

THE EXAMINATIONS COUNCIL OF ZAMBIA ACT, 2023

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY PROVISIONS

Section

1. Short title and commencement
2. Interpretation

PART II

EXAMINATIONS COUNCIL OF ZAMBIA

3. Continuation of Examinations Council of Zambia
4. Functions of Council
5. Board of Council
6. Functions of Board
7. Executive Director, Secretary and other staff

PART III

ACCREDITATION OF EXAMINATION CENTRES

8. Prohibition of operation of examination centre without accreditation
9. Application for accreditation as examination centre
10. Request for additional information
11. Certificate of accreditation
12. Renewal of certificate of accreditation
13. Inspection of examination centre
14. Suspension or revocation of certificate of accreditation
15. Variation of certificate of accreditation
16. Display of certificate of accreditation
17. Assignment, cessation or transfer of certificate of accreditation
18. Surrender of certificate of accreditation on cessation of operations

PART IV

ADMINISTRATION OF EXAMINATIONS

19. Appointment of examination officer
20. Registration of candidate for examination
21. Disclosure of interest in examination and examination material
22. Examination malpractice

23. Suspension, cancellation or nullification of examination
24. Possession of offensive material and disturbances at examination centre
25. Announcement and publication of examination results
26. Withholding or nullification of examination results
27. Counterfeiting of certificate
28. Prohibition of forgery
29. Prohibition of presentation of forged certificate, examination results slip or statement of examination results
30. Prohibition of impersonation

PART V

INSPECTORATE

31. Inspectors
32. Honorary inspector
33. Power of entry, search and inspection

PART VI

GENERAL PROVISIONS

34. Registers
35. Offences relating to registration
36. Prohibition of publication or disclosure of information to an unauthorised person
37. Oath of secrecy
38. Appeals
39. General offences
40. Administrative penalty
41. Offence by principal officers of body corporate or unincorporate body
42. Guidelines
43. Regulations
44. Repeal of Act No. 15 of 1983

SCHEDULE

GOVERNMENT OF ZAMBIA

ACT

No. 3 of 2023

Date of Assent: 14th April, 2023

An Act to provide for the accreditation of examination centres; provide for the administration of examinations; continue the existence of the Examinations Council of Zambia and re-define its functions; constitute the Board of the Examinations Council of Zambia and provide for its functions; repeal and replace the Examinations Council of Zambia Act, 1983; and provide for matters connected with, or incidental to, the foregoing.

[18th April, 2023

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Examinations Council of Zambia Act, 2023, and shall come into operation on the date that the Minister may appoint by statutory instrument.

Short title and commencement

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

Interpretation

“associate” has the meaning assigned to the word in the Anti-Corruption Act, 2012;

Act No. 3 of 2012

“basic school” has the meaning assigned to the words in the Education Act, 2011;

Act No. 23 of 2011

“Board” means the Board of the Council constituted under section 5;

“candidate” means a person registered to take an examination under section 20;

“certificate of accreditation” means a certificate of accreditation issued under section 11;

	“Chairperson” means a person appointed as Chairperson of the Board under section 5;
	“Council” means the Examinations Council of Zambia continued under section 3;
Act No. 23 of 2011	“educational institution” has the meaning assigned to the words in the Education Act, 2011;
Cap. 1	“emoluments” has the meaning assigned to the word in the Constitution;
Cap. 1	“Emoluments Commission” means the Emoluments Commission established under the Constitution;
	“examination” means an assessment administered by the Council for the award of a certificate;
	“examination centre” means an educational institution duly accredited by the Council for the purposes of providing examinations in accordance with Part IV of this Act;
	“examination material” includes a draft question paper, final question paper, marking scheme, specimen and any other material connected with, or related to, a current or future examination;
	“examination officer” means a person appointed as an examination officer by the Council under section 19;
	“Executive Director” means a person appointed as Executive Director under section 7;
Act No. 4 of 2013	“higher education institution” has the meaning assigned to the words in the Higher Education Act, 2013;
Act No. 4 of 2013	“Higher Education Authority” means the Higher Education Authority established under the Higher Education Act, 2013;
Act No. 23 of 2011	“high school” has the meaning assigned to the words in the Education Act, 2011;
Act No. 7 of 2018	“Information and Communications Technology Association of Zambia” means the Information and Communications Technology Association of Zambia established under the Information and Communications Technology Association of Zambia Act, 2018;
Cap. 87	“possession” has the meaning assigned to the word in the Penal Code;
Act No. 3 of 2012	“relative” has the meaning assigned to the word in the Anti-Corruption Act, 2012;

“repealed Act” means the Examinations Council of Zambia Act, 1983;	Cap. 137
“school for continuing education” has the meaning assigned to the words in the Education Act, 2011;	Act No. 23 of 2011
“State institution” has the meaning assigned to the words in the Constitution;	Cap. 1
“university” has the meaning assigned to the word in the Higher Education Act, 2013;	Act No. 4 of 2013
“Vice-Chairperson” means a person appointed as Vice-Chairperson of the Board under section 5;	
“Zambia Agency for Persons with Disabilities” means the Zambia Agency for Persons with Disabilities established under the Persons with Disabilities Act, 2012;	Act No. 6 of 2012
“Zambia Institute of Chartered Accountants” means the Zambia Institute of Chartered Accountants established under the Accountants Act, 2008; and	Act No. 13 of 2008
“Zambia Qualifications Authority” means the Zambia Qualifications Authority established under the Zambia Qualifications Authority Act, 2011.	Act No. 13 of 2011

PART II

EXAMINATIONS COUNCIL OF ZAMBIA

3. (1) The Examinations Council of Zambia established under the repealed Act is continued as if established under this Act and is a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and with power, subject to the provisions of this Act, to do all acts and things that a body corporate may, by law, do or perform.
- (2) The First Schedule applies to the Council.
4. (1) The functions of the Council are to—
- (a) prepare and administer examinations at a basic school, high school and school for continuing education;
- (b) monitor and supervise examinations at a basic school, high school and school for continuing education;
- (c) promote the integrity of the system of examinations at a basic school, high school and school for continuing education;
- (d) formulate examinations syllabi and assessment schemes;
- (e) formulate and enforce examination guidelines;
- (f) accredit examination centres;
- (g) appoint examination officers;

Continuation of Examinations Council of Zambia

Functions of Council

- (h) register candidates for examinations;
- (i) award certificates to candidates who pass examinations;
- (j) cause the training of examination officers;
- (k) formulate a code of ethics and conduct for examination officers;
- (l) collaborate with Government departments and institutions in the administration of examinations in the Republic;
- (m) invite a person or body in, or outside, the Republic to assist the Council in the administration of examinations;
- (n) collaborate with the Zambia Qualifications Authority for the verification of examination qualifications conferred by the Council;
- (o) promote the international recognition of qualifications conferred by the Council;
- (p) provide advice to a State institution on the development and use of any system of examining when requested to do so; and
- (q) carry out research in examinations.

(2) The Council may determine—

- (a) the fees payable for an inspection conducted or other services rendered for the purposes of this Act; and
- (b) what portion of any fee is payable in respect of any part of a year and the date on which the fee or portion of the fee is payable.

Board of
Council

5. (1) There is constituted the Board of the Council consisting of the following part-time members appointed by the Minister:

- (a) the Chairperson, who is a recognised academician in a public university;
- (b) a representative of the —
 - (i) ministry responsible for education;
 - (ii) Attorney-General;
 - (iii) Zambia Agency for Persons with Disabilities; and
 - (iv) Zambia Institute of Chartered Accountants;
- (c) a representative of a faith-based organisation involved in education;
- (d) a representative of a trade union for teachers; and
- (e) two other persons with relevant knowledge and experience in matters relating to this Act.

(2) The ministries, institutions and organisations referred to in subsection (1) shall nominate their representatives for appointment by the Minister.

(3) The members of the Board shall elect the Vice-Chairperson from among themselves.

(4) A person shall not be nominated or appointed as a member of the Board if that person—

- (a) is not a citizen;
- (b) is an undischarged bankrupt;
- (c) is legally disqualified from performing the functions of a member;
- (d) is convicted of an offence under any written law and sentenced to imprisonment for a term exceeding six months without the option of a fine;
- (e) is convicted of an offence involving fraud or dishonesty under any written law;
- (f) has not served at senior management level for at least five years;
- (g) is found guilty of professional misconduct; or
- (h) is an employee of the Council.

(5) The First Schedule applies to the Board.

6. (1) Subject to the other provisions of this Act, the Board shall perform the functions of the Council and provide strategic policy direction to the Council.

Functions of
Board

(2) Despite subsection (1), the functions of the Board are to—

- (a) approve the policies, programmes and strategies of the Council;
- (b) approve the annual workplan, action plans and activity reports of the Council;
- (c) approve the annual budget estimates and financial statements of the Council;
- (d) monitor and evaluate the performance of the Council against the budget and plans;
- (e) establish and approve guidelines and standards for the purposes of this Act; and
- (f) promote the effective corporate governance of the Council.

(3) The Board may, by direction in writing and on conditions that the Board considers necessary, delegate to the Executive Director any of the Board's functions under this Act.

(4) A delegation made under subsection (3) shall not prevent the Board from performing the function so delegated.

(5) The Minister may give to the Board general or specific directions relating to the performance of the Board's functions and the Board shall give effect to those directions to the extent that they are not inconsistent with this Act or any other written law.

Executive
Director,
Secretary and
other staff

7. (1) The Board shall appoint an Executive Director who shall be—

(a) the chief executive officer of the Council; and

(b) responsible for the day to day administration of the Council under the direction of the Board.

(2) The Executive Director shall attend meetings of the Board or a committee of the Board and may address those meetings, but shall not vote on any matter.

(3) The Board shall appoint a Secretary and other staff of the Council that the Board considers necessary for the performance of the functions of the Council.

(4) The Emoluments Commission shall, on the recommendation of the Board, determine the emoluments of the Executive Director, Secretary and other staff of the Council.

(5) The Board shall determine the terms and conditions of service, other than emoluments, of the Executive Director, Secretary and other staff of the Council.

PART III

ACCREDITATION OF EXAMINATION CENTRES

Prohibition
of operation
of
examination
centre
without
accreditation

8. (1) A person shall not operate an educational institution as an examination centre without accreditation by the Council.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Application
for
accreditation
as
examination
centre

9. (1) A person who intends to operate an educational institution as an examination centre shall apply to the Council for accreditation of the educational institution as an examination centre in the prescribed manner and form on payment of a prescribed fee.

(2) The Council shall, on receipt of an application under subsection (1), carry out an inspection of the educational institution within ten days of receipt of the application in order to determine whether the educational institution meets the requirements for accreditation as may be prescribed.

(3) The Council shall, within thirty days of the inspection conducted under subsection (2), grant or reject the application.

(4) The Council shall, where the Council rejects an application under this section, inform the applicant, in writing, stating the reasons for the rejection.

10. (1) The Council may, where additional information is required to process an application for accreditation under section 9, request an applicant to furnish the Council with additional information in a prescribed manner and form within a period that the Council may determine.

Request for additional information

(2) Despite the other provisions of this Act, the Council may reject an application for accreditation if the applicant fails to submit the additional information requested under subsection (1).

11. (1) The Council shall, where the Council grants an application under section 9, issue the educational institution with a certificate of accreditation in the prescribed manner and form on terms and conditions that the Council may determine.

Certificate of accreditation

(2) A certificate of accreditation issued in accordance with this section shall be valid for a period of three years from the date of issuance.

12. (1) A holder of a certificate of accreditation issued under section 11 may, sixty days prior to the expiration of the validity of the accreditation, apply to the Council for a renewal of the certificate of accreditation in the prescribed manner and form on payment of a prescribed fee.

Renewal of certificate of accreditation

(2) The Council shall, on receipt of an application under subsection (1), ensure compliance with the accreditation requirements as a condition for the renewal of accreditation.

(3) The Council shall, within thirty days of receiving an application under subsection (1), grant or reject the application.

(4) The Council shall, where the Council rejects an application under this section, inform the applicant, in writing, stating the reasons for the rejection.

(5) The Council shall, where the Council grants an application under this section, renew the certificate of accreditation in accordance with section 11.

Inspection
of
examination
centre

13. (1) The Council shall carry out an inspection of an examination centre to ensure compliance with the accreditation requirements.

(2) The Council may, where an inspection is carried out under subsection (1) and it is found that an examination centre is not complying with one or more of the accreditation requirements, suspend or revoke the accreditation of the examination centre in accordance with section 14.

Suspension
or
revocation
of certificate
of
accreditation

14. (1) Subject to this Act, the Council may suspend or revoke a certificate of accreditation if the holder of the certificate of accreditation—

- (a) obtained the certificate of accreditation through fraud, misrepresentation or concealment of a material fact;
- (b) assigns, cedes or otherwise transfers the certificate of accreditation without the prior approval of the Council;
- (c) does not comply with a term or condition of accreditation;
- (d) fails an inspection carried out under section 13;
- (e) is closed or has its certificate of registration cancelled under the Education Act, 2011; or
- (f) operates the examination centre in contravention of this Act or any other written law.

Act No. 23
of 2011

(2) The Council shall, before suspending or revoking a certificate of accreditation in accordance with subsection (1), notify the holder of the certificate of accreditation of the Council's intention to suspend or revoke the certificate of accreditation in the prescribed manner and form, and shall—

- (a) give reasons for the intended suspension or revocation;
and
- (b) require the holder of the certificate of accreditation to—
 - (i) show cause, within a reasonable time that the Council may specify in the notice, why the accreditation should not be suspended or revoked; or
 - (ii) remedy the default.

(3) The Council shall not suspend or revoke a certificate of accreditation if the holder of the certificate of accreditation shows cause or takes remedial measures to the satisfaction of the Council within the period specified in accordance with subsection (2).

(4) The Council shall, in making the final determination on the suspension or revocation of the certificate of accreditation consider the remedial measures undertaken by the holder of the certificate of accreditation in accordance with subsection (2).

(5) The Council shall suspend or revoke the certificate of accreditation if the holder of the certificate of accreditation does not show cause or take remedial measures to the satisfaction of the Council in accordance with subsection (2), and notify the holder of the certificate of accreditation of the suspension or revocation in the prescribed manner and form.

Variation of certificate of accreditation

15. (1) A holder of a certificate of accreditation may, at any time during the validity of the certificate of accreditation, apply to the Council for a variation of the terms and conditions of the certificate of accreditation if there are any changes to the examination centre or the operations of the examination centre.

(2) An application made under subsection (1) shall be made in the prescribed manner and form on payment of a prescribed fee.

(3) The Council shall, within thirty days of receipt of an application under subsection (1), approve or reject the application.

(4) The Council shall, where the Council rejects an application under subsection (1), notify the applicant, in writing, stating the reasons for the rejection.

(5) The Council shall, where the Council approves an application under subsection (1), endorse and date the variation on the certificate of accreditation.

Display of certificate of accreditation

16. A holder of a certificate of accreditation shall display the certificate of accreditation in a conspicuous place at the examination centre.

Assignment, cessation or transfer of certificate of accreditation

17. (1) A holder of a certificate of accreditation shall not assign, cede or transfer the certificate of accreditation without the prior written approval of the Council.

(2) A holder of a certificate of accreditation who intends to assign, cede or transfer the certificate of accreditation shall apply to the Council for approval in the prescribed manner and form on payment of a prescribed fee.

(3) The Council shall, within thirty days of receipt of an application under subsection (2), approve or reject the application.

(4) The Council shall, where the Council rejects an application under this section, inform the applicant, in writing, stating the reasons for the rejection.

(5) The Council shall, where the Council approves an application under this section and the Council is satisfied that the requirements of this Act are met, re-issue the certificate of accreditation in the new name of the examination centre.

Surrender of certificate of accreditation on cessation of operations

18. (1) A holder of a certificate of accreditation shall, where the holder of the certificate of accreditation does not intend to continue operating an examination centre, notify the Council in the prescribed manner and form, and shall surrender the certificate of accreditation.

(2) The Council shall, where a certificate of accreditation is surrendered under subsection (1), revoke the certificate of accreditation subject to conditions that the Council may impose with respect to the cessation of the activities of the examination centre.

PART IV

ADMINISTRATION OF EXAMINATIONS

Appointment of examination officer

19. (1) The Council shall appoint the following examination officers for an examination centre:

- (a) examination centre chairperson;
- (b) examination centre vice-chairperson;
- (c) supervisor; and
- (d) invigilator.

(2) The Council shall appoint the following examination officers for the purposes of marking an examination:

- (a) chief examiner;
- (b) deputy chief examiner;
- (c) chief marker;
- (d) deputy chief marker;
- (e) examiner; and
- (f) marker.

(3) The Council shall appoint the following examination officers for the purposes of setting an examination:

- (a) setter;
- (b) item writer;
- (c) moderator; and
- (d) proof reader.

(4) An examination officer referred to under subsection (1) shall—

- (a) administer and supervise an examination at an examination centre;
 - (b) secure an examination question paper and other examination material at an examination centre;
 - (c) report any examination malpractice before, during or after an examination to the relevant authority; and
 - (d) disseminate examination information to a candidate.
- (5) The Minister may, by statutory instrument, prescribe—
- (a) the qualifications and additional functions of examination officers; and
 - (b) a code of ethics and conduct for examination officers.

20. (1) A person who intends to be registered as a candidate for an examination shall apply to the Council for registration in the prescribed manner and form on payment of a prescribed fee.

Registration of candidate for examination

(2) The Council shall, within a prescribed period, approve or reject an application made under subsection (1).

(3) The Council shall, where the Council rejects an application under subsection (1), notify the applicant in the prescribed manner and form, stating the reasons for the rejection.

(4) The Council shall, where the Council approves an application under subsection (1), register the applicant as a candidate as prescribed.

(5) The Minister shall prescribe, by statutory instrument, the circumstances under which the registration of an applicant as a candidate may be rejected.

21. (1) A person engaged in the conduct of an examination or performing work connected with an examination shall, where that person or that person's relative or associate is directly or indirectly interested in a private capacity in an examination or any examination material or information, as soon as is practicable but before the commencement of that person's duties in respect of the examination, disclose the interest to the Council or Council's representative.

Disclosure of interest in examination and examination material

(2) A person referred to under subsection (1) shall, where a disclosure is made, continue to perform that person's duties in respect of the examinations unless the Council otherwise directs.

22. (1) A person shall not—

- (a) before or during an examination, have in that person's possession, receive or take into an examination room any examination material;

Examination malpractice

- (b) give examination material to a candidate or another person without lawful authority;
 - (c) have access or disclose the contents of an examination material to a candidate or another person without lawful authority;
 - (d) make a change in the original answer script of a candidate without lawful authority;
 - (e) fraudulently replace the original answer script of a candidate;
 - (f) fraudulently alter the examination results, work or marks of a candidate;
 - (g) fraudulently alter the examination number or other identification of a candidate; or
 - (h) without lawful authority, alter the records of the Council with regard to an examination or examination results in relation to a candidate.
- (2) A candidate shall not during an examination—
- (a) communicate with another candidate with intent to assist that candidate answer an examination question;
 - (b) communicate with another candidate with intent to seek the assistance of that candidate in answering an examination question; and
 - (c) receive external assistance without lawful authority.
- (3) A person who contravenes subsection (1) or (2) commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.
- (4) A candidate shall not, during an examination—
- (a) copy from the script of another candidate;
 - (b) copy from notes, an electronic device or material without lawful authority; or
 - (c) be in possession of a textbook, electronic device or material in the examination room without lawful authority.
- (5) A candidate who contravenes subsection (4) shall be disqualified from taking the examination and any other examination during that academic year.
- (6) Subject to the provisions of this Act, a candidate who is disqualified under subsection (5) shall be eligible to take an examination in the subsequent academic year following the disqualification.

23. (1) The Minister may, on the recommendation of the Council, suspend, cancel or nullify an examination where there has been examination malpractice in accordance with section 22 or on the basis of other compelling circumstances as may be prescribed.

Suspension, cancellation or nullification of examination

(2) The procedure for the suspension, cancellation or nullification of examinations under this section shall be as prescribed.

24. (1) A person shall not at, or near, an examination centre or another place designated for an examination—

Possession of offensive material and disturbances at examination centre

(a) have in that person's possession an offensive weapon or other material, or use an offensive weapon or other material on another person; or

(b) act or incite another person to act in a disorderly manner for the purpose of disrupting an examination or harming, intimidating, assaulting or obstructing a candidate or any other person involved in the conduct of the examination.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

(3) The Council shall, where the offender under this section is a candidate, in addition to the penalty specified in subsection (2), cancel the examination results of the candidate and prohibit the candidate from taking an examination for a period not exceeding three years immediately after the commission of the offence.

(4) The Council may, where the period of three years under subsection (3) has elapsed and the person applies for registration as a candidate, register the person as a candidate on terms and conditions that the Council may determine.

25. (1) The Minister shall, on completion of the marking of examinations and the compilation of examination results by the Council, announce the examination results as prescribed.

Announcement and publication of examination results

(2) The Council shall, after an announcement of examination results is made by the Minister under subsection (1), publish the examination results in a manner and form that the Council may determine.

26. (1) The Council may withhold examination results of a candidate where there is reasonable cause to believe that the -

Withholding or nullification of examination results

(a) examination results were obtained fraudulently; or

(b) candidate engaged in examination malpractice.

(2) The Council may, where the Council is notified or discovers that a candidate obtained examination results by fraud or it is alleged that a candidate engaged in examination malpractice, conduct investigations within a prescribed period as the Council considers necessary.

(3) The Council shall, where investigations are being carried out in accordance with subsection (2), withhold the examination results of a candidate pending the conclusion of the investigations.

(4) The Council may, in the course of investigations under this section, call for information or the production of documents that the Council may require, within a specified period, from a person and at a place that the Council may determine, to assist in the investigations.

(5) The Council shall, where it is satisfied, following an investigation under this section, that the examination results of the candidate were obtained fraudulently or that the candidate engaged in examination malpractice—

(a) nullify the examination results of a candidate; and

(b) bar the candidate from writing any examination conducted by the Council for a period of three consecutive years.

(6) The Council may, where the period of three years under subsection (5) has elapsed and a person applies for registration as a candidate, register the person as a candidate on terms and conditions that the Council may determine.

Counterfeiting
of certificate

27. A person who counterfeits, for commercial purposes, a certificate issued by the Council commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Prohibition
of forgery

28. (1) A person shall not forge a certificate, examination results slip or statement of examination results issued by the Council.

(2) A person who contravenes subsection (1) commits the offence of forgery and is liable, on conviction, to the penalty prescribed for forgery under the Penal Code.

Cap. 87

(3) In this section, “forgery” has the meaning assigned to the word in the Penal Code.

Cap. 87

29. (1) A person shall not present another person's certificate, examination results slip or statement of examination results purporting that the certificate, examination results slip or statement of examination results belongs to that person presenting the certificate, examination results slip or statement of examination results.

Prohibition of presentation of forged certificate, examination results slip or statement of examination results

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

30. (1) A person commits an offence, if that person—

Prohibition of impersonation

(a) is not registered to take a particular examination but presents or attempts to present oneself, with the intent to impersonate another candidate, to take part in an examination as a candidate;

(b) registers for an examination using a false name or identity;

(c) falsely uses a certificate, testimonial, signature, photograph or document of another person in an examination; or

(d) knowingly allows another person to take an examination on that person's behalf.

(2) A person convicted of an offence under subsection (1) is liable to the penalty prescribed for impersonation under the Penal Code.

Cap. 87

(3) In this section, "impersonation" has the meaning assigned to the word in the Penal Code.

Cap. 87

PART V

INSPECTORATE

31. (1) The Council shall appoint suitably qualified persons as inspectors to ensure compliance with this Act.

Inspectors

(2) The Council shall provide an inspector with an identification card which shall be *prima facie* evidence of the inspector's appointment as inspector.

(3) An inspector shall, in performing a function under this Act—

(a) be in possession of the identification card referred to in subsection (2); and

(b) show the identification card to a person who requests to see the identification card or is the subject of an investigation under this Act.

Honorary
inspector

32. (1) The Council may, by notice in the *Gazette*, on terms and conditions that the Council may determine, appoint a suitable person as an honorary inspector for a period not exceeding three years, and may renew the appointment for a further period of three years.

(2) The Council may, by notice in the *Gazette*, revoke or renew an appointment made under subsection (1).

(3) The appointment of an honorary inspector under this section may be—

(a) general, to empower the honorary inspector to act in a specified area in the Republic; or

(b) limited, to empower the honorary inspector to act in the area of the Republic as may be specified in the instrument of appointment.

(4) Subject to the other provisions of this Act and to the terms and conditions specified in the instrument of appointment, an honorary inspector shall exercise the functions and perform the duties of an inspector under this Part.

Power of
entry,
search and
inspection

33. (1) An inspector may, for the purpose of enforcing the provisions of this Act, at any reasonable time, without prior notice, and on the authority of a warrant, enter any premises that the inspector has reasonable grounds to believe is used for the commission of an offence or contrary to the provisions of this Act, and—

(a) search the premises;

(b) search any person on the premises if the inspector has reasonable grounds to believe that the person has possession of an article, document or record that has a bearing on an inspection or investigation, except that a person shall only be searched by a person of the same sex;

(c) take extracts from, or make copies of, any book, document or record that is on the premises and that has a bearing on an inspection or investigation;

(d) demand the production of, and inspect, relevant certificates; and

(e) make inquiries that may be necessary to ascertain whether the provisions of this Act or any other law on which an inspection or investigation is based, have been complied with.

(2) A court may issue a warrant on application by an inspector if it appears from written information given by that inspector, on oath or affirmation, that there are reasonable grounds to believe that this Act has been or is likely to be contravened.

(3) An inspector who removes anything from any premises shall—

(a) issue a receipt for anything removed to the owner or the person in control of the premises; and

(b) return anything removed as soon as practicable after the thing removed has served the purpose for which it was removed.

(4) A person commits an offence if that person—

(a) delays or obstructs an inspector in the performance of the inspector's functions under this Act;

(b) refuses to give an inspector reasonable assistance as the inspector may require for the purpose of performing the inspector's functions;

(c) impersonates an inspector or presents oneself to be an inspector; or

(d) wilfully gives an inspector false or misleading information in answer to an inquiry made by the inspector.

(5) A person convicted of an offence under subsection (4) is liable to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

(6) An inspector shall furnish the Council with a written report and any other information relating to an inspection.

PART VI

GENERAL PROVISIONS

34. (1) The Council shall keep and maintain registers containing particulars and information relating to—

Registers

(a) registered candidates;

(b) accredited examination centres; and

(c) any other information that the Council may determine.

(2) The registers shall be kept at the offices of the Council and shall be open for inspection to members of the public during normal office hours on payment of a prescribed fee.

Offences
relating to
registration

35. (1) A person shall not—

- (a) make or cause to be made an unauthorised entry, alteration or erasure in the registers, certificate of accreditation or on a certified copy of the registers or certificate of accreditation;
- (b) procure or attempt to procure accreditation or registration under this Act by fraud, misrepresentation or the concealment of a material fact; or
- (c) forge a certificate of accreditation or registration document issued under this Act.

(2) A person who contravenes subsection (1), commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

Prohibition
of
publication
or disclosure
of
information
to
unauthorised
person

36. (1) A person shall not, without the consent, in writing, given by, or on behalf of, the Council, publish or disclose to an unauthorised person, other than in the course of duties of that person, the contents of a document, communication or information which relates to or which has come to the knowledge of that person in the course of that person's duties under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(3) A person who, having information which to that person's knowledge has been published or disclosed in contravention of subsection (1), unlawfully publishes or communicates the information to another person, commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Oath of
secrecy

37. (1) The Council may require an employee or an agent of the Council, or a person engaged in the conduct of an examination or the handling of an examination paper or examination material, to take an oath of secrecy before a Commissioner for Oaths as may be prescribed.

(2) A person referred to under subsection (1) who does, or omits to do, an act in contravention of the oath of secrecy commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

38. (1) A person who is aggrieved with a decision of the Council may, within thirty days of receipt of the decision, appeal to the Minister. Appeals

(2) A person who is aggrieved with a decision of the Minister may appeal to the High Court.

39. (1) A person commits an offence if that person — General offences

(a) without lawful excuse, during or after an examination, has in that person's possession or under the control of that person an examination material or any information relating to the contents of an examination;

(b) willfully loses examination material or causes to be lost an examination material;

(c) recklessly or willfully assists or causes to be assisted a candidate to obtain unauthorised possession of an examination material or information relating to an examination; or

(d) willfully and maliciously damages examination material or examination facilities.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(3) A person referred to under subsection (2) shall, where the offender is a candidate, in addition to the penalty specified under subsection (2), be barred for a period of three years, from sitting for an examination set by the Council.

40. (1) The Council may impose an administrative penalty on a person for a failure to comply with a provision of this Act which is not an offence. Administrative penalty

(2) An administrative penalty shall not exceed the amount prescribed by the Minister, by statutory instrument, for each day during which the failure continues.

(3) An administrative penalty shall be paid to the Council within the period prescribed.

(4) If a person on whom an administrative penalty is imposed in accordance with this section fails to pay the administrative penalty within the time specified under subsection (3), the Council may, by way of civil action in a competent court, recover the amount of the administrative penalty from that person as an amount due and owing to the Council.

Offence by principal officers of body corporate or unincorporate body	<p>41. Where an offence under this Act is committed by a body corporate or an unincorporate body, with the knowledge, consent or connivance of the director, manager, shareholder or partner of the body corporate or an unincorporate body, that director, manager, shareholder or partner is liable, on conviction, to the penalty specified for the offence under this Act.</p>
Guidelines	<p>42. (1) The Council may, in the exercise of the Council's functions under this Act, issue guidelines that are necessary for the better carrying out of the provisions of this Act.</p> <p>(2) The Council shall publish guidelines issued under this Act in the <i>Gazette</i>, in a daily newspaper of general circulation in the Republic and any other electronic means that the Council may determine.</p> <p>(3) The guidelines issued by the Council shall take effect on the date of publication and shall bind all persons on matters relating to this Act.</p>
Regulations	<p>43. (1) The Minister may, on the recommendation of the Council, by statutory instrument, make Regulations for the better carrying out of the provisions of this Act.</p> <p>(2) Despite subsection (1), Regulations made under subsection (1) may make provision for—</p> <ul style="list-style-type: none"> (a) the manner and form of applications under this Act and the fees payable; (b) the manner and form of registration of a candidate; (c) the qualification and disqualification of candidates; (d) examination fees and other examination related charges; (e) the appointment, qualifications, allowances and additional functions of examination officers; (f) the conditions for the award of certificates; (g) the procedure for the suspension, cancellation or nullification of an examination; (h) the conduct and rules of examinations; (i) the procedures to be followed by examinations officers; (j) the manner of storage, retention and disposal of examination scripts; and (k) the grounds and procedure for challenging examination results by a candidate.
Repeal of Act No. 15 of 1983	<p>44. (1) The Examinations Council of Zambia Act, 1983 is repealed.</p> <p>(2) Despite subsection (1), the provisions of the Second Schedule apply in respect of the matters specified in the Second Schedule.</p>

FIRST SCHEDULE

(Sections 3(2) and 5(5))

PART I

ADMINISTRATION OF THE COUNCIL

1. (1) The seal of the Council shall be a device that may be determined by the Board and shall be kept by the Executive Director. Seal of Council

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Executive Director or any other person authorised in that behalf by a resolution of the Board.

(3) A contract or instrument which, if entered into or executed by a person not being a body corporate, is not required to be under seal, may be entered into or executed without seal on behalf of the Council by the Executive Director or any other person authorised in that behalf by a resolution of the Board.

(4) A document purporting to be a document under the seal of the Council or issued on behalf of the Council shall be received in evidence and shall be considered to be so executed or issued, without further proof, unless the contrary is proved.

2. (1) A member of the Board shall, subject to other provisions of this Act, hold office for a term of three years from the date of appointment and may be re-appointed for a further and final term of three years. Tenure of office and vacancy

(2) A member shall, on the expiration of the term for which the member is appointed, continue to hold office until another member is appointed, but in no case shall an extension of the period exceed three months.

(3) The office of member becomes vacant if the member—

- (a) dies;
- (b) is adjudged bankrupt under any written law;
- (c) is absent, without reasonable excuse, from three consecutive meetings of the Board of which the member has had notice, without the prior approval of the Board;
- (d) resigns, by giving one month's notice in writing, to the Council;
- (e) is legally disqualified from performing the functions of a member;
- (f) ceases to be an employee or a member of the ministry, institution or organisation that nominated the member; and
- (g) is convicted to an offence under this Act or any other written law and sentenced to imprisonment for a term exceeding six months without the option of a fine.

(4) The Minister shall, where the office of a member becomes vacant before the expiry of the term of office, appoint another member in place of that member, but that member shall hold office as a member only for the unexpired part of the term of the Board.

Proceedings
of Board

3. (1) Subject to the other provisions of this Act, the Board may regulate its own procedure.

(2) The Board shall meet for the transaction of business at least once every three months at a place and time that the Board may determine.

(3) The Chairperson shall, on giving notice of not less than fourteen days, call for a meeting of the Board, or where one third or more of the members so request, in writing, except that if the urgency of a particular matter does not permit the giving of a notice, a special meeting may be called on giving a shorter notice.

(4) Five members shall form a quorum at a meeting of the Board.

(5) There shall preside at any meeting of the Board—

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson;
or

(c) in the absence of the Chairperson and the Vice-Chairperson, a member as the members present may elect for the purpose of that meeting.

(6) A decision of the Board on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to the deliberative vote.

(7) A member may, where the member is for any reason unable to attend a meeting of the Board, nominate another person, in writing, from the same ministry, institution or organisation to attend a meeting of the Board in that member's stead and that person shall be deemed to be a member for the purpose of that meeting.

(8) The Board may invite a person whose presence is in the Board's opinion desirable to attend and to participate in the deliberations of the meeting of the Board but that person shall have no vote.

(9) The Board shall cause minutes to be kept of the proceedings of every meeting of the Board and any committee of the Board.

4. (1) The Board may, for the purpose of performing its functions under this Act, constitute a committee and delegate any of its functions to the committee as the Board considers necessary. Committees of Board
- (2) The Board may appoint as members of a committee, persons who are or are not members except that at least one member of the Board shall be a member of a committee.
- (3) A member of a committee shall hold office for a period that the Board may determine.
- (4) Subject to any specific or general directions of the Board, a committee may regulate its own procedure.
5. A member of the Board or any committee of the Board shall be paid allowances that the Emoluments Commission may, on the recommendation of the Minister, determine. Allowances
6. (1) A person who is present at a meeting of the Board or a committee of the Board at which any matter is the subject of consideration and in which matter that person or that person's relative or associate is directly or indirectly interested in a private capacity, shall, as soon as is practicable after the commencement of the meeting, declare that interest and shall not, unless the Board or the committee otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to that matter. Disclosure of interest
- (2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which is made.
7. An action or other proceedings shall not lie or be instituted against a member of the Board or a committee of the Board or a member of staff of the Council for, or in respect of, an act or thing done or omitted to be done in good faith in the exercise or performance of any of the powers, functions or duties conferred under this Act. Immunity of members

PART II

FINANCIAL PROVISIONS

8. (1) The funds of the Council consist of monies that may— Funds of Council
- (a) be appropriated to the Council by Parliament;
- (b) be paid to the Council by way of fees, grants or donations; and
- (c) vest in, or accrue to, the Council.
- (2) The Council may—
- (a) accept monies by way of grants or donations from any source within the Republic and subject to the approval of the Minister, from any source outside the Republic; and

-
- (b) subject to the Public Debt Management Act, 2022, raise by way of loans or otherwise, monies that the Council may require for the discharge of the Council's functions. Act No. 15 of 2022
- (3) There shall be paid from the funds of the Council—
- (a) the salaries, allowances, loans, gratuities and pensions of the staff of the Council and other payments for the recruitment and retention of staff;
- (b) reasonable traveling expenses and other allowances for members of the Board or members of a committee of the Board when engaged in the business of the Council at rates that the Emoluments Commission may, on the recommendation of the Minister, determine; and
- (c) any other expenses incurred by the Council in the performance of the Council's functions under this Act.
- (4) Subject to the Public Finance Management Act, 2018, the Board may, with the approval of the Minister, invest in a manner that the Board considers necessary any of the Council's funds that the Council does not immediately require for the performance of the Council's functions. Act No. 1 of 2018
- 9.** The financial year of the Council shall be a period of twelve months ending on 31st December in each year. Financial year
- 10.** (1) The Board shall cause to be kept proper books of accounts and other records relating to the Council's accounts. Accounts and audit
- (2) The accounts of the Council shall be audited annually by the Auditor-General or an auditor appointed by the Auditor-General.
- (3) The fees for the Auditor-General or an auditor appointed by the Auditor-General shall be paid by the Council.
- 11.** (1) The Board shall, as soon as practicable, but not later than ninety days after the end of the financial year, submit to the Minister a report concerning the activities of the Council during the financial year. Annual Report
- (2) The report referred to in subparagraph (1) shall include information on the financial affairs of the Council and there shall be appended to the report—
- (a) an audited statement of financial position;
- (b) an audited statement of comprehensive income and expenditure; and
- (c) any other information that the Minister may require.

(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subparagraph (1), lay the report before the National Assembly.

SECOND SCHEDULE

(Section 44)

1. In this Schedule “former Council” means the Examinations Council of Zambia established under the repealed Act. Interpretation

2. A person who immediately before the commencement of this Act held office as a member of the former Council shall continue to hold office as a member for a period of three months after which the Minister shall appoint the members of the Board in accordance with this Act. Member

3. (1) For the avoidance of doubt, a person who, before the commencement of this Act, was an officer or employee of the former Council, shall continue to be an officer or employee of the Council, as if appointed or employed under this Act. Staff of Council

(2) The service of the persons referred to, in subparagraph (1) shall be treated as continuous service.

(3) Nothing in this Act affects the rights and liabilities of any person employed or appointed by the former Council before this Act comes into force.

4. (1) On or after the commencement of this Act, there shall be transferred to, vest in and subsist against the Council by virtue of this Act and without further assurance, all assets, rights and obligations which immediately before that date were the assets, rights, liabilities and obligations of the former Council. Transfer of assets and liabilities

(2) Subject to subparagraph (1), every deed, bond and agreement, other than an agreement for personnel service, to which the former Council was a party immediately before the commencement of this Act whether or not of a nature that rights, liabilities and obligations could be assigned, shall, unless its subject matter or terms make it impossible that it should have effect as modified, as provided under this paragraph, have effect as if—

(a) the Council had been party to it;

(b) for reference to the former Council there was substituted, with respect to anything falling to be done on or after the commencement of this Act, a reference to the Council; or

(c) for any reference to any officer of the former Council, not being a party to it and beneficially interested, there were substituted, as respects anything falling to be done on or after the commencement of this Act, a reference to that officer of the Council, that it shall designate.

(3) Where under this Act, any assets, rights, liabilities and obligations of the former Council are deemed to be transferred to the Council in respect of which transfer a written law provided for registration, the Council shall make an application in writing to the appropriate registration authority for registration of the transfer.

(4) The registration authority, referred to in subparagraph (3), shall make entries in the appropriate register as shall give effect to the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register and shall endorse the deeds relating to the title, right or obligation concerned and no registration fees or other duties shall be payable in respect of the transaction.

Legal
proceedings

5. (1) Any legal proceedings or application of the former Council pending immediately before the commencement of this Act by or against the former Council may be continued by or against the Council.

(2) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the former Council, may be instituted by or against the Council.
