

THE CARIBBEAN EXAMINATIONS COUNCIL ACT

Act  
2 of 1993.

[22nd February, 1993.]

1. This Act may be cited as the Caribbean Examinations Council Act. Short title.

2. In this Act—

"the Agreement" means the Agreement establishing the Caribbean Examinations Council of which the text of the Articles is set out in the Schedule, and includes any Protocol thereto; Interpretation.  
Schedule.

"the Council" means the Caribbean Examinations Council established by the Agreement.

"Minister" means the Minister responsible for education.

3. The provisions of paragraph 1 of Article VIII of the Agreement shall have the force of law in Jamaica. Certain provisions of Agreement given force of law in Jamaica.

4.—(1) The Minister may, by order, make such provisions as may be necessary for carrying into effect any of the provisions of the Agreement. Power of the Minister to make order.

(2) Without prejudice to the generality of subsection (1) the Minister may, by such order as aforesaid, implement any provision made by Protocol pursuant to paragraph 2 of Article VIII.

Amendment  
of Schedule  
and matters  
consequential  
on amend-  
ment.

5.—(1) Where any amendment to the Agreement is accepted by the Government, the Minister may, by order, amend the Schedule by including therein the amendment so accepted.

(2) Any order made under this section may contain such consequential, supplemental or ancillary provisions as appear to the Minister to be necessary or expedient for the purpose of giving due effect to the amendment accepted as aforesaid and, without prejudice to the generality of the foregoing, may contain provisions amending references in this Act to specific provisions of the Agreement.

(3) Every order made under this section shall be subject to negative resolution.

(4) Where the Schedule is amended pursuant to this section, any reference in this Act or any other instrument to the Agreement shall, unless the context otherwise requires, be construed as a reference to the Agreement as so amended.

Examination  
fraud.

6.—(1) Any person who, in relation to an examination conducted by or on behalf of the Council, commits an examination fraud shall be guilty of an offence against this Act and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding two thousand dollars or in default of payment thereof, to imprisonment for a term not exceeding six months.

(2) For the purposes of this section, a person commits an examination fraud if he, whether by himself or in concert with others and whether as a candidate at an examination or otherwise, does anything in relation to an examination with the intention of falsifying the result of the examination.

(3) Any person who conspires with any other person to commit an examination fraud shall also be guilty of that offence.

7.—(1) Without prejudice to any other form of proof, evidence of examination fraud may include—

Evidence  
of examina-  
tion fraud.

- (a) as regards a candidate at an examination—
  - (i) failure on his part to report to the Registrar prior to the examination any unauthorized access by him to the examination papers;
  - (ii) unauthorized access to text books or other relevant papers, records or apparatus during the examination;
- (b) as regards any person (whether or not a candidate at an examination)—
  - (i) unauthorized disclosure of examination questions or papers prior to an examination;
  - (ii) the act of providing a candidate during an examination with unauthorized assistance of a type relevant to the candidate's performance in the examination;
  - (iii) representing himself at the examination to be some other person;
  - (iv) the offer by him of any promise of reward or any threat to an examiner to induce the examiner to make other than a fair and impartial assessment of an answer to an examination question;
  - (v) the act of forging, with intent to defraud or deceive, documents relating to access to an examination or to examination results, or the act of uttering any such document knowing it to be forged.

(2) For the purposes of subsection (1)—

- (a) an act is unauthorized as respects any examination if it is not authorized by the Registrar;
- (b) "Registrar" includes Pro-Registrar and any person duly authorized by the Registrar or Pro-Registrar to perform duties on their behalf.

Extra-territorial jurisdiction.

8.—(1) Anything which would constitute an offence under this Act if done in Jamaica shall also constitute an offence—

- (a) if done by a citizen of Jamaica anywhere; or
- (b) if done partly within and partly outside of Jamaica.

(2) Any agreement or other arrangement by a person who is in Jamaica for any person to do anything outside of Jamaica which would, if done in Jamaica, constitute an offence under this Act shall for the purposes of this Act and the law relating to conspiracy have the same consequence as would follow if what was arranged to be done were arranged to be done in Jamaica.

(3) For the purposes of subsection (1), an offence committed by any person outside or partly outside of Jamaica may be determined by a Resident Magistrate having jurisdiction in Jamaica in any parish where that person happens to be for the time being.

SCHEDULE

(Section 2)

AGREEMENT ESTABLISHING THE CARIBBEAN EXAMINATIONS COUNCIL

THE PARTICIPATING GOVERNMENTS:

RECOGNISING the decision of the Second Conference of Heads of Government of the Commonwealth Caribbean Countries held in Jamaica in January, 1964, that the setting up of a Caribbean Examinations Council was a fit and proper subject for regional co-operation:

CONSCIOUS of the need for the institution of a new system of examinations for the Area under the aegis of the Conference:

HAVE AGREED AS FOLLOWS:

ARTICLE I

INTERPRETATION

In this Agreement, unless the context otherwise requires—

“Area” means the following Territories the Government of which are participating Governments:

- |                        |                               |
|------------------------|-------------------------------|
| (a) Antigua            | Guyana                        |
| Bahamas                | Jamaica                       |
| Barbados               | Montserrat                    |
| Belize                 | St. Kitts-Nevis-Anguilla      |
| British Virgin Islands | St. Lucia                     |
| Cayman Islands         | St. Vincent                   |
| Dominica               | Trinidad and Tobago           |
| Grenada                | Turks and Caicos Islands; and |

(b) any other Territory in the Caribbean;

“Article” means an Article of this Agreement;

“Council” means the Caribbean Examinations Council established under Article II;

“Participating Governments” means the Governments which are from time to time parties to this Agreement;

“School Examinations Committee” means the School Examinations Committee appointed by the Council in accordance with Articles III and X.

ARTICLE II

ESTABLISHMENT AND CONSTITUTION

1. The Council is hereby established and shall consist of the following members—

- (a) the Vice-Chancellor of the University of the West Indies;
  - (b) the Vice-Chancellor of the University of Guyana;
  - (c) (i) three representatives of the University of the West Indies appointed by the Vice-Chancellor of the University of the West Indies regard being given to the geographical dispersion of the campuses;
  - (ii) one representative of the University of Guyana appointed by the Vice-Chancellor of the University of Guyana;
  - (d) (i) two representatives appointed by each of the Participating Governments of Barbados, Guyana, Jamaica and Trinidad and Tobago and one representative appointed by each of the other Participating Governments;
  - (ii) one representative of the teaching profession appointed by each National Committee from among its members.
- 2.—(a) a member of the Council appointed under paragraph 1 (c) and (d) of this Article shall subject to paragraph 3 of this Article hold office for a period of three years;
- (b) any such member may at any time resign his office by notice in writing addressed to the appointing authority and his resignation shall take effect upon the receipt of such notice by the Chairman from the appointing authority;
  - (c) the appointing authority may make another appointment for the unexpired term of office of the person who resigned.
3. A member of the Council referred to in paragraph 2 of this Article may be removed from office by the appointing authority and another person may be appointed for the unexpired term.
4. If any member of the Council is for the time being unable to act, the appointing authority may appoint a person to act in his place during such inability.
- 5.—(a) the Council shall elect a Chairman from among its members, the Chairman for the first term being a Vice-Chancellor;
- (b) the Chairman shall hold office for three years and shall be eligible for re-election. If, however, he resigns his office before the expiration of the term the Chairman elected in his place shall hold office for the unexpired term;
  - (c) the Council shall elect one of its members to be Deputy Chairman who shall hold office for such time not being more than his unexpired term as the Council may determine.
6. The Chairman and members of the Council shall be paid such remuneration and allowances as may from time to time be determined by the Council.

## ARTICLE III

## DUTIES

The Council shall—

- (a) conduct such examinations as it may think appropriate and award certificates and diplomas on the results of the examinations so conducted;
- (b) review and consider annually its examinations held in any territory of the Area and remit to each Participating Government—
  - (i) an analysis of data on the performance of candidates classified by subject and territory;
  - (ii) a digest of submissions from National Committees along with such other information as may be considered necessary;
  - (iii) an annual report of the Council's activities;
- (c) consider, having regard to standard, the advisability of inviting and, if thought fit, invite any other examining Body to conduct examinations in the Area and award certificates and diplomas on the results of such examinations, advise any Body so invited on such adaptation of the examinations as the Council may think necessary and generally assist any Body so invited in the conduct of such examinations in the Area;
- (d) appoint a School Examinations Committee in accordance with Article X;
- (e) appoint from among its members an Administrative and Finance Committee which shall include a representative from each of the Participating Governments of Barbados, Guyana, Jamaica and Trinidad and Tobago and four representatives from the other Participating Governments;
- (f) receive from any National Committee or other Committee established under this Agreement reports and recommendations on any matters relevant to the purposes of the Council and consider such reports and recommendations;
- (g) on the invitation of any Government in the Caribbean conduct any examinations which the Council considers feasible.

## ARTICLE IV

## GENERAL POWERS

The Council shall have power to:—

- (a) appoint a Registrar, Pro-Registrar and such other persons as may be necessary for the performance of its duties;

**CARIBBEAN EXAMINATIONS COUNCIL**

- (b) delegate to the Registrar:—
- (i) any of the duties specified in paragraphs (a), (c) and (g) of Article III as relate to the holding of examinations; and
  - (ii) the making of appointments of other persons mentioned in paragraph (a) of this Article;
- (c) fix the salaries and determine the terms and conditions of service including the provision of superannuation benefits of the Registrar and persons referred to in paragraph (a) of this Article;
- (d) delegate to the School Examinations Committee such powers as may be necessary;
- (e) delegate to the Administrative and Finance Committee such powers as may be necessary;
- (f) appoint such other Committees as the Council may consider necessary for the performance of its duties;
- (g) regulate the conduct of any examinations conducted under the provisions of paragraphs (a), (c) and (g) of Article III and prescribe the qualification requirements of candidates and the fees payable by them;
- (h) co-opt any person to assist in the work of the Council so, however, that no such person shall be or be deemed to be a member of the Council;
- (i) borrow such sums as it may consider necessary or expedient;
- (j) invest the funds of the Council in such manner and to such extent as it may consider necessary or expedient giving priority to investment in financial institutions in the Area controlled by the people of the Area or by Participating Governments or in securities issued or guaranteed by such Governments;
- (k) authorize in writing any of its members to discharge any of its functions;
- (l) make rules generally for the purposes of this Agreement.

**ARTICLE V**

**LOCATION OF FACILITIES**

1. The Council shall establish Administrative and Operational Centres in Barbados and Jamaica, and may establish such Centres in Guyana, Trinidad and Tobago and elsewhere in the Area.

2. For the purposes of administration and operations, the Area shall be divided into two geographical zones—the Western Zone and the Eastern Zone. The Western Zone shall comprise the Territories of



Bahamas, Belize, Cayman Islands, Jamaica and Turks and Caicos Islands. The Eastern Zone shall comprise the Territories of Antigua, Barbados, British Virgin Islands, Dominica, Grenada, Guyana, Montserrat, St. Lucia, St. Kitts-Nevis-Anguilla, St. Vincent and Trinidad and Tobago.

Such of the Council's operations as relate to the Western Zone shall be directed from the Administrative and Operational Centre in Jamaica. Such of the Council's operations as relate to the Eastern Zone shall be directed from the Administrative and Operational Centre in Barbados.

3. The Administrative and Operational Centre located in Barbados shall be the Administrative Headquarters from which the general business of the Council shall be directed.

4. The Registrar shall be based in the Administrative and Operational Centre in Barbados and the Pro-Registrar shall be based in the Administrative and Operational Centre in Jamaica.

5. The Council may conclude with Participating Governments' agreements relating to the legal capacity, privileges and immunities to be recognized and granted to it in respect of its Administrative and Operational Centres.

#### ARTICLE VI

#### PROCEDURAL ARRANGEMENTS

1. The Council shall ordinarily meet for the despatch of business at such times and places as the Council may from time to time appoint but at least one meeting shall be held in each year.

2. The Chairman may call a special meeting of the Council at such time and place as he may appoint, and shall on the written request of six members of the Council call a meeting to be held within twenty-one days after the receipt of the request for the meeting.

3. Any such special meeting shall be convened at not less than fourteen days' notice.

4. At every meeting of the Council the Chairman, if present, shall preside; in his absence the Deputy Chairman shall preside and in the absence of both the Chairman and the Deputy Chairman, the members of the Council present shall elect one of their member to preside.

5. Decisions of the Council and of the School Examinations Committee and of the Administrative and Finance Committee shall be taken on the majority vote of all the members present.

6. A quorum of the Council or of the School Examinations Committee or of the Administrative and Finance Committee shall be constituted by one-half of the respective total membership.

7. The member of the Council presiding at a meeting of the Council shall, in addition to an original vote, have a casting vote in any case where the voting is equal.

## ARTICLE VII

### FINANCIAL ARRANGEMENTS

1. The funds of the Council shall include:—
  - (a) all charges, dues and fees received by the Council;
  - (b) such moneys as are provided for the Council by the Participating Governments;
  - (c) all interest on moneys invested by the Council;
  - (d) all moneys accruing to the Council by way of endowment, donation or otherwise.
  
2. The funds of the Council shall be applied towards the accomplishment of its purposes.
  
3. The expenditure of the Council shall be apportioned among the Participating Governments on such basis as may be agreed upon by them.
  
4. All sums of money received on account of the Council shall be paid into such bank or banks as may be approved by the Council.
  
- 5.—(a) The Council shall cause to be kept proper accounts of its financial and other business transactions and shall cause to be prepared not later than three months after the end of each financial year:—
  - (i) a statement showing in detail the items of income and expenditure of the Council and the total of such income and expenditure for the immediately preceding financial year;
  - (ii) a statement of the assets and liabilities of the Council as they stood at the end of the immediately preceding financial year;
  
- (b) Such statements shall be audited by an Auditor appointed by the Council and as soon as may be thereafter a copy of each such statement as audited shall be transmitted to each Participating Government.

ARTICLE VIII

LEGAL CAPACITY

1. The Council shall possess full judicial personality and in particular full capacity to:—
  - (a) contract;
  - (b) acquire and dispose of immovable and movable property;
  - (c) institute legal proceedings.
2. The legal capacity, privileges and immunities to be recognized and granted by Participating Governments in connection with the Council shall be laid down in a Protocol to this Agreement.

ARTICLE IX

NATIONAL COMMITTEES

1. A National Committee shall be established by each Participating Government for and in its Territory.
2. A National Committee shall comprise representatives of a Ministry or Department of Education, the Teaching Profession, the Universities in the Area and the general community.
3. The Chairman of a National Committee shall be appointed by the Participating Government from the members of that National Committee.
4. A member of a National Committee shall hold office for such number of years as may be specified in his letter of appointment and shall be eligible for reappointment.
5. It shall be the duty of every National Committee:—
  - (a) to exercise such powers as the Council may from time to time delegate to it; and
  - (b) to advise the Council on any matter on which advice may be sought including the content of the syllabuses, the appointment of examiners and any other matter connected with examinations conducted by the Council.
6. A National Committee may make a report or recommendations to the Council on any matter relevant to the provisions of this Agreement.
7. A National Committee may appoint from among its members such sub-committee as it thinks fit and shall specify the duties of such sub-committee.

8. A National Committee shall have the power to co-opt any person to assist it in its works, so, however, that no such person shall be or be deemed to be a member of the Committee.

#### ARTICLE X

##### SCHOOL EXAMINATIONS COMMITTEE

1. The School Examinations Committee shall consist of:—
  - (a) the Chairman of the Council or his Deputy who shall be the Chairman;
  - (b) four members who shall be representatives of the Universities of the Area;
  - (c) one technical or administrative officer selected by each Participating Government from its Ministry or Department of Education;
  - (d) one member of the teaching profession nominated by each National Committee.
  
2. The duties of the School Examinations Committee shall include:—
  - (a) preparations for the approval of Council of regulations relating to the conduct of examinations;
  - (b) development of syllabuses through sub-committees or subject-panels;
  - (c) consideration of criticisms from schools;
  - (d) consideration of points raised by examiners in their reports on examinations and by other means;
  - (e) appointment of members of various sub-committees and subject-panels;
  - (f) the making of recommendations relating to the appointment of examiners;
  - (g) advising the Council on all matters relating to examinations;
  - (h) performing such duties as may be delegated to it by the Council.
  
3. The School Examinations Committee shall have power to co-opt any person to assist it in its work, so, however, that no such person shall be deemed to be a member of the Committee.

#### ARTICLE XI

##### ADMINISTRATIVE AND FINANCE COMMITTEE

1. The Administrative and Finance Committee may appoint a sub-committee in each Territory of the Area and may delegate to any such sub-committee such powers as it thinks fit regarding administrative and financial matters affecting that Territory.

2. Decisions of a sub-committee appointed under paragraph 1 of this Article shall be taken by a majority of votes of the members present and voting and in so far as the procedure of the meetings of any such sub-committee is not prescribed by the Council, the sub-committee may regulate its own procedure.

ARTICLE XII

SUPERANNUATION BENEFITS

The Council shall enter into arrangements with Participating Governments to secure the perservation of the superannuation benefits of persons seconded to the service of the Council from the service of any Participating Government.

ARTICLE XIII

ACCESSION

1. The Government of any Caribbean Territory may accede to this Agreement on such terms and conditions as may be agreed between the Participating Governments and the acceding Government.

2. Any such terms and conditions shall be embodied in a supplementary Agreement.

ARTICLE XIV

WITHDRAWAL

Any Participating Government may withdraw from this Agreement by giving twenty-four months' notice in writing to the Chairman of the Council who shall within 30 days of the receipt of such notice notify the other Participating Governments.

ARTICLE XV

AMENDMENT

An amendment to the provisions of this Agreement shall be submitted to the Chairman of the Council who shall wihin 30 days of the receipt thereof transmit the proposed amendment to each Participating Government. Such amendment shall have effect upon the acceptance thereof by all the Participating Governments within six months of the date of the Chairman transmitting the proposed amendment.

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[The inclusion of this page is authorized by L.N. 42/1995]

**CARIBBEAN EXAMINATIONS COUNCIL****ARTICLE XVI****ENTRY INTO FORCE**

1. This Agreement shall be lodged with the Secretary-General of the Commonwealth Caribbean Regional Secretariat for signature and shall be subject to ratification.

2. The Agreement shall come into force upon the deposit, not later than 30th April, 1972, of instruments of ratification with the Secretary-General by any two of the Participating Governments of Barbados, Guyana, Jamaica and Trinidad and Tobago and by any four of the other Participating Governments.

**ARTICLE XVII****INAUGURAL MEETING**

As soon as the Agreement comes into force the Secretary-General, Commonwealth Caribbean Regional Secretariat, shall take the necessary steps to secure the nomination of the members of the Council referred to in Article II and to convene the Inaugural Meeting of the Council.