

Namibia

Research, Science and Technology Act, 2004

## Research, Science and Technology Regulations, 2011

Government Notice 208 of 2011

Legislation as at 15 November 2017

FRBR URI: /akn/na/act/gn/2011/208/eng@2017-11-15

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PDF created on 18 April 2024 at 11:02.

*Collection last checked for updates: 15 November 2017.*

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Republic of Namibia  
Annotated Statutes

Research, Science and Technology Act, 2004

# Research, Science and Technology Regulations, 2011

## Government Notice 208 of 2011

[Published in Government Gazette 4828 on 11 November 2011](#)

Commenced on 11 November 2011

[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 NamibLII.]

as amended by

[Government Notice 66 of 2016 \(GG 5990\)](#) came into force on date of publication: 15 April 2016

[[GN 66/2016](#) deletes the term of the expression “Namibian based researcher” throughout. This direction has been applied to also remove this term where it appears with a hyphen (“Namibian-based researcher”) and where either term appears in the plural. It has not been applied to remove the word “Namibian-based researcher where they appear as part of the phrase “non Namibian-based researcher”.]

## Part 1 – PRELIMINARY AND FUNCTIONS OF COMMISSION

### 1. Definitions

- (1) In these regulations, unless the context otherwise indicates, a word or expression defined in the Act has the same meaning, and -

“**based in Namibia**” means a research institute or researcher who is physically stationed in Namibia;

“**cultural research**” means any endeavour, by means of critical investigation, analysis or study of a subject, to discover new, or collate old, facts or hypotheses on a cultural subject and includes any ethnographic or anthropological study, inclusive of basic data collection, studies of, or incorporating, traditional knowledge or classification systems, including but not limited to, studies of medicinal properties of plants, documentary films, archaeology, linguistics and ethno-historical accounts;

“**Government institution**” means any ministry, department, division, office or agency of State and includes all state-owned enterprises as defined in section 1 of the State-owned Enterprises Governance Act, 2006 (Act [No. 2 of 2006](#));

“**incident**” means an occurrence, or series of occurrences having the same origin, arising from research which causes or threatens to cause damage, injury or loss to life, property, biodiversity, the environment or any resources, subject to that in the event of a series of occurrences the occurrence is deemed to have occurred on the date of the first of such occurrences;

“**innovation**” means a new combination, new process, new idea brought to the market or approach which involves scientific, technological, organisational or commercial activities;

“**invention**” means any new discovery or improvement in respect of any process, apparatus or machine arising from research or from any other source;

“**Namibian-based researcher**” means a researcher based in Namibia;

**[GN 66/2016 directs that the term “Namibian based researcher” be removed throughout. If applied to this definition, the result would be absurd, but that directive makes this definition irrelevant.]**

“**Namibian-based research institute**” means a research institute, as contemplated in section 20(1) of the Act, based in Namibia;

“**non Namibian-based researcher**” means a researcher not based in Namibia;

“**non Namibian-based research institute**” means a research institute, as contemplated in section 21(1) of the Act, not based in Namibia;

“**products of research**” means publications, including, but not limited to, reports, studies, articles, theses, manuscripts, sound recordings, film and video, media interviews and computer databases, field notes, illustrations, photographs, sound recordings, collected material artefacts, replicas and samples, including all derivative forms they may take such as translations, and communications through the electronic media, including the internet and world wide web;

“**research certificate**” means a certificate issued by the Commission in terms of regulation 16 authorising research in Namibia;

“**researcher**” means a natural person not attached to, or forming part of, a research institute, whether in the public or private sector, practicing research, science, technology, innovation or invention as part of such person’s activities whether such person acts on his or her own or as part of a group;

“**research permit**” means a permit issued by the Commission in terms of regulation 22 authorising research in Namibia;

“**sample**” means an object or thing, or group or collection of objects or things, whether living or non-living and irrespective of origin or age, or whether in situ in its natural environment or not, that -

- (a) may carry any information including, but not limited to, archaeological, historical, medicinal information; or
  - (b) yields or may yield information to research,
- and is collected as part of, or for purposes of, research; and

“**the Act**” means the Research, Science and Technology Act, 2004 (Act [No. 23 of 2004](#)).

## 2. Services to be provided by Commission

- (1) Subject to the approval of the Minister the Commission established in terms of section 4 of the Act-
  - (a) must, set the criteria to determine whether or not a research institute or researcher is based in Namibia; and
  - (b) may, from time to time, revise and amend that criteria.
- (2) The Commission must give notice of these criteria in accordance with regulation 32.

- (3) The Commission may provide, services against payment as provided for in this regulations where the payment is considered appropriate by the Commission and if negotiated by the Commission, or against non payment, but not limited to -
- (a) services contemplated in section 5(2)(a) and (b) of the Act;
  - (b) the provision of advice and services related, but not limited, to research, science, technology, innovation and invention needs, challenges and opportunities in Namibia and amongst the Namibian people, commissioned research and the compilation of publications, reports, journals or any other type of document;
  - (c) the examination of anything and pronouncing itself and providing comments, opinions, recommendations;
  - (d) providing advertising and information on any person or body in its publication material, on its website or by any other means;
  - (e) the rendering of support relevant to its functions to any person or body whether inside or outside Namibia provided that such support falls outside the Commission's duties;
  - (f) the undertaking of any studies or research related to the fields of research, science technology, innovation and invention;
  - (g) where approved by the Minister, making available research, science, technological, innovation and invention and other expertise and experience in the Commission's possession; and
  - (h) such other services as the Commission may identify.
- (4) The Commission may obtain an interest or right in a project, enterprise or body corporate relating to research, science, technology, innovation or invention for the benefit of the Commission, subject to that such interest may not create a conflict of interest or impede upon its integrity or impartiality as regards its functions, duties and obligations.
- (5) For the purposes of rendering services, the Commission may negotiate and enter into a contract which formalises its relationship to the other party or parties involved in such services or interest.

### 3. Charges by Commission

- (1) The Commission may, in respect of any service rendered by it as contemplated in regulation 2, charge-
- (a) an hourly or daily tariff;
  - (b) a percentage fee based on the value of the project to which the service relates or other basis as may be agreed upon;
  - (c) a fixed amount; or
  - (d) other charges as the Commission, considers necessary or agree upon with the receiver of the relevant services after approval from the Minister in general or for a specific instance,
- [The comma at the end of paragraph (d) should be a full stop.]**
- (2) The Commission may charge such fees as set out in Annexure A for the issuing of a replacement research certificate, research permit or any other document issued by it that is damaged, lost or needs replacement for any other reason.

#### **4. Requirements relating to national programme**

- (1) The Commission may include in the national programme, provided for in section 18 of the Act-
  - (a) the position of innovation and invention in Namibia and section 18(1) of the Act applies with the necessary changes as regards the information to be supplied on innovation and invention;
  - (b) an evaluation of the needs of research, science, technology, innovation and invention in Namibia;
  - (c) all obligations incurred or commitments made by Namibia in terms of or under national, regional or international instrument, agreement or other arrangement;
  - (d) the need for standardisation in research, science, technology, innovation and invention;
  - (e) an indication of the monetary needs in Namibia for research, science, technology, innovation and invention and the manner in which this should be included in the various Ministerial budgets for the national appropriation budget and the prioritisation of such funding needs, including how contributions can be obtained from the private sector;
  - (f) proposals on how research, science, technology, innovation and invention can be promoted, expedited and coordinated in Namibia with specific emphasis on private sector participation; or
  - (g) any other information determined by the Commission.

#### **5. Promotion and prioritisation of research, science, technology, innovation and invention**

- (1) The Commission must aim at-
  - (a) enhancing interaction, cooperation and collaboration between-
    - (i) Namibian research institutes and researchers; and
    - (ii) Namibian and foreign research institutes and researchers;
  - (b) providing opportunities for the exchange of knowledge, technical expertise and experience; and
  - (c) enhancing interaction and the exchange of knowledge between the producers and users of research, science, technology, innovation and invention.
- (2) The Commission must promote research activities in Namibia so that the results can further Namibia's development and ensure that Namibia and Namibians receive or share in the benefits of such research.
- (3) The Commission must encourage and promote the development of research, science, technology, innovation and invention within the Namibian industry and commerce, including the creation of research, science, technology, innovation and invention divisions within industrial and commercial entities.

### **Part 2 – COUNCILS**

#### **6. Establishment of Councils**

- (1) The Commission may, at a meeting of the Commission, establish one or more councils under section 19(1) of the Act.



- (2) The Commission must, when establishing a council determine-
  - (a) the name of the council;
  - (b) the objects and functions of the council;
  - (c) the number of members of the council, at the discretion of the Commission, which may not be less than three and of whom one must be a commissioner;
  - (d) the qualifications and disqualifications for membership to the council;
  - (e) the manner in which members are to be nominated and elected which could include but are not limited to-
    - (i) inviting the public to nominate persons with qualifications or expertise relevant to the objectives and functions of the council;
    - (ii) requesting nominations from specific institutions or bodies operating in fields relevant to the objectives and functions of the council; and
    - (iii) selecting persons who are already elected as members or directors of an existing council, board, committee, agency or other body within the field of research, science, technology, innovation and invention;
  - (f) the appointment of a chairperson and vice-chairperson;
  - (g) the times and places for holding of council meeting
  - (h) the manner in which minutes must be taken and kept;
  - (i) the quorum for a council;
  - (j) the voting proceedings;
  - (k) the term of office of appointment and conditions of appointment, if any which may not be shorter than one year and not longer than four years; and
  - (l) the manner of resignation, removal and vacation of office of council members and the filling of vacancies in a council.
- (3) The Commission's decision with regards to the matters set out in subregulation (2) can be taken either specifically for a specific council or can be taken generally for more than one or all councils.
- (4) The Commission must oversee and ensure that the council pursues its objects and performs its functions, and the Commission exercises overall control over the performance by the council of its function.
- (5) The Commission may dissolve a council at any time where the council is mismanaged, serves no useful purpose or on any other reasonable grounds.
- (6) A member of a council may receive remuneration and allowances from money in the Fund as the Minister in consultation with the Minister of Finance decide, which decision may be taken-
  - (a) in general for all council members;
  - (b) in general for all category of council members; or
  - (c) regarding council members individually.
- (7) Unless persons are appointed or designated to do the work of a council, such work is to be done by the staff of the Commission.

## 7. Meetings and procedures of councils

- (1) Subject to regulation 6, the first meeting of a council is held at a place, date and time determined by the Commission and after that as determined by the chairperson of the council.
- (2) A council must meet-
  - (a) at least once a year;
  - (b) when so determined by the Commission or the chairperson of the council; or
  - (c) when so requested by at least one third of the members of the council.
- (3) Members of a council must be notified in writing at least two days prior to the date of the meeting and the notification must be accompanied by a proposed agenda for the meeting.
- (4) As determined by the Commission under regulation 6(2)-
  - (a) a quorum for a council meeting is half of its members; and
  - (b) a council decision is taken by a resolution of a simple majority of the council members present at a council meeting and in the event of an equality of votes the council's chairperson has a casting vote.
- (5) A council member may not vote or participate in a matter at a council meeting which the member has an interest in.
- (6) The Commission may authorise a council to establish an executive committee and decide on the functions and powers of that committee.
- (7) A decision taken by a council or an act performed under the authority of council may not be invalidated only by reason of-
  - (a) a vacancy in the council; or
  - (b) the fact that a person who is not entitled to sit as a member of a council sat as 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 requisite majority of the members who were present at the time and entitled to sit as members.

## 8. Funding of councils

- (1) The Commission is responsible for accounting for all money assigned towards the functions of a council from the Fund or from any other source, subject to that the Commission may delegate this responsibility to the chief executive officer of a council.
- (2) Every council must not later than 31 January of every year, or such other date as the Commission may determine, provide the Commission with a budget containing its expected expenditures for the ensuing financial year in the format required by the Commission.

## Part 3 – REGULATION OF RESEARCH AND RELATED ACTIVITIES

### 9. General provisions relating to regulation of research

- (1) The Commission is the coordinating body for all research conducted in Namibia.
- (2) A researcher who belongs to a research institute where the research institute applies for and holds a research certificate or research permit can operate under that certificate or permit if authorised to carry out that research by that certificate or permit.

- (3) Where the research institute does not receive a research certificate or research permit or the Commission has not authorised the researcher to operate under that certificate or permit the researcher must himself or herself apply for a research certificate or research permit.

## 10. Complaints

- (1) A person may lodge a written complaint with the Commission regarding the conduct of a research institute or researcher, whether or not such research is registered under these regulations, and the Commission must deal with the complaint under the circumstances.
- (2) For the purposes of this regulation, the Commission may determine the format and procedure in which such complaint must be submitted to and dealt with by the Commission.

## 11. Changes and additions to prescribed forms by Commission

Where a form is prescribed by these regulations, the Commission may-

- (a) make changes to the format of the form which may not change the contents of the form to facilitate the completion by prospective researcher or research institute; and
- (b) make provision for any additional information which the Commission may require from applicants.

## 12. Research certificates and research permits not transferable

A research certificate or research permit issued under these regulations may not be transferable.

## 13. Conditions of certain research and research sample taking

- (1) The following research is to be undertaken in terms of section 21 of the Act:
  - (a) research relating to the facilitation or promotion of biological warfare;
  - (b) research which involves the dumping or disposal of hazardous waste, including toxic waste which does not comply with the principles of the Basel Convention on the Control of Transboundary Movements of Hazardous Waste adopted in March 1989; and
  - (c) research determined by the Commission in consultation with the Minister.
- (2) In terms of section 22(3) of the Act authority must be given by the Commission in order to collect or remove the following samples from Namibia-
  - (a) samples for the purposes of research stipulated in subregulation (1);
  - (b) samples containing any micro-organism which are not specifically authorised to collect or remove such micro-organism;
  - (c) such samples as may be determined by the Commission in consultation with the Minister.

## 14. Nature of research institutes and researchers

- (1) Research institutes and researchers are divided into-
  - (a) Namibian-based research institutes and; and

**[The word “Namibian” is misspelt in the phrase “Namibian-based research institutes”, as reproduced above. The removal of the term “Namibian-based researcher” as directed by GN 66/2016 leaves a superfluous word “and”.]**

- (b) non Namibian-based research institutes and non Namibian-based researchers.

- (2) For purposes of these regulations, the Commission may in accordance with section 18 of the Act develop guidelines regarding-
  - (a) the distinction between research institutes and researchers; and
  - (b) the criteria for qualification as a research institute or a researcher.
- (3) Cooperation, attachment, participation, assistance or other forms of collaboration may exist between research institutes and researchers and amongst themselves referred to as a research partner and in such instance an applicant for a research certificate or research permit must decide whether or not to apply in the applicant's name or under the name of the research partner and must clearly set out in the registration form the relationship between the applicant and the research partner.
- (4) In an application relating to subregulation (3), the Commission has the discretion to decide and direct as to the name the applicant can use.

## 15. General provisions relating to fees

- (1) Fees paid under these Regulations are not refundable unless wrongly imposed or paid erroneously.
- (2) In terms of section 20(4) of the Act, a research institute in the Namibian public sector is exempted from the payment of application and registration fees.
- (3) The Commission may under special circumstances, where there is good reason, waive, or discount, any fee payable under these Regulations.

## Part 4 – NAMIBIAN-BASED RESEARCH INSTITUTES AND

[The removal of the term “Namibian-based researcher” as directed by GN 66/2016 leaves a superfluous word “and”.]

## 16. Application for registration of a Namibian-based research institute or a

[The removal of the term “Namibian-based researcher” as directed by GN 66/2016 leaves the superfluous words “or a”.]

- (1) A Namibian-based research institute or a, desiring to conduct research in Namibia must, prior to commencing such research, apply for registration by duly completing Form RST/1 as set out in Annexure b and must lodge such application with the Commission together with such other documents or records as may be required by or under these Regulations.

[The removal of the term “Namibian-based researcher” as directed by GN 66/2016 leaves the superfluous words “or a”.]

- (2) An application for registration as a Namibian-based research institute or a must be accompanied by-

[The removal of the term “Namibian-based researcher” as directed by GN 66/2016 leaves the superfluous words “or a”.]

- (a) a certified copy of the applicant's identity document if the applicant is a natural person; and
- (b) in the case of a non-Namibian citizen-
  - (i) a permanent residence permit;
  - (ii) an employment permit;
  - (ii) a student permit; or

[Please note: numbering as in original.]

- (iv) any other relevant authorisation, authorising such researcher to work or train in Namibia together with proof of residence in Namibia, where it is available at the time that the application is submitted;
  - (b) where the applicant is a body corporate, a certified copy of its registration documents;
  - (c) where the applicant is an unincorporated body, the name of the project leader or principal and the requirements as set out in subparagraph (a) applies with the necessary changes;
  - (d) the appropriate application fee imposed by Annexure A; or
  - (e) such other information as the Commission may specify on Form RST/1.
- (3) After receiving an application the Commission may request-
- (a) further information which the Commission considers relevant from the applicant, any Government institution, an agency, body or person;
  - (b) the applicant to make changes to the submitted research proposal as considered necessary by the Commission; or
  - (c) the applicant to obtain comments from any Government institution or other agency, body or person relevant to the area of research and to provide the Commission with such comments.
- (4) A researcher based in Namibia must obtain any other permission required from any other body in Namibia and comply with any obligations imposed on the research by any other body or law in Namibia.
- (5) After consideration of an application the Commission may where the Commission is satisfied that the research institute or researcher complies with the requirements, the Commission must register the research institute or researcher and issue, upon payment by the Namibian-based research institute or of the relevant registration fee in Annexure A, a research certificate in the form of Form RST/2.
- [The removal of the term “Namibian-based researcher” as directed by GN 66/2016 leaves the superfluous word “or”.]**
- (6) Where an applicant fails to or cannot provide all required information the Commission may-
- (a) refuse to grant the certificate and give that applicant 14 days in which to appeal against the decision to the Minister;
  - (b) provisionally grant a temporary research certificate and the research certificate must be issued once all the required information has been submitted.
- (7) A research certificate may, within the discretion of the Commission-
- (a) authorise a specific type of research or more than one type of research; and
  - (b) specify specific research or types of research prohibited to be undertaken.
- (8) Where the application has been refused the applicant has 14 days to appeal to the Minister.

## 17. Duration and renewal of research certificates

- (1) A research certificate is issued for such period as may be determined by the Commission.
- (2) A research certificate is valid for the period specified in the certificate but may be renewed by the Commission upon written application submitted, to the Commission at least 60 days prior to its expiration, for such further periods, including an indefinite period, at the discretion of the Commission.

- (3) When applying for the renewal of a research certificate, the applicant must provide reasons for such renewal and submit together with the renewal application, the format of which the Commission may determine, the following documents-
  - (a) progress report;
  - (b) schedule of work for the period of which the renewal is sought; and
  - (c) any other information considered necessary by the Commission.

## 18. Changes to research conducted under a research certificate

- (1) If a Namibian-based research institute or a desires to make changes to a research project after being issued with a research certificate, the proposed changes must be submitted to the Commission together with such information as the Commission may require.

[The removal of the term “Namibian-based researcher” as directed by [GN 66/2016](#) leaves the superfluous words “or a”.]

- (2) The Commission must review a submission received under subregulation (1) and may, within the discretion of the Commission in terms of section 21 of the Act, approve or refuse such changes and where changes are approved, the relevant research certificate may be amended.
- (3) The Namibian-based research institute or may not implement changes until the Commission has approved such changes and, where necessary, amended the research certificate.

[The removal of the term “Namibian-based researcher” as directed by [GN 66/2016](#) leaves the superfluous word “or”.]

## 19. Requirements applicable to a Namibian-based research institute and a applying for registration

[The removal of the term “Namibian-based researcher” as directed by [GN 66/2016](#) leaves the superfluous words “and a”.]

A Namibian-based research institute or applying for a research certificate in order to qualify for registration must comply with the following:

[The removal of the term “Namibian-based researcher” as directed by [GN 66/2016](#) leaves the superfluous word “or”.]

- (a) compliance with regulation 16;
- (b) the purpose, goal or result of the research must be beneficial to Namibia; and
- (c) the applicant’s past conduct must not provide reasonable grounds for the Commission to believe that the activities to be conducted, once a research certificate has been issued for research, will not be conducted in accordance with these regulations.

## 20. Conditions applicable to Namibian-based research institutes and

[The removal of the term “Namibian-based researcher” as directed by GN 66/2016 leaves the superfluous word “and”.]

- (1) The following conditions are applicable to Namibian-based research institutes and registered to conduct research in Namibia and they must ensure that:

[The removal of the term “Namibian-based researchers” as directed by GN 66/2016 leaves the superfluous word “and”.]

- (a) public health, biological diversity and the environment are appropriately protected and, unless otherwise determined by the Commission, not negatively impacted upon by the research;
- (b) they comply with the Act, these regulations and all other applicable laws;
- (c) they notify the Commission of any incident occurring at any time during the research and the Commission may, for the purposes of this condition, determine the form and procedures applicable to such notification;
- (d) unauthorised research may not be undertaken;
- (e) at such intervals and in such format as determined by the Commission, report to the Commission on research conducted and on the findings, outcomes and results of such research;
- (f) they have the research certificate available at the research institute’s or researcher’s place of business at all times, in the event of field research being undertaken or there being no place of business, must have the research certificate or a certified copy in their possession;
- (g) in the event of samples being taken as part of such research, regulations 29 pertaining to sample taking must be complied with; and
- (h) where a is not a Namibian citizen, the Commission may require that a Namibian understudy be involved in the research in the manner determined by the Commission.

[The removal of the term “Namibian-based researcher” as directed by GN 66/2016 leaves an absurdity here. The original paragraph stated:

“(h) where a Namibian-based researcher is not a Namibian citizen, the Commission may require that a Namibian understudy be involved in the research in the manner determined by the Commission.”]

- (2) The Commission may give special conditions to a research certificate as it considers appropriate.

## 21. Cancellation of research certificate of Namibian-based research institute or

[The removal of the term “Namibian-based researcher” as directed by GN 66/2016 leaves the superfluous word “or”.]

- (1) The research certificate of a Namibian-based research institute or may be cancelled in the event-

[The removal of the term “Namibian-based researcher” as directed by GN 66/2016 leaves the superfluous word “or”.]

- (a) where the institute or researcher submitted false or incorrect information to the Commission knowing such information to be false or incorrect;

- (b) that the institute or researcher fails or failed to comply with the Act, these Regulations or a condition of the research certificate;
- (c) that the institute or researcher has been issued with a research certificate wrongly;
- (d) that the institute or researcher fails to commence with research within a period of 12 months after the issue of the research certificate;
- (e) in the event that the research has commenced the institute or researcher fails, without the permission of the Commission, to conduct research for a consecutive period of twelve months;
- (e) where the institute or researcher is banned under regulation 31;
- (f) where there is good reason for the Commission to cancel such research certificate; or
- (g) that the institute or researcher gives written notice to the Commission of the discontinuance of research activities and wishes to have the research certificate cancelled.

**[There are two paragraphs labelled “(e)”. The last three paragraphs in subregulation (1) should be (f), (g) and (h).]**

- (2) The Commission may not cancel a research certificate under subregulation (1) unless-
  - (a) it has by written notice informed the Namibian-based research institute or of its intention to cancel the research certificate-

**[The removal of the term “Namibian-based researcher” as directed by [GN 66/2016](#) leaves the superfluous word “or”.]**

- (i) setting out the reasons for the Commission’s intention to cancel the research certificate; and
    - (ii) calling upon the research institute or researcher to make such representations to the Commission within a period of 14 days or such longer period as the Commission may determine after the date of such notice;
  - (b) it has taken into account-
    - (i) any steps taken by the relevant institute or researcher to remedy the failure or contravention concerned or to prevent such failure or contravention from happening; and
    - (ii) any other matters submitted to the Commission by way of the representations made under paragraph (a) or required by the Commission.
- (3) A research certificate cancelled under this regulation has no effect.
- (4) Where a research certificate ceases to have effect-

- (a) the relevant Namibian-based research institute or must surrender the research certificate to the Commission within a period of 14 days from the date on which the Commission informed it that the research certificate ceased to have effect; and

**[The removal of the term “Namibian-based researcher” as directed by [GN 66/2016](#) leaves the superfluous word “or”.]**

- (b) the Commission must indicate on its register that such research certificate has been cancelled and that such institute or researcher has been removed from the register.



## **Part 5 – NON NAMIBIAN-BASED RESEARCH INSTITUTES AND NON NAMIBIAN-BASED RESEARCHERS**

### **22. Application for registration of a non Namibian-based research institute or a non Namibian-based researcher**

- (1) A non Namibian-based research institute or non Namibian-based researcher, desiring to conduct research in Namibia, must prior to commencing such research apply for a research permit by completing Form RST/3 as set out in Annexure B and must lodge such application with the Commission together with such other documents or records as may be required under these Regulations.
- (2) An application for registration as a non Namibian-based research institute or a non Namibian-based researcher must be accompanied by the following:
  - (a) a certified copy of the applicant's identity document where the applicant is a natural person;
  - (b) for a non-Namibian citizen-
    - (i) permanent residence permit;
    - (ii) employment permit;
    - (iii) student permit; or
    - (iv) any other relevant authorisation,  
authorising such researcher to work or train in Namibia where it is available at the time that the application is submitted;
  - (c) a certified copy of its registration documents where the applicant is a body corporate;
  - (d) the name of the project leader or principal if the applicant is an unincorporated body, and subparagraph (a) applies with the necessary changes regarding the information to be submitted;
  - (e) the appropriate application fee imposed by Annexure A;
  - (f) the manner in which such institute or researcher intends to involve a Namibian understudy in the research and any further particulars regarding such understudy; or
  - (g) such other information as the Commission may specify on Form RST/3.
- (3) The Commission may, when considering an application that has been submitted, request-
  - (a) further information which the Commission may consider relevant from the applicant, any Government institution, whether in Namibia or elsewhere, or any other agency, body or person;
  - (b) the applicant to make changes to the submitted research proposal if considered necessary by the Commission in terms of section 21 of the Act; or
  - (c) the applicant to obtain comments from Government institution, whether in Namibia or elsewhere, or other agency, body or person relevant to the area of research and provide the Commission with such comments.
- (4) A non Namibian-based research institute or a non Namibian-based researcher must obtain any other permission required from any other body in Namibia and comply with any obligations imposed on such research by any other body or law in Namibia.

- (5) After consideration of an application, where the Commission is satisfied that the non Namibian-based research institute or non Namibian-based researcher complies with the set conditions, the Commission may-
  - (a) register and issue to such research institute or researcher, upon payment of a registration fee stated in Annexure A, a research permit in the form of Form RST/4; or
  - (b) refuse the application together with its reasons for such refusal.
- (6) Where an applicant fails to or cannot provide all required information, the Commission may grant a provisional research permit subject to the research permit being issued once all the required information has been submitted.
- (7) A research permit may, within the discretion of the Commission-
  - (a) authorise a specific type of research or more than one type of research; and
  - (b) specify specific research or types of research prohibited to be undertaken.
- (9) Where the application has been refused the applicant has fourteen days to appeal to the Minister.

**[The subregulation above should be numbered as (8) instead of (9).]**

### **23. Duration and renewal of research permits**

- (1) A research permit is issued for a period as the Commission may consider necessary and may be issued indefinitely.
- (2) A research permit is valid for a specified period but it may be renewed by the Commission upon written application submitted, at least 60 days before its expiration, or any other period as the Commission considers necessary.
- (3) When applying for the renewal of a research permit, the applicant must provide reasons for such renewal and submit together with the renewal application, the format of which the Commission may determine the following documents:
  - (a) progress report;
  - (b) schedule of work for the period of which the renewal is sought;
  - (c) any other information the Commission considers necessary.

### **24. Changes to research conducted under a research permit**

- (1) Where a non Namibian-based research institute or non Namibian-based researcher desires to make changes to a research project after being issued with a research permit, the proposed changes must be submitted to the Commission together with information as the Commission may require.
- (2) The Commission must review a submission received under subregulation (1) and may, within the discretion of the Commission, approve or refuse such changes, subject to where changes are approved, the relevant research permit must be amended.
- (3) The non Namibian-based research institute or non Namibian-based researcher may not implement changes until the Commission has approved such changes and where necessary amend the research permit.

## 25. Requirements applicable to a non Namibian-based research institute and a non Namibian-based researcher applying for registration

The following requirements are applicable to a non Namibian-based research institute or a non Namibian-based researcher applying for a research permit in order to qualify for registration:

- (a) compliance with regulation 22;
- (b) the purpose, goal or result of the research must be beneficial to Namibia;
- (c) the applicant's past conduct may not provide reasonable grounds for the Commission to believe that the activities to be conducted, once a research permit has been issued for research, may not be conducted in accordance with these regulations, the Act and all other laws and in a safe and beneficial manner.

## 26. Conditions applicable to non Namibian-based research institutes and non Namibian-based researchers

- (1) The following conditions are applicable to non Namibian-based research institutes and non Namibian-based researchers registered to conduct research in Namibia -
  - (a) the non Namibian-based research institute or non Namibian-based researcher must ensure that public health, biological diversity and the environment are protected under such circumstances and unless otherwise determined by the Commission, not negatively impacted upon by its research;
  - (b) the non Namibian-based research institute or non Namibian-based researcher must comply with the Act, these regulations and all other applicable laws;
  - (c) the non Namibian-based research institute or non Namibian-based researcher must notify the Commission of any incident occurring at any time during the research and the Commission may, for the purposes of this condition, determine the form and procedures applicable to such notification;

**[The word "incident" is misspelt in the Government Gazette, as reproduced above.]**

- (d) unauthorised research may not be undertaken;
- (e) the non Namibian-based research institute or non Namibian-based researcher must at such intervals and in such format as determined by the Commission report to the Commission on research conducted and on the findings, outcomes and results of its research;
- (f) the non Namibian-based research institute or non Namibian-based researcher must have the research permit available at the research institute's or researcher's official place of business at all times and, in the event of field research being undertaken or there being no place of business, must have the research permit or a certified copy in their possession;
- (g) in the event of samples being taken as part of such research, regulations 29 must be complied with;

**[The word "regulations" in the phrase "regulations 29" should be singular to be grammatically correct.]**

- (h) the non Namibian-based research institute or non Namibian-based researcher must report to the Commission in person prior to commencing research and must before finally leaving Namibia, also report to the Commission;

- (i) unless the research permit expired or is cancelled earlier, the non Namibian-based research institute or non Namibian-based researcher must return the research permit for cancellation by the Commission-
    - (i) prior to leaving Namibia at the conclusion of the research; or
    - (ii) upon completion of the research;
  - (j) if so decided by the Commission, the non Namibian-based research institute or non Namibian-based researcher must provide the Commission, at least three months, or such other period as the Commission may determine, prior to leaving Namibia at the conclusion of its research or upon completion, with a presentation in the format determined by the Commission and a discussion of findings, outcomes and results of its research;
  - (k) the non Namibian-based research institute or non Namibian-based researcher must submit three copies of its final report or publication on its research, in English, together with an electronic version in a format as specified by the Commission soon after the research is completed;
  - (l) the non Namibian-based research institute or non Namibian-based researcher must produce the research permit upon request by anyone;
  - (m) if so required by the Commission and where applicable, the environment must be, in as far as possible, returned to the condition which existed before the research activities occurred; and
  - (n) a Namibian understudy must be involved in the research in the manner determined by the Commission.
- (2) The Commission may attach such additional special conditions to a research permit as it considers appropriate under the circumstances.

## **27. Cancellation of research permit of non Namibian-based research institute or non Namibian-based researcher**

- (1) The research permit of a non Namibian-based research institute or non Namibian-based researcher may be cancelled in the event where the institute or researcher-
- (a) at any time, submitted false or incorrect information to the Commission knowing such information to be false or incorrect;
  - (b) fails or failed to comply with the Act, these regulations or a condition of the research permit;
  - (c) has been issued with a research permit erroneously;
  - (d) fails to commence with research within a period of six months after the issue of the research permit or, once research has commenced, in the event that the institute or researcher fails to conduct research for a consecutive period of six months without permission from the Commission;
  - (e) is prohibited under regulation 31;
  - (f) is involved in activities not covered by the research permit;
  - (g) conduct under the research permit, in the opinion of the Commission, endangers public health, social welfare, property, biodiversity, the environment or any Namibian resources;
  - (h) there is good reason for the Commission to cancel such research permit; or
  - (i) gives written notice to the Commission of the discontinuance of research activities and wishes to have the research permit cancelled.

- (2) The Commission may not cancel a research permit under subregulation (1) unless-
  - (a) it has by written notice informed the non Namibian-based research institute or non Namibian-based researcher of its intention to cancel the research permit-
    - (i) setting out the reasons for the Commission's intention to cancel the research permit; and
    - (ii) calling upon the research institute or researcher to make such representations to the Commission as such institute or researcher considers necessary or expedient within a period of 14 days or such longer period as the Commission may determine after the date of such notice;
  - (b) it has taken into account-
    - (i) any steps taken by the relevant institute or researcher to remedy the failure or contravention concerned or to prevent such failure or contravention from happening again; and
    - (ii) any other matters submitted to the Commission by way of the representations made under paragraph (a) or considered necessary by the Commission to take into account.
- (3) In cases of an incident the Commission may cancel the research permit but after complying with subregulation (2)(b) it may reinstate the research permit.
- (4) The effect of a cancellation under this regulation is that the research permit ceases to have effect.
- (5) If a research permit ceases to have effect, the relevant non Namibian-based research institute or non Namibian-based researcher must surrender the research permit to the Commission within a period of five days from the date on which the Commission informed it that its permit so ceased to have effect and the Commission must indicate on its register that such research permit has been cancelled and that such institute or researcher has been deregistered.

## **28. Entry into Namibia by non Namibian-based research institutes and non Namibian-based researchers**

- (1) A non Namibian-based research institute or non Namibian-based researcher desiring to conduct research in Namibia must, where applicable, apply for a research permit prior to applying for an employment or a student's permit and, if the research permit is granted, such research permit must be submitted to immigration control together with the application for an employment or a student permit.
- (2) A non Namibian-based research institute or non Namibian-based researcher conducting research in Namibia must at all times be in possession of a valid employment permit or student permit.
- (3) A person entering Namibia to conduct research in Namibia must as soon as possible upon arrival present himself or herself to the Commission.
- (4) The Immigration Control Act, 1993 (Act [No. 7 of 1993](#)), must be complied with.

## Part 6 – SAMPLE TAKING AND SENSITIVE AND CULTURAL RESEARCH

### 29. Requirements and conditions applying to the collection of samples

- (1) The following requirements and conditions apply to all research institutes and researchers as regards the collection, acquisition or analysis of samples for the purposes of research in Namibia:
  - (a) the research institute or researcher must have indicated on its application the intention to collect samples and provide the Commission in such application with all the details requested;
  - (b) the relevant research certificate or research permit must indicate that it is authorised to collect samples, the type of samples, the size of samples, the area where samples may be collected, the intended use of the samples, and such other relevant information as the Commission may determine;
  - (c) as regards the use of the sample collected, the relevant research certificate or research permit must specify whether the researcher or research institute may kill, destroy, catch and release live samples, return rocks, non-biological, samples, salvage or collect only dead samples, trap, mark, inject radioactive tracers in, or merely observe or export samples;
  - (d) no sample is to be taken out of Namibia without the specific written approval of the Commission set out in a document separate to the relevant research certificate or research permit and the Commission must consult with relevant Government institutes before giving such approval;
  - (e) the Commission may give conditions as regards the handling of samples in Namibia, whether by means of a condition to a research certificate or research permit or by means of a separate written notice at any time to a researcher or research institute;
  - (f) the research institute or researcher must notify the Commission of all benefits accruing from the use of the sample to ensure equitable benefit sharing and royalty sharing from any product that is marketed as a result of the use of the sample;
  - (g) upon completion of the research, withdrawal of permission to take samples or cancellation of the research certificate or research permit of a research institute or researcher, such researcher or research institute must notify the Commission of all samples in its possession or under its control and the Commission must decide whether it should be retained by the Commission or anyone else or whether it can be retained by the research institute or researcher and give written authorisation for such retention or how it must be destroyed;
  - (h) no sample may be released to, or used by, any other research institute, researcher, person or any other entity whether public or private without the permission of the Commission;
  - (i) a sample may not leave the possession or control of the research institute or researcher without the permission of the Commission and where the sample is to be disposed of or destroyed, the Commission must be notified and also of the manner in which it is going to be disposed of or destroyed and the Commission must give its approval;
  - (j) where sample collection takes place in ecologically, ethically or socially sensitive areas the Commission may stipulate that it should take place under supervision of a Government institution, agency, body or person indicated by the Commission;
  - (k) a research institute or researcher must allow the Commission, or any other person authorised by the Commission, at all reasonable times to monitor and inspect its sample taking activities in the manner determined by the Commission; and
  - (l) notwithstanding the permission of the Commission having been given for sample taking, all other Namibian laws, in so far as they are relevant, apply to such sample taking in addition to these regulations.

- (2) The Commission may, if there are good reasons, by written notice, withdraw any permission given for sample taking and request the research institute or researcher to return all samples specified by the Commission to it or to such other person or body indicated by the Commission subject to regulation 21.

### **30. Monitoring and inspections**

The Commission, or any person authorised by the Commission, may monitor and inspect the activities of any researcher or research institute at reasonable times to ensure that it complies with these regulations.

### **31. Prohibition of a research institute or a researcher**

- (1) A research institute which, or a researcher who, fails to comply with these regulations may be prohibited in terms of section 21 (2)(d) of the Act from conducting any further or future research in Namibia subject to that the Commission-
  - (a) must investigate such failure and be convinced that a failure to comply or transgression has taken place;
  - (b) must notify the research institute or researcher of its intention to prohibit such research institute or researcher;
  - (c) must give reasons for its decision to prohibit a research institute or researcher;
  - (d) may make the prohibition effective upon the cancellation or termination in any other manner of such research institute's research certificate or such researcher's research permit.
- (2) Where the Commission is satisfied that the reason for the prohibition of a research institute or a researcher has ceased to exist, the Commission may lift the prohibition and in writing notify such research institute or researcher of such lifting of the prohibition.

### **32. Keeping and notification of information and registers**

- (1) The Commission must keep one or more registers which must contain the following information-
  - (a) the name, physical and postal address and contact details of the Commission;
  - (b) the names and resumes of all commissioners;
  - (c) research funded by the Commission;
  - (d) particulars of each research certificate and research permit issued under these regulations which must include at least the name, address, principal activities and type of research, location of research and expected results of research, conducted;
  - (e) the current and past national research, science and technology programmes and strategic profile of the Commission;
  - (f) the application forms for research certificates and research permits and other related particulars which the Commission considers appropriate;
  - (g) the criteria set by the Commission under regulation 2 to determine whether or not a research institute or researcher is based in Namibia; and
  - (h) such information regarding research in Namibia and the requirements applying as the Commission considers appropriate.
- (2) In order to ensure that information is readily available, the Commission must as soon as possible after the commencement of these regulations, establish a website on the world wide web which must be the official website of the Commission and which website must contain the information listed in subregulation (1).

- (3) The Commission must ensure that the registers and website information are regularly updated and contain latest and relevant information.
- (4) The Commission may omit confidential information from the registers and website.
- (5) The Commission may sell services and publications on its website.

### 33. Transitional provisions

- (1) A Namibian-based research institute or a which or who conducts research in Namibia at the date of commencement of these regulations may continue with such research subject to that such institute or researcher must register with the Commission in terms of Part 5 of these regulations within 6 months after the commencement of these regulations.

**[The removal of the term “Namibian-based researcher” as directed by GN 66/2016 leaves the superfluous words “or a”.]**

- (2) A non Namibian-based research institute or researcher conducting research in Namibia at the date of commencement of these regulations may continue with such research subject to that the institute or researcher must register in terms of Part 5 of these regulations within 60 days after the commencement of these regulations.

### 34. Offences and penalties

A person who contravenes these regulations is guilty of an offence and upon conviction is liable to a fine not exceeding N\$ 2 000 or a period of imprisonment of two years or to both such fine and imprisonment.



## Annexure A

### Fees schedule

Regulation	Nature of fee	Fee
3(2)	Replacement fees:	
	Research certificate	N\$ 100
	Research permit	N\$ 100
	Any other document	Up to N\$ 50 per page
16(2)(d)	Application fee for Namibian-based research institute to be registered	N\$ 1 000
16(5)	Registration fee for Namibian-based research institute	N\$ 1 500
22(1)	Application fee for non Namibian-based research institute for a research permit	N\$ 2 000
22(5)(a)	Issue fee for research permit	N\$ 5 000

## Annexure B

### Forms

**[GN 66/2016 directs that the term “Namibian-based researcher” be removed throughout. In the forms, this direction has been applied to remove the word “Researcher” from the phrase “Namibian-based Research Institute/Researcher”. Note that the removal of the indicated phrase produces awkward remaining wording in the title of Form RST/1 as it appears in the index to the forms at the beginning of Annexure B.]**

**[Editorial note: The forms have not been reproduced.]**