

Namibia

Namibia Press Agency Act, 1992

Act 3 of 1992

Legislation as at 1 November 2006

FRBR URI: /akn/na/act/1992/3/eng@2006-11-01

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PDF created on 9 July 2024 at 13:20.

Collection last checked for updates: 5 July 2024.

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Namibia Press Agency Act, 1992
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Republic of Namibia
Annotated Statutes

Namibia Press Agency Act, 1992

Act 3 of 1992

Published in Government Gazette 382 on 2 April 1992

Assented to on 18 March 1992

Commenced on 2 April 1992

[This is the version of this document from 1 November 2006
and includes any amendments published up to 5 July 2024.]

[Amended by General Law Amendment Act, 2000 (Act 18 of 2000) on 29 November 2000]
[Amended by Namibia Press Agency Amendment Act, 2004 (Act 13 of 2004) on 23 September 2004]
[Amended by Public Enterprises Governance Act, 2006 (Act 2 of 2006) on 1 November 2006]

ACT

To provide for the establishment of a news agency for Namibia; to determine its powers, duties and functions; and to provide for matters incidental thereto.

BE IT ENACTED by the National Assembly of the Republic of Namibia, as follows:-

1. Definitions

In this Act, unless the context indicates otherwise -

“**board**” means the board of directors referred to in section 6;

“**member**” means a member of the board appointed under section 6(1);

“**Minister**” means the Minister responsible for information;

[definition of “**Minister**” amended by Act 18 of 2000]

“**the Agency**” means the Namibia Press Agency incorporated in terms of section 2.

2. Establishment of Namibia Press Agency

- (1) There is hereby established an agency to be known as the Namibia Press Agency.
- (2) The Registrar of Companies shall as soon as possible after the commencement of this Act enter the name of the Agency in the registers kept by the Registrar.

- (3) The Agency may, as an alternative to and independent of its name referred to in subsection (1), use the name NAMPA as its official name.

3. Juristic person

The Agency is a juristic person.

4. Objects of Agency

The objects of the Agency shall be to carry on a news agency service and Information Technology (IT) service for the production, collection and dissemination of media, information and IT products and services and the provision of such products and services to subscribers of the Agency and other persons, bodies and organizations.

[section 4 substituted by Act 13 of 2004]

5. Powers, duties and functions of Agency

- (1) For purposes of achieving its objects the Agency may, subject to the provisions of any other law -

[subsection (1) amended by Act 13 of 2004 to insert the "(1)" omitted in the original Government Gazette]

- (a) establish and control facilities for the collection and distribution of information and news as well as the provision of IT products and services;

[paragraph (a) amended by Act 13 of 2004]

- (b) enter into agreements for the supply of information or news to the Agency or for the distribution of information or news and the provision of IT products and services by the Agency;

[paragraph (b) amended by Act 13 of 2004]

- (c) compile, print, produce, publish or distribute any literary matter;
- (d) buy, hire or otherwise acquire and sell, let or otherwise dispose of or hypothecate or pledge or otherwise deal with any movable property or, with the prior approval of the Minister, any immovable property or any right in or over immovable property;
- (e) open banking accounts;
- (f) accept donations and receive moneys due to it;
- (g) with the approval of the Minister raise or borrow money, with or without security, and issue debentures, bills of exchange or other negotiable instruments;
- (h) apply its funds to the establishment of a reserve fund, or invest moneys not immediately required for its affairs with any financial institution approved by the Minister;
- (i) act as agent or representative on behalf of any person for any purpose in connection with its objects or itself appoint agents or representatives for such a purpose.

- (2) The Agency may further engage in any lawful income generating activity even though it is not expressly mentioned in subsection (1), and the generality of this provision shall not be limited by the paragraphs of subsection (1).

[subsection (2) amended by Act 13 of 2004]

- (3) Any act which the Agency is empowered to perform in connection with the attainment of its objects, may be performed within or outside Namibia.

6. Board of Agency

- (1) The affairs of the Corporation shall be managed and controlled by a board of directors which shall be constituted and the members whereof, including the chairperson and the vice-chairperson of the board, shall be appointed in accordance with, and for a period as determined under, section 14 and 15 of the Public Enterprises Governance Act, 2006.

[Subsection (1) is amended by Act 18 of 2000 and substituted by Act 13 of 2004 and by Act 2 of 2006, as amended by Act 8 of 2015. The Public Enterprises Governance Act referred to is Act 2 of 2006.]

- (2) No person who is not a Namibian citizen or who is a member of Parliament shall be appointed as a member of the board under subsection (1).
- (3) The Minister shall appoint the members of the board for their ability and experience in the administration or management of public affairs and the political, socio economic and communication fields or their suitability otherwise as directors.
- (4) **[subsection (4) deleted by Act 2 of 2006]**
- (5) Whenever the chairperson of the board is absent or unable to fulfil his or her duties, the vice-chairperson of the board shall act in his or her stead and, when so acting, the vice-chairperson may exercise any power and shall perform the duties and functions of the chairperson.

7. Tenure of office of directors and filling of vacancy

- (1) **[subsection (1) deleted by Act 2 of 2006]**
- (2) A member shall vacate his or her office if -
 - (a) his or her estate is sequestrated or he or she compromises with his or her creditors;
 - (b) he or she becomes of unsound mind;
 - (c) he or she is convicted of an offence and is sentenced to imprisonment without the option of a fine;
 - (d) he or she resigns as a member by giving not less than one month's notice in writing to the Minister;
 - (e) he or she has been absent from three consecutive meetings of the board without the leave of the chairperson of the board;
 - (f) he or she becomes subject to a disqualification referred to in section 6(2);
 - (g) he or she is removed from office under subsection (3).
- (3) The Minister may remove a member from office -
 - (a) on account of continued ill-health;
 - (b) on account of misconduct;
 - (c) on account of unfitness for the duties of his or her office or incapacity to carry them out efficiently;
 - (d) if, for reasons other than his or her own unfitness or incapacity, his or her removal will promote efficiency.
- (4) If a member ceases to hold office the Minister may, with due regard to the provisions of section 6(2) and (3), appoint any person to act in the place of such a member for the unexpired portion of his or her term of office.

8. Remuneration and other conditions of appointment of members

- (1) A member who is not in the full-time employment of the State shall be paid from the funds of the Agency such remuneration and allowances as may be determined by the Minister from time to time.
- (2) The remuneration and allowances determined under subsection (1) may differ according to the office held by the member concerned or the functions performed by him or her.

9. Meetings of board

- (1) Subject to the provisions of subsection (2), a meeting of the board shall be held at such time and place as may be determined by the chairperson of the board.
- (2) The chairperson of the board shall at the request of the Minister or on the written request of at least one-third of the members of the board, convene a special meeting of the board.
- (3) The majority of the members of the board shall form a quorum for a meeting of the board.
- (4) If both the chairperson and the vice-chairperson of the board are absent from a meeting of the board, the directors present at such meeting shall from among their number elect a person to preside at that meeting.
- (5) The decision of a majority of the members present at a meeting of the board shall constitute a decision of the board, and, in the event of an equality of votes on any matter, the person presiding at such meeting shall have a casting vote in addition to his or her deliberative vote.
- (6) No decision taken by the board or act performed under the authority of the board shall be invalid by reason only of a vacancy on the board or of the fact that any person not entitled to sit as a member 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 majority of the members who were present at the time and entitled to sit as members.

10. Committees of board

- (1) The board may establish such committees as it may deem necessary, which may, subject to the instructions of the board perform such functions of the board as the board may determine.
- (2) A committee referred to in subsection (1) may consist of one or more members or so many other persons or so many directors and other persons as the board deems necessary, and the board may at any time dissolve or reconstitute a committee.
- (3) If a committee established under subsection (1) consists of more than one person, the board shall designate one of those persons as the chairperson thereof.
- (4) A member of a committee who is not a member of the board or is not in the full-time employment of the State or the Agency shall be paid from the funds of the Agency such allowances as may be determined by the board with the concurrence of the Minister.

11. Chief executive officer and other employees of Agency

- (1) The board shall appoint a person as chief executive officer of the Agency for the performance of the functions of the Agency.
- (2) The chief executive officer shall attend all the meetings of the board, unless the board determines otherwise, and shall be entitled to participate in the deliberations of the board, but shall not be entitled to exercise any vote at any meeting thereof.
- (3) If the chief executive officer of the Agency is for any reason unable to perform his or her functions, the chairperson of the board may designate any other person in the employment of the Agency to act as chief executive officer until the chief executive officer can resume his or her functions.

- (4) The board shall appoint such other persons as it may deem necessary to assist the chief executive officer in the performance of the functions of the Agency.
- (5) Subject to section 22(3) of the Public Enterprises Governance Act, 2006, the board may determine the remuneration and other conditions of service of the chief executive officer and its other employees and their service benefits, including the provision or supply of medical aid benefits, housing facilities or benefits, and the provision for and payment of pensions.

[Subsection (5) is substituted by Act 2 of 2006, as amended by Act 8 of 2015. The Public Enterprises Governance Act referred to is Act 2 of 2006.]

[Section 11 is amended by Act 13 of 2004 to replace “executive officer” with “chief executive officer” throughout.]

12. Financing of Agency

- (1) The funds of the Agency shall consist of -
 - (a) moneys appropriated by Parliament to finance the functions of the Agency;
 - (b) moneys received by virtue of contracts and the services rendered by the Agency;
 - (c) moneys borrowed by the Agency;
 - (d) interest received on moneys invested by the Agency;
 - (e) donations or contributions received by the Agency from any person, institution, government or any other source;
 - (f) moneys which may accrue to the Agency from any other source.
- (2) The Agency shall utilize its funds for defraying expenses in connection with the performance of its functions under this Act, but shall utilize any donations or contributions referred to in subsection (1)(e) in accordance with the conditions, if any, imposed by the donor or contributor concerned.

13. Financial year and estimates of revenue and expenditure

- (1) The financial year of the Agency shall end on 31 March in each year.
- (2) ...
- (3) ...
- (4) ...

[subsections (2), (3) and (4) deleted by Act 2 of 2006]

14. Accounting responsibility

- (1) The chief executive officer shall be the accounting officer of the Agency, and as such shall be charged with the responsibility of accounting for all moneys received, the utilization thereof and the use and care of the property of the Agency.
- (2) The accounting officer shall cause such records of account to be kept as are necessary to represent fairly the state of affairs and business of the Agency and to explain the transactions and financial position of the Agency.

[section 14 amended by Act 13 of 2004 to replace “executive officer” with “chief executive officer”]

15. Auditing, furnishing of information and annual reports

- (1) The Auditor-General shall audit the books of account, accounting statements and annual financial statements of the Agency and shall submit a copy of his or her report on the audit of those statements to the Agency.
- (2) The Agency shall furnish the Minister with such information as the Minister may call for from time to time in connection with the activities and financial position of the Agency and shall as soon as practicable after the end of each financial year submit to the Minister in respect of that financial year, copies of -
 - (a) the audited balance sheet and profit and loss accounts and the report of the Auditor-General; and
 - (b) a report by the Agency on its activities during that financial year.
- (3) The financial statements and reports submitted to the Minister in terms of subsection (1), shall be laid on the Table of the National Assembly by the Minister within 14 days after receipt thereof, if Parliament is then in ordinary session, or, if Parliament is not then in ordinary session, within 14 days after the commencement of its next ordinary session.

16. Exemptions

Notwithstanding anything to the contrary contained in any law -

- (a) the income of the Agency, shall be exempt from income tax;
- (b) no transfer duty, office fee or other moneys shall be payable in respect of the acquisition of immovable property by the Agency.

17. Limitation of liability

No member or any person in the employment of the Agency shall be liable in respect of anything done in good faith and not attributable to negligence in the exercise or performance of a power or duty in terms of this Act.

18. Liquidation of Agency

The Agency shall not be wound up except by or under the authority of an Act of Parliament.

19. Prohibition on use of certain names

No person shall carry on business, and no company shall be registered under the Companies Act, 1973 (Act 61 of 1973), or any other law, under a name which is identical with the name of the Agency or which corresponds in such a manner therewith that it could be misleading, or which includes the word "press" or "news" or any derivative thereof, in conjunction with the word "National", "Namibia", "Namibian", "State" or "Agency", or any derivative thereof.

[The Companies Act 61 of 1973 has been replaced by the Companies Act 28 of 2004.]

20. Short title

This Act shall be called the Namibia Press Agency Act, 1992.