



GOVERNMENT GAZETTE
OF THE
REPUBLIC OF NAMIBIA

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Government Notice

**MINISTRY OF LABOUR AND HUMAN
RESOURCES DEVELOPMENT**

No. 14

1995

**APPOINTMENT OF COMMISSION OF INQUIRY INTO
LABOUR RELATED MATTERS AFFECTING AGRICULTURAL
EMPLOYEES AND DOMESTIC EMPLOYEES**

It is hereby made known for general information that the President has appointed a Commission of Inquiry into Labour Related Matters relating to Agricultural Employees and Domestic Employees, consisting of -

(a) Dr Z. Kameeta, The Honourable Deputy Speaker, who is the Chairperson; and

- (b) Mr Steve Katjiuango, of the Legal Assistance Centre;
- (c) Mr Pero Nampila, of the Legal Assistance Centre;
- (d) Dr K.W. Kasch, of the Namibia Farmers Union;
- (e) Mr Alex Maroro, of the Namibia National Farmers Union;
- (f) Mr A.L. Stephanus, Chief Agricultural Extension Officer: Ministry of Agriculture, Water and Rural Development;
- (g) Mr B.M. Shinguadja, Labour Commissioner;
- (h) Ms Hilda Khoeses, Chief Control Officer: Ministry of Labour and Human Resources Development; and
- (i) Ms Mangano Nangombe, National Educator, Namibia Domestic and Allied Workers Union.

The Commission's terms of reference are as follows:

- “1. To inquire into, report and make recommendations on labour matters relating to employees employed in the agricultural sector and employees employed as domestic servants.
2. Without derogating from the generality of the foregoing, to inquire into, report and make recommendations on the prevailing practices applied to employees in the agricultural sector and employees employed as domestic servants, with particular reference to -
 - (a) remuneration and other conditions of service, and whether these are in keeping with a living wage adequate for the maintenance of a decent standard of living and the enjoyment of social and cultural opportunities;
 - (b) the provision of adequate and reasonable housing facilities, including sanitary and water facilities, of employees who are required to live in at the place of his or her employment or to reside on any premises of his or her employer, and to what extent the provisions of section 38 of the Labour Act, 1992 (Act 6 of 1992) are being complied with and what measures, if any, are required to achieve the objectives of that section;
 - (c) the employment of children contrary to Article 15 of the Namibian Constitution;
 - (d) dismissals and disciplinary actions contemplated in section 45 of the Labour Act, and the extent to which such practices are being practised;
 - (e) health, safety and welfare;

- (f) any practices of forced labour, the extent thereof and what measures, if any, are required to ensure strict adherence to the provisions of Article 9 of the Namibian Constitution and section 108 of the Labour Act;
- (g) the training of such employees with regard to improved standards of performance and productivity and improved standards of living, and what measures are required to achieve such standards;
- (h) the problems experienced by labour inspectors and trade union officials to gain reasonable access to farms or premises of employers;
 - (i) the need to amend section 60 of the Labour Act or to provide for alternative procedures to facilitate the collection of fees of registered trade unions;
 - (j) whether in the opinion of the Commission any amendments or repeals should be affected to the Labour Act, and what such amendments or repeals should entail,

and such other labour matters which in the opinion of the Commission should be addressed which will enhance productivity and improve the quality of life for employees engaged in the agricultural and domestic sectors”.

The Commission shall commence its work on 30th January 1995 and shall report to the President not later than 30th October 1995.

Interested persons and bodies wishing to submit written representations to or give evidence before the Commission are requested to send or submit, in the manner prescribed in the regulations set out in the Schedule to Proclamation 1 of 1995, written submissions in which those representations or a summary of that evidence is set out, to the Secretary, Commission of Inquiry into Labour Related Matters affecting Agricultural Employees and Domestic Employees, c/o Permanent Secretary, Ministry of Labour and Human Resources Development, P.O. Box 23115, Windhoek, or 32 Mercedes Street Khomasdal, Windhoek, or Fax 061-212323, as soon as possible, but not later than 30th February 1995. (The Commission may in appropriate cases accept and entertain late representations.)

PROCLAMATION

by the

PRESIDENT OF THE REPUBLIC OF NAMIBIA

No. 1

1995

COMMISSION OF INQUIRY INTO LABOUR RELATED MATTERS AFFECTING AGRICULTURAL EMPLOYEES AND DOMESTIC EMPLOYEES

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 with reference to the Commission of Inquiry into Labour Related Matters affecting Agricultural Employees and Domestic Employees, the appointment of which was made known by me by Government Notice 14 of 1995, and hereby make the regulations set out in the Schedule with reference to that Commission.

Given under my Hand and the Seal of the Republic of Namibia, at Windhoek this 20th day of January, One Thousand Nine Hundred and Ninety-five.

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 Labour Related Matters affecting Agricultural Employees and Domestic Employees;

“document” includes any book, pamphlet, note or record (including any tape or other mechanical recording of anything or any transcription of any such note, record, tape or other mechanical recording), 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;

“officer” means any person designated under regulation 2 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 administrative functions of the Commission shall be performed by officers in the public service designated by the Permanent Secretary: Labour and Human Resources Development for that purpose, and who shall perform their duties subject to the control and directions of the Secretary to the Commission.

3. The Minister may, on such terms and conditions as the Minister may determine -

- (a) appoint any person 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 12.

4. The chairperson shall determine the procedure to be followed at any proceedings of the Commission.

5. All meetings of the Commission shall be held at such times and places as may be determined by the Commission.

6. The Secretary to the Commission shall by notice in the *Gazette*, and in such other manner as the Commission may direct, announce the times when and places where public sittings of the Commission will be held for the purpose of hearing evidence and addresses in relation to matters pertaining to its terms of reference.

7. Written submissions to the Commission shall -

- (a) be prepared in the official language;
- (b) be typewritten or word-processed on A4-size paper;
- (c) bear the name, address and telephone or fax number of the author;
- (d) if possible, be submitted in tenfold.

8. All written submissions shall be submitted not later than 4 February 1995, but the Commission shall not be debarred from accepting any written submission received after that date.

9. No shorthand notes or mechanical records of the proceedings of the Commission shall be transcribed except by order of the chairperson.

10. (1) Every person employed or assisting with the functions of the Commission, including any person employed in accordance with regulation 9 to transcribe the proceedings of the Commission, shall preserve and aid in preserving secrecy with regard to the functions, proceedings and documents of the Commission and any matter or information which may come to his or her knowledge in the performance of his or her duties in connection with the said functions, except in so far as the disclosure of such proceedings,

documents, matter or information shall be necessary for the purposes of the Commission's report or in terms of an order of a competent court, and every such person, except a member of the Commission, 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, declare under oath/affirm and declare that, except in so far as it may be necessary for the purposes of the report of the Commission of Inquiry into Labour Related Matters affecting Agricultural Employees and Domestic Employees, or in terms of an 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 said Commission, or the performance of my duties in connection therewith, and that I shall not suffer or permit any person to obtain access to any document of the said Commission, including any note, record or transcription of the proceedings of the said Commission in my possession or custody or in the possession or custody of the said Commission or any officer."

(2) 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.

11. The chairperson, or any officer authorized thereto by the chairperson and acting in the presence of the chairperson, shall administer an oath to or take an affirmation from any witness appearing before the Commission.

12. (1) No person, other than a member of the Commission or a person designated under regulation 3(b), nor the legal representative of any person, shall have the right to cross-examine any witness appearing before the Commission, unless the chairperson permits such cross-examination because the chairperson deems it necessary in the interests of the inquiry.

(2) The chairperson may, when he or she 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 or she deems necessary in the interests of the inquiry.

13. Any witness appearing before the Commission may, in the discretion of the chairperson and in the manner determined by him or her, be assisted by an advocate or attorney, or by any other person, including, if he or she so desires, a person designated by the Permanent Secretary: Labour and Human Resources Development for that purpose.

14. In any proceedings before the Commission the chairperson or the Commission shall not be bound by the rules of law relating to the admissibility of evidence.

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

16. No person shall insult, disparage or belittle the chairperson or any other member of the Commission or prejudice, influence or anticipate the proceedings or findings of the Commission.

17. Any person who -

- (a) contravenes or fails to comply with any provision of these regulations or any order of the chairperson made thereunder; or
- (b) wilfully hinders, resists or obstructs the Commission, the chairperson or any officer in the exercise of any power or duty referred to in these regulations,

shall be guilty of an offence and liable on conviction to a fine not exceeding N\$1 000,00 or to imprisonment for a period not exceeding six months.
