

EXAMINATION MALPRACTICES ACT

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EXAMINATION MALPRACTICES ACT

An Act to create offences relating to examination malpractices and to prescribe penalties for such offences.

[1999 No. 33.]

[10th May, 1999]

[Commencement.]

PART I

Offences

1. Cheating at examination

(1) A person who, in anticipation of, before or at any examination-

(a) by any fraudulent trick or device or in abuse of his office or with intent to unjustly enrich himself or any other person procures any question paper produced or intended for use at any examination of persons, whether or not the question paper concerned is proved to be false, not genuine or not related to the examination in question; or

(b) by any false pretence or with intent to cheat or secure any unfair advantage for himself or any other person, procures from or induces any other person to deliver to himself or another person any question paper intended for use at any examination; or

(c) by any false pretence or with intent to cheat or unjustly enrich himself or any other person buys, sells, procures or otherwise deals with any question paper intended for use or represented as a genuine question paper in respect of any particular examination; or

(d) fraudulently or with intent to cheat or secure any unfair advantage for himself or any other person or in abuse of his office, procures, sells, buys or otherwise deals with any question paper intended for the examination of persons at any examination, commits an offence.

(2) A person guilty of an offence under subsection (1) of this section is liable on conviction-

(a) in the case of a person under the age of eighteen years, to a fine of N100,000 or imprisonment for a term not exceeding three years or to both such fine and imprisonment;

(b) in the case of a principal, teacher, an invigilator, a supervisor, an examiner, or an agent or employee of the examination body concerned with the conduct of an examination, to imprisonment for a term of four years without the option of a fine; and

(c) in any other case, to imprisonment for a term of three years without the option of a fine.

(3) Where the person accused of the offence is an employee of an examination body concerned with the conduct of examinations or a head teacher, teacher or other person entrusted with the safety and security of question papers, he shall be proceeded against and punished as provided in this section, notwithstanding that the question paper concerned is proved not to be live, genuine or does not relate to the examination concerned.

2. Stealing, etc., of question papers

A candidate who, at any examination, by any fraudulent trick or device or with intent to cheat or secure an unfair advantage for himself or any other person, steals or otherwise appropriates or takes a question paper, an answer sheet or a script of any other candidate commits, an offence and is liable on conviction to a fine of N100,000 or imprisonment for a term not exceeding three years or to both such fine and imprisonment.

3. Personation

(1) A person who, at an examination-

- (a) falsely represents himself to be a candidate sitting for the examination; or
- (b) writes or attempts to write a paper in the name of some other person whether that name is the name of a person living or dead, commits an offence.

(2) A person guilty of an offence under subsection (1) of this section is liable on conviction-

- (a) in the case of a person under the age of 18 years, to a fine of N100,000 or imprisonment for a term not exceeding three years or to both such fine and imprisonment;
- (b) in the case of a principal, teacher, an invigilator, a supervisor, an examiner, or an agent or employee of the examination body concerned with the conduct of an examination, to imprisonment for a term of 4 years without the option of a fine; and
- (c) in any other case, to imprisonment for a term of three years without the option of a fine.

(3) A person who alters or in any other way tampers with a document which has been issued to a candidate in relation to an examination, so that the person is taken to be the candidate, commits an offence and is liable on conviction-

- (a) in the case of a person under the age of eighteen years, to a fine of N100,000 or imprisonment for a term not exceeding three years or to both such fine and imprisonment;
- (b) in the case of a principal, teacher, an invigilator, a supervisor, an examiner, or an agent or employee of the examination body concerned with the conduct of the examination, to imprisonment for a term of four years without the option of a fine; and
- (c) in any other case, to imprisonment for a term of three years without the option of a fine.

4. Orderliness at examinations

(1) A candidate at an examination who leaves the examination hall or any other place appointed for the examination, and mixes up with any other person with intent to cheat or secure any unfair advantage for himself or any other person in the examination, commits an offence and is liable on conviction to a fine not exceeding N50,000 or imprisonment for a term not exceeding three years or to both such fine and imprisonment and, in addition, the candidate shall not be allowed to re-enter the examination hall or any other place to continue with that examination.

(2) A person who-

- (a) without lawful excuse, with intent to aid a candidate to cheat or secure any unfair advantage for himself or any other person at the examination, communicates or attempts to communicate to the candidate any information relating to any question paper in the examination; or
- (b) not being involved in the conduct of the examination, is found in or near the examination hall or any other place appointed for the examination with intent to aid a candidate to cheat or secure an unfair advantage for a candidate at the examination, commits an offence.

(3) A person guilty of an offence under subsection (2) of this section is liable on conviction-

(a) in the case of a person under the age of eighteen years, to a fine of N100,000 or imprisonment for a term not exceeding three years or to both such fine and imprisonment;

(b) in the case of a principal, teacher, an invigilator, a supervisor, an examiner, or an agent or employee of the examination body concerned with the conduct of an examination, to imprisonment for a term of four years without the option of a fine; and

(c) in any other case, to imprisonment for a term of three years without the option of a fine.

5. Disturbances at examinations

(1) A person who, at or near an examination hall or any other place appointed for an examination-

(a) has in his possession any offensive weapon or other material or uses any offensive weapon or other material on any other person; or

(b) acts or incites any other person to act in a disorderly manner,

for the purpose of disrupting the conduct of an examination or of harming, intimidating, assaulting or obstructing any person involved in the conduct of the examination, commits an offence.

(2) A person guilty of an offence under subsection (1) of this section is liable on conviction-

(a) in the case of a person under the age of eighteen years, to a fine of N100,000 or imprisonment for a term not exceeding three years or to both such fine and imprisonment;

(b) in the case of a principal, teacher, an invigilator, a supervisor, an examiner, or an agent or employee of the examination body concerned with the conduct of an examination, to imprisonment for a term of five years without the option of a fine; and

(c) in any other case, to imprisonment for a term of four years without the option of a fine.

6. Conduct at examinations

(1) A candidate who-

(a) misconducts himself in an examination hall or any other place appointed for an examination; or

(b) fails to obey any lawful order of the supervisor, invigilator or agent of the examination body concerned with the conduct of the examination, commits an offence and is liable on conviction to a fine not exceeding N50,000 or imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(2) A person who contravenes the provisions of subsection (1) of this section may be removed from the examination hall or other place appointed for the examination by a police officer, the supervisor, invigilator or an agent of the examination body concerned with the conduct of the examination.

7. Obstruction of supervisor, etc.

A person who wilfully obstructs a supervisor, an invigilator or agent of the examination body concerned with the conduct of the examination or any other person in the performance of his duty at the examination, commits an offence and is liable on conviction-

- (a) in the case of a person under the age of eighteen years, to a fine of N100,000 or imprisonment for a term not exceeding three years or to both such fine and imprisonment;
- (b) in the case of a principal, teacher, an invigilator, a supervisor, an examiner, or an agent or employee of the examination body concerned with the conduct of an examination, to imprisonment for a term of five years without the option of a fine; and
- (c) in any other case, to imprisonment for a term of four years without the option of a fine.

8. Forgery of result slip, etc.

(1) A person who-

- (a) forges; or
- (b) fraudulently or without lawful order, alters or in any other way tampers with,

the scores of a candidate as contained on a result slip or certificate duly issued by an examination body, commits an offence.

(2) A person guilty of an offence under subsection (1) of this section is liable on conviction-

- (a) in the case of a person under the age of eighteen years, to a fine of N100,000 or imprisonment for a term not exceeding three years or to both such fine and imprisonment;
- (b) in the case of a principal, teacher, an invigilator, a supervisor, an examiner, or an agent or employee of the examination body concerned with the conduct of an examination, to imprisonment for a term of five years without the option of a fine; and
- (c) in any other case, to imprisonment for a term of four years without the option of a fine.

9. Breach of duty

(1) A person who, for the time being is under a duty to discharge any function with respect to the conduct of an examination, without reasonable cause, before, during or at an examination or at any time thereafter-

- (a) fails to perform or discharge that duty; or
- (b) performs that duty fraudulently, negligently, perversely or recklessly; or
- (c) commits an act or omission in breach of that duty,

commits an offence and is liable on conviction to a fine not exceeding N50,000 or imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(2) A person-

- (a) employed to mark examination papers, who, without lawful excuse, alters or otherwise tampers or attempts to alter or tamper with the scores of a candidate as recorded by another person; or
- (b) employed by an examination body, who before, during or after an examination, fraudulently or without lawful authority, alters or otherwise tampers with the scores of a candidate or aids or abets any candidate to cheat at an examination,

commits an offence and is liable on conviction to imprisonment for a term of four years without the option of a fine.

(3) A person, employed to print or charged with the responsibility of printing live question papers, who, without lawful authority, communicates to any person any information contained in any of the question papers, commits an offence and is liable on conviction to imprisonment for a term of five years.

10. Conspiracy, aiding, etc.

A person who-

- (a) conspires with, aids, abets, or counsels any other person to commit an offence; or
- (b) attempts to commit an offence or is an accessory before or after the fact to an act or omission which constitutes an offence; or
- (c) incites, procures or induces any other person by any means whatsoever to commit an offence, under this Act, commits the offence and is liable on conviction to the same punishment as is prescribed for that offence under this Act.

11. Conviction for alternative offence

(1) Where a person is charged with an offence under this Act and the evidence establishes an attempt to commit that offence, he may be convicted of having attempted to commit that offence notwithstanding the attempt is not separately charged, and that person shall be punished as is prescribed for the offence under this Act.

(2) Where a person is charged with an attempt to commit an offence under this Act, but the evidence establishes the commission of the full offence, the offender shall not be entitled to acquittal, but shall be convicted of the offence and punished as provided under this Act.

12. Offences by bodies corporate

Where an offence under this Act which has been committed by a body corporate is proved to-

- (a) have been committed on the instigation or with the connivance of; or
- (b) be attributable to any neglect on the part of,

a director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, where practicable, shall be deemed to have committed that offence and shall be liable to be proceeded against and punished accordingly.

PART II

Miscellaneous

13. Trial of children and young persons

Where a person who is a child or a young person (within the meaning of the Children and Young Persons Act, that is, a person who has not attained the age of seventeen years) is charged with an offence under this Act, he shall be dealt with under the provisions of the Children and Young Persons Act.

14. Jurisdiction

Subject to section 13 of this Act, the Federal High Court (in this Act referred to as “the Court”) shall have-

- (a) jurisdiction to try offenders under this Act;
- (b) power, notwithstanding anything to the contrary in any other enactment, to impose the penalties provided for offences in this Act.

15. Pending proceedings, etc.

(1) Any part-heard proceeding, relating to a matter for which the Court has jurisdiction, which is pending before any court or tribunal on the date of the making of this Act, shall be continued and completed as if this Act had not been made.

(2) All new proceedings shall be brought before the Court.

(3) A person who has been tried and convicted or acquitted for an offence charged under any other enactment, shall not be tried a second time for the same offence, notwithstanding that he could be proceeded against in accordance with the provisions of this Act.

16. Power of the examination body

(1) Notwithstanding the provisions of this Act, an examination body shall have the power to-

(a) withhold, suspend or cancel the results of a candidate or ban or blacklist a candidate from taking its examinations if it is satisfied that the candidate has engaged in any form of examination malpractice;

(b) withdraw recognition, suspend, ban or blacklist or place on probation a school or an examination centre if it is satisfied that the school or examination centre is involved in any form of examination malpractice;

(c) remove the name of, or withhold payment to a supervisor or an invigilator or any other official employed in the conduct of an examination if it is satisfied that the supervisor or invigilator or official has contributed to an examination malpractice.

(2) An examination body may, in exercise of its powers under this section, circulate the name of an offending candidate, supervisor, invigilator, official, school or examination centre to other examination bodies which may impose similar punishment.

17. Power of search, etc.

Notwithstanding the provisions of any other enactment conferring power to search, if the Court is satisfied that there is a reasonable ground to suspect that there may be found in any building or other place whatsoever, any question paper, examination paper, score sheet or information in any other form whatsoever which, in its opinion, is or may be material to the subject-matter of any trial under this Act, it may issue a warrant authorising any police officer or any member of the armed forces or of any of the security agencies to-

(a) enter, if necessary by force, the building or other place and every part of the building or place; and

(b) search for, seize and remove any question paper, examination paper, score sheet or information found in the building or place.

18. Repeal of section 3 (16)

Section 3 (16) of the Miscellaneous Offences Act is hereby repealed.

19. Interpretation

In this Act, unless the context otherwise requires-

“Court” means the Federal High Court;

“examination” means an examination conducted by an examination body;

“examination body” means the West African Examinations Council, the Joint Admissions and Matriculation Board, the National Teachers Institute, the National Business and Technical Education Board, the National Board for Educational Measurement and any other body established by the Government to conduct an examination;

“examination malpractice” means an act which constitutes an offence under this Act;

“live question paper” means an authentic question paper related to the particular forthcoming examination;

“question paper” includes a question paper-

- (a) produced through a fax or telex machine or any other electronic or electrical device;
- (b) that is hand-written or in Braille or any other form; and
- (c) that is transmitted through telephone.

20. Short title

This Act may be cited as the Examination Malpractices Act.

EXAMINATION MALPRACTICES ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation