

The Laws of Zambia

REPUBLIC OF ZAMBIA

THE EXAMINATIONS COUNCIL OF ZAMBIA ACT

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THE EXAMINATIONS COUNCIL OF ZAMBIA ACT

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CHAPTER 137

EXAMINATION COUNCIL OF ZAMBIA

Act No 15 of 1983,
Act No 33 of 1993,
Act No 13 of 1994.

An Act to establish the Examinations Council of Zambia; to define the functions and powers of the Council; and to provide for matters connected with or incidental to the foregoing.

[12th August, 1983]

PART I PRELIMINARYPART I

PRELIMINARY

1. This Act may be cited as the Examinations Council of Zambia Act. Short title
2. In this Act, unless the context otherwise requires- Interpretation

"Chairman" means the person designated Chairman of the Council by section *five*;

"Council" means the Examinations Council of Zambia established by section *three*;

"Deputy Director" means the person appointed Deputy Director of the Council under section *twelve*;

"Director" means the person appointed Director of the Council under section *twelve*;

"examination" means any examination which the Minister may, by Gazette Notice, designate as such;

"examination paper" includes any draft question paper, final question paper, marking scheme, specimen and any other material connected with or related to any current or future examination;

"information" means any matter of whatever description or detail relating to any examination or examination paper;

"member" means a member of the Council;

"parastatal body" means any statutory corporation or any company, association or other body in which the Government has a majority or controlling interest;

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"Secretary" means the person appointed Secretary of the Council under section *thirteen*;

"Vice-Chairman" means the person elected Vice-Chairman of the Council under section *five*.

PART II EXAMINATIONS COUNCIL OF ZAMBIA PART II

EXAMINATIONS COUNCIL OF ZAMBIA

3. There is hereby established the Examinations Council of Zambia which shall be a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name, and with power, subject to the provisions of this Act, to do all such acts and things as a body corporate may by law do or perform. Establishment of Council

4. (1) The seal of the Council shall be such device as may be determined by the Council and shall be kept by the Secretary. Seal of Council

(2) The Council may use a wafer or rubber stamp *in lieu* of the seal.

(3) The affixing of the seal shall be authenticated by the Chairman or the Vice-Chairman, and the Secretary or one other person authorised in that behalf by a resolution of the Council.

(4) Any contract or instrument which, if entered into or executed by a person not being a body corporate would not be required to be under seal, may be entered into or executed without seal on behalf of the Council by the Director or any other person authorised in that behalf by a resolution of the Council.

(5) Any document purporting to be a document under the seal of the Council or issued on behalf of the Council shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

5. (1) The Council shall consist of the following members: Composition of Council

(a) a Chairman appointed by the Minister;

(b) the Permanent Secretary in the Ministry responsible for vocational training;

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- (c) the Permanent Secretary in the Ministry responsible for education;
- (d) six persons, each nominated by the following institutions or bodies and appointed by the Minister;
 - (i) the Copperbelt University;
 - (ii) the University of Zambia;
 - (iii) the National Union of Teachers;
 - (iv) teacher training colleges;
 - (v) technical colleges; and
 - (vi) the Curriculum Development Centre;
- (e) five persons, each appointed by the Minister from-
 - (i) Zambia Consolidated Copper Mines Limited;
 - (ii) churches running schools;
 - (iii) persons running private schools;
 - (iv) the Law Association of Zambia;
 - (v) a representative from the Zambia Council for the Handicapped;
- (f) the Chief Inspector of Schools; and
- (g) the Director of Technical Education and Vocational Training.

(2) There shall be a Vice-Chairman of the Council elected by the Council.

(3) Whenever the office of Chairman is vacant or the Chairman is absent or is for any other cause unable to perform the functions of his office, the Vice-Chairman shall perform such functions.

(As amended by Act no 33 of 1993)

6. A person shall not be qualified for nomination as a member of the Council if-

Disqualification from membership

- (a) he is under twenty-one years of age;
- (b) he is, under any written law, adjudged or otherwise declared to be of unsound mind;
- (c) he has been sentenced to a term of imprisonment exceeding six months;
- (d) he has been adjudged or otherwise declared to be bankrupt; or

- (e) he is lawfully detained or his freedom of movement is restricted under any law in force in Zambia.

7. (1) This section applies to a member referred to in paragraphs (d) and (e) of subsection (1) of section *five* Tenure of office and vacancies

(2) A member shall hold office for a period of three years and may be re-appointed at the expiry of his term.

(3) A member shall cease to hold office-

- (a) upon the expiry of the period for which he is appointed or re-appointed;
- (b) if he is absent from three consecutive meetings of the Council without reasonable cause;
- (c) upon the expiry of not less than one month's notice in writing of his intention to resign given by him to the Chairman;
- (d) if he ceases to belong to the institution or body he represents; or
- (e) if any circumstances arise which, if he were not a member, would cause him to be disqualified for nomination as such.

(4) A member appointed by the Minister may be removed by him at any time by notice in writing

8. (1) The functions of the Council shall be to- Functions of Council

- (a) conduct examinations;
- (b) award certificates or diplomas to candidates who pass examinations conducted by the Council;
- (c) carry out relevant research in examinations;
- (d) advise any public institution on the development and use of any system of testing or examining when requested to do so;

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- (e) formulate syllabuses for examinations;
- (f) promote the international recognition of qualifications conferred by the Council;
- (g) organise training courses for, or arrange for the training of, examiners, markers, supervisors, invigilators and other persons connected with examinations; and
- (h) invite any person or body either in or outside Zambia to assist the Council in the conduct of examinations.

(2) The Council may, by directions in writing and subject to such terms and conditions as it thinks fit, delegate to the Director any of its functions under this Act.

(3) The Minister may give to the Council such general or specific directions with respect to the discharge of its functions as he may consider necessary and the Council shall give effect to such directions.

9. A member other than a public officer or an employee of a parastatal body shall be paid such remuneration or allowances as the Minister may from time to time determine.

Remuneration and allowances of members

10. (1) Subject to the provisions of this Act, the Council may regulate its own procedure.

Proceedings of Council

(2) The Council shall meet for the transaction of business at least once every six months at such places and at such times as the Chairman may determine.

(3) Upon giving notice of not less than fourteen days, a meeting of the Council may be called by the Chairman and shall be called if not less than five members so request in writing:

Provided that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving shorter notice.

(4) Five members shall form a quorum at any meeting of the Council.

(5) Where the Chairman and the Vice-Chairman are absent from any meeting of the Council, there shall preside at that meeting such member as the members present may elect for the purpose of that meeting.

(6) A decision of the Council on any question shall be by a majority of the Council members present and voting at a meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(7) The Council may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of a meeting of the Council but such person shall have no vote.

(8) The validity of any proceedings, act or decision of the Council shall not be affected by any vacancy in the membership of the Council or by any defect in the election or appointment of any member or by reason that any person not entitled to do so took part in the proceedings.

(9) The Council shall cause minutes to be kept of the proceedings of every meeting of the Council and of every meeting of any committee of the Council.

11. (1) The Council may, for the purpose of carrying out its functions under this Act, establish committees and delegate to any such committee such of its functions as it may think fit.

Committees of Council

(2) The Council may appoint as members of a committee established under subsection (1), persons who are or are not members of the Council and such persons shall hold office for such period as the Council may determine.

(3) Subject to any specific or general direction of the Council any committee established under subsection (1) may regulate its own procedure.

12. (1) The Council shall appoint, on such terms and conditions as it may determine, a Director who shall be the chief executive officer of the Council and who, subject to the control of the Council, shall be responsible for the administration of the affairs of the Council.

Director and Deputy
Director

(2) The Council may appoint, on such terms and conditions as it may determine, a Deputy Director to assist the Director.

(3) The Director, or in his absence the Deputy Director, shall attend meetings of the Council and may address such meetings, but shall not vote on any matter:

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Provided that the person presiding at any meeting of the Council may, for good cause, require the Director or the Deputy Director, as the case may be, to withdraw from such meeting.

(4) The Director may, by directions in writing and subject to such terms and conditions as he thinks fit, delegate to the Deputy Director any of his functions under this Act.

13. (1) There shall be a Secretary to the Council who shall be appointed by the Council on such terms and conditions as the Council may determine.

Secretary and other staff

(2) The Secretary shall be responsible, under the general supervision of the Director, for the administration of the day-to-day affairs of the Council.

(3) The Council may appoint, on such terms and conditions as it may determine, such other staff as it considers necessary for the performance of its functions under this Act.

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

Disclosure of interest

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

15. No action or other proceedings shall lie or be instituted against any member for or in respect of any act or thing done or omitted to be done in good faith in the exercise or purported exercise of his functions under this Act.

Immunity of members

16. (1) No person shall, without the consent in writing given by or on behalf of the Council, publish or disclose to any person, otherwise than in the course of his duties, the contents of any document, communication or information whatsoever, which relates to, and which has come to his knowledge in the course of his duties under this Act.

Prohibition of publication or disclosure of information to unauthorised

(2) Any person who knowingly contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding twelve thousand five hundred penalty units or to imprisonment for a term not exceeding three years, or to both.

(3) If any person having information which to his knowledge has been published or disclosed in contravention of subsection (1) unlawfully publishes or communicates any such information to any other person, he shall be liable, upon conviction, to a fine not exceeding twelve thousand five hundred penalty units or to imprisonment for a term not exceeding three years, or to both.

(As amended by Act No. 13 of 1994)

PART III OATHS, OFFENCES AND PENALTIESPART III

OATHS, OFFENCES AND PENALTIES

17. (1) The Council may require any person performing the work of the Council or being engaged in the conduct of any examination or the handling of any examination paper, to take and subscribe before a commissioner of oaths, an oath of secrecy as prescribed in the Official Oaths Act, and the provisions relating to affirmation and duplication of oaths contained in that Act shall apply *mutatis mutandis*.

Oath of secrecy
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(2) Any person to whom this section applies who, having complied with the provisions of subsection (1), does or omits to do any act in contravention of the oath of secrecy shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding twelve thousand five hundred penalty units or to imprisonment for a period not exceeding three years, or to both.

(As amended by Act No. 13 of 1994)

18. Any person who, without lawful excuse, discloses to any person any examination question or any information relating to the contents of any examination paper, shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding twenty five thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Disclosure of
examination question,
etc.

(As amended by Act No. 13 of 1994)

19. (1) Any person who, without lawful excuse, has in his possession or under his control any examination paper or any part thereof, or any information relating to the contents of any examination paper, shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding twenty five thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Unauthorised
possession of
examination paper or
information

(2) Any person who, recklessly or wilfully, assists or causes to be assisted any examination candidate to obtain or gain unauthorised possession of any examination paper or information or any part thereof, shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding twenty five thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(As amended by Act No. 13 of 1994)

20. Any person who, having in his possession or under his control any examination paper or any information relating thereto, recklessly or negligently loses such examination paper or such information, or uses such examination paper or such information in a manner prejudicial to the proper and fair conduct of any examination, shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding twenty five thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Loss and misuse of examination paper

(As amended by Act No. 13 of 1994)

21. (1) If a person engaged in the conduct of examinations or performing work connected with examinations is directly or indirectly interested in a private capacity in an examination or in any examination paper or information relating thereto or if the spouse, child, friend or relative of such person is a candidate in such examination, he shall as soon as practicable before the commencement of his duties in respect of such examination disclose such interest to the Council or its nominee and he shall, unless the Council otherwise directs, cease to perform such duties.

Disclosure of interest in examination or examination paper

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

(As amended by Act No. 13 of 1994)

22. (1) Where the Council is satisfied that there has been an irregularity in the course of any examination, the Council may suspend or nullify such examination or any part thereof.

Nullification of examination or examination results

(2) Where the Council is satisfied that there is reasonable cause to believe that the examination results of any candidate have been obtained by irregular means, the Council may nullify the examination results of such candidate.

PART IV FINANCIAL AND OTHER PROVISIONS

FINANCIAL AND OTHER PROVISIONS

23. (1) The funds of the Council shall consist of such monies as may-

Funds of Council

- (a) be appropriated by Parliament for the purposes of the Council;
- (b) be paid to the Council by way of grants or donations; and
- (c) vest in or accrue to the Council.

(2) The Council may-

- (a) accept monies by way of grants or donations from any source in Zambia and, subject to the approval of the Minister, from any source outside Zambia;
- (b) subject to the approval of the Minister, raise by way of loans or otherwise such monies as it may require for the discharge of its functions;
- (c) charge and collect fees in respect of programmes, seminars, consultancy services, and other services provided by the Council; and
- (d) charge and collect examination fees and other charges payable to the Council.

(3) There shall be paid from the funds of the Council-

- (a) the salaries, allowances and loans of the staff of the Council;
- (b) such reasonable travelling, transport and subsistence allowances for members or members of any committee of the Council when engaged on the business of the Council, at such rates as the Minister may determine; and
- (c) any other expenses incurred by the Council in the performance of its functions.

24. The financial year of the Council shall be the period of twelve months ending on the 31st December in each year. Financial year

25. The Council shall cause to be kept proper books of account and other records relating to its accounts. Accounts

26. (1) As soon as practicable, but not later than six months after the expiry of each financial year, the Council shall submit to the Minister a report concerning its activities during such financial year. Annual report

(2) The report referred to in subsection (1) shall include information on the financial affairs of the Council and there shall be appended thereto-

- (a) a balance sheet;

(b) an audited statement of revenue and expenditure; and

(c) such other information as the Minister may require.

(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after the receipt of the report referred to in subsection (1), lay it before the National Assembly.

27. The Minister may, by statutory instrument, make regulations for the better Regulations carrying out of the purposes of this Act.