

## **Article 42 Outside Employment**

- (1) During their tenure of office as members of the Cabinet, Ministers may not take up any other paid employment, engage in activities inconsistent with their positions as Ministers, or expose themselves to any situation which carries with it the risk of a conflict developing between their interests as Ministers and their private interests.
- (2) No members of the Cabinet shall use their positions as such or use information entrusted to them confidentially as such members of the Cabinet, directly or indirectly to enrich themselves.

## **Article 43 Secretary to the Cabinet**

- (1) There shall be a Secretary to the Cabinet who shall be appointed by the President and who shall perform such functions as may be determined by law and such functions as are from time to time assigned to the Secretary by the President or the Prime Minister. Upon appointment by the President, the Secretary shall be deemed to have been appointed to such office on the recommendation of the Public Service Commission.
- (2) The Secretary to the Cabinet shall also serve as a depository of the records, minutes and related documents of the Cabinet.

# **CHAPTER 7**

## **The National Assembly**

## **Article 44 Legislative Power**

The legislative power of Namibia shall be vested in the National Assembly with the power to pass laws with the assent of the President as provided in this Constitution subject, where applicable, to the powers and functions of the National Council as set out in this Constitution.

## **Article 45 Representative Nature**

The members of the National Assembly shall be representative of all the people and shall in the performance of their duties be guided by the objectives of this Constitution, by the public interest and by their conscience.

## **Article 46 Composition**

- (1) The composition of the National Assembly shall be as follows:
  - (a) seventy-two (72) members to be elected by the registered voters by general, direct and secret ballot. Every Namibian citizen who has the qualifications described in Article 17 hereof shall be entitled to vote in the elections for members of the National Assembly and, subject to Article 47 hereof, shall be eligible for candidature as a member of the National Assembly;
  - (b) not more than six (6) persons appointed by the President under Article 32(5)(c) hereof, by virtue of their special expertise, status, skill or experience: provided that such members shall have no vote in the National Assembly, and shall not be taken into account for the purpose of determining any specific majorities that are required under this Constitution or any other law.
- (2) Subject to the principles referred to in Article 49 hereof, the members of the National Assembly referred to in Sub-Article (1)(a) hereof shall be elected in accordance with procedures to be determined by Act of Parliament.

## **Article 47 Disqualification of Members**

- (1) No persons may become members of the National Assembly if they:
  - (a) have at any time after Independence been convicted of any offence in Namibia, or outside Namibia if such conduct would have constituted an offence within Namibia, and for which they have been sentenced to death or to imprisonment of more than twelve (12) months without the option of a fine, unless they have received a free pardon or unless such imprisonment has expired at least ten (10) years before the date of their election; or
  - (b) have at any time prior to Independence been convicted of an offence, if such conduct would have constituted an offence within Namibia after Independence, and for which they have been sentenced to death or to imprisonment of more than twelve (12) months without the option of a fine, unless they have received a free pardon or unless such imprisonment has expired at least ten (10) years before the date of their election: provided that no person sentenced to death or imprisonment for acts committed in connection with the struggle for

the independence of Namibia shall be disqualified under this Sub-Article from being elected as a member of the National Assembly;  
or

- (c) are unrehabilitated insolvents; or
- (d) are of unsound mind and have been so declared by a competent Court; or
- (e) are remunerated members of the public service of Namibia; or
- (f) are members of the National Council, Regional Councils or Local Authorities.

(2) For the purposes of Sub-Article (1) hereof:

- (a) no person shall be considered as having been convicted by any Court until any appeal which might have been noted against the conviction or sentence has been determined, or the time for noting an appeal against such conviction has expired;
- (b) the public service shall be deemed to include the defence force, the police force, the prison service, para-statal enterprises, Regional Councils and Local Authorities.

#### **Article 48 Vacation of Seats**

(1) Members of the National Assembly shall vacate their seats:

- (a) if they cease to have the qualifications which rendered them eligible to be members of the National Assembly;
- (b) if the political party which nominated them to sit in the National Assembly informs the Speaker that such members are no longer members of such political party;
- (c) if they resign their seats in writing addressed to the Speaker;
- (d) if they are removed by the National Assembly pursuant to its rules and standing orders permitting or requiring such removal for good and sufficient reasons;
- (e) if they are absent during sittings of the National Assembly for ten (10) consecutive sitting days, without having obtained the special leave of the National Assembly on grounds specified in its rules and standing orders.

(2) If the seat of member of the National Assembly is vacated in terms of

Sub-Article (1) hereof, the political party which nominated such member to sit in the National Assembly shall be entitled to fill the vacancy by nominating any person on the party's election list compiled for the previous general election, or if there be no such person, by nominating any member of the party.

## **Article 49 Elections**

The election of members in terms of Article 46(1 )(a) hereof shall be on party lists and in accordance with the principles of proportional representation as set out in Schedule 4 hereof.

## **Article 50 Duration**

Every National Assembly shall continue for a maximum period of five (5) years, but it may before the expiry of its term be dissolved by the President by Proclamation as provided for in Articles 32(3)(a) and 57(1) hereof.

## **Article 51 Speaker**

- (1) At the first sitting of a newly elected National Assembly, the National Assembly, with the Secretary acting as Chairperson, shall elect a member as Speaker. The National Assembly shall then elect another member as Deputy-Speaker. The Deputy-Speaker shall act as Speaker whenever the Speaker is not available.
- (2) The Speaker or Deputy-Speaker shall cease to hold office if he or she ceases to be a member of the National Assembly. The Speaker or Deputy-Speaker may be removed from office by resolution of the National Assembly, and may resign from office or from the National Assembly in writing addressed to the Secretary of the National Assembly.
- (3) When the office of Speaker or Deputy-Speaker becomes vacant the National Assembly shall elect a member to fill the vacancy.
- (4) When neither the Speaker nor the Deputy-Speaker is available for duty, the National Assembly, with the Secretary acting as Chairperson, shall elect a member to act as Speaker.

## **Article 52 Secretary and other Officers**

- (1) Subject to the provisions of the laws pertaining to the public service and the directives of the National Assembly, the Speaker shall appoint a person (or designate a person in the public service made available

for that purpose); as the Secretary of the National Assembly, who shall perform the functions and duties assigned to such Secretary by this Constitution or by the Speaker.

- (2) Subject to the laws governing the control of public monies, the Secretary shall perform his or her functions and duties under the control of the Speaker.
- (3) The Secretary shall be assisted by officers of the National Assembly who shall be persons in the public service made available for that purpose.

### **Article 53 Quorum**

The presence of at least thirty-seven (37) members of the National Assembly entitled to vote, other than the Speaker or the presiding member, shall be necessary to constitute a meeting of the National Assembly for the exercise of its powers and the performance of its functions.

### **Article 54 Casting Vote**

In the case of an equality of votes in the National Assembly, the Speaker or the Deputy-Speaker or the presiding member shall have and may exercise a casting vote.

### **Article 55 Oath or Affirmation**

Every member of the National Assembly shall make and subscribe to an oath or solemn affirmation before the Chief Justice or a Judge designated by the Chief Justice for this purpose, in the terms set out in Schedule 3 hereof.

### **Article 56 Assent to Bills**

- (1) Every bill passed by Parliament in terms of this Constitution in order to acquire the status of an Act of Parliament shall require the assent of the President to be signified by the signing of the bill and the publication of the Act in the Gazette.
- (2) Where a bill is passed by a majority of two-thirds of all the members of the National Assembly and has been confirmed by the National Council the President shall be obliged to give his or her assent thereto.
- (3) Where a bill is passed by a majority of the members of the National Assembly but such majority consists of less than two-thirds of all the members of the National Assembly and has been confirmed by the National Council, but the President declines to assent to such bill, the

President shall communicate such dissent to the Speaker.

- (4) If the President has declined to assent to a bill under Sub-Article (3) hereof, the National Assembly may reconsider the bill and, if it so decides, pass the bill in the form in which it was referred back to it, or in an amended form or it may decline to pass the bill. Should the bill then be passed by a majority of the National Assembly it will not require further confirmation by the National Council but, if the majority consists of less than two-thirds of all the members of the National Assembly, the President shall retain his or her power to withhold assent to the bill. If the President elects not to assent to the bill, it shall then lapse.

### **Article 57    Dissolution**

- (1) The National Assembly may be dissolved by the President on the advice of the Cabinet if the Government is unable to govern effectively.
- (2) Should the National Assembly be dissolved a national election for a new National Assembly and a new President shall take place within a period of ninety (90) days from the date of such dissolution.

### **Article 58    Conduct of Business after Dissolution**

Notwithstanding the provisions of Article 57 hereof:

- (a) every person who at the date of its dissolution was a member of the National Assembly shall remain a member of the National Assembly and remain competent to perform the functions of a member until the day immediately preceding the first polling day for the election held in pursuance of such dissolution;
- (b) the President shall have power to summon Parliament for the conduct of business during the period following such dissolution, up to and including the day immediately preceding the first polling day for the election held in pursuance of such dissolution, in the same manner and in all respects as if the dissolution had not occurred.

### **Article 59    Rules of Procedure, Committees and Standing Orders**

- (1) The National Assembly may make such rules of procedure for the conduct of its business and proceedings and may also make such rules for the establishing, functioning and procedures of committees, and formulate such standing orders as may appear to it to be expedient or necessary.

- (2) The National Assembly shall in its rules of procedure make provision for such disclosure as may be considered to be appropriate in regard to the financial or business affairs of its members.
- (3) For the purposes of exercising its powers and performing its functions any committee of the National Assembly established in terms of Sub-Article (1) hereof shall have the power to subpoena persons to appear before it to give evidence on oath and to produce any documents required by it.

## **Article 60 Duties, Privileges and Immunities of Members**

- (1) The duties of the members of the National Assembly shall include the following:
  - (a) all members of the National Assembly shall maintain the dignity and image of the National Assembly both during the sittings of the National Assembly as well as in their acts and activities outside the National Assembly;
  - (b) all members of the National Assembly shall regard themselves as servants of the people of Namibia and desist from any conduct by which they seek improperly to enrich themselves or alienate themselves from the people.
- (2) A private members' bill may be introduced in the National Assembly if supported by one-third of all the members of the National Assembly.
- (3) Rules providing for the privileges and immunities of members of the National Assembly shall be made by Act of Parliament and all members shall be entitled to the protection of such privileges and immunities.

## **Article 61 Public Access to Sitings**

- (1) Save as provided in Sub-Article (2) hereof, all meetings of the National Assembly shall be held in public and members of the public shall have access to such meetings.
- (2) Access by members of the public in terms of Sub-Article (1) hereof may be denied if the National Assembly adopts a motion supported by two-thirds of all its members excluding such access to members of the public for specified periods or in respect of specified matters. Such a motion shall only be considered if it is supported by at least one-tenth of all the members of the National Assembly and the debate on such motion shall not be open to members of the public.

## **Article 62 Sessions**

- (1) The National Assembly shall sit:
  - (a) at its usual place of sitting determined by the National Assembly, unless the Speaker directs otherwise on the grounds of public interest, security or convenience;
  - (b) for at least two (2) sessions during each year, to commence and terminate on such dates as the National Assembly from time to time determines;
  - (c) for such special sessions as directed by Proclamation by the President from time to time.
- (2) During such sessions the National Assembly shall sit on such days and during such times of the day or night as the National Assembly by its rules and standing orders may provide.
- (3) The day of commencement of any session of the National Assembly may be altered by Proclamation by the President, if the President is requested to do so by the Speaker on grounds of public interest or convenience.

## **Article 63 Functions and Powers**

- (1) The National Assembly, as the principal legislative authority in and over Namibia, shall have the power, subject to this Constitution, to make and repeal laws for the peace, order and good government of the country in the best interest of the people of Namibia.
- (2) The National Assembly shall further have the power and function, subject to this Constitution:
  - (a) to approve budgets for the effective government and administration of the country;
  - (b) to provide for revenue and taxation;
  - (c) take such steps as it considers expedient to uphold and defend this Constitution and the laws of Namibia and to advance the objectives of Namibian independence;
  - (d) to consider and decide whether or not to succeed to such international agreements as may have been entered into prior to Independence by administrations within Namibia in which the majority of the Namibian people have historically not enjoyed democratic representation and participation;



- (e) to agree to the ratification of or accession to international agreements which have been negotiated and signed in terms of Article 32(3)(e) hereof;
- (f) to receive reports on the activities of the Executive, including para-statal enterprises, and from time to time to require any senior official thereof to appear before any of the committees of the National Assembly to account for and explain his or her acts and programmes;
- (g) to initiate, approve or decide to hold a referendum on matters of national concern ;
- (h) to debate and to advise the President in regard to any matters which by this Constitution the President is authorised to deal with;
- (i) to remain vigilant and vigorous for the purposes of ensuring that the scourges of apartheid, tribalism and colonialism do not again manifest themselves in any form in a free and independent Namibia and to protect and assist disadvantaged citizens of Namibia who have historically been the victims of these pathologies;
- (j) generally to exercise any other functions and powers assigned to it by this Constitution or any other law and any other functions incidental thereto.

#### **Article 64    Withholding of Presidential Assent**

- (1) Subject to the provisions of this Constitution, the President shall be entitled to withhold his or her assent to a bill approved by the National Assembly if in the President's opinion such bill would upon adoption conflict with the provisions of this Constitution.
- (2) Should the President withhold assent on the grounds of such opinion, he or she shall so inform the Speaker who shall inform the National Assembly thereof, and the Attorney-General, who may then take appropriate steps to have the matter decided by a competent Court.
- (3) Should such Court thereafter conclude that such bill is not in conflict with the provisions of this Constitution, the President shall assent to the said bill if it was passed by the National Assembly by a two-thirds majority of all its members. If the bill was not passed with such majority, the President may withhold his or her assent to the bill, in which event the provisions of Article 56(3) and (4) hereof shall apply.

- (4) Should such Court conclude that the disputed bill would be in conflict with any provisions of this Constitution, the said bill shall be deemed to have lapsed and the President shall not be entitled to assent thereto.

#### **Article 65 Signature and Enrolment of Acts**

- (1) When any bill has become an Act of Parliament as a result of its having been passed by Parliament, signed by the President and published in the Gazette, the Secretary of the National Assembly shall promptly cause two (2) fair copies of such Act in the English language to be enrolled in the office of the Registrar of the Supreme Court and such copies shall be conclusive evidence of the provisions of the Act.
- (2) The public shall have the right of access to such copies subject to such regulations as may be prescribed by Parliament to protect the durability of the said copies and the convenience of the Registrar's staff.

#### **Article 66 Customary and Common Law**

- (1) Both the customary law and the common law of Namibia in force on the date of Independence shall remain valid to the extent to which such customary or common law does not conflict with this Constitution or any other statutory law.
- (2) Subject to the terms of this Constitution, any part of such common law or customary law may be repealed or modified by Act of Parliament, and the application thereof may be confined to particular parts of Namibia or to particular periods.

#### **Article 67 Requisite Majorities**

Save as provided in this Constitution, a simple majority of votes cast in the National Assembly shall be sufficient for the passage of any bill or resolution of the National Assembly.