

PARLIAMENT OF CEYLON

3rd Session 1967-68



Public Examinations Act, No. 25 of 1968

Date of Assent : June 16, 1968

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L. D.—O. 13/62.

AN ACT TO MAKE MORE EFFECTIVE PROVISIONS FOR THE PROPER CONDUCT OF PUBLIC EXAMINATIONS, FOR THE PUNISHMENT OF OFFENCES COMMITTED IN CONNECTION WITH SUCH PUBLIC EXAMINATIONS, AND FOR ALL MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

[Date of Assent: June 16, 1968]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Public Examinations Act, No. 25 of 1968. Short title.

2. (1) The Commissioner of Examinations, hereafter in this Act referred to as "the Commissioner", and the other officers of the Department of Examinations shall be responsible for the administration of this Act. Administration of this Act.

(2) The Commissioner may delegate any of his powers or duties under this Act or any regulation made thereunder, to the Deputy Commissioner or to any Assistant Commissioner or to any Superintendent of Examinations of the Department of Examinations.

3. (1) There shall be a Schools Examinations Advisory Committee and a Technical Examinations Advisory Committee, constituted by the Minister in accordance with regulations that may be made in that behalf. Advisory Committees.

(2) The Minister may, in accordance with regulations made in that behalf, constitute any other Advisory Committee in respect of any particular public examination or a group of public examinations.

4. (1) The Commissioner shall, subject to the provisions of sub-section (3), have the power to organize and conduct— Powers of the Commissioner.

(a) General Education Examinations and Technical Education Examinations other than those pertaining to Higher Educational Institutes, and

(b) any other Government examinations held by Government departments or examinations held by Government-sponsored bodies.

(2) The Commissioner shall have the power to issue certificates or awards to candidates who are successful at any examination referred to in sub-section (1).

(3) The examinations referred to in sub-section (1) shall be conducted on syllabuses and books prescribed—

(a) in the case of General Education Examinations, by the Director of Education in consultation with the Schools Examinations Advisory Committee;

(b) in the case of Technical Education Examinations, by the Director of Education in consultation with the Technical Examinations Advisory Committee;

(c) in the case of examinations referred to in paragraph (b) of sub-section (1), by the Government department or the Government-sponsored body concerned, in consultation with the Director of Education.

Impersonation
at public
examinations.

5. (1) Any person who—

(a) not being a candidate entitled to sit for any public examination, fraudulently or dishonestly, sits for such examination as a candidate entitled to sit therefor, or

(b) being a candidate entitled to sit for such examination, fraudulently or dishonestly, enters in his answer script the index number which is allotted to any other candidate,

shall be guilty of an offence under this Act.

(2) In the case of a fraudulent or dishonest entry of an index number under paragraph (b) of sub-section (1), the "other candidate" referred to in that paragraph shall also be guilty of an offence under this Act if he aided, abetted or connived at such fraudulent or dishonest entry.

Question papers
to be secret
documents.

6. (1) Every question paper that is set for any public examination shall, for the purposes of this Act, be a secret document from the time such paper is set until the lapse of half an hour from the time fixed for the commencement of the answering of such paper by candidates at that examination, and the words "secret document" wherever it appears hereafter in this Act shall be construed accordingly.

(2) Any person who, fraudulently or dishonestly, delivers a secret document or part thereof, or communicates any information relating to the contents of a secret document or part thereof, to any other person who is not a person to whom he is authorized to deliver such document or communicate such information, shall be guilty of an offence under this Act.

7. (1) If any examiner appointed for a public examination or a person entrusted with the filling up of mark registers relating to such examination, fraudulently or dishonestly, divulges any information relating to the answer scripts or mark registers to any other person who is not a person to whom he is authorized to divulge such information, he shall be guilty of an offence under this Act.

Divulging of information relating to, or making fraudulent alterations in, answer scripts or mark registers.

(2) If any person who is entrusted with the duty of collecting answer scripts at any public examination, fraudulently or dishonestly, makes any erasures, interpolations, or any other alterations in any such answer script, he shall be guilty of an offence under this Act.

(3) If any person who is entrusted with the duty of preparing, tabulating or checking the mark registers of candidates at any public examination, fraudulently or dishonestly, makes any erasures, interpolations or any other alterations in any such mark register, he shall be guilty of an offence under this Act.

(4) If any person who is conducting or supervising any public examination on behalf of the Commissioner or who is an invigilator at such examination, fraudulently or dishonestly, aids or assists, directly or indirectly, any candidate to answer a question paper at such examination, he shall be guilty of an offence under this Act.

8. If any person who is entrusted with the duty of printing or making by manual or mechanical means any secret document or any other document relating to any public examination, or any person whose duty is to assist such first-mentioned person in his duties, fraudulently or dishonestly secretes, makes away with or disposes of such secret document or such other document or part thereof or makes a copy of such secret document or such other document or part thereof, he shall be guilty of an offence under this Act.

Theft or disposal of secret documents, &c.

Destruction or tampering with secret document, &c.

9. If any person who is charged with the receipt, custody or despatch of any secret document, or any answer script, mark register or other document relating to a public examination, fraudulently or dishonestly, breaks open or destroys any sealed packet, package, box, safe or other receptacle containing any such document or takes out any such document or part thereof therefrom, he shall be guilty of an offence under this Act.

Fraudulent mis-delivery of secret document, &c.

10. If any person entrusted with the delivery or transmission of any secret document or any answer script, mark register or other document relating to any public examination, fraudulently or dishonestly, delivers or transmits such document to any person who is not a person to whom he is authorized to deliver or transmit such document, he shall be guilty of an offence under this Act.

Being in possession of, and sale of, secret documents.

11. If any person, except with lawful authority, whereof the burden of proof shall lie on him, has in his possession, or distributes or sells or offers for sale or distribution, any secret document or a copy thereof or a part of such document or copy or what is purported to be a secret document or copy thereof or part of such document or copy, he shall be guilty of an offence under this Act.

Dishonesty at public examination.

12. (1) If any candidate at any public examination copies from or holds dishonest communication with any other person or uses dishonest means in the answering of any question paper, such candidate shall be guilty of an offence under this Act.

(2) If any person, at a public examination, fraudulently or dishonestly has in his possession any answer script or part thereof or any document which purports to be an answer script or part thereof, which has been written or prepared fraudulently or dishonestly, he shall be guilty of an offence under this Act.

Divulging of information relating to examiners, and dishonest transmission of answer scripts to particular examiners.

13. If any person, fraudulently or dishonestly,—

(a) communicates any information regarding the identity of any examiner appointed or to be appointed to set any question paper, or any information relating to the transmission of question papers or answer scripts, to any person who is not a person to whom he is authorized to communicate such information, or

(b) transmits for the purpose of assessment a particular answer script to a particular examiner being an examiner to whom he is not authorized to transmit such answer script, or

(c) is in possession of any document containing or purporting to contain the marks or the results relating to a public examination,

he shall be guilty of an offence under this Act.

14. (1) If any person uses as genuine any schedule of results, pass list, certificate, or other document issued by the Commissioner, which has been altered, defaced, or otherwise tampered with, he shall be guilty of an offence under this Act.

Use of faked documents.

(2) If any person uses as genuine a certificate or other document purporting to be a certificate or other document issued by the Commissioner, and which is not a genuine certificate or other document so issued, such person shall be guilty of an offence under this Act.

15. Whoever abets another person to commit an offence under this Act, shall himself be guilty of an offence under this Act.

Abetment of offences.

16. Whoever attempts to commit an offence under this Act and in such attempt does any act towards the commission of the offence, he shall be guilty of an offence under this Act.

Attempts to commit offences.

17. Every offence under this Act or any regulation made thereunder shall be triable summarily by a Magistrate and any person who is convicted of such an offence shall be liable to a fine not exceeding two thousand rupees and to a term of imprisonment of either description not exceeding one year.

Punishment for offences under this Act.

18. Notwithstanding anything in the Criminal Procedure Code, every offence under this Act shall be a cognizable offence within the meaning and for the purposes of that Code.

Offences to be cognizable.

19. No prosecution under this Act shall be entered in respect of an offence under this Act except with the written sanction of the Commissioner.

Prosecution only with consent of Commissioner.

20. The Commissioner shall have the power—

(a) to set out the conditions, rules, and restrictions to which persons who offer themselves as candidates for public examinations shall be subject;

Powers of the Commissioner with regard to disciplinary control.

(b) of disciplinary control, in his absolute discretion, over examiners, invigilators, candidates and all persons engaged by him for the purpose of the conduct of public examinations at any stage;

(c) to impose, in his absolute discretion, after such inquiry as may be made in that behalf, any restrictions or disabilities in regard to sitting for public examinations by candidates or to cancel or impound any certificates issued to any candidate, where such candidate has violated any rule, condition or restriction referred to in paragraph (a) or been convicted of an offence under this Act or any regulation made thereunder.

Oath of
secrecy.

21. Except in the performance of any duty or function or the exercise of any power under this Act or any regulation made thereunder, every person entrusted with any power, duty or function in connection with any public examination shall preserve and aid in preserving secrecy with regard to all matters relating to such examination that may come to his knowledge, and shall not communicate any such matter to any person other than the person to whom he is authorized to communicate it, or offer or permit any unauthorized person to have access to any secret document or other document in his possession, custody, or control. Every such person employed in the performance of any duty or function or the exercise of any power under this Act or any regulation made thereunder relating to any public examination shall, before acting in such capacity, take and subscribe before a Justice of the Peace or a Commissioner for Oaths an oath of secrecy in a form prescribed by the Commissioner. The Commissioner may prescribe different forms of oaths of secrecy for different persons in accordance with the functions that are to be performed by such persons.

Regulations.

22. (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.

(2) In particular and without prejudice to the generality of the powers conferred by sub-section (1), the Minister may make regulations for or in respect of any of the following matters:—

(a) all matters in respect of which regulations are required or authorized to be made;

- (b) the nature and scope of public examinations and the certificates, duplicates of such certificates or awards, which may be given to successful candidates;
- (c) the mode of appointment and the duties and emoluments of examiners and the payment and other conditions subject to which examiners may be appointed;
- (d) all matters relating to the standard of public examinations and the mode of conduct of such examinations;
- (e) the constitution, powers, duties and functions of—
 - (i) the Schools Examinations Advisory Committee;
 - (ii) the Technical Examinations Advisory Committee; and
 - (iii) any other committee which the Minister may set up in relation to any specified public examination or group of public examinations.

(3) No regulation made under this Act shall have effect until it is approved by the Senate and the House of Representatives and notification of such approval is published in the *Gazette*.

23. In this Act, unless the context otherwise requires— Interpretation.

“ examiner ”, in relation to any public examination, means a person who is appointed to set a question paper or a person who is appointed to read answer scripts and assign marks to them;

“ Higher Educational Institute ” has the same meaning as in the Higher Education Act, No. 20 of 1966;

“ public examination ” means any examination referred to in paragraph (a) or paragraph (b) of sub-section (1) of section 4 of this Act;

“ regulation ” means a regulation made by the Minister.