

ACT 506
GHANA EDUCATION SERVICE ACT, 1995

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ACT 506
GHANA EDUCATION SERVICE ACT, 1995(1)

AN ACT to consolidate with amendments the law relating to the establishment of the Ghana Education Service and to provide for related matters.

Establishment of the Ghana Education Service

1. Establishment of the Ghana Education Service

In accordance with clause (1) of article 190 of the Constitution there is established the Ghana Education Service.

2. Membership of the Service

The Service is made up of

- (a) the personnel of the Ghana Education Service existing immediately before the coming into force of this Act,
- (b) teachers and non-teaching supporting personnel in pre-tertiary educational institutions in the public system,
- (c) managers of educational units and their supporting staff,
- (d) persons holding posts created as Ghana Education Service posts by or under any enactment, and
- (e) any other persons that may be employed for the Service.

3. Functions of the Service

(1) The Service is responsible for the implementation of approved national policies and programmes relating to pre-tertiary education.

(2) Without prejudice to subsection (1), it is the duty of the Service

- (a) to provide and oversee basic education, senior secondary education, technical education and special education;
- (b) to register, supervise and inspect private pre-tertiary educational institutions;
- (c) to submit to the Minister recommendations for educational policies and programmes;
- (d) to promote the efficiency and the full development of talents among its members;
- (e) to register teachers and keep an up-to-date register of all teachers in the public system;
- (f) to carry out any other functions as are incidental to the attainment of the functions specified above; and
- (g) to maintain professional standards and the conduct of its personnel.

4. Governing body of the Service

(1) The governing body of the Service is the Education Service Council.

(2) The Council consists of

- (a) the Chairman who is a person with extensive academic and administrative experience,
- (b) one representative of the Public Services Commission not below the rank of director,
- (c) two distinguished educationalists one of whom is a woman,
- (d) two eminent citizens, one of whom is a woman,
- (e) two representatives of the Christian group made up of the Christian Council, the National Catholic Secretariat and the Ghana Pentecostal Council,
- (f) one representative of the Federation of Muslim Councils and Ahmadiyya Mission,
- (g) one member of the Ghana National Association of Teachers,
- (h) one member of the Teachers and Educational Workers Union,
- (i) one member of the National Council for tertiary Education,
- (j) one representative of the Association of Proprietors of Private Educational Institutions,
- (k) the Chief Director of the Ministry of Education, and
- (l) the Director-General of the Service.

(3) The members of the Council shall be appointed by the President in accordance with article 70 of the Constitution.

5. Functions of the Council

The Council shall have general control over the management of the Service and shall

- (a) ensure the implementation of the function of the Service,
- (b) submit to the Minister recommendations for pre-tertiary educational policies and programmes,
- (c) promote collaboration between the Ministry of Education and the Service, and
- (d) advise the Minister on such matters as the Minister may request.

6. Tenure of office of members of the Council

(1) The members of the Council other than the ex officio members shall hold office for three years and are eligible for re-appointment.

(2) A member of the Council other than an ex officio member may resign from office in writing addressed to the President through the Minister.

(3) Where the office of a member of the Council other than an ex officio becomes vacant before the expiration of the term of office or by death, the Minister shall notify the President of the occurrence of the event and the President shall, acting in consultation with the Council of State, appoint another person to hold office for the unexpired portion of that term of office.

(4) Where it appears to the President on the recommendation of the Minister that a member of the Council is incapacitated by absence from Ghana or illness or any other sufficient cause from performing the functions of office the President shall appoint another person to hold office until the time that the President is satisfied that the incapacity of that person has terminated or until the term of the member expires whichever first occurs.

(5) A member of the Council who is absent from three consecutive meetings of the Council without sufficient cause ceases to be a member.

7. Allowances for members

Members of the Council, co-opted members and members of committees of the Council shall be paid the allowances determined by the Minister in consultation with the Minister for Finance.

8. Meetings of the Council

(1) The Council shall meet at least once in every month, for the despatch of business at the times and in the places determined by the chairman.

(2) The chairman shall, on the request of not less than one-third of the membership, convene a special meeting of the Council.

(3) The quorum at a meeting of the Council shall consist of seven members including the Director-General or the person acting in that capacity.

(4) The chairman shall preside at the meetings of the Council and in the absence of the chairman a member of the Council elected by the members present from among their number shall preside.

(5) Questions before the Council shall be decided by a simple majority of the members present and voting.

(6) The Council may co-opt a person to act as an adviser at its meetings but a co-opted person is not entitled to vote at the meeting.

(7) The validity of the proceedings of the Council shall not be affected by a vacancy among its members or by a defect in the appointment or qualification of a member.

(8) A member of the Council who has an interest in a contract or any other transaction proposed to be entered into with the Service shall disclose in writing to the Council the nature of the interest and is disqualified from participating in the deliberations of the Council in respect of the contract or that other transaction.

(9) A member of the Council who infringes subsection (8) shall be liable to be removed from the Council.

(10) The secretary to the Council shall submit to the Minister a copy of the approved minutes after each meeting.

(11) Except as otherwise expressly provided for under this Act, the Council shall determine and regulate the procedure for its meetings.

9. Committees of the Council

(1) The Council may for the performance of its functions appoint committees comprising members of the Council or non-members or both and may assign to a committee a function of the Council as

determined by the Council.

(2) Without prejudice to subsection (1), the Council shall appoint in every district a district education oversight committee consisting of

- (a) the District Chief Executive, as the chairman,
- (b) the District Director of Education,
- (c) the District Director of Health,
- (d) the District Inspector of Schools,
- (e) the District Social Welfare Officer,
- (f) two representatives of the District Assembly nominated by the Assembly of whom one is a woman,
- (g) one representative of traditional rulers in the District,
- (h) one representative of each of the Christian and Muslim groups,
- (i) one representative of the Ghana National Association of Teachers in the district,
- (j) one representative of the District Parent/Teachers' Association, and
- (k) one woman identified generally with social development in the district.

(3) A district education oversight committee shall, in the relevant district and subject to the directives of the Council, be concerned with and oversee

- (a) the conditions of school buildings and any other infrastructural requirements of the schools;
- (b) the provision of teachers and the regular and punctual attendance of teachers and pupils at the schools;
- (c) the proper performance of duties by staff at the schools;
- (d) the moral behaviour of staff and pupils and matters relating to general discipline;
- (e) complaints relating to or from teachers, non-teaching staff and pupils;
- (f) the environmental cleanliness of schools and facilities in the schools; and
- (g) the supply of textbooks and any other teaching and learning materials.

(4) The Council shall also appoint

- (a) the Appointments and Promotions Committee,
- (b) the Disciplinary Committee,
- (c) the Administration and Finance Committee,
- (d) the Education Planning and Research Committee, and
- (e) the Monitoring and Evaluation Committee.

(5) Subject to this Act, the Council shall determine the membership and functions of a committee appointed under this section.

10. Minister to give directives

The Minister may issue directives in writing to the Council on matters of policy and the Council shall

comply with the directives.

Administration

11. Organisation of the Service

The Council may, with the approval of the Minister, create units or divisions in the Service that the Council considers necessary for the efficient performance of the functions of the Service.

12. Director-General and his functions

(1) There shall be appointed by the President in accordance with the article 195 of the Constitution, a Director-General of the Service who is the chief executive of the Service.

(2) The Director-General shall hold office on the terms and conditions specified in the letter of appointment.

(3) Subject to the general directives given by the Council, the Director-General is responsible for the direction of the work of the Service and for the day-to-day administration of the Service and shall ensure the implementation of the decisions of the Council.

(4) The Director-General may delegate a function to an officer of the Service but the Director-General is not relieved from ultimate responsibility for the performance of a delegated function.

13. Deputy Directors-General

(1) There shall be appointed by the President in accordance with article 195 of the Constitution two Deputy Directors-General for the Service.

(2) The Deputy Directors-General shall hold office on the terms and conditions specified in their letters of appointment.

(3) The two Deputy Directors-General are responsible to the Director-General in the performance of their functions under this Act.

(4) The Deputy Directors-General shall, subject to this Act

(a) assist the Director-General in the performance of functions and perform any other functions as the Director-General may delegate to them; and

(b) be responsible for the direction of the Service when the Director-General is absent from Ghana or is otherwise unable to perform the functions of office.

14. Appointment of other staff of the Service

(1) The Service shall have any other officers and employees necessary for the proper and effective performance of its functions.

(2) The staff of the Service shall, subject to this Act perform the functions which the Director-General may assign to them.

(3) The President shall in accordance with the article 195 of the Constitution and on the terms and conditions determined by the President appoint the staff and employees of the Service.

(4) The President may in accordance with article 195 (2) of the Constitution delegate the power of appointment of the public officers under this Act.

(5) The Council may engage the services of consultants and advisers on the recommendation of the Director-General.

15. Secretary to the Council

(1) The Minister shall, acting in consultation with the Director-General, designate an officer of the Service as secretary to the Council.

(2) The secretary shall arrange the business for and record and keep the minutes of the meetings of the Council.

(3) The secretary shall also perform the functions that the Council or the Director-General in consultation with the Council may assign and shall be assisted in the performance of those functions by the staff of the Service directed by the Council on the recommendation of the Director-General.

(4) The secretary shall, in the performance of functions, be under the administrative control of the Director-General.

16. Organisations of employees of the Service

(1) The organisations known as the Ghana National Association of Teachers and the Teachers and Educational Workers Union of the Trades Union Congress are hereby recognised as organisations formed to seek and promote in accordance with law the interest and welfare of their members in the Service.

(2) Subject to the Labour Act, 2003 (Act 651) these organisations may make representation to the Council on matters concerning the terms and conditions of service of its members in the Service.

(3) Subject to subsection (4) of this section the Minister acting on the advice of the Council, may on an application made by any of these organisations approve the deduction of contributions from the emolument of an employee of the Service who is a member of any of these organisations.

(4) A contribution shall not be deducted from the emolument of an employee of the Service who is a member of these organisations without the consent in writing of the employee concerned and the consent may be withdrawn by the employee after having given the organisation six months notice in writing of the intention to withdraw the consent.

17. Employment of registered teachers

Subject to section 20 a person shall not be employed as a teacher in a pre-tertiary educational institution in the public system unless that person is registered as a teacher by the Council.

18. Registration of teachers

(1) The Director-General shall keep and maintain a register of teachers in which shall be recorded the particulars of a person registered as a teacher under this Act.

(2) A person wishing to be registered as a teacher shall submit for approval by the Director-General an application in the prescribed form.

(3) A person is not qualified to be registered as a teacher if that person

- (a) does not possess at least the initial prescribed teacher training certificate or equivalent qualification;
- (b) has been disqualified from teaching on grounds of grave professional misconduct; or

- (c) within a period of six months immediately preceding the date of the application;
 - (i) has been refused registration as a teacher, or
 - (ii) the registration as a teacher has been cancelled.

(4) Subject to subsection (2) the Director-General may refuse to register a person as a teacher if that person

- (a) suffers from a mental disability likely to interfere with the practice of teaching; or
- (b) has been convicted of a criminal offence of a nature that renders that person in the opinion of the Director-General not a proper person to be a teacher in an educational institution; or
- (c) has in an application for registration as a teacher made a statement or furnished information which that person knows to be false in a material particular.

(5) A person aggrieved by the refusal of the Director-General to register that person as a teacher under this Act may appeal to the Council against the decision and the Council shall on the determination of the matter confirm, vary or rescind the decision of the Director-General.

(6) Where a decision of the Director-General is rescinded by the Council, it shall direct the Director-General to register as a teacher the person affected by the decision.

19. Disciplinary proceedings

(1) The Disciplinary Committee provided under section 9 (4) shall examine disciplinary matters referred to it by the appointing authority.

(2) Where a disciplinary proceeding is conducted by the Committee, the Committee shall make its recommendations in writing to the Council.

(3) The Council may in respect of a disciplinary matter advise the appointing authority, unless the Council itself is the appointing authority, to take the disciplinary action that the circumstances require.

(4) Disciplinary action for the purposes of subsection (3) may where the member of the Service is a registered teacher include the suspension of the registration for a period not exceeding one year or the removal of the name of that member from the register.

20. Employment of unregistered teachers

(1) The appointing authority may subject to the conditions determined by that authority, authorise the employment of persons not registered under this Act as teachers in pre-tertiary educational institutions.

(2) The provisions in subsection (3) (b) and (c) and subsection (4) of section 18 on qualifications and conditions relating to a registered teacher shall apply to the employment of unregistered teachers.

Financial and Miscellaneous Provisions

21. Funds, expenses of the Service

The administrative expenses of the Service including salaries, operational and any other allowances, gratuities and pensions payable in respect of persons employed by the Service shall be a charge on the Consolidated Fund.

22. Accounts and audit

(1) The Service shall keep books of account and proper records in relation to them in the form approved by the Auditor-General.

(2) The accounts of the Service shall be audited by the Auditor-General within six months after the end of each financial year.

(3) The financial year of the Service shall be the same as the financial year of the Government.

(4) The Director-General shall prepare budget estimates for each financial year and present the estimates to the Council for its approval not later than two months before the end of the financial year.

23. Annual report and other reports

(1) The Council shall as soon as possible after the expiration of each financial year but within six months after the end of the year, submit to the Minister an annual report covering the activities and the operations of the Service for the year to which the report relates.

(2) The annual report submitted under subsection (1) shall include the report of the Auditor-General.

(3) The Minister shall within two months after the receipt of the annual report submit a report to Parliament with a statement that the Minister considers necessary.

(4) The Council shall also submit to the Minister any other reports that the Minister may in writing require.

24. Regulations

(1) Subject to subsections (1) and (2), the Council may in consultation with the Minister by legislative instrument make Regulations for the purpose of giving effect to this Act and for regulating a matter that falls within the scope of the functions of the Service.

(2) The appointing authority may make Regulations providing for the terms and conditions of service and the code of discipline of the members of the Service.

(3) An instrument made under subsection (1) shall be signed personally by the chairman of the Council and an instrument made under subsection (2) shall, where the appointing authority is the Council, be signed personally by the chairman of the Council.

25. Transfer of assets and liabilities

(1) The assets, rights and properties held on behalf of or for the purposes of the Ghana Education Service in existence immediately before the coming into force of this Act are hereby transferred to the Service established under article 190 of the Constitution.

(2) The obligations and liabilities subsisting against the Ghana Education Service immediately before the coming into force of this Act subsist between the Service and that other party.

26. Interpretation

In this Act, unless the context otherwise requires,

“**appointing authority**” includes the Council, a committee of the Council or a public officer to whom the power of appointment has been delegated by the President by virtue of article 195 (2) of the

Constitution;

“Christian and Muslim groups” means the Christian group, the National Catholic Secretariat, the Christian Council and the Pentecostal Council, and the Federation of Muslim Councils Ahmadiyya Mission;

“Council” means the Ghana Education Service Council established under section 4;

“Director-General” means the Director-General of the Ghana Education Service appointed under section 12;

“Minister” means the Minister responsible for Education;

“pre-tertiary education” means education below university, university college, polytechnic and diploma award teacher training level;

“pre-tertiary educational institutions in the public system” means schools and institutions for pre-tertiary education for which Government has direct responsibility in providing teachers, teaching and learning material; and

“register” means the register of teachers referred to in subsection (1) of section 18;

“Service” means the Education Service provided for by clause (1) of article 190 of the Constitution.

27. Repeals and savings

Spent.2(2)

Endnotes

1 (Popup - Footnote)

1. The Act was assented to on 31st August, 1995 and notified in the *Gazette* on 8th December, 1995.

2 (Popup - Footnote)

2. The section provides that,

“(1) The following enactments are repealed:

the Ghana Education Service Decree, 1974 (N.R.C.D. 247);

the Ghana Education Service (No. 2) Decree, 1975 (N.R.C.D. 252);

the Ghana Education Service (Amendment) Decree, 1975 (N.R.C.D. 357); and

the Ghana Education Service (Amendment) Decree, 1976 (S.M.C.D. 63).

(2) Notwithstanding the repeal of the enactments specified in subsection (1) of this section

(a) any regulations, by-laws or other instruments made under any of these enactments and in force immediately before the coming into force of this Act shall continue in force until amended or revoked under this Act; and

(b) any appointments made under any of the repealed enactments and valid on the coming into force of this Act shall remain valid as if made under the corresponding provision of this Act until terminated or otherwise dealt with under this Act.”