
**THE LAWS OF
BAUCHI STATE
OF NIGERIA
VOLUME 2**

BAUCHI STATE MINISTRY OF JUSTICE

Muhammad

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**THE LAWS OF
BAUCHI STATE
OF NIGERIA**

containing

**THE LAWS
OF
BAUCHI STATE**

In force on the 31st day of December, 2006
together with certain

**SUBSIDIARY LEGISLATION MADE THEREUNDER
and certain
FEDERAL ACTS**

VOLUME 2
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CHAPTER 45

EDUCATION LAW

A Law to make provision for education and for purposes connected therewith.

[N.N. 1963 Cap. 36. N.N. 17 of 1966, N.E.S. 2 of 1969, N.E.S. 10 of 1970, B.A.S.L.N. 1 of 1982, B.A.S. 12 of 1989.]

[Commencement: 1st January, 1964]

1. Short title

This Law may be cited as the Education Law.

2. Definitions

In this Law—

“**capital grant**” means a grant of money for the purposes of constructing, equipping or enlarging an institution;

“**child**” means any person who has not yet 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;

“**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 management;

“**Commissioner**” means the State Commissioner to whom responsibility for Education is for the time being assigned;

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

“**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 any

adult literacy class or other class for adults as may be organised or approved by the Ministry of Information;

“**institution**” means a primary school, a secondary school, a commercial college, a technical institute or a training college;

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

“**Ministry**” means the Ministry of Education;

“**primary school**” means a school in which full-time education suitable to the requirements of children who have attained the age of five years but who have not yet attained the age of fourteen years is given to not less than ten pupils;

“**private institution**” means an institution which is not a Government institution established under section 15 or an institution maintained by an education authority, a local government council, or which is not in receipt of a grant-in-aid under section 43;

[B.A.S.L.N. 1 of 1982.]

“**proprietor**” means any person who owns an institution;

“**secondary school**” means a school in which full-time education including technical education suitable to the requirements of children who have completed all or part of the primary school course is given to not less than ten pupils, but does not include a training college;

“**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 from time to time approve;

“**training college**” means an institution in which are given general education and specific training for entry to, and advancement in, the teaching profession;

“**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 15, but does not include a local government council or an education authority.

[B.A.S.L.N. 1 of 1982.]

3. System of education

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

(2) The Commissioner may make such arrangements as appear to him to be necessary to ensure that such children as are able to benefit from a course of education in a secondary school shall have an opportunity to receive the same.

(3) The Commissioner may make such arrangements as appear to him to be necessary to provide special schools for handicapped children.

(4) The Commissioner may make such arrangements as appear to him to be necessary to ensure that there shall be available sufficient facilities for the training of teachers.

(5) 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.

4. Delegation of functions

(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 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.

5. Establishment of Board of Education

(1) So soon as may be after the commencement of this Law, there shall be established a Board of Education.

(2) It shall be the duty of the Board of Education—

- (a) to advise and report to the Commissioner on questions of policy affecting education or other matters of educational significance;
- (b) to advise the Commissioner on the principles to be followed in the assessment of proposals for the development of education put forward by education authorities;
- (c) to appoint such committees as may be considered necessary from time to time;
- (d) generally to perform such other duties as are prescribed by this Law.

6. Constitution of the Board of Education

(1) The Board of Education shall consist of the following members—

- (a) two officers of the Ministry appointed by the Commissioner;
- (b) five members to be appointed by the Commissioner of whom at least one shall be a Chief and the remainder shall be members of employees of local education authorities in the State;
- (c) the General Secretary of the Nigeria Union of Teachers or his representative;
- (d) the General Secretary of the Northern Teachers' Association or his representative;
- (e) the Vice-Chancellor of the University or his representative;
- (f) one member appointed by the National Universities Commission;
- (g) one member to be appointed by the Roman Catholic mission;

- (h) one member to be appointed by the Protestant missions and churches;
- (i) two members who shall be proficient in Islamic learning appointed by the Commissioner.

(2) There shall be paid to the members of the Board or to any of them not being officers in the Public Service, such remuneration, fees and allowances as the Governor may determine.

7. Chairman and Secretary

The Commissioner shall appoint a member of the Board of Education to be chairman thereof and shall appoint an officer of the Ministry, who is not a member of the Board, to be Secretary of the Board.

8. Quorum

The chairman and five other members shall form a quorum of the Board of Education.
[N.E.S. 2 of 1969.]

9. Right of Permanent Secretary to attend meeting

The Permanent Secretary to the Ministry shall have the right to attend any meeting of the Board of Education or any meeting of any committee thereof.

10. Tenure of office of members of Board

(1) Subject to the provisions of section 11, a person appointed as a member of the Board of Education shall vacate his seat at the expiration of three years from the date of his appointment but, if qualified, shall be eligible for re-appointment.

(2) Whenever the seat of an appointed member becomes vacant under the provisions of section 11 any person appointed to fill the vacancy thereby caused shall vacate his seat at the expiration of the remainder of the term of office of the person in whose place he is appointed.

11. Vacation of seat by member of Board

The seat of an appointed member of the Board of Education shall become vacant—

- (a) upon his death;
- (b) if his name has been removed from the register of teachers in accordance with the provisions of section 33;
- (c) if, under any law in force in Nigeria, he be found or declared to be of unsound mind or adjudged to be a lunatic;
- (d) if by writing under his hand addressed to the Board of Education he resigns his seat on the Board;
- (e) if in any part of the Commonwealth he be sentenced to imprisonment by whatever name called;
- (f) if he be declared bankrupt under any law in force in the Commonwealth;

- (g) if he becomes disqualified from practising as a legal or medical practitioner in any part of the Commonwealth;
- (h) subject to the provisions of section 6, if he be appointed to any office under the Government of the Federation of Nigeria or the Government of any State thereof; or
- (i) if he otherwise ceases to possess qualifications for appointment under the provisions of this Law.

12. Meetings of the Board

(1) The Board of Education shall meet at such times and places as the Commissioner or the chairman of the Board may appoint and in any event shall meet not less than once in every year.

(2) A meeting of the Board of Education shall be convened if three or more members make a request in writing to that effect to the chairman of the Board, specifying the business to be transacted.

(3) Notice of every meeting of the Board of Education specifying the time and place appointed therefor and signed by the chairman of the Board or by such other person as he shall appoint shall be left or sent by post to the usual place of residence of every member of the Board at least thirty days before such meeting.

(4) Notwithstanding the provisions of subsection (3), a meeting of the Board of Education shall not be deemed to be invalidly convened by reason of the fact only that notice of such meeting was not received by any particular member of the Board.

13. Committees

(1) The Board of Education shall appoint a standing committee and may appoint other committees from among its own members for any such general or special purposes, as, in the opinion of the Board, would be better regulated or managed by means of a committee, and may, with or without restriction or conditions as the Board thinks fit, delegate to any committee any function exercisable by the Board under this Law.

(2) The Board of Education shall appoint the chairman of any committee referred to in subsection (1).

14. Standing orders

The Board of Education may make standing orders governing its procedure and the procedure of any committee appointed by it and especially with regard to the holding of meetings, the proceeding thereat, the keeping of minutes and the custody and production for inspection of such minutes and the opening, keeping, closing and audit of accounts.

15. Establishment of Government institutions

The Commissioner may from time to time establish Government institutions and any institution established by the Government prior to the commencement of this Law shall be deemed to be a Government institution established under this Law.

16. Establishment of new institutions

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

[B.A.S. 12 of 1989.]

- (a) he gives notice in writing to the appropriate officer of the Ministry 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 numbers, qualifications and nationality of the staff;
 - (vi) the nature of the interest in or tenure of the land to be possessed by the institution; and
- (b) the consent in writing of the Commissioner has been obtained.

(2) Any person who in a notice given under subsection (1) furnishes particulars which are false to his knowledge shall be guilty of an offence and shall be liable on conviction to a fine of one hundred naira or to imprisonment for four months, without prejudice to any other proceedings which may be taken against him under this Law.

(3) The Commissioner may direct any person who has established an institution contrary to this section to close the same and such person shall thereupon close the same within seven days of the receipt of such direction.

(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 appropriate officer of the Ministry.

[B.A.S. 12 of 1989.]

(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 this 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 one hundred naira or to imprisonment for four months, without prejudice to any other proceedings which may be taken against him under this Law.

17. Power to withhold consent to establishment of institution

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.

18. Registration of existing private institutions

(1) The proprietor of any private institution existing at the date of the coming into force of this section shall within twelve months of such date register the same with the Ministry of Education 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 number and type of classes and the medium of instruction; and
- (e) the numbers, qualifications 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 one hundred naira or to imprisonment for four months, without prejudice to any other proceedings which may be taken against him under this Law.

19. Inspection of institutions

(1) The manager or 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, 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 person for the time being in charge of an institution shall permit any member of the Board of Education to visit the institution at any reasonable time.

(3) Any manager or person for the time being in charge of any 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 one hundred naira or to imprisonment for four months, without prejudice to any other proceedings which may be taken against him under this Law.

20. Powers of Commissioner to close institutions

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

[B.A.S. 12 of 1989.]

- (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 16 have been altered without the consent of the appropriate officer of the Ministry; 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 interests 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 conducted 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 interests of the community to be served.

(2) Before exercising his power under paragraph (c) of subsection (1) the Commissioner shall consult the Board of Education.

(3) When the Commissioner has ordered an institution to be closed under the provisions of subsection (1) and the proprietor or manager of such institution fails to close the institution within the time specified by the Commissioner, such proprietor or manager shall be guilty of an offence and shall be liable on conviction to a fine of four hundred naira or to imprisonment for two years, without prejudice to any other proceedings which may be taken against him under this Law.

21. Powers of Commissioner to unite institutions

(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 Board of Education.

(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 purposes of the new institution;
- (b) in regard to the payment by the Government or an education authority 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 of the education 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 for determination.

[B.A.S.L.N. 1 of 1982.]

22. Education advancement classes

(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 Board 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 interests of the pupils.

(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) 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 two hundred naira or to imprisonment for six months or both, and to a further fine of ten naira for every day during which the class is so kept open.

23. Education authorities

Every local government council shall be the education authority for its area.

[B.A.S. 12 of 1989.]

24. Functions of the education authorities

(1) An education authority shall—

- (a) from time to time prepare and submit to the Commissioner, in such form and within such time as he may require, an estimate of the needs of its area for securing—
 - (i) that there shall be sufficient primary schools available to accommodate all pupils of primary school age within its area;
 - (ii) that there shall be sufficient secondary schools available to accommodate such pupils within its area above primary school age and under the age of sixteen years as are able to benefit from the instruction to be provided in such schools and wish to attend them;
- (b) maintain existing institutions of the education authority and establish and maintain such new institutions as the Commissioner may direct;
- (c) assume the management of any institution within its area when so directed by the Commissioner in accordance with the provisions of section 42;
- (d) furnish the Commissioner with such advice relative to education within its area and with such information, returns, accounts and estimates as he may require;
- (e) ensure, by inspection, that the premises of every institution within its area conform to the standards prescribed by such education authority and the Commissioner;

- (f) make such provision for conducting or assisting the conduct of research as appears to the education authority to be desirable for the purpose of improving the educational facilities provided for its area;
- (g) organise, or participate in the organisation of, conferences for the discussion of questions relating to education and expend such sums as may be reasonable in paying or contributing towards any expenditure incurred in connection with conferences for the discussion of such questions including the expenses of any person authorised by the authority to attend any such conference;
- (h) make such arrangements for the provision of transport as it considers necessary for the purpose of facilitating the attendance of pupils at schools within its area; and
- (i) perform such other duties as are imposed upon it by or under this Law.

(2) Subject to the provisions of this Law, an education authority may establish institutions within its area.

25. Education committees

(1) Every education authority shall establish an education committee and may authorise such education committee to perform on its behalf any function imposed or conferred upon it with respect to education by the provisions of this Law and shall so authorise such education committee if the Commissioner so directs.

(2) An education authority shall not authorise an education committee to perform any function in accordance with subsection (1) without the approval of the Commissioner.

(3) *(Deleted by B.A.S. 12 of 1989.)*

26. Composition of education committees

(1) In any education committee appointed under section 25—

- (a) the chairman shall be a member of the education authority;
- (b) suitable persons, not being members of the education authority, who have experience of or an interest in education may be co-opted to membership of the education committee but not less than one-third of the members of the education committee shall be members of the education authority.

(2) Where in the opinion of the Commissioner voluntary agencies have made significant contributions to the progress of education in the area of the authority, the Commissioner may direct that the members of the education committee shall include members of the voluntary agencies.

27. Transfer of primary schools to education authorities

(1) A voluntary agency which owns a primary school which has been established before the date of the coming into operation of this Law may either—

[N.N. 17 of 1966.]

- (a) with the consent of the education authority of the area in which the school is situated, transfer to that education authority at any time within one year of the establishment of the education authority such primary school; or

- (b) elect to conduct such primary school as a private institution receiving no grants from Government funds.

(2) A primary school transferred under the provisions of paragraph (a) of subsection (1) shall be known as a transferred school and shall, in accordance with any regulations made under section 45, be either a fully transferred school or a conditionally transferred school.

(3) Every appointment to the teaching staff of a transferred school shall be made from a list of teachers approved annually by the voluntary agency which transferred such primary school.

(4) Religious instruction shall continue to be given in a transferred school in accordance with the custom of the school.

(5) A voluntary agency which has transferred a primary school under the provision of this section may—

- (a) inspect the school at any time for the purpose of examining the religious instruction given in such school;
- (b) submit to the education authority of the area in which the school is or is to be situated plans showing extensions or alterations in respect of any conditionally transferred school or of any new primary school it proposes to establish; and
- (c) transfer, in accordance with any regulations made under section 45, any new primary school established by it to the education authority of the area in which the school is situated.

28. Curriculum to include religious instruction

A reasonable period of religious instruction shall be given in every institution.

29. Pupils not to be under disability in regard to religion

(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 of any pupil attending any institution 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 one hundred naira or to imprisonment for four months.

30. Religious worship and instruction

(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.

32. Refusal to register

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.

33. Power of Registrar to remove persons from register

(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 the provisions of section 38; or
- (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 child; or
- (c) if he is satisfied that such 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 Teachers' Tribunal of such removal.

34. Establishment and composition of Teachers' Tribunal

(1) The Teachers' Tribunal shall consist of the following members—

[N.E.S. 10 of 1970.]

- (a) a chairman appointed by the Commissioner;
- (b) one member appointed by the Nigeria Union of Teachers, the appointment being subject to the approval of the Commissioner; and
- (c) one member appointed by the Northern Teachers' Association, the appointments being subject to the approval of the Commissioner;
- (d) one member appointed by the Commissioner from the Voluntary Agency;
- (e) one female member appointed by the Commissioner;
- (f) one officer of the Ministry appointed by the Commissioner as secretary to the Tribunal.

(3) The tenure of office of a member of the Teachers' Tribunal shall be three years and such member may be reappointed to the Tribunal.

35. Enquiries into allegations of misconduct

(1) The Commissioner may refer to the Teachers' Tribunal any case in which a complaint has been made to the Commissioner that a teacher registered under the provisions of section 31, other than a teacher who is a member of the public service, has been guilty of a criminal offence or has been guilty of professional misconduct and the Teachers' Tribunal shall thereupon enquire into such case.

(2) Notwithstanding the provisions of subsection (1), the Teachers' 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 the complaint to the Commissioner.

(2) Where any pupil has been wholly or partly excused from attendance at religious worship or religious instruction in any institution 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 during 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 such 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 to 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.

31. Registration of teachers

(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; or
- (b) after his name has been removed from such register; or
- (c) during any period of suspension ordered by the Commissioner in accordance with the provisions of section 36.

(3) Any teacher registered in accordance with the provisions of the Education Law 1963 shall be deemed to be duly registered under this Law.

[N.N. 1963 Cap. 36.]

(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 not exceeding one hundred naira or to imprisonment for four months.

(5) The provisions 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 Information by persons other than registered teachers.

36. Suspension of teachers

(1) Where the Commissioner refers any complaint to the Teachers' Tribunal in accordance with the provisions of section 35, and the Teachers' 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 of whom the complaint is made shall be suspended from duty on half salary until the findings of the Teachers' Tribunal are made known and the teacher's employer shall comply with such order accordingly.

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

37. Procedure

(1) A teacher in respect of whom an enquiry is held in accordance with the provisions of section 35 shall be entitled to appear and be heard at the enquiry but, if, after being so notified he fails to appear, the enquiry may be held in his absence.

(2) No legal practitioner may appear to act for or assist any person in any enquiry by the Teachers' Tribunal.

(3) Subject to the provisions of this Law the Commissioner may make rules governing the conduct of and the procedure relating to enquiries under the provisions of section 35.

38. Order of removal from register

If at the conclusion of an enquiry held under the provisions of section 35 of the Teachers' 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 Teachers' Tribunal may advise the Commissioner that the teacher be removed from the register of teachers either permanently or for such period as to the Teachers' Tribunal seems fit, and the Commissioner shall make an order accordingly.

39. Appeals

(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 38 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 38 shall not be made until the expiration of one year from the making thereof.

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

(4) The Commissioner may, after considering the recommendation of the Teachers' 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 recommendation of the Teachers' Tribunal, the Commissioner does not agree with the recommendation of the Teachers' Tribunal, he shall, before refusing the application or making any order, consult the Board of Education.

(5) When the application of a teacher for rescission of an order, made under section 38 has been refused in accordance with the provisions of subsection (4), he may, not earlier than one year after the date of such refusal, make a further application for rescission of that order and the provisions of subsections (3) and (4) shall apply in relation to such further application as they apply to an application under subsection (1).

40. Discontinuance of secondary schools and colleges

(1) Subject to the provisions of this section, the proprietor of a secondary school or training college shall not discontinue the school or college except by leave of the Commissioner and after giving to the Commissioner not less than two years notice in writing of his intention so to do.

[B.A.S.L.N. 1 of 1982.]

(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 purpose of the secondary school or training college; or
- (b) in regard to the conveyance of the premises of the secondary school or training college to an education authority or to the Ministry and in regard to the payment by the education authority or by the Ministry of such part of the value of any premises so conveyed as is just having regard to the extent to which these premises were provided other than at the expense of the Ministry or of an education authority.

(4) If while a notice referred to in subsection (1) is in force with respect to a secondary school or training college, the proprietor informs the Ministry that he is unable or unwilling to carry on the secondary school or training college 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 or any education authority such sum shall be recoverable from that person or education authority as a civil debt at the suit of the person or authority to whom it is directed to be paid.

(6) If the proprietor is aggrieved by any requirement 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 for determination.

41. Commissioner may prevent unreasonable exercise of functions

If the Commissioner is satisfied that an education authority or the proprietor or the manager 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 the performance of the duty as appear to him to be expedient.

42. Powers of Commissioner in default of education authorities etc.

(1) If the Commissioner is satisfied that an education authority, or the proprietor or the manager 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 education authority or 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 education authority or the proprietor or the manager 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 education authority or the proprietor or the manager declared to be in default.

43. Grants-in-aid

The Commissioner may make grants-in-aid in accordance with regulations made under this Law.

44. Loans

The Commissioner may make loans to voluntary agencies, education authorities and local government councils in accordance with regulations made under this Law.

[B.A.S.L.N. 1 of 1982.]

45. Regulations

The Governor may make regulations with respect to—

[N.N. 17 of 1966.]

- (a) the functions of the Board of Education;
- (b) the establishment and functions of education authorities including the delegation of functions by an education authority to an education committee;
- (c) fully transferred and conditionally transferred schools and the conditions under which such schools may be transferred to, and administered by, an education committee;
- (d) grants-in-aid in respect of institutions or for any other educational purpose;
- (e) the conditions under which loans may be made to voluntary agencies and the maximum amounts of such loans;
- (f) the size of classes and the nature and use of accommodation;
- (g) the instruction to be given in institutions;
- (h) the examination of teachers and pupils and the classification of certificates given to teachers and pupils;
- (i) the determination of the fitness of persons to act as proprietors or managers of schools;

- (j) the supervision, inspection and examination of institutions;
 - (k) the management of institutions;
 - (l) the records, including account books, to be kept at institutions and the manner in which returns are to be furnished by proprietors and managers;
 - (m) holidays and the dates of opening and closing institutions;
 - (n) the structure, sanitary arrangements and recreation facilities of institutions;
 - (o) the precautions to be taken against fire or other perils likely to endanger the lives or the health of the pupils;
 - (p) the health inspection of pupils and the premises of institutions and the medical examination of teachers;
 - (q) measures to be taken to ensure the health and well-being of teachers and pupils, including the arrangements made for meals in institutions and other refreshments taken in an institution;
 - (r) the salaries, allowances and conditions of service of teachers and the payment of retiring benefits, gratuities or allowances to teachers who are not in the employment of Government;
 - (s) the establishment of staff and the categories of teachers to be employed in various types of institutions;
 - (t) forms and fees;
 - (u) the recognition of private institutions;
 - (v) the conduct and recognition of correspondence colleges;
 - (w) the exemption of certain institutions or classes from the provisions of any regulations made under this Law;
 - (x) the carrying into effect generally of the purposes and provisions of this Law.
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