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# <title> CHAPTER E1 - EDUCATION LAW </title>

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**EDUCATION LAW**

**<lawdescription>The Military Administrator of the Kwara State of Nigeria hereby makes the following Law </lawdescription>**

<lawnumber> [No. 4 of 1996, No. 4 of 2006.] </lawnumber>

<lawdate>[Date of commencement: 16th August, 1996] </lawdate>

**<sections>**

**<section>**

**<heading>1. Short title </heading>**

<body> This Law may be cited as the Education Law, 1996. </body> </section>

**<section>**

**<heading> 2. Interpretation </heading>**

<body> In this Law, unless the context otherwise requires—

**"Administrator"** means the Military Administrator of Kwara State and includes the Governor of the State;

**"Capital Grant"** means a grant of money for the purposes of constructing, equipping or enlarging an institution;

**"Child"** means any person who has not attained the age of fourteen years;

**"Class for religious instruction"** means a class or assembly of not less than ten persons receiving instruction in religious subjects only;

**"Commercial College"** means an institution providing courses of instruction in general commercial practice and including such subjects as English, Mathematics, Shorthand, Typewriting, Book-keeping, Accounts and Office Managements;

**"Commissioner"** means Commissioner for Education;

**"correspondence college"** means an educational establishment providing courses of instruction by means of correspondence;

**"Community"** means the environment in which an institution is built;

**"Community School"** means a school other than a government school which is established, owned and run by a body of people living in a locality;

**"education advancement class"** means a class of not less than ten persons other than in a school or training college in which education including technical education is given to persons over the age of fourteen years of age; but does not include adult literacy class or other class for adults as may be organised or approved by the Ministry;

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

**"institution"** means a primary school, a secondary school, a commercial college, a technical institution or a training college;

**"Local Government Area"** means an administrative division of the State; established under the provisions of the constitution of Nigeria;

**"manager"** means, in the case of an institution which is conducted by the proprietor in person, or the person appointed by the proprietor and in the case of every other institution the person for the time being appointed by the proprietor to be responsible as the local representative of the proprietor for the purpose of managing the institution;

**"Ministry"** means the Ministry of Education;

**"Nursery"** means a school for children between the ages of three to five years;

**"Primary school"** means a school in which full-time education suitable to the requirement of children who have attained the age of six but not yet the age of fifteen is given and has not less than ten pupils;

**"private institution"** means an institution which is not a Government Institution established under section 20 and is not in receipt of government grant-in-aid;

**"proprietor"** means any person who owns an institution;

**"post-primary school"** means a school in which full-time education including technical, vocational and commercial education suitable to the requirements of children who have completed all their primary school courses is given and does not include a training college and whose population is not less than twenty students per class;

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

**"technical institute"** means an institution in which are given courses of general education and of specific instruction in the principles and methods of such professions and technical occupations as the Commissioner may form time to time approve;

**"training college"** means an institution in which are given general education and specific training on education and the teaching profession;

**"Tribunal"** means the Teachers' Tribunal established under section 35 of this Law;

**"voluntary agency"** means a person, mission or society, which is the proprietor of an institution other than an institution established or deemed to have been established under section 20 of this Law. </body> </section>

**<section>**

**<heading> 3. System of education </heading>**

<body> (1) The Commissioner may make such arrangements as appear to him to be necessary to ensure that every child of primary school age is afforded an opportunity of receiving education in a public or private primary school until such a child has completed the primary school course.

(2) Every child starting the primary school education shall be at least six years of age.

(3) The Commissioner shall ensure that every child starting secondary school education is at least twelve years old. </body> </section>

**<section>**

**<heading> 4. Provision of pre-primary education </heading>**

<body>(1) The Commissioner may make such arrangements as appear to him necessary to ensure that children between the ages of three to five years have access to pre-primary education.

(2) Teachers who are well trained and who specialise in pre-primary education shall be allowed to teach in the nursery schools.

(3) Essential equipment for the training of the pupils should be provided by the institution.

(4) The Commissioner shall make arrangements to regulate and control the operations of pre-primary institutions and ensure the schools are inspected regularly. </body> </section>

<section>

**<heading> 5. Admission policy </heading>**

<body> (1) The Commissioner shall make arrangements for children to complete their primary education and move to junior secondary school.

(2) The Commissioner shall from time to time issue policy guidelines with respect to admission into schools. </body> </section>

<section>

**<heading> 6. Provision of special schools </heading>**

<body> (1) The Commissioner may make such arrangements as appear to him to be necessary to provide special schools for the handicapped children.

(2) Adequate facilities shall be provided for the teaching of handicapped children. </body> </section>

**<section>**

**<heading> 7. Provision of technical education </heading>**

<body> (1) The Commissioner may make arrangements as appear to him necessary for the provision of technical education for children.

(2) The Commissioner may make such arrangements as appear to him to be necessary to provide sufficient facilities for the training of teachers.

(3) The Commissioner may make such arrangements as appear to him to be necessary for adult and non-formal education. </body> </section>

<section>

**<heading> 8. Inspection and special inspection </heading>**

<body> The Commissioner may cause an inspection to be made of every institution at intervals which appear to him to be appropriate and may cause a special inspection of any institution to be made whenever he considers that such an inspection would be desirable. </body> </section>

**<section>**

**<heading> 9. Enforcement of school attendance </heading>**

<body> The compulsory school age shall be six years and any child who has attained that age and who is able and capable shall attend a public or private primary school.</body> </section>

**<section>**

**<heading> 10. Duty of parents </heading>**

<body> It shall be the duty of the parents of every child of compulsory school age to cause the child to receive an appropriate, full time primary school education suitable to the age, ability and aptitude of the child. </body> </section>

**<section>**

**<heading> 11. Unlawful withdrawal of a child from primary school </heading>**

<body> (1) If any child of compulsory school age who is a registered pupil at a primary school is without a reasonable cause withdrawn from the school or fails to attend regularly thereat, the parents of the child or any person responsible for the withdrawal or irregular attendance shall be guilty of an offence under this section.

(2) In any proceeding for an offence against this section it shall be a sufficient defence—

(a) that no educational facilities exist within the locality where the child lives to pursue an appropriate education;

(b) that the child is certified on medical grounds to be unable to pursue an appropriate education available within the locality in which he lives. </body> </section>

<section>

**<heading> 12. Duty of parent on post primary education </heading>**

<body> It shall be the duty of the parents of every child who has completed his primary school education to cause him to enrol in a post primary institution to receive full time education by regular attendance in such institution. </body> </section>

**<section>**

**<heading> 13. Unlawful withdrawal of student from post primary institution </heading>**

<body> (1) If any student who is registered at a post primary institution is without a reason able cause withdrawn from the institution or fails to attend regularly thereat, the parents of the student or any person responsible for the withdrawal or irregular attendance shall be guilty of an offence.

(2) In any proceeding for an offence against this section, the burden of proof that the withdrawal of the student from the institution or any irregular attendance thereat is for a reasonable cause shall be placed on the parents of the student or any person responsible for the withdrawal or the irregular attendance. </body> </section>

<section>

**<heading> 14. Failure to admit, etc. </heading>**

<body> (1) Any person charged with the responsibility of admission to a public primary school who refuses or fails to admit a pupil of primary school age on presenting himself for admission into the school when a vacancy exists in primary one of the school, shall be guilty of an offence and, on conviction shall be liable to a fine of ten thousand naira or in default to imprisonment for a term not exceeding six months or both.

(2) Any person charged with responsibility for admission to a public post primaryinstitution who refuses or fails to admit a pupil who has completed his primary school course when there is a vacancy in class one in th e school shall be guilty of an offence and liable to a fine of ten thousand naira or in default to a term of imprisonment not exceeding six months or both.

(3) Any person who suspends or terminates the course of studies of a pupil enrolled for education in public primary or public post primary institution before the end of such a course without the prior approval of the appropriate Government Authority charged with such responsibility shall be guilty of an offence and liable to a fine of twenty thousand naira or in default to imprisonment for a term not exceeding one year.

(4) Nothing in the foregoing provisions of this section shall be construed as derogating from the power of the head of the institution to suspend a pupil from attending classes for a period not exceeding four weeks at any one term on disciplinary grounds.

(5) Notwithstanding the other provision of this section powers to exercise disciplinary control over pupils in an institution shall be vested in the head of the institution save power to dismiss pupils which shall be vested in the appropriate State Government authority charged with such a responsibility. </body> </section>

**<section>**

**<heading> 15. Power of Zonal Education Board, etc., to prohibit and restrict employment of children </heading>**

<body> (1) If it appears to any of the persons referred to in subsection (2) of this section that any child who is a registered pupil at a school is being employed in such manner as to be prejudicial to his health or otherwise to render him unfit to obtain the full benefit of education available to him, such a person may by notice to the employer prohibit him from employing the child or impose such restriction upon the employment of the child as appears to him to be expedient in the interest of the child.

(2) The persons referred to in subsection (1) of this section shall include a Ward Head, a Village Head, a District Head, a Traditional Chief and an official of the Zonal Inspector of Education office, Local Government Education Authority or of a Local Government Council in the area.

(3) Such a person as is referred to in this section shall immediately make a report to the Zonal Inspector of Education, Local Government Education Authority, the Local Government Council or the Ministry of Education of the notice to or the restriction on the employer. </body> </section>

<section>

**<heading> 16. Offence by parents </heading>**

<body> Any parent who fails to discharge the responsibility imposed on him under this Law, shall be guilty of an offence and liable on conviction to a fine of ten thousand naira or to three months imprisonment. </body> </section>

**<section>**

**<heading> 17. Employment of children </heading>**

<body> Any person who employs a child in contravention of any prohibition or restriction imposed under subsection (1) of section 15 shall be guilty of an offence. </body> </section>

**<section>**

**<heading> 18. Penalty </heading>**

<body> Any person found guilty of an offence against the provisions of this Law for which no specific penalties have been provided for shall be liable on conviction to a fine of ten thousand naira for the first offender and in default to an imprisonment of three months and for a second offender to a fine of twenty thousand naira and in default to an imprisonment of six months. </body> </section>

**<section>**

**<heading> 19. Delegation </heading>**

<body> (1) The Commissioner may delegate to any officer of the Ministry all or any of his administrative functions under this Law.

(2) Any delegation under this section may be made either generally or in respect of any particular function or matter and shall be in writing and, when made generally, shall be published in the Kwara State Gazette.

(3) Any delegation under this section shall be revocable at will and no such delegation shall prevent the exercise by the Commissioner of any function so delegated. </body> </section>

<section>

**<heading> 20. Establishment of new institutions </heading>**

<body> (1) No person shall establish an institution other than a Government institution unless—

(a) he gives notice in writing to the Honourable Commissioner of his intention to open such institution giving the following particulars—

(i) the name and address of the proprietor;

(ii) the name and address of the Manager;

(iii) the situation of the institution and the plan of the buildings;

(iv) the type of institution, the number and type of classes and the medium of instruction proposed;

(v) the subjects to be taught including the two major religions in the State;

(vi) the number, qualifications, Local Government area, State, religion and nationality of the staff;

(vii) the nature of the interest in or tenure of the land to be possessed by the institution; and

(viii) evidence that the school is sited at the permanent site through the submission of Right of Occupancy or Certificate of Occupancy of the land on which the school is sited.

(b) the consent in writing of the Commissioner has been obtained.

(2) Any person who in a notice given under subsection (1) of this section, furnishes particulars which are false, after being inspected shall be guilty of an offence and shall be

liable to a fine of twenty thousand naira on conviction or to an imprisonment of four years without prejudice to any other proceedings which may be taken against him under this Law.

(3) Any person who opens an institution without the consent in writing of the Commissioner or gives false claims or refuses to teach the accepted and approved curriculum shall have the institution closed after seven days notice has been given to the proprietor.

(4) No person who has established an institution in accordance with this section shall alter any of the constituents of the institution the particulars of which are required to be given in the notice referred to in subsection (1) in respect of such institution without the consent of the Commissioner in writing.

(5) Any institution lawfully established by any person prior to the date of commencement of this Law shall be deemed to have been established in accordance with the provisions of the Law.

(6) Any person who contravenes any of the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine of twenty thousand naira or to imprisonment for four years without prejudice to any other proceedings which may be taken against him under this Law or both. </body> </section>

<section>

**<heading> 21. Power to withhold consent </heading>**

<body> The Commissioner may, in his absolute discretion, withhold his consent to the establishment of an institution provided that on demand from the proprietor the Commissioner shall give his reasons for his decision, in order that the proprietor may, if he wishes endeavour to meet the Commissioner's requirements. </body> </section>

**<section>**

**<heading> 22. Registration of private institutions </heading>**

<body> (1) The proprietor of any private institution shall within three months of the coming into operation of this Law register the same with the Ministry giving the following particulars—

(a) the name and address of the proprietor;

(b) the name and address of the Manager;

(c) the situation of the institution;

(d) the type of the institution, the medium of instruction;

(e) the population of pupils by class, by Local Government Area and by religion; and

(f) the numbers, qualifications, Local Government, State, religion and nationality of the staff.

(2) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable on conviction to a fine of ten thousand naira or to imprisonment for two years or both without prejudice to any other proceedings which may be taken against him under this Law. </body> </section>

**<section>**

**<heading> 23. Submission to inspection </heading>**

<body> (1) The manager or principal or the person for the time being, in charge of an institution shall permit any authorised officer of the Ministry to inspect the institution at any reasonable time, and shall produce for inspection any books or records for which such officer may call and shall furnish such information about the institution as such officer may require.

(2) The Manager or Principal or the person for the time being in charge of an institution who contravenes or fails to comply with any of the provisions of this section or who gives any information demanded of him under this section which he knows to be false, shall be guilty of an offence and shall be liable on conviction to a fine of ten thousand naira or to imprisonment for two years without prejudice to any other proceedings which may be taken against him under this Law. </body> </section>

**<section>**

**<heading> 24. Power of Commissioner to close institution </heading>**

<body> (1) The Commissioner may order any institution to be closed—

(a) where any of the constituents of the institution the particulars of which are required to be given in the notice referred to in subsection (1) of section 20, have been altered without the consent of the Honourable Commissioner; or

(b) where, on inspection, it has been shown to the satisfaction of the Commissioner that the institution is being conducted in a manner not in the interest of the pupils, and the Commissioner has pointed out to the proprietor the faults in the conduct of the institution and the manner in which those faults should be remedied, and after a period of not less than six months on further inspection it has been shown to the satisfaction of the Commissioner that the institution is still being run in a manner which is not in the interests of the pupils; or

(c) where, having regard to any other educational facilities available in the area, the Commissioner is satisfied that the continuance of the institution is not in the interest of the community to be served.

(2) When the Commissioner has ordered the closure of a school and it is not closed within the specified time, the proprietor shall be liable to a fine of twenty thousand naira or an alternative of four years imprisonment.

(3) Once an educational institution is closed by the Commissioner it will not re-open until a fresh application to re-open has been made after six months of its closure. </body> </section>

**<section>**

**<heading> 25. Power of Commissioner to unite or split institutions </heading>**

<body> (1) The Commissioner, if he is of the opinion that the union of any two or more institutions which are maintained in whole or in part from public funds would conduce to greater economy or efficiency, may direct such union to be effected.

(2) Before giving any direction in accordance with subsection (1) the Commissioner shall consult with the proprietors of the institutions affected and with the State Executive Council.

(3) When the institutions affected by a direction given under subsection (1) are not in the ownership of one proprietor, the Commissioner shall give directions—

(a) in regard to the conveyance to the proprietor specified in such direction of any premises of the institutions affected which the Commissioner is satisfied will be required for the purpose of the new institution; and

(b) in regard to the payment by the Government, or Local Government Authority Local Board to the proprietor of any institution affected of such part of the value of any premises so conveyed as is just having regard to the extent to which those premises were provided otherwise than at the expense of either the Government, or a Local Government Authority.

(4) If the proprietor of any institution is aggrieved by any direction of the Commissioner with respect to any compensation for which provision is made in paragraph (b) of subsection (3) he may require the matter to be submitted to the High Court

(5) The High Court shall, in making any award, have regard to the law for the time being in force relating to the assessment of compensation in respect of land compulsorily acquired. </body> </section>

**<section>**

**<heading> 26. Education advancement classes </heading>**

<body> (1) No person shall open an education advancement class until he shall have obtained the permission in writing of the Commissioner who shall before giving permission satisfy himself as to the number, qualifications and availability of staff and the suitability of the syllabus, accommodation, equipment, lighting and such other matters as shall seem desirable to him in his discretion.

(2) Every education advancement class shall be open to inspection by any authorised officer of the Ministry at any reasonable time.

(3) The Commissioner may order an education advancement class to be closed if in his opinion it is being operated in a manner which is not in the interest of the students.

(4) Notwithstanding the provisions of subsection (3) an educational advancement class shall not be ordered to close until after—

(a) an inspection shall have been held;

(b) a letter of advice and warning shall have been sent by the Commissioner; and

(c) a second inspection not less than two months after the warning shall have revealed a state of affairs which is still unsatisfactory.

(5) Once an education advancement class is closed by the Commissioner, it will not re-open until a fresh application to re-open may be made after six months of its closure.

(6) Any person who opens an education advancement class without having obtained permission in accordance with this section or who keeps open such a class after it has been closed by the Commissioner in accordance with this section, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand naira or to an imprisonment for six months or both and to a further fine of one thousand naira for every day during which the class is so kept open. </body> </section>

**<section>**

**<heading> 27. Registration fees </heading>**

<body> Every proprietor of a private nursery or primary school, post-primary school, advancement class, computer training centre and any similar advancement class shall pay prescribed registration fees before approval is given by the Commissioner. </body> </section>

**<section>**

**<heading> 28. Annual fees </heading>**

<body> (1) Every educational institution in the State that is not a Government institution shall pay annual fees as may be stipulated by the Ministry.

(2) Any institution that fails to pay the appropriate stipulated annual fees shall be closed down by the Commissioner.

(3) All fees are subject to review by the Ministry. </body></section>

<section>

**<heading> 29. Curriculum of institutions to include religious instruction </heading>**

<body> A reasonable period of religious instruction shall be given in every institution.</body> </section>

<section>

**<heading> 30. Pupils not to be under disability in regard to religion </heading>**

<body> (1) No person shall be refused admission as a pupil or prevented from attending as a pupil at an institution on account of his religious persuasion.

(2) It shall not be required as a condition for any pupil attending any institutions that he shall attend or abstain from attending any place of worship other than as approved by his parent or guardian.

(3) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on conviction to a fine of ten thousand naira or to imprisonment for one year or both. </body> </section>

<section>

**<heading> 31. Religious worship and instruction </heading>**

<body> (1) If the parent or guardian of any pupil in attendance at any institution requests that he be wholly or partly excused from attendance at religious worship or instruction in the institution or from attendance at both religious worship and religious instruction in the institution, then until the request is withdrawn, the pupil shall be excused from such attendance accordingly.

(2) Where any pupil has been wholly or partly excused from attendance at religious worship or religious instruction in accordance with the provisions of this section and the Commissioner is satisfied—

(a) that the parent or guardian of the pupil desires him to receive religious instruction of a kind which is not provided in the institution during the periods which he is excused from such attendance;

(b) that the pupil cannot with reasonable convenience be sent to another institution where religious instruction of the kind desired by the parent or guardian is provided; and

(c) that satisfactory arrangements have been made for him to receive religious instruction or attend weekly worship at another place and for his supervision during the course of his journey to and from this place,

the pupil may be withdrawn from the institution during each periods as are reasonably necessary for the purpose of enabling him to receive religious instruction in accordance with such arrangements and shall not be dismissed from the institution on this account nor suffer any disability in consequence thereof.

(3) Where the parent of any pupil who is a boarder at any institution requests in writing that the pupil be permitted to attend weekly worship in accordance with the tenets of a particular religious faith or denomination, or to receive religious instruction in accordance with such tenets outside school hours the Principal of the institution shall make arrangements, affording the pupil reasonable opportunities for so doing.

(4) Notwithstanding the provisions of subsection (3), the principal of an institution need not make arrangements involving absence from the institution if he is not satisfied with the supervision provided for the pupil outside the premises of the institution. </body> </section>

**<section>**

**<heading> 32. Registration teachers </heading>**

<body> (1) The Commissioner shall appoint an officer of the Ministry to be the Registrar of Teachers and it shall be the duty of the Registrar to keep a register of teachers containing the names and qualifications of all teachers authorised to teach in the State.

(2) No person shall teach in any institution—

(a) unless he has been enrolled on the register of teachers;

(b) after his name has been removed from such register;

(c) during any period of suspension ordered by the Commissioner in accordance with the provision of section 39.

(3) Any teacher registered or deemed to be duly registered in accordance with section 31 of the Education Law, shall be deemed to be duly registered under this Law.

(4) Any person who contravenes the provisions of subsection (2) and any proprietor or Manager who permits any such contravention shall be guilty of an offence and shall be liable to a fine of one thousand naira or to an imprisonment of four months.

(5) The provision of this section shall not apply to the teaching of a class for religious instruction or of an education advancement class or an adult literacy class or other class for adults approved by the Ministry of Education by persons other than registered teachers. </body> </section>

<section>

**<heading> 33. Refusal to register </heading>**

<body> The Registrar of Teachers may refuse to permit the enrolment of any person in the register of teachers if he is satisfied that such person is not a fit and proper person to be a teacher but must give reasons for such refusal and such person may appeal against such refusal to the Commissioner whose decision shall be final.</body> </section>

**<section>**

**<heading> 34. Power of Registrar to remove persons from register </heading>**

<body> (1) The Registrar of Teachers shall remove the name of any person from the register of teachers—

(a) if he is ordered to do so by the Commissioner in accordance with provision of section 39;

(b) if he is satisfied that such person has been sentenced to a term of imprisonment exceeding one year or has been convicted of a sexual offence against a student; or

(c) if he is satisfied that such a person has been dismissed from the public service for misconduct.

(2) When the Registrar of Teachers removes the name of any person from the register of teachers in accordance with this section he shall inform the Commissioner, the Tribunal and employer of such teacher of such removal. </body> </section>

**<section>**

**<heading> 35. Establishment and composition of tribunal </heading>**

<body> (1) So soon as may be convenient, after the commencement of this Law there shall be established a Teachers' Tribunal.

(2) The Tribunal shall consist of the following members—

(a) a chairman, appointed by the Commissioner;

(b) a representative of the Teaching Service Commission;

(c) four members (of whom one at least shall be a woman) appointed by the Nigerian Union of Teachers the appointment being subject to the approval of the Commissioner;

(d) Secretary of the Tribunal, appointed by the Commissioner;

(e) one representative of All Nigeria Conference of Principals of Secondary Schools (ANCOPPS);

(f) one representative of Conference of Primary School Heads of Nigeria (COPSHON);

(g) one Local Government Education Authority Secretary on rotational basis for a period of one year each; and

(h) a representative of the Ministry of Justice.

[No. 4 of 2006.]

(3) The tenure of office of members in subsection (2) (a) to (2) (f) shall be three years and are eligible for re-appointment. </body> </section>

<section>

**<heading> 36. Enquiries into allegations of misconduct </heading>**

<body> (1) The Commissioner may refer to the Tribunal any case in which a complaint has been made to him that a teacher who has registered has been guilty of an offence which may include—

(a) misconduct;

(b) sexual harasement;

(c) forgery;

(d) fraud; or

(e) examination malpractices and any other offence.

(2) Notwithstanding the provision of subsection (1) the tribunal may decline to enquire into any case where the conviction for the criminal offence or the act of professional misconduct took place more than six months before the date of complaint to the commissioner. </body> </section>

**<section>**

**<heading> 37. NO HEADING </heading>**

<body> (1) Where the Commissioner refers any complaint to the Tribunal in accordance with the provision of section 36, and the Tribunal has not declined to enquire into the case in accordance with subsection (2) of that section, he may order that the teacher in respect to whom the complaint is made shall be suspended from duty on half salary until the findings of the tribunal are made known and the teacher's employer shall comply with such order accordingly.

(2) Any person who fails to comply with the provision of this section shall be guilty of an offence and shall be liable on conviction to a fine of one thousand naira or to an imprisonment for four months. </body> </section>

**<heading> 38. Procedure </heading>**

<body> (1) A teacher in respect of whom an enquiry is held in accordance with the provision of section 36 of this Law shall be entitled to appear and be heard at the enquiry but if, after being notified he fails to appear, the enquiry may be held in his absence.

(2) Subject to the provisions of this Law the Commissioner may make the rules governing the conduct of and the procedure relating to enquires under the provision of section 36. </body>

[No. 4 of 2006.] </section>

**<section>**

**<heading> 39. Order of removal from register </heading>**

<body> If at the conclusion of an enquiry held under provisions of section (3) the Tribunal is satisfied that a teacher has been convicted of a criminal offence or that an allegation of misconduct has been established against a teacher, the Tribunal may advise the Commissioner that the teacher's name be removed from the register of teachers either permanently or for such a period as the tribunal deems fit, and the Commissioner shall make an order accordingly. </body> </section>

**<section>**

**<heading> 40. Appeals </heading>**

<body> (1) A teacher whose name has been removed either temporarily or permanently from the register of teachers in accordance with an order made under section 39 may apply in writing to the Commissioner for the rescission of the order.

(2) An application for the rescission of an order made under section 39 shall not be made until the expiration of one year from the making thereof.

(3) The Commissioner shall refer the application to the Tribunal for its advice and the Tribunal shall, without delay, tender its recommendations to the Commissioner as to whether the application should be granted or refused.

(4) The commissioner may, after considering the recommendation of the Tribunal, refuse the application or make an order rescinding the order removing the teacher's name from the register so, however that, where after considering the recommendations to the Tribunal, the Commissioner does not agree with the recommendations of the Tribunal, he

shall before refusing the application or making any order consult the Departmental Advisory Committee; consisting of the following—

(i) the Permanent Secretary, Ministry of Education - *Chairman;*

(ii) two Directors of the Ministry of Education - *Members*;

(iii) a representative of Teaching Service Commission - *Member*;

(iv) a representative of Civil Service Commission - *Member*;

(v) a representative of Military Administrator's Office - *Member*;

(vi) the Assistant Director, Continuing Education, Schools and Colleges Department of Ministry of Education - *Secretary.*

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(5) When the application of a teacher for rescission of an order, made under section 40 has been refused in accordance with the provisions of subsection (4) of this section, he may, not earlier than one year after the date of such refusal, make a further application for the rescission of that order and the provisions of subsection (3) and (4) of this section shall apply in relation to such further application as they apply to an application under subsection (1). </body> </section>

**<section>**

**<heading> 41. Discontinuance of a post primary school </heading>**

<body> (1) Subject to the provisions of this section the proprietor of a post-primary school shall not discontinue the school except by leave of the Commissioner and after giving the Commissioner not less than two years notice in writing of his intention to do so.

(2) A notice under subsection (1) shall not be withdrawn except with the consent of the Commissioner.

(3) If the Commissioner grants leave to discontinue a secondary school or training college in accordance with subsection (1), he may impose such requirements as he thinks just—

(a) in regard to the repayment of the whole or any part of a capital grant made by the Government for the purposes of the post primary school;

(b) in regard to the conveyance of the premises of the post-primary school to the Ministry and in regard to the payment by the Ministry of such part of the value of any premises so conveyed as is just having regard to the extent to which those premises were provided otherwise than at the expense of the ministry.

(4) If while a notice referred to in subsection (1) is in force with respect to a post-primary school, the proprietor informs the Ministry that he is unable or unwilling to carry on the post-primary school until the expiration of the notice, the Ministry may conduct the secondary school or training college during the whole or any part of the unexpired period of the notice as if it were a government institution and shall be entitled to the use of the school premises free of charge for that purpose.

(5) Where the Commissioner directs in accordance with this section that any sum shall be payable by any person such sum shall be recoverable from that person as a civil debt at the suit of the person or authority to whom it is directed to be paid. </body> </section>

<section>

**<heading> 42. Commissioner may prevent unreasonable exercise of functions </heading>**

<body> If the Commissioner is satisfied that the Manager or Proprietor of any institution has acted or is proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed on him by or under this Law or the regulations made hereunder, he may give such directions as to the exercise of the power or performance of the duty as appear to him to be expedient. </body> </section>

<section>

**<heading> 43. Power of Commissioner if proprietor defaults </heading>**

<body> (1) If the Commissioner is satisfied that a Manager or proprietor of any institution has failed to discharge any duty imposed upon him by this Law or the regulations made thereunder the Commissioner may make an order declaring the proprietor or the manager, as the case may be, to be in default in respect of that duty, and giving such directions for the purpose of enforcing the execution thereof as appear to the Commissioner to be expedient.

(2) If the manager or proprietor declared to be in default fails to comply with the directions contained in the order made in accordance with the provisions of subsection (1) the Commissioner may transfer to such person or body, and for such period as he sees fit all or any of the functions of the proprietors or the manager declared to be in default. </body> </section>

<section>

**<heading> 44. Grants in aid </heading>**

<body> The Commissioner may make grants-in-aid or recommend an institution for grants in aid in accordance with regulations made under this Law having been satisfied that the institution has fulfilled all necessary conditions. </body> </section>

**<section>**

**<heading> 45. Regulations </heading>**

<body> The Administrator may make regulations with respect to—

(a) grant-in-aid in respect of institutions or for any other educational purpose;

(b) the size of classes and the nature and use of accommodation;

(c) the instruction to be given in institution;

(d) the examination of teachers and pupils and the classification or certificate given to teachers and pupils;

(e) the determination of the fitness of persons to act as proprietors or managers of schools;

(f) the supervision, inspection and examination of institutions;

(g) the management of institutions;

(h) the records, including account books, to be kept at institutions and the manner in which returns are to be furnished by proprietors and managers;

(i) holidays and the dates of opening and closing institutions;

(j) the structure sanitary arrangements and recreation facilities of institutions;

(k) the precautions to be taken against fire or other areas likely to endanger the lives or the health of the pupils;

(l) the health inspection of pupils or students and the premises of institutions and the medical examination of teachers;

(m) measures to be taken to ensure the health and well-being of teachers and pupils or students including the arrangements made for meals in an institution and other refreshments taken in an institution;

(n) the salaries, allowances and conditions of service of teachers and the payment of retiring benefits, gratuities, or allowances to teachers and non-teachers who are in the employment of Government;

(o) the establishment of staff and categories of teachers to be employed in various types of institution;

(p) forms and fees;

(q) the recognition of private institutions;

(r) the conduct and recognition of correspondence colleges;

(s) the exemptions of certain institutions or classes from the provisions of any regulations made under this Law; and

(t) the carrying into effect generally of the purposes and provisions of this Law. </body> </section>

<section>

**<heading> 46. Loans </heading>**

<body> The Commissioner may recommend financial assistance to needy institutions and individuals. </body> </section>

**<section>**

**<heading> 47. Examination Disciplinary Committee </heading>**

<body>(1) There shall be established in the State a State Examination Disciplinary Committee to try any person or group of persons involved in examination malpractices.

(2) *Membership.*—Membership of the Committee shall consist of the following—

(i) a Chairman, who shall be a provost or rector of a tertiary institution in the

State;

(ii) the Director, Education Support Services of the Ministry;

(iii) the Director, Continuing Education Schools and Colleges of the Ministry;

(iv) the Director Schools, Colleges and Monitoring, Kwara State Teaching Service Commission;

(v) the chairman of All Nigeria Conference of Principals of Secondary Schools (ANCOPSS);

(vi) the Chairman of Junior School Certificate Examination Board;

(vii) a representative of the West Africa Examination Council;

(viii) a representative of Ministry of Justice;

(ix) the Deputy Director, Schools, Colleges and Monitoring, Kwara State Teaching Service Commission to serve as the Secretary.

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(3) *Functions*.—-The functions of the Committee shall consist of the following—

(i) to investigate any form of examination malpractice;

(ii) to recommend disciplinary measure to be enforced against any person found guilty of examination malpractice;

(iii) to identify ways of curbing examination malpractice in schools.

(4) Disciplinary measure.—

(i) Any teacher, upon investigation, found guilty of committing, aiding or abetting any form of examination malpractice shall be liable to termination of his appointment or dismissal depending on the gravity of the offence;

(ii) Any principal found guilty of aiding or abetting, examination malpractice shall be liable, on conviction to a demotion in rank, and redeployed to another school or have his appointment terminated or dismissed from service depending on the gravity of the offence;

(iii) Any teacher or principal found guilty of examination malpractice by the committee shall be recommended to the Commissioner for the removal of the name from the Register of Teachers for a period not less than five years. </body> </section>

<section>

**<heading> 48. Repeal of Law No. 2 and Law No. 10 </heading>**

<body> The Education Law No. 2 of 1974 and the Enforcement of School Attendance Law No. 10 of 1987 are hereby repealed. </body> </section>

</sections>

<cdata>

CHAPTER E1

**EDUCATION LAW**

SUBSIDIARY LEGISLATION

*No Subsidiary Legislation*

</cdata>

</chapter>