

Namibia

Regional Councils Act, 1992

Joint Business Venture Regulations, 2001

Government Notice 42 of 2001

Legislation as at 15 November 2017

FRBR URI: /akn/na/act/gn/2001/42/eng@2017-11-15

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PDF created on 13 May 2024 at 08:55.

Collection last checked for updates: 15 November 2017.

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Joint Business Venture Regulations, 2001

Contents

1. Definitions	1
2. Entering into joint business venture by regional council	2
3. Form of joint business venture	2
4. Alienation, encumbrance or disposal of shares and assets, and pooling of resources, services and property	2
5. Acquisition of shares or other interest in joint business venture by members of staff members of regional council	2
6. Representation of regional council on board of directors or board of trustees	3
7. Amendment or alteration of articles of association and statute, trust deed, share or interest structure or nature of operations of joint business venture	3
8. Audit of accounting records and financial statements of joint business venture	3
9. Members or staff members of regional council not to be employed by joint business venture	3
10. General	3



Republic of Namibia
Annotated Statutes

Regional Councils Act, 1992

Joint Business Venture Regulations, 2001

Government Notice 42 of 2001

[Published in Government Gazette 2492 on 5 March 2001](#)

Commenced on 5 March 2001

[This is the version of this document at 15 November 2017.]

[Note: The version of this legislation as at 15 November 2017 was revised and consolidated by the Legal Assistance Centre and the Government of the Republic of Namibia. All subsequent amendments have been researched and applied by Laws.Africa for Namibia.]

1. Definitions

In these regulations, unless the context otherwise indicates, any word or expression defined in the Act has a corresponding meaning, and-

“director” means a director of the board of directors of a company which has entered into a joint business venture in accordance with regulation 2, and a director representing a regional council must be a member or staff member of the regional council or an employee of the company who has been nominated by the regional council to so act as director;

“Government” includes a Ministry, a local authority council, a regional council, a parastatal and a non-governmental organisation;

“input” means the issue value of shares bought or the monetary or market value, as the case may be, of resources, services or property pooled by the regional council concerned at the date when so pooled;

“joint business venture” means a joint business venture entered into in accordance with regulation 2;

“pool” means the input, subject to the conditions imposed by the Minister under regulation 2, at any time by a regional council in a joint business venture by way of the providing of labour or other services, or the supply of materials or equipment, free of charge, or the making of a cash payment or a loan to, or the entering into of a lease agreement with, the joint business venture, including the furnishing of a guarantee in terms of section 28(1)(k) of the Act;

“shareholder’s investment” includes the issue value of all shares taken up and paid for, shareholder’s loans to the company concerned, or an input by means of pooling; and

“the Act” means the Regional Councils Act, 1992 (Act [No. 22 of 1992](#)).

2. Entering into joint business venture by regional council

- (1) A regional council may enter, subject to subregulation (2), for the purposes of exercising, performing or carrying out its powers, functions or duties in terms of the Act, and further subject to-
 - (a) these regulations; and
 - (b) the prior written approval of the Minister on such conditions as the Minister may impose, into joint business ventures with the Government or any company or any trust, or conjointly with the Government and any company or any trust, in order to promote economic development and employment creation within its area in order to supplement its funds referred to in section 33(1) of the Act.
- (2) The Minister may impose conditions under subregulation (1) which apply-
 - (a) to a regional council specified in the approval granted under that subregulation; or
 - (b) in general to all regional councils in respect of any joint business venture in accordance with these regulations; or
 - (c) only to the joint business venture and only to the regional council specified in the approval granted under that subregulation.
- (3) The Minister may grant, if foreign nationals will be involved in any joint business venture, his or her approval under subregulation (1) only after consultation with the Minister of Finance and the Minister of Trade and Industry.

3. Form of joint business venture

A regional council, when entering into a joint business venture in accordance with regulation 2, may-

- (a) take up shares in an existing company registered, or in a company to be registered, in terms of the Companies Act, 1973 (Act [No. 61 of 1973](#));
- (b) accept the position of beneficiary of the trust established; or
- (c) enter into an agreement with the Government relating to the joint business venture, for the purposes of establishing the joint business venture.

4. Alienation, encumbrance or disposal of shares and assets, and pooling of resources, services and property

A regional council may-

- (a) not alienate or encumber any shares owned by it in a joint business venture, or otherwise encumber or dispose of its assets or other interest therein, without the prior written approval of the Minister, subject to the conditions the Minister may impose in the approval, granted after consultation with the Minister of Trade and Industry, which approval must specify the purchaser or the beneficiary, as the case may be, and the relevant shares or assets, as the case may be;
- (b) pool in a joint business venture, subject to the conditions imposed by the Minister under regulation 2, any of its resources, services or property.

5. Acquisition of shares or other interest in joint business venture by members of staff members of regional council

No member or staff member of a regional council or any person referred to in section 16(1) or section 44B(c)(iv) of the Act, may buy, accept, receive or otherwise acquire any shares or other interest in a joint

business venture, excluding payments relating to director's fees or member's fees, or payment for services rendered with the written approval of the regional council.

6. Representation of regional council on board of directors or board of trustees

The representation of a regional council concerned on the board of directors of a company or on the board of trustees of a trust, as the case may be, in relation to the total representation on the board concerned, must be commensurate to the ratio which the monetary value of the input by the regional council in the joint business venture bears to the monetary value of the total shareholder's investment in the joint business venture.

7. Amendment or alteration of articles of association and statute, trust deed, share or interest structure or nature of operations of joint business venture

The statutes and articles of association of a company or the trust deed of a trust referred to in regulation 2(1) must provide that, irrespective of the voting power of the regional council on the board of directors or at any meeting of the trustees, as the case may be, the statutes or articles of association or the trust deed may not be amended and the share of interest structure altered, including the transfer of ownership in shares, or the nature of operations of the joint business venture, including the risks pertaining thereto, may not be changed without the prior written approval of the regional council, which approval may only be granted in consultation with the Minister, and which approval must be entered into the minutes of the joint business venture concerned.

[The word "company" is misspelt in the Government Gazette, as reproduced above.
The word "approval" in the phrase "approval may only be granted" is also misspelt.]

8. Audit of accounting records and financial statements of joint business venture

- (1) The Auditor-General must audit, *mutatis mutandis* in accordance with section 38 of the Act, the accounting records and financial statements of a joint business venture.
- (2) The joint business venture referred to in subregulation (1) must submit to the Minister and to the regional council concerned copies of the audited accounting records and financial statement referred to in that subregulation, together with a report by the Auditor General relating to the audit conducted in accordance with that subregulation, within a period of 30 days after the completion of such audit.

9. Members or staff members of regional council not to be employed by joint business venture

- (1) A joint business venture entered into in accordance with regulation 2 may not employ a member or staff member of a regional council.
- (2) Nothing in subregulation (1) prevents a staff member of a regional council to resign from such regional council in order to take up employment with a joint business venture referred to in that subregulation.

10. General

Nothing in these regulations prevents a regional council from entering into a joint business venture in accordance with regulation 2 for the purpose of conducting a joint business with objectives, powers, functions or purposes which are identical or similar to, or which are in competition or in conflict with, the objectives, powers, functions or purposes of any of the regional council's own operations, if the joint business venture may serve to improve the efficiency or effectiveness of any of the own operations of the regional council.