

ACT 492

**NATIONAL BOARD FOR PROFESSIONAL AND TECHNICIAN
EXAMINATIONS ACT, 1994**

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ACT 492**NATIONAL BOARD FOR PROFESSIONAL AND TECHNICIAN
EXAMINATIONS ACT, 1994¹**

AN ACT to establish a National Board for Professional and Technician Examinations to administer schemes of examination for professional bodies and the non-university institutions at the tertiary level and to provide for related matters.

*Establishment and Functions of Board***1. Establishment of the Board**

(1) There is hereby established a body to be known as the National Board for Professional and Technician Examinations.

(2) The Board is a body corporate with perpetual succession, a common seal and may sue and be sued in its own name.

(3) The Board may for the performance of its functions purchase, hold, manage or dispose of movable and immovable property and may enter into a contract or transaction which is reasonably related to its functions.

2. Object and functions of the Board

(1) The object of the Board is to formulate and administer schemes of examinations, evaluation, assessment, certification and standard for

- (a) skill competence, and
- (b) syllabus competence,

for non-university tertiary institutions, professional bodies and private institutions with accreditation by the National Accreditation Board established under the National Accreditation Board Act, 1993².

(2) For the purposes of subsection (1) the Board shall

- (a) provide administrative and structural facilities and expertise for the organisation and conduct of professional and technician examinations;
- (b) in consultation with the relevant polytechnics and professional institutions, conduct examinations and award national certificates and diplomas based on the result of the examinations;
- (c) at the request of the Government or any other body, conduct an examination;
- (d) review syllabuses for general curriculum enrichment;
- (e) appoint examiners and moderators and determine methods for the proper conduct of examinations;
- (f) make regulations to govern its examinations and awards;
- (g) devise a scheme for testing skills for competence and for setting aptitude;

1. The Act received presidential assent on 29th December 1994, and came into force on 30th December, 1994.

2. P.N.D.C.L. 317.

- (h) provide the guidance and counselling services needed by non-university tertiary institutions; and
- (i) perform any other functions that are ancillary to the functions specified.

3. Composition of the Council

- (1) The governing body of the Board is a Council consisting of
- (a) the chairman;
 - (b) one representative each of
 - (i) the principals of the polytechnics,
 - (ii) the Committee of Vice Chancellors of the Universities in the Republic,
 - (iii) the Ministry of Education,
 - (iv) the National Council for Tertiary Education,
 - (v) the Education Service,
 - (vi) the National Co-ordinating Committee for Technical and Vocational Education and Training,
 - (vii) the West African Examinations Council,
 - (viii) the Joint Admissions and Matriculation Board,
 - (ix) the National Accreditation Board,
 - (x) the National Association of Private Schools,
 - (xi) the Ghana National Association of Teachers,
 - (c) two other members nominated by the President one of whom is a woman, and
 - (d) the executive secretary of the Board.

(2) The members of the Council shall be appointed by the president in accordance with article 70 of the Constitution.

(3) The members of the Council, other than the executive secretary, shall hold office for a period of three years and are eligible for re-appointment for another term of three years only.

4. Qualifications of members of the Council

- (1) A person is not qualified to be a member of the Council if that person
- (a) has been adjudged or otherwise declared
 - (i) bankrupt under a law in force in the Republic and has not been discharged; or
 - (ii) to be of unsound mind or is detained as a criminal lunatic under a law in force in the Republic; or
 - (b) has been convicted
 - (i) for high crime under the Constitution or for treason or for an offence involving the security of the Republic, fraud, dishonesty or moral turpitude, or
 - (ii) for any other offence punishable by death or by a sentence of not less than ten years, or

- (c) has been found by the report of a commission or a committee of inquiry to be incompetent to hold public office, or is a person in respect of whom a commission or committee of inquiry has found that while being a public officer that person acquired assets unlawfully or defrauded the Republic or misused or abused office, or wilfully acted in a manner prejudicial to the interest of the Republic, and the findings have not been set aside on appeal or judicial review, or
- (d) is under sentence of death or any other sentence of imprisonment imposed by a Court, or
- (e) is otherwise disqualified by a law for the time being in force.

(2) The President shall in appointing a member consider the expertise and experience of that high moral character and integrity and the expertise and experience of the person and the ability to contribute to the work of the Board.

(3) Despite subsections (1) and (2), a member of the Council shall cease to be a member if that member being a person possessed of professional qualification is disqualified from practising the profession in the Republic by an order of a competent authority made in respect of that person personally or ceases to be a member otherwise than at the request of the person.

5. Filling of vacancies

(1) Where the chairman is incapacitated by illness or any other sufficient cause from performing the functions as chairman for a continuous period exceeding three months, the President shall appoint another person to act as the chairman.

(2) Where a member of the Council, other than an ex officio member, is incapacitated by illness or any other sufficient cause from performing the functions as a member for more than three months, the nominating authority shall nominate another person to act for the member.

(3) Where a person is appointed as chairman or nominated as a member to fill a vacancy, that person shall hold office for the remainder of the term of the previous chairman or member and is eligible, subject to this Act, for re-appointment or re-nomination for one more term only.

(4) A member who is absent from three consecutive meetings of the Council without sufficient reason ceases to be a member.

(5) The President may in writing remove a member for stated reasons.

6. Meetings of the Council

(1) The Council shall meet at least once every three months for the transaction of business at the times and places determined by the chairman.

(2) The chairman shall preside at the meeting of the Council and in the absence of the chairman a person elected by the members of the Council present from among their number shall preside.

(3) The chairman shall, at the request in writing of not less than one-third of the membership of the Council, convene an extraordinary meeting of the Council at the place and time determined by the chairman.

(4) A decision of the Council shall be taken by the majority of the members present and voting, and in the event of equality of votes the chairman or person presiding shall have a casting vote.

(5) The quorum for a meeting of the Council is seven.

(6) The Council may co-opt a person to attend a meeting of the Council but that person shall not vote on a matter for decision by the Council.

(7) The proceedings of the Council shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.

(8) Subject to this Act the Council shall regulate the procedure for its meetings.

7. Appointment of committees

(1) The Council may establish committees comprising of members or non-members or both to perform functions determined by the Council but a committee composed entirely of non-members may only advise the Council.

(2) The number of members of a committee and the terms on which committees members are to hold office shall be determined by the Council.

8. Subject panels

(1) Without limiting section 7, the Council shall appoint subject panels to

- (a) moderate examination papers and determine the pass mark suitable for grades;
- (b) recommend the award of certificates, diplomas and degrees in its subject levels;
- (c) enquire into complaints and reports referred to it regarding examination malpractices and irregularities and recommend penalties for the breach of the complaints and reports;
- (d) review examination regulations and assessment procedures periodically;
- (e) generally advise the Board on matters relating to their subject areas and within their competence.

(2) The subject panels are committees of the Council.

(3) A subject panel shall consist of

- (a) a chairman who is a member of the Council; and
- (b) not more than seven persons appointed by the Council from the appropriate professional, academic, industrial or commercial fields.

9. Allowances for members of the Council and committees

The member of the Council and the members of committees appointed by the Council shall be paid the allowances determined by the Minister, in consultation with the Minister responsible for Finance may determine.

*Regulations of Examinations and Examination Offences***10. Regulation of certain matters**

- (1) The Council shall determine the fees payable for examinations of the Board.
- (2) The Council shall regulate the conduct of its examinations.
- (3) The Council may make regulations relating to the responsibilities and any other matter that falls within its power.

11. Obtaining information

(1) The Council may for the proper and efficient performance of its functions, authorise the executive secretary appointed under section 20, or a representative of the executive secretary to request information from an institution and the institution shall comply with the request.

(2) The executive secretary or the representative shall for the purpose of obtaining the requested information, have access to the relevant records, books or facilities of the institution required to provide the information.

- (3) A person or the representative of an institution who, without lawful excuse,
 - (a) refuses to comply with a request for information made by or on behalf of the Board,
 - (b) denies access to relevant records, books or facilities to a person authorised by the Council to obtain the information, or obstructs that person in the performance of a function, or
 - (c) gives information which that person knows to be false,

commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty units or to a term of imprisonment not exceeding one year or to both the fine and the imprisonment.

12. Illegal possession, knowledge or use of examination papers

- (1) A person who, before or during an examination conducted by the Council
 - (a) has personal possession of unauthorised material relevant to the examination, or
 - (b) is proved to have had foreknowledge of the contents of an examination paper,

commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding one year or to both the fine and the imprisonment.

(2) Where a candidate before or during an examination is found acting in breach of a provision of subsection (1),

- (a) the candidate shall be disqualified from taking the examination and the results of the candidate in the examination shall be cancelled; and
- (b) the Council may prohibit the candidate from taking an examination conducted by or on behalf of the Board for a period of not less than two years immediately following the breach.

(3) The penalties contained in this section are in addition to the penalties that may be imposed by a Court.

13. Leakage of examination papers

Without limiting section 12, a person who

- (a) before or during an examination without lawful authority, gives an examination paper to any other person, or
- (b) without lawful authority, discloses the contents of an examination paper to any other person, or
- (c) fraudulently alters the results sheets of a candidate, or
- (d) fraudulently replaces the original script of a candidate, or
- (e) without lawful authority, makes a change in the original script of a candidate, or
- (f) fraudulently alters the examination number, photograph or any other identification of a candidate, or
- (g) acts in any manner with intent to falsify the records of the Board with regard to an examination or the examination results in relation to a candidate,

commits an offence and is liable on conviction to a fine of not less than twenty-five penalty units and not exceeding two hundred and fifty penalty units or to a term of imprisonment for a term of not more than one year or to both the fine and the imprisonment.

14. Impersonation at examinations

A person, who, for the purpose of an examination conducted by or on behalf of the Board,

- (a) makes a false presentation as some other person or knowingly allows any other person to make that false representation, or
- (b) falsely uses a certificate, testimonial, signature, photograph or any other document of some other person to impersonate,

commits an offence and is liable on conviction to a fine of not less than twenty-five penalty units and not exceeding two hundred and fifty penalty units or to a term of imprisonment of not more than one year or to both the fine and the imprisonment, and shall, in addition to the penalty imposed under this section, be prohibited for a period of three years from taking an examination conducted by or on behalf of the Board.

15. Copying at examinations

A candidate who, during an examination,

- (a) is found copying from the script of another candidate, or

- (b) without lawful authority, has in possession in the examination room a text-book or any unauthorised material, or
- (c) is found without lawful authority copying from a note or textbook,

commits an offence and is liable on conviction to a fine of not less than twenty-five penalty and not exceeding two hundred and fifty penalty units or to a term of imprisonment of not more than one year or to both the fine and the imprisonment; and shall, in addition to the penalty imposed under this section, be prohibited for a period of three years from taking an examination conducted by or on behalf of the Board.

16. Assault on invigilators, supervisors, inspectors

A person who, before, during or after an examination conducted by or on behalf of the Board assaults an invigilator, a supervisor, an inspector or an officer authorised by the Council to perform a function at or connected with the examination commits an offence and is liable on conviction to a fine of not less than twenty-five penalty units and not more than two hundred and fifty penalty units or to imprisonment not exceeding one year or to both the fine and the imprisonment.

17. Application of the criminal law

(1) The application of a provision of this Act shall not prejudice the application of the Criminal Offence Act, 1960 (Act 29) and the Criminal (Procedure and other Offences) Act, 1960 (Act 30) to an offence committed under this Act.

(2) The provisions of the Criminal (Procedure and other Offences) Act, 1960 (Act 30) relating to trial and penalties for offences committed by young persons shall apply to offences committed under this Act.

18. Results of investigations

Where in an investigation or trial a candidate is found

- (a) to have had access to an examination paper, or
- (b) to have had foreknowledge of the contents of an examination paper or cheated in any way during an examination,

a report shall be made to the Board and the Council shall take the action as determined by the Council including the cancellation of examination results and a certificate issued in respect of the candidate.

19. Penalty for examination irregularities

Where more than one-third of the candidates at an institution, before, during or after an examination are found to have acted contrary to a provision this Act shall prohibit that institution from organising, supervising or acting as agent of the Board in the conduct of any examination by the Board for a period determined by the Council, in addition to the penalties that may be imposed in accordance with rules and regulations of the Board.

*Staff, Financial and Miscellaneous Provisions***20. Executive secretary**

(1) The Board shall have an officer to be designated the executive secretary appointed by the President in accordance with article 195 of the Constitution on the terms and conditions as shall be stated in the letter of appointment.

(2) The executive secretary shall be a member of, and secretary to the Council.

(3) The executive secretary is responsible for the day-to-day administration of the Board and for the implementation of the policies of the Board.

21. Other staff

(1) The President shall appoint in accordance with article 195 of the Constitution, the other officers and staff that are reasonably necessary for the proper and effective performance of the functions of the Board.

(2) Public officers at the request of the Council and approved by the Minister for Education, may be transferred or seconded to the Board.

(3) The officers and other staff of the Board shall hold office on the terms and conditions stated in their letters of appointment.

22. Funds of the Board

The funds of the Board include

- (a) subvention from the Government,
- (b) grants and loans received through the Government,
- (c) charges, dues or fees received by the Board in the performance of its functions,
- (d) interest on moneys invested by the Board, and
- (e) donations and gifts.

23. Accounts and audit

(1) The Board shall keep proper books of account and proper records in relation to them in the form approved by the Auditor-General.

(2) The books and accounts of the Board shall be audited annually by the Auditor-General.

24. Financial year of Board

The financial year of the Board shall be the same as the financial year of the Government.

25. Annual report

(1) The Council shall in each year, submit to the Minister an annual report indicating the activities and operations of the Board in respect of the preceding year.

(2) The annual report shall include a copy of the audited accounts together with the Auditor-General's report and the Minister shall as soon as practicable after receipt of the annual report submit the report to Parliament with the Minister's comments.

26. Consequential amendments

Section 3 (a) of the Polytechnic Act 1992³ is repealed, and the reference to "(a)" appearing in section 4 (3) of the Act shall be deleted.

27. Transitional provisions

Until the time that the Board becomes fully operational,

- (a) the Minister shall appoint interim external examiners to moderate the examinations of the polytechnics and the Institute of Professional Studies for national awards; and
- (b) the Minister responsible for Transport and Communications shall continue to moderate the examinations of the Regional Maritime Academy and to award certificates and diplomas.

28. Interpretation

In this Act, unless the context otherwise requires,

"Auditor-General" includes an auditor appointed by the Auditor-General;

"Board" means the National Board for Professional and Technician Examinations established under section 1;

"candidate" means a person registered to take an examination conducted by or on behalf of the Board;

"Council" means the governing body of the Board;

"court" means a court of competence jurisdiction;

"examination paper" includes a question paper, an examination instruction or a draft or copy of any examination paper or instruction in respect of an examination which has been taken;

"non-university tertiary institution" includes

- (a) a polytechnic;
- (b) an institution for the time being operating as Regional College of Applied Arts, Science and Technology;
- (c) the Institute of Professional Studies;
- (d) the Regional Maritime Academy; or
- (e) any other non-university tertiary institution with accreditation by the National Accreditation Board.

3. P.N.D.C.L. 321.