

NATIONAL EXAMINATIONS COUNCIL (NECO) (ESTABLISHMENT) ACT

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NATIONAL EXAMINATIONS COUNCIL (NECO) (ESTABLISHMENT) ACT

An Act to provide for the establishment of the National Examinations Council and to make comprehensive provisions for its due administration.

[2002 No. 1.]

[18th February, 2002]

[Commencement.]

PART I

Establishment of the National Examination Council

1. Establishment of the National Examinations Council
 - (1) There is hereby established a body to be known as the National Examinations Council (in this Act referred to as “the Council”).
 - (2) The Council shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

2. Establishment and membership of the Governing Board

- (1) There is hereby established for the Council a Governing Board which shall consist of—
 - (a) a chairman;
 - (b) one person to represent the Federal Ministry of Education;
 - (c) six persons, one to represent each of the six geo-political zones of the country;
 - (d) two persons to represent the All Nigeria Conference of Principals of Secondary Schools;
 - (e) three persons to represent the Universities in Nigeria in rotation for one term at a time;
 - (f) one person to represent the Nigeria Employers Consultative Association;
 - (g) the registrar of the Joint Admission and Matriculation Board or his representative;
 - (h) the registrar of the Council;
 - (i) one person to represent the National Parents Teachers Association (NPTA); and
 - (j) a representative of the Nigerian Educational Research and Development Council.
- (2) The members of the Board, other than ex-officio members, shall be appointed by the President of the Federal Republic of Nigeria, on the recommendation of the Minister.
- (3) The provisions of the Schedule to this Act shall have effect with respect to the proceedings of the Board and the other matters mentioned in the Schedule.

[Schedule.]

3. Tenure of office, etc.

The chairman and other members of the Board, other than ex-officio members—

- (a) shall hold office for a period of four years on such terms and conditions as may be specified in their letters of appointment; and
- (b) may be reappointed for one further period of four years and no more.

4. Removal from office

- (1) Notwithstanding the provisions of section 3 of this Act, a member may at any time be removed from office by the President for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other causes or for misconduct).
- (2) A member of the Board may resign his appointment by a notice in writing under his hand, addressed to the President and that member shall, on the date of the receipt of the notice by the President, cease to be a member of the Board.

5. Emoluments

A member of the Board shall be paid such emoluments, allowances and benefits as the Minister may, with the approval of the President, from time to time approve.

6. Disclosure of interest

- (1) A member of the Board who is directly or indirectly interested in any matter being deliberated on by the Board or is interested in any matter proposed to be considered proposed to be made by the Council shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.

- (2) A disclosure under subsection (1) of this section shall be recorded in the minutes of meetings of the Board and the member concerned shall—
- (a) not, after the disclosure, take part in any deliberation or decision of the Board; and
 - (b) be excluded for the purpose of constituting a quorum of any meeting of the Board for any deliberation or decision, with regard to the subject matter in respect of which his interest is so disclosed. PART II

Functions and power

7. Functions of the Council

The Council shall be responsible for—

- (a) revising and considering, annually, in the public interest the examinations to be held for admission into Federal Government colleges and other allied institutions;
- (b) collecting and disseminating information on all matters relating to admission into Federal Government colleges and other allied institutions;
- (c) the general control and conduct of the National Common Entrance Examinations for admission into Federal Government colleges and other allied institutions;
- (d) developing and administering selection examinations into the Suleja Academy in accordance with such guidelines as maybe approved, from time to time, by the Minister;
- (e) developing, administering and conducting aptitude tests for all candidates into Federal Government colleges and other allied institutions;
- (f) monitoring, collecting and keeping records of continuous assessment in all Federal Government colleges and other allied institutions and in

the Suleja Academy toward the award of the Junior and Secondary School

Certificates;

- (g) the general control of the conduct of the Junior Secondary School Certificate Examinations in all Federal Government colleges, and other allied institutions and in the Suleja Academy;
- (h) the general control of the conduct of the internal and external Senior Secondary School Certificate Examinations in Nigeria without prejudice to the existing powers and functions of the West African Examination Council;
- (i) conducting a Standard National Assessment of Educational Performance at junior and senior secondary school levels;
- (j) conducting researches leading to national improvement of testing and examination procedures at junior and senior secondary school levels;
- (k) preparing and submitting to the Minister the annual report on standards of examinations and such other related matters as the Minister may, from time to time, require; and
- (l) carrying out such other activities as are expedient for the discharge of all or any of the functions conferred on the Council under or by this Act.

8. Powers of the Council

The Council shall have power to carry out all the functions assigned to it in section 7 of this Act.

PART III

Registrar and other staff

9. Registrar of the Council

- (1) There shall be a registrar of the Council, who shall be appointed by the President, on the recommendation of the Minister.
- (2) The registrar shall be the chief executive of the Council, and shall be responsible for the execution of the policy of the Council, and manage its affairs under its direction.
- (3) The registrar shall hold office—
 - (a) in the first instance, for a period of five years and may be reappointed for one further term of three years and no more; and
 - (b) on such terms as to emoluments and conditions of service as may be specified in his letter of appointment, and as may, from time to time, be approved by Minister.

10. Other staff of the Council

- (1) The Council may appoint such other persons to be officers and employees of the Council as the Council may determine to assist the registrar in the exercise of his functions under this Act.
- (2) The Council may, by way of transfer or secondment, appoint a person holding an office in the civil service of the Federation or of a State to fill a staff vacancy in the Council.
- (3) The remuneration of office and conditions of service of the other staff of the Council shall be determined by the Council with approval of the Minister.

11. Staff regulations

- (1) The Council may, subject to the provisions of this Act, make staff regulations generally to the conditions of service of the staff of the Council and without prejudice to the generally of the foregoing, such regulations may provide for—
 - (a) the appointment, promotion, termination, dismissal and disciplinary control of the staff of the Council; and

- (b) appeals by those staff against dismissal or other disciplinary measures.
- (2) Until such regulations are made under subsection (1) of this section, any instrument relating to the conditions of service of the officers in the civil service of the Federation shall be applicable, with such modifications as may be necessary, to the staff of the Council.
- (3) Staff regulations made under subsection (1) of this section shall not have effect unless approved by the Minister and when so approved they need not be published in the Gazette, but the Council shall cause them to be brought to the notice of all persons in such manner as it may, from time to time, determine.

12. Pensions Act

- (1) It is hereby declared that service in the council shall be approved service for purposes of the Pensions Act and, accordingly, officers and employees of the Council shall be entitled to pensions, gratuities and other retirement benefits as are prescribed under the Pensions Act.
- (2) Notwithstanding the provisions of subsection (1) of this section, nothing in this Act shall prevent the appointment of a person to any office on terms which preclude the grant of a pension, gratuity or other retirement benefit in respect of that office.
- (3) For the purpose of the application of the provisions the Pensions Act, any power exercisable by a Minister or other authority of the Federal Government under this Act, other than the power to make regulations under section 23, is hereby vested in and shall be exercisable by the Council and not by any other person or authority.

PART IV

Financial provisions

13. Establishment and maintenance of a fund

- (1) The Council shall establish and maintain a fund into which shall be paid and credited all the income accruing to the Council under subsection (2) of this section and from which shall be defrayed all the expenditure incurred by the Council.
- (2) There shall be paid into the fund established pursuant to section (1) of this section—
 - (a) such monies as may from time to time be lent or granted to the Council by the Government of the Federation or State or local government;
 - (b) all monies raised for the purposes of the Council by way of gifts, loans, grant-in-aid, testamentary dispositions or otherwise;
 - (c) such other monies as may be payable to the Council in the course of the discharge of its functions;
 - (d) all interest received in respect of monies invested by the Council; and
 - (e) all other assets as may, from time to time, accrue to the Council.

14. Application of the proceeds of the Fund

- (1) The Council may, from time to time, apply the proceeds of the fund established pursuant to section 13 of this Act—
 - (a) to the cost of administration of the Council;
 - (b) for reimbursing members of the Council or of any committee set up by the Council for such expenses as may be expressly authorised by the Council in accordance with such rates as may be approved, from time to time, by the Minister;
 - (c) to the payment of salaries, fees or other remuneration or allowances, pensions, superannuation and gratuities payable to the officers and employees of the Council;

- (d) to the repayment of any money borrowed under section 13 of this Act or of any interest payable thereon;
 - (e) for the maintenance of any property acquired by or vested in the Council; and
 - (f) for and in connection with all or any of the functions of the Council under this Act or any other written law.
- (2) The Council may, from time to time, place money standing to its credit in fixed deposits in such reputable banks as the Council may think necessary or expedient with a view to generating interest on the money.

15. Annual estimates, accounts and audit

- (1) The Council shall prepare and submit to the Minister, not later than 30 September of each year or such other time as may be directed by the Minister, accounts and an estimate of its income and expenditure during the succeeding year.
- (2) The Council shall keep proper accounts and other records relating thereto, and shall cause to be prepared, not later than 30 June in each year, a statement of accounts relating to the last preceding year.
- (3) The statement of accounts, together with records relating thereto, shall be certified by the Council and the accounts shall be audited by the auditors to be appointed by the Council from the list and in accordance with the guidelines, supplied by the Auditor-General of the Federation.

16. Annual report

- (1) As soon as the accounts of the Council have been audited, the Council shall prepare a report of its activities during the preceding year and shall include in such report a copy of the audited accounts of the Council and the auditors' report thereon.

- (2) The Minister shall, soon after the receipt of the report, present the report to the Federal Executive Council together with any comments thereon as may be made by him.

17. Power to accept gifts

- (1) The Council may accept gifts of land, money or other property on such terms and conditions, if any, as may be specified by the person making the gift.
- (2) The Council may not accept gifts if the conditions attached by the person making the gift to its acceptance are inconsistent with the functions of the Council under this Act.

18. Powers to borrow

The Council may, with the consent of or in accordance with the authority of the Minister, borrow on such terms and conditions such sums of money as the Council may require in the exercise of the functions conferred on it under this Act.

PART V

Legal proceedings

19. Limitation of suits against the Council

- (1) Subject to the provisions of this Act, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against an officer or employee of the Council.
- (2) Notwithstanding anything contained in any other enactment, no suit against a member of the Board or the registrar or any other officer or employee of the Council done in pursuance or execution of this Act or any enactment or law, or of any public duty authority in respect of any alleged neglect or default in the execution of this Act or any other enactment or law, duty or authority, shall lie or be instituted in any court unless it is commenced—

- (a) within three months next after the act, neglect or default complained of; or
- (b) in the case of a continuation of damage or injury, within six months next after the ceasing thereof.
- (3) No suit shall be commenced against a member of the Board or the registrar or any other officer or employee of the Council before the expiration of a period of one month after written notice of the intention to commence the suit shall have been served on the Council by the intending plaintiff or his agent.
- (4) The notice referred to in subsection (3) of this section shall clearly and explicitly state the cause of action, the particulars of the claim, the name and place of abode of the intending plaintiff and the relief which he claims.

20. Service of documents

A notice, summons or other document required or authorised to be served on the Council under the provisions of this Act or any other enactment or law may be served by delivering it to the registrar or by sending it by registered post addressed to the registrar at the principal office of the Council.

21. Restriction on execution against property of the Council

- (1) In any action or suit against the Council, no execution or attachment of process in the nature thereof shall be issued against the Council unless not than three months' notice of the intention to execute or attach has been given to the Council.

22. Indemnity of members, registrar officers, etc.

A member of the Board or the registrar or any officer or employee of the Council shall be indemnified out of the assets of the Council against any liability incurred by him in defending any proceeding, whether civil or criminal, if the proceeding is brought against him in his

capacity as a member, registrar or other officer or employees of the Council.

PART VI

Miscellaneous

23. Offices and premises

- (1) For the purpose of providing offices and premises necessary for the performance of its functions under this Act, the Council may—
 - (a) subject to the Land Use Act, purchase, take on lease or otherwise acquire any land; and
 - (b) build, equip and maintain offices and premises.
- (2) The Council may, subject to the Land Use Act, sell or lease any land, offices or premises held by it and no longer required for the performance of its functions under this Act.

24. Acquisition of land

- (1) Whenever there is any hindrance to the acquisition by the Council of any land required for any purpose of the Council under this Act (including any failure by the Council to reach agreement as to the amount to be paid in respect of the acquisition), the Minister may, on the application of the Council and after such inquiry as he may think fit, declare that the land is required for the service of the Council.
- (2) Where a declaration is made under subsection (1) of this section, the land to which the declaration relates shall be deemed to be land required for a public purpose of the Federation and, accordingly, shall be acquired under the Land Use Act.
- (3) The compensation, if any, payable for the acquisition of any land under this section or payable under the Land Use Act for the revocation of any right relating to the land, as the case may be, shall in the first instance be paid by the Federal Government.

- (4) The Council shall refund to the Federal Government any compensation paid under subsection (3) of this section and all incidental expenses incurred by the Federal Government.

25. Authorisation

- (1) For the purpose of carrying out the functions conferred on the Council under this Act, the registrar or any other officer or employee of the Council, authorised on the Council behalf—
- (a) shall have a right of access to all relevant records of any institution to which this Act applies; and
- (b) may notice in writing served on any person in charge of any such institution require that person to furnish or cause to be furnished information on such matter as may be specified in the notice.
- (2) It shall be the duty of any person required to furnish information pursuant to subsection (1) of this section to comply with the notice within a reasonable period of time.

26. Power of Minister to give directives

The Minister may give to the Council directives of a general nature with respect to any of the functions of the Council to comply with such directives or cause them to be complied with.

27. Transitional provision

- (1) At the commencement of this Act, the powers of the National Board for Educational Measurement over the conduct of examinations, lists, or issuance of certificates referred to in section 7 of this Act shall, without prejudice to any examinations already conducted by the Council, be vested in the Council.
- (2) The National Board for Educational Measurement Act No. 69 of 1993 is hereby repealed.

28. Regulations

- (1) The Council may, with the approval of the Minister, make regulations generally for the carrying into effect of the provisions of this Act and without prejudice to the generality of the foregoing, the regulations may provide for—
- (a) the person or categories of persons who may enter for examinations conducted by the Council;
 - (b) the conduct of candidates during such examinations;
 - (c) the obligations of educational institutions involved in presenting candidates for the examinations conducted by the Council.
- (2) Where regulations are made pursuant to subsection (1) of this section, it shall be necessary, for their validity, to cause them to be published in the Gazette but the Council shall bring them to the notice of such interested persons (including the officers and employees of the Council) in such manner as the Council may, from time to time, determine.

29. Interpretation

In this Act, unless the context otherwise requires—

“Allied institutions” includes the Command Secondary School, Air Force Secondary Schools and such private secondary schools as may be admitted by the Council, from time to time, to undertake any of the examinations conducted by the Council;

“Board” means the National Examinations Council established by section (2) of this Act;

“Council” means the National Examinations Council established by section 1 of this Act;

“Chairman” means the chairman of the Board;

“Examination” means any examination held or conducted by or on behalf of the Council or on behalf of any other body by the Council pursuant to this Act;

“External candidates” means candidates who in their capacity as individual students sit for the examinations held usually in the months of November and December leading to the award of Senior Secondary School Certificates;

“External Senior Secondary School Certificate Examinations” means the examinations that candidates as individual students sit for which are usually held in the months of November and December leading to the award of Senior Secondary School Certificates;

“Internal candidates” means candidates who in their capacity as students of particular secondary schools sit for the examinations held usually in the months of May and June leading to the award of Senior Secondary School Certificates;

“Internal Senior Secondary School Certificate Examinations” means the examinations that candidates as students of particular secondary schools sit for which are held usually in the months of May and June leading to the award of Senior Secondary School Certificates;

“Member” means any member of the Board and includes the chairman;

“Minister” means the Minister charged with responsibility for matters relating to education; “Registrar” means the registrar of the Council appointed pursuant to section 9 of this Act.

30. Citation

This Act may be cited as the National Examinations Council (NECO) (Establishment) Act, 2002.

Schedule

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD, ETC.

Proceedings of the Board

1. Subject to this Act and section 27 of the Interpretation Act, the Board may make standing orders regulating the proceedings of the Board or any committee thereof.
2. The chairman shall preside at every meeting of the Board and in his absence the members present at the meeting shall appoint one of their members to preside at that meeting.
3. Subjected to the provisions of this Act and any standing orders made under it, the quorum of the Board shall be the chairman and six other members and the quorum of any committee of the Council shall be determined by the Board.
4. The Board shall meet not less than four times in each year and subject thereto, the Board shall meet whenever it is summoned by the chairman; and if the chairman is required to do so by notice given to him by not less than seven other members, he shall summon a meeting of the Board to be held within fourteen days from the date on which the notice is given.
5. (1) Where the Board desires to obtain the advice of any person on any particular matter it may co-opt that person as a member for such period as it may think necessary.
(2) A person co-opted shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.

Committees

6. (1) Subject to its standing orders, the Board may appoint such committees to consider and report upon any matter with which the Board is concerned.
- (2) A committee appointed under the provisions of sub-paragraph (1) of this paragraph shall be presided over by such person as the Board may appoint and shall be made up of such number of persons, all of whom may not necessarily be members of the Board, as the Board may determine in each case.
- (3) A person who is a member of a committee by virtue of sub-paragraph (2) of this paragraph shall hold office on the committee in accordance with the terms of his appointment by the Board.
- (4) A decision of a committee set up by the Board shall have no effect until it is confirmed by the Board.

Miscellaneous

7. The validity of any proceedings of the Board or of a committee thereof shall not be affected by any vacancy in the membership of the Board or committee, or by any defect in the appointment of a member of the Board or of committee, or by reason that a person not entitled to do so took part in the proceedings of the Board or a committee.
8. Any person holding office on a committee of the Board, who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Committee shall forthwith disclose his interest to the committee and shall not vote on any question relating to the contract or arrangement.
9. At any time while the office of the chairman is vacant or the chairman is in the opinion of the Board temporarily unable to perform the functions of his office, a member of the Board duly appointed by the Board, with the approval of the Minister, shall perform those functions and reference in this Act to the chairman shall be construed accordingly.

10. The fixing of the seal of the Council shall be authenticated by the signature of the chairman and the registrar or any other person generally or specifically authorised by the Board to act in that behalf.
11. Any contract or instrument which, if made or executed by a person not being a body corporate would not be required to be under seal, may be made or executed on behalf of the Council by the registrar or any other person generally or specifically authorised to act for that purpose by the Board.

NATIONAL EXAMINATIONS COUNCIL (NECO) (ESTABLISHMENT) ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation