

**SAMOA**

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**2006, No. 5****AN ACT to establish the Samoa Qualifications Authority and to prescribe its functions, powers and duties.***[3<sup>rd</sup> March 2006]***BE IT ENACTED** by the Legislative Assembly of Samoa in Parliament assembled as follows:

**1. Short Title and Commencement-**(1) This Act may be cited as the Samoa Qualifications Authority Act 2006.

(2) This Act commences on the date of assent by the Head of State.

(3) Notice of commencement of this Act or any part or section thereof shall be published in Samoan and English in the Savali and one other newspaper circulating in Samoa.

**2. Interpretation-**(1) In this Act, unless the context otherwise requires-

“Authority” means the Samoa Qualifications Authority established under section 3;

“Board” means the Board of members established under section 6;

“Chief Executive Officer” means the Chief Executive Officer of the Authority established under section 10;

“Government” means the Government of the Independent State of Samoa;

“Minister” means the Minister responsible for Education from time to time;

“Ministry” means the Ministry responsible for Education from time to time;

“Samoa” means the Independent State of Samoa.

(2) Any reference in this Act to an enactment is, unless the context otherwise requires, a reference to that enactment as amended, extended, re-enacted, or applied by or under any other enactment, including this Act.

**3. Establishment of the Samoa Qualifications Authority (SQA)-**(1) There is established a statutory body called the “Samoa Qualifications Authority” or by its acronym. “SQA”, which shall have the functions and powers conferred on it under this Act.

(2) The Authority shall -

(a) Have perpetual succession and a common seal;

(b) Be capable of suing and being sued in its corporate name;

- (c) Be capable of entering into contracts, acquire, hold and dispose of real and personal property and be capable of doing all such other acts and things as bodies corporate may lawfully do;
  - (d) Be capable of exercising all such authorities and powers as shall be necessary or expedient for the due administration of this Act.
- (3) The Chief Executive Officer shall have custody of the common seal. which shall only be affixed to a document pursuant to a resolution of the Board, and which shall be attested to by the signature of the Chairperson of the Board and one other member or in the absence of the Chairperson by a member nominated by the Board and one other member.

**4. Functions of the Authority-**(1) The functions of the Authority are to:

- (a) Provide policy advice to Government on strategies and priorities for post-school education and training;
- (b) Monitor and report to Government and the post-school education sector, on the activities, resourcing, and overall performance of the post-school education sector in relation to national strategic goals for economic social and cultural development;
- (c) Provide advice to Government and the post-school education sector on findings and implications arising from research, monitoring or evaluation conducted by the Authority or other agencies, bodies or persons;
- (d) Coordinate and strengthen all post-school education and training, so as to better focus the post-school education sector on national development goals and to promote and develop articulation among programmes;
- (e) Promote links and learning pathways between the school sector and the post-school education and training sector, and offer career advisory services;

- (f) Develop partnerships between stakeholders in business, industry, professional, non-government and community organisations and post-school education and training institutions;
- (g) Work with national stakeholder groups to ensure standards and training requirements are established, in particular for trade, technician and professional occupations;
- (h) Determine a national qualifications structure for Samoa, including the definition of terms to ensure and maintain the national and international credibility of qualifications and the good standing of post-school education and training institutions;
- (i) Develop criteria and processes for the registration of all providers of post-school education and training;
- (j) Develop criteria and processes for the accreditation and quality audit of all post-school education and training providers;
- (k) Promote quality in community-based education and training programmes;
- (l) Develop criteria and processes to support quality improvement throughout post-school education and training;
- (m) Work collaboratively with all post-school institutions, in particular to verify that they are using quality management policies and processes that ensure qualifications meet or exceed international standards, and that their programmes align with national priorities;
- (n) Work with overseas government agencies and other institutions to recognise overseas qualifications in Samoa and to achieve international recognition for qualifications awarded in Samoa;
- (o) Provide assurance that post-school education and training in Samoa maintains international comparability; and

- (p) Perform any other function conferred on the Authority by this or any other Act, or requested by the Government from time to time.
- (2) The Authority, may consult with any other relevant person or body, in carrying out its functions.

**5. Powers of the Authority-**(1) The Authority shall have such powers as necessary or incidental to the proper performance of its functions.

(2) Without prejudice to the generality of the provisions of subsection (1), and in addition to any other powers provided for by this Act, the Authority shall have the following powers -

- (a) To purchase, lease, sub-lease or otherwise acquire and hold any property, whether movable or immovable, required for the carrying out of its functions and dispose of any such property no longer required for such purposes;
- (b) To develop its land or other property and erect and maintain buildings or other structures;
- (c) To purchase, rent. or erect houses for the use of its employees;
- (d) To enter into any contract with any person for the supply to or by it of any goods or services;
- (e) To pay any expenses it has properly incurred;
- (f) To produce, publish, issue, circulate and distribute, whether for payment or otherwise, in papers, electronic or magnetic form such reports, papers, periodicals or other information as may be conducive to the carrying out of its functions;
- (g) To provide training schemes, with the cooperation of such other persons or bodies as the Authority thinks fit, for its employees or other persons concerned with carrying out its functions;
- (h) To utilize its property, whether movable or immovable, in such manner as it thinks fit, including the raising of loans by using such property as security for such loans;

- (i) Establish pension schemes or other welfare schemes for the benefit of its employees in accordance with government policy; and
- (j) To do all things which may be incidental to any of its powers and functions.

**6. Board of Members-**(1) The Authority shall be administered by a Board of members, comprising nine members including the Chairperson, who shall be responsible for the policy and general governance of the Authority.

(2) The Board shall consist of:

- (a) One person appointed by the Minister to be the Chairperson;
  - (b) The Chief Executive Officer responsible for Education from time to time;
  - (c) The Chief Executive Officer responsible for Labour from time to time;
  - (d) The Chief Executive Officer responsible for Women, Community and Social Development from time to time;
  - (e) The President of the Samoa Association of Manufacturers and Exporters; and
  - (f) The President of the Samoa Chamber of Commerce and Industry;
  - (g) One person appointed by the Minister to represent the National University of Samoa;
  - (h) One person appointed by the Minister to represent the Non-Government Schools and institutions; and
  - (i) The Chief Executive Officer of the Authority.
- (3) Any person appointed a member pursuant to subsection (2) (a), (g) and (h) shall:
- (a) Be removed from office by the Minister for disability, inefficiency bankruptcy, neglect of duty misconduct or permanent departure from Samoa;

- (b) Subject to paragraph (a), hold office for a period of three years and may be eligible for re-appointment; and
  - (c) Be entitled to resign from office by delivering a written notice to that effect to the Minister.
- (4) The Board may co-opt any person to assist it at any of its meetings, provided that such co-opted person shall not have the right to vote at any Board meeting.

**7. Deputies of Members-**(1) If any member of the Board is temporarily incapacitated for any sufficient cause from attending a meeting of the Board, such member, other than the Chairperson, may authorise a senior officer from their Ministry, agency, firm or corporation, as the case may be, to attend that meeting as the deputy of such member.

(2) Any deputy whilst acting as such, shall be deemed to be a member of the Board.

(3) The appointment of any deputy member, and any act done by the deputy as a Board member shall:

- (a) Not be questioned in any proceedings on the ground that the occasion for the deputy's appointment had not arisen or had ceased;
- (b) Not be a ground to invalidate the decisions of the Authority made during any meeting at which such deputy was purporting to act as appointed.

**8. Remuneration of Members** - Members and deputy members of the Board shall be paid such remuneration, sitting allowance, travelling and other expenses as may from time to time be fixed by Cabinet.

**9. Meetings of the Board-**(1) The Chairperson may call meetings of the Board as often as may be required at such times and such places as the Chairperson shall from time to time determine provided that:

- (a) The Board shall meet at least once every two months;

(b) Upon the written request of at least two other members of the Board, the Chief Executive Officer shall call a meeting of the Board at a date not more than 14 days after receipt of the request.

(2) The quorum at all meetings of the Board shall be 5 members.

(3) Any matters arising at a meeting of the Board shall be decided by a simple majority of the members present and voting, and in the case of an equality of votes, the Chairperson shall have a casting vote.

(4) All orders and directions of the Board shall be given under the hand of the Chief Executive Officer or, in the Chief Executive Officer's absence by a member specifically authorized and appointed by the Board.

(5) The Board shall keep proper minutes of its proceedings.

(6) Every meeting of the Board shall be presided over by the Chairperson, or in the Chairperson's absence, by a member elected by the Board to chair the meeting.

**10. Chief Executive Officer-**(1) Subject to the provisions of any Government policies as may be in effect from time to time, the Board, having obtained the approval of Cabinet, may appoint a Chief Executive Officer of the Authority on such terms and conditions as it deems fit.

(2) The Chief Executive Officer shall be the Chief Executive Officer of the Authority and shall in addition perform such other functions and exercise such other powers as are from time to time conferred by this or any other Act or regulation.

(3) The Chief Executive Officer may, with the approval of the Board, delegate the performance of any of the Chief Executive Officer's functions or the exercise of any of the Chief Executive Officer's powers to an employee of the Authority.

(4) The Chief Executive Officer may be removed or suspended from office by the Board for sufficient cause and shall be eligible for re-appointment upon the expiry of the term of appointment.

(5) In the event of incapacity, absence, removal or suspension from office of the Chief Executive Officer, the Board shall appoint another person to act as Acting Chief Executive Officer under this Act until the Chief Executive Officer is appointed or resumes office.

**11. Delegation-**(1) The Board may, either generally or as otherwise provided by the instrument of delegation under its common seal, delegate to the Chief Executive Officer or to one of its members, any of its powers and the powers of the Authority under this Act, other than this power of delegation.

(2) Where a power of delegation under subsection (1) relates to the grant of a licence or certificate, the Chief Executive Officer shall not issue such licence or certificate except in accordance with the terms of the delegation, instructions, guidelines or conditions imposed by the Board.

(3) A power delegated under subsection (1) shall, when exercised by the Chief Executive Officer, be deemed to have been exercised by the Authority.

(4) A delegation under this section does not prevent the exercise of any power by the Board.

(5) A delegation under this section is revocable at the will of the Board.

**12. Board may establish Committees-**(1) The Board may establish special committees and may refer to any such committee any matters for consideration, inquiry or management.

(2) The Board may by special resolution at any of its meetings adopt written rules of procedure for such committees.

**13. Disclosure of Interest-**(1) A member of the Board who has any direct or indirect personal or pecuniary interest in any matter coming before the Board shall, on each and every occasion on which the matter comes before the Board, and as soon as possible after the relevant facts have come to the member's knowledge, declare their interest in the matter.

(2) Subject to subsection (3), a disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Board and the member shall not -

- (a) Be present during any deliberation of the Board with respect to that matter; and
- (b) Take part in any deliberations or vote of the Board with respect to that matter.

(3) Where as a result of the operation of subsection (2) the Board is unable to maintain a quorum to determine a matter, the Board member or members affected, after complying with subsection (1), may take part in any deliberations of the Board with respect to the matter and may vote on the matter and the minutes of the meeting of the Board shall record the reason for the affected member's or members' participation in any deliberations and vote.

**14. Appointment of Employees of the Authority-(1)**

Subject to the provisions of Government policy as may be in effect from time to time, the Authority may appoint, at such remuneration and upon such terms and conditions as it thinks fit such employees, agents, advisers or consultants as it thinks necessary for the proper and efficient discharge of its functions and may dismiss any such employee, agent, adviser or consultant as the Authority determines.

(2) The Authority may make rules for regulating the terms of service, discipline and training of all persons employed by or acting on behalf of the Authority.

(3) The employees and other persons acting on behalf of the Authority shall be responsible to and under the control of the Chief Executive Officer.

**15. Provisions for Existing Employees of the Ministry-(1)**

Upon the commencement of this Act, every employee of the Ministry who is connected to carrying out the functions of the Authority and who is nominated by the Minister in writing, shall:

- (a) Continue to be employed by the Authority on such terms and conditions as may be mutually agreed upon by such employee and the Authority prior to the coming into force of this Act; or
- (b) May retire or be retired from service on such terms as may be determined in accordance with law.

**16. Revenues of the Authority and fees-**(1) The revenues of the Authority shall consist of:

- (a) Such fees, charges and penalties payable under this or any other Act or regulation as may be assigned to the Authority by that Act or regulation;
- (b) Such grants as may from time to time be provided to it by the Government;
- (c) Such other funds as may properly accrue to the Authority from any other source.

(2) Consistent with any policy of the Government and any applicable law, the Authority may invest any of its monies that are not immediately required for the discharge of its functions.

(3) The Authority may charge a fee in respect of costs reasonably incurred in the performance of its duties under this or any other Act.

**17. Financial Year** - The financial year of the Authority shall begin on the 1<sup>st</sup> day of July of each year and shall end on the 30<sup>th</sup> day of June of the following year, except that the first financial year of the Authority shall begin on the date of the commencement of this Act and shall end on the following 30<sup>th</sup> day of June.

**18. Accounts and Annual Reports-**(1) The Authority shall cause to be kept proper accounts and records of the transactions and affairs of the Authority and shall do all things necessary to ensure that:

- (a) All funds received are brought to account;
- (b) All payments are properly authorised and correctly made and accounted for; and

- (c) There are adequate controls over the Authority's;
  - (i) assets;
  - (ii) property under the Authority's control;
  - (iii) expenditure; and
  - (iv) liabilities.

(2) The Authority shall be subject to the provisions of the Public Finance Management Act 2001 and for this purpose, despite the provisions of such Act, the funds received by the Authority shall be deemed public money and the assets and property of the Authority shall be deemed public property.

(3) The Authority shall cause to be prepared and submitted to the Minister, within six (6) months after the end of the financial year of the Authority, an annual report containing:

- (a) Financial statements for the financial year;
- (b) Performance indicators and such information as may be directed by the Minister of Finance;
- (c) A report on the operations of the Authority during the preceding financial year; and
- (d) Such other information as Cabinet may require.

(4) The financial statements referred to in subsection (3) shall be prepared and shall consist of:

- (a) A statement of financial transactions of the Authority for the financial year;
- (b) A statement of the financial position of the Authority at the end of the financial year; and
- (c) Proper and adequate notes to the financial statements.

(5) The financial statements referred to in subsection (3) shall:

- (a) Present fairly the financial transactions of the Authority during the financial year to which they relate; and
- (b) Present fairly the financial position of the Authority at the end of the financial year.

(6) The Authority shall, within four (4) months after the end of each financial year, cause to be submitted to the Controller and Chief Auditor for audit the financial statements and other information required under this section.

(7) The Minister shall table the annual report of the Authority together with the Controller and Chief Auditor's report on the Authority's financial statements before Parliament within 14 sittings days of receiving the Controller and Chief Auditor's audit report.

**19. Protection from Liability-**(1) No action shall lie against the Government, the Minister, the Authority, the Chief Executive Officer or any board member, employee or agent of the Authority or any person acting pursuant to any authority conferred by the Authority or the Chief Executive Officer, as the case may be, in respect of any act or matter done or omitted to be done in good faith in the exercise or purported exercise of their respective functions conferred by or under this Act or any regulations made thereunder.

(2) The legal costs of defending any action instituted against the Minister, the Chief Executive Officer or any board member, employee or agent of the Authority or any person acting pursuant to any authority conferred by the Authority or the Chief Executive Officer, as the case may be, may be borne by the Authority.

**20. Exemption from Taxation** - For the purposes of the Income Tax Act 1974, the Authority is deemed an institution established exclusively for charitable purposes and, as such, the income of the Authority shall be exempt from taxation.

**21. Regulations-**(1) The Head of State, acting on the advice of Cabinet, may from time to time, make such regulations as are necessary or convenient for the purpose of carrying out or giving full effect to the provisions of this Act.

(2) Without limiting the generality of subsection (1), regulations may be made for the purposes of:

- (a) Prescribing forms for certificates, licences, notices, approval or any other manner under this Act;
- (b) Prescribing the fees payable and the rate at which such fees are to be calculated, and providing for the recovery and application of such fees, in respect of any matter under this Act; and

(c) Creating offences and penalties for breaches of those offences up to a maximum of 100 penalty units.

(3) The Authority shall use the forms prescribed under subsection (2), but nothing in this section shall prevent the Authority from using or requiring the use of forms approved by the Board, where no applicable form has been prescribed.

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**The Samoa Qualifications Authority Act 2006 is administered in  
the Ministry of Education, Sports and Culture**