE OF 2012.

Name of petitioner

signature

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MEMORANDUM OF AGREEMENT BETWEEN THE GOVERNMENT OF THE
REPUBLIC OF KENYA AND THE KENYA NATIONAL UNION OF
TEACHERS (K.N.U.T.)

Following intensive and very frank negotiations between the Government of the Republic of Kenya and the Kenya National Union of Teachers as directed by His Excellency the President, Hon. Daniel T. Arap Moi, on the occasion of Moi Day on the 10th October, 1997, it has been agreed as follows:-

1. That the Government accepts the recommendations of the Teachers Service Remuneration Committee (1997) submitted to the Minister for Education on 2nd July, 1997, and
2. The Minister for Education will prepare a remuneration Order directing that the remuneration of teachers shall be determined in accordance therewith, and
3. The recommendations embodied in the remuneration order will be implemented over a period of five (5) years with effect from 1st July, 1997, as per the schedule annexed hereto, and
4. The remuneration of Teachers order made on 25th September, 1997, by the Minister for Education and published as Legal Notice No. 180 of 1997 shall be revoked.

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AAA

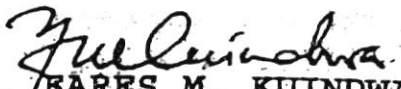
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The following return to work formula has also been agreed:-


- a) The teachers strike is called off with immediate effect, and
- b) Normal teaching services will resume on Monday 13th October, 1997, at 8:00 a.m., and
- c) There will be no victimization of any teacher on account of any strike related act or omission.

Dated at Nairobi this 11th Day of October 1997.

SIGNED by:-

1. 
MR. KARES M. KUINDWA,
PERMANENT SECRETARY, SECRETARY TO THE
CABINET AND HEAD OF THE PUBLIC SERVICE

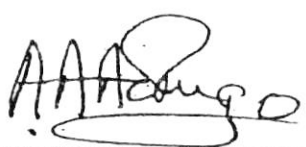
2. 
MR. SIMEON S. LESRIMA,
PERMANENT SECRETARY, TREASURY

3. 
HON. JUSTICE AARON RINGERA-
SOLICITOR-GENERAL

for and on behalf of the Government of the
Republic of Kenya

SIGNED by:-

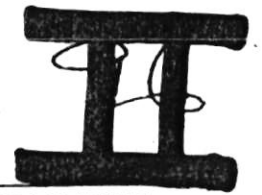
1. 
JOHN KATUMANGA
NATIONAL CHAIRMAN

2. 
AMBROSE ADONGO
SECRETARY-GENERAL

3. 
JOHN BOSCO MBOGA
NATIONAL TREASURER

for and on behalf of the Kenya National Union of Teachers.

.....



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

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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

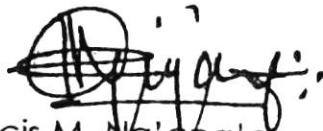


Benjamin K. Sogomo, OGW.
Secretary - Teachers Service Commission

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. C. O. Otiiso, EBS.; Phd.
Permanent Secretary – Ministry of Education, Science and Technology



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

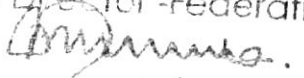


James E.O. Ongwae, EBS.;OGW.
Permanent Secretary/Director – Directorate of Personnel Management

4. Witnessed by:



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


ISAHIAH KWESI

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

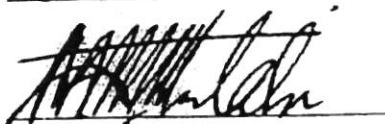
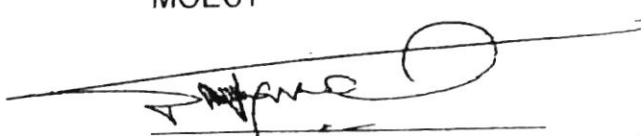
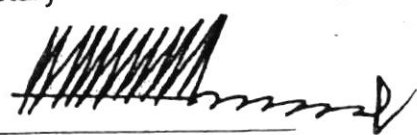
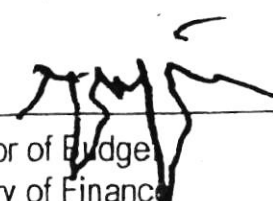
III

AGREEMENT BETWEEN THE GOVERNMENT OF KENYA AND THE KENYA NATIONAL UNION OF TEACHERS 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 on ways and means of reducing the period of payment of agreed teachers' package from ten years to a shorter period.

After a series of meetings held on **May 9th, 14th, 19th, 21st and 24th 2003** the parties agreed as follows:

- i) That the payment of the agreed package be effected within **six (6)** years, with an initial installment of Ksh.4 billion beginning July 2003, with other payments being paid in equal installments of Ksh.4.9 billion.
- ii) That after a period of one year (from this date) the two parties will meet again to review and see whether the agreed period can be reduced further to **five (5)** years, depending on the growth of the National economy.

	<u>Signature</u>	<u>Date</u>
Prof. Karega Mutahi	 Permanent Secretary MOEST	<u>24/05/03</u>
Mr. J.E.O. Ongwae	 Secretary TSC	<u>24/5/03</u>
Mr. Ibrahim Hussein	 Chairman, TSC	<u>24/5/2003</u>
Mr. G.N. Gicheru	 Director of Budget Ministry of Finance	<u>24/5/03</u>

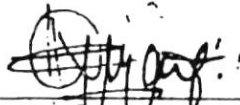


E. A. Lubembe


Assistant Director/DPM

24/5/2003

Mr. F.M. Ng'ang'a


Secretary General
KNUT


24/5/2003

Mr. J.M. Katumanga


National Chairman
KNUT

24th MAY 2003

Mr. Peter Mutulu


National Treasurer
KNUT

24/5/2003

Hon. Prof. George Saitoti, EGH, MP


Minister MOEST
CHAIRMAN

24th May 2003



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

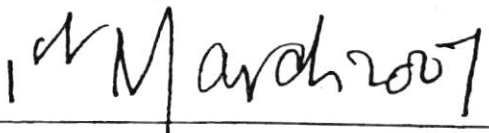
f	Mr. Fred O. Ontere	 National Treasurer KNUT	1/3/07
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Confirmed:



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

Date:



1st March 2007

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.

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Kenya Subsidiary Legislation, 1997

LEGAL NOTICE NO. 534

THE TEACHERS SERVICE COMMISSION ACT
(Cap. 212)

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

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

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



- (a) Mfangano and Rusinga Islands in Suba District.
- (b) Nyamutiro Division, Kuria District.
- (c) Osiyeko Division, Busia District.
- (d) Musiro Division, Busia District.
- (e) Kajiado District.
- (f) Lower Solai, Koibatek District.
- (g) Laikipia District.
- (h) Kitui District.
- (i) Nganze Division, Kilifi District.
- (j) Kerio Valley Division, Keiyo District.
- (k) Marakwet District.
- (l) Kinango and Samburu Divisions, Kwale District.
- (m) Trans Mara District.
- (n) Mwingi District.
- (o) Tharaka Division, Tharaka/Nithi District.
- (p) Mbeere District.
- (q) Kiya Division, Nyambene District.
- (r) Magarini, Mafara and Kakoneni Divisions, Malindi District.
- (s) Masinga and Yatta Divisions, Machakos District.
- (t) Kiini Division, Nyeri District.
- (u) Ndeiya Division, Kiambu District.
- (v) Makuyu Division, Maragua District.
- (w) Muboroni, Fortanani Soini and Sonda, Kericho District.
- (x) Muboroni Valley and Sonda 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 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.	
Teachers grades	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
U.T. teachers with/without K.C.P.E.	1,128	1,416	1,638	2,052	2,142	2,691	2,595	3,255	3,045	3,825	3,384	4,248
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	6,319
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 technical teachers trained certificate 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 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	10,644	15,354

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Chapter Sub-section 1, Regulation, 1997

FIRST SCHEDULE—(Contd.)

Teachers grades	Present salary	New salary w.e.f. 1-7-97 KE p.a.	New salary w.e.f. 1-7-98 KE p.a.	New salary w.e.f. 1-7-99 KE p.a.	New salary w.e.f. 1-7-2000 KE p.a.	New salary w.e.f. 1-7-2001 KE p.a.
	Min. Max.	Min. Max.	Min. Max.	Min. Max.	Min. Max.	Min. Max.
Trained certificate technical teacher I/trained diploma technical teacher III/A, T, S, IV/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 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 I, graduate/approved teacher III, senior 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 I, graduate/approved teacher II, senior lecturer, principal, principal I	8,937 11,469	11,235 14,355	14,397 18,363	17,485 22,387	20,637 26,397	22,454 28,680
Senior principal, lecturer	10,137 12,540	12,735 15,660	16,317 20,064	19,885 24,466	23,433 28,854	25,170 31,368
Chief principal, lecturer	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>
K£ 22,968 p.a. and above	—	2,000
K£ 18,276 and above but under 22,968	400	1,600
K£ 12,540 and above but under 18,276	300	1,200
K£ 9,237 and above but under 12,540	200	800
K£ 4,992 and above but under 9,237	175	700
K£ 4,827 and below	150	600

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

J. J. RAMOTHU
Minister for Education



KENYA NATIONAL UNION OF TEACHERS

Bankers: KENYA COMMERCIAL BANK
STANDARD CHARTERED BANK
NATIONAL BANK OF KENYA
Auditors: OMWENGA ONYANCHA & CO.

Tel: 254(0) 20 2220387, 340301
2223509, 2223849
Mobile: 0710 800981, 0710 800983,
0733 600880
Fax: 254(0)20 2222701
Email: knut@knut.or.ke
Website: www.knut.or.ke

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

KNUT/TSC/60/54/2011

July 26, 2012

Mr. Gabriel K. Lengoiboni, EBS.,
Secretary/Chief Executive,
Teachers' Service Commission,
NAIROBI.

SI

Dear Gabriel,

KNUT MEMORANDAM FOR SALARY INCREMENT VIS IMPLEMENTATION OF LEGAL NOTICE 534 OF 1997.

The above matter refers.

As you are aware, the Ministry of Public Service recently announced salary increments for the civil servants. In the Ministers pronouncements the Union learnt that these increments would **not** be extended to the teaching fraternity, for reasons best known to the government.

Seeing as it is that the teachers have been ignored, the Union wishes to remind that teachers had presented a memorandum for salary increments to the Teachers Service Commission as well as to the Minister for Finance; well before the budget was prepared so that we could avoid unnecessary disquiet and the excuse of lack of funds. Our memorandum generally contained the following:

1. A **300%** salary increment
2. Immediate implementation of **Legal Notice 534 of 1997** with regard to teachers allowances.

3. Responsibility allowance at **50%, 40%, & 30%** for Principals, Heads, Deputies & Senior Teachers, and Heads of Departments.

We are shocked and surprised that our good gesture has received such a cold response from you. We have attached annexure **A, B, & C** that summarize the above demands vividly.

We also wish to remind that we attended the Ministry of Education 2012/13 – 2014/15 **MTEF meeting** at the KICC where we presented our memorandum and budget proposals for the TSC to include in its budget proposals. We wish to inform that the teachers of this nation are now questioning what their fate shall be.

The Union also observed that provision has been for the employment of 10,000 teachers in the National Budget. We wish to bring it to your notice that the Union is un-impressed as this number falls well below the Union's demands which were as follows;

1. **40,000** teachers for primary and secondary school teachers;
2. **23,000** Early Childhood Education (ECD) teachers.

The Union thus reiterates that the provision for employment of 10,000 teachers is inadequate, and we expect an immediate and responsive action from the Commission.

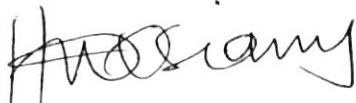
The above issues as contained herein, have been discussed severally; consensus has always been that more teachers be employed to bridge the yawning gap and that there is urgent need to review the Terms of Service for all teachers.

Owing to the Commission's un-responsive position on this issue; teachers of this nation are concerned and perturbed by the fact that the Commission is treating these issues casually and we inform the Commission that the hard working teachers have finally decided to declare they shall not accept such discriminatory pay rise by the government and by the Commission.

Subsequently, on behalf of the National Executive Council (NEC) and the entire membership of the KNUT, we write to inform you that the union **demands** that you immediately convene an urgent joint meeting to discuss the above mentioned issues **within 14 days** from the date of this letter failure to which the union will **serve the TSC with a notice of intended Industrial Action by teachers.**

Please, be advised accordingly.

Yours sincerely,



(D. O. OSIANY)
SECRETARY GENERAL
K.N.U.T.

The Minister for Education,
Ministry of Education,
P.O. Box 30400,
NAIROBI.

The Permanent Secretary,
Secretary to the Cabinet and Head of
Public Service,
Office of the President,
NAIROBI.

The Minister for Labour,
Ministry of Labour,
P.O. Box 40326,
NAIROBI.

The Permanent Secretary,
Ministry of Education,
P.O. Box 30040,
NAIROBI.

The Permanent Secretary,
Ministry of Labour,
P.O. Box 40326,
NAIROBI.

The National Chairman,
KNUT Head Office.

The National Treasurer,
KNUT Head Office.

All NEC Members,
All Executive Secretaries,
All Branch Chairmen,
All Branch Treasurers.

ANNEX A.

CURRENT POSITION 2011/12 WITH LEGAL NOTICE 534 OF 97 BEING IMPLEMENTED

JOB TITLE	IN POSITION	SALARY AT CURRENT	HOUSE ALLOWANCE @ 50% of basic	MEDICAL ALLOWANCE @ 20% of basic	COMMUTER ALLOWANCE @ 10% OF BASIC
Chief Principal (R)	84	92,463,840	46,231,920	18,492,768	9,246,384.00
Senior Principal (Q)	125	114,375,000	57,187,500	22,875,000	11,437,500.00
Principal Teacher 1(P)	464	362,036,928	181,018,464	72,407,386	36,203,692.80
Prinpal Grad Tr II (N)	10,909	5,331,828,139	2,665,914,070	1,066,365,628	533,182,813.90
Senior Grad Teacher (M)	29,060	12,461,160,480	6,230,580,240	2,492,232,096	1,246,116,048.00
GAT 1(L)	30,881	11,185,296,729	5,592,648,365	2,237,059,346	1,118,529,672.90
GAT II(K)	12,368	3,986,899,008	1,993,449,504	797,379,802	398,689,900.80
Trained tech teacher(K)	728	234,675,168	117,337,584	46,935,034	23,467,516.80
S1/diploma teacher(J)	11,237	2,908,569,116	1,454,284,558	581,713,823	290,856,911.60
Approved Tr iv(H)	48,716	9,625,552,640	4,812,776,320	1,925,110,528	962,555,264.00
UT.Tech. Teacher (H)	500	102,780,000	51,390,000	20,556,000	10,278,000.00
P1 Teacher(G)	86,894	16,658,223,640	8,329,111,820	3,331,644,728	1,665,822,364.00
P2 Teacher(F)	8,706	1,421,237,088	710,618,544	284,247,418	142,123,708.80
	240,672	64,485,097,776	32,242,548,888	12,897,019,555	6,448,509,778

CURRENT GROSS AFTER IMPLEMTATION OF L.N534

116,073,175,996.8

ANNEX A.

CURRENT POSITION 2011/12 WITH LEGAL NOTICE 534 OF 97 BEING IMPLEMENTED

TO RECRUIT PRIMARY/ POST PRIMARY SCHOOL TEACHERS

GAT II(K)	15,440	5,592,648,365	2,796,324,182	1,118,529,673	559,264,836.45
P1 Tr(G)	25,000	4,792,685,237	2,396,342,619	958,537,047	479,268,523.72
	40,440	10,385,333,602	5,192,666,801	2,077,066,720	1,038,533,360.17
					18,693,600,483.03

RECRUIT ECE TEACHERS TO MAINSTREAM ECE

ECE Tr(G)	25,000	4,792,685,237	2,396,342,619	958,537,047	479,268,523.72
					8,626,833,427

TO RECRUIT NEW TEACHERS 27,320,433,909.97

GROSS TOTAL 143,393,609,906.77

*THERE IS A PROVISIONAL AMOUNT OF APPROXIMATELY 10 BILLION FOR OPTIONAL ALLOWANCES THAT HAS BEEN LEFT OUT OF THE GROSS TOTAL ESTIMATE. THESE ALLOWANCES INCLUDE HARDSHIP, RESPONSIBILITY AND SPECIAL ALLOWANCES WHICH VARY FROM TEACHER TO TEACHER DEPENDING ON GRADE, DEPLOYMENT AND WHERE THEY ARE POSTED.

note bene PROVISIONS FOR 2012/13:

- Hardship Allowance @ 30% Of Total Sum = Kshs 17,410,976,399.52
 - Special Allowance @ 10% Of Total Sum = Kshs 1,934,552,933.28
 - Responsibility Allowance @ 30% Of Total Sum = Kshs 11,606,638,804.11
- Total Provision** Kshs 30,952,168,136.91

FOR THE CURRENT YEAR 2011/12 THE OPTIONAL ALLOWANCES WOULD BE 1/3 OF THE PROVISION FOR 2012/13; WHICH ASSUMES A 300% PAY RISE ON THE CURRENT BASIC SALARIES

THUS 1/3 OF KSHS 30,952,168,138.91 APPROXIMATELY KSHS 10 BILLION.

ANNEX B.

SCENARIO AS EXPECTED IN THE 2012/13 BUDGET

JOB TITLE	IN POSITION	SALARY AFTER 300% INCREASE	HOUSE ALLOWANCE @ 50% of basic	MEDICAL ALLOWANCE @ 20% of basic	COMMUTER ALLOWANCE @ 10% OF BASIC	LEAVE ALLOWANCE @ 20% BASIC/12
Chief Pripal (R)	84	277,391,520.00	138,695,760.00	55,478,304.00	27,739,152.00	4,623,192.00
Snr Pripl(Q)	125	343,125,000.00	171,562,500.00	68,625,000.00	34,312,500.00	5,718,750.00
Pri Tr 1(P)	464	1,086,110,784.00	543,055,392.00	217,222,156.80	108,611,078.40	18,101,846.40
P. Grad Tr II (N)	10,909	15,995,484,417.00	7,997,742,208.50	3,199,096,883.40	1,599,548,441.70	266,591,406.95
Snr Grad (M)	29,060	37,383,481,440.00	18,691,740,720.00	7,476,696,288.00	3,738,348,144.00	623,058,024.00
GAT 1(L)	30,881	33,555,890,187.00	16,777,945,093.50	6,711,178,037.40	3,355,589,018.70	559,264,836.45
GAT II(K)	12,368	11,960,697,024.00	5,980,348,512.00	2,392,139,404.80	1,196,069,702.40	199,344,950.40
Trained tech tr(K)	728	704,025,504.00	352,012,752.00	140,805,100.80	70,402,550.40	11,733,758.40
S1/diploma teacher(J)	11,237	8,725,707,348.00	4,362,853,674.00	1,745,141,469.60	872,570,734.80	145,428,455.80
Approved Tr iv(H)	48,716	28,876,657,920.00	14,438,328,960.00	5,775,331,584.00	2,887,665,792.00	481,277,632.00
UT.Tech. Teacher (H)	500	308,340,000.00	154,170,000.00	61,668,000.00	30,834,000.00	5,139,000.00
P1 Teacher(G)	86,894	49,974,670,920.00	24,987,335,460.00	9,994,934,184.00	4,997,467,092.00	832,911,182.00
P2 Teacher(F)	8,706	4,263,711,264.00	2,131,855,632.00	852,742,252.80	426,371,126.40	71,061,854.40
	240,672	193,455,293,328.00	96,727,646,664.00	38,691,058,665.60	19,345,529,332.80	3,224,254,888.80
						351,443,782,879.20

ANNEX B.

SCENARIO AS EXPECTED IN THE 2012/13 BUDGET

RECRUIT 40,000 PRIMARY/ POSTPRIMARY TEACHERS

GAT 1(L)	15,440	16,777,945,094	8,388,972,547	3,355,589,019	1,677,794,509.35	279,632,418.23
P1 Teacher(G)	25,000	14,378,055,712	7,189,027,856	2,875,611,142	1,437,805,571.16	239,634,261.86
	40,440	31,156,000,805	15,578,000,403	6,231,200,161	3,115,600,080.51	519,266,680.08
						56,600,068,129.19

RECRUIT 25,000 TEACHERS TO MAINSTREAM ECE

ECE Teachers (G)	25,000	14,378,055,712	7,189,027,856	2,875,611,142	1,437,805,571.16	239,634,261.86
						26,120,134,542.66
						-

FOR NEW TEACHERS

82,959,836,933.71

GROSS
TOTAL

434,403,619,812.91

THE ABOVE SUB TOTAL FIGURE DOES NOT CONTAIN PROVISIONS FOR OPTIONAL ALLOWANCES WHICH THE UNION ESTIMATES AS HERUNDER:

- HARDSHIP ALLOWANCE @ 30% OF TOTAL SUM = KSHS 17,410,976,399.52
 - SPECIAL ALLOWANCE @ 10% OF TOTAL SUM = KSHS 1,934,552,933.28
 - RESPONSIBILITY ALLOWANCE @ 30% OF TOTAL SUM = KSHS 11,606,638,804.11.
- TOTAL PROVISION KSHS 30,952,168,136.91

THE GROSS TOTAL

465,355,787,949.82

ANNEX C.

PROVISION FOR OPTIONAL ALLOWANCES TO TEACHERS

JOB TITLE	IN POSITION	SALARY WITH 300% RISE (KSHS)	HARDSHIP ALLOWANCE @ 30% OF BASIC (KSHS)	SPECIAL ALLOWANCE @ 10% OF BASIC (KSHS)	RESPONSIBILITY ALLOWANCE @ 50%-30% OF BASIC (KSHS)
Chief Principal (R)	84	277,391,520.00	83,217,456.00	27,739,152.00	138,695,760.00
Senior Principal (Q)	125	343,125,000.00	102,937,500.00	34,312,500.00	171,562,500.00
Principal Tr 1(P)	464	1,086,110,784.00	325,833,235.20	108,611,078.40	543,055,392.00
Principal Graduate Teacher II (N)	10,909	15,995,484,417.00	4,798,645,325.10	1,599,548,441.70	6,398,193,766.80
Senior Graduate Teacher (M)	29,060	37,383,481,440.00	11,215,044,432.00	3,738,348,144.00	14,953,392,576.00
GAT 1(L)	30,881	33,555,890,187.00	10,066,767,056.10	3,355,589,018.70	10,066,767,056.10
GAT II(K)	12,368	11,960,697,024.00	3,588,209,107.20	1,196,069,702.40	3,588,209,107.20
Trained technical teacher(K)	728	704,025,504.00	211,207,651.20	70,402,550.40	211,207,651.20
S1/diploma teacher(J)	11,237	8,725,707,348.00	2,617,712,204.40	872,570,734.80	2,617,712,204.40
Approved Teacher iv(H)	48,716	28,876,657,920.00	8,662,997,376.00	2,887,665,792.00	
UT. Tech. Tr (H)	500	308,340,000.00	92,502,000.00	30,834,000.00	
P1 Teacher(G)	86,894	49,974,670,920.00	4,992,401,276.00	4,997,467,092.00	
P2 Teacher(F)	8,706	4,263,711,264.00	1,279,113,379.20	426,371,126.40	
	240,672	193,455,293,328.00	58,036,587,998.40	19,345,529,332.80	38,688,796,013.70

PROVISIONS FOR:

- HARDSHIP ALLOWANCE @ 30% OF TOTAL SUM = KSHS 17,410,976,399.52
 - SPECIAL ALLOWANCE @ 10% OF TOTAL SUM = KSHS 1,934,552,933.28
 - RESPONSIBILITY ALLOWANCE @ 30% OF TOTAL SUM = KSHS 11,606,638,804.11
- TOTAL PROVISION** KSHS 30,952,168,136.91

PUBLIC SERVANTS SALARY INCREASE

PAGE 1

JOB GROUP	CURRENT ENTRY SALARY (KSHS. P.M)	NEW ENTRY SALARY (KSHS. P.M)	CURRENT MAXIMUM SALARY (KSHS. P.M)	NEW MAX SALARY (KSHS. P.M)	% SALARY INCREASE
A	7,619	8,910	8,039	9,420	16.94 -17.10%
B	8,039	9,420	8,519	9,960	17.18 -10.92%
C	8,259	9,660	8,819	10,380	16.96 -17.70%
D	8,819	10,380	9,721	11,370	17.70 -16.96%
E	9,721	11,370	11,254	13,140	16.96 -16.76%
F	10,717	12,510	12,416	16,080	16.73 -29.51%
G	13,733	16,692	17,527	21,304	21.55 -21.55%
H	16,692	19,323	20,289	24,662	15.76 -21.55%
J	21,309	24,662	25,895	29,918	15.74 -15.54%
K	26,323	31,020	31,996	41,590	17.84 -29.98%
L	30,472	35,910	35,275	45,880	17.85 -30.06%
M	35,275	41,590	42,877	55,840	17.90-30.23%
N	40,835	48,190	49,636	65,290	18.01 -31.54%
P	63,782	77,527	81,404	103,894	21.55 -27.63%
Q	77,527	89,748	98,947	120,270	15.76 -21.55%
R	94,235	109,089	120,270	144,928	15.76 -20.50%
S	100,620	120,270	127,980	180,660	19.53 - 41.16%
T	127,980	152,060	200,500	302,980	18.82- 51.11%

SALARY COMPARISON

GROUP	TEACHERS' CURRENT SALARY RANGE MIN - MAX (Ksh. P.M)	CIVIL SERVANTS' NEW SALARY RANGE MIN - MAX (Ksh. P.M)	DIFFERENCE TRS Vs P/SERVs MIN - MAX (Ksh. P.M)
A			
B	-	8,910 - 9,420	-
C	-	9,420 - 9,960	-
D	-	9,660 - 10,380	-
E	-	10,380 - 11,370	-
F	-	11,370 - 13,140	-
G	13,750 - 14,157	12,510 - 16,080	- 1,240 +1,923
H	15,093 - 17,527	16,692 - 21,304	+1,599 +3,507
J	17,093 - 20,289	19,323 - 24,662	+2,115 +4,373
K	22,322 - 25,895	24,662 - 29,918	+2,340 +4,023
L	26,323 - 31,996	31,020 - 41,590	+4,697 +9,594
M	30,472 - 35,275	35,910 - 45,880	+5,438 +10605
N	35,275 - 42,877	41,590 - 55,840	+6,315 +12,963
P	40,835 - 49,636	48,190 - 65,290	+7,355 +22,490
Q	63,782 - 81,404	77,527 - 103,894	+13,745 +22,490
R	77,527 - 98,947	89,748 - 120,270	+17,221 +21,323
S	94,235 - 120,370	10,908 109,089 144,928	+14,854 +24,658
T	-	120,270 - 180,660	-
	-	127,980 - 152,060	-

①



KENYA NATIONAL UNION OF TEACHERS

Bankers: KENYA COMMERCIAL BANK
STANDARD CHARTERED BANK
NATIONAL BANK OF KENYA
Auditors: OMWENGA ONYANCHA & CO.

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2223509, 2223849
Mobile: 0710 600981, 0710 600983,
0733 600880
Fax: 254(0)20 2222701
Email: knut@knut.or.ke
Website: www.knut.or.ke

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

KNUT/TSC/60/63/2012.

August 20, 2012

Mr. Gabriel K. Lengoiboni, EBS,
Secretary/Chief Executive,
Teachers Service Commission,
Private Bag,
NAIROBI.

S2

Dear Gabriel,

NOTICE OF INDUSTRIAL ACTION, TRADE DISPUTE OVER SALARY REVIEW & IMPLEMENTATION OF LEGAL NOTICE 534 OF 1997:

We write to **SERVE NOTICE OF INDUSTRIAL ACTION** upon the Teachers Service Commission (TSC). The issue in dispute is as follows:-

"SALARY REVIEW & IMPLEMENTATION OF LEGAL NOTICE 534 OF 1997".

You will recall that we had earlier presented our issues in a memorandum to you for consideration. We have been in discussion over matters contained therein, but with no indication of action from your end.

On July 26, 2012, we wrote to remind you that these issues would escalate into a dispute, but again our plea went ignored and without an answer.

We remind you again that the claim in our memorandum generally contains the following issues:-

1. A **300%** salary increment
2. Immediate implementation of **Legal Notice 534 of 1997** with regard to teachers allowances.
3. Responsibility allowance at **50%, 40%, & 30%** For Principals, Heads, Deputies & Senior Teachers, And Heads of Departments.


Owing to the Commission's un-responsive position on these issues; teachers of this Nation wish to declare that they have been patient and will not accept to be ignored any more.

Subsequently guided by the **Labour Relations Act 2007, Sections 62-76** and on behalf of the National Executive Council (NEC) and the membership of KNUT, the Union hereby serves the Teachers Service Commission with **a seven (7) day notice from Tuesday August 21, 2012 of intended Industrial Action** by teachers on issues as above indicated.

PLEASE TAKE FURTHER NOTICE that at the expiry of this notice, if no solution will have been found to this problem, all the members of the Union shall commence **Strike Action** on **Monday September 3, 2012** as directed by the NEC without further reference to the Commission.

Be advised accordingly.

Yours at Service,



(D. O. OSIANY)
SECRETARY GENERAL
K.N.U.T.

The Rt. Hon. Raila Amolo Odinga, EGH, MP,
Prime Minister,
Office of the prime Minister,
P.O. Box 744-00200,
NAIROBI.

The Minister for Finance,
Ministry of Finance,
P.O. Box 30007,
NAIROBI.

The Head of Civil Service,
Secretary to the Cabinet,
Office of the President,
NAIROBI.

The Permanent Secretary,
Ministry of Labour,
P.O. Box 40326,
NAIROBI.

The Minister for Education,
Ministry of Education,
P.O. Box 30040,
NAIROBI.

The Permanent Secretary,
Ministry of Education,
P.O. Box 30040,
NAIROBI.

The National Chairman,
KNUT Head Office.

The National Treasurer,
KNUT Head Office,

All NEC Members,
All Executive Secretaries,
All Branch Chairmen,
All Branch Treasurers.

3



KENYA NATIONAL UNION OF TEACHERS

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0733 600880
Fax: 254(0)20 2222701
Email: knut@knut.or.ke
Website: www.knut.or.ke

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

KNUT/TSC/14/26/2012

August 20, 2012.

Hon. Mutula Kilonzo, EGH, EBS, MCI Arb, SC, MP,
Minister for Education,
Ministry of Education,
P.O. Box 30407-00100,
NAIROBI.

Dear Hon. Kilonzo,

SALARY REVIEW, IMPLEMENTATION OF LEGAL NOTICE 534 OF 1997 AND NOTICE OF INDUSTRIAL ACTION:

The Kenya National Union of Teachers (KNUT) would like to bring to your attention that it has been forced to consider industrial action regarding the above referred to matter owing to the Government's refusal to honor an agreement it entered into with the Union in 1997.

Briefly, in 1997, the union under the stewardship of the late **Ambrose Adeya Adongo** entered into an agreement with the Government as contained in the **Remuneration of Teachers Order of 1997.**

In the agreement, the Government undertook to improve the teachers' remuneration over a period of **five years**, and hence teachers were required to resume duty on **13th October 1997**. The agreement contained in **Schedule "A"** indicating how the teachers' salary increments would escalate in percentage over the five year period. **Schedule "B"** indicated how the allowances (house,

medical, responsibility, special & hardship and commuter allowances) would be improved over the period to end in the year 2000. We have attached a copy of the agreement marked **I**.

The Government failed to live up to its promise and in 2002 following a period of disagreement between the teachers and the Government, the national conciliation committee was formed and KNUIT was engaged in further negotiations under the stewardship of Brother Francis M. Ng'ang'a.

On 3rd December 2002, it was agreed that the teachers' salaries as reflected in the Teachers' Remuneration Order Of 1997 would be paid over a period of **ten years** ending 2013. The government proceeded to honor the payments of salaries as per schedule "**A**", while leaving the allowances in schedule "**B**" in suspended animation. Attached is a copy of the agreement marked **II**.

In **May 2003**, pursuant to a series of meetings, the Government agreed to shorten the period of payments as agreed in 2002 from **ten (10) years** to **six (6) years** and that in the subsequent year, the two parties would meet to see whether the period could be reduced to five years depending on the growth of the National Economy. Attached is a copy of the agreement marked **III**.

On **March 1, 2007**, the KNUT and the Government engaged and agreed to reduce the period agreed earlier from **six (6) to five (5) years**. This marked the fulfillment of salaries as per **Schedule A** of the Teachers' Remuneration Order of 1997. Attached is a copy of the agreement marked **IV**.

However, the KNUT kept on reminding the Government that there was a **Schedule B of the 1997 agreement** that was yet to be fulfilled and to that end, the union has been in correspondence with the TSC for a long period. Teachers are getting anxious and doubtful that the Government has decided to ignore part "**B**" of its undertaking as agreed.

It has been brought to our attention that there is a revocation order that was gazetted as **Legal Notice No. 162 of 19th September 2002**. Our position is that, in 1997 it was agreed that the remuneration order made on **25th September 1997 (Legal Notice No. 180)** be revoked. Hence, the agreement dated **11th October, 1997** was signed, which clearly stipulated that the remuneration be paid in two schedules: **A for salaries and B for allowances**.

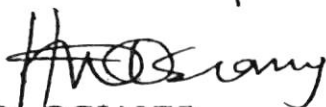
As illustrated herein, the Government engaged the teachers in negotiations as to how the provisions of the October 1997 agreement would be implemented. Clearly the revocation order issued by the same Ministry of Education was not intended to affect these provisions. Furthermore, the revocation order does not refer to Legal Notice 534, which is the teachers' basis for making their claim. Attached are copies of **Legal Notice No.162, and Legal Notice No.534, marked V & VI** respectively.

It is not possible, that the Minister for Education revoked Legal Notice 534 of 1997 in 2002 and then in 2003, the same Ministry called the Union to discuss the payment of the same salary increments in **ten phases** and subsequently **five phases**.

Since **February 2012**, the KNUT has consistently reminded the Government to address the matter by **July 1, 2012** but to no avail.

THE KNUT NOW DEMANDS, that **Schedule "B"** of the Teachers' Remuneration Order of 1997, be implemented as it is part and parcel of teachers' legitimate remuneration as agreed upon in 1997, and is overdue.

Yours faithfully,



(D. O. OSIANY)
SECRETARY GENERAL
K.N.U.T.

The Head of Civil Service,
Secretary to the Cabinet,
Office of the President,
NAIROBI.

The Minister for Labour,
Ministry of Labour,
P.O. Box 40326,
NAIROBI.

The Permanent Secretary,
Ministry of Labour,
P.O. Box 40326,
NAIROBI.

The Permanent Secretary,
Ministry of Education,
P.O. Box 30040,
NAIROBI.

Secretary/Chief Executive,
Private Bag,
Teachers' Service Commission,
NAIROBI.

The Speaker,
National Assembly,
Parliament Building,
NAIROBI.

The Chairman,
Parliamentary Select Committee on Education,
Parliament Building,
NAIROBI

The National Chairman,
KNUT Head Office.

The National Treasurer,
KNUT Head Office,

All NEC Members,
All Executive Secretaries,
All Branch Chairmen,
All Branch Treasurers.

(4)



HEAD OFFICE
KNUT HOUSE
MFANGANO STREET

KENYA NATIONAL UNION OF TEACHERS

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Website: www.knut.or.ke

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

KNUT/LAB/52/3/2012.

August 20, 2012.

Hon. John Munyes,
Minister for Labour,
Ministry of Labour,
P.O. Box 40326,
NAIROBI.

S4

Dear Hon. Munyes,

NOTICE OF INDUSTRIAL ACTION, TRADE DISPUTE OVER SALARY REVIEW & IMPLEMENTATION OF LEGAL NOTICE 534 OF 1997:

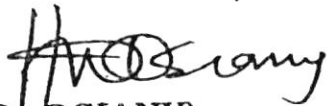
We write to report to you the existence of a **Trade Dispute** between the Kenya National Union of Teachers (KNUT) and the Teachers Service Commission (TSC). The issue in dispute is as follows:-

"SALARY REVIEW & IMPLEMENTATION OF LEGAL NOTICE 534 OF 1997".

As you are aware, the Ministry of Public Service recently announced salary increments for the civil servants. In the Minister's pronouncements, the union learnt that these increments would not be extended to the teaching fraternity for reasons best known to the Government.

Seeing as it is, that the teachers have once again been ignored, the Union wish to remind the Government that teachers had presented a memorandum for salary increments to the Teachers Service

Yours faithfully,



(D. O. OSIANY)
SECRETARY GENERAL
K.N.U.T.

The Rt. Hon. Raila Amolo Odinga, EGH, MP,
Prime Minister,
Office of the prime Minister,
P.O. Box 744-00200,
NAIROBI.

The Minister for Finance,
Ministry of Finance,
P.O. Box 30007,
NAIROBI.

The Head of Civil Service,
Secretary to the Cabinet,
Office of the President,
NAIROBI.

The Permanent Secretary,
Ministry of Labour,
P.O. Box 40326,
NAIROBI.

The Minister for Education,
Ministry of Education,
P.O. Box 30040,
NAIROBI.

The Permanent Secretary,
Ministry of Education,
P.O. Box 30040,
NAIROBI.

Secretary/Chief Executive,
Private Bag,
Teachers' Service Commission,
NAIROBI.

The National Chairman,
KNUT Head Office.

The National Treasurer,
KNUT Head Office,

All NEC Members,
All Executive Secretaries,
All Branch Chairmen,
All Branch Treasurers.

S5

TEACHERS SERVICE COMMISSION

Telephone: 2892000/
0722-208-552
Email: info@tsc.go.ke
Web: www.tsc.go.ke
When replying please quote
Ref: TSC/CS/47A/Vol.IV/50



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

Joseph Kinyua, CBS
Permanent Secretary
Ministry of Finance
P.O. Box 30007 - 00100
NAIROBI

Date: 17th August, 2012



Dear *Joseph.*

**RE: IMPLEMENTATION OF THE LEGAL NOTICE NO.534 OF 1997
CONSULTATIVE MEETING WITH KNUT.**

The Commission and Kenya National Union of Teachers held a Consultative meeting on 16th August, 2012.

This was as a result of several letters they had sent to the Commission demanding that the Provisions of Legal Notice No.534 of 1997 on allowances be paid in full.

During the meeting they raised two concerns:-

(1) Harmonization of teachers salaries with those of Civil Servants in line with the provision of circular Ref. No. MSPS/2/6/46 VOL.XI(2).

(2) Payment of allowances as per the 1997 Legal Notice 534 of 1997.

Under the legal notice 534 of 1997 the allowances were to be paid as a percentage of the basic salary. This was done until 2009 when the Union agreed that the Government awards salary increment but allowances remain as they were as at 30th June, 2009.



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The following allowances are currently pegged on a percentage of the basic salary as they were on 30th June 2009.

Medical Allowance: - Paid at 20% of Basic Salary on payroll as at 30th June 2009.

Commuter Allowance: - Paid at 10% of Basic Salary on payroll as at 30th June 2009.

Special Schools Allowance: - Paid at 10% of Basic Salary on payroll as at 30th June 2009.

Hardship Allowance: - Paid at 30% of Basic Salary on payroll as at 30th June 2009.

From 1st July 2009, the Commission re-designed the allowances and pegged them on Job Groups based on the appropriate percentage as per the salaries as at 30th June 2009.

The Union demands are that the 2009 agreement be shelved and all the allowances adjusted to the percentage rates applicable as per the Legal Notice No.534 of 1997.

House Allowance: - This allowance was adjusted as per the Legal Notice in July 1997. The current harmonized rates were implemented in 2001 and have never been adjusted.

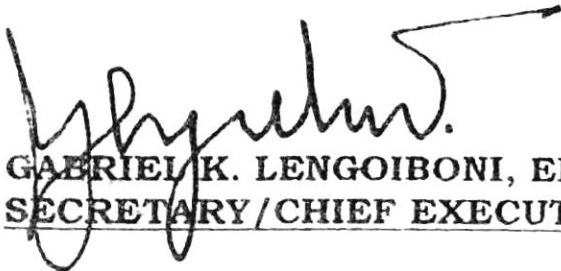
From 2003 all the allowances have been paid as per the Legal Notice 534 except House Allowance which has been paid pegged on Job Groups since 2001 as per DPM Circular No. 7/2001.

Re- Alignment of Salary

Following the decision of the Government to re-align the salaries, the Commission recommends that the Government provides funds to facilitate the harmonization of teachers salaries to those of Civil Servants with effect from 1st July, 2012.

The cost implication for awarding the salary increase for teachers is Ksh.1,113,095,269/= per month or Ksh.13,357,145,228 per annum. To cover all the teachers who were in service as at 1st July, 2012.

Yours *Sincerely,*


GABRIEL K. LENGOIBONI, EBS
SECRETARY/CHIEF EXECUTIVE

Copy to

The Minister for Education
Ministry of Education
P.O. Box 30040,
NAIROBI.

Ag. The Permanent Secretary,
Ministry of Education
P.O. Box 30040,
NAIROBI.

✓ Secretary General
Kenya National Union of Teachers
P.O. Box 30407 - 00100
NAIROBI.

The Secretary
Salaries and Remuneration Commission
P.O. BOX 30050-00100
NAIROBI.

1

T

UKI

Michael G. Kanore,
Chairman,
Teachers Service Remuneration Committee
P.O. Box 2797-10140,
NYERI.

31st March 2009

The Permanent Secretary
Ministry of Education,
P.O. Box 30040,
NAIROBI. (Att: Ms. A. Gichu)



The Permanent Secretary,
Ministry of Finance,
P.O. Box 30040,
NAIROBI. (Att: Mr. S. Macharia)

The Permanent Secretary
Ministry of State for Public Service,
P.O. Box 30050,
NAIROBI. (Att: Mrs. Otieno)

Mr. Ibrahim Hussein, EBS,
Chairman,
Teachers Service Commission,
Private Bag,
NAIROBI.

Mr. Gabriel K. Lengoiboni,
Secretary,
Teachers Service Commission,
Private Bag,
NAIROBI.

1

TSRC

Mr. Gakungu,
Directorate of Technical Training,
Ministry of Higher Education,
NAIROBI.

Mr. George Wesonga,
National Chairman,
KNUT,
NAIROBI.

✓ Mr. Lawrence K. Majali,
Secretary General,
KNUT.
NAIROBI.

Mr. Fred Ontere,
National Treasurer,
KNUT,
NAIROBI.

Mr. David Okuta Osiany,
Deputy Secretary General,
KNUT,
NAIROBI.

Mr. Benson Kithuku,
Vice National Treasurer,
KNUT,
NAIROBI.

Mr. C. Ayabei,
Secretary,
Teachers Service Remuneration Committee,
Teachers Service Commission,
Private Bag,
NAIROBI.

RE: SPECIAL MEETING OF THE TEACHERS SERVICE REMUNERATION COMMITTEE (TSRC)

Please refer to a letter addressed to the Chairman Teachers Service Commission Remuneration Committee (TSRC) and copied to the Minister for Education and the Secretary, Teachers Service Commission **Ref. KNUT/TSRC/67/20/2009** dated **11th February 2009**.

Further to the above, the Chairman wrote a letter to the Secretary, Teachers Service Commission dated **25th February 2009** which was copied to the Minister for Education, Permanent Secretary, Ministry of Education, Chairman Teachers Service Commission, the National Chairman KNUT and the Secretary General KNUT. The purpose of the letter was to request the Government side to propose a date for a special meeting of the TSRC. Up-to now, the Chairman has not received any response in regard to this request.

In view of the provision of the Third schedule (Section 2) of the TSC Act Cap. 212 and I quote, "The Chairman may at any time convene a special meeting of the Committee, and **shall do so within one month** of the receipt by him of a written request signed by at least two members".

Consequently, further to the provision quoted above, as well as with reference to Section 14(1), I wish to humbly request all members of the TSRC to attend a special meeting of the Committee on **Thursday 16th April 2008** starting at **10.00a.m.** The venue will be **Boardroom 1A – TSC Headquarters**, The Bazaar Plaza. The Secretary, Teachers Service Commission is kindly requested to make the usual arrangements in order to facilitate the meeting.

The KNUT has proposed the following Agenda of the meeting.

1. Allowances
2. Special loans
3. Leave benefits
4. Professional matters etc.

Finally, attached please find copies of the two letters under reference.

Yours faithfully,



Michael G. Kanore

Chairman

Teachers Service Remuneration Committee

Copy to:

The Minister for Education,
Hon. Amb. Prof. Sam K. Ongeru, EGH, EBS, MP.,
Ministry of Education,
P.O. Box 30040,
NAIROBI.

Members of the TSRC Secretariat
NAIROBI.

Attached:

Michael G. Kanore,
Chairman,
Teachers Service Remuneration Committee
P.O. Box 2797-10140,
NYERI.

25th February 2009

K2

The Secretary,
Teachers Service Commission,
Private Bag,
NAIROBI.

Dear Sir,

**RE: A REQUEST FOR A SPECIAL MEETING OF THE TEACHERS SERVICE
REMUNERATION COMMITTEE (TSRC)**

Please refer to a letter addressed to the Chairman (TSRC) and copied to the Minister for Education and the Secretary, Teachers Service Commission reference KNUT/TSRC/67/20/2009 dated 11th February 2009.

The letter which is signed by the five (5) top officials of the KNUT stated, and I quote, "being members of the Teachers Service Remuneration Committee (TSRC), as duly appointed and gazetted by the Minister for Education, we the undersigned **Petition you,** to convene a special meeting of TSRC as provided in the Third Schedule (Section 2) of the TSC Act, Cap 212".

As you are no doubt aware, the above indicated section 2 of the Third Scheduled of the TSC Act Cap 212, provides for and I quote "The Chairman may at any time convene a special meeting of the Committee, and **shall do so within one month** of the receipt by him of a written request signed by at least two other members"

Further to the above, I wish to kindly request you to liaise with other TSCR members on the government side and **propose a date**

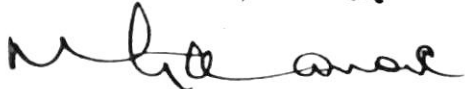
for the special TSRC meeting as requested by the KNUT within the coming one month with effect from the date of this letter and advise me accordingly.

Hereby please find attached a copy of the letter Ref. **KNUT/TSRC/67/20/2009** dated **11th February 2009** for your ease of reference.

Your response at your earliest convenience will be greatly appreciated.

With renewed thanks and appreciation.

Yours faithfully,



Michael G. Kanore

Chairman

Teachers Service Remuneration Committee

CC:

**The Minister for Education,
Ministry of Education,
P.O. Box 30040,
NAIROBI.**

**The Permanent Secretary
Ministry of Education,
P.O.B ox 30040,
NAIROBI.**

✓ **The Chairman,
Teachers Service Commission,
Private Bag,
NAIROBI.**

The National Chairman,
Kenya National Union of Teachers,
P.O. Box 30407, 00100,
NAIROBI.

The Secretary General,
Kenya National Union of Teachers,
P.O. Box 30407, 00100,
NAIROBI.

The Secretary,
Teachers Service Remuneration Committee,
Teachers Service Commission,
Private Bag,
NAIROBI.



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Auditors: OMWENGA ONYANCHA & CO.

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2223509, 2223849
Fax: 254 (0) 20 2222701
Email: knut@nbnet.co.ke
Website: www.knut.or.ke

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

KNUT/TSRC/67/20/2009.

February 11, 2009.

Mr. Michael G. Kanore,
Chairman,
Teachers Service Remuneration Committee,
P.O. Box 2797, 10140,
NYERI.

Dear Sir,

A REQUEST FOR A SPECIAL MEETING OF THE TEACHERS SERVICE REMUNERATION COMMITTEE (TSRC):

Being members of the Teachers Service Remuneration Committee (TSRC), as duly appointed and gazetted by the Minister for Education, we the undersigned do hereby petition you, to convene a special meeting of the TSRC as provided in Third Schedule (section 2) of the TSC Act, Cap 212.

Following the amicable conclusion of the stalemate, that gave rise to the teachers' strike which started on January 19, 2009 and ended on January 29, 2009, we would like to discuss and conclude the remaining issues as contained in the KNUT memorandum presented to the committee on May 14, 2008.

The issues referred to are but not limited to

1. Allowances,
2. Special loans,
3. Leave benefits,
4. Professional matters, etc.

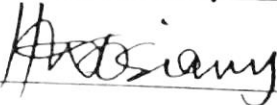
Thank you for your kind attention.

We are the following members:-

George Wesonga: _____ 

Fred Ontere: _____ 

Lawrence K. Majali: _____ 

David O. Osiany: _____ 

Benson Kithuku: _____ 

Dated: _____ 11/02/09

C.C.

The Minister for Education,
Ministry of Education,
P.O. Box 30040,
NAIROBI.

The Secretary,
Teachers Service Commission,
Private Bag,
NAIROBI.

TEACHERS SERVICE COMMISSION

Telephone: Nairobi 2892000
Website: <http://www.tsc.go.ke>
Email: info@tsc.go.ke
When replying please quote
RefN°:
CS/TSC/61/VOL.IV/25



THE BAZAAR
MOI
AVENUE/BIASHARA
STREET
PRIVATE BAG
NAIROBI, KENYA

3RD February , 2009

Mr. Lawrence K. Majali,
Secretary General,
Kenya National Union of Teachers,
P.O. Box 30407,
NAIROBI.



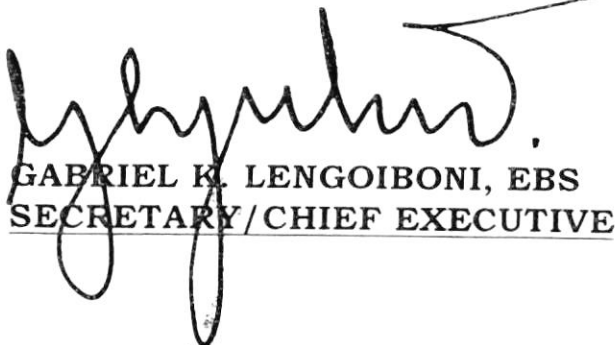
Dear *Lawrence,*

MEMORANDUM OF AGREEMENT ON THE INCREMENT OF TEACHERS' BASIC SALARIES

Enclosed herein please find the duly signed memorandum between the Teachers Service Commission (TSC) on behalf of the Kenya Government and the Kenya National Union of Teachers (KNUT).

Yours

Sincerely,


GABRIEL K. LENGOIBONI, EBS
SECRETARY/CHIEF EXECUTIVE

MEMORANDUM OF AGREEMENT

BETWEEN

THE TEACHERS SERVICE COMMISSION

ON BEHALF

OF

THE GOVERNMENT OF THE REPUBLIC OF KENYA

AND

THE KENYA NATIONAL UNION OF TEACHERS (KNUT)

January 2009

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**MEMORANDUM OF AGREEMENT BETWEEN THE TEACHERS
SERVICE COMMISSION (TSC) ON BEHALF OF THE
GOVERNMENT OF THE REPUBLIC OF KENYA AND THE
KENYA NATIONAL UNION OF TEACHERS (KNUT) ON THE
INCREMENT OF TEACHERS' BASIC SALARIES**

THIS AGREEMENT is made this ^{29th}.....Day of January 2009 BETWEEN the Teachers Service Commission(TSC) on behalf of the Government of the Republic of Kenya hereinafter referred to as "the Employer" and the Kenya National Union of Teachers(KNUT) hereinafter referred to as "Union";

WHEREAS the Employer has in its employment teachers in the teaching service and **WHEREAS** the Union is registered to represent teachers in the teaching service;

WHEREAS the Government is committed to improving the teachers' salaries to counter the escalation in the cost of living and inflationary trends *inter alia*;

Following intensive consultations between the Employer and the Union;

NOW IT IS AGREED AS FOLLOWS;-

1. That the Employer shall increase teachers' basic salaries.
2. That the increment shall apply to basic salary only and shall not affect other terms and conditions of service. All allowances shall remain as they are as at 30th June 2009.
3. That the Union has considered and is in agreement with the terms as stated in paragraphs 1 and 2 hereinabove in respect of teachers in its membership and in the employment of the Employer.
4. That the Minister for Education prepares a Remuneration Order directing that the basic salaries of teachers in the

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Union's membership employed by the employer be determined in accordance therewith.

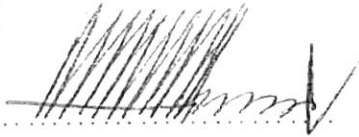
That the Remuneration Order be implemented in three phases with effect from 1st July, 2009 as per the schedule annexed hereto. However, should the national economy improve substantially, the final phase of 20% may be paid together with the second phase of 40% with effect from 1st July, 2010.

Dated at Nairobi this 29th day of Jan 2009

Signed by:-



1. Prof. Karega Mutahi, CBS
Permanent Secretary
Ministry of Education



2. Ibrahim M. Hussein, EBS
Chairman, Teachers Service Commission



3. Gabriel K. Langoiboni, EBS
Secretary/Chief Executive
Teachers Service Commission

For and on behalf of the Government of the Republic of Kenya.

In the Presence of:



Maureen Onyango
Federation of Kenya Employers (FKE)



3



Signed by:-

1. George Wesonga

National Chairman
Kenya National Union of Teachers

2. Lawrence K. Matali

Secretary General
Kenya National Union of Teachers

3. Fred Ombere

National Treasurer
Kenya National Union of Teachers

For and on behalf of the Kenya National Union of Teachers
(KNUT)

In the Presence of:-

Sam K. Ongori
Hon. Prof. Sam K. Ongori

SM

Sam K. Ongori

SM

km

SM

GW
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SCENARIO ONE
PROPOSED IMPLEMENTATION IN TWENTY FIVE (25) MONTHS W.E.F. 1ST JULY 2009

Grade	JOB group	Present		w.e.f. 1st July 2009 (40%)		w.e.f. 1st July 2010 (40%)		w.e.f. 1st July 2011 (20%)	
		Min	Max	Min	Max	Min	Max	Min	Max
P2 TEACHER	F	10,185	12,345	11,611	13,070	13,037	13,795	13,750	14,157
P1 TEACHER	G	11,180	15,430	12,745	16,269	14,310	17,108	15,093	17,527
ATI V TEACHER	H	12,470	17,580	14,365	18,664	16,260	19,747	17,208	20,289
ATI III TEACHER	J	16,535	20,735	18,850	22,799	21,165	24,863	22,322	25,895
ATI TEACHER	K	18,165	24,465	21,428	27,477	24,691	30,490	26,323	31,996
SENIOR APPROVED/GRADUATE TEACHER/SENIOR TEACHER	L	20,395	27,495	24,426	30,607	28,457	33,719	30,472	35,275
PRINCIPAL APPROVED TEACHER/GRADUATE TEACHER	M	24,650	33,010	28,900	36,957	33,150	40,904	35,275	42,877
PRINCIPAL APPROVED TEACHER/GRADUATE TEACHER II	N	26,510	35,155	32,240	40,947	37,970	46,740	40,835	49,636
SENIOR PRINCIPAL GRADUATE TEACHER	P	30,915	38,715	44,062	55,791	57,209	72,866	63,782	81,404
CHIEF PRINCIPAL	Q	34,010	41,660	51,417	64,575	68,824	87,490	77,527	98,947
	R	36,790	44,990	59,768	75,102	82,746	105,214	94,235	120,270

dlc

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STANDARD CHARTERED BANK
NATIONAL BANK OF KENYA
Auditors: OMWENGA ONYANCHA & CO.

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0733 600880
Fax: 254(0)20 2222701
Email: knut@nbnet.co.ke
Website: www.knut.or.ke

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

KNUT/TSRC/67/2/2010.

June 1, 2010.

The Chairman,
Teachers Service Remuneration Committee,
P.O. Box 2797-10140,
NYERI.

B3

Dear Mr. Kanore,

TEACHERS SERVICE REMUNERATION COMMITTEE (TSRC) MEETINGS:

The matter referenced above refers.

We would like to invite your attention to your letter of August 27, 2009 addressed to the Hon. Minister for Education.

Also your attention is invited to our letter ref. No. KNUT/TSRC/67/44/2009 addressed to you dated October 17, 2009 of which we have not received a response or even acknowledgment.

This, Bwana Chairman, is showing that you are deliberately ignoring the law.

Through this letter, we are making a requisition for a meeting of the Teachers Service Remuneration Committee (TSRC) to be held before **June 15, 2010**. The following members have signed as provided by the law to request for the TSRC meeting:-

They are:-

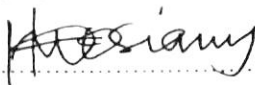
Mr. George Wesonga

Mr. Lawrence Majali

Mr. Fred Ontere



Mr. David O. Osiany



Mr. Benson Kithuku



Please, convene the TSRC meeting urgently to finish the unfinished business as contained in the KNUT memorandum

Thank you.

Yours faithfully,



(L. K. MAJALI)
SECRETARY GENERAL
K.N.U.T.

The Minister for Education,
Ministry of Education,
P.O. Box 30040,
NAIROBI.

The Permanent Secretary,
Ministry of Labour,
P.O. Box 40326,
NAIROBI.

The National Chairman,
KNUT Head Office.

The National Treasurer,
KNUT Head Office.

Michael G. Kanore,
Chairman,
Teachers Service Remuneration Committee
P.O. Box 2797-10140,
NYERI.

27th August 2009



Hon. Amb. Prof. Sam K. Onger, EGH, MP
Minister for Education
P.O. Box 30040
NAIROBI

Dear Sir,

RE: REQUEST FOR APPOINTMENT- WAY FORWARD FOR TEACHERS SERVICE REMUNERATION COMMITTEE (TSRC)

Please, kindly refer to KNUT/EDU/49/11/2009 dated August 2009 which was addressed to you by KNUT and copied ~~amongst~~ among others, to the Chairman, TSRC. Also please, refer to KNUT/TSRC/67/41 2009 dated 8th August 2009. The contents of the two letters are very clear and are hereby attached for ease of reference.

As you have noted sir, the KNUT is once again petitioning the Chairman TSRC to convene a Special Meeting of TSRC as provided in the Third Schedule (Section 2) of the TSC Act, Cap 212, providing that, "The Chairman may at any time convene a Special Meeting of the Committee, and shall do so within one month on the receipt by him of a written request signed by at least two members".

I would wish to further inform you sir that, two meetings of the TSRC have been convened since the signing of the memorandum of Agreement between the Teachers Service Commission on behalf of the Government of the Republic of Kenya and the Kenya National Union of Teachers (KNUT) on 29th January 2009. The first meeting was on **16th April 2009** but did not take place because of lack of the quorum. The second meeting to be held on **19th May 2009** did not take place because the Government representatives demanded that the

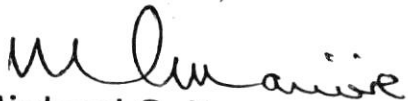
Chairman, TSRC seek further guidance from the Minister of Education as the appointing agent.

While the law is very clear that the Chairman TSRC has legal mandate to convene TSRC meetings as per the above quoted Third Schedule, as well as per section 14 (1). Nevertheless, the feeling is that the Chairman as well as TSRC cannot proceed as expected without further guidance and support from the appointing agent who is the Minister for Education.

In view of the above, the Chairman TSRC urgently requests for an appointment at your earliest convenience preferably before **8th September 2009** when the law required me to convene the TSRC meeting so that this important and serious issue can be addressed.

I will eagerly await your communication and advice.

Yours faithfully,



Michael G. Kanore
Chairman
Teachers Service Remuneration Committee

CC:

The Permanent Secretary to the Cabinet &
Head of Public Service,
Office of the President,
P.O. Box 30410-00100,
NAIROBI.

The Minister for Labour,
Ministry of Labour,
P.O. Box 40326,
NAIROBI.

The Minister of State for Public Service,
Office of the Prime Minister,
P.O. Box 30050 – 00100,
NAIROBI.

The Permanent Secretary
Ministry of Finance,
Treasury,
P.O. Box 30007,
NAIROBI.

The Permanent Secretary
Ministry of Education,
P.O. Box 30040,
NAIROBI.

The Chairman,
Teachers Service Commission,
Private Bag,
NAIROBI.

The Secretary
Teachers Service Commission,
Private Bag,
NAIROBI.

The National Chairman,
Kenya National Union of Teachers,
P.O. Box 30407, 00100,
NAIROBI.

✓ The Secretary General,
Kenya National Union of Teachers,
P.O. Box 30407, 00100,
NAIROBI.

The Secretary,
Teachers Service Remuneration Committee,
Teachers Service Commission,
Private Bag,
NAIROBI.



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0733 600880
Fax: 254(0)20 2222701
Email: knut@nbnet.co.ke
Website: www.knut.or.ke

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

KNUT/EDU/49/11/2009

August 8, 2009

Hon. Amb. Prof. Sam K. Ongeru, EGH, MP.,
Minister for Education,
Ministry of Education,
P.O. Box 30040 – 00100,
NAIROBI.

REMINDER NO. 1

Dear Bwana Waziri,

RE: TEACHERS SERVICE REMUNERATION COMMITTEE (TSRC) AND ITS UNFINISHED BUSINESS:
OUR LETTER REF: NO. KNUT/MIN/49/8/2009 DATED MAY 21, 2009

The above quoted matter refers.

We write to remind you of our letter Ref: No. KNUT/MIN/49/8/2009 dated May 21, 2009 of which you have not responded or even acknowledged. A Photostat copy is enclosed for your ease of reference.

In the letter above quoted, we made the stand of the union very clear to you. Our follow up meeting between you and the top three officials of the Union, that is; the Ag. National Chairman then, Brother Julius Githinji, the National Treasurer brother Fred Ontere and the Secretary General Brother Lawrence Majali the author of this letter, we did agree that there is need for the Teachers Service Remuneration Committee (TSRC) to conclude its business, and that the dissolution of the TSRC as has been requested by the Teachers Service Commission (TSC) Chairman was neither here nor there.

That we have not received any written response from you since May 2009, we are not in a position to explain to our members as to what is the position of the TSRC and the remaining business that it had not dealt with e.g. the allowances.

The Union is reminding you of this issue and urgently **DEMANDS** your response on the matter.

In the meantime, we have requested the TSRC Chairman Mr. Michael Kanore, to convene a meeting of the Committee (TSRC) as per **Schedule Three of the TSC ACT Cap 212**, so that we can continue and conclude the unfinished issues contained in the KNUT Memorandum presented to the Committee in May 2008.

The law allows the chair to convene the TSRC meeting when requested by members but assure him of comfort that he will not be intimidated or harassed by the government side, and in particular the TSC. The last meeting he had convened became very acrimonious.


This Committee (TSRC) is mandated by the TSC ACT to review the remuneration of teachers; it is not being allowed to do its work, this in itself, is a violation of the law, and could lead to a **declaration of a trade dispute**.

Bwana Minister, you are the appointing authority of this Committee and that it is alive, kindly allow it to continue and conclude its work. Encourage the members from the government side to avail themselves for the meetings whenever they are convened.

Thank you for your kind attention.

We await your quick response this time round.

I am yours faithfully,


L. K. MAJALI
SECRETARY GENERAL
K.N.U.T.

C.C: The Permanent Secretary to the Cabinet &
Head of Public Service,
Office of the President,
P.O. Box 30510 – 00100,
NAIROBI.

The Minister for Labour,
Ministry of Labour,
P.O. Box 40326,
NAIROBI.

The Minister of State for Public Service,
Office of the Prime Minister,
P.O. Box 30050 – 00100,
NAIROBI.

c T/S Treasury

Mr. Michael G. Kanore,
Chairman,
Teachers Service Remuneration Committee,
P.O. Box 2797 – 10140,
NYERI.

The Permanent Secretary,
Ministry of Education,
P.O. Box 30040 – 00100,
NAIROBI.

The Secretary/Chief Executive,
Teachers Service Commission,
Private Bag,
NAIROBI.

The National Chairman,
KNUT Head Office.

The National Treasurer,
KNUT Head Office.

ALL NEC Members.

ALL Branch Executive Secretaries.



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

KNUT/TSRC/67/41/2009

August 8, 2009

The Chairman, ✓
Teachers Service Remuneration Committee,
P.O. Box 2797 – 10140,
NYERI.

Dear Bwana Kanore,

**RE: TEACHERS SERVICE REMUNERATION COMMITTEE (TSRC)
UNFINISHED BUSINESS**

The matter referenced above refers.

We know as well as you do, that there is unfinished business that the Teachers Service Remuneration Committee (TSRC) has to conclude.

We have patiently waited for you to convene the committee so that we can move ahead to finish the discussion of the remaining agenda, e.g. the allowances e.t.c, but you have not acted as expected. We would like to remind you that **the law mandates you to call the TSRC meetings.** If you have any reasons as to why you are unable to convene the TSRC meetings, please inform us, so that we can report the same to the KNUT National Executive Council (NEC) for them to consider taking the necessary action they will deem fit and appropriate.

This letter therefore serves two purposes; **one to inform you that we cannot afford to wait any longer and the other to serve as a requisition for the TSRC meeting as provided in Schedule Three of the TSC Act.**

The following members here below have signed the petition.

They are:-

1. **George Wesonga** 
2. **Fred Ontere** 
3. **Lawrence Majali** 
4. **Benson Kithuku** 
5. **David Okuta** 

There is no reason whatsoever why the TSRC cannot meet. Please begin convening the meetings of the committee now.

Thank you.

Yours faithfully,



L. K. MAJALI
SECRETARY GENERAL
K.N.U.T.

C.C: The Minister for Education,
Ministry of Education,
P.O. Box 30040 – 00100,
NAIROBI.

The Permanent Secretary,
Ministry of Education,
P.O. Box 30040 – 00100,
NAIROBI.

The Secretary,
Teachers Service Commission,
Private Bag,
NAIROBI.

The Secretary,
Teachers Service Remuneration Committee Secretariat,
Teachers Service Commission,
Attention: Mr. Ayabei.

The National Chairman, KNUT Head office.

The National Treasurer, KNUT Head Office.

The Deputy Secretary General, KNUT Head Office.

The Vice National Treasurer, KNUT Head Office.

IN THE COURT OF APPEAL
AT NAKURU

(CORAM: KEIWUA, ONYANGO OTIENO & NYAMU, J.J.A.)

CIVIL APPEAL NO. 300 OF 2009

BETWEEN

TEACHERS' SERVICE COMMISSION.....APPELLANT

AND

SIMON P. KAMAU & 19 OTHERSRESPONDENTS

*(Being an appeal from the judgment and decree of the High Court of
Kenya at Nakuru (Maraga, J.) dated 23rd October, 2008
in*

H.C.C.C. No. 65 of 2006)

JUDGMENT OF THE COURT

This is an appeal from the judgment of the superior court (*Maraga, J.*) delivered on 23rd October, 2008.

The factual background is that the respondents are all retired teachers and were prior to their retirement employees of the appellant and members of the Kenya National Union of Teachers, hereinafter called "the Union". On the other hand, the appellant is a body corporate with perpetual succession with power to sue and be sued and it was at all times the national employer of the respondent as stipulated in the Teachers Service Commission Act.

In the superior court, the twenty respondents instituted a suit against the appellant *H.C.C.C. No. 65 of 2006* and also sought leave to institute the suit on their own behalf and on behalf of all the other retired teachers.

The heart of the dispute is that following protracted negotiations between the appellant and the teachers, an agreement relating to a remuneration

Package for all teachers was signed which package was...

July 1997. The package included serving teachers and who were on leave pending retirement or final termination of appointment or after that date.

Pursuant to the agreement, the appellant gazetted the salary package incorporating salary increments and other benefits as set out therein.

As regards the twenty named respondents, at the point of retirement their salaries were calculated in such a way that the salary covered the first phase of the agreement but the anticipated lump sum payment was not reflected in the final salary for the purpose of calculation of pension, hence the suit filed in the superior court because pension calculations to be were as per the relevant law, required to be based on the "last salary."

The appellant's main contention is that the implementation of the enhanced remuneration as per the agreement was done in phases and that at the time of their retirement, the plaintiffs benefited from the 1997 phase which then constituted the only logical and legal basis for the calculation of pension awardable in terms of **section 10** of the Pensions Act. After a full hearing the superior court found for the respondents and granted the prayers sought in the plaint hence this first and final appeal to this Court.

The Defendant relies on nine grounds of appeals as follows:

- 1. The learned Judge erred in law and fact in failing to appreciate that the claim before him was for unpaid pension and retirement benefits and not for unpaid salaries*
- 2. The learned Judge erred in law and fact in failing to recognize that a claim for unpaid Pensions and Retirement benefits could only be maintained as a against the Director of Pensions pursuant to*

Service Commission.

3. *The learned Judge erred in law and in fact by ordering the computation and payment of unpaid Pensions and Retirement Benefits on the basis of salaries that Respondents never earned an order, per-in curium or contrary to the Pensions Act.*
4. *The learned Judge gravely erred in failing to establish that the Leave Order Obtained through Nakuru Miscellaneous Application 497 of 2005 allowing the respondents to commence a representative suit on behalf of their purported colleagues was advertised as required in order that the outcome thereof would affect and/or apply to all they purported to represent.*
5. *The learned Judge so gravely and seriously erred in law when he constructed Section 10(1) of the Pensions Act in a manner that amounted to amending it.*
6. *The learned Judge further erred in law and in fact when he proceeded to apply his misconstruction of the said Section 10(1) to the facts of the case leading him to the obvious erroneous conclusion of the matter.*
7. *That the learned Judge erred in law and in fact when he failed to appreciate that upon filling up the pension form and forwarding them together with all other supporting documents to the Director of Pensions, the Teachers Service Commission was *functus officio* in matters (sic) Pensions and Retirement Benefits.*
8. *The learned Judge also erred in law and fact when he failed to appreciate that the only claim that could be sustained as against the Teachers Service Commission subject to limitation was, if at all, a claim for unpaid salaries.*
9. *The learned Judge erred in law and in fact when he misdirected himself and gave a judgment whose net effect was to order the computation and awarding of Pensions and Retirement Benefits based on salaries that were never earned."*

The above grounds notwithstanding, in his submissions, counsel for the appellant, Mr. Bosire summarized and argued the grounds as under:

From [redacted]
party.

2. *That the superior court misapplied the applicable law.*
3. *That the order was incapable of compliance on execution.*
4. *That leave to file a class action had lapsed at the time the suit was commenced.*

In his submissions *Mr. Bosire*, respondent contended that the true nature of the claim related to retirement benefits and pension and as a result the proper defendant should have been the Director of Pensions and or the Attorney General. In this regard he relied on section 3 of the Pensions Act.

He further contended that the unpaid salary increments fell outside the provisions of **section 10** of the Pensions Act in that the provision states that the pension granted under the section should not exceed the full pensionable emoluments drawn by an employee at the date of his retirement. The Act, he submitted, did not cover any anticipated or promised increments and therefore the court was in error in giving a clear provision a purposeful meaning, when the provision was not ambiguous. For this reason the superior court misapplied the law and/or misdirected itself on the relevant or applicable law. In particular, counsel contended that the proper claim should have been against the appellant for unpaid salaries. Since the claim covered pensions the respondents had failed to join the proper party namely the Director of Pensions or the Attorney General and as a result the judgment and decree obtained were not capable of compliance or execution.

Finally the learned counsel urged the Court to note that the suit was filed four months after leave to institute the class action whereas the

by the respondents to comply with the terms of the order for leave was fatal to the suit and the appeal.

Mr. Kimatta, learned counsel for the respondents submitted that the linchpin of his clients case was that negotiations between the Union and the Teachers Service Commission were protracted and culminated in the signing of the 1997 Agreement which incorporated salary increments and other benefits, which due to hard economic times facing the government at the time, were agreed to be paid in phases and that only the 1997 phase was implemented hence the dispute.

Mr. Kimatta submitted that the respondents and other retirees numbering 50,000 nationwide were entitled to all the benefits as clearly stipulated in the agreement.

Pursuant to the agreement the respondents were awarded a lump sum package on top of their existing salaries and that the agreement embraced salaries and other benefits and the benefits were reflected in a conversion table and also duly gazetted. The learned counsel demonstrated that the actual position was set out in a letter dated 24th November, 1997 which made reference to Legal Notice 534 of 11th November, 1997 and which the Commission addressed *inter alia* to all Provincial Directors of Education which stated that the increase on salaries and allowances had been spread over a period of five years ending on 1st July, 2001 and further confirmed that the benefits applied to the respondents and by a subsequent agreement between the Government of Kenya and the Union signed on 24th May, 2003 by the representatives of both parties it was agreed as under:-

effected within six (6) years with an initial instalment of Kshs.4 billion beginning July, 2003 with other payments being paid in equal instalments of Kshs.4.9 billion.

- (ii) That after a period of one year from the date the two parties will meet again to review and see whether the agreed period can be reduced further to five years depending on the growth of the national economy."*

Mr Kimatta added that the filing of the suit outside the period set out in the leave order was never raised in the superior court and did not form part of the grounds of appeal. He concluded his submission by stating that the prayers as set out in the plaint and in particular prayer (c) covered unpaid salaries and other benefits.

On our part we have given the matter anxious consideration. At the outset it is clear to us that the agreement between the two parties speaks for itself as material, both as regards the benefits covered and the description of those entitled to benefits. It is clear to us that the agreement covered serving teachers and retirees involved. The latter group includes the plaintiffs and those they represent. We note that the agreed lump sum salary and other benefits were duly converted in terms of the grades of the teachers involved. For this reason we find no merit in the appellant's argument that the Commission did discharge its contractual obligation as per the agreement by only reflecting the 1997 phase on the salary slips of the retirees. In terms of the agreement we hold that plaintiff had a contractual right to have the additional salary reflected in the final salary. What should have been reflected on the pay slip was what was contractually due to the plaintiffs as per the agreement. We hold that the agreement became part and parcel of the retirees contract of service with the appellant. The entitlement was sufficiently clear

and we need not say that the language of the agreement is to be construed in that conclusion. As a court of law we cannot rewrite the agreement for the parties and our cardinal duty is to enforce the bargain struck by the parties and not to thwart it either.

We are of the view that since the last salary as appertains to the plaintiffs and others could not be ascertained in terms of **section 10** as at the date of retirement without reflecting the additional unpaid salary which responsibility lay with the Commission as an employer, the starting point was to ascertain the last salary as per the agreement. For this to be done, the plaintiffs had to sue the Commission as the employer for the award of lump sum payment which is what the plaintiffs did. It was incumbent upon the Commission to reflect the increment in the pay slip as the last pay and release the payslips to the Pensions Department to every entitled respondent retiree. With respect, the appellant counsel's argument put the cart before the horse! The horse is the Commission and the cart is the Director of Pension. The suit clearly places the horse first (i.e. the Commission) and the cart (second i.e. Director of Pensions) and this is what the plaintiffs did in suing the Commission.

On the issue of compliance with the order we find that since the superior court had awarded all the benefits as per the agreement, the same covered the salaries as well and this is the meaning we attach to the order as regards prayer (c) in the plaint. On the ground nearly all the other benefits were calculated as a percentage of the salary and this is clearly borne out by the conversion table. In this regard we wish to adopt the natural meaning of the words used in the agreement and the words used include *inter alia* a lump sum salary award.

Concerning the effect of noncompliance with the order not to institute the suit, we note that this was never raised in the superior court or raised as a ground of appeal before us since no leave had been sought to raise it, we say no more on this. Even if it was properly raised, we find that since this was a procedural point we could not have allowed it to defeat the ends of justice, in view of our statutory duty to act justly as embraced by **sections 3A and 3B** of the Appellate Jurisdiction Act. We would on the peculiar facts before us, decline the invitation for us to act as exhorted by the appellant.

As regards what is to be regarded as the last salary, we repeat that it is up to the Commission to work it out and thereafter ask the plaintiffs and other affected retirees to present the proper working said documentation to the Director of Pensions. We must however point out that it is not the function of a court of law to add additional words to a statute or an Act of Parliament whose provisions are unambiguous. The superior court should not have added the words "*or supposed to be drawn by him at the date of his retirement*" It would have been sufficient to find that the court was in the circumstances, in its role of interpreting or construing the provision, entitled to impose fair standards of decision making. In this regard we endorse Lord Scarman's holding in the case of *Council of Civil Service Unions v The Minister for Civil Service [1984]* A.C. 374 that where Parliament delegates power, there is an implied duty of fairness attached to all administrative acts. According to the agreement between the parties, the respondents and other retirees, had earned the lump sum salary awarded and this additional increment should have been reflected in their pay slips as the "*last salary*". The dictates of fairness in the circumstances of the case demanded this construction. In this regard we

further endorse Lord Mustill's holding in the case of Secretary of State for Home Department [1993] 3 ALL E.R. 92 to the effect that where an Act of Parliament confers an administrative power there is a presumption that it will be exercised in a manner which is fair. Again in the House of Lords case Pearlberg vs Varty (Inspector of Taxes) [1972] I WKR 534th the House of Lords (now Supreme Court) held inter-alia:-

"as Parliament is not presumed to act unfairly the courts may be able in suitable cases (perhaps always) to imply an obligation to act with fairness."

The respondents are not claiming what they did not earn and therefore entitled to receive from the appellant. The collective agreement, referred to in this judgment, did individually form part of the contract of service of the respondents and those they represent, with their employer. Common sense demands this interpretation since any other view would not give effect to the agreement between the parties and would not make sense. In this regard we would like to adopt the words of wisdom of Lord Goddard CJ in the case of Barnes v Jarvis [1953] 1 WLR 649 where he stated:-

"A certain amount of common sense must be applied in construing statutes. The object of the Act has to be considered."

Again in interpreting unambiguous statute we wish to re-echo the holding of Lord Simon of Ghaisdale in the case of Maunsell vs Olins & another [1975] AC 373 at page 391 where he stated:-

"..... In statute dealing with ordinary people in their everyday lives, the language is presumed to be used in its primary ordinary sense, unless this stultifies the purpose of the statute, or otherwise produces some injustice, absurdity, anomaly or contradiction in which case some secondary ordinary sense may be preferred, so

as to whether it is necessary to give effect to the agreement in order to avoid contradiction or fulfil the purpose of the statute ...

In the circumstances, the invitation by Mr Bosire, learned counsel, to disregard the agreement between the parties would give rise to injustice to the respondents. The meaning of the phrase "last salary" should include the effect of the agreement signed by the parties.

We therefore hold that the last salary should be computed in a way that incorporates all the terms of the agreement between the parties. In the result we uphold the superior court's judgment. The appeal is accordingly dismissed with costs to the respondents.

Dated and delivered at Nakuru this 12th day of November 2010.

M. OLE KEIWUA

.....
JUDGE OF APPEAL

J. W. ONYANGO OTIENO

.....
JUDGE OF APPEAL

J. G. NYAMU

.....
JUDGE OF APPEAL

I certify that this is a true copy of the original.



DEPUTY REGISTRAR



ANNEX III:

**COPY OF THE TEACHERS SERVICE COMMISSION (REMUNERATION OF THE
TEACHERS) ORDER, 1997, LEGAL NOTICE NO. 534 OF 1997**

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 Sube District.
- (b) Nyamutiro Division, Keria District.
- (c) Osiyeko Division, Busia District.
- (d) Musiro Division, Busia District.
- (e) Kajjedo District.
- (f) Lower Solai, Koibatek District.
- (g) Laikipia District.
- (h) Kitui District.
- (i) Nganze Division, Kilifi District.
- (j) Kerio Valley Division, Keiyo District.
- (k) Marakwet District.
- (l) Kinango and Samburu Divisions, 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 Kakoneni 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, Fortoani 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

Teachers grades	Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7					
	Present salary	New salary w.e.f. 1-7-97 KE p.a.	New salary w.e.f. 1-7-98 KE p.a.	New salary w.e.f. 1-7-99 KE p.a.	New salary w.e.f. 1-7-2000 KE p.a.	New salary w.e.f. 1-7-2001 KE p.a.						
U.T. teachers with/without K.C.P.E.	1,128	1,416	1,638	2,052	2,142	2,691	2,595	3,255	3,045	3,825	3,384	4,242
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	3,053	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	2,412	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	3,612	5,328
P3 teacher	1,416	2,361	2,052	3,297	2,691	4,149	3,255	5,160	3,925	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	5,434	3,921	6,771	4,890	8,250	5,754	9,721	6,408	10,995
A.T.S. I/Untrained teachers technical teacher	2,799	5,322	3,771	6,034	4,704	8,697	5,700	10,536	6,579	12,438	7,353	13,485
Graduate teacher/trained certificate technical teacher	4,092	6,066	5,313	7,722	6,558	9,897	7,980	12,012	9,420	14,106	10,644	15,354
diploma technical teacher I/trained												
diploma technical teacher III/ diploma teacher (previously SI diploma) A.T.S. III												

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 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.	Min. Max.	Min. Max.	Min. Max.
Trained certificate diploma technical teacher I/trained teacher II/A.T.S. I/trained graduate teacher II/assistant lecturer	4,327 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 teacher I lecturer	5,694 8,127	7,276 10,224	9,297 13,083	11,274 15,919	13,272 18,774	14,465 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	9,905 13,485	12,666 17,277	15,397 21,085	18,192 24,831	19,752 26,986
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 20,054	19,035 24,466	23,433 28,054	25,470 31,360
Chief principal teacher	11,469 14,105	14,355 17,640	18,363 22,596	22,367 27,508	26,397 32,454	28,618 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>
K£ 22,963 p.a. and above	—	2,000
K£ 18,276 and above but under 22,968	400	1,600
K£ 12,540 and above but under 18,276	300	1,200
K£ 9,237 and above but under 12,540	200	800
K£ 4,992 and above but under 9,237	175	700
K£ 4,077 and below	150	600

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

J. J. KAMOTHO,
Minister for Education.

ANNEX IV:

COPY OF THE TEACHERS SERVICE COMMISSION (REMUNERATION OF THE TEACHERS) (AMENDMENT) ORDER, 2003, LEGAL NOTICE NO. 16 OF 2003

Je

(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. 1871A/VIII/42 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 year 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 1995) respectively specified in the second column.

6. The principal Order is amended by deleting First Schedule thereto and substituting therefor the following new Schedule:

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 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.	
1. U.T. without K.C.P.E.	2,730	3,500	3,600	3,706	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	3,989	4,372	6,509	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	4,992	4,992	7,005	5,471
4. P4 teacher	2,920	4,250	3,500	4,783	3,600	5,276
5. P3 teacher	3,420	5,495	3,313	6,127	4,206	6,758
6. P2 teacher	4,160	6,285	4,559	6,888	4,956	7,488
7. P1 teacher	5,175	9,140	5,672	10,017	6,165	10,889
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	7,856
						14,204

FIRST SCHEDULE—(Contd.)

	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 I		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		18,725 23,925	19,624 25,073	20,526 26,227	21,430 27,381	22,330 28,531
15. Chief 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>Min.</i> <i>Max.</i>	<i>New Salary</i> w.e.f. 1-7-2008	<i>Min.</i> <i>Max.</i>	<i>New Salary</i> w.e.f. 1-7-2009	<i>Min.</i> <i>Max.</i>	<i>New Salary</i> w.e.f. 1-7-2010	<i>Min.</i> <i>Max.</i>	<i>New Salary</i> w.e.f. 1-7-2011	<i>Min.</i> <i>Max.</i>	<i>New Salary</i> w.e.f. 1-7-2012	<i>Min.</i> <i>Max.</i>
10. Trained certificate technical teacher/ I/trained diploma technical teacher II/A.T.S. II/trained graduate teacher III/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 II/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	16,349	26,014	19,119	27,107	19,824	28,191	20,640	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	31,698	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	30,320	25,014	31,961	25,910	33,105	26,805	34,250	27,701	35,394
15. Senior principal teacher	26,326	32,373	27,342	33,622	28,354	34,865	29,369	36,114	30,385	37,364	31,400	38,612
16. Chief principal teacher	29,675	36,465	30,320	37,873	31,961	39,275	33,105	40,881	34,250	42,088	35,394	43,494

FOURTH SCHEDULE
COMPUTER ALLOWANCE

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5	COLUMN 6	COLUMN 7	COLUMN 8	COLUMN 9	COLUMN 10	COLUMN 11
	New Committee Allowance w.e.f. 1-7-2003 KSh. p.m.	New Committee Allowance w.e.f. 1-7-2004 KSh. p.m.	New Committee Allowance w.e.f. 1-7-2005 KSh. p.m.	New Committee Allowance w.e.f. 1-7-2006 KSh. p.m.	New Committee Allowance w.e.f. 1-7-2007 KSh. p.m.	New Committee Allowance w.e.f. 1-7-2008 KSh. p.m.	New Committee Allowance w.e.f. 1-7-2009 KSh. p.m.	New Committee Allowance w.e.f. 1-7-2010 KSh. p.m.	New Committee Allowance w.e.f. 1-7-2011 KSh. p.m.	New Committee Allowance w.e.f. 1-7-2012 KSh. p.m.
1. U.T. with/without C.P.E.	54	108	162	216	270	324	378	432	486	540
2. U.T. with C.J.S.E./C.C.E. Div. with C.C.E. "D" plain and below	64	127	191	254	318	382	445	509	572	636
3. U.T. with C.C.E. "Div." with C.C.E. "D" plain and below	80	159	239	312	398	478	557	637	716	796
4. P4 teacher	57	115	172	230	287	344	402	459	517	574
5. P3 teacher	67	134	202	269	336	403	471	538	605	672
6. 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
8. A.T.S. (untrained) technical teacher/ trained certificate teacher	118	235	353	470	588	705	823	940	1,058	1,175
9. Certificate teacher/trained certificate technical teacher I/trained diploma technical teacher III/diploma teacher (SI diploma) A.T.S. III	165	330	494	659	824	989	1,153	1,318	1,483	1,648

LN. 167/2002

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 SAIJOTI,
*Minister for Education,
Science and Technology.*