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GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

R 0.30

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CONTENTS

PROCLAMATION

- | | <i>Page</i> |
|--|-------------|
| No. 18 Commission of Inquiry into the Procedures and Practices Applied in the Allocation and Utilisation of Existing Fishing Rights: Application of the Commissions Act, 1947, and regulations | 1 |

GOVERNMENT NOTICE

- | | |
|---|---|
| No. 103 Appointment of Commission of Inquiry into the Procedures and Practices applied in the Allocation and Utilisation of Existing Fishing Rights | 5 |
|---|---|

PROCLAMATION

by the

PRESIDENT OF THE REPUBLIC OF NAMIBIA

No. 18

1991

COMMISSION OF INQUIRY INTO THE PROCEDURES AND PRACTICES APPLIED IN THE ALLOCATION AND UTILISATION OF EXISTING FISHING RIGHTS: APPLICATION OF THE COMMISSIONS ACT, 1947, AND REGULATIONS

Under the powers vested in me by section 1 of the Commissions Act, 1947 (Act 8 of 1947), I hereby declare the provisions of the said Act to be applicable to the Commission of Inquiry into the Procedures and Practices Applied in the Allocation and Utilisation of Existing Fishing Rights appointed by me, the appointment of which was notified by Government

Notice 103 of 1991, and hereby make the regulations set out in the Schedule which shall apply with reference to the said Commission.

Given under my Hand and Seal of the Republic of Namibia, at Windhoek this 2nd day of September, One thousand Nine hundred and Ninety-one.

Sam Nujoma

President

BY ORDER OF THE PRESIDENT-IN-CABINET

SCHEDULE

1. In these regulations, unless the context otherwise indicates -

“Chairperson” means the Chairperson of the Commission;

“Commission” means the Commission of Inquiry into the Procedures and Practices applied in the Allocation and Utilisation of Existing Fishing Rights;

“document” includes any book, pamphlet, record (including any tape or other mechanical recording of anything), list, circular, plan, placard, poster, publication, drawing, photograph or picture;

“inquiry” means the inquiry conducted by the Commission in the execution of its terms of reference;

“member” means any member of the Commission;

“officer” means any person appointed or designated under these regulations to assist the Commission;

“premises” includes any land or any building or structure or any part of any building or structure or any vehicle, vessel, aircraft or other means of transport.

2. The Chairperson may, on such conditions as the Prime Minister may determine -

- (a) appoint one or more persons to assist the Commission in, or in connection with, the execution of its inquiry;
- (b) designate one or more persons to be present at the inquiry and to present evidence and arguments which have a bearing on the inquiry and to cross-examine witnesses appearing before the Commission, subject to the provisions of regulation 7;
- (c) appoint one or more persons otherwise to assist the Commission in the execution of its functions.

3. The Chairperson shall determine the procedure to be followed by the Commission.

4. (1) The proceedings of the Commission shall be recorded in such manner as may be determined by the Chairperson.

(2) Any person appointed to take down or record the proceedings of the Commission in shorthand or by mechanical means or to transcribe such proceedings which have been so taken down or recorded, shall at the outset take an oath or make an affirmation before the Chairperson or an officer generally or specifically authorized thereto by the Chairperson, in the following form:

“I, A.B., declare under oath/affirm and declare -

- (a) that I shall faithfully and to the best of my ability take down in shorthand/record by mechanical means the proceedings of the Commission of Inquiry into the Procedures and Practices applied in the Allocation and Utilisation of Existing Fishing Rights;
- (b) that I shall transcribe fully and to the best of my ability any shorthand notes/mechanical record of the proceedings of the said Commission, made by any other person whatsoever, which I am ordered by the Chairperson of the said Commission to transcribe.”

(3) No shorthand notes or mechanical record of the proceedings of the Commission shall be transcribed except by order of the Chairperson.

5. (1) No person employed or assisting in the execution of the functions of the Commission, including a person referred to in regulation 4(2), shall communicate to any other person any matter or information which may have come to his or her knowledge in connection with the inquiry or allow any person to have access to the proceedings and documents of the Commission, including any note, record or transcript of the proceedings of the Commission, except in so far as it shall be necessary for the purposes of the Commission's report or in terms of an order of a competent court.

(2) Every person referred to in subregulation (1) shall at the outset take an oath or make an affirmation of fidelity and secrecy before the Chairperson or an officer generally or specifically authorised thereto by the Chairperson, in the following form:

“I, A.B., declare under oath/affirm and declare that, except in so far as it may be necessary for the purposes of the report the Commission of Inquiry into the Procedures and Practices applied in the Allocation and Utilisation of Existing Fishing Rights, or in terms of an order of a competent court, I shall not communicate to any person any matter or information which may come or may have come to my knowledge at or in connection with the inquiry of the said Commission, or the performance of my duties in connection therewith, and that I shall not allow any person to have access to the proceedings and documents of the said Commission, including any note, record or transcript of the proceedings thereof, in my possession or custody or in the possession or custody of the said Commission or an officer.”

(3) No person shall, except in so far as it may be necessary in the execution of the terms of reference of the Commission or in terms of an order of a competent court, publish or furnish or communicate to any person the report of the Commission or a copy or any part thereof or an extract therefrom or any finding, recommendation or information contained therein, unless and until the President has made the report available for publication.

6. The Chairperson, or any officer generally or specifically authorised thereto by the Chairperson in the presence of the Chairperson, shall administer an oath to or take an affirmation from any witness appearing before the Commission.

7. (a) Any witness appearing before the Commission may be cross-examined by a person, or the legal representative of such person, only if the Chairperson permits such cross-examination because he deems it necessary in the interests of the functions and inquiry of the Commission.

(b) The Chairperson may, when he permits the cross-examination of any witness in terms of subregulation (1), limit such cross-examination to the subjects and in the manner which he deems necessary in the interests of the functions and inquiry of the Commission.

8. If any person who appears or has appeared before the Commission or who has been summoned to give evidence before the Commission, so requests, the Chairperson may in his discretion order that no person shall publish in any manner whatsoever the name or address of that person or any information likely to reveal his or her identity.

9. Any witness appearing before the Commission may, in the discretion of the Chairperson and in the manner determined by him, be assisted by an advocate or attorney.

10. The Commission or the Chairperson or any member or officer may, for the purposes of the Commission's inquiry, at any reasonable time enter and inspect any premises and there carry out any investigation which it or he deems necessary, and demand, peruse and seize or copy or make extracts from any document which is or is kept in custody upon such premises.

11. No person shall insult, disparage or belittle the Commission or the Chairperson or a member or prejudice, influence or anticipate the proceedings or findings of the Commission.

12. Any person who contravenes or fails to comply with any provision of these regulations or an order under regulation 8, or who wilfully hinders, resists or obstructs the Commission, the Chairperson, a member or any officer in the exercise of any power referred to in regulation 10, shall be guilty of an offence and liable on conviction to a fine not exceeding R200 or to imprisonment for a period not exceeding six months.

Government Notice

OFFICE OF THE
PRESIDENT OF THE REPUBLIC OF NAMIBIA

No. 103

1991

APPOINTMENT OF COMMISSION OF INQUIRY INTO THE
PROCEDURES AND PRACTICES APPLIED IN THE
ALLOCATION AND UTILISATION
OF EXISTING FISHING RIGHTS

It is hereby notified for general information that His Excellency, the President of the Republic of Namibia, has appointed a Commission of Inquiry into the Procedures and Practices applied in the Allocation and Utilisation of Existing Fishing Rights with the following terms of reference:

1. To inquire into the procedures and practices applied or pursued in the allocation and utilisation (which for the purposes hereof shall include, but shall not be limited to, the control over and accounting in respect of catches, and the calculation and payment of any charges or levies) of existing rights pertaining to the exploitation of fish as defined in section 1 of the Sea Fisheries Act, 1973 (Act 58 of 1973); and
2. To report to the President on its findings within three (3) months of the date of publication of this notice.

The Commission shall consist of Mr. Justice Bryan O'Linn, who shall be the Chairperson, and Mr. Edward Waldo Twohig.

Interested persons or bodies wishing to make representations to or to give evidence before the Commission must submit memoranda to the Commission. In the event of any such person or body intending to give evidence at an oral hearing of the Commission, a fair summary in writing of such evidence must be submitted to the Commission beforehand. The said memoranda and summaries must be addressed or delivered to the Secretary of the Commission as soon as possible, but not later than Friday 27 September 1991 at 16:00, at the following address:

The Secretary
(Dr. Collins Parker)
The Commission of Inquiry into the Fishing Industry
Private Bag 13369
(Tel.: 228638)
Turnhalle Building
Bahnhof Street
WINDHOEK
9000.