

CHAPTER K18 - KWARA STATE EXAMINATION MALPRACTICES IN EDUCATIONAL INSTITUTIONS (PROHIBITION) LAW

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**KWARA STATE EXAMINATION MALPRACTICES IN EDUCATIONAL
INSTITUTIONS (PROHIBITION) LAW**

A Law to provide for offences relating to examination malpractices and prescribe shelf penalties for persons found guilty or those offences in educational institutions or the State.

[No. 8 of 2006.]

[Date of commencement: 8th December, 2006]

PART I

Offences

1. Cheating at examination

- (1) A person who, in anticipation of, before or at any examination—
- (a) by any fraudulent trick or device or in abuse of his office or with intent to unjustly enrich himself or any other person procures any question paper, produced or intended for use at any examination of persons, whether or not the question paper concerned is proved to be false, not genuine or not related to the examination in question; or
 - (b) by any false pretence or with intent to cheat or secure any unfair advantage for himself or any other person, procures from or induces any other person to deliver to himself or another person any question paper or material intended for use at any examination; or

- (c) by any false pretence or with intent to cheat or unjustly enrich himself or any other person buys, sells, procures or otherwise deals with any question paper or material intended for use or represented as a genuine question paper in respect of any particular examination; or
- (d) fraudulently or with intent to cheat or secure any unfair advantage for himself or any other person or in abuse of his office procures, sells, buys or otherwise deals with any question paper or material intended for the examination of persons at any examination; or
- (e) by any pretence with intent to influence examiners assessment, give or offer money, material, etc., as gratification, commits an offence.

(2) A person guilty of an offence under subsection (1) of this section is liable on conviction—

- (a) in the case of a person under the age of 18 years, to a fine of twenty thousand naira;
- (b) in the case of a principal, teacher, lecturer, an invigilator, a supervisor, an examiner, parent or an agent or employee of the examination body concerned with the conduct of an examination, to imprisonment for a term of three years without the option of a fine; and
- (c) in any other case, to imprisonment for a term of two years without the option of a fine.

(3) Where the person accused of the offence is an employee of an

examination body concerned with the conduct of examinations or a head teacher, teacher or other person entrusted with the safety and security of question papers, he shall be proceeded against and punished as provided in this section, notwithstanding that the question paper concerned is proved not to be live, genuine or does not relate to the examination concerned.

2. Stealing, etc., of question papers

A candidate who, at any examination, by any fraudulent trick or device or with intent to cheat or secure an unfair advantage for himself or other person, steals or otherwise appropriates or takes a question paper, an answer sheet or a script of any other candidate commits an offence and is liable on conviction—

- (a) in the case of a person under the age of 18 years, to a fine of twenty thousand naira; and
- (b) in any other case to a fine of fifty thousand naira or imprisonment for a term not exceeding two years or to both such fine and imprisonment.

3. Impersonation

- (1) A person who, at an examination—
 - (a) falsely represents himself to be a candidate sitting for the examination; or
 - (b) writes or attempts to write a paper in the name of some other persons whether that name is the name of a person living or dead, commits an offence.

(2) A person guilty of an offence under subsection (1) of this section is liable on conviction—

- (a) in the case of a person under the age of 18 years, to a fine of twenty thousand naira;
- (b) in the case of a principal, teacher, lecturer, 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 three years without the option of a fine; and
- (c) in any other case, to imprisonment for a term of two years without the option of a fine.

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

- (a) in the case of a person under the age of 18 years, to a fine of twenty thousand naira;
- (b) in the case of a principal, teacher, lecturer, 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 three years without the option of a fine; and
- (c) in any other case, to imprisonment for a term of two years without the option of a fine.

4. Orderliness at examination

(1) A candidate at an examination, who leaves the examination hall or any other place appointed for the examination and mixes up with any other person with intent to cheat or secure unfair advantage for himself or any other person in the examination, commits an offence and is liable on conviction—

(a) in the case of a person under the age of 18 years, to a fine of twenty thousand naira; and

(b) in any other case, to a fine of fifty thousand naira or imprisonment for a term not exceeding two years or to both such fine and imprisonment, and

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

(2) A person who—

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

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

(3) A person guilty of an offence under subsection (2) of this section is liable on conviction—

- (a) in the case of a person under the age of 18 years, to a fine of twenty thousand naira;
- (b) in the case of a principal, teacher, lecturer, 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 three years without the option of a fine; and
- (c) in any other case, to imprisonment for a term of two years without the option of a fine.

5. Disturbance at examination

(1) A person who, at or near an examination hall or any other place appointed for an examination—

- (a) has in his possession any offensive weapon or other material or uses any offensive weapon or other material on any other person; or
- (b) acts or incites any other person to act in a disorderly manner; or
- (c) for the purpose of disrupting the conduct of an examination or of harming, intimidating, assaulting or obstructing any person involved in the conduct of the examination, commits an offence.

(2) A person guilty of an offence under subsection (1) of this section is liable on conviction—

- (a) in the case of a person under the age of 18 years, to a fine of fifty thousand naira;

- (b) in the case of a principal, teacher, lecturer, 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 four years without the option of a fine; and
- (c) in any other case, to imprisonment for a term of three years without the option of a fine.

6. Conduct at examination

(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.

(2) A candidate guilty of an offence under subsection (1) of this section shall be liable on conviction—

- (a) in the case of a person under the age of 18 years, to a fine of twenty thousand naira; and
- (b) in any other case to a fine of fifty thousand naira or imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(3) A person who contravenes the provisions of subsection (1) of this section 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. Obstruction of supervisor, etc.

A person who wilfully obstructs a supervisor, an invigilator, an examiner 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—

- (a) in the case of a person under the age of 18 years, to a fine of fifty thousand naira;
- (b) in the case of a principal, teacher, lecturer, 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 three years without the option of a fine; and
- (c) in any other case, to imprisonment for a term of two years without the option of a fine.

8. Forgery of result, etc.

(1) A person who—

- (a) forges; or
- (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.

(2) A person guilty of an offence under subsection (1) of this section is liable on conviction—

- (a) in the case of a person under the age of 18 years, to a fine of thirty thousand naira;
- (b) in the case of a principal, teacher, lecturer, 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 the option of a fine; and
- (c) in any other case, to imprisonment for a term of four years without the option of a fine.

9. Smuggling of answer scripts, etc.

- (1) A person sitting for an examination who—
 - (a) smuggles answer scripts into the examination hall;
 - (b) writes notes inclusive of writing same in codes, designs, etc., on any part of the body, clothes or any other materials;
 - (c) uses calculators, micro chips, Global Service Mobile (G.S.M.) or any electronic machine materially fed with information relating to the examination contrary to official instructions;
 - (d) stretches out his neck to see another person's answer sheet;
 - (e) copies, spies another person's answer booklet or from a textbook, etc., or

- (f) whispers answers to another person, commits an offence.

(2) Any person guilty of an offence under this section is liable on conviction—

- (a) in the case of a person under the age of 18 years, to a fine of twenty thousand naira; and
- (b) in any other case to a fine of fifty thousand naira or imprisonment for a term not exceeding two years or to both such fine and imprisonment.

10. Breach of duty

(1) A person who is for the time being under a duty to discharge any function with respect to the conduct of an examination, without reasonable cause, before, during or at an examination or at anytime thereafter—

- (a) fails to perform or discharge that duty; or
- (b) performs that duty, fraudulently, negligently, perversely or recklessly; or
- (c) commits an act or omission in breach of that duty, commits an offence and is liable on conviction to a fine of fifty thousand naira or imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(2) A person—

- (a) employed to mark examination papers, who without excuse alters or otherwise tampers or attempts to tamper with the

scores of a candidate as recorded by another person; or

- (b) employed by an examination body, who before, during or after an examination, fraudulently or without lawful authority, alters or otherwise 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 imprisonment for a term of four years without the option of a fine.

(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 imprisonment for a term of five years.

11. Conspiracy aiding, etc.

A person who—

- (a) conspires with, aids, abets, or counsels any other person to commit an offence; or
- (b) attempts to commit or is an accessory to an act or offence or to an act which constitutes an offence; or
- (c) incites, procures or induces any other person by any means whatsoever to commit an offence,

under this Law, commits an offence and is liable on conviction to the same punishment as is prescribed for that offence under this Law.

12. Leakage of examination questions

Any person through whom there has been a leakage of examination questions shall be guilty of an offence and shall be liable on conviction to a fine of fifty thousand naira or to imprisonment for a term of two years.

13. Conviction for alternative offence

(1) Where a person is charged with an offence under this Law and the evidence establishes an attempt to commit that offence, he may be convicted of having attempted to commit the offence notwithstanding that the attempt is not separately charged, and that person shall be punished as is prescribed for the offence under this Law.

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

14. Offences by bodies corporate

Where an offence committed by a body corporate is proved to—

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

15. Disciplinary measures

The provision of this Law shall be without prejudice to any other disciplinary measures that may be taken by any established disciplinary

committee, the authority in control of the respective institutions or any relevant body.

PART II

Miscellaneous

16. Trial of children and young persons

Where a person who is a child or a young person (within the meaning of the Children and Young Persons Law, that is a person who has not attained the age of eighteen years) is charged with an offence under this Law he shall be dealt with under the provisions of the Children and Young Persons Law and the fines contained in this Law shall be impose.

17. Jurisdiction

Subject to section 16 of this Law the Magistrate Court (in this Law referred to as "the Court") shall have—

- (a) jurisdiction to try offenders under this Law; and
- (b) power, notwithstanding anything to the contrary in any other enactment, to impose the penalties provided for an offence in this Law.

18. Powers of the examination body

Notwithstanding the provisions of this Law, an examination body shall have the power to—

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

- (b) withdraw recognition, suspend, ban or blacklist or place on probation a school or examination centre if it is involved in any form of examination malpractices;
- (c) remove the name of, or withhold payment to a supervisor or an examination centre if it is satisfied that the supervisor or invigilator or official has contributed to an examination malpractice.

19. Power of search, etc.

Notwithstanding the provisions of any other enactment conferring power to search, if the Court is satisfied that there is a reasonable ground to suspect that there may be found in any building or other place whatsoever, any question paper, examination paper, score sheet or information in any other form whatsoever which, in its opinion, is or may be material to the subject-matter of any trial under this Law, it may issue a warrant authorising any police officer or any of the security agencies to—

- (a) enter, if necessary by force, the building or other places and every part of the building or place;
- (b) search for, seize and remove any question paper, examination paper, score sheet or information found in the building or place; and
- (c) search for seize and remove any equipment or any electronic machine materially fed with information relating to the examination.

20. Interpretation

In this law, unless the context otherwise requires—

"Court" means Magistrate's Court;

"Educational institution" means a School, College Polytechnic University or Institution for learning and training students.

"Examination" means —

- (a) Junior Secondary School Certificate Examination (JSCE);
- (b) Gifted Children Examination;
- (c) Senior Islamic Studies Examination;
- (d) all semestral, terminal, sessional examination, etc., that are internally controlled by any educational institution in the State; and
- (e) all other examinations that are State controlled.

"examination body" means the authority of an educational institution or the body, Committee, Board, etc., of an educational institution so delegated;

"examination malpractice" means an act which constitutes an offence under this Law;

"Government" means the Government of Kwara State of Nigeria;

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

"person" includes pupils and students;

"pupil" means a pupil of an Educational Institution in the State;

"question paper" includes a question paper—

- (a) produced through a fax or telex machine or any other electronic or electrical device;
- (b) that is hand-written or in Braille or any other form; and
- (c) that is transmitted through telephone and mobile phone.

"State" means Kwara State of Nigeria;

"Students" means a student of an Educational Institution in the State.

21. Citation

This Law may be cited as the Kwara State Examination Malpractices in Educational Institutions (Prohibition) Law, 2006.

CHAPTER K18

KWARA STATE EXAMINATION MALPRACTICES IN EDUCATIONAL INSTITUTIONS (PROHIBITION) LAW

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
