



Republic of Namibia
Annotated Statutes

Namibian Transport Advisory Board Act 23 of 1991

(GG 324)

came into force on date of publication: 19 December 1991

as amended by

National Transport Advisory Board Amendment Act 12 of 1998 (GG 1880)

came into force on date of publication: 11 June 1998

ACT

To provide for the establishment of the Namibian Transport Advisory Board and the composition and functions thereof; and to provide for matters incidental thereto.

(Signed by the President on 5 December 1991)

ARRANGEMENT OF SECTIONS

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Namibian Transport Advisory Board Act 23 of 1991

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

Interpretation

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

“Board” means the Namibian Transport Advisory Board established by section 2;

“committee” means a committee of the Board established under section 7;

“member”, in relation to the Board, means a member of the Board appointed under section 5 and, for the purposes of sections 8 and 9 includes an alternate member appointed under section 6;

“Minister” means the Minister of Works, Transport and Communication;

“Permanent Secretary” means the Permanent Secretary: Works, Transport and Communication;

“public service” means the public service mentioned in section 2 of the Public Service Act, 1980 (Act 2 of 1980).

[The Public Service Act 2 of 1980 has been replaced by the Public Service Act 13 of 1995.]

Establishment of Namibian Transport Advisory Board

2. There is hereby established a board to be known as the Namibian Transport Advisory Board.

Objects of Board

3. The objects of the Board shall be the development, promotion and encouragement of transport in Namibia and the co-ordination of transport services in Namibia in order to ensure that transport services are carried on and maintained in, from or to Namibia in the best interest of Namibia and its inhabitants in the most effective and economic manner.

Functions of Board

4. In order to achieve its objects the Board shall make such investigations as it may deem necessary, and shall advise the Minister generally or in respect of a particular case, in relation to -

(a) the policy which is or should be followed in relation to transport in Namibia and the manner in which that policy is or should be implemented;

(aA) the appropriate choice and combination of infrastructure investments, rail as well as road, transport system development, commercial and economic viability of different solutions and financial arrangements for infrastructure investments;

[paragraph (aA) inserted by Act 12 of 1998]

(b) any measures which, in its opinion, are necessary in order to co-ordinate transport services in Namibia; and

(c) any matter which in the opinion of the Board is connected therewith or which is assigned to the Board by the Minister.

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Composition of Board

5. (1) The Board shall consist of 19 members appointed by the Minister, of whom -
- (a) one member shall be a person who has wide knowledge and experience of, and ability in relation to, transport or aviation or industrial, commercial or financial matters and who shall be designated by the Minister as the chairperson of the Board;
 - (b) five members shall be staff members in the public service of whom one each shall be designated by the Permanent Secretary, the Permanent Secretary: Finance, the Permanent Secretary: Trade and Industry; the Permanent Secretary: Agriculture, Water and Rural Development and the Permanent Secretary: Environment and Tourism;
 - (c) two members shall be persons who in the opinion of the Minister are fit and proper persons to represent the interests of persons who are regularly making use of public and private transport in, from or to Namibia;
 - (d) the other members shall be persons of whom -
 - (i) one is appointed to represent the interests of any company or other body established by virtue of an Act of Parliament with the object of providing public transport services, either by itself or through any subsidiary company;
 - (ii) one is appointed to represent the interests of municipal councils;
 - (iii) three are appointed to represent the interests of persons concerned in the transport industry;
 - (iv) one is appointed to represent the interests of persons concerned in the tourist industry;
 - (v) two are appointed to represent the interests of persons concerned in agriculture;
 - (vi) one is appointed to represent the interests of persons concerned in the mining industry;
 - (vii) one is appointed to represent the interests of persons concerned in the trade sector;
 - (viii) one is appointed to represent the interests of persons concerned in the industrial sector.

[subsection (1) amended by Act 12 of 1998]

- (2) In order to make the appointments contemplated in paragraphs (b) and (d) of subsection (1), the Minister shall by notice in writing invite -
- (a) in the case of appointments contemplated in paragraphs (b) and (d)(i) of subsection (1), the persons referred to in those paragraphs;

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- (b) in the case of appointments contemplated in paragraph (d)(ii) to (viii) of subsection (1), the bodies which the Minister deems to be representative of municipal councils and the persons contemplated in that paragraph, as the case may be,

to submit to the Minister, within a period specified in the notice, the name of a person nominated for appointment.

(3) If a person or body referred to in subsection (2) fails to comply with such invitation within the period specified in such notice, the Minister may, with due regard to the provisions of subsection (1), appoint as a member a person who in the opinion of the Minister, in the case of an appointment contemplated in paragraph (b) of subsection (1), may be designated and, in the case of an appointment contemplated in paragraph (d) of subsection (1), represents the interests of Transnamib Limited, municipal councils or the persons concerned, as the case may be.

Alternate members of Board

6. The Minister may, with due regard to the provisions of section 5, appoint for every member an alternate member, and an alternate member so appointed shall act in the place of the member in respect of whom he or she has been appointed during such member's absence or inability to act as a member.

Committees of Board

7. (1) The Board may from time to time establish committees to advise it on the performance of its functions and may, with the approval of the Minister, appoint persons who are not members of the Board as members of a committee.

- (2) The Board shall designate any member of a committee as the chairperson thereof.

Term of office and conditions of service of members of Board

8. (1) Subject to the provisions of section 9 a member shall hold office for such period, but not exceeding three years, as may be determined by the Minister in general or in respect of a particular case, but may be reappointed at the expiration of that period.

(2) A member who is not employed in the public service on a full-time basis shall be paid from moneys appropriated by law for that purpose, such remuneration and allowances, if any, and in respect of a journey undertaken for purposes of the business of the Board, such subsistence and travelling allowances and such reasonable losses suffered by such member by reason of his or her engagement in the business of the Board, as the Minister may determine with the concurrence of the Minister of Finance.

(3) The remuneration and allowances determined under subsection (2) may differ according to the office held or the functions performed by the member concerned.

Vacation of offices

9. A member shall vacate his or her office if -
- (a) his or her estate is sequestrated or he or she compromises with his or her creditors;
 - (b) he or she is in accordance with any law detained as a mentally ill person;
 - (c) he or she is convicted of an offence and sentenced to a term of imprisonment without the option of a fine;

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- (d) he or she by written notice to the Permanent Secretary resigns as a member;
- (e) he or she has been absent from two consecutive meetings of the Board without its leave;
- (f) he or she is removed from office under subsection (2).

(2) The Minister may at any time and without consulting any person remove any member from office if in the opinion of the Minister good reasons exist for doing so.

(3) A vacancy on the Board caused by the death or the vacation of office of any member shall be filled by the appointment by the Minister, with due regard to the provisions of section 5, of another person as a member of the Board and any member so appointed shall hold office for the unexpired portion of the period of office of the member who has died or vacated office, as the case may be.

Meetings of Board

10. (1) Subject to the provisions of subsection (2), a meeting of the Board shall be held at the time and place as may be determined by the chairperson of the Board.

(2) The Board shall meet at least three times during any period of 12 months as from the date of its first meeting.

(3) The chairperson of the Board shall at the request of the Minister or on a reasoned request in writing of at least seven members convene a special meeting of the Board.

(4) The majority of the members shall form a quorum for a meeting of the Board.

(5) Whenever the chairperson of the Board is absent from a meeting of the Board the members present thereat shall elect one of their number to preside at that meeting.

(6) The decision of a majority of the members present at a meeting of the Board shall constitute the decision of the Board and, in the event of an equality of votes on any matter the person presiding at the meeting in question shall have a casting vote in addition to his or her deliberative vote.

(7) No resolution of the Board or act performed under the authority of the Board shall be invalid by reason only of a vacancy on the Board or of the fact that a person not entitled to sit as a member sat as a member when the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the requisite majority of the members who were present at the time and entitled to sit as members.

(8) The Board shall cause a record to be kept of the proceedings of the meetings of the Board.

(9) The Board may make rules in relation to the holding of, and procedure at, meetings of the Board or any committee thereof.

Performance of administrative functions of Board

11. (1) The administrative and clerical work involved in the performance of the Board's functions shall be performed by officers of the Ministry of Works, Transport and Communication made available by the Permanent Secretary for that purpose.

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(2) The Permanent Secretary may designate an officer referred to in subsection (1) as secretary of the Board.

(3) Subject to the provisions of the State Finance Act, 1982 (Act 1 of 1982), the Board may, after consultation with the Permanent Secretary and on such conditions as may be mutually agreed upon, obtain the services of such persons as it may deem necessary to advise it in connection with any matter relating to its functions.

**[The State Finance Act 1 of 1982 has been replaced
by the State Finance Act 31 of 1991.]**

Investigations by Board

12. (1) The Board may by notice summon any person who in its opinion may be able to furnish it with any relevant information regarding any matter which is being investigated, or who it suspects has any book, document or thing relating to the matter which is being investigated in his or her possession or custody or under his or her control, to appear before the Board at the time and the place specified in the notice, to be questioned or to produce such book, document or thing.

(2) A notice referred to in subsection (1) shall be signed by the chairperson of the Board or by an officer authorized thereto by the chairperson, and shall be served in the prescribed manner on the person concerned.

(3) The chairperson or any other member present may -

(a) administer an oath to or accept an affirmation from any person summoned to appear before the Board or any other person who is present and who is willing to give evidence; and

(b) put any reasonable question to such person.

(4) (a) Any person who has been summoned under subsection (1) and who without sufficient cause fails to attend at the appointed time and place, shall be guilty of an offence.

(b) Any person to whom an oath has been administered or from whom an affirmation has been taken under subsection (3) and who refuses or fails to answer fully and satisfactorily to the best of his or her knowledge and belief all lawful and reasonable questions put to him or her or to produce any book, document or thing in his or her possession or custody or under his or her control when lawfully required to do so, or who fails to remain in attendance until excused from further attendance by the Board, shall be guilty of an offence.

(c) Any person convicted of an offence in terms of paragraph (a) or (b) shall be liable to a fine not exceeding R 1 000 or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

(5) For the purposes of the questioning of any person appearing before the Board or the production of any book, document or thing by such a person, the rules of law relating to privilege as applicable to a witness subpoenaed to give evidence or to produce any book, document or thing before a court of law, shall apply.

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(6) The questioning of any person by the Board shall be conducted in private but the Board may with the consent of the person concerned authorize the presence of any specified person at the questioning of that person.

Expenditure by Board

13. The expenditure incidental to the performance of the functions of the Board shall, subject to the provisions of the State Finance Act, 1982 (Act 1 of 1982), be defrayed from moneys appropriated by law for that purpose.

[The State Finance Act 1 of 1982 has been replaced
by the State Finance Act 31 of 1991.]

Regulations

14. The Minister may make regulations in relation to any matter which the Minister may deem necessary or expedient to prescribe for achieving the objects of this Act.

Short title

15. This Act may be cited as the Namibian Transport Advisory Board Act, 1991.