



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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No. 4276

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GOVERNMENT NOTICE

No. 135 Promulgation of National Youth Council Act, 2009 (Act No. 3 of 2009), of the Parliament 1

Government Notice

OFFICE OF THE PRIME MINISTER

No. 135

2009

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 3 of 2009: National Youth Council Act, 2009.

ACT

To provide for the establishment of the National Youth Council and the Youth Development Fund; to provide for the management and administration of the Council and the Fund; to provide for the establishment of youth forums; to provide for the registration of youth organizations and associations as affiliates to the Council; and to provide for incidental matters.

(signed by the President on 29 May 2009)

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BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:

PART I
PRELIMINARY

Definitions

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

“Board” means the Board of the Council referred to in section 12;

“committee” means a committee of the Board appointed under section 18;

“Council” means the National Youth Council established by section 2;

“Director” means the Director of the Council appointed in terms of section 35;

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“Executive Chairperson” means the Executive Chairperson of the Council elected in terms of section 27;

“Fund” means the Youth Development Fund established by section 30;

“General Assembly” means the General Assembly of the Council referred to in section 5;

“member” means a member of the Board;

“Minister” means the Minister responsible for youth;

“Ministry” means the Ministry responsible for the administration of youth affairs;

“prescribed” means prescribed by regulation made under section 48;

“Representative Council” means the Representative Council referred to in section 8;

“regional youth officer” means a staff member of the Ministry designated by the Minister as a regional youth officer;

“this Act”, includes regulations made under section 48; and

“youth” means a young person aged from 16 to 35 years old.

PART II**NATIONAL YOUTH COUNCIL****Establishment of Council**

2. There is established a council to be known as the National Youth Council, and which for all purposes is a juristic person.

Powers and functions of Council

- 3.** The powers and functions of the Council are -
- (a) to foster among the Namibian youth a spirit of national identity, a sense of patriotism, unity, self respect, and in depth awareness of social, economic, political, educational and cultural prospects and adversities;
 - (b) to develop the inherent abilities and capabilities of young people both individually and collectively;
 - (c) to encourage literacy and artistic activities among the youth;
 - (d) to establish and maintain relations with international youth bodies and national youth structures in other countries;
 - (e) to mobilize funds both locally and internationally for the cause of youth development;
 - (f) to popularize and advocate the concept of gender equality among the youth;

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- (g) to initiate youth development projects, programmes and activities with the aim of encouraging the active participation of the youth in the process of their own empowerment;
- (h) to facilitate, implement, monitor and evaluate youth development programmes;
- (i) to pursue advocacy role with regard to the rights and opportunities for the youth with disabilities; and
- (j) to liaise with and advise the Minister on youth matters.

Constitution of Council

- 4.** The Council consists of -
- (a) the General Assembly;
 - (b) the Representative Council; and
 - (c) the Board of the Council.

General Assembly

5. The General Assembly is the highest consultative, policy and decision making body of the Council and it meets once in four years.

Powers and functions of General Assembly

- 6.** The powers and functions of the General Assembly are –
- (a) to formulate general policies of the Council;
 - (b) to review the activities of the Board and the Representative Council;
 - (c) to elect the Executive Chairperson every fourth year;
 - (d) to elect and nominate five persons for appointment as members of the Board every fourth year;
 - (e) to adopt operational guidelines of the Council; and
 - (f) to consider and, if necessary, implement, proposals made by other governing structures in relation to urgent matters.

Constitution of General Assembly

- 7.** (1) The General Assembly consists of –
- (a) four delegates from each regional youth forum;
 - (b) four delegates from each affiliate; and
 - (c) all members of the Board.

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(2) The delegates are responsible and accountable to the Council, and as such, their mandate is to serve the Council but not their individual institutions they represent in the Council.

Representative Council

8. The Representative Council is the second highest consultative, policy and decision making body when the General Assembly is not in session.

Powers and functions of Representative Council

9. The powers and functions of the Representative Council are -
- (a) to advise the Board on any matter relating to the activities of the Council;
 - (b) to review and direct the activities of the Executive Chairperson and the Board;
 - (c) to recommend to the Minister to reprimand, suspend or discharge any member of the Board, on ground of gross misconduct;
 - (d) to consider and take decision on any recommendation made to it by the Board;
 - (e) to receive and consider audited financial reports from the Board;
 - (f) to help resolve complaints, grievances and disputes affecting affiliates;
 - (g) to reprimand, even suspend for a period not exceeding six months, or discharge affiliates found to be in breach of procedures, rules and regulations governing the conduct of affiliates;
 - (h) to elect and nominate person for appointment to fill any vacancy that may occur on the Board before the expiry of a term of office; and
 - (i) to adopt uniform constitutions for regional youth forums and constituency youth forums, respectively, that spell out their structures, objectives and activities, and that may not be inconsistent with the objectives of this Act.

Constitution of Representative Council

10. The Representative Council consists of –
- (a) all members of the Board;
 - (b) a delegate from each regional youth forum; and
 - (c) a delegate from each affiliate.

Meetings of Representative Council

11. (1) Subject to subsection (4), the Representative Council meets once a year.

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(2) Members of the Representative Council must at their first meeting elect one of their members to serve on part-time basis as Chairperson of the Council, and such member -

- (a) must have an understanding of the development, politics and aspirations of the youth in general;
- (b) may not be a member of the Board;
- (c) is elected for a term of four years, and is eligible for re-election at the expiry of that term, subject to a maximum of two terms of office; and
- (d) convenes and presides over meetings of the Council; and
- (e) is, with the necessary changes, subject to the application of sections 28 and 29.

(3) The Director acts as the secretary to the Representative Council.

(4) The chairperson of the Representative Council must convene a special meeting of the Representative Council if a two-third majority of all members of the Board request the meeting.

(5) The majority of all the members of the Representative Council forms a quorum at any meeting of the Representative Council.

(6) Subject to this Act, if the Chairperson of the Representative Council becomes older than 35 years the Chairperson continues until his or her term of office expires.

Board of Council

12. The Board of the Council is the executive organ of the Council and reports to the Representative Council.

Powers and functions of Board

13. (1) The powers and functions of the Board are -

- (a) to give policy directions to the Director on the management and administrative affairs of the Council;
- (b) to advise the Minister -
 - (i) on the policies, activities and programmes of the Council;
 - (ii) on the establishment, governance and funding of the Council;
 - (iii) on legislation pertaining to youth matters, including amendments to this Act or any other relevant legislation; and
 - (iv) on any matter referred to it by the Minister;
- (c) to appoint, subject to this Act, such persons as it may consider necessary to perform the functions and conduct the affairs of the Council;

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- (d) to suspend or discharge any person appointed by it under this Act;
 - (e) with the approval of the Minister made in agreement with the Minister responsible for finance, to pay such remuneration and allowances to the employees of the Council as it may determine;
 - (f) to grant such leave of absence to employees of the Council;
 - (g) to purchase, hire or otherwise acquire, sell, let or otherwise dispose of or hypothecate, pledge or otherwise deal with any movable property or immovable property or any right in or over movable property, but, in the case of immovable property, with the prior approval of the Minister and the Minister responsible for finance;
 - (h) to enter into commercial arrangement with any person, including incorporate body, and in particular it may -
 - (i) enter into joint business ventures;
 - (ii) establish the Council's own corporate bodies in which it is the sole or majority shareholder;
 - (iii) purchase shares or other interests in existing corporate bodies;
 - (i) to invest, in accordance with the investment policy approved by the Minister in agreement with the Minister responsible for finance, money or any other asset which is not required for immediate use;
 - (j) to enter into any contract with any person to give effect to any provision of this Act; and
 - (k) with the concurrence of the Minister, to accept donations made to the Council by any person or body.
- (2) To enable the Board to perform its functions, the Board may -
- (a) appoint any person or body to investigate matters relating to any matter provided for in this Act as it may consider necessary;
 - (b) enter into an agreement with any person or body for the performance of any specific act or function or rendering of specific service; or
 - (c) enter into any other contract or agreement for a legitimate purpose.
- (3) The Board may delegate or assign, either in general or in particular, any power or function conferred or imposed upon the Board by or under this Act to the Director subject to such conditions and restrictions as it may determine.
- (4) The Board is not divested or relieved of any power or function delegated or assigned under subsection (3), and –
- (a) may withdraw or amend such delegation or assignment at any time; or
 - (b) without prejudice of rights, may set aside or vary any decision made in the exercise of such power at any time.

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(5) In performing the functions in terms of this Act, the Board must, when necessary, consult and co-operate with ministries, offices and agencies as defined in the Public Service Act, 1995 (Act No.13 of 1995), and statutory bodies, having objectives and functions similar or related to the objectives and functions of the Council.

Constitution of Board

14. (1) The Board consists of nine members, aged from 16 to 35 years of age, and apart from the Executive Chairperson who is a member by virtue of his or her office and also the chairperson of the Board, members are appointed by the Minister as follows -

- (a) a person nominated by the National Federation of Persons with Disabilities;
- (b) five persons nominated by the General Assembly, and of whom at least two must be females; and
- (c) two persons nominated by the Ministry, and of whom one must be from a marginalized group.

(2) The persons referred to in subsection (1) must be nominated on the basis of their experience and ability in dealing with the youth and youth development or any other related matter.

(3) For the purposes of appointment of persons as members of the Board, the Minister must invite the bodies referred to in subsection (1) in writing to nominate persons for appointment within a period specified in the invitation.

(4) If a nomination referred to in subsection (3) is not received by the Minister within the period specified in the invitation, the Minister must appoint such person after consultation with the relevant category.

Terms and conditions of office of member

15. Subjects to section 17, a member holds office for a term of four years and is eligible for re-appointment at the expiration of that term, subject to a maximum of two terms of office.

Disqualification for appointment as member

16. A person does not qualify for appointment or to hold office as a member if the person -

- (a) is not a Namibian citizen;
- (b) is an unrehabilitated insolvent;
- (c) is mentally unfit;
- (d) is a member of Parliament or of a regional council or local authority council; or

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- (e) within the period of 10 years before the date of the proposed appointment, has been convicted of an offence and sentenced to a period of imprisonment without the option of a fine.

Vacation of office and filling of vacancies

- 17.** (1) A member vacates office, if he or she -
- (a) resigns from the Board after giving the Minister 30 days' written notice of the member's intention to resign;
 - (b) is convicted of an offence and sentenced to a period of imprisonment without the option of a fine;
 - (c) has been absent without the permission of the Board from three consecutive meetings of the Board of which the member was given no less than seven days' written notice;
 - (d) becomes disqualified in terms of section 16 to hold office as a member; or
 - (e) is removed from office by the Minister under subsection (2).

(2) The Minister may remove a member from the office on recommendation of the Board or on his or her own initiative, if the member -

- (a) is guilty of misconduct that renders him or her unsuitable to act as a member;
- (b) fails to comply with or contravenes this Act; or
- (c) is by reason of illness or for any other reason incapable of acting as a member.

(3) If a member dies or vacates office, the vacancy must be filled for the unexpired portion of office of the member in the manner and under conditions contemplated in section 14.

(4) Subject to this Act, if a member becomes older than 35 years such member continues until his or her term of office expires.

Committees of Board

18. (1) The Board may appoint any committee as the Board thinks necessary to exercise such powers and perform such functions as the Board, under subsection (4), may delegate or assign.

(2) A committee appointed under subsection (1) consists of such members of the Board, and may include such persons not being members of the Board and who are not disqualified in terms of section 16, as the Board may appoint to the committee.

(3) The Board must appoint a member of the Board to be the chairperson of a committee.

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(4) The Board may delegate any power or assign any function conferred or imposed upon the Board by or under this Act to a committee subject to such conditions as the Board may determine.

(5) The Board is not divested or relieved of any power or function delegated or assigned under subsection (4).

(6) The Board, at any time and without prejudice of rights, may vary or set aside any decision made by a committee in the exercise of a power delegated under subsection (4).

(7) The chairperson of the Board may convene a meeting of a committee at any time and place.

(8) The Board may dissolve or reconstitute a committee at any time.

Meetings and decisions of Board and committee

19. (1) The Board must –

- (a) meet at least four times a year; and
- (b) hold its first meeting on a date and at a place and time as the Minister may determine and thereafter the Board, subject to subsection (4), may hold its meetings on dates and at places and times as it may determine.

(2) The chairperson of the Board, at the first meeting of the Board, must facilitate the election of a vice-chairperson of the Board from amongst the Board members.

(3) The vice-chairperson of the Board presides over meetings of the Board in the absence of the chairperson.

(4) The chairperson of the Board -

- (a) may at any time convene a special meeting of the Board; and
- (b) on the written request of the Minister or of no less than three Board members, must convene a special meeting of the Board, which meeting must be convened on a date not later than 30 days after the chairperson's receipt of the request.

(5) A written notice convening any special meeting in terms of subsection (4) must -

- (a) be sent to each member at least 48 hours before the date of the meeting; and
- (b) specify the business for which a meeting has been convened.

(6) The Board, at a special meeting convened in terms of subsection (4), may not discuss any business other than the business specified in the written notice of that meeting.

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(7) If the chairperson and vice-chairperson of the Board are both absent from a meeting, the members present, may elect a member to preside at the meeting as chairperson.

(8) The majority of all members or of all members of a committee forms a quorum at any meeting of the Board or committee.

(9) A decision of the majority of the members or of the members of the committee present and voting at any meeting of the Board or committee constitutes a decision of the Board or committee, and in the event of any equality of votes at any meeting, the member presiding has a casting vote in addition to a deliberative vote.

(10) Subject to subsection (11), a proposal circulated among all members of the Board and agreed to in writing by the majority of all members -

(a) has the same effect as a resolution passed at a duly constituted meeting of the Board; and

(b) must be incorporated in the minutes of the next meeting of the Board.

(11) If a member requires that a proposal referred to in subsection (10) be placed before a meeting of the Board, the proposal must be so placed.

(12) The Board may make rules governing procedures at meetings of the Board and committees.

Validity of decisions and acts of Board and committee

20. A decision of the Board or a committee or an act done under the authority of the Board or a committee is not invalid solely on the ground that a disqualified person acted as a member at the time the decision was taken or the act was authorized, if the duly appointed members of the Board or committee who were present at the meeting constituted a quorum and a decision was made in accordance with section 19.

Disclosure of interest of members of Board and committee

21. (1) If a member of the Board or a committee has any direct or indirect interest in any matter which is the subject of consideration at the meeting of the Board or committee, and that matter may cause a conflict of interest to arise, the member -

(a) must disclose the nature of the interest to the Board or committee before or at the commencement of the meeting; and

(b) may not participate in the meeting, unless the other members, after considering the disclosure made in terms paragraph (a) direct otherwise.

(2) If at any stage during a meeting of the Board or a committee it appears that a member or member of a committee has or may have any interest which may cause a conflict of interest to arise, the member must as soon as possible -

(a) fully disclose the nature of such interest; and

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(b) leave the meeting to enable the remaining members to consider the disclosure and determine whether the member is excluded from participating in the meeting by reason of a conflict of interests.

(3) A disclosure by a member or a member of a committee in accordance with subsection (1) or (2), and a decision taken by the members or members of the committee in connection with such disclosure must be recorded in the minutes of the meeting concerned.

(4) A decision on a matter taken by the Board or a committee at a meeting where a member or member of a committee took part in contravention of subsection (1) or (2) must be cancelled and the matter reconsidered at the ensuing meeting of the Board or committee.

(5) Despite subsection (4), a member of the Board or a member of a committee who contravenes or fails to comply with subsection (1) or (2) commits an offence and is liable to a fine not exceeding N\$8 000 or to imprisonment not exceeding a period of two years, or to both such fine and such imprisonment.

Minutes and proceedings of Board and committee

22. (1) The Board or a committee must cause minutes of all proceedings and decisions taken at every meeting of the Board or committee to be entered in books kept for the purpose.

(2) Any minutes referred to in subsection (1) purport to be signed by the chairperson of the meeting to which the minutes relate or by the chairperson of the ensuing meeting of the Board or committee must be accepted for all purposes as *prima facie* evidence of the proceedings of or decision taken at the meeting concerned.

Minister may give directives to Board

23. (1) Subject to subsection (2), the Minister may give the Board such written directives of a general character relating to the exercise of the Board's functions as appears to the Minister necessary in the public interest.

(2) Before giving the Board any directive under subsection (1), the Minister must inform the Board of the proposed directive and the Board must submit in writing to the Minister its views on the proposal, including the possible effects on the finances and other resources of the Council.

(3) Where the Minister has given a directive in terms of subsection (1), the Board must ensure that the directive and any views it has expressed thereon in terms of subsection (2) are set out in its reports.

Delegation and assignment of powers and functions

24. (1) The Board, in writing and subject to such conditions or restrictions as it may impose, may delegate any power or assign any function conferred or imposed on it or on the Council by or under this Act to the Director except the power to make rules.

(2) The Board is not divested or relieved of the power or function delegated or assigned under subsection (1) and it may at any time -

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- (a) withdraw or amend any such delegation or assignment; or
- (b) without prejudice of any right, set aside or vary any decision made in the exercise of such power.

Reports of Council

25. (1) As soon as practicable but not later than six months after the end of each financial year of the Council, the Board must submit to the Minister an annual report on the affairs and activities of the Council.

(2) The Board must submit such other reports and particulars relating to the properties, affairs and activities of the Council as the Minister may require, or as the Board may consider necessary, at any time.

(3) On receipt of the annual report referred to in subsection (2), the Minister must -

- (a) if the National Assembly is in session, table the annual report together with the report of the Auditor-General referred to in section 31(4) in the National Assembly within 30 days of receipt; or
- (b) if the National Assembly is not in session, table the annual report together with the report of the Auditor-General referred to in section 31(4) in the National Assembly within 30 days after the commencement of the next session.

Payments of allowances to members and members of committees

26. Board members and members of committees who are not in fulltime employment of the State must be paid from the Fund such allowances, including travel and subsistence allowances as the Representative Council, in agreement with the Minister, and the Minister responsible for finance, may determine.

PART II
EXECUTIVE CHAIRPERSON OF COUNCIL

Executive Chairperson of Council

27. (1) The General Assembly must elect a person to serve on fulltime basis as Executive Chairperson of the Council.

(2) The Executive Chairperson is the political head of the Council and -

- (a) must be a person who understands the development, politics, and aspirations of the youth in general; and
- (b) is elected for a term of four years, and is eligible for re-election at the expiry of that term, subject to a maximum of two terms of office.

(3) Apart from being the chairperson of the Board, the Executive Chairperson presides over meetings of the General Assembly.

(4) Subject to this Act and directives of the Minister, the Executive Chairperson must ensure -

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- (a) that the operations, undertakings and properties of the Council are properly managed;
- (b) that the decisions of the General Assembly, the Representative Council and the Board are properly implemented; and
- (c) that the administration of the Council is properly run.

Disqualification for appointment as Executive Chairperson

28. A person does not qualify for appointment or to hold office as Executive Chairperson, if the person -

- (a) is not a Namibian citizen;
- (b) is an unrehabilitated insolvent;
- (c) is mentally unfit;
- (d) is a member of Parliament, regional council or local authority council;
or
- (e) within the period of 10 years before the date of the proposed appointment, has been convicted of an offence and sentenced to a period of imprisonment without the option of a fine.

Vacation of office and filling of vacancy of Executive Chairperson

29. (1) The Executive Chairperson vacates office, if he or she -

- (a) resigns from office after giving the Representative Council a 30 days' written notice of his or her intention to resign;
- (b) is convicted of an offence and sentenced to a period of imprisonment without the option of a fine;
- (c) becomes disqualified in terms of section 28 to hold office as Executive Chairperson; or
- (d) is removed from office by the Representative Council under subsection (2).

(2) The Representative Council may remove the Executive Chairperson from office on recommendation of the Board, if he or she -

- (a) is guilty of misconduct that renders him or her unsuitable to act as Executive Chairperson;
- (b) fails to comply with or contravenes this Act; or
- (c) is by reason of illness or for any other reason incapable of acting as a member.

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(3) The Board may only establish a position under paragraph (a) or (b) of subsection (2) after the Board having heard the story of the Executive Chairperson in a proper hearing.

(4) If the Board is of the view that the Executive Chairperson ought to be removed from office under subsection (2)(c), the Board, before making a recommendation to that effect to the Representative Council, must –

- (a) notify the Executive Chairperson, in writing, of the grounds on which it is considered he or she ought to be removed from office;
- (b) provide the Executive Chairperson with an opportunity to make representations either orally or in writing or both; and
- (c) consider any representations made by the Executive Chairperson.

(5) If an Executive Chairperson dies or vacates office, the vacancy must be filled for the unexpired portion of office of the Executive Chairperson in the manner and under conditions contemplated in section 27.

PART III**FINANCIAL PROVISIONS****Establishment of Youth Development Fund**

30. (1) There is established a fund to be known as the Youth Development Fund and its object is the funding of the Council's activities, programmes and projects for the promotion of youth development.

- (2) The Fund consists of -
- (a) money appropriated by Parliament for the purpose of the Council;
 - (b) money generated by the Council from its revenue making activities such as the sale of products made or produced through programmes or projects undertaken or services rendered by it;
 - (c) interest received from investments made by the Council;
 - (d) donations or contributions received by the Council from any source with prior approval of the Minister responsible for Finance; and
 - (e) money lawfully received from any other source.

(3) The Fund is managed and controlled by the Board in accordance with an estimate of income and expenditure prepared by the Board and approved by the Representative Council in agreement with the Minister in respect of each financial year of the Council.

(4) No expenditure payable from the Fund may be incurred except in accordance with the approved estimate of expenditure referred to in subsection (3).

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(5) The Board must open and maintain banking accounts in the name of the Fund with the banking institutions or building societies registered in terms of the laws governing banking institutions and building societies in Namibia or the Post Office Savings Bank controlled and managed by the Namibia Post Limited -

- (a) into which must be deposited all moneys accruing to and received by or on behalf of the Council for the benefit of the Fund in terms of this Act or any other law;
- (b) from which must be paid -
 - (i) all expenditure in connection with the performance of the functions of the Council; and
 - (ii) any amount with which the Fund is charged in terms of this Act;
- (c) from which no money may be withdrawn, except by means of a cheque or other instrument signed by such person or persons as may be authorized by the Board.

(6) The Board, in the manner approved by the Minister in agreement with the Minister responsible for Finance, may invest any money standing to the credit of the Fund which is not required for immediate use.

(7) The Board, on application made to it or of its own accord and on such conditions as it may determine, may give financial assistance from the Fund to any person, youth club, youth organizations or associations or affiliates for any purposes contemplated in subsection (1).

(8) For the purpose of giving financial assistance in terms of subsection (7), the Board may require from the recipient or recipients contemplated in that subsection in relation to whom or to which such assistance is being considered -

- (a) to furnish the Board with such particulars and information as the Board may require; or
- (b) to submit to the Board such books, documents, statements and records as the Board may require.

(9) The Board may require a beneficiary of any financial assistance under subsection (7) to furnish it with -

- (a) such particulars and information; or
- (b) such documents, statements or records,

in respect of the appropriation of the money paid to such beneficiary under that subsection, as the Board may require.

(10) Any unexpended balance in the Fund at the end of the financial year of the Council must be carried forward as a credit in the Fund to the next financial year.

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31. (1) The financial year of the Council ends on 31 March in each year.

(2) The Board must cause to be kept proper books of account and financial information relating to all affairs and activities of the Council so as to, at all times, present fairly and reflect correctly all the financial transactions and the financial position of the Council.

(3) As soon as practicable after the end of each financial year but not later than three months, the Board -

(a) must cause to be prepared -

(i) financial statements in respect of the financial year concerned; and

(ii) a report on the affairs and activities of the Council during the financial year concerned;

(b) must submit all financial accounts and statements to the Auditor-General for audit.

(4) The Auditor-General must transmit the audited accounts, his or her certificate and a report in connection with any investigation, examination and auditing carried out by him or her under this Act or the State Finance Act to the Minister for tabling in accordance with section 25, and must transmit a copy thereof to the Board.

Exemption from payment of tax, duty and other charges

32. Despite anything to the contrary in any law, the Council is not liable to pay -

(a) any tax or charge on its income; and

(b) transfer duty or stamp duty in any transaction for which such duty is payable.

Utilization of funds and accountability

33. (1) Money allocated to or standing to the credit of the Fund may only be utilized by the Council for the purposes approved in terms of section 30(3) and for financing , among others -

(a) the programmes, projects and other activities of the Council;

(b) the activities of the Board; and

(c) the administration of the Fund.

(2) Any amount of money withdrawn from the Fund under subsection (1), or any property of the Council that is allocated, must be so withdrawn or allocated, as prescribed by the Board, and the purpose for which it is to be utilised must be clearly indicated.

Liquidation of Fund

34. The Fund may not be liquidated except by or under the authority of an Act of Parliament.

PART IV

ADMINISTRATION OF COUNCIL

Director of Council

35. (1) The Board, with the approval of the Minister, must appoint a person who has the necessary training, skills and expertise relevant to the functions of the Council as Director of the Council.

(2) The Director is the head of the administration and reports to the Board, and is –

- (a) appointed for a term of five years, subject to a six months probation, and is eligible for re-appointment upon the expiry of that term;
- (b) the chief accounting officer of the Council;
- (c) the chairperson of the Management Committee; and
- (d) is an ex-officio member and secretary of the Board and may participate in discussions on any matter under consideration before the Board, but has no voting right on any matter before the Board.

(3) Subject to the general control and directions of the Board, the Director is responsible for –

- (a) the management of the day-to-day functions and affairs of the Council; and
- (b) the supervision and control of the activities of the employees of the Council in the course of their employment.

(4) The Director may, in writing, subject to such conditions as he or she may impose, delegate any power or assign any function conferred or imposed on him or her by or under this Act to any staff member of the Council at the management level, and is not divested of or relieved of the power or functions so delegated or assigned.

(5) The Director may, at any time in writing –

- (a) withdraw or amend any delegation or assignment made under subsection (4); or
- (b) without prejudice of any right, set aside or vary any decision made in the exercise of delegated power.

(6) Whenever the office of the Director becomes vacant, or the Director is for any reason unable to perform his or her functions, the Board may –

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- (a) designate any staff member of the Council; or
- (b) if circumstances so require, appoint any other person,

to act as Director, until the vacancy is filled or the Director is able to perform his or her functions.

(7) A person designated or appointed in terms of subsection (6) has all the powers and performs all the functions of the Director.

Disqualification for appointment as Director

36. A person does not qualify for appointment or to hold office as Director, if the person -

- (a) is not a Namibian citizen;
- (b) is an unrehabilitated insolvent;
- (c) is mentally unfit;
- (d) is a member of Parliament, regional council or local authority council; or
- (e) within the period of 10 years before the date of the proposed appointment, has been convicted of an offence and sentenced to a period of imprisonment without the option of a fine.

Management Committee of Council

37. (1) The Director, upon his or her assumption of office, must constitute the Management Committee of the Council to assist the Director in the overall day-to-day management of the functions and affairs of the Council.

(2) The Management Committee consists of the Director, who is the chairperson of the Committee, and all heads of administrative departments of the Council.

Meetings of Management Committee

- 38.** (1) The Management Committee must –
- (a) hold its meetings on dates and at places and times determined by the Director; and
 - (b) cause minutes of all proceedings and decisions taken at every meeting of the Committee to be entered in books kept for the purpose.

(2) Any minutes referred to in subsection (1) which purports to be signed by the chairperson of the meeting to which the minutes relate or by the chairperson of the ensuing meeting must be accepted for all purposes as *prima facie* evidence of the proceedings of and decisions taken at the meeting concerned.

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- 39.** (1) The Board, in addition to the Director –
- (a) upon such terms and conditions as the Board, after consultation with the Minister, may determine, may appoint such persons as the Board may consider necessary to –
 - (i) perform and conduct the day-to-day functions and affairs of the Council; and
 - (ii) give clerical and technical assistance to the Executive Chairperson, the Board, the Representative Council and the General Assembly;
 - (b) may promote, suspend or discharge as prescribed any person appointed in terms of paragraph (a);
 - (c) with the approval of the Minister given after consultation with the Minister responsible for finance, must pay such remuneration, allowances and other benefits, and grant such leave of absence, to employees of the Council as it may determine.
- (2) The staff of the Council must –
- (a) hold its meetings on dates and at places and times determined by the Director;
 - (b) cause minutes of all proceedings and decisions taken at every meeting of the Secretariat to be entered in books kept for the purpose.
- (3) Any minutes referred to in subsection (1) which purports to be signed by the chairperson of the meeting to which the minutes relate or by the chairperson of the ensuing staff meeting must be accepted for all purposes as prima facie evidence of the proceedings of and decisions taken at the meeting concerned.

PART V**YOUTH FORUMS****Regional Youth Forums**

- 40.** (1) There are established in all 13 regions of Namibia a regional youth forum in each region.
- (2) A regional youth forum –
- (a) coordinates activities of the youth in its region;
 - (b) is the immediate representative of the Council at regional level in its region;
 - (c) reports to the Representative Council once a year;

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- (d) must receive financial support from the Council based on the terms and conditions determined by the Board.
- (3) A regional youth forum consists of –
 - (a) representatives of youth organizations and associations at regional level;
 - (b) representatives of constituency executive committees; and
 - (c) a regional conference that sits every fourth year and consists of –
 - (i) all members of regional executive committee;
 - (ii) seven delegates from each constituency forum; and
 - (iii) all regional youth officers in the region as observers.
- (4) Each regional youth forum, at its regional conference –
 - (a) must constitute its regional executive committee to administer the affairs and activities of the forum, consists of –
 - (i) all chairpersons of constituency youth forums;
 - (ii) four additional members elected by the regional conference; and
 - (iii) all regional youth officers in the region who are members by virtue their office but have no right to vote.
 - (b) must elect the office bearers of the regional executive committee, consists of –
 - (i) a chairperson;
 - (ii) a vice-chairperson;
 - (iii) a treasurer; and
 - (iv) an administrative secretary.
- (5) A member of a regional executive committee serves for a term of four years of office, subject to a maximum of two terms.

Constituency youth forums

- 41.** (1) There is established in every political constituency a constituency youth forum.
- (2) A constituency youth forum –
 - (a) coordinates youth activities in the constituency;

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- (b) is the immediate representative of the regional youth forum at the constituency level; and
- (c) reports to the regional youth forum.
- (3) A constituency youth forum consists of –
 - (a) a constituency annual conference which –
 - (i) is the highest policy and decision making body at constituency level;
 - (ii) sits once a year; and
 - (iii) consists of local youth groups; and
 - (b) the constituency executive committee.
- (4) A constituency annual conference must –
 - (a) elect its constituency executive committee that conducts the affairs and activities of the forum for a term of two years; and
 - (b) elect the office bearers of the constituency executive committee, consists of –
 - (i) a chairperson;
 - (ii) a vice-chairperson;
 - (iii) a treasurer; and
 - (iv) an administrative secretary.

PART VI**AFFILIATES****Registration of youth organizations and associations as affiliates**

- 42.** (1) Subject to subsection (2), a Namibian youth organization or association that –
- (a) has the aims and objectives of developing the well-being of the Namibian youth; and
 - (b) conforms with the objectives of this Act is free to register with the Council as an affiliate.
- (2) A youth organization or association wishes to register with the Council as an affiliate under subsection (1) -
- (a) must be a national organization or association that has representation in at least seven of the 13 regions of Namibia and such representation

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must be supported by the prescribed number of registered members and established structures;

- (b) its membership must be open to all Namibians, irrespective of their colour, ethnic origin, sex, race or religion; and
- (c) must submit to the Director an application for registration in the prescribed form and manner and attach its constitution, rules, an applicable international legal instrument, if any, and the programme of action.

(3) Upon receipt of the application referred to in subsection (2), the Management Committee must consider the application and recommends to the Board.

(4) After considering the application and the recommendations of the Management Committee made in terms of subsection (3), the Board may approve or reject the application.

(5) If the Board is satisfied that -

- (a) the applicant's constitution and rules and any applicable international legal instrument that have been submitted to it are true copies and are not inconsistent with this Act;
- (b) by seeking registration for the applicant, the members of the applicant are acting in good faith and for the interest of the applicant and its membership;
- (c) the membership of the applicant is open to all Namibians, irrespective of their colour, ethnic origin, sex, race or religion; and
- (d) there is likelihood that the affairs of the applicant will be properly managed,

the Board must approve the application, and register the applicant as an affiliate together with its constitution and rules and any applicable international legal instrument, if any, upon payment of the prescribed registration and membership fees.

(6) Where any amendment is made to the constitution or rules of an affiliate, or to any international legal instrument applicable to it, the affiliate must as soon as possible give particulars of the amendment to the Board for registration.

(7) A youth organization or association upon registration with the Council as an affiliate is entitled to a subsidy from the Council.

(8) The Council must keep and maintain a register of affiliates.

(9) The register referred to in subsection (8) is open to inspection by any person at the offices of the Council free of charge.

Annual reports and financial statements of affiliates

43. (1) Every affiliate that receives subsidy from the Council must submit to the Board not later than six months after the end of the affiliate's financial year -

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- (a) a report on its activities during the financial year; and
 - (b) an audited balance sheet and income and expenditure account for that financial year together with the auditor's report.
- (2) Every affiliate must submit to the Board before the end of its financial year, its estimate of income and expenditure for the next financial year supported by an action plan.
- (3) If the Director considers that any estimates submitted in terms of subsection (2) are not in the best interests of the members of the affiliate that submitted the estimates, the Director after discussing the estimates with the affiliate, may make a report on the estimates to the Board.
- (4) When a report is made to the Board in terms of subsection (3), the Board after hearing the representation of the affiliate concerned, may require the affiliate to amend its estimates.

PART VII**GENERAL****Preservation of secrecy**

44. (1) A person who has confidential information relating to the affairs of the Council or who obtains or has access to such information by virtue of such person's office or employment or participation in the activities of the Council in terms of this Act, may not disclose such information to any person, except –

- (a) to a person who for necessity requires it for the performance of any function or participation in the activities of the Council in terms of this Act;
- (b) where the person discloses such information in the performance of any function in terms of this Act;
- (c) where such information is required in terms of any law or as evidence in any court of law; or
- (d) with the prior written approval of the Executive Chairperson or the Director granted in respect of any matter which, in the opinion of the Executive Chairperson or the Director, is of general nature and may be disclosed in the public interest.

(2) A person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding N\$8 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment.

National youth day and week

- 45.** There is established –
- (a) a national day to be known as the National Youth Day that is observed and celebrated on 27 April in each year; and

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- (b) a national week to be known as the National Youth Week and to be observed and celebrated during the last week of April in each year.

Indemnity

46. The Executive Chairperson, the Director, a member of the Board or a committee, a staff member of the Council, or any other person employed in terms of this Act, is not personally liable for any loss or damage arising out of any act done or omitted to be done in good faith by the Executive Chairperson, Director, such member or person in terms of or under this Act, unless the loss or damage is due to the negligence of the Executive Chairperson, Director, such member or person or failure to comply with this Act.

Transfer of property

47. (1) The Minister, with the consent of the Board and the Minister responsible for Finance, on the date determined by the Minister, may –

- (a) transfer ownership or make available under agreement of lease to the Council –
- (i) any State land which before that date was being used for or in connection with the activities of the Council; or
- (ii) any other State land; or
- (b) transfer and assign to the Council any other assets and other liabilities, rights and obligations of the State which relate to or are connected with the conduct of the activities of the Council.

(2) The Minister must cause the assets, liabilities and obligations transferred and the date of transfer determined in terms of subsection (1) to be published in the *Gazette*.

(3) Despite any other law to the contrary, the Council, with effect from the transfer date, is vested with the ownership of the land and rights to that land and charged with the liabilities and obligations transferred or assigned to it in terms of subsection (1).

(4) A certificate issued by the Minister in which it is stated that any State land or servitude or other real right or lease or other asset or right described in that certificate has been transferred to the Council in terms of subsection (1) is sufficient proof that such land or right so described vests in the Council.

- (5) On submission of a certificate referred to in subsection (4) –
- (a) to the Registrar of Deeds; or
- (b) to any person in charge of any office where a register or record of the ownership of or entitlement to the land, asset or right described in the certificate is being kept,

the Registrar or the person must make such entries in or on any relevant register, title deed or other document in his or her office or submitted to him or her as may be necessary to effect transfer in the name of the Council.

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48. (1) The Minister, on the recommendation of the Board, may make regulations relating to –

- (a) any form of application, certificate or register made, issued or kept in terms of this Act;
- (b) any matter which the Minister is required or permitted to prescribe in terms of this Act;
- (c) generally any matter which is necessary or expedient in order to achieve the objectives of this Act

(2) A regulation made under subsection (1) may prescribe penalties for any contravention or failure to comply with it not exceeding a fine of N\$4 000 or imprisonment not exceeding a period of three months, or not exceeding both such fine and such imprisonment.

(3) The Board, with the approval of the Minister, may make rules relating to –

- (a) personnel matters;
- (b) the arrangement and keeping of books of accounts and general administration of the Fund;
- (c) procedures at elections conducted by the General Assembly and Representative Council and other structures;
- (d) the general conduct of affiliates towards the Council and the form and manner of submitting reports; and
- (e) the manner and culture in which the National Youth Day and National Youth Week are observed and celebrated.

Dissolution of Council

49. (1) The Council may only be dissolved by or under the authority of an Act of Parliament.

(2) Unless the contrary is provided for in an Act of Parliament, on dissolution of the Council all assets and liabilities of the Council vest in the State.

Short title and commencement

50. (1) This Act is called the National Youth Council Act, 2009, and it commences on a date determined by the Minister by notice in the *Gazette*.

(2) Different dates may be determined under subsection (1) in respect of different provisions of this Act.
