



*Tonga*

**TONGA NATIONAL QUALIFICATIONS  
AND ACCREDITATION BOARD  
ACT 2004**

**Act 10 of 2004**





Tonga

## TONGA NATIONAL QUALIFICATIONS AND ACCREDITATION BOARD ACT 2004

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# TONGA NATIONAL QUALIFICATIONS AND ACCREDITATION BOARD ACT 2004

*Act 10 of 2004*

## AN ACT TO ESTABLISH THE TONGA NATIONAL QUALIFICATIONS AND ACCREDITATION BOARD AND MATTERS RELATED THERETO

I assent,  
TAUFA'AHAU TUPOU IV,  
22nd June, 2006

[8th September, 2004]

**BE IT ENACTED** by the King and Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

### PART I - PRELIMINARY

#### 1 Short Title and Commencement

- (1) This Act may be cited as the Tonga National Qualifications and Accreditation Board Act 2004.
- (2) This Act comes into force on a day to be proclaimed by His Majesty in Council.

## 2 Interpretation

In this Act, unless the context otherwise requires —

“**accreditation**” means the confirmation of a course of study that has met the standards set by the Board and which leads to a qualification approved by the Board;

“**approved course**” means a course approved by the Board;

“**assessment**” means any measurement of student performance whether carried out by external or by internal assessment procedures or by a combination of external and internal assessment or any other method approved by the Board;

“**Board**” means the Tonga National Qualifications and Accreditation Board established under this Act;

“**course of study**” means structured education or training relating to a specific subject with its own curriculum and leading to a qualification issued by the Tonga National Qualifications and Accreditation Board or by an international educational institution recognised by the Board;

“**curriculum**” means the descriptive, sequential and developmental level of skills, knowledge, attitudes and concepts relating to a particular subject or course of study;

“**examination**” means the formal summative testing in a course of study to measure student performance by external or internal assessment;

“**level**” means the stages of learning outcomes;

“**Minister**” means the Minister of Education;

“**post compulsory education**” means education and training offered to and for students —

- (a) aged 14 years or more;
- (b) who are not attending secondary school; or
- (c) who are not attending an institution owned and maintained by a religious society for the purpose of theological training;

“**provider**” means an institution or a private company accredited by the Board to deliver and assess post compulsory education course of study which will conclude with the granting of a qualification approved by the Board;

“**qualification**” means a certificate, diploma or degree gained as a result of satisfying conditions and requirements set by an examining authority or accredited provider and showing the hours attributed to the course and the levels of competency gained;

“**recognition of prior learning**” means credit given for existing skills and knowledge assessed by an accredited expert in the field;

“**short course**” means a course which is less than 12 months —

- (a) that may contain a component or components of an accredited course of study; and
- (b) for which a participant on successful completion shall receive an award or credit specifying the level of competency attained;

“**syllabus**” means the broad educational framework comprising a range of subjects or courses of study and their related curriculum documents;

“**twinning institution**” means an overseas institution which has a Memorandum of Understanding with an institution in Tonga to assess, moderate, and provide advice on a course of study; and

“**unit of study**” means education and training which comprise a component of an accredited course of study.

## **PART II - ESTABLISHMENT OF TONGA NATIONAL QUALIFICATIONS AND ACCREDITATION BOARD**

### **3 Establishment of the Board**

The Tonga National Qualifications and Accreditation Board is hereby constituted.

### **4 Members of the Board**

The Board shall consist of —

- (a) three persons from Government ministries;
- (b) three persons from sector groups in non-government educational systems and industry; and
- (c) the Chief Executive Officer.

### **5 Appointment of members of the Board**

- (1) The Minister shall, with the consent of Cabinet appoint —
  - (a) the members of the Board other than the Secretary from nominations received from government and non-government educational systems and industry; and

- (b) the Chief Executive Officer who shall be the Secretary of the Board.
- (2) Members of the Board shall be appointed for a term of 3 years and may be reappointed.
- (3) The Minister shall appoint the Chairman.
- (4) The Board shall be remunerated as the Minister may determine.

## **6 Duration of term of office**

A Board member holds office until —

- (a) removal in accordance with any procedures adopted by the Board for removal; or his term expires
- (b) resignation by notice in writing to the Chairman;
- (c) death;
- (d) conviction of a criminal offence; or
- (e) he is certified by a registered medical practitioner and verified by the Director of Health as mentally or physically incapable of fulfilling his duties.

## **7 Body Corporate**

The Board is deemed to be a body corporate and has all the rights and duties of a body corporate.

## **8 Rights and duties of the Board**

The Board shall have the following duties —

- (a) develop a national qualifications framework for post compulsory education, training, review and revise corporate plans;
- (b) establish policies, criteria, accreditation, monitoring, reviewing, register and listing of providers of post compulsory education and training;
- (c) prepare an annual report of its operation to be submitted to the Minister and the Minister shall submit it to the current Parliamentary session; and
- (d) appoint staff for the administration of this Act.



## **9 Procedures and quorum**

- (1) Subject to this Act, the Board may regulate its own procedures and shall have the power to make rules for the conduct of its proceedings.
- (2) Four Board members present at a meeting shall constitute a quorum.
- (3) If the Chairman is not present at a meeting of the Board the members present shall appoint one of them as Acting Chairman for that meeting.

## **PART III REGISTRATION OF PROVIDERS**

### **10 Registration of providers**

- (1) All providers shall apply to the Board for —
  - (a) registration to provide education and training; and
  - (b) accreditation for —
    - (i) a course of study leading to a stated qualification; or
    - (ii) a short course made up of units from a course of study which may lead up to a stated qualification.
- (2) Any application under subsection (1) shall include the following details —
  - (a) syllabus, curriculum, teaching and learning components and the assessment to fulfil the requirements for the particular qualifications offered;
  - (b) the cost to the student for the course of study;
  - (c) the time required for the course of study;
  - (d) assessment and examination schedule for the course of study;
  - (e) qualification of staff offering the course;
  - (f) level of attainment gained at the conclusion of the course of study or unit in relation to industry and professional standards;
  - (g) the name of any twinning institution in Tonga or overseas which is involved in the presentation or delivery of the course of study;
  - (h) conduct of examinations;
  - (i) statement of ownership of copyright or courses; and
  - (j) copy of any related Memorandum of Understanding with another institution either in Tonga or outside Tonga.
- (3) All applications shall be processed within 6 weeks upon receipt.

**11 Registers**

- (1) The Secretary shall maintain a register of all approved providers of education and training.
- (2) The Board shall remove from such register any provider whose registration is cancelled.

**12 Course of study**

- (1) The Board shall approve each course of study leading to a qualification.
- (2) Any person undertaking to teach a course of study shall —
  - (a) hold a registered teaching qualification at least one level higher than the approved course; and
  - (b) have 3 years experience in the field at the level of the course of study.
- (3) Any person who does not comply with the requirements under subsection (2) shall be assessed by an assessor recognised by the Board of the person's prior learning.
- (4) A person who has been assessed under subsection (3) shall be granted recognition of prior learning where the assessor is satisfied that he has the skills and theoretical knowledge one level higher than the course of study.

**13 Workplace Accreditation**

Where workplace learning is considered to be an essential element in a course or unit of study an assessment shall be carried out by an assessor approved by the Board.

**14 Fees**

- (1) All fees relating to operational costs of the Board shall be prescribed by regulations.
- (2) The Board may recover the fees as debt due to the Board.

**15 Records and Accounts**

The Board shall ensure that —

- (a) proper accounts and records are kept;
- (b) all money payable to the Board is collected and paid into bank accounts in the name of the Board;

- (c) all money is properly expended for the purposes authorised by the Board;
- (d) adequate control is maintained over assets owned by the Board; and
- (e) there is development and maintenance of adequate budgeting and accounting systems.

## 16 Audit

The Board shall engage an auditor to audit the accounts.

## PART IV REVIEW

### 17 Review of courses or unit

- (1) All registered providers shall be required to undertake reviews of their courses and units of study.
- (2) The review under subsection (1) shall include investigation of the following —
  - (a) the ability of the provider to continue their approved educational provision;
  - (b) the standard of educational content of the approved course of study;
  - (c) the appropriateness of the qualification; and
  - (d) resources provided for the delivery of the course of study.
- (3) A review carried out under this section shall be conducted every 2 years.

### 18 Review team

- (1) A review team shall carry out the review under section 17.
- (2) The review team shall consist of —
  - (a) a Chairman nominated from the Board;
  - (b) a representative with content expertise and industry focus; and
  - (c) representative from Tonga or overseas with the educational expertise in the field of the course of study.
- (3) The Board shall notify the provider of the outcome of the review within 3 weeks of completion of its review.

**19 Recommendations of Review Team**

- (1) Where the review team recommends to the Board improvements to the provider, the Board shall notify the provider of this recommendation.
- (2) The Board shall allow the provider 3 months to make the improvements that was recommended under subsection (1).
- (3) Where the provider has not carried out the improvements notified by the Board and based on the review, the Board shall in writing, cancel —
  - (a) registration of a provider's accreditation for that course or unit of study; or
  - (b) the approval of a course of study.
- (4) The Board shall publish such cancellation.
- (5) Where a provider's registration of approval is cancelled under subsection (3), he shall refund the relevant fees or portion thereof.

**20 Right of Appeal**

- (1) There shall be a right of appeal from the decision of the Board under section 19.
- (2) Appeals against a decision of the Board shall be in writing and filed with the Board within 3 weeks of the date of such decision. The notice of such appeal shall be in writing and shall contain a statement of the grounds of appeal.

**21 Establishment and Membership of Appeal Committee**

- (1) There shall be an Appeal Committee established under this Act.
- (2) The Minister shall appoint 3 members to the Appeal Committee, which shall consist of a Chairman and 2 others to hear appeals under this Act.
- (3) The decision of the Appeal Committee shall be final.

**22 Powers of the Appeal Committee**

The Appeal Committee shall have the powers to summon, call for the production of documents, examine witnesses, administer oaths and record evidence.

### **23 Re-registration and re-accreditation**

Where a registration or accreditation of courses of study has been cancelled the provider may apply for re-registration and re-accreditation after 6 months of the cancellation.

### **24 Change in status**

Where a provider plans to change its status he shall give notice within 6 months of that change to the Board.

### **25 Change to course of study**

Where the content of a course of study or qualification changes, the provider shall give notice of those changes to the Board.

### **26 Regulations**

The Minister may, with the consent of Cabinet, make regulations not inconsistent with this Act for carrying out or giving effect to this Act and in particular, but without prejudice to the generality of the foregoing power to —

- (a) develop, monitor and review syllabi and curricular;
- (b) assess and examine;
- (c) conduct examinations;
- (d) prescribe forms for the purposes of this Act;
- (e) payment of fees;
- (f) specify standards required for registered providers and accredited course of study; and
- (g) the proper administration of this Act.

Passed by the Legislative Assembly this 8 day of September, 2004.