

NATIONAL SECONDARY EDUCATION COMMISSION, ETC., ACT

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NATIONAL SECONDARY EDUCATION COMMISSION, ETC., ACT

An Act to establish the National Secondary Education Commission with the responsibilities, among others, of prescribing minimum standards of secondary education throughout Nigeria, managing the National Secondary Education Fund; and for matters connected therewith.

[1999 No. 47.]

[26th May, 1999]

[Commencement.]

PART I

Establishment, etc., of the National Secondary Education Commission, etc.

1. Establishment, etc., of the National Secondary Education Commission

(1) There is hereby established a body to be known as the National Secondary Education Commission (in this Act referred to as "the Commission").

(2) The Commission shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

2. Governing board of the Commission

(1) There is hereby established for the Commission a governing board which shall manage the affairs of the Commission and consist of-

- (a) a part-time chairman who shall be an experienced educationist;
- (b) one person to represent the Federal Ministry of Education;
- (c) one person to represent the Federal Ministry of Finance;

- (d) five persons to represent the States of the Federation and the Federal Capital Territory, Abuja in rotation for one term at a time;
- (e) one person to represent the National Education Research and Development Council;
- (f) one person to represent the National Teachers Institute;
- (g) one person to represent the Nigerian Union of Teachers;
- (h) two other persons appointed on personal merit to represent public interest; and
- (i) the executive secretary of the Commission who shall be an *ex officio* member of the governing board.

(2) The Chairman and other members of the governing board shall be appointed by the President on the recommendation of the Minister.

(3) The provisions contained in the Schedule to this Act shall have effect with respect to the proceedings of the governing board and the other matters mentioned in those provisions.

[Schedule.]

3. Tenure of office of members of the governing board

Subject to the provisions of this Act, a member of the governing board, other than an *ex officio* member shall hold office-

- (a) for a term of four years in the first instance and may be re-appointed for a further term of four years and no more; and
- (b) on such terms and conditions as may be specified in his letter of appointment.

4. Removal from office, etc.

(1) Notwithstanding the provisions of section 3 of this Act, a member of the Governing Board may at any time be removed from office by the President-

- (a) for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour; or
- (b) if he is satisfied that it is not in the interest of the Commission or the public for the member to continue in office.

(2) A member of the governing board may resign his membership of the board by notice in writing addressed to the President.

(3) Where a vacancy occurs in the membership of the board it shall be filled by the appointment of a successor to represent the same interest as and for the unexpired term of the member concerned.

5. Allowances of members

A member of the board shall be paid such allowances and benefits as the Federal Government may, from time to time, direct.

PART II

Functions and powers of the Commission

6. Functions and powers of the Commission

The Commission shall-

(a) subject to the provisions of the Education (National Minimum Standards and Establishment of Institutions) Act, prescribe the minimum standards of secondary education throughout Nigeria;

[Cap. E3.]

(b) inquire into and advise the Federal Government on the funding of secondary education in Nigeria;

(c) manage the National Secondary Education Fund established under this Act and allocate the amount in the fund to----

(i) the State Secondary Education Boards and the Federal Capital Territory Secondary Education Board established under this Act; and

(ii) any agency responsible for Federal Government-sponsored special secondary education projects, in accordance with the formula prescribed in this Act or as the President may, from time to time, prescribe;

(d) collate, after consultation with all the State Governments, periodic master plans for a balanced and co-ordinated development of secondary education in Nigeria which shall include proposals to the Federal Government for equal and adequate secondary education opportunity in Nigeria;

(e) collate, analyse and publish information relating to secondary education in Nigeria;

(f) carrying out a regular personnel audit in each State of the Federation and the Federal Capital Territory, Abuja; and

(g) carrying out such other activities that are relevant and conducive to the discharge of its functions under this Act.

PART III

Staff of the Commission

7. Appointment of the Executive Secretary

(1) There shall be for the Commission an executive secretary who shall be appointed by the President on the recommendation of the Minister.

(2) The executive secretary shall be the chief executive of the Commission and shall be responsible for the execution of the policy and the day-to-day running of the affairs of the Commission.

(3) The executive secretary shall hold office-

(a) for a term of five years in the first instance and may be re-appointed for a further term of five years and no more; and

(b) on such terms and conditions as may be specified in his letter of appointment.

8. Other staff of the Commission

(1) The Commission shall appoint such other persons as employees of the Commission as it may, from time to time, require for the effective performance of its functions under this Act.

(2) The terms and conditions of service and remuneration of the employees of the Commission shall be determined by the Commission after consultation with the Minister.

(3) Notwithstanding the provisions of subsection (2) of this section, employees of the Commission may be appointed by the Commission by way of transfer or secondment from any of the public services in the Federation.

9. Pensions

(1) It is hereby declared that service in the Commission shall be approved service for the purposes of the Pensions Act and, accordingly, officers and other persons employed in the Commission shall be entitled to pensions, gratuities and other retirement benefits as are prescribed under the Act.

[Cap. P4.]

(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 purposes of the application of the provisions of the Pensions Act, any power exercisable by a Minister or other authority of the Federal Government, other than the power to make regulations under section 23 of the Act, is hereby vested in and shall be exercisable by the Commission and not by any other person or authority.

[Cap. P4.]

PART IV

Establishment of the National Secondary Education Fund, etc.

10. Establishment of the National Secondary Education Fund

(1) There is hereby established a fund to be known as the National Secondary Education Fund

(in this Act referred to as "the National Fund") into which shall be paid-

(a) all allocation for secondary education from the Federation Account;

(b) allocation to secondary education from the Education Tax Fund as provided in the Education Tax Act;

[Cap. E4.]

(c) all money received by the Commission from endowments and fund raising activities relating to secondary education; and

(d) all sums received as foreign aid for secondary education in Nigeria.

(2) The Commission shall disburse the amount in the National Fund pursuant to subsection (1) of this section to the State Secondary Education Boards in equal proportion or in such other proportion as the President may, from time to time, determine.

(3) Notwithstanding the provisions of subsection (2) of this section, the Commission shall not, except on the direction of the Federal Government, disburse money to a State Secondary Education Board, if it is satisfied that the money earlier disbursed was not applied by the State Secondary Education Board in accordance with the provisions of this Act.

PART V

Establishment, functions, etc., of State Secondary Education Boards

11. Establishment and composition of the State Secondary Education Board

(1) There is hereby established for each State of the Federation, a State Secondary Education Board, and for the Federal Capital Territory, Abuja, a Federal Capital Territory Secondary Education Board (in this Act referred to as "the Education Board") which shall consist of-

(a) a full-time chairman who shall be the chief executive of the Education Board and shall be an experienced educationist;

(b) two other full-time members;

(c) one member to represent the Ministry of Education in the State;

(d) three members to represent the local governments in rotation for two years at a time; and

(e) the secretary to the Education Board.

(2) The chairman and members of the Education Board-

(a) who are not public officers shall be appointed by the Governor of the State on the recommendation of the Commissioner for Education in the State;

(b) shall hold office-

(i) for a term of four years in the first instance and may be re-appointed for a further term of four years and no more; and

(ii) on such terms and conditions as may be specified in their letters of appointment.

12. Functions and powers of the Education Board

The Education Board shall be responsible for-

- (a) the management of secondary schools in the State;
- (b) the recruitment, appointment, promotion and discipline of teaching and non-teaching staff on grade level 07 and above;
- (c) posting and deployment of staff, including inter-State transfer;
- (d) disbursing funds accruing to it from both Federal and State Government sources;
- (e) setting up an effective functional supervisory unit;
- (f) undertaking new capital projects;
- (g) the training and re-training of teaching and non-teaching staff;
- (h) assessing and funding of salaries and allowances of teaching and non-teaching staff based on the scheme of service approved by the State Government;
- (i) ensuring that annual reports are rendered by heads of schools on teachers appointed to assist them;
- (j) preparing testimonials and certificates of service for teaching and non-teaching staff, whenever necessary;
- (k) dealing with leave matters, including annual vacation;
- (l) carrying out such other functions as the Commission may, from time to time, assign to it.

13. Secretary and other staff of the Education Board

(1) There shall be for the Education Board a secretary who shall be appointed by the Governor of the State on the recommendation of the Commissioner for Education in the State.

(2) The Governor shall not appoint a person as secretary unless the person is an experienced educationist or administrative officer.

(3) The secretary shall-

(a) be the chief executive and accounting officer of the Education Board and be responsible for the day-to-day administration of the Education Board;

(b) hold office-

(i) for a term of five years in the first instance and may be re-appointed for a further term of five years and no more; and

(ii) on such terms and conditions as may be specified in his letter of appointment;

(c) perform such other functions as the chairman of the Education Board or the Education Board may, from time to time, assign to him.

(4) The Education Board shall appoint such other persons as employees of the Education Board as it may, from time to time, require to assist it in the performance of its functions under this Act or any other enactment.

(5) The terms and conditions of service of the employees of the Education Board shall be determined by the Education Board after consultation with the Commissioner for Education in the State.

(6) The provisions of section 9 of this Act shall apply to employees of the Board.

14. Education Board to establish, etc., a separate account

(1) Each Education Board shall establish and maintain a separate account into which shall be paid and credited all payments made to it from the Federal or State Governments or any other source.

(2) There shall be disbursed from the fund all expenses relating to the management of secondary education in the State.

PARTVI

Financial provisions of the Commission

15. Fund of the Commission

(I) The Commission shall establish and maintain a fund, separate from the National Fund as to both principal and interest, from which shall be defrayed all the expenditure incurred by the Commission except such expenditure as may be incurred by it pursuant to section 10 of this Act.

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

(a) such payments as may be made to it by the Federal Government for the running expenses of the Commission; and

(b) all other assets accruing, from time to time, to the Commission otherwise than in pursuance of section 10 of this Act.

16. Expenditure of the Commission

The Commission may, from time to time, apply the proceeds of the fund established in pursuance of section 15 (I) of this Act-

- (a) to the cost of administration of the Commission;
- (b) for reimbursing members of the governing board or of any committee set up by the governing board for such expenses as may be expressly authorised by the Commission in accordance with the rates approved by the President;
- (c) to the payment of the salaries, fees or other remuneration or allowances, gratuities and pensions, and gratuities payable to the officers and other employees of the Commission, so however that no payment of any kind under this paragraph (except such as may be expressly authorised) shall be made to any person who is in receipt of emoluments from the Federal or State Government;
- (d) for the maintenance of any property vested in the Commission; and
- (e) for and in connection with all or any of its functions under this Act.

17. Annual estimates and accounts

(1) The Commission shall, not later than 31 October in each year, submit to the Minister an estimate of its expenditure and income (including payments to the Commission fund) during the next succeeding year.

(2) The Commission shall keep proper accounts in respect of each financial year and proper records in relation to those accounts and shall cause its accounts to be audited within six months after the end of each year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.

18. Annual reports

The Commission shall prepare and submit to the President through the Minister, not later than six months after the end of each year, a report in such form as he may direct on the activities of the Commission during the immediately preceding year, and shall include in such report a copy of the audited accounts of the Commission for that year and the auditor's report on the accounts.

PART VII

Miscellaneous provisions

19. Power to obtain information

(I) For the purpose of carrying out the functions conferred on the Commission under this Act, the executive secretary or any other officer of the Commission authorised in that behalf-

- (a) shall have right of access to all the records of any institution or authority to which this Act applies for the specific purpose of discharging his duties under this Act;
- (b) may, by notice in writing served on any person in charge of any institution or authority, require that person or authority to furnish information on such matters as may

be specified in the notice.

(2) It shall be the duty of any person or authority required to furnish information pursuant to subsection (1) of this section to comply with the notice within a reasonable period of time.

(3) In this section, the reference to an institution is a reference to a secondary school or, as the case may be, any other institution in Nigeria recognised as such by the Commission, the Education Board, or any other authority which benefits from the National Fund.

20. Interpretation

In this Act, unless the context otherwise requires-

"Commission" means the National Secondary Education Commission established under section 1 of this Act;

"Education Board" means the State Secondary Education Board established under section 11 of this Act;

"executive secretary" means the executive secretary of the Commission appointed under section 7 of this Act;

"functions" includes duties and powers;

"governing board" means the governing board established for the Commission under section 2 of this Act;

"member" includes the chairman;

"Minister" means the Minister charged with responsibility for matter relating to education;

"National Fund" means the National Secondary Education Fund established under section 10 (I) of this Act;

"State Secondary Education Board" includes the Federal Capital Territory Secondary Education Board.

21. Short title

This Act may be cited as the National Secondary Education Commission, etc., Act.

SCHEDULE [Section 2 (3).]

Supplementary provisions relating to the governing board, etc.

Proceedings of the governing board

1. (I) Subject to this Act and to section 27 of the Interpretation Act (which provides for the decisions of a statutory body to be taken by a majority of the members of the body and for the person presiding to have a second or casting vote) the governing board may make

standing

orders regulating the proceeding of the governing board or a committee thereof.

[Cap. 123.]

(2) The quorum of the governing board shall be the chairman and six other members, and the quorum of any committee of the governing board shall be determined by the governing board.

2. (1) The governing board shall meet not less than four times in each year and, the governing 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 three 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.

(2) At any meeting of the governing board, the chairman shall preside, but if he is absent, the members present at the meeting shall appoint one of their number to preside at that meeting.

(3) Where the governing board desires to obtain the advice of any person on a particular matter, the governing board may co-opt him as a member for such period as it thinks fit, but a person who is a member by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the governing board and shall not count towards the quorum.

(4) Notwithstanding anything in the foregoing provisions of this paragraph, the first meeting of the governing board shall be summoned by the Minister.

Committees

3. (1) The governing board may appoint one or more committees to carry out on behalf of the governing board such of its functions as the governing board may determine.

(2) A committee appointed under this paragraph shall consist of such number of persons (not necessarily all members of the governing board) as may be determined by the governing board and a person other than a member of the governing board shall hold office on the committee in accordance with the terms of his appointment.

(3) A decision of a committee of the governing board shall be of no effect until it is confirmed by the governing board.

Miscellaneous

4. (1) The fixing of the seal of the governing board shall be authenticated by the signature of the chairman and of some other member authorised generally or specially to act for that purpose by the governing board.

(2) 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 governing board by the executive secretary or any person generally or specially authorised to act for that purpose by the governing board.

5. The validity of any proceedings of the governing board or of a committee thereof shall not be affected by any vacancy in the membership of the governing board or of a committee, or by reason that a person not entitled to do so took part in the proceedings.

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

SUBSIDIARY LEGISLATION

No Subsidiary Legislation