

**EXPLANATORY MEMORANDUM**

This Act provides for compulsory, free universal basic education for all children of primary and junior secondary school age in the Federal Republic of Nigeria.

It further seeks to provide punishment for parents for failing to comply with its provisions.

# COMPULSORY, FREE UNIVERSAL BASIC EDUCATION ACT 2004

## ARRANGEMENT OF SECTIONS

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### SECTIONS:

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3. Services in public primary and junior secondary schools are free of charge.
4. Duty of a parent to ensure the education of his child.
5. Sections 2 and 3 not applicable to a child resident outside Nigeria.
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# COMPULSORY, FREE UNIVERSAL BASIC EDUCATION ACT 2004

## A BILL

## FOR

### AN ACT TO PROVIDE FOR COMPULSORY, FREE UNIVERSAL BASIC EDUCATION; AND FOR CONNECTED PURPOSES.

ENACTED by the National Assembly of the Federal Republic of Nigeria-

#### PART I — COMPULSORY, FREE UNIVERSAL BASIC EDUCATION, ETC

- 1 Without prejudice to the provisions of item 30 of Part II of the Second Schedule and item 2 (a) of the Fourth Schedule to the 1999 Constitution dealing with primary school education, the Federal Government's intervention under this Act shall only be an assistance to the States and Local Governments in Nigeria for the purposes of uniform and qualitative basic education throughout Nigeria. *Federal Government intervention for uniform and qualitative basic education*
- 2 (1) Every Government in Nigeria shall provide free, compulsory and universal basic education for every child of primary and junior secondary school age. *Right of a child to compulsory, free universal basic education, etc.*
- (2) Every parent shall ensure that his child or ward attends and completes his—  
(a) primary school education; and  
(b) junior secondary school education,  
by endeavouring to send the child to primary and junior secondary schools.
- (3) The stake holders in education in a Local Government Area, shall ensure that every parent or person who has the care and custody of a child performs the duty imposed on him under section 2(2) of this Act.
- (4) A parent who contravenes section 2(2) of this Act commits an offence and is liable —  
(a) on first conviction, to be reprimanded;  
(b) on second conviction, to a fine of ₦2,000.00 or imprisonment for a term of 1 month or to both; and  
(c) on subsequent conviction, to a fine of ₦5,000.00 or imprisonment for a term of 2 months or to both.
3. (1) The services provided in public primary and junior secondary schools shall be free of charge. *Services in public primary and junior secondary schools are free of charge.*
- (2) A person who receives or obtains any fee contrary to the provisions of subsection (1) of this section commits an offence and is liable on conviction to a fine not exceeding ₦10,000.00 or imprisonment for a term of 3 months or to both.
4. (1) Every parent shall ensure that his child receives full-time education suitable to his age, ability and aptitude by regular attendance at school. *Duty of a parent to ensure the education of his child.*
- (2) The provisions of sections 2(2) and 4(1) of this Act shall not apply to any parent who, for the time being, is resident outside Nigeria.

5 The provisions of sections 2 and 3 of this Act shall not apply to any child who is resident outside Nigeria and who has not received such education. *Sections 2 and 3 not applicable to a child resident outside Nigeria.*

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6 The Magistrate Court or any other State Court of competent jurisdiction shall have jurisdiction to hear and determine cases arising under section 2 of this Act and to impose the punishment specified. *Magistrate courts to have jurisdiction over certain offences*

**PART II — ESTABLISHMENT AND MEMBERSHIP OF THE UNIVERSAL BASIC EDUCATION COMMISSION, ETC.**

7 (1) There is established a body to be known as the Universal Basic Education Commission (in this Act referred to as "the Commission") which shall have a *Board* with the following as members – *Establishment and membership of the Universal Basic Education Commission, etc*

- (a) a part-time chairman who is a seasoned educationist;
- (b) one representative each not below the rank of a director from -
  - (i) the Federal Ministry of Education; and
  - (ii) the Federal Ministry of Finance .
- (c) *one member representing each of the six geo-political zones of the country;*
- (d) one representative each from–
  - (i) the Nigeria Union of Teachers;
  - (ii) the National Parents Teachers Association of Nigeria; and
  - (iii) women groups or societies;
- (e) two other members appointed on personal merit to represent a variety of interests;
- (f) one representative each not below the rank of a director from -
  - (i) National Teachers Institute;
  - (ii) National Commission for Colleges of Education;
  - (iii) *National Commission for Mass Literacy Adult and Non-Formal Education;*
  - (iv) Nigerian Education Research and Development Council; and
  - (v) *National Commission for Nomadic Education;*
- (g) the Executive Secretary of the Commission who is the Secretary and Member;
- (h) two Deputy Executive Secretaries (Technical and Services) who shall assist the Executive Secretary.

(2) The Chairman and other members of the Commission shall be appointed by the President on the recommendation of the Minister.

(3) The supplementary provisions set out in the Schedule to this Act shall have effect with respect to the proceedings of the Commission and the other matters contained therein. *Schedule*

8 (1) The Chairman and members, other than ex-officio, Executive Secretary and his two Deputies shall hold office for a term of 4 years in the first instance and may be reappointed for a further term of 4 years upon satisfactory performance *and no more.* *Tenure of office*

(2) A member may at any time be removed from office by the President for inability to discharge the functions of his office (whether arising from infirmity of mind or body) or for any fraudulent act or misconduct.

(3) A member may resign his membership by a notice in his hand writing, addressed to the President and that member shall, on the date of the acceptance of the resignation by the President, cease to be a member of *the Board of the Commission.*

9 The functions of the Commission shall be to- *Functions of the Commission*

- (a) formulate the policy guidelines for the successful operation of the universal

basic education programme in the Federation;

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(b) receive block grant from Federal Government and allocate to the States and Local Governments and other relevant agencies implementing the Universal Basic Education in accordance with an approved formula as may be laid down by the *Board of the Commission and approved by the Federal Executive Council; Provided that the Commission shall not disburse such grant until it is satisfied that the earlier disbursements have been applied in accordance with the provisions of this Act;*

(c) prescribe the minimum standards for basic education throughout Nigeria in line with the National Policy on Education and the directive of the National Council on Education *and ensure the effective monitoring of the standards;*

(d) *enquire into and* advise the Federal Government on the funding and orderly development of basic education in Nigeria;

(e) collate and *prepare* after consultation with the States and Local Governments, and other relevant stakeholders, periodic master plans for a balanced and co-ordinated development of basic education in Nigeria including areas of possible intervention in the provision of adequate basic education facilities *which include -*

(i) proposals to the Minister for equal and adequate basic education opportunity in Nigeria;

(ii) the provision of adequate basic education facilities in Nigeria; and

(iii) ensure that the Basic National Curricula and Syllabi and other necessary instructional materials are in use in early childhood care and development centres, primary and junior secondary schools in Nigeria;

(f) carry out in concert with the States and Local Governments at regular intervals, a personnel audit of teaching and non-teaching staff of all *basic education institutions in Nigeria;*

(g) monitor Federal inputs into the implementation of basic education;

(h) present periodic progress reports on the implementation of the universal basic education to the President through the Minister;

(i) co-ordinate the implementation of the universal basic education related activities in collaboration with non-governmental and multi-lateral agencies;

(j) liaise with donor agencies and other development partners in matters relating to basic education;

(k) develop and disseminate curricula and instructional materials for basic education in Nigeria;

(l) establish a basic education data bank and conduct research on basic education in Nigeria;

(m) support national capacity building for teachers and managers of basic education in Nigeria;

(n) carry out mass mobilization and sensitization of the general public and enter into partnerships with communities and all stake-holders in basic education with the aim of achieving the overall objectives of the Compulsory Free Universal Basic Education in Nigeria;

(o) carry out such other activities that are relevant and conducive to the discharge of its functions under this Act; and

(p) carry out such other functions as the Minister may, from time to time, determine.

(1) There shall be appointed for the Commission a seasoned educationist as an Executive Secretary who shall -

- (a) be the chief executive and accounting officer of the Commission;
- (b) be responsible for the day to day administration of the Commission;
- (c) be appointed by the President on the recommendation of the Minister;
- (d) hold office for a term of 5 years in the first instance, renewable for another 4 years on satisfactory performance and no more; and
- (e) have terms and conditions of service as specified in his letter of appointment.

Appointment of Executive Secretary and other staff of the Commission, etc

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(2) There shall be appointed two Deputy Executive Secretaries (Technical and Services) to assist the Executive Secretary both of whom shall -

- (a) be appointed by the President on the recommendation of the Minister;
- (b) hold office for a term of 5 years in the first instance, renewable for another term of 4 years upon satisfactory performance; and
- (c) have terms and conditions of service etc as are specified in their letters of appointment.

(3) The Commission shall employ directly or on secondment from any civil or public service or any other body in the Federation or State, such number of employees as may, in the opinion of the Commission, be required to assist the Commission in the discharge of its functions under this Act and pay to persons so employed such remuneration (including allowances) as are applicable to other officers of equivalent rank in the civil service of the Federation *or as may from time to time be determined by the Board.*

(4) Employment under this section shall be in accordance with the provisions of section 14(3) of the Constitution of the Federal Republic of Nigeria, 1999.

(5) Service in the Commission shall be approved service for the purposes of the Pensions Act.

Cap. 346 LFN 1990

(6) Nothing in subsection(3) of this section prevents the appointment of a person to an office on terms, which preclude the grant of pension and gratuity in respect of that office.

(7) For the purpose of the application of the provisions of the Pensions Act, any power exercisable by the Minister or other authority of the Government of the Federation, other than the power to make regulations under section 23 of the Pensions Act is vested in and shall be exercisable by the Commission, and not by any other person or authority.

**PART III — FINANCING OF THE UNIVERSAL BASIC EDUCATION**

(1) *The implementation of the Universal Basic Education shall be financed from-*

- (a) *Federal Government block grant of not less than 2% of its Consolidated Revenue Fund;*
- (b) *funds or contributions in form of Federal guaranteed credits; and*
- (c) *local and international donor grants.*

Financing of the Compulsory, Free Universal Basic Education

(2) For any state to qualify for the Federal Government block grant pursuant to subsection 1(I) of this section, such state shall contribute not less than 50% of the total cost of projects as its commitment in the execution of the project.

(3) The administration and disbursement of funds shall be through the State Universal Basic Education Board.

PART IV — ESTABLISHMENT, ETC OF STATES BASIC EDUCATION BOARD AND LOCAL GOVERNMENT EDUCATION AUTHORITY

12 (1) There shall be established for each State, a State Universal Basic Education Board (in this Act referred to as the "Education Board"). *Establishment of State Universal Basic Education Board*

(2) The structure, functions, composition and tenure of office of the Chairman and Members of the Education Board shall be prescribed by a law enacted for that purpose, by the House of Assembly of the State.

13 (1) There shall be established, for each Local Government Area of a State and each Area Council of the Federal Capital Territory, Abuja, a Local Government Education Authority (in this Act referred to as "the Local Education Authority") which shall be subject to the supervision of the Education Board. *Establishment etc, of Local Government Education Authority*

(2) The structure, functions, composition and tenure of office of the Chairman and Members of the Education Board shall be prescribed by a law enacted for that purpose, by the House of Assembly of the State.

14 (1) The National Primary Education Commission Act is repealed. *Repeal of Cap. 271 LFN 1990 and transitional provisions*

(2) There shall be vested in the Commission all assets and liabilities, funds, resources and other movable and in- movable properties which immediately before the commencement of this Bill were vested in or were in the possession or under the control of the National Primary Education Commission.

(3) Notwithstanding the dissolution of the National Primary Education Commission, if it is expedient that any vacancy in the Commission should be filled by a person holding office immediately before the commencement of this Act in the National Primary Education Commission, it shall retain the services of the person and the previous services by such person shall count as service for the purpose of seniority.

15. (1) In this Act- *Interpretation*

**"Basic education means early childhood care and education and nine years of formal schooling;**

"child or ward " means a person of primary and junior secondary school age who is between the age of 6 years and 16 years whether disabled or not;

"Commission" means the Universal Basic Education Commission established by section 7 of this Act;

"Education Board" means a State Universal Basic Education Board established by section 12 of this Act;

"Functions" includes powers and duties;

**"Junior Secondary School " means a school which provides a three year post-primary course of full-time instruction suitable for pupils between the age of twelve years and fifteen years;**

"Local Education Authority" means the Local Government Education Authority established under section 13 of this Act;

"Minister" means the Minister charged with responsibility for education and Ministry shall be construed accordingly;

"Parent" in relation to any child means the person who has the lawful custody of the child and includes a guardian or a person having the care and custody of a child;

"Primary school age" in relationship to any person means any age between the age attained by the commencement of the school year after he attains the age of six year and the age attained by the person at the end of the school year after he attains the age of twelve years and accordingly any person shall be deemed to be of primary school age if at the commencement of any school year he has attained the age of six years and a person shall be deemed to be over primary school age if at the end of the school year he has attained the age of twelve years;

"Primary School" means a school, which provides a six year basic course of full time instruction suitable for pupils between the age of six years and twelve years;

"Public School", "Public Primary School" or "Junior Secondary School" means a school, primary or junior secondary school, as the case may be, which is assisted out of funds provided by the Federal or State Government or a local education authority or a local government or is maintained by a local education authority or a local government;

"Pupil" where used without qualification, means a person of any age for whom education is provided under this Act;

"School" means a primary or junior secondary school but does not include a class for religious instruction, a trade Centre, a training college or any other institution intended solely for the education of adults;

"Services" that should be provided free of charge are books, instructional materials, assrooms, furniture and free lunch;

"State" includes the Federal Capital Territory, Abuja;

" "Universal Basic Education " means early childhood care and education, the nine years of formal schooling, adult literacy and non-formal education, skills acquisition programmes and the education of special groups such as nomads and migrants, girl-child and women, *almajiri*, street children and disabled groups.

16 This Act may be cited as the Compulsory, Free Universal Basic Education Act, 2004. *Citation.*

SCHEDULE

Section 7(3)

SUPPLEMENTARY PROVISIONS RELATING TO THE COMMISSION, ETC

- 1 (1) Subject to this Act and Section 27 of the Interpretation Act, the Commission may make standing orders regulating its proceedings or those of any of its Committees. *Proceedings of the Commission*
- (2) The quorum of the Commission shall be 1/3 of the members including the Chairman or the person presiding at the meeting.
- 2 (1) The Commission shall meet whenever it is summoned by the Chairman or if the Chairman is required to do so by notice given to him by 1/3 of the members, he shall summon a meeting of the Commission to be held within 14 days from the date on which the notice is given.
- (2) At any meeting of the Commission, the Chairman shall preside but if he is absent, the members present at the meeting shall appoint one of them to preside at that meeting.
- (3) Where the Commission desires to obtain the advice of any person on a particular matter, the Commission may co-opt such a person for such period as it deems fit, but a person who is so co-opted by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Commission and shall not count towards a quorum.
- 3 (1) The Commission may appoint one or more committees to carry out, on behalf of the Commission, such functions as the Commission may determine. *Committees*
- (2) A Committee appointed under this paragraph shall consist of such number of persons as may be determined by the Commission and a person shall hold office on the Committee in accordance with the terms of his appointment.
- (3) A decision of a Committee of the Commission shall be of no effect until it is ratified by the Board of the Commission.
- 4 (1) The fixing of the seal of the Commission shall be authenticated by the signatures of the Chairman or any other member of the Commission generally or specifically authorized by the Board of the Commission to act for that purpose. *Miscellaneous*
- (2) Any contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Commission by the Chairman or any person generally or specifically authorized by the Board of the Commission to act for that purpose.
- (3) A document purporting to be a document duly executed under the seal of the Commission shall be received in evidence and shall, unless and until the contrary is proved, be presumed to be so executed.
- (4) The validity of any proceeding of the Board of the Commission or of a Committee shall not be adversely affected by -
  - (a) a vacancy in the membership of the Board of the Commission or Committee;
  - (b) a defect in the appointment of a member of the Board of the Commission or Committee; or
  - (c) reason that a person not entitled to do so took part in the proceedings of the Board of the Commission or Committee.

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**I CERTIFY, IN ACCORDANCE WITH SECTION 2(1) OF THE ACTS AUTHENTICATION ACT, CAP. 4, LAWS OF THE FEDERATION OF NIGERIA 1990, THAT THIS IS A TRUE COPY OF THE BILL PASSED BY BOTH HOUSES OF THE NATIONAL ASSEMBLY.**



**IBRAHIM SALIM, CON**

**CLERK TO THE NATIONAL ASSEMBLY**


**12<sup>th</sup> Day of May, 2004**

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**SCHEDULE TO COMPULSORY, FREE UNIVERSAL BASIC EDUCATION BILL, 2004.**

<b>(1) SHORT TITLE OF THE BILL</b>	<b>(2) LONG TITLE OF THE BILL</b>	<b>(3) SUMMARY OF THE CONTENTS OF THE BILL</b>	<b>(4) DATE PASSED BY SENATE</b>	<b>(5) DATE PASSED BY HOUSE OF REPRESENTATIVES</b>
COMPULSORY, FREE UNIVERSAL BASIC EDUCATION BILL 2004	AN ACT TO PROVIDE FOR COMPULSORY, FREE UNIVERSAL BASIC EDUCATION; AND FOR CONNECTED PURPOSES.	This Bill seeks to provide for compulsory, free universal basic education for all children of primary and junior secondary school age in the Federal Republic of Nigeria.	18 <sup>th</sup> March, 2004	9 <sup>th</sup> December, 2003

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. 4, Laws of the Federation of Nigeria 1990.

  
 COA  
 12/5/2004  
**IBRAHIM SALIM, CON**  
 Clerk to the National Assembly  
 12<sup>th</sup> Day of May, 2004

**I ASSENT.**

  
**CHIEF OLUSEGUN OBASANJO, GCFR**  
 President of the Federal Republic of Nigeria  
 26<sup>th</sup> Day of May 2004