

National Education Commission
Act, No. 19 of 1991

[Certified on 19th April, 1991]

L.D. - O. 109/90

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A NATIONAL EDUCATION COMMISSION; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:-

1. This Act may be cited as the National Education Commission Act, No. 19 of 1991.

Short title

PART I

ESTABLISHMENT OF THE NATIONAL EDUCATION COMMISSION

2. (1) The President, subject to the provisions of the Constitution, may declare from time to time the National Education Policy which shall be conformed to by all authorities and institutions responsible for education in all its aspects.

President to declare
National Education
Policy

(2) The National Education Policy includes the following matters :-

Aims and goals of education; the structure of the educational system -- pre-school, primary, secondary tertiary, higher, informal, nonformal, adult, special, professional and religious; the establishment, location and distribution of educational institutions, including methods and criteria for admission of students and recruitment of teachers; the content of education, including medium of instruction, diversification of curricula, text books and learning materials, the place of religious knowledge, observance and practice, assessment and evaluation, the examination system, certificates, diplomas and academic awards and recognition of qualification; recruitment, placement, disciplinary control and professional growth of education service personnel, including teachers, para -education personnel, supervisors and administrators; resources for education, including the mobilization of community participation; and ancillary services for education including mid-day meals, health and dental services, physical education and sports.

(3) The National Education Policy shall be formulated on a consideration of the recommendations and advice made to the President by the National Education Commission established by section 3.

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Establishment of the
National Education
Commission

3. (1) There shall be established a Commission which shall be called the National Education Commission (here-in after referred to as the "Commission").

(2) The Commission shall, by the name assigned to it by subsection (1), be a body corporate with perpetual succession and a common seal and may sue and be sued in such name.

Constitution of the
Commission

4. (1) The Commission shall consist of the following:-

(a) the Chairman of the University Grants Commission established by the Universities Act, No. 16 of 1978;

(b) the Chairman of the Tertiary and Vocational Education Commission established by the Tertiary and vocational Education Act, No. 20 of 1990.

(c) a member appointed by the President on the recommendation of the Minister in charge of the subject of Education and Higher Education;

(d) a member appointed by the President on the recommendation of the Minister in charge of the subject of Finance;

(e) a member appointed by the President on the recommendation of the Minister in charge of the subject of Provincial councils;

(f) ten other members who shall be appointed by the President from among persons who have shown capacity in the fields of Education, Administration or Management or have achieved distinction in any profession. The Chairman, the Vice Chairman (Policy) and the Vice Chairman (Planning) appointed under section 5 shall work full time for the Commission.

(2) A person shall be disqualified from being appointed or continuing as a member of the Commission if he is or becomes a Member of Parliament, a member of a Provincial Council or a member of a local authority.

(3) A member of the Commission may resign his office by a letter addressed to the President and such resignation shall take effect upon its acceptance by the President.

(4) The President may, for cause assigned, remove any member of the Commission from office.

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(5) The term of office of a member of the Commission appointed under paragraphs (c), (d), (e) and (f) of subsection (1) shall be five years:

Provided that a member appointed by the President to fill a vacancy in the office of an such member of the Commission, shall hold office for the unexpired period of the term of office of the member whom he succeeds.

(6) Where a member of the Commission appointed under paragraphs (c), (d), (e) and (f) of subsection (1) becomes, by reason of illness or other infirmity or absence, from Sri Lanka, temporarily unable to perform the duties of his office, the President may, having regard to the provisions of the paragraph under which he was appointed, appointed a fit and proper person to act in place of that member.

(7) A member of the Commission referred to in paragraph (a) or (b) of subsection (1) shall hold office so long as he holds the office by virtue of which is a member of the Commission.

(8) A member of the Commission shall be paid such remuneration as may be determined by Parliament. The remuneration payable to a member of the Commission shall be charged on the Consolidated Fund and shall not be diminished during his term of office.

(9) A member of the Commission appointed under paragraphs (c), (d), (e) and (f) of subsection (1) who vacated office by affliction of time shall be eligible for re-appointment .

(10) No act or decision or proceeding of the Commission shall be deemed to be invalid by reason only of the existence, of a vacancy among its members or any defect in the appointment of a member thereof.

5. (1) The President shall appoint a Chairman, a Vice Chairman (Policy) and a Vice Chairman (Planning) respectively, of the Commission from among the members of the Commission.

Chairman and Vice
Chairman of the
Commission.

(2) The Chairman or a Vice Chairman may resign from the office of Chairman or Vice Chairman, as the case may be, by letter addressed to the President and such resignation shall take effect upon its acceptance by the President.

(3) The President may, for cause assigned, remove the Chairman or any Vice Chairman from office.

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(4) Subject to the provisions of subsections (2) and (3), the term of office of the Chairman shall be his period of membership of the Commission and the term of office of a Vice Chairman shall be his period of membership of the Commission.

(5) Where the Chairman or a Vice Chairman of the Commission becomes, by reason of illness or other infirmity or absence from Sri Lanka, temporarily unable to perform the duties of his office, the President may appoint another member of the Commission to act in his place.

Meeting of the
Commission

6. (1) The Chairman shall preside at every meeting of the commission. In the absence of the Chairman from any meeting of the Commission, any Vice Chairman present shall preside at such meeting. In the absence of the Chairman, and the Vice Chairman from any meeting of the Commission, the members present at such meeting shall elect from among themselves a Chairman for that meeting.

(2) The quorum for any meeting of the Commission shall be eight.

(3) any question arising for decision at any meeting of the Commission shall be decided by a majority of the votes of the members present and voting. in the event of an equality of votes, the Chairman or the member presiding at such meeting shall, in addition to his vote, have a casting vote

(4) Subject to the provisions of this section, the Commission may regulate the procedure in regard to its meetings, and the transaction of business at such meetings.

Seal of the
Commission

7. (1) The seal of the Commission shall be in the custody of the Commission.

(2) The seal of the Commission may be altered in such manner as may be determined by the Commission.

(3) The seal of the Commission shall not be affixed to any instrument or document except in the presence of two members of the Commission and the Secretary all of whom shall sign the instrument or document in token of their presence.

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PART II

POWERS AND FUNCTIONS OF THE COMMISSION

Functions of the
Commission

8. (1) The functions of the Commission shall be ----

- (a) to make recommendations to the President, on educational policy in all its aspects, with a view to, ensuring continuity in educational policy and enabling the education system to respond to changing needs in society, including an immediate review of educational policy and plan or plans and the making of recommendations to the President, on a comprehensive National Education Policy;
- (b) to review and analyze periodically, the National Education Policy and Plan or plans in operation and where necessary, to recommend to the President, changes in such Policy, Plan or Plans;
- (c) to advise the President on any other matter relating to education which may be referred to it by the President, for its advice.

2. Without prejudice to the generality of the matters in respect of which recommendations may be made by the Commission under subsection (1), the Commission may make recommendations to the President on the following matters :-

- (a) the changes in curricula and teaching methods in educational institutions that are necessary to match education to employment, industry and social needs;
- (b) the adequacy of guidance and counseling got students in educational institutions, to enable them to develop their potential to the full;
- (c) the measures necessary to strengthen the links between educational institutions and the community.
- (d) the development of educational institutions as resource centres for all resound human development in the community;
- (e) the measures necessary to reduce area-wise disparities among schools;
- (f) the measures necessary to enhance the professional standing of teachers and other education service personnel;

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- (g) the alternate programmes that could be provided for the benefit of the children leaving primary and secondary schools prematurely, to enable them to develop their potential to the full;
- (h) the changes in curricula necessary to foster the cultural and religious aspirations of students of all communities and religions;
- (i) the legislative changes necessary to give effect to any such recommendations.

Powers of Minister not to be affected

9. Subject to the National Education Policy declared under section 2, nothing in this Act shall affect or prejudice, or be deemed to affect or prejudice, the powers exercisable by the Minister in charge of any subject of function relating to education or by a public officer, under any written law on any matter referred to in section 8.

Powers of the Commission

10. (1) The Commission shall have the power -

- (a) for the purpose of discharging its functions under section 8 -
 - (i) to carry out such surveys, investigations, studies and research as may be necessary;
 - (ii) to conduct public or private hearings with a view to ascertaining the views of experts, professionals or the general public;
 - (iii) to prepare educational plans when required to do so by the President;
 - (iv) to assist in co-ordinating long-range planning of education;
- (b) to establish and maintain liaison with organizations outside Sri Lanka discharging functions similar to those of the Commission;
- (c) to open and maintain, current, savings or deposit accounts, in any bank or banks;
- (d) to enter into and perform all such contract and agreement as may be necessary for the discharge of its functions under this Act;
- (e) to arrange for the conduct of educational research by institutions or individuals either in Sri Lanka or abroad;
- (f) to establish and maintain an Information Data Bank on education and related fields in Sri Lanka and in other countries;

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- (g) to accept and receive grants, donations both movable and immovable;
- (h) to take such steps as may be necessary to advance the skills of its officers and servants, with a view to developing a pool of expertise in different fields of education;
- (i) to appoint such committees, expert groups and advisory bodies as may be necessary for the proper discharge of its functions; and
- (j) to do all such acts or other things as are incidental to, or consequential upon, the exercise and discharge of its powers and functions.

(2) The Commission shall as far as practicable utilize the existing infrastructure and facilities for carrying out the surveys, investigations, studies and research referred to in paragraph (a) of subsection (1). No additional infrastructure or new facilities shall be provided for the Commission, for that purpose, except on a direction of the President.

PART III

STAFF OF THE COMMISSION

11. (1) The Chairman shall be the chief executive officer of the Commission

Chief Executive
Officer

(2) The Commission may by resolution, delegate to the Chairman any of the powers conferred on it by this Act other than the power conferred on it by this subsection, and in the exercise of such powers delegated to him, the chairman shall be subject to the general or special direction of the Commission.

(3) The Chairman shall, notwithstanding that he is the chief executive officer of the Commission, be deemed not to be a member of the staff of the Commission.

(4) There shall be a Secretary to the Commission appointed by the President. The Secretary shall be in charge of the day to day administration of the affairs of the commission. The Secretary shall keep a record of the minutes of the meetings of the commission and shall be entitled to speak at such meetings but shall not be entitled to vote thereat.

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Appointment & C. of
the staff of the
commission

12. (1) The Commission may, subject to the provisions of this Act-

- (a) appoint such officers and servants as it considers necessary for the exercise or discharge of its powers and functions, and may exercise disciplinary control over or dismiss such officers or servants;
- (b) fix the rates at which such officers and servants shall be remunerated;
- (c) determine the terms and conditions of service of such officers or servants; and
- (d) establish and regulate a provident fund or scheme for the benefit of such officers or servants and make contributions to any such fund or scheme.

(2) Rules may be made by the commission in respect of all or any of the matters referred to in subsection (1).

Appointment of public
officers & C. to the
staff of the
Commission

13. (1) At the request of the commission any officer in the public service may, with the consent of that officer and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Commission for such period as may be determined by the commission with like consent, or with like consent be permanently appointed to such staff.

(2) Where any officer in the public service is temporarily appointed to the staff of the commission, the provisions of subsection (2) of section 13 of the Transport Board Law, No. 19 of 1978, shall, *mutatis mutandis*, apply to and in relation to him.

(3) Where any officer in the public service is permanently appointed to the staff of the commission, the provisions of subsection (3) of section 13 of the Transport Board Law, No. 19 of 1978, shall, *mutatis mutandis*, apply to and in relation to him.

(4) Where the Commission employs any person who has entered in to a contract with the Government by which he has agreed to serve the Government for a specified period, an period of service to the Commission by that person shall be regarded as service to the Government for the purposed of discharging the obligations of such contract.

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(5) At the request of the commission, any officer or servant of any Higher Educational Institution may, with the consent of such officer or servants and the principal executive officer of that Higher Educational Institution, be temporarily appointed to the staff of the Commission for such period as may be determined by the Commission with like consent or be permanently appointed to such staff, on such conditions including those relating to pension and provident fund rights, as may be agreed upon by the Commission and such principal executive officer.

(6) Where any officer or servant of any Higher Educational Institution is temporarily appointed to the staff of the Commission, he shall be subject to the same disciplinary control as any other member of such staff.

(7) In this section, "Higher Education Institution" and "principal executive officer" shall have the respective meanings assigned to them by the Universities Act, No. 16 of 1978.

PART IV

GENERAL

14. Every member of the commission and all officers and servants of the Commission, shall before entering upon his duties sign a declaration pledging himself to observe strict secrecy respecting all matters connected with the working of the commission, and shall by such declaration pledge himself not to disclose any matters which may come to his knowledge in the discharge of his functions, except-

Declaration of secrecy

(a) when required to do so by a court of law, or

(b) in order to comply with any of the provisions of this Act.

15. (1) for the purpose of enabling the commission to exercise and discharge any of its powers and functions, under this Act, the Commission or any person authorized in that behalf by the commission may, by notice in writing, require any person to furnish to the Commission or to the person authorized by the Commission, within such period as shall be specified in the notice, such returns and information as shall be specified in such notice or require any person to be present at any hearing to be conducted by the commission.

Returns and
information

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(2) It shall be the duty of any person who is required by a notice under subsection (1), to furnish any return or information or to be present at any hearing to be conducted by the Commission to comply with the requirements of such notice within the period specified in such notice, except where such person is prohibited from furnishing such returns or information under the provisions of any law.

(3) No information contained in a return furnished under subsection (1) in compliance with the requirements of a notice issued under this section shall be published or communicated by the Commission to any other person except with the consent of the person furnishing such return or information or in the course of the discharge of the functions of the Commission

(4) Every person who gives evidence at any hearing conducted by the Commission under this Act shall in respect of such evidence be entitled to all the privileges to which a witness giving evidence before such court.

Members, officers and servants of the Commission deemed to be Public servants.

16. All members, officers and servants of the Commission shall be deemed to be public servants within the meaning of, and for the purposes of the Penal Code.

The Commission deemed to be a scheduled institution within the meaning of the Bribery Act.

17. The Commission shall be deemed to be a scheduled institution within the meaning of the Bribery Act, and the provisions of that Act shall be construed accordingly.

Offences.

18. (1) Every person who --

- (a) fails or refuses to comply with the requirements of any notice sent to him under section 15;
- (b) knowingly makes any false or incorrect statement in any return or information furnished by him in compliance with the requirements of a notice sent to him under section 15;
- (c) knowingly makes any false or incorrect statement at any hearing conducted by the Commission ;

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- (b) being a member or officer or servant of the Commission discloses any information obtained by him in, or in connection with, the exercise of this powers or the discharge of his functions, under this Act, to any person for any purpose other than a purpose for which he is authorized to disclose such information by this Act,

shall be guilty of an offence under this Act.

(2) Every person who commits an offence under this Act, shall on conviction after trial before a Magistrate, be liable to a fine not exceeding five thousand rupees.

(3) Where an offence under this Act is committed by a body of persons, then, -

- (a) if that body of persons is a body corporate, every director or officer of that body corporate; or
- (b) if that body of persons is a firm, every partner of that firm,

shall be deemed to be guilty of that offence:

Provided, however, that a director or an officer of such body corporate or partner of such firm shall not be deemed to be guilty of such offence if he proves that such offence was committed without his knowledge or that he used all such diligence to prevent the commission of such offence.

19. No suit or prosecution shall lie -

- (a) against the Commission, for any act which in good faith is done or purported to be done by the Commission under this Act; or
- (b) against any member, officer or servant of the Commission for any act which in good faith is done or purported to be done by him under this Act, or on the direction of the Commission.

Protection for action taken under this Act or on the direction of the Commission.

20. The Commission shall at the end of each financial year submit to the President, a report containing *inter alia* any recommendations made by it during that year.

Annual report

21. the Commission may make rules in respect of all matters in respect of which rules are authorized to be made by this Act.

Rules

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Regulations

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

(2) Every regulation made by the Minister under subsection (1), shall as soon as convenient after its publication in the Gazette, be brought before Parliament for approval. Any such regulation which is not so approved shall be deemed to be rescinded as from the date of disapproval but without prejudice to anything previously done thereunder. Notification of the date on which any regulation is deemed to be so rescinded shall be published in the *Gazette*.

Interpretation

23. In this Act, unless the context otherwise requires -

"Chairman" means the chairman of the Commission;

"Education" includes pre-school education, formal schooling at primary and secondary levels, tertiary education, higher education, education and training in agriculture, training for skills development, informal, non-formal and adult education, special education, professional education, vocational and technical education and training and religious education;

"Educational institution" means any institution imparting education;

"Local authority" means any Municipal Council, Urban Council or Pradeshiya Sabha and includes any authority created or established by or under any law to exercise, perform or discharge the powers, duties and functions corresponding to or similar to, the powers, duties and functions exercised, performed or discharged by any such Council or Sabha;

"Provincial council" means a Provincial Council established by Chapter XVII A of the constitution; and

"Secretary" means the Secretary of the Commission.

Sinhala text to prevail
in case of
inconsistency

24. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.