



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

N\$1.90

WINDHOEK - 23 March 2001

No.2499

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Proclamation

by the

PRESIDENT OF THE REPUBLIC OF NAMIBIA

No. 3 2001

COMMISSION OF ENQUIRY INTO THE ACTIVITIES, MANAGEMENT AND OPERATIONS OF TRANSNAMIB HOLDINGS LIMITED

Under the powers vested in me by section 1 of the Commissions Act, 1947 (Act No. 8 of 1947), I -

- (a) declare the provisions of that Act to be applicable with reference to the Commission of Enquiry into the Activities, Management and Operations of TransNamib Holdings Limited appointed by me, subject to the modification set out in Part I of the Schedule; and
- (b) make the regulations set out in Part II of the Schedule with reference to that Commission.

Given under my Hand and the Seal of the Republic of Namibia at Windhoek this 16th day of March, Two Thousand and One.

SAM NUJOMA

President

By Order of the President-In-Cabinet

SCHEDULE

PART I

MODIFICATION OF COMMISSIONS ACT, 1947 WITH REFERENCE TO COMMISSION

In the application of the Commissions Act, 1947 with reference to the Commission of Enquiry into the Activities, Management and Operations of TransNamib Holdings Limited, the following section shall be deemed to have been substituted for section 4 of that Act:

“4. Except to the extent as the Chairperson of the Commission of Enquiry into the Activities, Management and Operations of TransNamib Holdings Limited may determine otherwise, meetings of the Commission for hearing evidence and addresses shall be closed to the public.”

SCHEDULE

PART II

REGULATIONS APPLICABLE WITH REFERENCE TO THE COMMISSION

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

“Chairperson” means the Chairperson of the Commission;

“Commission” means the Commission of Enquiry into the Activities, Management and Operations of TransNamib Holdings Limited;

“document” includes any book, report, notes or records, including information stored or recorded electronically, digitally, photographically, magnetically or optically;

“inquiry” means the inquiry conducted by the Commission; and

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

2. The Chairperson determines the procedure to be followed by the Commission and the manner of recording of the proceedings of the Commission.

3. Meetings of the Commission are held at the times and places determined by the Commission.

4. (1) Any person appointed or designated to take down or record the proceedings of the Commission in shorthand or by mechanical means or to transcribe any proceedings so taken down or recorded must take an oath or make an affirmation 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/record the proceedings of the Commission of Enquiry into the Activities, Management and Operations of TransNamib Holdings Limited in shorthand/by mechanical means as ordered by the Chairperson of the Commission.
- (b) that I shall transcribe fully and to the best of my ability any shorthand notes/mechanical record of the proceedings of the Commission made by me or by any other person".

(2) No shorthand notes or mechanical recordings of the proceedings of the Commission may be transcribed except by order of the Chairperson.

5. Every person employed in the execution of the functions of the Commission, including a person referred to in regulation 4(1), must preserve secrecy with regard to any matter or information that may come to his or her knowledge in the performance of his or her duties in connection with those functions, except in so far as the publication of such matter or information is necessary for the purposes of the report of the Commission, and every such person, other than a member of the Commission, must, before performing any duty in connection with the Commission, take and subscribe before the Chairperson a declaration of fidelity and secrecy under oath or on affirmation in the following form:

"I, A.B., declare under oath/affirm and declare that, except in so far as it is necessary in the performance of my duties in connection with the functions of the Commission of Enquiry into the Activities, Management and Operations of TransNamib Holdings Limited, or by order of a competent court, I shall not communicate to any person any matter or information which may come to my knowledge in connection with the inquiry of the Commission, or suffer or permit any person to have access to any records of the Commission, including any note, record or transcription of the proceedings of the Commission in my possession or custody or in the possession or custody of the Commission or any person".

6. No person may communicate to any other person any matter or information that may have come to his or her knowledge in connection with the inquiry, or allow any person to have access to any records of the Commission, except in so far as it is allowed by the Chairperson or it is necessary in the performance of his or her duties in connection with the functions of the Commission or by order of a competent court.

7. The Chairperson may designate one or more knowledgeable persons to assist the Commission in the performance of some of its functions, in a capacity other than that of a member.

8. The Chairperson, or a person authorised thereto by the Chairperson, must administer an oath to or accept an affirmation from witnesses appearing before the Commission.

9. A person giving evidence before the Commission may be examined by any member of the Commission or a person designated for that purpose by the Chairperson, but may only with the permission of the Chairperson be cross-examined by any other person.

10. A person giving evidence before the Commission may be assisted by a legal practitioner.

11. The Chairperson or any member of the Commission or any other person authorised thereto by the Chairperson may, for the purposes of the enquiry, at any reasonable time, enter and inspect any premises, except the private home of any person, and demand, peruse and seize or copy or make extracts from any document which has a bearing on the enquiry and which is found on such premises.

12. (1) No person may insult, disparage or belittle the Commission or a member of the Commission, or prejudice, influence or anticipate the proceedings or findings of the Commission.

(2) A person who contravenes subregulation (1) is guilty of an offence and liable to a fine not exceeding N\$1000 or to imprisonment for a period not exceeding one year.

13. Any person who -

- (a) contravenes or fails to comply with any provision of regulation 4(2) or 6, or any order of the Chairperson made thereunder;
- (b) willfully interrupts the proceedings of the Commission;
- (c) willfully hinders, resists or obstructs the Commission, the Chairperson, a member or officer of the Commission in the exercise of any power referred to in regulation 9,

is guilty of an offence and liable to a fine not exceeding N\$200 or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Government Notice

OFFICE OF THE PRESIDENT

No. 51

2001

APPOINTMENT OF COMMISSION OF ENQUIRY INTO THE ACTIVITIES, MANAGEMENT AND OPERATIONS OF TRANSNAMIB HOLDINGS LIMITED

It is made known for general information that the President has appointed a Commission, known as the Commission of Enquiry into the Activities, Management and Operations of TransNamib Holdings Limited, consisting of the following members:

Akweenda, Sackey Dr	-	Chairperson
Herrigel, Otto Dr	-	Member
Gaoseb, Gottfrey	-	Member

The President has appointed John Nauta as Secretary to the Commission.

The Commission's Terms of Reference are as follows:

1. The Commission must investigate the activities, management and operations of TransNamib Holdings Limited since the date of separation of Air Namibia from TransNamib Holdings Limited on 1 April 1999 for the purpose of -
 - 1.1 reviewing the functioning of the Company's Board of Directors and management during that period; and
 - 1.1.1 making recommendations of practices and programmes for the future.
 - 1.2 The investigation by the Commission should include the following issues:
 - The composition of the Company's Board of Directors with respect to balance and competence;
 - The management of the Company's management cadre;

- The management of the Company's assets by the Board of Directors and executive managers;
 - The management of the Company's financial operations;
 - The authority, procedures and transparency in decision making regarding the selling off of assets;
 - The employment practices regarding management staff and other personnel;
 - How Human Resource Development, recruitment, promotions, transfer and retrenchment have been handled within the Company.
2. The Commission should also present evaluations and make recommendations in respect of the following:
- What changes in practices regarding the above mentioned matters and what new programmes and measures should be put in place;
 - The Company's economic and financial viability; its prospects for survival and profit generation in a competitive environment;
 - How best to improve service delivery in the Company's core operations areas (road and rail transport);
 - Lines of communication between the Company's personnel, management, Board of Directors, shareholding Minister and Cabinet;
 - Any other matter the Commission of Enquiry would want to recommend concerning the Company's road, rail and other transport operations.
3. The Commission is expected to present its final report not later than 20 May 2001.
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