

THE OVERSEAS EXAMINATIONS COMMISSION ACT

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THE OVERSEAS EXAMINATIONS COMMISSION ACT

Acts
24 of 2005,
36 of 2017
Sch.

[1st April, 2006.]

1. This Act may be cited as the Overseas Examinations Commission Act. Short title.

2.—(1) In this Act—

Interpreta-
tion.

“appointed day” means the 1st day of April, 2006;

“chairman” means the chairman of the Commission or any person for the time being performing the functions of the chairman;

“Commission” means the Overseas Examinations Commission established under section 3;

“examining body” means an examining body specified in Part II of the First Schedule;

First
Schedule.

“examination materials” includes syllabi, notes for guidance of teachers and students, and specimen examination papers;

“former institution” means the Overseas Examinations Committee;

“functions” includes powers and duties;

“specified examinations” means the examinations specified in Part I of the First Schedule.

Overseas Examinations Commission

3.—(1) There is hereby established, for the purposes of this Act, a body to be called the Overseas Examinations Commission which shall be a body corporate to which section 28 of the Interpretation Act shall apply. Establishment
of Overseas
Examinations
Commission.

Second
Schedule.

(2) The provisions of the Second Schedule shall have effect as to the constitution and operation of the Commission and otherwise in relation thereto.

Object of
Commission.

4. The principal object of the Commission shall be to oversee the administration of all specified examinations.

Functions of
Commission.

5.—(1) The Commission shall perform the following functions—

- (a) administer all specified examinations;
- (b) ensure that schools and candidates adhere to the rules and regulations which govern the specified examinations;
- (c) collect from candidates, examination fees charged by examining bodies and transmit such fees to the respective examining bodies;
- (d) determine and collect fees payable by candidates in relation to specified examinations;
- (e) process and distribute examination materials and any other information and documents relating to specified examinations;
- (f) sell copies of syllabi, past examination papers and other study guides or revision materials related to specified examinations;
- (g) maintain records in relation to specified examinations;
- (h) prepare and issue transcripts of examination results and verify and certify results of specified examinations on request.

(2) The Commission may do anything or enter into any transaction which, in the opinion of the Commission, is necessary to ensure the proper performance of its functions.

Ministerial
directions.

6. The Minister may after consultation with the chairman, give to the Commission such directions of a general character as to the policy to be followed by the Commission in the performance of its functions, as appear to the Minister to be

necessary in the public interest and the Commission shall give effect thereto.

Administration

7.—(1) The Commission shall appoint and employ, at such remuneration and on such terms and conditions as it thinks fit, a Director, a Deputy Director, a Secretary and such other officers as the Commission deems necessary for the proper carrying out of its functions:

Appointment of officers and other employees.

Provided that no salary in excess of the prescribed rate shall be assigned to any post without the prior approval of the Minister.

(2) For the purposes of subsection (1) the “prescribed rate” means such rate as the Minister may, by order, prescribe.

(3) The Governor-General may, subject to such conditions as he may impose, approve the appointment of any public officer in the service of the Government to any office within the Commission and any officer so appointed shall, while so employed, in relation to any pension, gratuity or other allowance and in relation to any other rights as a public officer, be treated as continuing in the service of the Government.

8.—(1) The Commission, with the approval of the Minister may—

Pensions, gratuities and other retiring benefits.

(a) enter into arrangements respecting schemes whether by way of insurance policies or otherwise; or

(b) make regulations,

governing medical benefits, pensions, gratuities and other retiring or disability or death benefits relating to employees of the Commission, and such arrangements or regulations may include provisions for the grant of benefits to the dependants and the personal representatives of such employees.

(2) Any arrangements entered into or regulations made under subsection (1) may provide that the arrangements or regulations, as the case may be, shall come into effect from such

date as is specified therein, not being earlier than the first day of September, 1995.

Financial Provisions Accounts and Reports

Funds and
resources of
the
Commission.

9.—(1) The funds and resources of the Commission shall consist of—

- (a) sums which may, from time to time, be placed at the disposal of the Commission by Parliament;
- (b) sums which may, from time to time, be charged as fees for the administration of specified examinations;
- (c) sums which may be collected from the sale of any syllabus, past examination paper, study guide or other revision material related to any specified examination;
- (d) all other moneys and other property which may in any manner become payable to or vested in the Commission in respect of any matter incidental to its functions.

(2) The expenses of the Commission (including any remuneration of the members of staff thereof) shall be paid out of the funds and resources of the Commission.

Borrowing
powers.

10.—(1) Subject to the provisions of subsection (2), the Commission may borrow such sums as may be required for meeting any of its obligations or for discharging any of its functions.

(2) The power of the Commission to borrow shall, as to the amount, as to the source of the borrowing, and as to the terms on which the borrowing may be effected, be exercisable after consultation with the Minister responsible for education and only with the approval of the Minister responsible for finance, and any such approval may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

11.—(1) With the approval of the House of Representatives signified by resolution, the Minister responsible for finance may guarantee, in such manner and on such conditions as he thinks fit, the repayment of the principal and the payment of interest and charges on any authorized borrowing of the Commission.

Power of
Minister of
Finance to
guarantee
loans to
Commission.

(2) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal moneys guaranteed under the provisions of this section or in the payment of interest or charges so guaranteed, he shall direct the payment or, as the case may be, the repayment, out of the Consolidated Fund, of the amount in respect of which there has been such default and any such repayment or payment shall be a charge on the Consolidated Fund.

(3) The Commission shall make to the Accountant-General, at such times and in such manner as the Minister responsible for finance may direct, payments of such amounts as may be so directed in or towards repayment of any sums issued in fulfillment of any guarantee under this section, and payments of interest on any amount outstanding for the time being in respect of any sums so issued at such rate as the Minister responsible for finance may direct, and different rates of interest may be directed as respects different sums and as respects interest for different periods.

12. All moneys of the Commission, not immediately required to be expended for the purpose of meeting any of the obligations or discharging any of the functions of the Commission, may be invested in such securities as the Commission may, after consultation with the Minister responsible for finance, consider appropriate and the Commission may sell all or any of such securities.

Power to
invest
moneys.

13.—(1) The income of the Commission shall be exempt from income tax.

Exemption
from taxes
and duties.

(2) The Commission shall be exempt from liability to stamp duty in respect of any instrument executed by it or on its behalf.

(3) Any transfer by the Commission of any property belonging to it or of any right or interest created in, over or otherwise with respect to any such property shall be exempt from transfer tax.

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(4) No customs duty or other similar impost (other than general consumption tax) shall be payable upon any article imported into Jamaica or taken out of bond in Jamaica by the Commission and shown to the satisfaction of the Commissioner of Customs to be required for the use of the Commission in the performance of its functions.

Accounts and
audit.

14.—(1) The Commission shall keep accounts and other records in relation to its activities and shall prepare annually a statement of accounts in a form satisfactory to the Minister and conforming to established accounting principles.

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

Annual
reports and
estimates.

15.—(1) The Commission shall, within four months after the end of each financial year, or within such longer period as the Minister may in special circumstances approve, cause to be made and shall transmit to the Minister a report dealing generally with the activities of the Commission during the preceding financial year.

(2) The Minister shall cause a copy of the report together with the annual statement of accounts and the Auditor-General's report thereon to be laid on the Table of the House of Representatives and of the Senate.

(3) The Commission shall, in each financial year, before a date specified by the Minister, submit to the Minister for his approval, estimates of income and expenditure for the ensuing financial year.

(4) For the purposes of this section, "financial year" means the period of twelve months ending on the 31st day of August in each year.

16. The Commission shall furnish the Minister with such returns, accounts and other information as he may require with respect to the activities of the Commission and shall afford him facilities for verifying such information in such manner and at such times as he may reasonably require.

Power of Minister to require returns.

Regulations

17. The Minister may make regulations generally for the better carrying into effect of the provisions of this Act and without prejudice to the generality of the foregoing, the regulations may provide for—

Regulations.

- (a) the determination and collection of examination fees and other fees and charges in connection with the exercise of the functions of the Commission;
- (b) the notification and distribution of results of specified examinations;
- (c) the distribution of examination certificates;
- (d) the keeping of such records as the Minister may require for any purpose connected with the provisions of this Act;
- (e) the procedure for the making of applications in relation to specified examinations or for any other consent or approval required under this Act;
- (f) the forms to be used for the purposes of this Act;
- (g) anything required by this Act to be prescribed.

18. The Minister may, by order, subject to affirmative resolution, amend—

Amendment of First and Second Schedules.

- (a) the First Schedule; or
- (b) paragraph 1(1) of the Second Schedule.

Transitional Provisions

Transfer of
money,
property,
liability, etc.

19.—(1) All money and property which for any purpose is vested in the former institution or held upon trust or as an endowment shall, unless the terms of any vesting instrument or other instrument governing the same otherwise provide, vest in the Commission without conveyance or assignment and shall be used for a like purpose.

(2) Any real and personal property purchased by, belonging to, or vested in the former institution, and all interests, rights and easements into or out of the said property, shall, without conveyance, assignment or transfer, belong to and be vested in the Commission, subject to all or any trusts and to all debts, liabilities and obligations affecting the same.

(3) All liabilities of the former institution are hereby deemed to be liabilities of the Commission.

FIRST SCHEDULE (Sections 2 and 18)

PART I. *Examinations*

- A. Examinations taken at the secondary school level
- (1) Caribbean Examinations Council (C.X.C.)
 - Caribbean Secondary Education Certificate (C.S.E.C.)
 - Caribbean Advanced Proficiency Examination (C.A.P.E.)
 - (2) General Certificate in Education (G.C.E.)
 - Ordinary and Advanced Level Examinations (administered by the Cambridge Local Examinations Syndicate and the University of London)
- B. Examinations taken at the tertiary level and other examinations
- Bachelor of Laws Degree Examinations
 - Professional Accounting Examinations
 - Any other examination which the Commission may be required to administer from time to time.

PART II. *Examining Bodies*

OVERSEAS EXAMINING BODIES

1. University of Cambridge Local Examinations Syndicate
2. University of London
3. Holborn College
4. City and Guilds International
5. London Chamber of Commerce and Industry
6. Pitman's Examinations Institute
7. Edexcel International
8. Association of Chartered Certified Accountants
9. Association of Accounting Technicians
10. Canadian Securities
11. Institute of Chartered Secretaries and Administrators

OVERSEAS EXAMINATIONS COMMISSION

FIRST SCHEDULE, *contd.*

12. Association of International Accountants
13. Chartered Institute of Management Accountants
14. Association of Business Executives
15. Any other overseas examining body that engages the services of the Commission

REGIONAL EXAMINING BODY

Caribbean Examinations Council

SECOND SCHEDULE

(Sections 3 and 18)

The Overseas Examinations Commission

Constitution
of Commis-
sion.

1.—(1) The Commission shall consist of sixteen members.

(2) The Permanent Secretary in the Ministry responsible for education or his nominee shall be an *ex-officio* member of the Commission.

(3) The other members of the Commission (hereinafter referred to as appointed members) shall be—

- (a) four persons from the private sector appointed by the Minister in his discretion;
- (b) five persons, each being the representative of one of the following—
 - (i) the University of the West Indies;
 - (ii) the University of Technology, Jamaica;
 - (iii) Northern Caribbean University;
 - (iv) teachers' colleges; and
 - (v) community colleges;
- (c) one representative from an examining body;
- (d) one person, nominated by organizations representing the principals of independent schools and other private secondary level educational institutions;
- (e) two persons nominated by organizations representing the principals of public secondary level educational institutions;
- (f) one practising teacher nominated by an association representing teachers from public secondary level educational institutions; and

SECOND SCHEDULE, *contd.*

(g) one student representative, nominated by an organization representing students of secondary level educational institutions.

2. The members of the Commission shall be appointed by the Minister by instrument in writing. Appointment of members.

3.—(1) The Minister shall appoint a chairman and a deputy chairman from among the members of the Commission. Chairman and deputy chairman.

(2) In the case of the absence or inability to act of the chairman, the deputy chairman shall perform the functions of the chairman.

(3) In the case of the absence or inability to act of both the chairman and the deputy chairman, the Minister may appoint any other members of the Commission to perform the functions of the chairman and the deputy chairman during such absence or inability to act.

4. The names of all members of the Commission as first constituted and of every change in membership thereof shall be published in the *Gazette*. Gazetting of appointments.

5.—(1) Subject to the provisions of this Schedule, an appointed member of the Commission shall hold office for such period, being not less than two years or more than five years, as may be specified in the instrument of appointment. Tenure of office.

(2) Every member of the Commission shall be eligible for reappointment but no member shall be appointed for more than six consecutive terms.

(3) If any vacancy occurs in any category of the membership of the Commission such vacancy shall be filled by the appointment of another member from that category who shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed.

6. The Minister, on the application of any appointed member of the Commission, may grant to such member leave of absence for any period not exceeding six months and may appoint some other person to act in the place of that member during the period of leave of absence so granted. Grant of leave of absence.

7.—(1) An appointed member of the Commission, other than the chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of receipt by the Minister of such instrument, the member shall cease to be an appointed member of the Commission. Resignation of members.

OVERSEAS EXAMINATIONS COMMISSION

SECOND SCHEDULE, *contd.*

(2) The chairman may, at any time, resign his office by instrument in writing addressed to the Minister and his resignation shall take effect from the date of receipt of the instrument by the Minister.

Revocation
of appoint-
ment.

8. The Minister may at any time revoke the appointment of an appointed member of the Commission.

Remuneration
of members.

9. The members of the Commission shall be paid from the funds of the Commission such remuneration (whether by way of honorarium, salary or fees) and such other allowances as the Minister may determine.

Appoint-
ment of com-
mittees.

10.—(1) The Commission may, with the approval of the Minister, appoint committees for special purposes connected with the functions of the Commission which, in the opinion of the Commission, would be better regulated and managed by means of committees.

(2) The number of members of a committee appointed under paragraph (1), the terms of appointment of such members, the quorum of the committee and the area within which the committee may exercise authority shall be determined by the Commission.

(3) A committee appointed pursuant to this paragraph may include persons who are not members of the Commission, but at least one of the members of any such committee shall be a member of the Commission.

(4) The provisions of paragraph 13 shall apply to any member of a committee who is not a member of the Commission in like manner as they apply to a member of the Commission.

(5) The validity of the proceedings of a committee appointed pursuant to this paragraph shall not be affected by any vacancy among the members thereof or by any defect in the appointment of a member thereof.

Power to
delegate.

11.—(1) Subject to the provisions of this Schedule, the Commission may, by instrument in writing, delegate to any member, committee, officer or employee of the Commission any function exercisable by the Commission under this Act, other than the power of delegation.

(2) A delegation under this paragraph—

- (a) may be made subject to such conditions, qualifications and exceptions as may be specified in the instrument; and
- (b) is revocable by the Commission, and shall not prevent the exercise by the Commission of the function delegated.

SECOND SCHEDULE, *contd.*

12.—(1) The Commission shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times as the Commission may determine. Procedure and meetings.

(2) The chairman may, at any time, call a special meeting of the Commission and shall cause a special meeting to be held within seven days of a written request for that purpose addressed to him by any three members of the Commission.

(3) The chairman or, in the case of the absence or inability of the chairman to act, the deputy chairman shall preside at the meetings of the Commission and in the absence of both the chairman and the deputy chairman from any meeting, the member appointed pursuant to paragraph 3(3) shall so act.

(4) The quorum of the Commission shall be seven.

(5) Subject to the provisions of this Schedule, the Commission may regulate its proceedings.

(6) The validity of any proceedings of the Commission shall not be affected by any vacancy among the members thereof or by any defect in the appointment of a member thereof.

(7) The decisions of the Commission shall be by a majority of votes, and in addition to an original vote, the chairman shall have a casting vote where the voting is equal.

(8) The minutes of each meeting of the Commission shall be kept in proper form and shall be confirmed as soon as practicable at a subsequent meeting.

13.—(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Commission in respect of any act done *bona fide* in pursuance of this Act. Protection of members.

(2) Where any member of the Commission is exempt from liability by reason only of the provisions of this paragraph, the Commission shall be liable to the extent that it would be if the member were an employee or an agent of the Commission.

14.—(1) The seal of the Commission shall be authenticated by the signature of the chairman or any other member of the Commission authorized to act in that behalf or the secretary or any other officer of the Commission so authorized and shall be judicially and officially noticed. Authentication of seal and documents.

OVERSEAS EXAMINATIONS COMMISSION

SECOND SCHEDULE, *contd.*

(2) All documents, other than those required by law to be under seal, made by, and all decisions of the Commission may be signified under the hand of the chairman or any member or officer of the Commission authorized to act in that behalf.

Disclosure of interest.

15. A member of the Commission who is directly or indirectly interested in any matter which is being dealt with by the Commission—

- (a) shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Commission; and
- (b) shall neither be present during the deliberation of the Commission on the matter nor take part in the decision of the Commission with respect thereto.

Office of member not public office.

16. The office of the chairman, deputy chairman, or any other member of the Commission shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.