



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

---

N\$3.60

WINDHOEK - 10 August 2005

No. 3480

---

### CONTENTS

	<i>Page</i>
<b>GOVERNMENT NOTICE</b>	
No. 99 Promulgation of Accreditation Board of Namibia Act, 2005 (Act No. 8 of 2005), of the Parliament .....	1

---

## Government Notice

---

### OFFICE OF THE PRIME MINISTER

No. 99

2005

### PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 8 of 2005: Accreditation Board of Namibia Act, 2005.

---

Act No. 8, 2005

ACCREDITATION BOARD OF NAMIBIA ACT, 2005

**ACT**

**To establish the Accreditation Board of Namibia; to provide for the accreditation and conformity assessment of certain bodies in Namibia; and to provide for matters incidental thereto.**

*(Signed by the President on 19 July 2005)*

**ARRANGEMENT OF SECTIONS**

## Section

1. Definitions
2. Application of Act
3. Establishment of Accreditation Board of Namibia
4. Object of Board
5. Functions of Board
6. Composition of Board
7. Term of office of members of Board
8. Disqualification for appointment as member of Board
9. Vacation of office
10. Meetings of Board
11. Executive committee
12. Other committees
13. Remuneration and allowances of members of Board and committees
14. Validity of decisions
15. Appointment of chief executive officer and other employees of Board
16. Financing
17. Auditing and annual report
18. Observance of international standards
19. Accreditation and suspension or withdrawal thereof
20. Surveillance
21. Fees
22. Accreditation register
23. Confidentiality
24. Declaration of interest
25. Offences and penalties
26. Rules
27. Delegation of powers and assignment of duties
28. Limitation of liability
29. Short title and commencement

**BE IT ENACTED** by the Parliament of the Republic of Namibia, as follows:-

**Definitions**

1. In this Act, unless the context otherwise indicates -

“accreditation” means the process of evaluation and recognition by the Board in terms of this Act that a body is competent to provide any particular services, and “accredited” has a corresponding meaning;

“accredited body” means a body accredited in terms of section 19;

**Act No. 8, 2005      ACCREDITATION BOARD OF NAMIBIA ACT, 2005**

“Board” means the Accreditation Board of Namibia established by section 3(1);

“body” means -

- (a) any laboratory providing testing or calibrating services;
- (b) any body or organisation providing certification services relating to products, quality systems and environmental procedures;
- (c) any body or organisation providing inspection services; or
- (d) any body or organisation other than those referred to in paragraphs (a), (b) and (c) requiring accreditation of competence to provide any other services,

and which laboratory or body or organisation is registered or established as a juristic person in Namibia;

“certification services”, in relation to a body or organisation, means a process by which that body or organisation certifies or gives written assurance that a product, quality system or environmental procedure conforms to specified requirements;

“chief executive officer” means the chief executive officer of the Board appointed in terms of section 15(1);

“chairperson” means the chairperson of the Board elected in terms of section 6(2);

“committee” means an advisory committee or technical committee of the Board established under section 12(1), and “other committee” has a corresponding meaning;

“employee of the Board” means a person appointed as such under section 15(3);

“executive committee” means an executive committee of the Board established under section 11(1);

“International Organisation for Standardisation” means the International Organisation for Standardisation established in 1947 for the purpose of facilitating international coordination and unification of industrial standards;

“Minister” means the Minister responsible for trade and industry;

“Permanent Secretary” means the Permanent Secretary: Trade and Industry;

“rule” means a rule made by the Board under section 26;

“this Act” includes any rule;

“voting member of the Board” means a member of the Board referred to in section 6(1)(a).

**Application of Act**

**2.** This Act does not apply to the accreditation of persons, institutions and organisations providing education and courses of instruction or training to the extent to

**Act No. 8, 2005      ACCREDITATION BOARD OF NAMIBIA ACT, 2005**

which the Namibia Qualifications Authority Act, 1996 (Act No. 29 of 1996), applies to any such accreditation.

**Establishment of Accreditation Board of Namibia**

**3.** (1) There is established a board to be known as the Accreditation Board of Namibia.

(2) The Board is -

- (a) a juristic person with the capacity to sue and be sued in its own name;
- (b) a non-profitable organisation; and
- (c) the national authority for the accreditation of all laboratories, bodies and organisations falling within the definition of “body” in section 1.

**Object of Board**

**4.** The object of the Board is to provide accreditation services in Namibia in accordance with international standards of accreditation established by the International Organisation for Standardisation and based on the needs or requirements of the industry, commerce and trade, and of governmental institutions, in Namibia.

**Functions of Board**

**5.** The functions of the Board are -

- (a) to apply, administer, manage and oversee the national system of accreditation in Namibia;
- (b) to grant and supervise accreditation;
- (c) to keep registers of accredited bodies;
- (d) to determine and collect fees in accordance with this Act;
- (e) to work according to the international principles on accreditation established by the International Organisation for Standardisation and the recognised principles of other international or regional organisations responsible for accreditation;
- (f) to represent Namibia internationally and regionally in matters relating to accreditation;
- (g) to make recommendations relating to accreditation to the Minister and to any governmental institution;
- (h) to enter, subject to Article 32(3)(e) of the Namibian Constitution and with the written approval of the Minister, which approval may be given specifically or generally, into any agreement relating to accreditation on international, national or regional level;

**Act No. 8, 2005      ACCREDITATION BOARD OF NAMIBIA ACT, 2005**

- (i) to provide information and documentation relating to accreditation to any person or body;
- (j) to procure cover for the Board, by means of insurance policies as prescribed by the rules, against and in respect of any loss, damage, risk or liability that the Board may suffer or incur;
- (k) to liaise, exchange information and co-ordinate, in matters relating to accreditation, with relevant international, national or regional bodies or authorities;
- (l) to enter into an agreement with any body accredited in terms of this Act, which agreement must contain the particulars and conditions relating to such accreditation; and
- (m) to perform any other activity that is expedient to its functions or its object under this Act.

**Composition of Board**

**6.** (1) (a) Subject to paragraph (b), the members of the Board are -

- (i) the Permanent Secretary; and
- (ii) four other persons appointed in writing by the Minister from among persons who have particular knowledge or experience relating to matters that are relevant to the object of the Board, and who respectively represent commerce and industry, consumers, professional associations, and conformity assessment bodies in Namibia recognised by the Minister.

(b) The chief executive officer is, as from the date of appointment in terms of section 15(1), a member of the Board by virtue of his or her office and may take part in the deliberations of the Board and has, subject to this Act, the same rights and duties as the other members of the Board, but has no right to vote.

(2) At the first meeting of the Board convened in terms of section 10(2), the members of the Board referred to in subsection (1)(a) must elect one of their number as the chairperson of the Board.

(3) The Minister must notify in the *Gazette*, as soon as practicable, the names of the members of the Board referred to in subsection (1)(a).

**Term of office of members of Board**

**7.** (1) A member of the Board appointed in terms of section 6(1)(a)(ii) holds office for a period of three years.

(2) A member of the Board referred to in subsection (1) whose term of office has expired is eligible for reappointment, in accordance with section 6 and subject to subsection (1) of this section, as such a member.

**Act No. 8, 2005****ACCREDITATION BOARD OF NAMIBIA ACT, 2005**

(3) If a member of the Board referred to in subsection (1) or (2) vacates office in terms of section 9, or dies, before the expiration of the period for which that member was appointed, the Minister may appoint, in accordance with section 6, a person to fill the vacancy for the unexpired period of the term of office of the member who vacated office or died.

**Disqualification for appointment as member of Board**

**8.** A person may not be appointed in terms of section 6(1)(a)(ii) as a member of the Board if that person -

- (a) is an unrehabilitated insolvent;
- (b) has been convicted, whether in Namibia or elsewhere, of an offence and sentenced to imprisonment without the option of a fine, unless a period of at least ten years has expired after the date on which that sentence was served;
- (c) has been removed, as a result of improper conduct, from an office of trust;
- (d) has been declared a mentally ill person by a competent court in terms of the Mental Health Act, 1973 (Act No. 18 of 1973); or
- (e) is not a Namibian citizen and ordinarily resident in Namibia.

**Vacation of office**

**9.** A member of the Board must vacate office if that member -

- (a) in the case of a member appointed in terms of section 6(1)(a)(ii) -
  - (i) becomes disqualified in terms of section 8 from being appointed as a member of the Board;
  - (ii) resigns from office by written notice addressed and delivered to the Minister;
  - (iii) has been absent, without the leave of the Board, from three consecutive meetings of the Board; or
  - (iv) is removed as a member of the Board by the Minister, by written notice addressed to that member, if there is sufficient reason for the Minister to do so, and after having given that member a reasonable opportunity to be heard; or
- (b) in the case of any other such member, ceases to hold the office by virtue of which he or she became a member of the Board.

**Meetings of Board**

**10.** (1) The Minister must -

- (a) determine the date and time of, and the venue and agenda for, the first meeting of the Board; and

**Act No. 8, 2005****ACCREDITATION BOARD OF NAMIBIA ACT, 2005**

- (b) inform the Permanent Secretary, in writing and not less than 14 days before the date of the meeting determined in terms of paragraph (a), of the date, time and venue of that meeting, and furnish the Permanent Secretary with a copy of the agenda referred to in that paragraph.
- (2) The Permanent Secretary must -
- (a) convene, on receipt of the agenda furnished in terms of subsection (1)(b), the first meeting of the Board in accordance with the instructions received from the Minister; and
- (b) preside at the meeting convened in accordance with paragraph (a) until such time as a chairperson is elected in terms of section 6(2).
- (3) After the first meeting of the Board referred to in subsection (2), the Board must hold not less than four meetings during every year, which meetings must be convened by the chairperson and held on the date and at the time and venue, and in accordance with the agenda, determined by the chairperson.
- (4) In addition to the meetings of the Board held in terms of subsection (3), the chairperson -
- (a) may convene at any time; and
- (b) must convene, within 14 days after receipt of a written request signed by the majority of the members of the Board,
- a special meeting of the Board.
- (5) The chairperson presides at meetings of the Board at which he or she is present.
- (6) If the chairperson is absent from a meeting of the Board, the members of the Board present at that meeting and acting under the chairpersonship of the Permanent Secretary, or, if the Permanent Secretary is also absent, under the chairpersonship of the chief executive officer, must elect one voting member of the Board from the members present at that meeting to preside at the meeting, and the member so elected must perform all the functions of the chairperson during that meeting and until such time after the meeting as the chairperson is able to resume his or her duties.
- (7) The quorum for a meeting of the Board is the majority of the members of the Board.
- (8) The decision taken by the majority of the voting members of the Board present at a meeting of the Board constitutes a decision of the Board, and in the event of an equality of votes, the chairperson or other member of the Board presiding at the meeting has a casting vote in addition to his or her deliberative vote.
- (9) The chairperson may allow any person, or member of a body or organisation, that in the opinion of the chairperson has an interest in the functions of the Board or who may make a contribution to any function of the Board, and whom the Board had invited in writing -

**Act No. 8, 2005****ACCREDITATION BOARD OF NAMIBIA ACT, 2005**

- (a) to attend a meeting of the Board, or any part of such a meeting; and
- (b) to take part in such discussions of the Board as in the opinion of the chairperson relate to the interest of that person or body or organisation in the functions of the Board or in respect of which that person or the member of that body or organisation may make a contribution.

(10) A person, or member of a body or organisation, referred to in subsection (9) attending a meeting of the Board as provided for in that subsection -

- (a) may not vote in respect of any decision taken by the Board at that meeting; and
- (b) must leave the meeting immediately if so requested by the chairperson.

(11) The Board must cause proper minutes to be kept of the proceedings at its meetings.

**Executive committee**

**11.** (1) The Board may establish an executive committee consisting of -

- (a) the chairperson;
- (b) the chief executive officer; and
- (c) such other member or members of the Board as the Board may designate.

(2) A member of the executive committee ceases to be a member thereof if that member ceases to hold the office by virtue of which he or she became a member of the executive committee.

(3) During periods between meetings of the Board, the executive committee performs, subject to the directions of the Board, the functions of the Board, but may not set aside or vary a decision of the Board, unless the Board has authorised the executive committee to so set aside or vary a decision of the Board.

(4) The chairperson, or in the chairperson's absence, the member of the Board acting as chairperson of the Board -

- (a) determines the date and time of, and the venue and agenda for;
- (b) convenes; and
- (c) act as the chairperson at,

the meetings of the executive committee.

(5) The Board may determine, subject to the rules, the procedures relating to the meetings of the executive committee, including the convening of those meetings.

(6) Section 10(7), (8), (9), (10) and (11) applies with the necessary changes to meetings held by the executive committee.



**Act No. 8, 2005****ACCREDITATION BOARD OF NAMIBIA ACT, 2005****Other committees**

**12.** (1) The Board may establish such advisory committees and technical committees to assist the Board in the performance of its functions as the Board may consider necessary.

(2) The constitution of an advisory committee or technical committee established under subsection (1), including the procedures relating to the election or appointment of its chairperson, the functions of any such committee, and the convening of, and procedures at, its meetings are as prescribed by the rules.

**Remuneration and allowances of members of Board and committees**

**13.** (1) The Minister must, in consultation with the Minister responsible for finance, determine the remuneration and allowances payable to -

- (a) members of the Board appointed in terms of section 6(1)(a)(ii); and
- (b) members of an advisory committee or technical committee established under section 12(1),

who are not in the full-time employment of the State, in respect of their services as such members.

(2) The remuneration and allowances of the members referred to in subsection (1) may differ according to the different offices held by them or the different functions performed by them.

**Validity of decisions**

**14.** No decision or act of, or act performed under the authority of, the Board or the executive committee or any other committee is invalid by reason only of -

- (a) a vacancy on the Board or the executive committee or such other committee; or
- (b) the fact that a person who was not entitled to sit as a member of the Board or the executive committee or such other committee sat as such a member at the time when the decision was taken or the act was authorised, if the decision was taken or the act was authorised by the required majority of such members who were present at the time and entitled to sit as such members and to vote.

**Appointment of chief executive officer and other employees of Board**

**15.** (1) Subject to subsection (5), the Board must appoint, in consultation with the Minister, as chief executive officer of the Board a person who is, in the opinion of the Board, suitably qualified and experienced for appointment to such a position -

- (a) on such terms and conditions of employment, including remuneration and allowances; and
- (b) for such period,

**Act No. 8, 2005      ACCREDITATION BOARD OF NAMIBIA ACT, 2005**

as the Board, with the approval of the Minister acting in consultation with the Minister responsible for finance, may determine.

- (2) Subject to the directions of the Board, the chief executive officer is responsible -
  - (a) for the executive and administrative functions of the Board;
  - (b) to control, manage and oversee the other employees of the Board;
  - (c) to direct, organise, plan and execute the activities of the Board in accordance with the policies and procedures determined by the Board; and
  - (d) to perform such other functions as the Board may direct.
- (3) Subject to subsection (5), the Board may with the written approval of the Minister -
  - (a) appoint such employees as the Board considers necessary for the efficient discharge of its functions; and
  - (b) determine, subject to the directions of the Minister given in consultation with the Minister responsible for finance, the remuneration and other conditions of employment of employees of the Board, which conditions of employment may include conditions of service with regard to medical aid, housing, gratuities, pension benefits and any other benefits.
- (4) The Board may contract, with the written approval of the Minister and in such manner and on such terms and conditions as the Board may consider appropriate, any other person to assist the Board in the performance of its functions.
- (5) The appointment or contracting by the Board of any person in terms of this section must be in writing and must contain all the terms and conditions relating to such appointment or contracting as prescribed by the rules.
- (6) The Board may determine in writing a code of conduct applicable to the chief executive officer and other employees of the Board and to persons contracted under subsection (4).

**Financing**

- 16.** (1) The funds of the Board consist of
  - (a) moneys appropriated by Parliament;
  - (b) moneys obtained by virtue of this Act or any other law;
  - (c) moneys, donations, interest, dividends, royalties, rental or contributions received from any source;
  - (d) moneys obtained from the realisation of any assets of the Board;

**Act No. 8, 2005      ACCREDITATION BOARD OF NAMIBIA ACT, 2005**

- (e) with the written approval of the Minister acting in consultation with the Minister responsible for finance, moneys obtained by way of raising loans;
  - (f) revenue obtained from the sale of -
    - (i) publications prepared by the Board, including publications on the requirements for accreditation in different areas;
    - (ii) other publications that are relevant to the object of the Board; and
    - (iii) reference material; and
  - (g) all other moneys that may accrue to the Board from any other source.
- (2) The Board must deposit all moneys obtained for its benefit in one or more bank accounts opened in the name of the Board with a banking institution authorised under the Banking Institutions Act, 1998 (Act No. 2 of 1998), to conduct business as such.
- (3) The Board -
- (a) must submit to the Minister for approval in each financial year, at the time and in the form determined by the Minister, a statement of the estimated income and expenditure of the Board relating to the next financial year; and
  - (b) may submit to the Minister for approval during a financial year supplementary statements of the estimated income and expenditure of the Board for that financial year.
- (4) The Board may not incur, during any financial year, expenses that in total will exceed its gross income for that financial year.
- (5) The funds of the Board must be utilised for defraying, in accordance with an estimate of expenditure approved by the Minister in terms of subsection (3), the expenses incurred by the Board in the performance of its functions under this Act, including the remuneration, allowances and other benefits payable to the chief executive officer and other members of the Board, the employees of the Board (including persons contracted under section 15(4)) and members of any committee of the Board.
- (6) The Board must invest, in the manner and subject to the conditions prescribed by the rules, any moneys standing to the credit of the Board and which are not required for immediate use or as a reasonable operating balance.
- (7) In addition to the functions entrusted to the chief executive officer by or under this Act, the chief executive officer -
- (a) is the accounting officer of the Board having the responsibility of accounting for all moneys received by the Board, the utilisation of such moneys and the use and care of the property of the Board; and
  - (b) must cause such records of account and financial statements to be kept as are necessary to reflect the state of affairs and the business of the Board, and to explain the transactions entered into by, and the financial position of, the Board,

**Act No. 8, 2005****ACCREDITATION BOARD OF NAMIBIA ACT, 2005**

subject to the rules.

- (8) The Board -
  - (a) determines, in consultation with the Minister, the financial year of the Board; and
  - (b) may make rules relating to the conducting of the bank account or bank accounts referred to in subsection (2), including -
    - (i) the deposit of moneys in;
    - (ii) the withdrawal of moneys from; and
    - (iii) the signing and endorsing of cheques and other negotiable instruments relating to,  
  
such bank account or bank accounts.

**Auditing and annual report**

**17.** (1) The accounting records and financial statements of the Board referred to in section 16 must be audited annually, to the satisfaction of the Auditor-General and subject to such directions as the Auditor-General may issue, by a person registered as an accountant and auditor in terms of the Public Accountants' and Auditors' Act, 1951 (Act No. 51 of 1951), and appointed by the Board with the written approval of the Auditor-General.

(2) Within six months after the end of each financial year of the Board, the Board must submit to the Minister an annual report containing -

- (a) particulars of all the activities of the Board during that financial year, including -
  - (i) a statement of income and expenditure, and a balance sheet, of the Board, certified by the Auditor-General after the conducting of an audit in accordance with subsection (1); and
  - (ii) a copy of the report on the audit conducted as contemplated in subparagraph (i); and
- (b) particulars of such other matters as the Minister may require in writing.

(3) The Minister must lay upon the Table of the National Assembly the annual report submitted to the Minister in terms of subsection (2) within 30 days of the date of receipt thereof, if the National Assembly is then in ordinary session, or, if the National Assembly is not then in ordinary session, within 14 days after the commencement of its next ordinary session.

**Observance of international standards**

- 18.** The Board must act, in the performance of its functions -

**Act No. 8, 2005      ACCREDITATION BOARD OF NAMIBIA ACT, 2005**

- (a) in accordance with international standards of accreditation established by the International Organisation for Standardisation; and
- (b) with impartiality,

and must ensure confidentiality of information resulting from the accreditation and supervision processes in terms of this Act.

**Accreditation and suspension or withdrawal thereof**

**19.** (1) A body desiring to be accredited in terms of this Act may apply to the Board for accreditation in the form and manner, and on payment of the relevant fees, prescribed by the rules.

- (2) The Board must -
  - (a) administer and consider an application for accreditation in accordance with the procedures prescribed by the rules; and
  - (b) accredit an applicant, subject to such terms and conditions as the Board may determine and subject to the rules, if all the necessary requirements for accreditation in terms of this Act are complied with.
- (3) If the Board decides -
  - (a) to accredit the applicant, the Board must -
    - (i) issue a certificate of accreditation in the applicant's name stating the period and other terms and conditions of accreditation; and
    - (ii) send the certificate to the applicant;
  - (b) not to accredit the applicant, the Board must inform the unsuccessful applicant in writing of its decision and of the reasons therefor.
- (4) The Board may -
  - (a) suspend, for such period as it considers appropriate; or
  - (b) withdraw,

an accreditation granted in terms of this section, if the accredited body, in the opinion of the Board, ceases to fulfil the necessary requirements for accreditation in terms of this Act, or if the accredited body fails in some material respect to comply with the terms and conditions determined by the Board under subsection (2)(b), after the Board had afforded the accredited body an opportunity to be heard.

**Surveillance**

**20.** (1) The Board must conduct periodic surveillance and reassessments of accredited bodies at such intervals, not exceeding six months, as the Board may consider necessary and appropriate to ensure that accredited bodies continue to comply with the requirements for accreditation in terms of this Act.

**Act No. 8, 2005****ACCREDITATION BOARD OF NAMIBIA ACT, 2005**

(2) If the Board has so requested in accordance with subsection (3), the chief executive officer or any other member or employee of the Board is entitled to access to the premises of a body to which surveillance in terms of subsection (1) applies, and to be supplied with information and documents to the extent necessary for the conducting of the surveillance.

(3) A request by the Board referred to in subsection (2) must be in writing and be delivered to the body concerned a reasonable time before the entering of the premises to which the request relates.

(4) To the extent that this section authorises the interference with a person's fundamental right to privacy as contemplated in Article 13(1) of the Namibian Constitution, such interference is authorised only on the grounds of the economic well-being of Namibia as contemplated in the said Article 13(1).

**Fees**

**21.** (1) The Board may determine and charge fees, subject to subsection (2) and to the approval of the Minister, for any service rendered by the Board under this Act.

(2) A fee determined under subsection (1) must -

- (a) be cost-related in respect of the service rendered; and
- (b) be made known by the Board by notice in the *Gazette* as part of the rules pursuant to section 26(1)(c).

**Accreditation register**

**22.** (1) The Board must keep a register into which the following particulars must be entered in respect of all bodies accredited by the Board in terms of this Act:

- (a) The name and address of every body so accredited;
- (b) the scope of, and full particulars relating to, the accreditation;
- (c) the date on which the body concerned was accredited and the date on which the accreditation became effective;
- (d) the period of accreditation;
- (e) the kind or type of body accredited;
- (f) the accreditation number awarded to the body upon accreditation; and
- (g) any other particulars that the Minister may determine in writing.

(2) The register kept in terms of subsection (1) must, during the Board's normal hours of business, be available at its offices for inspection by the public.

**Confidentiality**

**23.** No person may disclose any information obtained, whether by that person

**Act No. 8, 2005      ACCREDITATION BOARD OF NAMIBIA ACT, 2005**

or by any other person, in the course of the administration or implementation of any provision of this Act, except -

- (a) if authorised thereto by or under this Act;
- (b) with the consent of the person from whom the information was obtained or in respect of whom the information relates; or
- (c) for the purpose of any legal proceedings arising out of the administration, implementation or enforcement of any provision of this Act or any other law.

**Declaration of interest**

**24.** (1) A member of the Board or the executive committee or any other committee who -

- (a) has in any way, whether directly or indirectly, any financial interest in an application for accreditation or in any other matter to be discussed or evaluated by the Board or the executive committee or any other committee, or intends to acquire such an interest; or
- (b) obtains, at any time, a financial interest in any application or other matter referred to in paragraph (a),

must declare the nature, extent and full particulars of his or her interest referred to in paragraph (a) or (b) to the Board or the executive committee or other committee at the meeting during which the application or other matter is discussed or evaluated, or at the first meeting of the Board or the executive committee or other committee at which it is possible for that member to declare such interest.

(2) Full particulars of a declaration by a member referred to in subsection (1) made in terms of that subsection must be recorded in the minutes of the meeting at which the declaration was made.

(3) If an application for accreditation or other matter referred to in subsection (1) is discussed or evaluated by the Board or the executive committee or any other committee, the member referred to in that subsection must withdraw from the meeting during such discussion or evaluation, and that member may not participate in any discussion or evaluation, or in any voting, in connection with that application or other matter.

(4) A member of the Board or the executive committee or any other committee may not approach or in any way lobby any such other member in respect of an application for accreditation or other matter referred to in subsection (1) in which that member has any financial interest, or discuss that application or other matter with any such other member.

(5) For the purposes of this section, a financial interest of a member of the Board or the executive committee or any other committee in an application for accreditation or other matter referred to in subsection (1), includes a financial interest of the spouse, parent, child or business partner of that member in the application for accreditation or other matter.

**Act No. 8, 2005****ACCREDITATION BOARD OF NAMIBIA ACT, 2005****Offences and penalties**

**25.** (1) A person commits an offence if that person -

- (a) contravenes or fails to comply with section 23 or 24(1) or (4);
- (b) when applying under section 19(1) for accreditation or at any other time, furnishes the Board with false or misleading information, knowing that information to be false or misleading;
- (c) fraudulently uses any document or other material issued or supplied by the Board;
- (d) by word or deed professes that a body is accredited by the Board in terms of this Act, when that body is not so accredited; or
- (e) in any manner uses or for any purpose applies the symbol or logo of the Board referred to in section 26(1)(g) without being authorised thereto by the Board in writing.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

**Rules**

**26.** (1) The Board may make rules relating to -

- (a) procedures in respect of the meetings of the Board, the executive committee and other committees of the Board, including the election of the chairperson at the first meeting of the Board held in terms of section 6(2), the keeping of minutes of such meetings and the adoption and safekeeping of those minutes;
- (b) the form and manner in which a body may apply for accreditation, the procedures relating to the consideration of such an application and the requirements relating to accreditation, the conditions subject to which, and the form in which, accreditation may be granted, including the formulation of a quality system in respect of accreditation;
- (c) subject to section 21, the fees payable in respect of an application for, and the granting of, an accreditation, or the conducting of a surveillance, or any other service rendered by the Board under this Act, the recovery of any fees owing to the Board and interest to be levied on late payments made to the Board by any person or body;
- (d) the period of validity of an accreditation granted in terms of this Act, and the procedures in respect of an application for the extension of that validity;
- (e) the conditions under which accreditation may be suspended or withdrawn;
- (f) procedures for the lodging of complaints and for the resolution of disputes relating to accreditation;



**Act No. 8, 2005      ACCREDITATION BOARD OF NAMIBIA ACT, 2005**

- (g) the development or design of a symbol or logo for the Board, and the manner in which and the purposes for which that symbol or logo may be used;
- (h) action to be taken in the event of the misuse or the unauthorised use of the symbol or logo of the Board contemplated in paragraph (g);
- (i) the kind or kinds of insurance that must be procured as contemplated in section 5(j), the manner in which such insurance must be procured and the items that must be insured, including procedures relating to the determination of the value of such items for the purpose of insurance, and the payment of insurance premiums;
- (j) personnel matters, including the procedures relating to the appointment of employees of the Board; and
- (k) any other matter in respect of which rules are permitted or required to be made under this Act, or any matter that may be expedient to the functions of the Board.

(2) No rule made by the Board under subsection (1), or any amendment thereto or withdrawal thereof, is of force and effect until published in the *Gazette*.

**Delegation of powers and assignment of duties**

**27.** (1) The Board may, subject to such conditions as the Board may determine, in writing -

- (a) delegate any power, excluding the power to grant, suspend or withdraw accreditation under section 19 and to make rules under section 26, conferred on the Board by or under this Act;
- (b) assign the performance of any duty entrusted to the Board by or under this Act,

to the chairperson, the chief executive officer, the executive committee or any other committee.

(2) The chief executive officer, acting with the written approval of the Board, may, subject to such conditions as the chief executive officer may determine, in writing -

- (a) delegate to an employee of the Board any power;
- (b) assign to an employee of the Board the performance of any duty,

delegated or assigned to the chief executive officer under subsection (1) or entrusted to the chief executive officer by or under this Act.

(3) The Board or the chief executive officer is not divested of a power or duty delegated or assigned by the Board or the chief executive officer under subsection (1) or (2), respectively, and may amend or withdraw any decision made in the exercise of that delegated power or performance of that assigned duty.

**Act No. 8, 2005****ACCREDITATION BOARD OF NAMIBIA ACT, 2005****Limitation of liability**

**28.** No member or employee of the Board (including the chief executive officer) or member of any committee of the Board is liable in respect of anything done or omitted in good faith and not attributable to gross negligence in the performance of any function under this Act.

**Short title and commencement**

**29.** (1) This Act is called the Accreditation Board of Namibia Act, 2005, and comes into operation on a date to be determined by the Minister by notice in the *Gazette*.

(2) Different dates may be determined under subsection (1) in respect of different provisions of this Act.

---