

A BILL

FOR

AN ACT TO REPEAL THE EXAMINATION MALPRACTICES ACT CAP. E13,
LAWS OF THE FEDERATION OF NIGERIA, 2004 AND ENACT THE
EXAMINATION MALPRACTICES ACT, 2021 TO EXPAND OFFENCES RELATING
EXAMINATION MALPRACTICES AND PRESCRIBE ADEQUATE PUNISHMENT;
AND FOR RELATED MATTERS

Sponsored by Hon. Olarewaju Ibrahim Kunle

[] Commencement

ENACTED by the National Assembly of the Federal Republic of
Nigeria:

1 1.-(1) A person who by:

2 (a) fraudulent trick or device or in abuse of his office or with intent
3 to unjustly enrich himself or any other person procures any question paper
4 produced or intended for use at any examination of persons, whether or not
5 the question paper concerned is proved to be false, not genuine or not related
6 to the examination in question;

7 (b) false pretence or with intent to cheat or secure any unfair
8 advantage for himself or any other person, procures from or induces any
9 other person to deliver to him or another person any question paper intended
10 for use at any examination;

11 (c) false pretence or with intent to cheat or unjustly enrich himself
12 or any other person buys, sells, procures or otherwise deals with any
13 question paper intended for use or represented as a genuine question paper in
14 respect of any particular examination;

15 (d) fraudulently or with intent to cheat or secure any unfair
16 advantage for himself or any other person or in abuse of his office, procures,
17 sells, buys or otherwise deals with any question paper intended for the
18 examination of persons at any examination;

Cheating at
examination

1 (e) fraudulent means or with intent to cheat or unjustly enrich himself
2 or any other person, uses a technological device at any examination, commits
3 an offence.

4 (2) A person who violates subsection (1), is liable on conviction in:

5 (a) the case of a person under the age of 18 years, to a fine of at least
6 N500,000 or imprisonment for a term not more three years or to both;

7 (b) the case of a principal, teacher, an invigilator, a supervisor, an
8 examiner, an agent or employee of the examination body concerned with the
9 conduct of an examination, to imprisonment for a term of four years without an
10 option of fine; and

11 (c) any other case, to imprisonment for a term of three years without
12 the option of a fine.

13 (3) Where a person accused of the offence under subsection (1) is an
14 employee of an examination body concerned with the conduct of
15 examinations, a head teacher, teacher or a person entrusted with the safety and
16 security of question papers, he shall be proceeded against and punished as
17 provided in this section, even if the question paper is proved not to be live,
18 genuine or does not relate to the examination concerned.

Stealing of
question papers

19 2.-(1) A candidate who, at any examination, by any fraudulent trick or
20 device or with intent to cheat or secure an unfair advantage for himself or any
21 other person, steals, appropriates or takes a question paper, an answer sheet or a
22 script of any other candidate commits an offence and is liable on conviction to a
23 fine of N500,000 or imprisonment for a term not more than three years or both.

24 (2) A person who assist or cause any candidate to have access and
25 control of any examination materials or papers which are not authorised by the
26 examination body, commits an offence and is liable on conviction to a fine of
27 N500,000 or imprisonment for a term not more three years or both.

Personation

28 3.-(1) A person who, at an examination:

29 (a) falsely represents himself to be a candidate sitting for the
30 examination; or

(b) writes or attempts to write a paper in the name of some other person whether that name is the name of a person living or dead, commits an offence.

(2) Any person who violates subsection (1) is liable on conviction in:

(a) the case of a person under the age of 18 years, to a fine of N500,000 or imprisonment for a term not more than three years or both;

(b) the case of a principal, teacher, an invigilator, a supervisor, an examiner, or an agent or employee of the examination body concerned with the conduct of an examination, to imprisonment for a term of 4 years without an option of a fine; and

(c) any other case, to imprisonment for a term of three years without an option of a fine.

(3) A person who alters or in any way tampers with a document which has been issued to a candidate in relation to an examination, so that the person is taken to be the candidate, commits an offence and is liable on conviction in:

(a) the case of a person under the age of 18 years, to a fine of N500,000 or imprisonment for a term not more than three years or both;

(b) the case of a principal, teacher, an invigilator, a supervisor, an examiner, or an agent or employee of the examination body concerned with the conduct of the examination, to imprisonment for a term of four years without an option of fine; and

(c) any other case, to imprisonment for a term of three years without an option of fine.

4.-(1) A candidate at an examination who leaves the venue of the examination, and mixes up with any other person with intent to cheat or secure any unfair advantage for himself or any other person in the examination, commits an offence and is liable on conviction to a fine of at least N300,000 or imprisonment for a term not more than three years or both

Orderliness at
examinations

1 and, in addition, the candidate shall not be allowed to re-enter the examination
2 hall or any other place to continue with that examination.

3 (2) A person who:

4 (a) without lawful excuse, with intent to aid a candidate to cheat or
5 secure any unfair advantage for himself or any other person at an examination,
6 communicates or attempts to communicate to the candidate any information
7 relating to any question paper in the examination; or

8 (b) not being involved in the conduct of an examination, is found in or
9 near the examination hall or any other place appointed for the examination with
10 intent to aid a candidate to cheat or secure an unfair advantage for a candidate at
11 the examination, commits an offence.

12 (3) A person who violates subsection (2) is liable on conviction in:

13 (a) the case of a person under the age of 18 years, to a fine of N500,000
14 or imprisonment for a term not more than three years or both;

15 (b) in the case of a principal, teacher, an invigilator, a supervisor, an
16 examiner, an agent or employee of the examination body concerned with the
17 conduct of an examination, to imprisonment for a term of four years without an
18 option of fine; and

19 (c) any other case, to imprisonment for a term of three years without
20 an option of a fine.

Disturbances at
examinations

21 5.-(1) A person who, at or near an examination hall or any other place
22 appointed for an examination:

23 (a) has in his possession any offensive weapon or other material or
24 uses any offensive weapon or other material on any other person; or

25 (b) acts or incites any other person to act in a disorderly manner, for
26 the purpose of disrupting the conduct of an examination or harming,
27 intimidating, assaulting or obstructing any person involved in the conduct of
28 the examination, commits an offence.

29 (2) A person who violates subsection (2) is liable on conviction in:

30 (a) the case of a person under the age of 18 years, to a fine of N500,000

or imprisonment for a term not more than three years or both;

(b) the case of a principal, teacher, an invigilator, a supervisor, an examiner, or an agent or employee of the examination body concerned with the conduct of an examination, to imprisonment for a term of five years without an option of fine; and

(c) any other case, to imprisonment for a term of four years without an option of a fine.

6.-(1) A candidate who:

(a) misconducts himself in an examination hall or any other place appointed for an examination; or

(b) fails to obey any lawful order of the supervisor, invigilator or agent of the examination body concerned with the conduct of the examination, commits an offence and is liable on conviction to a fine of N100,000 or imprisonment for a term not more than six months or both.

(2) A person who contravenes the provisions of subsection (1) may be removed from the examination hall or other place appointed for the examination by a police officer, the supervisor, invigilator or an agent of the examination body concerned with the conduct of the examination.

7. A person who willfully obstructs a supervisor, an invigilator or agent of the examination body concerned with the conduct of the examination or any other person in the performance of his duty at the examination, commits an offence and is liable on conviction in:

(a) the case of a person under the age of 18 years, to a fine of N200,000 or imprisonment for a term not more than one year or both;

(b) the case of a principal, teacher, an invigilator, a supervisor, an examiner, or an agent or employee of the examination body concerned with the conduct of an examination, to imprisonment for a term of five years without an option of fine; and

(c) any other case, to imprisonment for a term of four years without an option of fine.

Conduct at
examinations

Obstruction of
supervisor

Forgery of result
slip

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8.-(1) A person who;

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(a) forges; or

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(b) fraudulently or without lawful order, alters or in any other way tampers with, the scores of a candidate as contained on a result slip or certificate duly issued by an examination body, commits an offence.

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(2) A person who violates subsection (1) is liable on conviction in:

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(a) the case of a person under the age of 18 years, to a fine of N500,000

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or imprisonment for a term not more than three years or both;

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(b) the case of a principal, teacher, an invigilator, a supervisor, an

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examiner, or an agent or employee of the examination body concerned with the

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conduct of an examination, to imprisonment for a term of five years without an

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option of fine; and

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(c) any other case, to imprisonment for a term of four years without

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the option of a fine.

Breach of duty

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9.-(1) A person who is under a duty to discharge any function with

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respect to the conduct of an examination, without reasonable cause, before,

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during or at an examination or at any time thereafter:

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(a) fails to discharge that duty; or

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(b) discharge that duty fraudulently, negligently, perversely or

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recklessly; or

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(c) commits an act or omission in breach of that duty, commits an

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offence and is liable on conviction to a fine of N500,000 or imprisonment for a

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term not more than three years or both.

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(2) A person:

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(a) employed to mark examination papers, who, without lawful

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excuse, alters or tampers or attempts to alter or tamper with the scores of a

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candidate as recorded by another person; or

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(b) employed by an examination body, who before, during or after an

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examination, fraudulently or without lawful authority, alters or otherwise

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tampers with the scores of a candidate or aids or abets any candidate to cheat at

an examination, commits an offence and is liable on conviction to a fine of N400,000 or imprisonment for a term of four years both.

(3) A person, employed to print or charged with the responsibility of printing live question papers, who, without lawful authority, communicates to any person any information contained in any of the question papers, commits an offence and is liable on conviction to a fine of N500,000 or imprisonment for a term of five years or both.

(4) A supervisor or invigilator responsible for question paper or examination materials who negligently lost or misuse question papers or examination materials, commits an offence and is liable on conviction to a fine of N500,000 or imprisonment for four years or both.

10.-(1) A person directly associated or involved in any examination as an official or candidate writing the examination shall as soon as practicable, before the commencement of his duties in respect of that examination, disclose if he has interest in the examination.

Non-disclosure

(2) A person who violates subsection (1) commits an offence and is liable on conviction to a fine of N200,000 or imprisonment for a term not more than three years or both and in addition, the person shall not be allowed to write or officiate in the examination.

11. A person who:

(a) conspires with, aids, abets, assists or counsels any other person to commit an offence;

(b) attempts to commit an offence or is an accessory before or after the fact to an act or omission which constitutes an offence; or

(c) incites, procures, induces or does an act perceived to facilitate the commission of an offence under this Act, is deemed to have committed the offence and is liable on conviction to the same punishment as is prescribed for that offence under this Act.

Conspiracy and aiding

12.-(1) Where a person is charged with an offence created under this Act and the evidence establishes an attempt to commit any other offence

Conviction for alternative offence

1 under this Act, the person may be convicted of having attempted to commit that
2 other offence notwithstanding that the attempt is not separately charged, and
3 that person shall be punished as is prescribed for the offence under this Act.

4 (2) Where a person is charged with an attempt to commit an offence
5 under this Act, but the evidence establishes the commission of the full offence,
6 the offender shall not be entitled to acquittal, but shall be convicted of the
7 offence and punished as provided under this Act.

Offences by bodies
corporate

8 13. Where an offence under this Act which has been committed by a
9 body corporate is proved to:

- 10 (a) have been committed on the instigation or with the connivance of;
11 (b) be attributable to any neglect on the part of, a director, manager,
12 secretary or other similar officer of the body corporate, or any person
13 purporting to act in any such capacity, he, as well as the body corporate, where
14 practicable, shall be deemed to have committed that offence and shall be liable
15 to be proceeded against and punished accordingly.

Trial of children
and young persons

16 14. Where a person who is a child or a young person, within the
17 meaning of the Childs Right Act, that is, a person who has not attained the age
18 of eighteen years, is charged with an offence under this Act, he shall be dealt
19 with under the provisions of the Childs Right Act.

Jurisdiction

20 15. Subject to section 13 of this Act, the Court shall have:

- 21 (a) jurisdiction to try offenders under this Act; and
22 (b) power, notwithstanding anything to the contrary in any other
23 enactment, to impose the penalties provided for offences under this Act.

Pending
proceedings

24 16.-(1) Any part-heard proceeding, relating to a matter for which the
25 Court has jurisdiction, which is pending before any court or tribunal on the date
26 of coming into effect of this Act, shall be continued and completed as if this Act
27 had not been made.

28 (2) All new proceedings shall be brought before the Court.

29 (3) A person who has been tried and convicted or acquitted for an
30 offence charged under any other enactment, shall not be tried a second time for

1 the same offence, notwithstanding that he could be proceeded against in
2 accordance with the provisions of this Act.

3 17.-(1) Notwithstanding the provisions of this Act, an examination
4 body shall have the power to:

Power of the
examination body

5 (a) withhold, suspend or cancel the results of a candidate or ban or
6 blacklist a candidate from taking its examinations if it is satisfied that the
7 candidate has engaged in any form of examination malpractice;

8 (b) withdraw recognition, suspend, ban or blacklist or place on
9 probation a school or an examination centre if it is satisfied that the school or
10 examination centre is involved in any form of examination malpractice;

11 (c) remove the name of, or withhold payment to a supervisor, an
12 invigilator or any other official employed in the conduct of an examination if
13 it is satisfied that the supervisor, invigilator or official has contributed to an
14 examination malpractice.

15 (2) An examination body may, in exercise of its powers under this
16 section, circulate the name of an offending candidate, supervisor,
17 invigilator, official, school or examination centre to other examination
18 bodies which may impose similar punishment.

19 18. Notwithstanding the provisions of any other enactment
20 conferring power to search, if the Court is satisfied that there is a reasonable
21 ground to suspect that there may be found in any building or other place, any
22 question paper, examination paper, score sheet or information in any other
23 form which, in its opinion, is or may be material to the subject-matter of any
24 trial under this Act, it may issue a warrant authorising any police officer or
25 any member of the armed forces or of any of the security agencies to:

Power of search

26 (a) enter, if necessary by force, the building or other place and
27 every part of the building or place; and

28 (b) search for, seize and remove any question paper, examination
29 paper, score sheet or information found in the building or place.

Repeal of
section 3 (16)

1 19. Section 3 (16) of the Miscellaneous Offences Act is hereby
2 repealed.

Interpretation

3 20. In this Act:

4 "Court" means the Federal, State and Federal Capital Territory High Courts;

5 "examination" means an examination conducted by an examination body;

6 "examination body" means the West African Examinations Council, National

7 Examination Council, Joint Admissions and Matriculation Board, National

8 Teachers Institute, National Business and Technical Education Board,

9 National Board for Educational Measurement and any other body established

10 by the Government to conduct an examination;

11 "examination malpractice" means an act which constitutes an offence under

12 this Act and includes:

13 (a) sneaking unauthorised materials;

14 (b) prior knowledge of examination questions;

15 (c) sitting for examinations for and on behalf of others;

16 (d) obtaining assistance from invigilator;

17 (e) exchange of examination papers;

18 (f) copying from one another;

19 (h) writing on clothes;

20 (i) colluding with examination officials;

21 (j) use of technological devices in examination;

22 (k) stealing;

23 (l) personation;

24 (m) disorderliness;

25 (n) cheating;

26 (o) forgery of result sheet;

27 (p) giraffing;

28 (q) laptopping;

29 (r) any form of unethical action for personal gain committed before,

30 during and after any examination; or

1 (s) any act of wrongdoing which give a candidate undue advantage
2 over others in obtaining success in an examination thereby jeopardising the
3 credibility of the certificate issued;

4 "live question paper" means an authentic question paper related to the
5 particular forthcoming examination;

6 "personation" includes taking examination for and on behalf of another
7 person, registration of examination using false name, certification or
8 signature of another person;

9 "question paper" includes a question paper:

10 (a) produced through a fax or telex machine or any other electronic
11 or electrical device;

12 (b) that is hand-written or in Braille or any other form; and

13 (c) that is transmitted through telephone.

14 "technological device" means any device that can be used for creating,
15 storing and transmitting information in the form of electronic data and
16 include, computers, cell phones, smart phones, digital cameras, digital
17 diaries, video cameras or audio recording devices.

18 21. This Bill may be cited as the Examination Malpractices Bill, Citation
19 2021.

EXPLANATORY MEMORANDUM

This Bill seeks to repeal the Examination Malpractices Act Cap. E15, Laws of the Federation of Nigeria, 2004 and enact the Examination Malpractices Act, 2021 to expand offences relating examination malpractices and prescribe adequate punishment.