

**THE NATIONAL EXAMINATIONS COUNCIL OF TANZANIA
ACT, 1973**

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SCHEDULE

THE UNITED REPUBLIC OF TANZANIA



No. 21 OF 1973

I ASSENT,

Julius K. Nyerere
 President

6th DECEMBER, 1973

An Act to make provision for the establishment, constitution, control and administration of the National Examinations Council of Tanzania and for matters connected therewith and incidental thereto

[_____]

ENACTED by the Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY

1. This Act may be cited as the National Examinations Council of Tanzania Act, 1973 and shall come into operation on such date as the Minister may, by notice in the *Gazette*, appoint.

Short title
and
commence-
met
Interpreta-
tion

2. In this Act, unless the context otherwise requires-

"the Chairman" means the Chairman of the Council;

"Committee" means a committee established under and in accordance with the provisions of section 10 and includes the Executive Committee established under section 9;

"the Council" means the National Examinations Council of Tanzania established by section 3;

"financial year" in relation to the Council includes the Council's first accounting period, whether shorter or longer than a year, and if the Council changes its accounting period, the period, whether shorter or longer than a year, employed to give effect to the change;

"member" in relation to the Council, means a member of the Council and includes the Chairman; and in relation to a Committee means a member of the committee and includes the chairman of the Committee;

"Minister" means the Minister for the time being responsible for National Education;

"Secretary" means the officer appointed by the President to be the Secretary of the Council.

PART II

THE NATIONAL EXAMINATIONS COUNCIL OF TANZANIA

Establishment of Council

- 3.** (1) There is hereby established an Examinations Council to be known as the National Examinations Council of Tanzania.
- (2) The Council shall be a body corporate and shall-
- (a) have perpetual succession and a common seal;
 - (b) in, its corporate name, be capable of suing and being sued;
 - (c) be capable of purchasing and otherwise acquiring and of disposing of any movable or immovable property;
 - (d) subject to the provisions of the Act, have power from time to time to borrow money and to do or perform all such acts and things which a body corporate, may lawfully do.
- (3) The provisions of the Schedule to this Act shall have effect as to the constitution and the tenure of office of the members of the Council, termination of their appointment, the proceedings of the Council and other matters in relation to the council and its members.
- (4) The President may, by order published in the *Gazette* vary, amend or replace all or any of the provisions of the Schedule to this Act.

Objects and functions of Council

- 4.** The objects and functions of the Council shall be-
- (a) to formulate examinations policy in accordance with the principles of education for self-reliance accepted by the people of Tanzania;
 - (b) to assume responsibility for examinations within the United Republic and to make provision for place and centres of examinations;
 - (c) receive from other persons or bodies of persons reports or other material affecting examinations policy and from time to time to consider and review examinations policy as circumstances may require;
 - (d) to co-operate with other persons or bodies of persons in the orderly development of an examinations system in the United Republic;
 - (e) to conduct examinations for, and to grant, diplomas, certificates and other awards of the Council.

Powers and duties of Council

- 5.**-(1) The Council shall have power to do all things and to act in all ways necessary for, or incidental to, the purposes for which it is established.
- (2) In particular and without prejudice to the generality of subsection (1), but subject to the provisions of subsection (4), the Council shall have power-
- (a) to administer the properties of the Council both movable and immovable;
 - (b) to administer the funds and other assets of the Council;
 - (c) to signify the acts of the Council by use of the common seal;

- (d) subject to the provisions of this Act, to appoint such officers of the Council as it may deem necessary;
- (e) to review regulations relating to examinations;
- (f) to consider and approve examinable subjects;
- (g) to appoint panels or boards of examiners;
- (h) to enter into arrangements, whether reciprocal or otherwise, with other persons or organizations, whether within or outside the United Republic, for the recognition of awards granted in respect of examinations falling within their respective responsibilities.
- (i) to do all such other acts and things as may be provided for in this Act or as may be prescribed.

(3) The Council shall conduct within the United Republic either on its own or in participation with any other person or organization such academic, technical and other examinations as the Council may consider necessary or desirable in the public interest.

(4) Nothing in this Act shall be construed as authorizing the Council to do any act or thing in respect of-

- (a) internal examinations, that is to say -examinations open to their own pupils or students only, conducted by schools or other educational or training institutions;
- (b) examinations conducted by the University of Dar es Salaam for the grant of degrees, diplomas, certificates and other awards of the University;
- (c) examinations conducted by employers where such examinations are open only to their own employees or to candidates who wish to enter their employment.

6.-(1) There shall be a Secretary of the Council who shall be appointed by the President on such terms and conditions as the President may determine and who shall also act as secretary to the Executive Committee.

Secretary of
Council

(2) Where the Secretary is not a member of the Council, he shall have no power to vote at any meeting of the Council.

(3) Subject to the provisions of this section, the Secretary shall have such functions as may be conferred upon him by the Council.

7. The Council may appoint on such terms and conditions as it may determine, such number of officers of the Council as it may consider necessary for the performance of its functions.

The staff
of the
Council

8. The Council may, subject to such conditions and restrictions as it may impose, delegate to any person or body of persons, the power of appointment to any office or offices on the staff of the Council.

Delegation
of power of
appointment

Executive
Committee
of
Council

9.-(1) The Council shall appoint an Executive Committee comprising-

- (a) the Chairman, who shall be the chairman of the Committee;
- (b) twelve other members of the Council.

(2) The functions of the Executive Committee shall be to act as the executive authority of the Council in the management of its ordinary affairs and to consult and to report to the Council thereon, and for those purposes it may exercise all the executive powers and functions vested in the Council by this Act other than the power of approving estimates conferred by section 15 or any function or power delegated by the Council to a Committee established under section 10.

(3) The provisions of the Schedule to this Act shall apply, with such modifications as the circumstances may require, in relation to the tenure of office of the members of the Executive Committee, the right to terminate their appointment, and appointment of a new member to fill any vacancy, and also in relation to the quorum, proceedings and meetings of the Committee.

Examina-
tions
Committees
and other
Committees

10. (1) The Council shall establish a School Examinations Committee, a Technical Examinations Committee and a Professional Examinations Committee.

(2) In addition, the Council may, from time to time, establish such other committees as it may consider necessary.

(3) The Council shall prescribe the composition, powers, duties and procedure of all committees established by it under this section and the tenure of, office of persons appointed to such committees and, subject to the provisions of this Act, may delegate to any such committee any of its powers or functions other than the power of approving estimates conferred by section 15.

(4) The Council may appoint on any Committee established under this section any person notwithstanding that such person is not a member of the Council:

Provided that in no case shall the number of members of any such committees who are not also members of the Council exceed two-thirds of the total number of the members of the Committee.

(5) For the purposes of this section the Secretary shall be deemed to be a member of the Council.

Specific
functions of
Examina-
tions
Committees

11. (1) Without prejudice to the provisions of subsection (3) of section 10, every Examinations Committee established under that section shall be responsible to the Council for the control and regulation of the conduct of examinations in respect of subjects over which it has general responsibility.

(2) Each Examinations Committee shall, in addition to the general function in relation to examinations in respect of subjects over which it has general responsibility and to matters pertaining thereto, have the following functions-

- (a) to satisfy itself with regard to the curriculum and standard of the relevant courses of study or training offered by the appropriate institution in respect of any diploma, certificate or other award of the Council and to report its findings thereon to the Council;

- (b) with the consent of the Council, to make rules with regard to the standards of proficiency to be attained in each examination for a relevant diploma, certificate or other award of the Council;
- (c) to decide whether any candidate for the relevant diploma, certificate or other award, has attained the standard of proficiency prescribed in rules made under paragraph (b) and is otherwise fit for the grant of such diploma, certificate or other award;
- (d) to make proposals to the Council on matters relating to examinations conducted by the Council.

12. It shall be lawful for the Council to grant diplomas, certificates and such other awards as may be prescribed, to persons-

Awards of diplomas, certificate, etc.

- (a) who satisfy the requirements in respect of examinations conducted or approved by the Council; or
- (b) who, in the opinion of the Council, are entitled to receive such diplomas, certificates or other awards.

PART III

FINANCIAL PROVISIONS

13. -(1) The funds and resources of the Council shall consist of-

Funds of Council

- (a) such sums as may be provided for the purposes of the Council by Parliament, either by way of grant or loan;
- (b) such donations, grants, bequests and loans as the Council may, from time to time, receive from any person or organization;
- (c) such fees or other charges paid to the Council by candidates for examinations;
- (d) such sums as may in any manner become payable to or vested the Council either under the provisions of this Act or any other written law, or incidental to the carrying out of its functions.

(2) The funds and resources of the Council shall be applied for the purposes for which the Council is established under this Act.

14. The Council shall have power to invest the funds of the Council in such investments as are authorized by, and subject to such conditions invest as are prescribed by, the Trustees Investments Act, 1967, in relation to investment of funds by a trustee.

Power to invest
ACTS,
1967
No. 33

15.-(1) The Council shall, in respect of every financial year, cause to be prepared estimates of the expenditure and revenue of the Council, and such estimates shall be approved by the Council before the commencement of the relevant financial year.

Annual estimates

(2) The annual estimates shall contain provision for all the estimated expenditure during the relevant year and in particular-

- (a) for the payment of salaries, allowances, passages and other charges in respect of the members of the staff of the Council;
- (b) for the payment of allowances, fees and expenses in respect of the members of the Council and of the Committees;
- (c) for the payment of all pensions, gratuities and other charges in respect of retirement and terminal benefits which are payable out of the funds of the Council;

- (d) for the construction of the buildings for use by the Council and for the improvement, maintenance, replacement and rental of the buildings and other immovable properties owned or occupied by the Council;
- (e) for the proper maintenance and replacement of the furniture and equipment of the Council;
- (f) for the creation of such reserve funds to meet future contingent liabilities as the Council may think fit.

(3) Save with the prior written consent of the Minister no expenditure shall be incurred for the purposes of the Council otherwise than in accordance with the provisions of the annual estimates or of supplementary estimates approved by the Council.

(4) Copies of every annual estimates and of every supplementary estimates prepared in accordance with this section shall be furnished to the Minister.

Financial
statements
and report

16. (1) The Council shall cause to be prepared in respect of every financial year-

- (a) a statement of income and expenditure during such financial year;
- (b) a statement of the assets and liabilities of the Council on the last day of such financial year;
- (c) a report upon the progress and work of the Council during such financial year;

and shall cause such statements and report to be forwarded to the Minister.

(2) Within six months of the expiry of each financial year the Council shall cause the statements referred to in paragraphs (a) and (b) of subsection (1) to be audited by the Tanzania Audit Corporation established by the Tanzania Audit Corporation Act, 1968; and copies of the reports of the auditor shall be furnished to Minister together with the statements to which such reports relate.

Acts, 1968
No. 1

Annual
statements
of account
and reports
to be laid
before
National
Assembly

17. The Minister shall lay before the National Assembly, as soon as may be practicable after he has received them, copies of the statements and report referred to in subsection (1) of section 16 together with copies of the reports of the auditor referred to in subsection (2) of that section.

PART IV

MISCELLANEOUS PROVISIONS

Regulations

18. (1) In the performance of its duties and exercise of its powers, the Council may, with the consent of the Minister, make regulations generally for the government, control, administration and management of the Council and for conduct of its business, and without prejudice to the generality of the foregoing, may make regulations prescribing-

- (a) the terms and conditions of service, pension and retirement benefits and the like, of staff, other than temporary staff;
- (b) measures for the discipline of staff;
- (c) the financial procedures of the Council;

- (d) examination fees and other charges payable to the Council;
- (e) diplomas, certificates and other awards which may be conferred or granted by the Council;
- (f) the conditions which must be satisfied before any diploma, certificate or other award, may be granted;
- (g) the manner in which diplomas, certificates or other awards may be granted;
- (h) the manner in which examinations may be conducted;
- (i) anything which may be prescribed under this Act or any matter or thing which, in the opinion of the Council, is necessary to prescribe for the furtherance of the functions and objects of the Council.

(2) The Council shall cause to be published in the *Gazette* any regulations made under this section.

19. The Council may, with the approval of the Minister, make rules prescribing fees and allowances payable to members of the Council or a Committee.

Fees and allowances

20. The Minister may give the Council directions of a general or specific character and the Council shall give effect to every such direction.

Minister may give directions

21. No act or proceeding of the Council, the Executive Committee or an Examinations Committee shall be invalid by reason only of the number of the members not being complete at the time of such act or proceeding or of any defect in the appointment of any member or of the fact that any member was at the time in question disqualified or disentitled to act as such.

Proceedings of Council or Committee not to be invalid by reason of irregularity

22. Without prejudice to the provisions of section 284A of the Penal Code, no matter or thing done by any member or officer of the Council or a Committee shall, if done in good faith in the execution or purported execution of the functions of such Council or Committee, render such member or officer personally liable for such matter or thing.

Protection of Council and Committee
Cap. 16

SCHEDULE

1. The Council shall consist of-

- (a) a Chairman who shall be appointed by the President;
- (b) four members appointed by the Minister to represent such academic, technical and professional institutions as are likely to assist the Council in the discharge of its functions;
- (c) one member appointed by the Senate of the University of Dar es Salaam from amongst the members of the Senate other than the member selected by the Students' Organization from amongst the students;
- (d) one member, appointed by the Council of the University of Dar es Salaam from amongst the members of the Council;
- (e) two members appointed by the Minister from amongst the members of the National Assembly;
- (f)-(i) such members (whose number shall be not less than three) as may be appointed by the Minister from amongst persons who are ordinarily resident in Tanganyika;
- (ii) such members (whose number shall be not less than three) as may be appointed by the Chairman for the time being responsible for education in Zanzibar from amongst persons who are ordinarily resident in Zanzibar;

Composition of Council

	(g)-(i) six members appointed by the Minister from amongst persons who, in his opinion, have the necessary experience or qualification to enable them to make a useful contribution to the skills and disciplines to be promoted by the Council and to the deliberation of the Council-
	(ii) six members appointed by the Chairman for the time being responsible for education in Zanzibar from amongst persons who, in his opinion, answer the description set forth in clause (i) of this sub-paragraph.
Tenure of appointment	2. Every member of the Council shall continue to hold office until his appointment is revoked by the appointing authority
Absence from three consecutive meetings	3. Where any member absents himself from three consecutive meetings of the Council without reasonable excuse the Council shall advise the appointing authority of the fact and the appointing authority may terminate the appointment of the member and appoint another member in his place.
Appointment of temporary member	4. Where any member is by reason of illness, infirmity or absence from, the United Republic, unable to attend any meeting of the Council, the appointing authority may appoint a temporary member in his place and such temporary member shall cease to hold office on the resumption of office of the substantive member.
Vice-Chairman	5. The Council shall elect one of its members to be the Vice-Chairman and any member elected as Vice-Chairman shall, subject to his continuing to be a member, hold office of Vice-Chairman for a term of one year from the date of his election and shall be eligible for re-election.
Power of Chairman and Vice-Chairman	6. -(1) The Chairman shall preside at all meetings of the Council. (2) Where at any meeting of the Council the Chairman is absent, the Vice-Chairman shall preside. (3) In the absence of both the Chairman and the Vice-Chairman at any meeting of the Council, the members present may, from amongst their number elect a temporary Chairman who shall preside at that meeting. (4) The Chairman, Vice-Chairman or a temporary Chairman presiding at any meeting of the Council, shall have a vote and, in the event of an equality of votes, shall have a casting vote in addition to his deliberative vote.
Meetings and procedure of Council	7. -(1) The Council shall meet not less than twice during every year and at such additional times as may be fixed by the Chairman or, if he is absent from the United Republic or unable for any reason to act, the Vice-Chairman. (2) The Chairman or in his absence from the United Republic the Vice-Chairman, may, and upon application in writing by at least five member, convene a special meeting of the Council at any time. (3) The Secretary of the Council shall give to each member adequate notice of the time and place of each meeting.
Quorum	8. At any meeting of the Council not less than one-half of the members in office for the time being shall constitute a quorum.
Decisions of Council	9. Subject to the provisions relating to a casting vote, all questions at a meeting of the Council shall be determined by a majority of the votes of the members present, and if any member refuses or fails to vote on any question he shall be deemed to have cast a negative vote.
Seal of Council	10. -(1) The seal of the Council shall be of such shape, size and form as the Council may determine. (2) The seal shall not be used except in pursuance of a resolution of the Council and shall be authenticated by the signature of the Chairman, or the Secretary, or any member of the Council authorized to act in that behalf by the Council. (3) All documents, other than those required by law to be under seal, made by, and all decisions of the Council may be signified under the hand of the Chairman, or the Secretary, or any member or officer of the Council authorized in that behalf by the Council.

11.-(1) The Council shall cause minutes of all proceedings of meetings of the Council to be entered in a book kept for that purpose.

Record of
proceedings
of Council

(2) Any such minutes if purporting to be approved by, and signed by the Chairman of, the next succeeding meeting of the Council shall be evidence of such proceedings and, until the contrary is proved, the meeting to which the minutes relate shall be deemed to have been duly convened and all proceedings thereat to have been duly transacted.

12. Subject to the Provisions of this Schedule the Council may regulate its own proceedings.

Council may
regulate
its proceed-
ings

Passed in the National Assembly on the twenty-first day of November, 1973.

MMwindadi

Ag. Clerk of the National Assembly