THE NATIONAL EXAMINATIONS COUNCIL OF TANZANIA
ACT, 1973

ARRANGEMENT OF SECTIONS

PART I
PRELIMINARY

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Short title and commencement.</td>
</tr>
<tr>
<td>2.</td>
<td>Interpretation.</td>
</tr>
</tbody>
</table>

PART II
THE NATIONAL EXAMINATIONS COUNCIL OF TANZANIA

3. Establishment.
4. Objects and functions of Council.
6. Secretary of Council.
7. The staff of the Council.
10. Examinations Committees and other committees.
11. Specific functions of Examinations Committees.
12. Awards of diplomas, certificates, etc.

PART III
FINANCIAL PROVISIONS

14. Power to invest.
15. Annual estimates.
16. Financial statements and report.
17. Annual statements of account and reports to be laid before National Assembly.
PART IV

MISCELLANEOUS PROVISIONS

18. Regulations.
19. Fees and allowances.
20. Minister may give directions.
21. Proceedings of Council or Committee not to be invalid by reason of irregularity.
22. Protection of members of Council and Committees.

SCHEDULE
An Act to make provision for the establishment, constitution, control and administration of the National Examinations Council of Tanzania and for matters connected therewith and incidental thereto

ENACTED by the Parliament of the United Republic of Tanzania.

PART 1

PRELIMINARY

1. This Act may be cited as the National Examinations Council of Tanzania Act, 1973 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint.

2. In this Act, unless the context otherwise requires-
"the Chairman" means the Chairman of the Council;
"Committee" means a committee established under and in accordance with the provisions of section 10 and includes the Executive Committee established under section 9;
"the Council" means the National Examinations Council of Tanzania established by section 3;
"financial year" in relation to the Council includes the Council's first accounting period, whether shorter or longer than a year, and if the Council changes its accounting period, the period, whether shorter or longer than a year, employed to give effect to the change;
"member" in relation to the Council, means a member of the Council and includes the Chairman; and in relation to a Committee means a member of the committee and includes the chairman of the Committee;
"Minister" means the Minister for the time being responsible for National Education;
"Secretary" means the officer appointed by the President to be the Secretary of the Council.
PART II

THE NATIONAL EXAMINATIONS COUNCIL OF TANZANIA

3. (1) There is hereby established an Examinations Council to be known as the National Examinations Council of Tanzania.

(2) The Council shall be a body corporate and shall-
(a) have perpetual succession and a common seal;
(b) in, its corporate name, be capable of suing and being sued;
(c) be capable of purchasing and otherwise acquiring and of disposing of any movable or immovable property;
(d) subject to the provisions of the Act, have power from time to time to borrow money and to do or perform all such acts and things which a body corporate, may lawfully do.

(3) The provisions of the Schedule to this Act shall have effect as to the constitution and the tenure of office of the members of the Council, termination of their appointment, the proceedings of the Council and other matters in relation to the council and its members.

(4) The President may, by order published in the Gazette vary, amend or replace all or any of the provisions of the Schedule to this Act.

4. The objects and functions of the Council shall be-
(a) to formulate examinations policy in accordance with the principles of education for self-reliance accepted by the people of Tanzania;
(b) to assume responsibility for examinations within the United Republic and to make provision for place and centres of examinations;
(c) receive from other persons or bodies of persons reports or other material affecting examinations policy and from time to time to consider and review examinations policy as circumstances may require;
(d) to co-operate with other persons or bodies of persons in the orderly development of an examinations system in the United Republic;
(e) to conduct examinations for, and to grant, diplomas, certificates and other awards of the Council.

5.-(1) The Council shall have power to do all things and to act in all ways necessary for, or incidental to, the purposes for which it is established.

(2) In particular and without prejudice to the generality of subsection (1), but subject to the provisions of subsection (4), the Council shall have power-
(a) to administer the properties of the Council both movable and immovable;
(b) to administer the funds and other assets of the Council;
(c) to signify the acts of the Council by use of the common seal;
(d) subject to the provisions of this Act, to appoint such officers of the Council as it may deem necessary;

(e) to review regulations relating to examinations;

(f) to consider and approve examinable subjects;

(g) to appoint panels or boards of examiners;

(h) to enter into arrangements, whether reciprocal or otherwise, with other persons or organizations, whether within or outside the United Republic, for the recognition of awards granted in respect of examinations falling within their respective responsibilities.

(i) to do all such other acts and things as may be provided for in this Act or as may be prescribed.

(3) The Council shall conduct within the United Republic either on its own or in participation with any other person or organization such academic, technical and other examinations as the Council may consider necessary or desirable in the public interest.

(4) Nothing in this Act shall be construed as authorizing the Council to do any act or thing in respect of-

(a) internal examinations, that is to say-examinations open to their own pupils or students only, conducted by schools or other educational or training institutions;

(b) examinations conducted by the University of Dar es Salaam for the grant of degrees, diplomas, certificates and other awards of the University;

(c) examinations conducted by employers where such examinations are open only to their own employees or to candidates who wish to enter their employment.

6.-(1) There shall be a Secretary of the Council who shall be appointed by the President on such terms and conditions as the President may determine and who shall also act as secretary to the Executive Committee.

(2) Where the Secretary is not a member of the Council, he shall have no power to vote at any meeting of the Council.

(3) Subject to the provisions of this section, the Secretary shall have such functions as may be conferred upon him by the Council.

7. The Council may appoint on such terms and conditions as it may determine, such number of officers of the Council as it may consider necessary for the performance of its functions.

8. The Council may, subject to such conditions and restrictions as it may impose, delegate to any person or body of persons, the power of appointment to any office or offices on the staff of the Council.
9.-(1) The Council shall appoint an Executive Committee comprising—
   (a) the Chairman, who shall be the chairman of the Committee;
   (b) twelve other members of the Council.

   (2) The functions of the Executive Committee shall be to act as
   the executive authority of the Council in the management of its ordinary
   affairs and to consult and to report to the Council thereon, and for
   those purposes it may exercise all the executive powers and functions
   vested in the Council by this Act other than the power of approving
   estimates conferred by section 15 or any function or power delegated
   by the Council to a Committee established under section 10.

   (3) The provisions of the Schedule to this Act shall apply, with such
   modifications as the circumstances may require, in relation to the tenure
   of office of the members of the Executive Committee, the right to
   terminate their appointment, and appointment of a new member to fill
   any vacancy, and also in relation to the quorum, proceedings and
   meetings of the Committee.

10. (1) The Council shall establish a School Examinations Com-
   Examina-
   mittee, a Technical Examinations Committee and a Professional
   Examinations Committee.

   (2) In addition, the Council may, from time to time, establish such
   other committees as it may consider necessary.

   (3) The Council shall prescribe the composition, powers, duties and
   procedure of all committees established by it under this section and
   the tenure of office of persons appointed to such committees and,
   subject to the provisions of this Act, may delegate to any such committee
   any of its powers or functions other than the power of approving
   estimates conferred by section 15.

   (4) The Council may appoint on any Committee established under
   this section any person notwithstanding that such person is not a
   member of the Council:

   Provided that in no case shall the number of members of any such
   committees who are not also members of the Council exceed two-
   thirds of the total number of the members of the Committee.

   (5) For the purposes of this section the Secretary shall be deemed to
   be a member of the Council.

11. (1) Without prejudice to the provisions of subsection (3) of
    section 10, every Examinations Committee established under that section
    shall be responsible to the Council for the control and regulation of
    the conduct of examinations in respect of subjects over which it has
    general responsibility.

   (2) Each Examinations Committee shall, in addition to the general
   function in relation to examinations in respect of subjects over which
   it has general responsibility and to matters pertaining thereto, have the
   following functions—

   (a) to satisfy itself with regard to the curriculum and standard of the
       relevant courses of study or training offered by the appropriate
       institution in respect of any diploma, certificate or other award
       of the Council and to report its findings thereon to the Council;
(b) with the consent of the Council, to make rules with regard to the standards of proficiency to be attained in each examination for a relevant diploma, certificate or other award of the Council;

(c) to decide whether any candidate for the relevant diploma, certificate or other award, has attained the standard of proficiency prescribed in rules made under paragraph (b) and is otherwise fit for the grant of such diploma, certificate or other award;

(d) to make proposals to the Council on matters relating to examinations conducted by the Council.

12. It shall be lawful for the Council to grant diplomas, certificates and such other awards as may be prescribed, to persons-

(a) who satisfy the requirements in respect of examinations conducted or approved by the Council; or

(b) who, in the opinion of the Council, are entitled to receive such diplomas, certificates or other awards.

PART III

FINANCIAL PROVISIONS

13. -(1) The funds and resources of the Council shall consist of-

(a) such sums as may be provided for the purposes of the Council by Parliament, either by way of grant or loan;

(b) such donations, grants, bequests and loans as the Council may, from time to time, receive from any person or organization;

(c) such fees or other charges paid to the Council by candidates for examinations;

(d) such sums as may in any manner become payable to or vested the Council either under the provisions of this Act or any other written law, or incidental to the carrying out of its functions.

(2) The funds and resources of the Council shall be applied for the purposes for which the Council is established under this Act.

14. The Council shall have power to invest the funds of the Council in such investments as are authorized by, and subject to such conditions invest as are prescribed by, the Trustees Investments Act, 1967, in relation to investment of funds by a trustee.

15.- (1) The Council shall, in respect of every financial year, cause to be prepared estimates of the expenditure and revenue of the Council, and such estimates shall be approved by the Council before the commencement of the relevant financial year.

(2) The annual estimates shall contain provision for all the estimated expenditure during the relevant year and in particular-

(a) for the payment of salaries, allowances, passages and other charges in respect of the members of the staff of the Council;

(b) for the payment of allowances, fees and expenses in respect of the members of the Council and of the Committees;

(c) for the payment of all pensions, gratuities and other charges in respect of retirement and terminal benefits which are payable out of the funds of the Council;
(d) for the construction of the buildings for use by the Council and for the improvement, maintenance, replacement and rental of the buildings and other immovable properties owned or occupied by the Council;

(e) for the proper maintenance and replacement of the furniture and equipment of the Council;

(f) for the creation of such reserve funds to meet future contingent liabilities as the Council may think fit.

(3) Save with the prior written consent of the Minister no expenditure shall be incurred for the purposes of the Council otherwise than in accordance with the provisions of the annual estimates or of supplementary estimates approved by the Council.

(4) Copies of every annual estimates and of every supplementary estimates prepared in accordance with this section shall be furnished to the Minister.

16. (1) The Council shall cause to be prepared in respect of every financial year-

(a) a statement of income and expenditure during such financial year;

(b) a statement of the assets and liabilities of the Council on the last day of such financial year;

(c) a report upon the progress and work of the Council during such financial year;

and shall cause such statements and report to be forwarded to the Minister.

(2) Within six months of the expiry of each financial year the Council shall cause the statements referred to in paragraphs (a) and (b) of subsection (1) to be audited by the Tanzania Audit Corporation established under the Tanzania Audit Corporation Act, 1968; and copies of the reports of the auditor shall be furnished to Minister together with the statements to which such reports relate.

17. The Minister shall lay before the National Assembly, as soon as may be practicable after he has receive them, copies of the statements and report referred to in subsection (1) of section 16 together with copies of the reports of the auditor referred to in subsection (2) of that section.

PART IV
MISCELLANEOUS PROVISIONS

18. (1) In the performance of its duties and exercise of its powers, the Council may, with the consent of the Minister, make regulations generally for the government, control, administration and management of the Council and for conduct of its business, and without prejudice to the generality of the foregoing, may make regulations prescribing-

(a) the terms and conditions of service, pension and retirement benefits and the like, of staff, other than temporary staff;

(b) measures for the discipline of staff;

(c) the financial procedures of the Council;
(d) examination fees and other charges payable to the Council;
(e) diplomas, certificates and other awards which may be conferred or granted by the Council;
(f) the conditions which must be satisfied before any diploma, certificate or other award, may be granted;
(g) the manner in which diplomas, certificates or other awards may be granted;
(h) the manner in which examinations may be conducted;
(i) anything which may be prescribed under this Act or any matter or thing which, in the opinion of the Council, is necessary to prescribe for the furtherance of the functions and objects of the Council.

(2) The Council shall cause to be published in the Gazette any regulations made under this section.

19. The Council may, with the approval of the Minister, make rules prescribing fees and allowances payable to members of the Council or a Committee.

20. The Minister may give the Council directions of a general or specific character and the Council shall give effect to every such direction.

21. No act or proceeding of the Council, the Executive Committee or an Examinations Committee shall be invalid by reason only of the number of the members not being complete at the time of such act or proceeding or of any defect in the appointment of any member or of the fact that any member was at the time in question disqualified or disentitled to act as such.

22. Without prejudice to the provisions of section 284A of the Penal Code, no matter or thing done by any member or officer of the Council or a Committee shall, if done in good faith in the execution or purported execution of the functions of such Council or Committee, render such member or officer personally liable for such matter or thing.

SCHEDULE

1. The Council shall consist of-
   (a) a Chairman who shall be appointed by the President;
   (b) four members appointed by the Minister to represent such academic, technical and professional institutions as are likely to assist the Council in the discharge of its functions;
   (c) one member appointed by the Senate of the University of Dar es Salaam from amongst the members of the Senate other than the member selected by the Students' Organization from amongst the students;
   (d) one member, appointed by the Council of the University of Dar es Salaam from amongst the members of the Council;
   (e) two members appointed by the Minister from amongst the members of the National Assembly;
   (f) (i) such members (whose number shall be not less than three) as may be appointed by the Minister from amongst persons who are ordinarily resident in Tanganyika;
   (ii) such members (whose number shall be not less than three) as may be appointed by the Chairman for the time being responsible for education in Zanzibar from amongst persons who are ordinarily resident in Zanzibar;
Tenure of appointment
2. Every member of the Council shall continue to hold office until his appointment is revoked by the appointing authority.

Absence from three consecutive meetings
3. Where any member absents himself from three consecutive meetings of the Council without reasonable excuse the Council shall advise the appointing authority of the fact and the appointing authority may terminate the appointment of the member and appoint another member in his place.

Appointment of temporary member
4. Where any member is by reason of illness, infirmity or absence from the United Republic, unable to attend any meeting of the Council, the appointing authority may appoint a temporary member in his place and such temporary member shall cease to hold office on the resumption of office of the substantive member.

Vice-Chairman
5. The Council shall elect one of its members to be the Vice-Chairman and any member elected as Vice-Chairman shall, subject to his continuing to be a member, hold office of Vice-Chairman for a term of one year from the date of his election and shall be eligible for re-election.

Power of Chairman and Vice-Chairman
6.-(1) The Chairman shall preside at all meetings of the Council.
(2) Where at any meeting of the Council the Chairman is absent, the Vice-Chairman shall preside.
(3) In the absence of both the Chairman and the Vice-Chairman at any meeting of the Council, the members present may, from amongst their number elect a temporary Chairman who shall preside at that meeting.
(4) The Chairman, Vice-Chairman or a temporary Chairman presiding at any meeting of the Council, shall have a vote and, in the event of an equality of votes, shall have a casting vote in addition to his deliberative vote.

Meetings and procedure of Council
7.- (1) The Council shall meet not less than twice during every year and at such additional times as may be fixed by the Chairman or, if he is absent from the United Republic or unable for any reason to act, the Vice-Chairman.
(2) The Chairman or in his absence from the United Republic the Vice-Chairman, may, and upon application in writing by at least five member, convene a special meeting of the Council at any time.
(3) The Secretary of the Council shall give to each member adequate notice of the time and place of each meeting.

Quorum
8. At any meeting of the Council not less than one-half of the members in office for the time being shall constitute a quorum.

Decisions of Council
9. Subject to the provisions relating to a casting vote, all questions at a meeting of the Council shall be determined by a majority of the votes of the members present, and if any member refuses or fails to vote on any question he shall be deemed to have cast a negative vote.

Seal of Council
10.-(1) The seal of the Council shall be of such shape, size and form as the Council may determine.
(2) The seal shall not be used except in pursuance of a resolution of the Council and shall be authenticated by the signature of the Chairman, or the Secretary, or any member of the Council authorized to act m that behalf by the Council.
(3) All documents, other than those required by law to be under seal, made by, and all decisions of the Council may be signed under the hand of the Chairman, or the Secretary, or any member or officer of the Council authorized in that behalf by the Council.
11.-(1) The Council shall cause minutes of all proceedings of meetings of the Council to be entered in a book kept for that purpose.

(2) Any such minutes if purporting to be approved by, and signed by the Chairman of, the next succeeding meeting of the Council shall be evidence of such proceedings and, until the contrary is proved, the meeting to which the minutes relate shall be deemed to have been duly convened and all proceedings thereat to have been duly transacted.

12. Subject to the Provisions of this Schedule the Council may regulate its own proceedings.


M. Mwindadi
Ag. Clerk of the National Assembly