



**GOVERNMENT GAZETTE**  
OF THE  
**REPUBLIC OF NAMIBIA**

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R0,30

WINDHOEK — 27 December 1991

No. 331

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**Government Notice**

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**OFFICE OF THE PRIME MINISTER**

No. 155

1991

**PROMULGATION OF ACT OF  
THE NATIONAL ASSEMBLY**

The following Act which has been passed by the National Assembly and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 29 of 1991: Law Reform and Development Commission Act, 1991.

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**LAW REFORM AND DEVELOPMENT  
COMMISSION ACT, 1991****ACT**

**To establish a Law Reform and Development Commission and to provide for matters incidental thereto.**

*(Signed by the President on 12 December 1991)*

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

Definitions.

1. In this Act, unless the context indicates otherwise -

“Commission” means the Law Reform and Development Commission established by section 2; and

“Minister” means the Minister of Justice.

Establishment of Commission.

2. There is hereby established a body to be known as the Law Reform and Development Commission.

Constitution of Commission.

3. (1) The Commission shall consist of the following members:

(a) a judge of the Supreme Court or the High Court of Namibia appointed by the President as chairperson;

(b) the Attorney-General;

(c) the Ombudsman;

(d) one practising advocate appointed by the President after consultation with the Council of the Bar of Namibia;

(e) one practising attorney appointed by the President after consultation with the Law Society of Namibia referred to in section 56 of the Attorneys Act, 1979 (Act 53 of 1979);

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(f) one officer of the Ministry of Justice nominated by the Minister and appointed by the President; and

(g) not more than three persons appointed by the President who, in the opinion of the President, are suitable for appointment on account of any qualification relating to the objects of the Commission.

(2) (a) The Commission shall elect one of its members to be the deputy chairperson of the Commission.

(b) The deputy chairperson shall exercise all the powers and perform all the duties and functions conferred or imposed upon the chairperson by or under this Act during a vacancy in the office of chairperson, or during any period when the chairperson is absent or is otherwise unable to perform his or her duties as chairperson.

(3) All the members of the Commission shall serve on a part-time basis.

Period of office.

4. (1) The members appointed in terms of paragraphs (a), (d), (e), (f) and (g) of section 3(1) shall be appointed for a period of four years, or, if such an appointment is made to fill a casual vacancy, for the unexpired portion of the period of office of the person who has vacated his or her office.

(2) Any person whose period of office as a member of the Commission has expired, shall be eligible for re-appointment.

Vacation of office.

5. (1) A member shall vacate his or her office -

(a) in the case of a member appointed in terms of paragraph (a), (d), (e) or (g) of section 3(1) -

(i) if he or she resigns as such a member by notice under his or her hand addressed to the secretary of the Commission;

(ii) if he or she is absent from four consecutive meetings of the Commission without the consent of the Commission;

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- (b) in the case of a member referred to in paragraph (f) of section 3(1), if the President revokes his or her appointment;
- (c) in the case of a member referred to in paragraph (a), (b) or (c) of section 3(1), if he or she ceases to be a judge of the Supreme Court or the High Court or the Attorney-General or the Ombudsman, as the case may be;
- (d) in the case of a member referred to in paragraph (d) or (e) of section 3(1), if he or she ceases to practise as an attorney or advocate, as the case may be; or
- (e) in the case of a member referred to in paragraph (d), (e) or (g) of section 3(1) -
  - (i) if he or she is convicted of any offence in respect of which he or she has been sentenced to a period of imprisonment without the option of a fine;
  - (ii) if he or she is ordered to be detained under the Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971 (Act 41 of 1971), or under any other law having as its object the combating of the abuse of dependence-producing drugs and alcoholic liquor;
  - (iii) if he or she is detained as a mentally ill person under the Mental Health Act, 1973 (Act 18 of 1973), or any other law;
  - (iv) if he or she is, by the order of any competent authority, disqualified or suspended on grounds of personal misconduct, from practising a profession; or
  - (v) if he or she is removed from such office under subsection (2).

(2) A member referred to in paragraph (d), (e) or (g) of section 3(1) may be removed from office by the President -

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- (a) on account of 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;  
or
- (d) if his or her estate is sequestrated.

## Objects of Commission.

**6.** The objects of the Commission shall be to undertake research in connection with and examine all branches of the law of Namibia and to make recommendations for the reform and development thereof, including -

- (a) the repeal of obsolete or unnecessary enactments;
- (b) the consolidation or the codification of any branch of the law or the introduction of other measures aimed at making the law more readily accessible;
- (c) the integration or harmonization of the customary law with the common and statutory law; and
- (d) new or more effective procedures for the administration of the law and the dispensing of justice;
- (e) to advise the Minister in regard to any matter which the Minister may refer to it.

Powers and duties of  
Commission.

**7. (1)** In order to achieve its objects, the Commission shall from time to time prepare and submit to the Minister for approval, programmes in which the various matters which in its opinion require consideration are included in order of priority.

(2) The Commission may invite and receive any suggestions relating to its objects from any person or body and may include such suggestions in any programme.

(3) The Commission shall, as far as possible in order of priority, examine the matters appearing on any programme as approved or amended by the Minister and may for that purpose consult any person or body, whether by the submission of study documents prepared by the Commission or in any other manner.

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(4) If after examining any matter the Commission is of the opinion that legislation ought to be enacted with regard to that matter, the Commission shall prepare draft legislation for that purpose.

(5) (a) (i) For the purpose of ascertaining any matter relating to a subject being examined by it, the Commission shall have the powers which the High Court of Namibia has, to summon witnesses, to cause an oath or affirmation to be administered to them, to examine them, and to call for the production of books, documents and objects.

(ii) A summons for the attendance of a witness or for the production of any book, document or object before the Commission shall be signed and issued by the secretary of the Commission in a form prescribed by the chairperson of the Commission, and shall be served in the same manner as a summons for the attendance of a witness at a criminal trial in the High Court of Namibia.

(iii) If required to do so by the chairperson of the Commission a witness shall, before giving evidence, take an oath or make an affirmation, which oath or affirmation shall be administered by the chairperson or such official of the Commission as the chairperson may designate.

(iv) Any person who has been summoned to attend any sitting of the Commission as a witness or who has given evidence before the Commission shall be entitled to the same witness fees, as if he or she had been summoned to attend or had given evidence at a criminal trial in the High Court of Namibia held at the place of such sitting, and in connection with the giving of any evidence or the production of any book or document before the Commission, the law relating to privilege as applicable to a witness giving evidence or summoned to produce a book or document in that court, shall apply.

(b) Where the Commission has summoned any person in accordance with this subsection, the evi-

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dence and addresses of such a person shall be heard by the Commission in public, but the chairperson of the Commission may, in his or her discretion, exclude from the place where such evidence is to be given or such address is to be delivered any person whose presence at the hearing of such evidence or address is, in his or her opinion, not necessary or desirable.

(6) The Commission may, with the approval of the Minister in consultation with the Minister of Finance, on a temporary basis or for a particular matter which is being examined by it, employ any person with special knowledge of any matter relating to the work of the Commission, or obtain the co-operation of any body, to advise or assist the Commission in the exercise of its powers and the performance of its duties and functions under this Act, and fix the remuneration (including reimbursement for travelling, subsistence and other expenses) or other benefits, if any, of such person or body.

Meetings of Commission.

**8.** (1) Meetings of the Commission shall be held at the times and places determined by the chairperson of the Commission.

(2) The majority of the members of the Commission shall constitute a quorum for a meeting.

(3) If both the chairperson and the deputy-chairperson of the Commission are absent from a meeting, the members present shall choose one of their number to preside at that meeting.

(4) Whenever the Attorney-General is unable to attend any meeting of the Commission, the Attorney-General may designate any person to attend such meeting on his or her behalf.

(5) Minutes shall be kept of all the meetings of the Commission.

Reports of Commission.

**9.** (1) The Commission shall prepare a full report in regard to any matter examined by it and shall submit such report together with draft legislation, if any, prepared by it, to the Minister for consideration.

(2) The Commission shall annually not later than the first day of March submit to the Minister a report on all its activities during the previous year.

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(3) The report submitted to the Minister in terms of subsection (2) shall be laid upon the Table of the National Assembly by the Minister within one month after receipt thereof if the National Assembly is then in ordinary session, or, if the National Assembly is not then in ordinary session, within one month after the commencement of its next ensuing ordinary session.

Committees of Commission.

**10. (1)** The Commission may, if it deems it necessary for the effective performance of its duties or functions -

- (a) establish a working committee, which shall consist of such members of the Commission as the Commission may designate;
- (b) establish such other committees as it may deem necessary, and which shall consist of -
  - (i) such members of the Commission as the Commission may designate; or
  - (ii) such members of the Commission as the Commission may designate and the other persons appointed by the Minister for the period determined by the Minister.

(2) The Minister may at any time extend the period of an appointment referred to in subsection (1)(b)(ii) or, if in his or her opinion good reasons exist therefor, revoke any such appointment.

(3) The Commission shall designate the chairperson and, if the Commission deems it necessary, the deputy-chairperson of a committee established under subsection (1).

- (4) (a) A committee referred to in subsection (1) shall, subject to the directions of the Commission, exercise such powers and perform such duties and functions of the Commission as may be assigned to it by the Commission.
- (b) Any power so exercised, or duty or function so performed by the working committee referred to in subsection (1)(a), shall be deemed to have been exercised or performed by the Commission.



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(5) The Commission may at any time dissolve any committee established by it.

(6) The provisions of sections 7(5) and 8 shall *mutatis mutandis* apply to a committee of the Commission or to members of such a committee.

(7) For the purposes of section 12, a member of a committee who is not a member of the Commission, shall be deemed to be a member of the Commission.

Secretary and staff.

**11. (1)** The Minister shall designate an officer in the public service as the secretary of the Commission.

(2) In the exercise of its powers and the performance of its duties and functions under this Act, the Commission and its secretary shall be assisted by officers and employees in the public service made available for such purpose by the Permanent Secretary for Justice.

Remuneration, allowances, benefits and privileges of members.

**12. (1)** A member of the Commission, except the members referred to in paragraphs (b), (c) and (f) of section 3(1), who -

(a) is a judge of the Supreme Court or the High Court of Namibia shall, notwithstanding anything to the contrary contained in any other law, in addition to his or her salary and any allowance, including any allowance for reimbursement of travelling and subsistence expenses, which may be payable to him or her in his or her capacity as such a judge, be entitled to such allowance, if any, in respect of the performance of his or her functions as such a member as the President may determine;

(b) is not such a judge and is not subject to the provisions of the Public Service Act, 1980 (Act 2 of 1980), shall be entitled to such remuneration, allowances (including allowances for reimbursement of travelling and subsistence expenses incurred by him or her in the performance of his or her functions under this Act), benefits and privileges as the Minister in consultation with the Minister of Finance may determine.

(2) The remuneration, allowances, benefits or privileges of different members of the Commission may differ according to -

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- (a) the different offices held by them in the Commission; or
- (b) the different functions performed by them from time to time.

(3) For the purposes of subsections (1) and (2), the President or the Minister, as the case may be, may determine that any remuneration, allowance, benefit or privilege contemplated in the said subsections, shall be the remuneration, allowance, benefit or privilege determined from time to time by or under any law in respect of any person or category of persons with such modifications as he or she may think fit.

Offences.

**13. Any person -**

- (a) who wilfully interrupts the proceedings of the Commission or any committee thereof or who wilfully hinders or obstructs the Commission or such a committee in the performance of its functions;
- (b) summoned to attend and give evidence or to produce any book, document or object before the Commission or any committee thereof, who, without sufficient cause fails to attend at the time and place specified in the summons, or to remain in attendance until the conclusion of the enquiry or until he or she is excused by the chairperson of the Commission or such a committee from further attendance, or having attended, refuses to be sworn or to make affirmation as a witness after he or she has been required by the chairperson of the Commission or such a committee to do so or, having been sworn or having made an affirmation, fails to answer, subject to the provisions of section 7(5)(a)(iv), fully and satisfactorily any question lawfully put to him or her, or fails to produce any book, document or object in his or her possession or custody or under his or her control, which he or she has been summoned to produce;
- (c) who, after having been sworn or having made an affirmation, gives false evidence before the Commission or any committee thereof on any matter, knowing such evidence to be false or not knowing or believing it to be true;

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shall be guilty of an offence and liable on conviction -

- (i) in the case of an offence in terms of paragraph (a) or (b), to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months, or to both such fine and such imprisonment;
- (ii) in the case of an offence in terms of paragraph (c), to a fine not exceeding R4 000 or to imprisonment for a period not exceeding 12 months, or to both such fine and such imprisonment.

Regulations.

**14.** The Minister may, after consultation with the Commission, make regulations relating to -

- (a) the procedures to be followed at, or in connection with, meetings of the Commission or a committee thereof;
- (b) the form in which the suggestions referred to in section 7(2) are to be submitted to the Commission; and
- (c) generally, such other matters which may be considered necessary or expedient to be prescribed in order to achieve the purposes of this Act.

Repeal of laws.

**15.** The South African Law Commission Act, 1973 (Act 19 of 1973), section 20 of the General Law Amendment Act, 1974 (Act 29 of 1974), and the South African Law Commission Amendment Act, 1984 (Act 85 of 1984), are hereby repealed.

Short title and commencement.

**16.** This Act shall be called the Law Reform and Development Commission Act, 1991, and shall come into operation on a date to be fixed by the President by proclamation in the *Gazette*.

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