

Namibia

National Planning Commission Act, 2013

Act 2 of 2013

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Republic of Namibia
Annotated Statutes

National Planning Commission Act, 2013

Act 2 of 2013

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ACT

To provide for the constitution, objectives, powers, functions and personnel of the National Planning Commission and for matters incidental thereto.

BE IT ENACTED as passed by the Parliament, and assented to by the President, of the Republic of Namibia, as follows:

1. Definitions

In this Act, unless the context otherwise indicates -

“**Commission**” means the National Planning Commission referred to in Article 129 of the Namibian Constitution;

“**committee**” means an advisory committee established under section 7;

“**Director-General**” means the Director-General of Planning appointed by the President in terms of Article 32(3)(i)(dd) of the Namibian Constitution;

“**establishment**” means the posts created for the normal and regular permanent requirements of the Commission;

“**financial year**” means the period from 1 April in any year to 31 March in the ensuing year;

“**member**” means a member of the Commission appointed in terms of section 2(1)(b); and

“**staff member**” means any person employed in a post on or additional to the establishment whether employed permanently or temporarily on a full-time or part-time basis or under a special contract or under any contract of employment, contemplated in section 13(4) of this Act, in a post on the establishment or additional to the establishment of the Commission, and includes the Permanent Secretary of the National Planning Commission.

2. Constitution of National Planning Commission

- (1) The Commission consists of -
 - (a) a Director-General, appointed by the President in terms of Article 32(3)(i)(dd), who is the head of the Commission; and
 - (b) such members, not numbering less than 15 and not more than 19, appointed by the President, after consultation with the Director-General, and having expertise or experience in the field of economics, social sciences, political sciences, environment, law or other areas relevant to the objectives of the Commission.
- (2) Subject to section 6, a member referred to in subsection (1)(b), holds office for a term of three years and is on the expiry of his or her term of office eligible for reappointment.
- (3) The President must by Proclamation in the Gazette announce the name of every person appointed as member, together with the date from which the appointment takes effect and the period for which such appointment has been made.

3. Application of laws governing Public Service to Commission

The laws governing the Public Service are, to the extent that they are not in conflict with this Act, applicable to the staff members of the Commission.

4. Objectives

The objectives of the Commission are to -

- (a) spearhead the identification of Namibia's socio-economic development priorities;
- (b) formulate short-term, medium-term and long-term national development plans in consultation with regional councils;
- (c) develop monitoring and evaluation mechanisms to ensure effective implementation of the national development plans;
- (d) evaluate the effectiveness of Government socio-economic policies;
- (e) coordinate the development of government socio-economic policies to ensure consistency; and
- (f) mobilise, manage and coordinate international development cooperation.

5. Disqualification for appointment as member

A person is not eligible for appointment as a member if he or she -

- (a) is not a Namibian citizen and resident in Namibia or the holder of a permanent residence permit issued under the laws relating to immigration;
- (b) has been convicted of an offence for which a sentence of imprisonment without the option of a fine has been imposed;
- (c) is an un-rehabilitated insolvent;
- (d) has been convicted of theft, fraud, forgery or uttering a forged document, perjury or any other offence involving dishonesty;
- (e) has been removed from an office of trust on account of misconduct involving dishonesty; or
- (f) is, under any law, certified as mentally ill.

6. Vacation of office and filling of vacancies

- (1) The office of a member becomes vacant if he or she -
 - (a) has become subject to any disqualification referred to in section 5;
 - (b) resigns as a member by giving not less than 30 day's written notice to the President;
 - (c) is absent from three consecutive Commission meetings, without the permission of the Director-General; or
 - (d) is removed from office under subsection (2).
- (2) The President may remove a member from office on account that the President has reasonable cause to doubt the member's ability to effectively discharge the functions of the Commission, due to -
 - (a) such member's physical or mental infirmity or continued ill health; or
 - (b) any other valid reason.
- (3) Where a member of the Commission for any reason ceases to hold office before the expiry of his or her term of office the President may, having regard to section 2(1)(b) and section 5, as soon as reasonably possible, after having been notified by the Director-General of such vacancy, appoint a person to fill that vacancy for the remainder of the term of office of that member.

7. Advisory committees

- (1) The Commission may in its discretion establish one or more advisory committees to -
 - (a) advise the Commission on any matter, which the Commission refers to such committee; and
 - (b) exercise any of the powers or perform any of the functions of the Commission, which the Commission delegates or assigns to such committee.
- (2) A committee established under subsection (1) -
 - (a) may consist of two or more members and such other persons, nominated by the Commission and appointed by the Director-General to serve as members of such committee for its duration;
 - (b) must be chaired by one of the members referred to in paragraph (a); and
 - (c) may, at any time, be dissolved or reconstituted by the Commission.

8. Disclosure of interest by members and members of advisory committees

- (1) A member or a member of a committee must at all times act in the interest of the Commission and may not -
 - (a) take part in any consideration or discussion of;
 - (b) exercise a vote on; or
 - (c) lobby any other member or member of such committee in respect of, or discuss with a member or member of such committee,

a matter before the Commission or a committee, in which the member or member of such committee, or his or her spouse, including a spouse in a customary union, child or any other member of his or her household, or his or her partner, agent or business associate, has a material interest.

- (2) If during the course of any deliberations held by the Commission or by a committee, it occurs or appears that a member or a member of such committee or the spouse of such member or member of such committee, including a spouse in a customary union, child or any other member of his or her household, or his or her partner, agent or business associate, has a material interest in the matter being discussed, such member or such member of such committee must as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature and particulars of such interest at that meeting, and such disclosure must be recorded in the minutes of that meeting.
- (3) A member or a member of a committee who has made a disclosure contemplated in subsection (2) may not further attend that meeting nor participate in any deliberations or voting of the Commission or participate in any deliberations of that committee, as the case may be, in relation to the matter, except if the Commission or that committee determines otherwise, and subject to any conditions the Commission or that committee may determine.
- (4) Any member or member of a committee who refuses or knowingly fails to disclose a material interest, as contemplated in this section, commits an offence and is liable on conviction to a fine not exceeding N\$20 000 or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment.

9. Remuneration and allowances of members and members of advisory committees

- (1) A member and a member of a committee who is not in the full-time employment of the State is entitled to such remuneration, benefits, privileges and allowances, including allowances for the reimbursement of travelling and subsistence expenses incurred in connection with the performance of his or her functions under this Act, as the Director-General with the concurrence of the Minister of Finance, may determine.
- (2) The remuneration, benefits privileges or allowances determined for members under subsection (1) may differ according to different functions performed by the members.

[A comma appears to be missing after the word “benefits”.]

- (3) Any remuneration, benefit or allowance which may become payable under this section or section 13(4) must be paid from moneys appropriated by Parliament for that purpose.

10. Meetings and decisions of Commissions

[The word “Commissions” in the heading of this section is plural although the section refers to a single Commission.]

- (1) The majority of all members form a quorum at a meeting of the Commission.
- (2) The Commission must hold meetings as often as the business of the Commission requires, but it must meet at least four times during each financial year, and may make rules governing the manner in which its meetings are held and the procedures to be followed at its meetings.
- (3) A decision of the majority of the members present at a meeting constitutes the decision of the Commission and in the event of an equality of votes, the Chairperson has a casting vote in addition to his or her deliberative vote.
- (4) The Commission must cause proper minutes of the proceedings of its meetings to be kept.
- (5) The Commission may invite any interested person whom it considers necessary to attend meetings of the Commission, but such person may not vote.

11. Appointment, tenure of office and termination of appointment of Director-General

- (1) The appointment of the Director-General in pursuance of the provisions of Article 129 of the Namibian Constitution is, subject to subsection (3), on such terms and conditions as the President may determine.

- (2) The Director-General, appointed as contemplated in subsection (1), must possess such qualifications and professional experience as the President may consider necessary.
- (3) The Director-General is appointed for a term of five years and is, on the expiry of his or her term of office, eligible for reappointment.
- (4) The appointment of the Director-General, subject to subsection (5), terminates if he or she -
 - (a) is removed from office, in accordance with the provisions of that subsection; or
 - (b) resigns from his or her office by giving not less than three months written notice of such resignation to the President.
- (5) The Director-General may be removed from office by the President on account of -
 - (a) loss of confidence in the ability to carry out the functions as head of the Commission;
 - (b) incapacitation by physical or mental illness, or continued ill health; or
 - (c) incapability or unfitness to properly, efficiently and effectively discharge the functions of the Director-General.
- (6) Where for any reason other than a temporary incapacity, the office of Director-General becomes vacant before the expiration of the term for which he or she was appointed, the President must appoint another person as Director-General to fill the vacancy for the unexpired portion of the term of office.

12. Powers and functions of Director-General

- (1) The Director-General is the head of the Commission and the principal advisor to the President in regard to all matters pertaining to economic planning.
- (2) The Director-General presides over meetings of the Commission and must carry out such functions and duties conferred or imposed upon him or her by or under this Act or any other law.
- (3) Without prejudice to the generality of subsection (2), the Director-General must -
 - (a) table the short-term, medium-term and long-term development plans for Cabinet's approval;
 - (b) appraise Cabinet at regular intervals, which intervals may not be more than six months, on the progress being made with regard to the implementation of the national development plans and, where necessary, to suggest corrective measures to ensure full implementation of national development plans;
 - (c) appraise annually, but not later than six months before the end of each financial year, the Ministry of Finance on the status of the economy and the possible macro-economic interventions as input in the preparation of the budget;
 - (d) make recommendations in connection with proposed capital and development projects and programmes and related and consequential expenditure to the Minister of Finance for purposes of the preparation of the annual budget, and, in consultation with the Minister of Finance, supervise the application on monies appropriated for such capital and development projects and programmes and related and consequential expenditure;
 - (e) brief the Prime Minister for Parliamentary debates on economic planning and national development issues laid before the National Assembly and National Council;
 - (f) liaise with the private sector and organised labour and civil society organisations with the view to promote partnership in the pursuance of the Commission's objectives;
 - (g) supervise over and direct the work and staff of the Commission; and
 - (h) request any relevant information from any office, ministry and agency of the Government which is necessary to fulfil the mandate of the Commission.

13. Permanent Secretary and other staff members of Commission

- (1) The Permanent Secretary: National Planning Commission appointed under section 3(3) of the Public Service Act, 1995 (Act No. 13 of 1995), acts as secretary of the Commission and of each committee, and must have the requisite qualifications and professional experience relevant to the functions of the Commission.
- (2) The Permanent Secretary referred to in subsection (1) is, in the performance of his or her functions under this Act, assisted by staff members of the Commission.
- (3) Whenever the Permanent Secretary is unable to act as secretary of the Commission or a committee, the Permanent Secretary may designate a person to act as secretary in his or her place.
- (4) The Director-General may, for the purposes of the functions of the Commission obtain the services of any person other than a staff member referred to in subsection (2), on such conditions as may be determined by agreement with such person.

14. Performance management and discipline of staff members

Despite the provisions of the Public Service Act, 1995 (Act No. 13 of 1995), the performance management and discipline of the staff members of the Commission are deemed to vest with the Director-General, who in turn may delegate such powers and duties to the Permanent Secretary.

15. Annual Report

- (1) The Director-General must as soon as practicable after the end of each financial year, but not later than 30 June of each year, compile a report on the Commission's activities during the preceding year for approval by the Commission and such report must contain a report on regional activities for that financial year.
- (2) The Prime Minister must cause a copy of the approved annual report to be laid on the Table of the National Assembly and the National Council.

16. Repeal of law, savings and transitional provision

- (1) The National Planning Commission Act, 1994 (Act No. 15 of 1994) is hereby repealed.
- (2) Anything done or any appointment made under any provision of the repealed National Planning Commission Act, 1994 (Act No. 15 of 1994), and which could be done or made under a corresponding provision of this Act is deemed to have been done or made under this Act, and all liabilities, rights and obligations vested in, accruing to or enforceable against the Commission under the repealed Act continues to be of force against or in favour of the Commission under this Act.

[The verb “continues” should be “continue” to be grammatically correct.]

- (3) Unless the context indicates otherwise, any reference in any law to the National Planning Commission Act, 1994 (Act No. 15 of 1994), is deemed to be a reference to this Act, and any reference to the Commission constituted under that Act is deemed to be a reference to the Commission constituted under section 2 of this Act.

17. Short title

This Act is called the National Planning Commission Act, 2013.