



Republic of Namibia
Annotated Statutes

REGULATIONS

REGULATIONS MADE IN TERMS OF

Access to Information Act 8 of 2022

section 6(9)

Regulations relating to Terms and Conditions of Selection Committee and Process for Appointment of Information Commissioner and Deputy Information Commissioner

Government Notice 380 of 2024

(GG 8530)

apparently came into force on date of publication: 9 December 2024

According to section 12(3) of the Interpretation of Laws Proclamation 37 of 1920:

“(3) Where a law confers a power -

...

(b) to make, grant, or issue any... regulations...

...

that power may, unless the contrary intention appears, be exercised at any time after the passing of the law so far as may be necessary for the purpose of bringing the law into operation at the commencement thereof, subject to this restriction that **any ... regulations... made... under the power shall not, unless the contrary intention appears in the law or the contrary is necessary for bringing the law into operation, come into operation until the law comes into operation.**”

The Government Notice which publishes these regulations notes that they were made with the approval of the National Assembly.

ARRANGEMENT OF REGULATIONS

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 2. Terms and conditions of appointment as members of Selection Committee
 3. Procedure at meetings of Selection Committee
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**Regulations relating to Terms and Conditions of Selection Committee and Process for
Appointment of Information Commissioner and Deputy Information Commissioner**

Definitions

1. In these regulations, a word or expression to which a meaning has been assigned in the Act has that meaning and unless the context otherwise indicates -

“the Act” means the Access to Information Act, 2022 (Act No. 8 of 2022).

Terms and conditions of appointment as members of Selection Committee

2. (1) A member of the Selection Committee appointed under section 6(2)(e) of the Act holds office for a term of five years and is eligible for reappointment on the expiry of that term.

(2) A member of the Selection Committee is entitled to -

- (a) payment of remuneration and allowances, if any, in respect of the performance of his or her functions; and
- (b) reimbursement for expenses incurred by the member in the course of the performance of his or her functions,

out of monies appropriated by Parliament for that purpose.

(3) A member of the Selection Committee may not -

- (a) engage in any activity that may undermine the integrity of the Selection Committee;
- (b) use any confidential information obtained in the performance of his or her functions as a member to obtain, directly or indirectly, a financial or other advantage for himself or herself or any other person.

(4) If at any stage during the course of proceedings before the Selection Committee it appears that a member has any direct or indirect personal interest in any applicant before the Selection Committee, or any matter before the Selection Committee, for discussion and determination, the concerned member must -

- (a) immediately and fully disclose the nature of his or her interest to the Selection Committee;
- (b) withdraw from any further discussion or determination by the Selection Committee of that matter and leave the meeting so as to enable the remaining members to discuss the matter and determine whether the member concerned is precluded from participating in the meeting by reason of a conflict of interest; and
- (c) the disclosure made in terms of paragraph (a) and the decision taken by the remaining members regarding the determination are recorded in the minutes of the meeting.

Procedure at meetings of Selection Committee

3. (1) The Secretary to the National Assembly must convene the first meeting of the Selection Committee to be held at a place and date as the Secretary may determine.

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(2) The chairperson of the Selection Committee convenes further meetings of the Committee to be held at a place and date as the chairperson may determine to discuss any matter pertaining to the functions of the Committee.

(3) The chairperson of the Selection Committee presides at meetings of the Committee.

(4) The Secretary to the National Assembly may, in writing, request any matter pertaining to the functions of the Selection Committee to be placed on the agenda of a meeting of the Committee for consideration.

(5) All five members of the Selection Committee form a quorum for the purposes of any meeting of the Committee.

(6) If a quorum cannot be obtained at a meeting of the Selection Committee, the meeting is adjourned to a time and date determined by the chairperson of the Committee.

(7) A decision of the majority of the members present and voting at a meeting of the Selection Committee constitutes a decision of the Committee.

(8) The Secretary to the National Assembly must take minutes of the meeting of the Selection Committee and such minutes must be approved by the members of the Committee present at that meeting, and the minutes must be kept by the Secretary.

(9) The National Assembly is entitled to view and scrutinise minutes and other records of the Committee.

Advertisement of vacancies and applications for appointment

4. (1) The Secretary to the National Assembly must invite, by notice in the *Gazette* and in at least two local newspapers circulating nationally, any person who complies with the qualifications of, and criteria for appointment as, Information Commissioner or Deputy Information Commissioner to apply in writing for appointment as Information Commissioner or Deputy Information Commissioner.

(2) A notice of invitation may be in the form determined by the Secretary to the National Assembly and must state -

- (a) the place where or the person to whom an application for the appointment must be submitted;
- (b) the closing date for the submission of applications for the appointment, which date may not be more than 21 days after the date of publication of the notice concerned;
- (c) the educational qualification of at least a Master's degree in information science, communication, corporate governance or law and other requirements set out in section 7 of the Act;
- (d) criteria for appointment as Information Commissioner that include but are not limited to a requirement of at least ten (10) years of experience, of which seven (7) years should be at the management level in a field of practice or provision of services relating to the functions of the Information Commissioner;

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- (e) criteria for appointment as Deputy Information Commissioner that include but are not limited to a requirement of at least ten (10) years of experience, of which five (5) years should be at the management level in a field of practice or provision of services relating to the functions of the Information Commissioner; and
- (f) any other particulars or documents, as the Selection Committee may determine, which must accompany an application for the appointment.

Shortlisting of candidates for interviews

5. (1) The chairperson of the Selection Committee, by notice in writing to the members, must convene a meeting of the Selection Committee to be held on a date, time and venue as determined by the Secretary to shortlist candidates for interviews.

(2) The meeting for shortlisting of candidates for interviews should be held not later than seven days after the closing date for the submission of applications determined under regulation 4, and at that meeting, the Selection Committee must -

- (a) sign the oath of confidentiality;
- (b) determine a score sheet to be used for scoring candidates during interviews;
- (c) scrutinise the applications submitted under regulation 4; and
- (d) from those applications, shortlist candidates qualified and suitable for being interviewed by the Selection Committee at the meeting to be convened in terms of regulation 6(1).

(3) Only candidates who comply with the qualifications and other criteria referred to in regulation 4(2) may be shortlisted by the Selection Committee.

Interview of candidates for appointment

6. (1) The chairperson of the Selection Committee, after the completion of the shortlisting referred to in regulation 5(2) and in accordance with subregulation (2), must by notice -

- (a) in writing to the members of the Selection Committee; and
- (b) in the *Gazette* and in at least two local newspapers circulating nationally, convene a meeting of the Selection Committee, which must -
 - (i) take place not more than 30 days after the completion of the shortlisting referred to in regulation 5(2); and
 - (ii) interview candidates shortlisted as contemplated in regulation 5(1) for appointment as Information Commissioner or Deputy Information Commissioner.

(2) The notice of interview must contain -

- (a) the names and sex of the applicants referred to in regulation 5(2)(d) to be interviewed by the Selection Committee; and

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- (b) the date, time and venue as the Secretary to the National Assembly, with the consent of the chairperson, may determine for the meeting of the Selection Committee.
- (3) The meeting of the Selection Committee convened in terms of subregulation (1) is open to the public and the media.
- (4) The Selection Committee must -
 - (a) when interviewing the candidates, act in accordance with the principles of transparency and openness; and
 - (b) make its nomination in terms of subregulation (7) with due regard to -
 - (i) the qualifications, experience of the candidate and criteria for appointment as Information Commissioner or Deputy Information Commissioner and suitability of the candidate; and
 - (ii) the objections, if any, lodged in terms of subregulation (5).
- (5) A member of the public -
 - (a) may, at least five days before the date of the interview of the candidates convened in terms of subregulation (1), in writing lodge with the Secretary of the Selection Committee an objection against the appointment of any applicant as Information Commissioner or Deputy Information Commissioner; and
 - (b) must, if so directed by the Selection Committee in writing, appear before the Selection Committee in the manner determined by the Selection Committee for questioning by the members and by the candidate whose appointment is objected to.
- (6) A candidate shortlisted in terms of regulation 5 who fails to attend the meeting convened in terms of subregulation (1) or (5)(b) is disqualified from being nominated in terms of subregulation (7) as a candidate suitable for appointment as Information Commissioner or Deputy Information Commissioner.
- (7) The Selection Committee must, within five days after the closing of the meeting convened in terms of subregulation (1), in writing submit to the National Assembly, the successful candidate from a list of two to three candidates to be considered for approval by resolution as suitable for appointment by the President as Information Commissioner or Deputy Information Commissioner.
- (8) After consideration of a candidate nominated by the Selection Committee for approval by the National Assembly, the National Assembly may -
 - (a) by resolution approve the candidate nominated for appointment by the Committee;
 - (b) disapprove the candidate nominated by the Committee and by resolution approve another candidate from the list provided as contemplated in subregulation (7); or
 - (c) refer the list of candidates nominated back to the Committee with recommendations to reconsider.

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(9) The President must appoint the suitable candidate in writing within five days of receipt of the resolution of the National Assembly approving the appointment of the suitable candidate.