

**Act No. 6, 1979 EXAMINATION BOARD OF SOUTH WEST AFRICA
ACT, 1979**

*(Afrikaans text signed by the Administrator-General on 20
August 1979)*

ACT

To establish an examination board in respect of education in schools; to define its functions; and to provide for incidental matters.

BE IT ENACTED by the National Assembly of South West Africa, as follows:—

Definitions.

1. (1) In this Act, unless the context indicates otherwise —

(i) “board” means the Examination Board of South West Africa established by section 2; (ii)

(ii) “education authority” means the government, administration or other authority, including the Administrator-General, or the member or official thereof or, in the case of the Administrator-General, the officer in the Department of Education and Training or the Department of Coloured, Rehoboth and Nama Relations, as the case may be, by whom or under whose control schools are maintained, managed and controlled or subsidized under any education law or who in terms of any education law is with regard to education in schools maintained, managed and controlled or subsidized under such education law, competent to do anything that may be done by the board under section 4; (i)

(iii) “education law” means —

(a) the Black Education Act, 1953 (Act 47 of 1953);

(b) the Black Education Act, 1953, read with section 13 of the Damara Representative Authority Proclamation, 1977 (Proclamation R.150 of 1977), of the State President;

(c) any law made under section 17E of the Development of Self-government for Native Nations in South West Africa Act, 1968 (Act 54 of 1968), read with item 2 of the Schedule to that Act, by —

(i) the Legislative Council of Caprivi; or

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*(Afrikaanse teks deur die Administrateur-generaal onder-
teken op 20 Augustus 1979)*

WET

Om 'n eksamenraad ten opsigte van onderwys in skole in te stel; om sy werksaamhede te omskryf; en om vir bykomstigste aangeleenthede voorsiening te maak.

DAAR WORD BEPAAL deur die Nasionale Vergadering van Suidwes-Afrika, soos volg:—

1. (1) Tensy uit die samehang anders blyk, beteken in hierdie Wet —

Woordomskrywings.

- (i) “onderwysowerheid” die regering, administrasie of ander owerheid, met inbegrip van die Administrateur-generaal, of die lid of amptenaar daarvan of, in die geval van die Administrateur-generaal, die beampte in die Departement van Onderwys en Opleiding of die Departement van Kleurling-, Rehoboth- en Namabetrekkinge, na gelang van die geval, deur wie of onder wie se beheer skole kragtens 'n onderwyswet in stand gehou, bestuur en beheer of gesubsidieer word of wat ingevolge 'n onderwyswet bevoeg is om ten aansien van onderwys in skole wat kragtens daardie onderwyswet in stand gehou, bestuur en beheer of gesubsidieer word, iets te doen wat die raad kragtens artikel 4 kan doen; (ii)

(ii) “onderwyswet” —

(a) die Wet op Swart Onderwys, 1953 (Wet 47 van 1953);

(b) die Wet op Swart Onderwys, 1953, gelees met artikel 13 van die Proklamasie op die Damara-Verteenwoordigende Owerheid, 1977 (Proklamasie R.150 van 1977), van die Staatspresident;

(c) 'n wet wat kragtens artikel 17E van die Wet op die Ontwikkeling van Selfregering vir Naturelle-volke in Suidwes-Afrika, 1968 (Wet 54 van 1968), gelees met item 2 van die Bylae by daardie Wet, gemaak is deur —

(i) die Wetgewende Raad van Caprivi; of

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(ii) the Legislative Council of Kavango; or

(iii) the Legislative Council of Owambo;

(d) the Coloured Persons in South West Africa Education Act, 1972 (Act 63 of 1972);

(e) the Basters of Rehoboth Education Act, 1972 (Act 85 of 1972);

(f) the Nama in South West Africa Education Act, 1972 (Act 86 of 1972),

and includes any regulation made under the law in question; (ii)

(iv) "school" means any educational institution or that part of such an institution at which education is provided up to a standard not higher than standard 10, and which is maintained, managed and controlled or subsidized under an education law by an education authority, excluding any such educational institution or part of an educational institution in respect of which a notice issued under subsection (2) is in force. (iv)

(2) The Administrator-General may by notice in the *Official Gazette* declare that as from a date specified in such notice, which may be a date earlier than the date of publication of such notice in the *Official Gazette*, the provisions of this Act shall not apply in relation to a school specified in such notice or any school falling within a class of schools so specified.

Establishment of board.

2. There shall be a board which shall be called the Examination Board of South West Africa.

Objects of board.

3. The objects of the board shall be to place education in schools on an equal basis in respect of courses of instruction and syllabuses and to conduct or arrange examinations in respect of such courses in schools.

Powers of board.

4. (1) The board may, in order to achieve its objects —

(a) with the approval of the Administrator-General —

(i) institute or abolish any course for the education of persons in schools or any class of schools;

(ii) prescribe the syllabus or syllabuses for any such course;

(iii) prescribe the nature and duration of, and the conditions for admission to, any such course;

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(ii) die Wetgewende Raad van Kavango; of
(iii) die Wetgewende Raad van Owambo;

(d) die Wet op Onderwys vir Kleurlinge in Suidwes-Afrika, 1972 (Wet 63 van 1972);

(e) die Wet op Onderwys vir Basters van Rehoboth, 1972 (Wet 85 van 1972);

(f) die Wet op Onderwys vir Namas in Suidwes-Afrika, 1972 (Wet 86 van 1972),

en ook 'n regulasie wat kragtens die betrokke wet gemaak is; (iii)

(iii) "raad" die Eksamenraad van Suidwes-Afrika by artikel 2 ingestel; (i)

(iv) "skool" 'n onderwysinrigting of daardie deel van so 'n inrigting waar onderwys tot 'n standerd wat nie hoër as standerd 10 is nie verskaf word en wat kragtens 'n onderwyswet deur 'n onderwysowerheid in stand gehou, bestuur en beheer of gesubsidieer word, uitgesonderd so 'n onderwysinrigting of deel van 'n onderwysinrigting ten opsigte waarvan 'n kennisgewing kragtens subartikel (2) uitgereik, van krag is. (iv)

(2) Die Administrateur-generaal kan by kennisgewing in die *Offisiële Koerant* verklaar dat vanaf 'n datum in die kennisgewing genoem wat 'n datum voor die datum van publikasie van die kennisgewing in die *Offisiële Koerant* kan wees, die bepalings van hierdie Wet nie van toepassing is nie met betrekking tot 'n skool in die kennisgewing genoem of 'n skool wat in 'n aldus genoemde klas van skole val.

2. Daar is 'n raad wat die Eksamenraad van Suidwes-Afrika heet.

Instelling van raad.

3. Die oogmerke van die raad is om ten opsigte van leer-kursusse en leerplanne die onderwys in skole op 'n gelyke grondslag te plaas en om eksamens ten opsigte van sodanige kursusse in skole af te neem of te reël.

Oogmerke van raad.

4. (1) Die raad kan, ten einde sy oogmerke te bereik —

Bevoegdheede van raad

(a) met die goedkeuring van die Administrateur-generaal —

(i) enige kursus vir die onderwys van persone in skole of enige klas van skole instel of afskaf;

(ii) die leerplan of leerplanne vir so 'n kursus voorskryf;

(iii) die aard en duur van, en die voorwaardes vir toelating tot, so 'n kursus voorskryf;

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- (b) conduct, or make arrangements for the conduct of, examinations in respect of any such course, and for that purpose —
 - (i) determine the items and places for the writing of such examinations;
 - (ii) make arrangements for the setting of examination papers and the marking of scripts;
 - (iii) on such conditions as the board may with the approval of the Administrator-General determine, appoint or cause to be appointed examiners, moderators, invigilators, secretaries for examination centres and other persons required in connection with such examinations;
 - (iv) determine standards to be attained by a candidate at such examinations in order to pass such examinations;
 - (v) issue instructions to be complied with by persons concerned in the conducting of such examinations;
- (c) issue, or cause to be issued, certificates, statements or other documents to persons who passed such examinations.

(2) The board may with the approval of the Administrator-General determine fees to be paid to an education authority in respect of any examination, certificate, statement or other document contemplated in subsection (1) by a person who received instruction in a school maintained, managed and controlled or subsidized by such education authority.

Constitution of board.

5. (1) The board shall consist of —

- (a) a chairman appointed as such by the Administrator-General; and
- (b) not less than eight or more than fourteen other members appointed by the Administrator-General on the ground of their knowledge and experience in the field of education, of whom —
 - (i) one shall be an officer in the Department of Coloured, Rehoboth and Nama Relations;
 - (ii) one shall be an officer in the Department of Education and Training;
 - (iii) one shall be an officer in the Department of Education and Culture of the Damara Representative Authority, nominated by or on behalf of that Authority;

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- (b) eksamens ten opsigte van so 'n kursus afneem of reëlings vir die afneem daarvan tref, en vir die doel —
- (i) die tye en plekke vir die aflê van sodanige eksamens bepaal;
 - (ii) reëlings tref vir die opstel van vraestelle en die nasien van eksamenskrifte;
 - (iii) eksaminatore, moderatore, opsieners, sekretarisse vir eksamensentrums en ander persone wat in verband met sodanige eksamens nodig is, aanstel of laat aanstel op die voorwaardes wat die raad met die goedkeuring van die Administrateur-generaal bepaal;
 - (iv) standarde bepaal waaraan 'n kandidaat by sodanige eksamens moet voldoen ten einde in sodanige eksamens te slaag;
 - (v) voorskrifte uitreik waaraan persone wat in die afneem van sodanige eksamens gemoeid is, moet voldoen;

- (c) sertifikate, verklarings of ander stukke uitreik of laat uitreik aan persone wat in sodanige eksamens geslaag het.

(2) Die raad kan met die goedkeuring van die Administrateur-generaal gelde bepaal wat ten opsigte van 'n eksamen, sertifikaat, verklaring of ander stuk in subartikel (1) bedoel aan 'n onderwysowerheid betaal moet word deur iemand wat onderwys ontvang het in 'n skool wat deur daardie onderwysowerheid in stand gehou, bestuur en beheer of gesubsidieer word.

5. (1) Die raad bestaan uit —

Samestelling van raad.

- (a) 'n voorsitter as sodanig deur die Administrateur-generaal aangestel; en
- (b) minstens agt en hoogstens veertien ander lede deur die Administrateur-generaal aangestel op grond van hul kennis en ervaring op onderwysgebied van wie —
 - (i) een 'n beampte in die Departement van Kleurling-, Rehoboth- en Namabetrekkings moet wees;
 - (ii) een 'n beampte in die Departement van Onderwys en Opleiding moet wees;
 - (iii) een 'n beampte in die Departement van Onderwys en Kultuur van die Damara- Verteenwoordigende Owerheid moet wees wat deur of namens daardie Owerheid benoem is;

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- (iv) one shall be an officer in the Department of Education and Culture of the Government of Caprivi, nominated by or on behalf of that Government;
- (v) one shall be an officer in the Department of Education and Culture of the Government of Kavango, nominated by or on behalf of that Government;
- (vi) one shall be an officer in the Department of Education and Culture of the Government of Owambo, nominated by or on behalf of that Government;
- (vii) one shall be an officer in the Department of Education of Rehoboth: Provided that, as soon as possible after the date on which a government for Rehoboth comes into being in terms of section 11 of the Rehoboth Self-Government Act, 1976 (Act 56 of 1976), such member shall be an officer in the department of such government to which education matters are allocated, nominated by or on behalf of the Kaptein's Council referred to in that Act.

(2) Subject to the provisions of subsection (3), a member of the board shall hold office at the Administrator-General's pleasure.

(3) A member of the board who has been appointed under a provision of subsection (1)(b) in terms of which he is required to be an officer in a department mentioned in such provision or to be nominated by or on behalf of an authority so mentioned, shall vacate his office as such member if he ceases to be an officer in the department concerned or his nomination is revoked by or on behalf of the authority concerned.

(4) A member of the board who is not in the service of the State, the Administration of South West Africa, a government mentioned in subsection (1)(b) or the administration of Rehoboth on a full-time basis, may be paid such allowances as the Administrator-General may determine.

Meetings and decisions of board.

6. (1) The board shall determine the times and places for its meetings: Provided that the chairman may at any time convene a meeting of the board at a time and place determined by him.

(2) Eight members shall form a quorum for a meeting of the board.

(3) If the chairman is absent from any meeting of the board, the members present shall elect one of their number to act in the place of the chairman at that meeting.

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- (iv) een 'n beamppte in die Departement van Onderwys en Kultuur van die Regering van Caprivi moet wees wat deur of namens daardie Regering benoem is;
- (v) een 'n beamppte in die Departement van Onderwys en Kultuur van die Regering van Kavango moet wees wat deur of namens daardie Regering benoem is;
- (vi) een 'n beamppte in die Departement van Onderwys en Kultuur van die Regering van Owambo moet wees wat deur of namens daardie Regering benoem is;
- (vii) een aangestel word om die administrasie van Rehoboth te verteenwoordig: Met dien verstande dat, so gou doenlik na die datum waarop daar ingevolge artikel 11 van die Wet op Selfregering vir Rehoboth, 1976 (Wet 56 van 1976), 'n regering vir Rehoboth tot stand kom, sodanige lid 'n beamppte in die departement van daardie regering waaronder onderwysaangeleenthede ingedeel is, moet wees wat deur of namens die in daardie Wet bedoelde Kapteinsraad benoem is.

(2) Behoudens die bepalings van subartikel (3), beklee 'n lid van die raad sy amp vir solank dit die Administrateur-generaal behaag.

(3) 'n Lid van die raad wat aangestel is kragtens 'n bepaling van subartikel (1)(b) ingevolge waarvan hy 'n beamppte in 'n departement in die bepaling genoem, moet wees of deur of namens 'n aldus genoemde gesag benoem moet wees, ont-rim sy amp as sodanige lid indien hy ophou om 'n beamppte in die betrokke departement te wees of sy benoeming deur of namens die betrokke gesag ingetrek word.

(4) Aan 'n lid van die raad wat nie op 'n heelydse grondslag in die diens van die Staat, die Administrasie van Suidwes-Afrika, 'n regering in subartikel (1)(b) genoem of die administrasie van Rehoboth is nie, kan die toelaes betaal word wat die Administrateur-generaal bepaal.

6. (1) Die raad bepaal die tye en plekke vir sy vergaderings: Met dien verstande dat die voorsitter te eniger tyd 'n vergadering van die raad kan belê op 'n tyd en plek deur hom bepaal.

Vergaderings en besluite van raad.

(2) Agt lede maak 'n kworum vir 'n vergadering van die raad uit.

(3) Indien die voorsitter van 'n vergadering van die raad afwesig is, kies die aanwesige lede een uit hul midde om op daardie vergadering in die plek van die voorsitter op te tree.

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(4) The decision of a majority of the members present at a meeting of the board shall be the decision of the board: Provided that in the event of an equality of votes the chairman shall have a casting vote in addition to his deliberative vote.

Performance of administrative and clerical work.

7. (1) The administrative and clerical work involved in the performance of the board's functions, shall be performed by officers or employees in the public service made available for that purpose.

(2) The board may designate an officer or employee referred to in subsection (1) to be the secretary of the board.

Expenses of board.

8. (1) The board shall incur no expenses without the prior approval of the Administrator-General.

(2) Any expenses incurred by the board shall, subject to the provisions of subsection (4), be paid by the various education authorities in accordance with subsection (3).

(3) Each education authority shall be liable for a proportionate share of such expenses, which shall be determined by the board on a basis approved by the Administrator-General.

(4) The Secretary for Coloured, Rehoboth and Nama Relations or any other officer in the public service designated by the Administrator-General may pay any expenses incurred by the board out of moneys appropriated by law for that purpose.

(5) If an education authority is liable in terms of subsection (3) for an amount which has been paid under subsection (4), the education authority concerned shall refund such amount to the officer who made the payment, and that officer shall pay such amount into the fund or account from which he made the payment.

Application of education laws.

9. (1) A power conferred upon an education authority under any provision of an education law, to do with regard to education in schools maintained, managed and controlled or subsidized by it, anything that may be done by the board under section 4, shall not be exercised by such education authority except with the approval of the board.

(2) Any reference in an education law to a provision thereof contemplated in subsection (1) or anything done or that may be done under such a provision by the education authority concerned, shall, except where it is clearly inappropriate, be construed as a reference to the corresponding provision of section 4 of this Act or, as the case may be, anything done or that may be done by the board under such corresponding provision.

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(4) Die besluit van 'n meerderheid van die lede wat op 'n vergadering van die raad aanwesig is, is die besluit van die raad: Met dien verstande dat by 'n staking van stemme die voorsitter 'n beslissende stem benewens sy beraadslagende stem het.

7. (1) Die administratiewe en klerklike werk verbonde aan die verrigting van die raad se werksaamhede, word verrig deur beamptes of werknemers in die Staatsdiens wat vir dié doel beskikbaar gestel is.

Verrigting van administratiewe en klerklike werk.

(2) Die raad kan 'n beampte of werknemer in subartikel (1) bedoel, aanwys as sekretaris van die raad.

8. (1) Die raad gaan geen uitgawes sonder die voorafgaande goedkeuring van die Administrateur-generaal aan nie.

Uitgawes van raad.

(2) Uitgawes deur die raad aangegaan, word, behoudens die bepalings van subartikel (4), deur die verskillende onderwysowerhede betaal ooreenkomstig die bepalings van subartikel (3).

(3) Elke onderwysowerheid is aanspreeklik vir 'n proporsionele gedeelte van sodanige uitgawes, wat deur die raad bepaal word op 'n grondslag deur die Administrateur-generaal goedgekeur.

(4) Die Sekretaris van Kleurling-, Rehoboth- en Nama-betrekkinge of 'n ander beampte in die Staatsdiens deur die Administrateur-generaal aangewys, kan uitgawes deur die raad aangegaan, betaal uit gelde wat vir dié doel by wet bewillig is.

(5) Indien 'n onderwysowerheid ingevolge subartikel (3) aanspreeklik is vir 'n bedrag wat kragtens subartikel (4) betaal is, moet die betrokke onderwysowerheid daardie bedrag aan die beampte wat dit betaal het, terugbetaal, en daardie beampte stort dit in die fonds of rekening waaruit hy die betaling gedoen het.

9. (1) 'n Bevoegdheid wat kragtens 'n bepaling van 'n onderwyswet aan 'n onderwysowerheid verleen word om met betrekking tot onderwys in skole deur hom in stand gehou, bestuur en beheer of gesubsidieer, iets te doen wat kragtens artikel 4 deur die raad gedoen kan word, word nie deur daardie onderwysowerheid uitgeoefen nie behalwe met die goedkeuring van die raad.

Toepassing van onderwyswette.

(2) 'n Verwysing in 'n onderwyswet na 'n in subartikel (1) bedoelde bepaling daarvan of iets wat kragtens so 'n bepaling deur die betrokke onderwysowerheid gedoen is of gedoen kan word, word, behalwe waar dit klaarblyklik onvanpas is, uitgelê as 'n verwysing na die ooreenstemmende bepaling van artikel 4 van hierdie Wet of, na gelang van die geval, iets wat kragtens daardie ooreenstemmende bepaling deur die raad gedoen is of gedoen kan word.

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(3) The provisions of this Act shall not apply with reference to the education or further education in any school of persons who in the year 1978 are enrolled at any school for a course for standard 9 or standard 10.

Transitional provisions.

10. (1) Anything done under an education law before 1 March 1978 that could be done by the board under any provision of section 4(1)(a) or (b)(iv) or (v) shall, in so far as it is still of force and effect immediately before that date, be deemed to have been done under such provision by the board.

(2) The persons who, on the date upon which this Act is published in the *Official Gazette*, are members of the board shall, subject to the provisions of subsections (2) and (3) of section 5, be deemed to have been appointed in accordance with the provisions of subsection (1) of that section, and the board shall be deemed to have been constituted in accordance with the provisions of the said subsection (1) at all relevant times before that date.

Short title and commencement.

11. This Act shall be called the Examination Board of South West Africa Act, 1979, and shall be deemed to have come into operation on 1 March 1978.

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(3) Die bepalings van hierdie Wet is nie van toepassing nie met betrekking tot die onderwys of verdere onderwys in 'n skool van persone wat in die jaar 1978 vir 'n kursus vir standerd 9 of standerd 10 by 'n skool ingeskryf is.

10. (1) Enigiets voor 1 Maart 1978 kragtens 'n onderwyswet gedoen wat kragtens 'n bepaling van artikel 4(1)(a) of (b)(iv) of (v) deur die raad gedoen sou kon word, word, vir sover dit onmiddellik voor daardie datum nog van krag is, geag kragtens daardie bepaling deur die raad gedoen te wees.

Oorgangsbepalings.

(2) Die persone wat op die datum waarop hierdie Wet in die *Offisiële Koerant* afgekondig word lede van die raad is, word, behoudens die bepalings van subartikels (2) en (3) van artikel 5, geag ooreenkomstig die bepalings van subartikel (1) van daardie artikel aangestel te wees, en die raad word geag te alle tersaaklike tye voor daardie datum ooreenkomstig die bepalings van genoemde subartikel (1) saamgestel te gewees het.

11. Hierdie Wet heet die Wet op die Eksamenraad van Suidwes-Afrika, 1979, en word geag op 1 Maart 1978 in werking te getree het.

Kort titel en inwerking-treding.