THE TEACHERS SERVICE COMMISSION BILL, 2011

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FIRST SCHEDULE

SECOND SCHEDULE
A Bill for

AN ACT of Parliament to make further provision for the Teachers Service Commission established under Article 237 of the Constitution, its composition; the qualifications and procedure for appointment of members; the regulation of the teaching profession; and for connected purposes.

BE IT ENACTED by the Parliament of Kenya as follows:

PART I— PRELIMINARY

Short title.

1. This Act may be cited as the Teachers Service Commission Act, 2011.

Interpretation.

2. (1) In this Act, unless the context otherwise requires —

“chairperson” means the chairperson of the Commission appointed under the Constitution and section 8 of this Act;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for education;

“Commission” means the Teachers Service Commission established under Article 237 of the Constitution;

“register” means the register of teachers as provided for by section 23 of this Act;

“member” means a member of the Commission appointed in accordance with the Constitution and section 8 of this Act;

“secretary” means the secretary appointed under section 16;

“teacher” means any person registered as a teacher under this Act; and

“teaching service” means any service offered by teachers in form of teaching and learning in educational institutions.

“teaching standards” mean standards of teaching required under this Act and the regulations made thereunder.

“teaching certificate” means a certificate issued to a registered
PART II — COMPOSITION, QUALIFICATIONS AND APPOINTMENT OF MEMBERS

Incorporation of the Commission.

3. (1) The Commission shall in accordance with the Constitution, be a body corporate with perpetual succession and a common seal and shall in its corporate name, be capable of —

(a) suing and being sued;

(b) acquiring, holding, charging and disposing of movable and immovable property; and

(c) doing or performing all such other things or acts for the proper discharge of its functions under the Constitution and this Act.

(2) The headquarters of the Commission shall be in Nairobi, but the Commission may establish offices at any place in Kenya.

Guiding principles.

4. The Commission shall be guided by the national values and principles of governance in Article 10 and the values and principles of public service in Article 232 of the Constitution.

Membership of the Commission.

5. (1) The Commission shall consist of a chairperson and eight other members appointed in accordance with the Constitution and the provisions of this Act.

(2) The chairperson and members shall serve on a full time basis.

Qualification for appointment of chairperson and members.

6. (1) A person is qualified for appointment as chairperson if the person—

(a) is a citizen of Kenya;

(b) possesses a degree in education from a recognized university;
(c) has knowledge and experience of at least fifteen years in education and training; and

(d) meets the requirements of leadership and integrity set out in chapter six of the Constitution.

(2) A person is qualified for appointment as a member if such person—

(a) is a citizen of Kenya;

(b) holds a degree from a recognized university;

(c) has at least ten years proven knowledge and experience in—

(i) education;

(ii) governance;

(iii) management; or

(iv) law; and

(d) meets the requirements of leadership and integrity set out in chapter six of the Constitution.

(3) In appointing members of the Commission, the appointing authority shall ensure that at least four (4) members of the Commission have experience in education administration and management.

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<tr>
<th>Disqualification from membership.</th>
<th>7. (1) No person is qualified for appointment as a chairperson or member if the person—</th>
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<tr>
<td></td>
<td>(a) is a member of Parliament or County Assembly;</td>
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<td>(b) is a member of a governing body of a political party;</td>
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<td>(c) has at any time within the preceding five years, held or stood for election as a</td>
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<td>member of Parliament or of a County Assembly; or</td>
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<td>(d) is a member of a local authority;</td>
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<td>(e) is an undischarged bankrupt; or</td>
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<td>(f) has been removed from office for contravening the</td>
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provisions of the Constitution or any other law.

(2) Clause 1(c) cease to apply to a person after two general elections for Parliament have been held since the person ceased to be such a candidate or office holder.

8. (1) Within fourteen days of the commencement of this Act, the President shall, by notice in the Gazette, declare vacancies in the Commission and constitute a selection panel comprising —

(a) a Chairperson who shall be appointed by the President;

(b) the Principal Secretary in the Ministry for the time being responsible for matters relating to education or a representative;

(c) the Attorney General or a representative;

(d) one person nominated by the Public Service Commission;

(e) one person nominated by an umbrella body representing employers; and

(f) two persons nominated by trade unions representing the interests of teachers.

(2) A member appointed under subsection (1) (f) shall not be a serving official or member of the nominating union.

(3) Once constituted, and whenever a vacancy arises in the Commission, the selection panel shall, within fourteen days, invite applications in the gazette and in two newspapers of national circulation.

(4) The panel shall consider the applications received in accordance with subsection (3) and recommend to the President suitably qualified persons for nomination as chairperson and members.

(5) The President shall choose a chairperson and eight other persons for appointment as chairperson and members of the Commission and forward the names to the National Assembly;

(6) The National Assembly shall, within fourteen days of its
sitting, consider all nominations received under subsection (4) and approve or reject any nomination;

(7) Where the National Assembly has approved a nomination, the Speaker shall forward the names of approved persons to the President for appointment;

(8) The President shall within seven days, by notice in the gazette, appoint the chairperson and members approved and forwarded by National Assembly.

(9) Where the National Assembly rejects any nomination, the Speaker shall communicate its decision to the President to submit fresh nominations.

(10) The ministry responsible for public service shall provide secretarial services to the selection panel.

(11) Until after the first general election under the Constitution, the President shall in appointing the selection panel, and nominating persons for appointment as chairperson or member of the Commission, act in consultation with the Prime Minister.

(12) In nominating or appointing persons as members of the Commission, the selection panel, the President and the Prime Minister shall–

a) have regard to ethnic and regional diversity of the people of Kenya;

b) ensure that not more than two-thirds of the members of the Commission are of the same gender; and

c) take into account the national values set out in Article 10 of the Constitution.

Oath of office.

9. The chairperson, members and the secretary shall each make and subscribe before the Chief Justice to the oath or affirmation set out in the First Schedule.
Vacancy.  

10. (1) The office of the chairperson or member shall become vacant if the holder—

(a) dies;

(b) by a notice in writing addressed to the President resigns from office;

(c) is convicted of an offence and sentenced to imprisonment of more than six months without the option of a fine;

(d) is absent from three consecutive meetings of the Commission without good cause; or

(e) is removed in accordance with Article 251 of the Constitution.

(2) The President shall notify every resignation, vacancy or termination in the Gazette within fourteen days.

(3) Where a vacancy occurs in the membership of the Commission in accordance with this section, the appointment procedure provided for in the Constitution and this Act, shall apply.

(4) A member so appointed under subsection (3) shall serve for a period of six years.

Functions of the Commission.  

11. In addition to the functions set out in Article 237(2) and (3) of the Constitution the Commission shall—

(a) formulate policies to achieve its mandate;

(b) provide strategic direction and leadership to the secretariat;

(c) provide general oversight;

(d) maintain standards of teaching in the teaching service;

(e) manage the payroll of teachers in its employment;

(f) provide continuous teacher training; and

(g) undertake such other activities as may be necessary for the discharge of its functions and the exercise of its powers.
| Powers of the Commission. | **12.** (1) The Commission shall have all powers generally necessary for the execution of its functions under the Constitution and this Act.  
(2) In the performance of its functions and in the exercise of its powers, the Commission:  
   (a) may inform itself in such manner as it thinks fit;  
   (b) may receive written or oral statements; and  
   (c) is not bound by the strict rules of evidence. |
|---|---|
| Committees of the Commission. | **13.** (1) The Commission may from time to time establish committees for the better carrying out of its functions and in the exercise of its powers.  
(2) Without prejudice to the generality of subsection (1) such committees may deal with issues relating to recruitment, promotion, terms and conditions of service and discipline of teachers.  
(3) The Commission may co-opt into the membership of committees established under subsection (1) persons whose knowledge and skills are necessary for the functions of the Commission.  
(4) A person co-opted under subsection (3) shall have no right to vote. |
| Units of the Commission. | **14.** (1) The Commission may create within itself such directorates, divisions or units and appoint thereto such staff as it may determine.  
(2) Every directorate, division or unit created by the Commission shall act in accordance with the mandate approved by the Commission and directives given in writing by the secretary. |
| Conduct of affairs of the Commission. | **15.** (1) The business and affairs of the Commission shall be conducted in accordance with the Second Schedule.  
(2) Except as provided in the Second Schedule, the Commission may regulate its own procedure.  
(3) The Commission may invite any person to attend any of its meetings and to participate in its deliberations, but such a person shall not have a vote in any decision of Commission. |
| Secretary. | **16.** (1) The Commission shall, through an open, transparent and competitive recruitment process, appoint a suitably qualified person |
to be the secretary to the Commission.

(2) A person shall be qualified for appointment as the secretary if the person—

(a) is a citizen of Kenya;

(b) possesses a degree from a recognized university;

(c) has had at least ten years’ experience in either education administration and management, public administration, human resource or financial management; and

(d) meets the requirements of Chapter Six of the Constitution.

(3) The secretary shall hold office for a term of five years but shall be eligible for re-appointment for one further term of five years.

(4) Where the Commission does not intend to reappoint the secretary, the Commission shall notify the secretary and shall cause the vacancy to be advertised at least three months before the expiry of the incumbent’s term.

(6) The secretary shall, in the performance of the functions and duties of office, be responsible, answerable and report to the Commission.

(7) The secretary shall be—

(a) the chief executive officer of the Commission;

(b) head of the secretariat;

(c) the accounting officer of the Commission;

(d) custodian of all commission’s records;

(e) responsible for—

(i) executing decisions of the Commission;

(ii) assignment of duties and supervision of all staff of the Commission;

(iii) facilitating, coordinating and ensuring execution of the Commission’s mandate;
<table>
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<tr>
<th>The Teachers Service Commission Bill, 2011</th>
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<td><strong>(iv)</strong> ensuring staff compliance with public ethics and values; and</td>
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<td><strong>(v)</strong> the performance of such other duties as may be assigned by law and the Commission.</td>
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<td><strong>17.</strong> (1) There shall be a secretariat of the Commission which shall be headed by the secretary.</td>
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<tr>
<td>2) The secretariat shall comprise of—</td>
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<td>(a) such professional, technical and administrative officers and support staff, as may be appointed by the Commission in the discharge of its functions under this Act; and</td>
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<tr>
<td>(b) such public officers as may be seconded to the Commission upon its request.</td>
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<tr>
<td>(3) The staff of the Commission may be appointed, subject to its approved establishment.</td>
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<tr>
<td>(4) For purposes of this Act, a public officer who is seconded to the Commission under subsection (2) (b), shall be deemed to be a staff of the Commission and shall enjoy the same benefits and shall be required to comply with the Constitution, this Act and any other written law, orders and directions of the Commission in the same manner as a staff recruited directly by the Commission under this Act.</td>
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<td>(5) The Commission shall ensure that in the appointment of staff, not more than two thirds of the staff of the Commission shall be of the same gender and that the following are also taken into account—</td>
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<td>(a) persons with disabilities; and</td>
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<tr>
<td>(b) regional and other diversity of the people of Kenya.</td>
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<td><strong>18.</strong> (1) The seal of the Commission shall be such device as may be determined by the Commission and shall be kept by the secretary.</td>
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<tr>
<td>(2) The affixing of the seal shall be authenticated by the chairperson and the secretary or any other person authorized in that behalf by a resolution of the Commission.</td>
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</table>
| (3) Any document purporting to be under the seal of the
Commission or issued on behalf of the Commission shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

**Delegation by the Commission.**

19. Subject to this Act, the Commission may, either generally or in particular case, delegate to any committee or to any member, officer, staff or agent of the Commission, the exercise of any of the functions of the Commission under this Act.

**Legal proceedings against the Commission.**

20. (1) Proceedings against the Commission shall be deemed to be proceedings against the Government and shall be subject to the Government Proceedings Act.

(2) Any notice or other processes in respect of legal proceedings under subsection (1) shall be served upon the Secretary to the Commission.

**Protection from personal Liability.**

21. (1) No matter or thing done by a member of the Commission or any officer, staff or agent of the Commission shall, if the matter or thing is done in good faith for executing the functions, powers or duties of the Commission, render the member, officer, staff or agent personally liable to any action, claim or demand whatsoever.

(2) The provisions of subsection (1) shall not relieve the Commission of the liability to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by the exercise of any power conferred by this Act or by the failure, whether wholly or partially, or any works.

PART III — REGISTRATION AND DISCIPLINE OF TEACHERS AND MAINTENANCE OF TEACHING STANDARDS

**Commission to register teachers.**

22. (1) The Commission shall, in accordance with the Constitution, be responsible for the registration of teachers in the teaching service.

(2) No person shall engage in the teaching service unless the person is registered as a teacher under this Act.

**Register to be kept.**

23. (1) The Commission shall cause to be kept a register which shall contain—

(a) a list of the names and qualifications of registered teachers;

(b) a list of the names of deregistered teachers; and
(c) such other details as the Commission may prescribe from time to time.

(2) The Commission may publish a list of all registered and deregistered teachers.

Qualifications for registration as a teacher.

24. A person shall be eligible to be registered as a teacher if such person—

(a) is of good conduct;

(b) has paid the prescribed registration fees; and

(c) is a holder of a relevant certificate issued to him under the Education Act or any other relevant law.

Disqualification from registration.

25. (1) The Commission shall refuse to register a person as a teacher if—

(a) it is not satisfied that the person is entitled to be registered under section 24 of this section;

(b) it is satisfied that the person is unsuitable to be a teacher on the grounds that such person—

(i) is not of good moral character;

(ii) has been convicted of a criminal offence which, in the opinion of the Commission, renders the person unfit to be a teacher; or

(iii) is engaged in any activities which, in the opinion of the Commission, are prejudicial to peace, good order or good government in Kenya; or

(c) it is satisfied that the person suffers from some physical or mental defect or disease rendering the person, in the opinion of the Commission, unsuitable to be a teacher.

(2) Where the Commission refuses to register a person under this section, the Commission shall, inform that person the reasons for refusal to register in writing.

Application for registration.

26. (1) Any person wishing to be registered as a teacher under this Act may apply to the Commission in the prescribed manner.
<table>
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<tr>
<th>Section</th>
<th>Description</th>
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<tbody>
<tr>
<td>27.</td>
<td>The Commission shall issue to every teacher registered under this Act, a certificate of registration in the prescribed form.</td>
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<tr>
<td>29.</td>
<td>The Commission shall from time to time make any necessary alteration or correction in the register in relation to any entry therein.</td>
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</tbody>
</table>
| 30. | (1) Where the name of any person has been removed from the register, the Commission may, either of its own motion or on the application by the teacher concerned, made in the prescribed manner, and in either case after holding such inquiry as the Commission thinks fit, direct that -  
(a) the removal of such teacher’s name from the register be confirmed; or  
(b) the name of the teacher be restored in the register.  
(2) An application under subsection (1) shall not be made until after a period of eighteen months from the date of deregistration. |
| 31. | (1) The Commission may subject to the regulations made under this Act discipline any person registered as a teacher under this Act.  
(2) Subject to sub section (1), the discipline of teachers not in the employment of the Commission shall be limited to offences leading to removal from the register of teachers. |
| 32. | Where the Commission is satisfied that a teacher is in breach of the provisions of this Act and the regulations made thereunder, the Commission may –  
(a) issue a warning letter;  
(b) interdict;  
(c) revoke an interdiction;  
(d) suspend for a period not exceeding six months;  
(e) surcharge;  
(f) withdraw or cancel a registration certificate for such |
The Teachers Service Commission Bill, 2011

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<tr>
<th>Maintenance of teaching standards.</th>
<th>33. (1) The Commission shall maintain teaching standards for persons in the teaching service under this Act.</th>
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<td>(2) For purposes of subsection (1), the Commission shall—</td>
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<td>(a) require a registered teacher to undertake continuous teacher training course as may be prescribed by regulations made under this Act;</td>
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<tr>
<td>(b) require a registered teacher to take out a teaching certificate as may be prescribed by regulations made under this Act;</td>
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<td>(c) enter into agreements with any institution, body or department or agency of the government with respect to the provisions of this section; and</td>
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<td>(d) appoint an agent or designate a member or staff who may enter any educational institution and make an enquiry.</td>
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<tr>
<td>(3) A teacher who fails to undertake a prescribed continuous teacher training course or take out a teaching certificate under section 33(2)(b) of this Act may not be allowed to engage in the teaching service.</td>
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PART IV — FINANCIAL PROVISIONS

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<th>Funds of the Commission.</th>
<th>34. The funds of the Commission shall consist of—</th>
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<td>(a) monies allocated by Parliament for purposes of the Commission;</td>
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<td>(b) any grants, gifts, donations or other endowments given to the Commission;</td>
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(c) such funds as may vest in or accrue to the Commission in the performance of its functions under this Act or under any other written law.

35. (1) The funds of the Commission shall be held in a fund to be known as the Teachers Service Commission Fund which shall be administered, on behalf of the Commission, by the secretary.

(2) There shall be paid from the Fund—

(a) the salaries, allowances and other remuneration of the staff of the Commission;

(b) such other remuneration to persons in its service as it may consider appropriate;

(c) such reasonable travelling and subsistence allowances for the staff and members of any committee of the Commission when engaged in the business of the Commission; and

(d) any other operational and other expenses incurred by the Commission in the performance of its functions.

(3) The secretary shall manage the Fund subject to the provisions of all laws and regulations relating to public financial management.

(4) The receipts, earnings or accruals of the Commission and the balances at the close of each financial year shall not be paid into the Consolidated Fund but shall be retained for purposes of this Act.

36. The administrative and other expenses of the Commission, including the salaries, allowances, gratuities and pensions of the members and staff of the Commission shall be a charge on the Consolidated Fund.

37. Members and staff of the Commission shall be paid such remuneration and allowances as the Salaries and Remuneration Commission shall respectively determine and advise.

38. (1) At least three months before the commencement of each financial year, the secretary shall with the approval of the Commission, cause to be prepared estimates of the revenue and expenditure of the Commission for that year.

(2) The Cabinet Secretary responsible for matters relating to finance shall present the estimates approved by the Commission for
consideration and approval by the National Assembly.

### Financial year of the Commission.

**39.** The financial year of the Commission shall be the period of twelve months ending on the thirtieth June in each year.

### Accounts and audit.

**40.** (1) The Commission shall cause to be kept all proper books and records of account of the income, expenditure and assets of the Commission.

(2) Within a period of three months after the end of each financial year, the Commission shall submit to the Auditor-General, the accounts of the Commission together with—

(a) a statement of the income and expenditure of the Commission during that year; and

(b) a statement of the assets and liabilities of the Commission on the last day of that year.

(3) All accounts kept under this Act shall be audited by the Auditor-General at least once in every financial year.

(4) The Commission shall be entitled, upon application to the Cabinet Secretary responsible for finance, to exemption from duty chargeable under the Stamp Duty Act in respect of any instrument executed by or on behalf of, or in favour of the Commission which, but for this section, the Commission would be liable to pay.

(5) The Commission may establish, control, manage, maintain and contribute to pension and provident funds for the benefit of the members and staff of the Commission and may grant pensions and gratuities from any such fund to the said officers upon their resignation, retirement or separation from the service of the Commission or, as the case may be, to the dependants of any such officer upon such officer’s death.

(6) The Commission may invest any of the funds of the Commission in securities in which for the time being, trustees may by law invest funds or in any securities which Treasury may from time to time, approve for that purpose.

(7) The commission may place on deposit, with such bank or banks as it may determine, any monies not immediately required for the purpose of the Commission.
### Independence of the Commission

**41.** Except as provided in the Constitution, the Commission shall, in the performance of its functions, not be subject to the direction or control of any person or authority but shall observe the principle of public participation and the requirement for consultation with stakeholders.

### Management of Information

**42. (1)** The Commission shall publish and publicise all important information within its mandate affecting the nation.

(2) A request for information in the public interest by a citizen—

(a) shall be addressed to the secretary or such other person as the Commission may for that purpose designate and may be subject to the payment of a reasonable fee in instances where the Commission incurs an expense in providing the information; and

(b) may be subject to confidentiality requirements of the Commission.

(3) Subject to Article 35 of the Constitution, the Commission may decline to give information to an applicant where —

(a) the request is unreasonable in the circumstances;

(b) the information requested is at a deliberative stage by the Commission;

(c) failure of payment of the prescribed fee; or

(d) the applicant fails to satisfy any confidentiality requirements by the Commission.

(4) The right of access to information under Article 35 of the Constitution shall be limited to the nature and extent specified under this section.

(5) Every member and staff of the Commission shall sign a confidentiality agreement.

### Publicity

**43.** The Commission shall, in such manner as it considers appropriate, publish a notice for public information specifying—

(a) the location of all its offices; and
(b) its address or addresses, telephone numbers and other means of communication or contact with the Commission.

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<th>Offences</th>
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<td>44. (1) A person who —</td>
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<td>(a) procures or attempts to procure the entry of any name on the register by willfully making or producing or causing to be made or produced, either orally or in writing, any declaration, certificate or representation which the person knows to be false or fraudulent;</td>
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<tr>
<td>(b) falsely or fraudulently holds himself or herself out to be a registered teacher;</td>
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<td>(c) not being a registered teacher, teaches or assists in teaching in any school;</td>
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<td>(d) suffers or permits or employs to teach in any school a person not being a registered teacher,</td>
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<td>commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding twelve months, or to both fine and imprisonment.</td>
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<td>(2) No person shall —</td>
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<td>(a) without justification or lawful excuse, obstruct or hinder, or assault or threaten a member or staff or agent of the Commission acting under this Act;</td>
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<tr>
<td>(b) submit false or misleading information; or</td>
</tr>
<tr>
<td>(c) misrepresent to or knowingly mislead the member or a member of staff of the Commission acting under this Act.</td>
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<tr>
<td>(3) A person who contravenes subsection (2) commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.</td>
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</tbody>
</table>

| General penalty |
| 45. Any person convicted of an offence under this Act for which no penalty is provided, shall be liable to a fine of not less than one hundred thousand shillings or to imprisonment to a term not exceeding two years or to both. |
### Conflict of interest.

**46.** (1) If any person is present at a meeting of the Commission or any committee at which any matter is the subject of consideration and in which matter that person or that person's spouse is directly or indirectly interested in a private capacity, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not, unless the Commission or committee otherwise directs, take part in any consideration or discussion of, or vote on any question touching such matter.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A person who contravenes subsection (1) commits an offence and upon conviction shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding seven years or to both such fine and imprisonment.

(4) No member or staff of the Commission shall transact any business or trade with the Commission.

### Review.

**47.** A person aggrieved by any decision of the Commission under this Act may apply to the Commission for review of that decision and the decision of the Commission on such review shall be final.

### Regulations.

**48.** (1) The commission may make regulations generally for the better carrying out of the provisions of this Act and without prejudice to the generality of the foregoing, may make regulations to provide for -

(a) the form and method of keeping the register and records under this Act;

(b) the conditions of admission to and removal from the register and of the issuance of registration and teaching certificates;

(c) management and administration of the function of discipline of those in the teaching service;

(d) quality assurance standards structures for those in the teaching service;

(e) guidelines on the qualifications of persons entering the teaching service;

(f) administration of continuous teacher training course;
(g) procedures for the nomination of nominees to the Salaries and Remuneration Commission as required under Article 230(2)(b)(iv) of the Constitution;

(h) the standards and conditions of professional practice of persons registered under this Act;

(i) the fees payable in respect of registration and any other matter under this Act;

(j) the disposal of fees collected; the authorization of such disbursement as may be necessary and the management of any funds within the control of the Commission; and

(k) any other matter that is required or necessary for giving effect to this Act.

(2) (a) The Commission shall compile and publish a code of regulations which shall apply to all teachers employed by the Commission.

(b) The Commission may, from time to time modify or amend the code of regulations in such manner as it thinks fit.

(3) Nothing in this Act or any regulation, rules made pursuant to this section shall supersede lessen or in any way interfere with the powers vested in the Commission under the Constitution.

49. The Commission shall develop a code of conduct for its members and staff.

50. The Teachers Service Commission Act is repealed.

51. (1) Notwithstanding section 50, a person who immediately before the commencement of this Act, was a staff of the Teachers Service Commission under the repealed Act, shall continue to hold or act in that office as if appointed to that position under this Act.

(2) Every contract entered into before the commencement of this Act shall continue to be in force to the extent that the terms and conditions of the contract are not inconsistent with the provisions of this Act.

(3) All proceedings and decisions subsisting before the commencement of this Act by virtue of the repealed Act, shall after
the commencement of this Act be deemed as subsisting under this Act.

(4) All property which immediately before the commencement of this Act was vested in the Teachers Service Commission shall, at the commencement of this Act, vest in the Commission subject to all interest, liabilities, charges, obligations and trusts affecting such property.

(5) All matters relating to pensions, gratuities and retirement benefits of teachers in the employment of the Commission shall be governed by the law relating to pensions.
FIRST SCHEDULE (s. 9)

OATH/AFFIRMATION OF THE OFFICE OF CHAIRPERSON/A MEMBER/SECRETARY

1 …………………………………… having been appointed (the chairperson/member of /Secretary to) the Teachers Service Commission under the Teachers Service Commission Act, 2011, do swear/solemnly affirms that I will at all times obey, respect and uphold the Constitution of Kenya and all other laws of the Republic; that I will faithfully and fully, impartially and to the best of my knowledge and ability, discharge trust, perform the functions and exercise the powers devolving upon me by virtue of this appointment without fear, favour, bias, affection, ill-will or prejudice. (SO HELP ME GOD).

Sworn/Declared by the said …………………………………………………

Before me this …………… day of ………………………………………

…………………………
Chief Justice.
SECOND SCHEDULE                (S. 15)

Meetings.  1. (1) The Commission shall have at least six meetings in every financial year and not more than four months shall lapse between one meeting and the next meeting.

   (2) The chairperson may at any time convene a special meeting of the Commission, and shall do so within one month of the receipt by the chairperson of a written request signed by at least two other members.

   (3) Unless three quarters of the members otherwise agree, at least seven days’ notice of a meeting shall be given to every member.

   (4) The chairperson shall preside over all meetings and in the absence of the Chairperson, by the vice-chairperson and in their absence, by a person elected by the Commission at the meeting for that purpose.

Quorum.  2. The quorum of the meeting of the Commission shall three members.

Voting.  3. A decision of the Commission shall be by a majority of the members present and voting and, in the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote.

Minutes.  4. Minutes of all meetings shall be kept and entered in records kept for that purpose.
MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to repeal and re-enact the Teachers Service Commission Act, Cap 212 Laws of Kenya to accord with the Constitution of Kenya, 2010 and to improve teaching services in Kenya. It achieves this by reconstituting and incorporating the Teachers Service Commission, modernizing and expanding its functions and clearly articulating the procedure for appointment and removal of the chairperson, members and secretary. The Bill also enhances the Commission’s operational and financial autonomy.

The Bill seeks to fulfill the constitutional obligations imposed on the Commission under Article 237 of the Constitution which require the Commission to register trained teachers, recruit and employ registered teachers, assign teachers employed by the Commission, exercise disciplinary, control, terminate the employment of teachers, review the standards of education and training of persons entering the teaching services, review demand for and supply of teachers and advice the national government on matters relating to the teaching profession.

PART I - provides for the preliminary provisions, the short title and interpretation of terms.

PART II – provides for composition, qualifications and appointment of members of the Commission. It clearly outlines the procedure for the appointment of the selection panel and appointment of chairperson and members of the Commission as specified in the constitution as well as the secretary to the Commission. This part also deals with the structure and operations of the Commission including provisions on the secretariat, power to employ staff, the role of the secretary and rules applying in the conduct of meetings of the Commission. This part also provides for the additional functions and powers of the Commission including provisions on power to delegate the Commission’s functions and the matter of legal proceedings against the Commission.

PART III – provides for registration and discipline of teachers and maintenance of teaching standards in the teaching service. It contains provisions relating to application for a certificate of registration, grant of a certificate of registration and specifies persons not eligible for registration. It also makes provision for disciplinary provisions and in particular, the power of the Commission in cases where a registered teacher is in breach of any of the provisions of the Act. It also provides for the maintenance of teaching standards including the requirement for registered teachers to take out a teaching certificate.

PART IV – sets out the financial provisions relating to the Commission including the establishment of the Teachers Service Commission fund. It also provides that all expenses incurred by the Commission in the execution of its mandate shall be a charge on the Consolidated Fund. This Part also provides for the operations of the Teachers Service Commission Fund and allows the Bank to operate Bank accounts. It also requires
the preparation of audited accounts and annual financial estimates and reports.

**PART V** — sets out a number of miscellaneous and supplementary provisions, these range from management of information, offences under the Act, general penalty, review of a decision of the Commission and powers of the Commission to make regulations for the better carrying out of its functions and exercise of its powers and develop a code of conduct for the members and its staff. This part also deals with transitional issues.

The enactment of this Bill shall occasion additional expenditure of public funds which shall be provided for through the estimates.

**Dated the 26th of July, 2011.**

**PROF. SAM ONGERI**  
Minister for Education