

WEST AFRICAN EXAMINATIONS COUNCIL ACT

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WEST AFRICAN EXAMINATIONS COUNCIL ACT

An Act to replace former legislation on the establishment of the West African Examinations Council in Nigeria, to give effect to changes resulting from the reconstitution of the Council and to introduce various penalties in connection with examination leakages and impersonation at examinations.

[1973 No. 27.]

[22nd June, 1973]

[Commencement.]

PART I

General

West African Examinations Council

1. West African Examinations Council continued existence

(1) The institution known as the West African Examinations Council shall continue to be in existence in Nigeria and shall, in accordance with the provisions of this Act, continue to discharge its responsibility for holding such examinations in Nigeria as may be necessary in the public interest in the same manner as (pursuant to the laws respectively in force in the other territories of West Africa as defined in section 24 of this Act) it may hold examinations in such territories:

Provided that the President may, after consultation with the Council, issue directives to the Council as to what examinations are in the public interest in Nigeria and the Council shall in Nigeria comply with such directives.

(2) The Council shall be a body corporate with perpetual succession and a common seal.

(3) The provisions of the Schedule to this Act shall have effect with respect to the constitution and procedure of the Council and the other matters therein mentioned.

[Schedule.]

2. Functions of the Council

The functions of the Council shall be to-

(a) review and consider annually the examinations to be held in West Africa in the public interest;

(b) conduct such examinations as the Council may think appropriate pursuant to this Act and to award certificates and diplomas on the results of examinations so conducted;

(c) consider the advisability of inviting and if thought fit to invite any other examining body to conduct examinations in West Africa and to-

(i) award certificates and diplomas on the results of such examinations;

(ii) advise any body so invited on such adaptations of their examinations as the Council may think necessary for the purposes of this Act; and

(iii) assist any body so invited in the conduct of such examinations in West Africa, so however that no examinations having a lower standard than any examination of equal status conducted pursuant to this Act shall be conducted in West Africa by any such body.

3. Administrative and Finance Committee

(1) The Council shall appoint from among its members a committee to be known as the Administrative and Finance Committee to which it may delegate power to act between meetings of the Council in respect of any matter with which the Council is charged under this Act.

(2) The Administrative and Finance Committee may appoint a national sub-committee in each of the countries in which the Council is established and may delegate to any such sub-committee such powers as it thinks fit in regard to administrative and financial matters affecting only the country in which such sub-committee is established.

4. Staff of the Council

(1) There shall be a Registrar to the Council to be appointed by the Council to manage the affairs of the Council under its direction.

(2) The Council may appoint such other persons to be officers and servants of the Council as the Council may determine to assist the Registrar in the exercise of his functions.

(3) The remuneration and tenure of office and conditions of service of the Registrar and other officers and servants of the Council shall be determined by the Council.

5. Staff discipline

(1) Every employee of the Council whose salary is not less than the prescribed salary or, if his appointment contains provisions for increases in salary, who may receive a maximum annual salary thereunder exceeding the prescribed salary, shall be subject to the authority of the Council.

(2) Before dismissing any employee to whom subsection (1) of this section relates, the Council shall institute such inquiry as it shall deem fit.

(3) Any employee aforesaid who is dismissed by any committee under section 3 of this Act to which power of dismissal shall have been delegated in accordance with that section, shall have the right of appeal to the Council.

(4) Every other employee of the Council, other than an employee to whom subsection (1) of this section relates, shall be subject to the authority of the Registrar, so however that no pensionable member of the staff of the Council shall be dismissed by the Registrar without the approval of the Council.

(5) The Council may by order published in the Federal *Gazette* determine the prescribed salary for the purposes of subsection (1) above.

6. Application of Pensions Act

(1) The President may by order published in the Federal *Gazette* declare the office of any person employed by the Council to be a pensionable office in Nigeria for the purposes of the Pensions Act.

[Cap. P4.]

(2) Subject to subsections (3) and (4) of this section, the Pensions Act shall in its application by virtue of the foregoing subsection to any office have effect as if the office were in the public service of the Federation within the meaning of the Constitution of the Federal Republic of Nigeria, 1999.

[Cap. C23.]

(3) For the purposes of the application of the Pensions Act in accordance with subsection (2) of this section, any power exercisable thereunder by a Minister or other authority of the Government of the Federation, other than the power to make regulations under section 23 thereof, is hereby vested in and shall be exercisable by the Council and not by any other person or authority.

(4) Nothing in the foregoing provisions shall prevent the appointment of a person to any office on terms which preclude the grant of a pension or gratuity in respect of service in that office.

Financial provisions, etc.

7. Offices and premises

(1) For the purpose of providing offices and premises necessary for the performance of its functions, the Council may-

(a) purchase or take on lease any land; and

(b) build, equip and maintain offices and premises.

(2) The Council may sell or lease any land, offices or premises held by it and no longer required for the performance of its functions.

8. Compulsory 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 for Education, on the application of the Council and after such enquiry as he may think fit, may 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 shall be acquired under the Land Use Act.

[Cap. L5.]

(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 rights relating to the land, as the case may be, shall in the first instance be paid by the Federal Government, but the Council shall refund to that Government any compensation so paid and all incidental expenses incurred by that Government.

(4) A plan of any land referred to in subsection (1) of this section-

(a) containing measurements of the boundaries of the land;

(b) showing the relationship of the land to any sufficient identifying mark; and

(c) signed by the Registrar to the Council,

shall be a sufficient description of the land for the purposes of an application under that subsection.

9. Power to accept gifts, etc.

(1) The Council may accept gifts of land, money or other property upon such terms and conditions, if any, as may be specified by the person making the gift.

(2) The Council shall not accept any gift if the conditions attached by the person making the gift to the acceptance thereof are inconsistent with the functions of the Council.

10. Power to borrow

The Council may borrow on such terms or conditions such sums of money as the Council may require in the exercise of the functions conferred on it under this Act or any other written law.

11. Fund to be maintained by the Council

(1) The Council shall establish and maintain a fund from which there shall be defrayed all expenditure incurred by the Council.

(2) There shall be paid and credited to the fund established in pursuance of subsection (1) of this section-

- (a) all monies raised for the purposes of the Council by way of gift, loan, grant-in-aid, testamentary disposition or otherwise;
- (b) all dues, fees or charges for services rendered by the Council;
- (c) all interest received in respect of monies invested by the Council; and
- (d) all other assets from time to time accruing to the Council.

12. Expenditure of the Council, etc.

(1) The Council may from time to time apply the proceeds of the fund established pursuant to section 11 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 the Council thinks fit;
- (c) to the payment of salaries, fees or other remuneration or allowances and pensions, superannuation allowances and gratuities payable to the officers and servants of the Council, so however that no payment of any kind under this paragraph (except such as may be expressly authorised by the Council) shall be made in Nigeria to any person who is in receipt of emoluments from the Federal Government or a State;
- (d) to the repayment of any money borrowed under section 10 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 invest money standing to its credit in such manner and to such extent as the Council may think necessary or expedient.

13. Accounts

(1) 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 financial year.

(2) The accounts of the Council shall be audited by auditors to be appointed by the Council.

(3) As soon as the accounts of the Council have been audited, the Council shall cause the statement of accounts together with the auditors' report thereon to be published in such manner as it thinks fit.

National Committees

14. National Committees

(1) A National Committee shall be established by the Council in each of the following countries, that is-

(a) the Gambia, Ghana, Nigeria and Sierra Leone; and

(b) any other country in West Africa (not being an Associated Country) as may accede to this Act or any other law pertaining to the Council, and each National Committee shall be composed of such persons or holders of certain offices as the Council shall think fit.

(2) Every National Committee shall elect one of its members to be the chairman thereof.

(3) Every member of a National Committee shall hold office for a period of four years from the date of his appointment and shall be eligible for re-appointment.

15. Duties of National Committees

(1) It shall be the duty of every National Committee-

(a) to advise the Council on any matter that may be referred to it for advice by the Council;

(b) to elect such number of members to the Council as the Council may prescribe; and

(c) to carry out such functions as the Council may from time to time delegate to it.

(2) A National Committee may at any time make a report or recommendation to the Council on any matter relevant to the provisions of this Act.

(3) A National Committee may from time to time appoint from among its members such sub-committees as it shall think fit to carry out such duties with which it may be charged by such National Committee.

Associate membership

16. Associated Countries

(1) The Council shall have power to admit as an Associated Country any West African country, other than those mentioned in section 14 (1) of this Act, which wishes to be associated to a limited extent with the work of the Council.

(2) The power to admit an Associated Country shall be exercised by a resolution of the Council passed by a simple majority of members present at an annual general meeting of the Council but only after application for admission has been received from the country concerned and in such manner as the Council may approve.

17. Powers and privileges of Associated Countries

(1) Every Associated Country shall have the right to appoint as many delegates as the Council may by resolution passed at a general meeting determine to attend any of the following meetings, that is-

(a) annual general meetings of the Council; and

(b) any meeting of any of the following bodies-

(i) all International Committees except the Appointments Committee;

(ii) all working parties engaged on revision of any examination syllabus;

(iii) unless the Registrar directs otherwise, all National Sub-Committees of International Committees (except the Appointments Committee) of member countries.

(2) An Associated Country shall be served with copies of the minutes and all other relevant documents of the proceedings of any meeting which it is entitled to attend under subsection (1) of this section, but the delegates of an Associated Country shall not be entitled to vote at any such meeting nor count towards a quorum.

(3) Every Associated Country shall bear the whole cost of sending its delegates to, and maintaining them at, meetings of the Council or any committee thereof.

(4) The privileges of an Associated Country shall include-

(a) the use at cost of the research and development facilities of the Test Development and Research Division of the Council in such manner as the Director thereof may with the approval of the Registrar recommend;

(b) the use of the data processing facilities of the Council in such manner as the Registrar may direct.

18. Termination of status of Associated Country

Any right or privilege conferred upon an Associated Country by virtue of its association with the Council under this Act shall cease-

(a) upon notice being served on the Council by the Associated Country that it no longer wishes to be associated with the Council; or

(b) upon notice being served on the Associated Country by the Council that its association with the Council has been terminated, so however that the Council shall not serve notice unless it is satisfied that the Associated Country is no longer ready or able to discharge the obligations of an Associated Country under this Act or that its continued association with the Council shall not be in the best interest of the Council.

PART II

Offences in relation to examinations

19. Penalties for illegally using examination papers

(1) If a candidate for an examination-

(a) is found before or during the examination to have had foreknowledge of live questions or the contents of live question papers (whether or not such foreknowledge is in respect of one or more live questions or live question papers);
or

(b) in any manner unauthorised makes use of live questions or live question papers, such candidate shall not take or be allowed to take or continue the examination; in addition, he shall be prohibited from taking any examination held or conducted by or on behalf of the Council for a period of two years immediately following upon such contravention and if a candidate aforesaid has already taken any papers at the examination, his results therefrom shall be cancelled.

(2) The penalties contained in this section-

(a) may be imposed whether or not a prosecution for an offence under section 20 or 21 of this Act has been brought or is being conducted or is contemplated;
and

(b) shall be in addition to such other penalties as a court may impose upon conviction for an offence under the aforesaid section 20 or 21, and the power to impose any of the penalties under this section shall be exercised by the Council or by any person authorised in that behalf by the Council.

20. Leakage of examination papers, etc.

(1) Any person engaged in setting, moderating, revising, vetting, printing or in the collection, storage, distribution or custody of live question papers or instructions, or in making drafts or copies thereof or engaged as a supervisor, invigilator, attendant or otherwise howsoever who, before or during the period of an examination knowingly or recklessly and without being lawfully authorised so to do, discloses the contents of any such live question paper or instructions, or of any draft or copy thereof to any person (whether a candidate for that examination or not) shall be guilty of an offence and shall be liable on conviction to a fine of ₦2,000 or imprisonment for a term of five years or to both such fine and imprisonment.

(2) Any person (whether a candidate at an examination or not) who knowingly makes use of the contents of any live question paper or instructions of any draft or copy thereof in any manner howsoever, and without being lawfully authorised so to do, shall be guilty of an offence and shall be liable on conviction to a fine of ₦ 2,000 or imprisonment for a term of five years or to both such fine and imprisonment.

(3) Where an offence under subsection (1) or (2) of this section is committed by a child or young person, then the provisions of any law relating to children and young persons

in force in the State in which the offence is committed or tried shall apply in relation to the offence as they apply in relation to offences under that law.

(4) No prosecution for an offence under this section shall be instituted without the consent in writing of the Attorney-General of the Federation.

(5) For the avoidance of doubt, it is hereby declared that a prosecution for an offence under this section may be brought against a person notwithstanding that any of the penalties contained in section 19 of this Act has been imposed on that person in accordance with the provisions of that section or in pursuance of section 22 (3) of this Act.

(6) For the purposes of this section-

"child" means a person under the age of fourteen years; and

"young person" means a person who has attained the age of fourteen years but is under the age of seventeen years.

21. Impersonation, etc., at examinations

Any person who, for the purpose of an examination conducted pursuant to this Act-

(a) falsely represents himself to be some other person; or

(b) utters any document which has been issued by the Councilor by any other lawful authority to another person, and whereby that other person is certified to be a person possessed of any qualification recognised for any purpose or to be entitled to any right or privilege, and falsely represents himself to be the person named in the document, shall be guilty of an offence and shall be liable on conviction to a fine of ₦200 or imprisonment for a term of six months or to both such fine and imprisonment.

22. Post-examination investigating committee: constitution of, etc.

(1) Whether or not a prosecution is brought under section 20 or 21 of this Act, the Council may, within sixty days after the conclusion of an examination, in any case where information reaches the Council subsequent to that examination that a candidate at that examination had access to or used live questions or question papers, without lawful authority so to do, constitute a committee to investigate the matter.

(2) Every committee set up in pursuance of subsection (1) of this section, shall consist of-

(a) a chairman who shall be a legal practitioner of not less than seven years standing; and

(b) two other persons, each being a person with wide experience in educational matters.

(3) The committee shall at the conclusion of its investigation make a report to the Awarding Committee of the Council containing such recommendations as to which of the penalties set out in section 19 of this Act, are to be imposed by the Council or otherwise and, subject to the approval of the Council, the Awarding Committee shall take such action thereon (including the cancellation of examination results in respect of, or of any certificate which might have been issued by the Council to, any candidate to whom subsection (1) of this section applies) as it thinks appropriate in the circumstances.

PART III

Miscellaneous and supplementary

23. Regulations

(1) The Council may make regulations generally for its purposes under this Act; and without prejudice to the generality of the foregoing, regulations may provide for-

(a) the persons or categories of persons who may enter for examinations held or conducted by the Council;

(b) the conduct of entrants during such examinations.

(2) Where regulations are made pursuant to subsection (1) of this section, it shall not be necessary for their validity to cause them to be published in the Federal *Gazette* but the Council shall bring them to the notice of such interested persons (including the officers and servants of the Council) in such manner as the Council may, from time to time, determine.

24. Interpretation

In this Act, unless the context otherwise requires-

"**Council**" means the West African Examinations Council as continued in existence by section 1 of this Act;

"**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;

"West Africa" means the Gambia, Ghana, Nigeria and Sierra Leone and any other country in West Africa which may accede for the purposes of paragraph (b) of section 14 (I) of this Act.

25. Repeals and saving

(1) The West African Examination Council (Nigerian Status) Act is hereby repealed.

(2) Without prejudice to section 6 (I) (c) of the Interpretation Act, it is hereby declared that any subsidiary instrument in force by virtue of any of the repealed enactments shall, in so far as it is not inconsistent with the provisions of this Act and until such instrument is revoked, altered or otherwise modified pursuant to this Act, continue in force as if such instrument had been made under this Act.

[Cap. 123.]

26. Short title

This Act may be cited as the West African Examinations Council Act.

SCHEDULE

[Section 1 (3).]

Supplementary provisions relating to the Council, etc.

Membership

1. (1) The Council shall consist of the following members, that is-

(a) two persons appointed by the Government of the Gambia;

(b) four persons appointed by the Government of Ghana;

(c) four persons appointed by the Government of the Federation of Nigeria;

(d) three persons appointed by the Government of Sierra Leone;

(e) one person appointed by the Senate or equivalent academic body of each university or university college in the countries served by the Council;

(f) two persons appointed by the Chancellors of the Universities of Cambridge and London, each Chancellor nominating one person;

(g) not more than seventeen persons to be elected by the National Committees in accordance with the provisions of this Act, the exact number from each National

Committee to be determined by the Council:

Provided that not more than nine members of the Council shall be appointed by anyone National Committee.

(2) Where a country is admitted to the membership of the Council after the commencement of this Act, that country shall be represented on the Council by not less than two nor more than five members, the exact number of such members to be determined by the Council.

(3) The chairman of the Council shall be elected by the Council from among its members or otherwise as the Council may determine.

(4) The Council may appoint from among its members a vice-chairman to act as chairman during a long absence from West Africa or during the temporary incapacity from illness or other sufficient cause of the chairman and at other times to exercise such powers as the chairman may delegate to him.

Terms of service

2. (1) The chairman of the Council shall hold office for a period not exceeding four years from the date of his election.

(2) A member elected by a National Committee shall retain his membership of the Council for a period not exceeding four years from the date of his election.

(3) A member appointed pursuant to paragraph 1 (1) (a) to (f) of this Schedule shall retain his membership of the Council during the pleasure of the appointing authority, and the termination of such membership shall take effect as soon as notice of such termination is received by the Council from the appointing authority.

(4) The chairman or any other member of the Council shall, on the termination of his membership, be eligible for re-appointment:

Provided that where a member of the Council is elected to the Council by virtue of some office or his representation of a particular interest, he shall cease to be a member of the Council upon his ceasing to hold the said office or to represent the said interest.

3. (1) Any member of the Council appointed as the person for the time being holding a particular office shall be entitled to nominate from amongst his immediate subordinates in office, by written notice to the Council, an alternate member to attend any particular meeting or meetings of the Council in his place and every such alternate member shall have all the powers and authority of the member whom he has replaced until such member notifies the Council that he proposes to resume his attendance at meetings of the Council or until the term of office of such member shall have terminated, whichever is earlier.

(2) If a member of the Council appointed otherwise than in accordance with subparagraph (1) above is incapacitated by illness, long absence from West Africa or other sufficient cause from performing the duties of his office, a temporary member may be appointed in the same manner as, and in accordance with the same procedure under which, the incapacitated member was appointed, to fill that office until the member's incapacity shall have ended or until the term of office of the member shall have terminated, whichever is earlier; and every such temporary member shall have during his tenure of office all the powers and authority of the incapacitated member.

Proceedings of the Council

4. Subject to this Act, the Council may make standing orders regulating the proceedings of the Council or any committee thereof.

5. The chairman or, in his absence the vice-chairman, shall preside at every meeting of the Council and in the absence of both the members present at the meeting shall elect one of their number to preside.

6. Subject to the provisions of this Act and any standing orders made thereunder, the quorum of any body of persons established by or in pursuance of this Act (including the Council) shall be as may be determined by that body.

7. (1) Where any body of persons aforesaid desires to obtain the advice of any person on any particular matter, it may co-opt that person as a member for a meeting whether or not expressly convened for the purpose of considering that matter.

(2) A person co-opted shall not be entitled to vote nor shall he count towards a quorum.

Committees

8. (1) Subject to its standing orders, the Council may appoint such other committees, in addition to those established by this Act, to consider and report upon any matter with which the Council is concerned.

(2) Every committee appointed under the foregoing provision shall be presided over by such person as the Council may appoint and shall be made up of such number of persons, all of whom need not be members of the Council, as the Council may determine in each case.

Miscellaneous

9. (1) The fixing of the seal of the Council shall be made in such manner as may be prescribed by regulations made for that purpose by the Council.

(2) The Council may by those regulations delegate the powers to use the seal to such members and officers of the Council as it may see fit.

10. 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 any person specially or generally authorised to act for that purpose by the Council.

11. Any document purporting to be a document duly executed under the seal of the Council shall be received in evidence and shall, unless the contrary is proved, be presumed to be so executed.

12. The validity of the proceedings of the Council or of its committees shall not be affected-

(a) by any vacancy in the membership of the Council or any such committee; or

(b) by any defect in the appointment of any such member.

13. Any member of the Council or any committee thereof who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Council or any committee thereof shall forthwith disclose his interest to the Council or the committee and shall not vote on any question relating to the contract or arrangement.

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

1. West African Examinations Council (Declaration of Pensionable Offices) Order.

WEST AFRICAN EXAMINATIONS COUNCIL (DECLARATION OF PENSIONABLE OFFICES) ORDER

[L.N. 85 of 1961.]

under Cap. P4

[22nd June, 1961]

[Commencement.]

1. Short title

This Order may be cited as the West African Examinations Council (Declaration of Pensionable Offices) Order.

2. Declaration of pensionable offices

The offices under the Council specified in the first column of the Schedule hereto held within Nigeria are declared to be pensionable offices for the purposes of the Pensions Act with effect from the date specified in the second column of such Schedule.

[Schedule. Cap. P4.]

SCHEDULE

[L.N. 40 of 1962. L.N. 69 of 1966.]

<i>Office</i>	<i>Effective Date</i>
Registrar	11/09/65
Senior Deputy Registrar	1/04/63
Deputy Registrar	1/10/63
	1/04/55
Senior Assistant Registrar	1/1 0/53
Assistant Registrar	

<i>Office</i>	<i>Effective Date</i>
Assistant Registrar-in-Training	1/01/64
Examinations Officer	1/10/53
Mechanisation Officer-in- Training	1/06/62
Senior Executive Officer	1/10/64
Senior Executive Officer (Accounts)	1/12/64
Higher Executive Officer	1/04/60

Higher Executive Officer (Accounts)	1/09/62
Store Officer	1/04/58
Accounting Officer	1/04/56
Machine Room Supervisor	1/12/62
Executive Officer Grade 1	1/04/58
Executive Officer Grade II	1/04/58
Assistant Executive Officer-in-Training	1/04/58
Chief Clerk	1/04/54
Assistant Chief Clerk	1/10/53
Senior Machine Operator Grade 1 and II	1/04/62
Head Storekeeper	1/04/63
Punch Room Supervisor	1/01/63
All Graded Storekeepers	1/04/58
Store Assistant	1/04/58
Confidential Clerk	1/10/53
Secretary – Typist	1/01/56
First Class Clerk	1/10/53
Second Class Clerk	1/10/53
Third Class Clerk	1/10/53
Machine Operators Grade I and II	1/04/58
All Graded Stenographers	1/04/58
All Graded Typists	1/04/60
Clerical Assistant	1/10/53
Driver. – Mechanic	1/10/53

Machine Operators-in- Training	1/04/58
Punch Operators-in- Training	1/04/58