

**NATIONAL BOARD FOR PROFESSIONAL AND TECHNICIAN EXAMINATIONS
ACT, 1994 (ACT 492)**

ARRANGEMENT OF SECTIONS

Section

PART I—ESTABLISHMENT AND FUNCTIONS OF BOARD

1. Establishment of Board for professional and technician examinations.
2. Object and functions of the Board
3. Composition of Board
4. Qualifications of members of Board
5. Filling of vacancies
6. Meetings of Board
7. Appointment of committees
8. Subject panels
9. Allowances for members of the Board and committees.

PART II—REGULATIONS OF EXAMINATIONS AND EXAMINATION OFFENCES

10. Power to regulate certain matters
11. Power to obtain information
12. Illegal possession, knowledge or use of examination papers.
13. Leakage of examination papers
14. Impersonations at examinations
15. Copying at examinations
16. Assault on invigilators, supervisors, inspectors
17. Application of Acts 29 and 30
18. Results of investigations
19. Penalty to institution for examination irregularities

PART III—STAFF, FINANCIAL AND MISCELLANEOUS PROVISIONS

20. Executive Secretary
21. Other staff
22. Funds of Board
23. Accounts and Audit
24. Financial year of Board

25. Annual report
26. Consequential amendment
27. Transitional provision
28. Interpretation



REPUBLIC OF GHANA

**THE FOUR HUNDRED AND NINETY-TWO
ACT
OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED**

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

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

DATE OF ASSENT: 29TH DECEMBER, 1994

BE IT ENACTED by Parliament as follows—

PART I—ESTABLISHMENT AND FUNCTIONS OF BOARD

Section 1—Establishment of Board for Professional and Technician Examinations.

(1) There is established by this Act a body to be known as the National Board for Professional and Technician Examinations referred to in this Act as the "Board".

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

(3) The Board may for and in connection with the discharge of its functions purchase, hold, manage or dispose of any movable or immovable property and may enter into any contracts or transactions that may be reasonably related to its functions.

Section 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 standards 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 Law, 1993 (P.N.D.C.L. 317).

(2) For the purposes of subsection (1) of this section, 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 government or any other body, conduct any 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 testing aptitude;

(h) provide such guidance and counselling services as would be needed by non-university tertiary institutions; and

(i) perform any other functions that are ancillary to the functions specified.

Section 3—Composition of Board.

(1) The Board shall consist of the following persons appointed by the President acting in consultation with the Council of State—

(a) a Chairman;

(b) one person representing each of the following—

(i) principals of Polytechnics;

(ii) the Committee of Vice Chancellors of Universities in Ghana;

(iii) the Ministry of Education;

(iv) the National Council for Tertiary Education;

(v) the Ghana Education Service;

(vi) the National Co-ordinating Committee for Technical and Vocational Education and Training (NACVET);

(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 shall be a woman; and
- (d) the Executive Secretary of the Board.

(2) Members of the Board, 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.

Section 4—Qualifications of Members of Board.

(1) No person is qualified to be a member of the Board who—

(a) has been adjudged or otherwise declared—

(i) bankrupt under any law in force in Ghana and has not been discharged; or

(ii) to be of unsound mind or is detained as a criminal lunatic under any law in force in Ghana;
or

(b) has been convicted—

(i) for high crime under the Constitution or for treason or for an offence involving the Security of the State, 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 he acquired assets unlawfully or defrauded the state or misused or abused his office, or wilfully acted in a manner prejudicial to the interest of the State, and the findings have not been set aside on appeal or judicial review; or

(d) is under sentence of death or other sentence of imprisonment imposed on him by a court;
or

(e) is otherwise disqualified by a law for the time being in force.

(2) Members of the Board shall be persons of high moral character and integrity and the President shall in appointing a member have regard to the expertise and experience of the person and his ability to contribute to the work of the Board.

(3) Notwithstanding subsections (1) and (2) of this section a member of the Board shall cease to be a member if, in the case of a person possessed of professional qualification he is disqualified from practising his profession in Ghana by an order of any competent authority made in respect of him personally or he ceases to be a member otherwise than at his own request.

Section 5—Filling of Vacancies.

(1) When the Chairman is incapacitated by illness or other cause from performing the functions of his office for a continuous period exceeding three months, the President shall appoint another person to act as the Chairman.

(2) When a member of the Board other than the ex officio member is incapacitated by illness or any other cause from performing the functions of his office for more than three months, the nominating authority shall nominate another person to act for him.

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

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

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

Section 6—Meetings of Board.

(1) The Board shall meet for the transaction of business at such times and places as the Chairman may determine but shall meet at least once every three months.

(2) The Chairman shall preside at each meeting of the Board and in his absence a person elected by the members of the Board 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 Board, convene an extraordinary meeting of the Board at such place and time as he may determine.

(4) A decision of the Board shall be 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 shall be seven members of the Board.

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

(7) The proceedings of the Board 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 the provisions of this section the Board shall regulate the procedure for its meetings.

Section 7—Appointment of Committees.

(1) The Board may establish committees comprising members or non-members or both to perform such of its functions as it may determine; except that a committee composed entirely of non-members may only advise the Board.

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

Section 8—Subject Panels.

(1) Without prejudice to section 7, the Board 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; and
- (e) generally advise the Board on matters relating to their subject areas and within their competence.

(2) The subject panels shall be committees of the Board.

(3) A subject panel shall consist of—

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

Section 9—Allowances for Members of the Board and Committees.

Members of the Board and members of committees appointed by the Board shall be paid such allowances as the Minister, in consultation with the Minister responsible for Finance may determine.

PART II—REGULATIONS OF EXAMINATIONS AND EXAMINATION OFFENCES

Section 10—Power to Regulate Certain Matters.

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

Section 11—Power to Obtain Information.

- (1) The Board may for the proper and efficient performance of its functions, authorise the Executive Secretary appointed under section 20, or his representative to request information from any institution and the institution shall comply with the request.
- (2) The Executive Secretary or his 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) Any person or the representative of any 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 any person authorised by the Board to obtain the information, or obstructs that person in the performance of his duties; or
 - (c) gives information which he knows to be false, commits an offence and is liable on conviction to a fine not exceeding ₦1 million or to imprisonment for a term not exceeding one year or to both.

Section 12—Illegal Possession, Knowledge or use of Examination Papers.

(1) Any person who, before or during an examination conducted by the Board—

(a) has in his possession any unauthorised material relevant to the examination; or

(b) is proved to have had fore-knowledge of the contents of any examination paper;

commits an offence and is liable on conviction to a fine not exceeding €1 million or to imprisonment for a term not exceeding one year or to both.

(2) Where a candidate before or during an examination is found acting in breach of the provisions of subsection (1)—

(a) he shall be disqualified from taking the examination and the results of the candidate in the examination shall be cancelled; and

(b) the Board may prohibit the candidate from taking any 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 shall be in addition to any penalties that may be imposed by a court.

Section 13—Leakage of Examination Papers.

Without prejudice to section 12 of this Act, any person who—

(a) before or during an examination without lawful authority, gives an examination paper to any person; or

(b) without lawful authority, discloses the contents of any examination paper to any person; or

(c) fraudulently alters the results sheets of any candidate; or

(d) fraudulently replaces the original script of any 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 examination results in relation to a candidate,

commits an offence and is liable on conviction to a fine of not less than €50,000 and not exceeding €1 million or to imprisonment for a term of not more than one year or to both.

Section 14—Impersonation at Examinations.

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

(a) falsely presents himself to be some other person or knowingly allows himself to be falsely represented; or

(b) falsely uses any certificate, testimonial, signature, photograph or any other document of some other person to represent himself as that other person;

commits an offence and is liable on conviction to a fine of not less than ₦50,000.00 and not exceeding ₦1 million or to imprisonment for a term of not more than one year or to both, and shall, in addition to such penalty as may be imposed under this section, be prohibited for a period of three years from taking any examination conducted by or on behalf of the Board.

Section 15—Copying at Examinations.

Any candidate who, during an examination—

- (a) is found copying from the script of another candidate; or
- (b) without lawful authority, has in his possession in the examination room a textbook or any unauthorized material; or
- (c) is found without lawful authority copying from notes or textbooks,

commits an offence and is liable on conviction to a fine of not less than ₦50,000.00 and not exceeding ₦1 million or to imprisonment for a term of not more than one year or to both, and shall, in addition to such penalty as may be imposed under this section, be prohibited for a period of three years from taking any examination conducted by or on behalf of the Board.

Section 16—Assault on Invigilators, Supervisors, Inspectors.

Any person who, before, during or after an examination conducted by or on behalf of the Board assaults an invigilator, supervisor, inspector or any officer authorized by the Board to perform a duty at or connected with the examination commits an offence and is liable on conviction to a fine of not less than ₦50,000.00 and not exceeding ₦1 million or to imprisonment for a term not exceeding one year or to both.

Section 17—Application of Acts 29 and 30.

(1) The application of the provisions of this Act shall be without prejudice to the application of the Criminal Code, 1960 (Act 29) and the Criminal Procedure Code, 1960 (Act 30) to any offence relating to fraud, forgery or any other offence committed under this Act.

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

Section 18—Results of Investigations.

Where in an investigation or trial a candidate is found to have had access to an examination paper or to have had fore-knowledge of the contents of an examination paper or cheated in any way during an examination, a report shall be made to the Board which shall take such action, including the cancellation of examination results and any certificate issued in respect of the candidate as the Board may determine.

Section 19—Penalty to Institution for Examination Irregularities.

Where more than one-third of the candidates at an institution either before, during or after an examination are found to have acted contrary to any of the provisions of this Part, the Board shall prohibit that institution from organising, supervising or acting as agent of the Board in the conduct of any examination by the Board for such period as the Board may determine and

this shall be in addition to any penalties that may be imposed in accordance with rules and regulations of the Board.

PART III—STAFF, FINANCIAL AND MISCELLANEOUS PROVISIONS

Section 20—Executive Secretary.

- (1) The Board shall have an officer to be designated the Executive Secretary appointed by the President in accordance with advice of the Board, given in consultation with the Public Services Commission and upon such terms and conditions as shall be stated in his letter of appointment.
- (2) The Executive Secretary shall be a member of and secretary to the Board.
- (3) The Executive Secretary shall be responsible for the day-to-day administration of the Board and for the implementation of the policies of the Board.

Section 21—Other Staff.

- (1) There shall be appointed for the Board, such officers and staff as may be reasonably necessary for the proper and effective discharge of its functions.
- (2) The President may in accordance with Article 195 (2) of the Constitution, delegate his power of appointment of public officers under this Act.
- (3) There may be transferred or seconded to the Board such public officers as may be requested by the Board and approved by the Minister for Education.
- (4) Officers and staff of the Board shall hold office upon such terms and conditions as shall be stated in their letters of appointments.

Section 22—Funds of Board.

The funds of the Board shall include—

- (a) subvention from Government;
- (b) grants and loans received through 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.

Section 23—Accounts and Audit.

- (1) The Board shall keep proper books of account and proper records in relation to them and the account books and records of the Board shall be in a form approved by the Auditor-General.
- (2) The books and accounts of the Board shall be audited annually by the Auditor-General or by an auditor appointed by him.

Section 24—Financial Year of Board.

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

Section 25—Annual Report.

(1) The Board 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 such comment as he considers necessary.

Section 26—Consequential Amendment.

Consequential amendment as follows—

(a) section 3 (a) of the Polytechnic Law 1992 (P.N.D.C.L. 321) is repealed;

(b) delete reference to "(a)" appearing in section 4 (3) of the Polytechnic Law 1992 (P.N.D.C.L. 321)

Section 27—Transitional Provision.

Until such time as the Board becomes fully operational—

(a) the Minister shall appoint interim external examiners to moderate the examination 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.

Section 28—Interpretation.

In this Act unless the context otherwise requires—

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

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

"Minister" means the Minister responsible for Education;

"non-university tertiary institutio" means—

(a) polytechnic;

(b) institutions 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.

Date of Gazette Notification: 30th December, 1994.