

A Business and Investment Guide for Namibia

2016



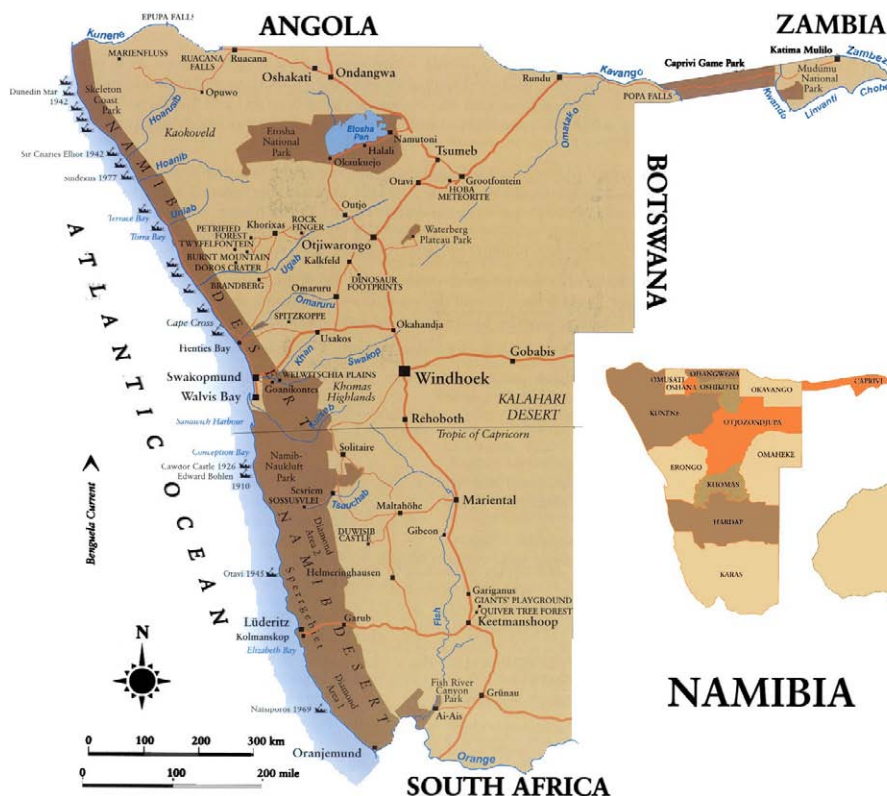
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MINISTRY OF INDUSTRIALISATION,
TRADE AND SME DEVELOPMENT

Namibia
INVESTMENT CENTRE

 **NCCI**
NAMIBIA CHAMBER OF COMMERCE AND INDUSTRY



This Business and Investment Guide is published by PwC Namibia in association with the Ministry of Industrialisation, Trade and SME Development, the Namibia Investment Centre and the Namibia Chamber of Commerce and Industry.



The Namibian Government welcomes investors from all over the world, in all economic spheres. We recognize the important role that Foreign Direct Investment (FDI) can play in complementing and bolstering our developmental objectives, which are, to stimulate growth, diversify our economy, increase the industrial base and promote value addition. Furthermore,

FDI has the potential to accelerate our efforts to tackle unemployment and eradicate poverty. Namibia is therefore ready for business and looks forward to entering into win-win partnerships with all prospective investors. I welcome you to this “Gem worth discovering.”

***His Excellency Dr. Hage Geingob
President of the Republic of Namibia***

A Business and Investment Guide for Namibia

This guide is a business and investment guide for Namibia, and is based on the latest available information as at 31 December 2015.

An electronic copy of this guide is available on www.pwc.com/na.

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Foreword



Over the last two years, the world has seen key transitions that have had a major impact on growth in developed and developing countries. There has been a gradual rebalancing and slowdown of economic activity in China, a recession in other emerging market economies such as Russia and Brazil, a considerable decline in prices for energy and other commodities, and a gradual tightening in monetary policy in the United States.

Namibia, like many other countries, has been affected by these major changes. The country's economic bedrock has historically been its mining industry which over the years has also grown to become its biggest source of foreign direct investment. However, source markets for Namibia's minerals have also grappled with the negative impacts of the economic slowdown and the immediate response has been a decline in commodity prices and reduced demand for Namibia's mineral raw materials.

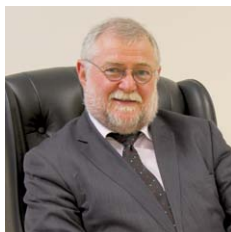
Moderately resilient amidst global uncertainties, the government of Namibia has adopted a strategy to stimulate growth locally and hence prioritize employment creation, the attainment of income equality and economic growth as part of a leaner and more outward looking Fourth National Development Plan (NDP4) document.

NDP4 calls on government and the private and public sectors to grow the key sectors of agriculture, tourism, manufacturing and logistics; and with the world seemingly one large global village direct domestic and foreign investment is seen as central to achieving this objective.

This guide has been specially prepared as a tool for referencing the viability, comparative advantage and rewards of investing in this gem called Namibia.

Welcome to Namibia.

Hon. Immanuel Ngatjizeko
Minister of Industrialisation, Trade and SME Development



Namibia has been able to make notable progress and register key achievements, such as upholding of macroeconomic stability and fiscal prudence, which have enhanced the competitiveness of our economy and the capacity of the State to expand the provision of public services to its citizens; and in spite of the difficult adjustment period stemming from the effects of the global financial crisis, Namibia was able to have its investment grade sovereign credit ratings by Moody's and Fitch reaffirmed as stable.

Hon. Carl H.G. Schlettwein
Minister of Finance



The Namibia Investment Centre (NIC) is Namibia's Investment Promotion Agency (IPA). It is an entity within the Ministry of Industrialisation, Trade and SME Development created under the Foreign Investment Act. As an IPA, NIC provides insights into the provisions of the Act. Currently the latter is under review, however the NIC will continue as an entity under the new Investment Promotion Act. Under the new Act the NIC will be responsible for:

- promote both foreign and domestic investment;
- undertake, either in Namibia or abroad, promotional activities;
- keep the register of Namibian and foreign investors and their investments;
- provide support services to investors and investments after they are established;
- assess economic sectors and investment proposals and projects for investment potential, opportunities and social economic impact including local and public sector participation;
- undertake periodic reviews on investment policies and trends in Namibia and globally; and
- review compliance by investors and investments with any admission and registration requirements and conditions.

Bernadette Menyah-Artivor
Executive Director: Namibia Investment Centre
Ministry of Industrialisation, Trade and SME Development

A Business and Investment Guide for Namibia 2016

This guide is divided into the following sections:

Section 1:
Investment Climate
(Chapter 1)

Section 2:
Investor Support
(Chapter 2)

Section 3:
Doing Business
(Chapters 3 - 13)

Section 4:
Labour
(Chapter 14)

Section 5:
Audit and Accounting
(Chapters 15 - 16)

Section 6:
Taxation
(Chapters 17 - 27)

Section 7:
Education
(Chapter 28)

Section 8:
Industries
(Chapter 29)

Section 9:
Contacts
(Chapter 30)

Section 10:
Appendices

Introduction



We at PwC Namibia, in association with the Ministry of Industrialisation, Trade and SME Development, the Namibia Investment Centre and Namibia Chamber of Commerce and Industry, are excited to launch the second edition of the Business and Investment Guide for Namibia. The first edition was released in 2008. Eight years down the line a lot has happened in Namibia and on the African continent, which oscillates between being seen as a highly attractive investment destination and suffering investor outflows to developed countries which are perceived as safer business environments. Africa and Namibia's potential for increasing growth, however remains and we believe that Namibia can become a future hub of regional and African growth.

While Namibia's influx in investments somewhat slowed down in the last year due to global economic turmoil, the opportunities that our country has still remain; and the publication of this Guide demonstrates the drive and commitment of the Namibian Government and Private sector to continuously improve Namibia as an investment destination.

PwC Namibia is a team of Namibian based professionals that live in and understand the Namibian business environment. Complimented by expertise, technology and relationships from the PwC Africa and global network, we believe we provide our clients with the best balance of world-class professional solutions and on the ground knowledge. Through our industry-focused assurance, tax and advisory services we build public trust and enhance value for our clients who do business in Namibia and their stakeholders. This collaboration with the Ministry and the Namibian Chamber of Commerce, demonstrates our dedication to work together as Namibian stakeholders to support the Namibian economy. Our team consists of more than 250 people in two offices (Windhoek and Walvis Bay).

The 2016 edition of this publication provides an easy orientation point for business activities in Namibia. We are confident that you will find this tool helpful to navigate investment and commercial opportunities in Namibia."

Nangula Uaandja
Country Senior Partner
PwC Namibia

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Chapter 1: Namibia - a Profile

Investor considerations

- Stable, democratically elected government.
- Developed infrastructure.
- Good transport system.
- Efficient communication system, including cellular networks and broadband internet connectivity.
- Sophisticated financial sector.
- Moderate inflation rate.
- Relatively stable exchange rate, linked to the South African Rand (ZAR).
- Rich diversity of fauna and flora.

Geography and climate

Namibia is situated on the south-western coast of Africa. It is bordered by the Atlantic Ocean in the west, by Botswana and Zimbabwe in the east, by South Africa in the south, by Angola in the north and by Zambia in the north east. Namibia gained its independence in March 1990 and the democratic South West African People's Organisation (SWAPO Party) has held government office since Independence.

Namibia covers approximately 824,000 square kilometres consisting of arid and desert regions in the south and southwest, lush fertile areas in the north and northeast, while the eastern part of the country is semi-arid. The wetland on the western coast just south of Walvis Bay provides part of the international ecological breeding grounds for several types of migratory birds, including flamingos.

Namibia's climate is arid, semi-arid and sub-tropical. The hottest months are January and February, with average

maximum day temperatures of between 20°C and 35°C. The average day temperatures in winter range between 10°C and 20°C. The average annual rainfall varies from none in the Namib Desert to about 100 mm in the southern regions, and 400 to 500 mm in the eastern and northern regions.

Capital City

The capital city of Namibia, Windhoek, has a population of approximately 340,900. It is situated in Namibia's central highlands, at 1,650m above sea level. Windhoek gained municipal status in 1909 and was proclaimed a city in 1965. The climate is typical of a semi-desert country, with hot days and cool nights.

Windhoek serves as the administrative, legislative and judicial seat of government as well as the country's economic and commercial nerve centre.

The city offers every modern amenity, including internationally rated hotels, restaurants, conference facilities, specialised shops, beer gardens and street cafés. Its infrastructure compares with the best in the world: well-maintained roads, world-class medical services, a variety of internationally recognised educational institutions and reliable municipal services. To top it all, it is a very clean and well-run metropolis.

History

Namibia was under German rule from 1884 to 1915, when South African expeditionary forces defeated the German forces. In 1920, South Africa



was granted a C-class mandate by the League of Nations to administer Namibia. Obligations to promote the welfare of the indigenous people were generally ignored and a legislative assembly for whites was established in 1925. In 1945, the newly formed United Nations (UN) declared South West Africa, as the territory was then known, a trust territory with the right to self-determination. South Africa's refusal to negotiate a trusteeship with the UN resulted in a progressively intensified Namibian and international campaign to secure the country's independence in line with the UN resolutions. Eventually, Namibia became independent on 21 March 1990.

Political system

The Namibian Constitution, the supreme law of the land, entrenches multiparty democracy as well as fundamental rights and freedom. The constitution lays down the division of powers between the executive branch, the legislature and the judiciary. The President, who is elected by direct popular vote for a term of five years and can be re-elected for a second term of office, heads the executive branch.

Since independence, Namibia has built a strong democratic foundation. All institutions necessary to ensure democratic governance have been established. Presidential and local authority elections have been held regularly. The Judiciary operates with total independence, while the Auditor-General's office has gained stature as a watchdog over the conduct of financial governance. Also operational is the office of the Ombudsman and the Anti-Corruption Commission. Over the last twenty-five years, Namibia has maintained an environment conducive to the existence of a vibrant and free press. The government has also remained steadfast in its commitment to the free market economic system, which acknowledges the centrality of the private sector in the development process.

Legal system

For historic reasons, the law in Namibia is rooted in South African legislation and legal principles. Namibia's law was thus effectively founded on a system known as Roman-Dutch law. Roman law forms the cornerstone of most modern European legal systems.

Common law in South Africa consists of the writings of the 17th and 18th century Dutch jurists, known as the glossators, and is known as the common law of South Africa. Roman-Dutch law was brought to South Africa by the Dutch settlers and to the then South West Africa, which was administered as a mandate by South Africa.

With independence in 1990, the Namibian Constitution was written and adopted as the fundamental law of the Republic of Namibia.

Namibian courts

In terms of Article 78 of the Namibian Constitution, the judicial power vests in the courts of Namibia, which consist of the following tiers:

- A Supreme Court
- A High Court
- The Lower Courts
- Special Courts

The Supreme Court

The Supreme Court consists of a Chief Justice and a number of judges who preside and adjudicate on appeals from the High Court, including interpretation, implementation and upholding of fundamental rights and freedoms guaranteed under the constitution.

The High Court

The High Court consists of the Judge-President and a number of other judges. The High Court has jurisdiction to hear

and adjudicate on all civil disputes and criminal prosecutions. The High Court also has jurisdiction to hear appeals from the Lower Courts.

The Lower Courts

The Lower Courts were established by an Act of Parliament and have the jurisdiction and are required to adopt the procedures stated in the Act. The Lower Courts are presided over by magistrates.

The Special Courts

The most important special courts for the businessperson are the Income Tax Court and the Lands Tribunal.

The Income Tax Court consists of a judge assisted by assessors with specialist tax knowledge and appeals are made directly to the Appellate Division.

The Lands Tribunal is established by section 63 of the Agricultural (Commercial) Land Reform Act, Act 6 of 1992, as amended. It consists of five members with specialist knowledge on legal matters, economic and financial matters, and agricultural matters.

Any decision, order or determination of the Lands Tribunal may be executed as if it were a decision, order or determination made by the High Court of Namibia.

There is currently no Arbitration Court in Namibia. Informal arbitration is used as agreed between parties. The applicable legislation is the Arbitration Act, Act No. 42 of 1965. There is no formal arbitration structure in place, but there is a voluntary association that handles arbitration matters.

Population and social patterns

Population and languages

Namibia is one of Africa's three most sparsely populated countries. Dubbed the land of wide-open spaces, Namibia

has an average population density of only 2.5 people per square kilometre. The total population is estimated at 2.2 million. English is the official language; Oshiwambo, Afrikaans, Herero, Nama/Damara, German, Silozi, Rukwangali and Setswana are also spoken.

Religion

Namibia is a predominantly Christian nation, with Lutheran, Roman Catholic, Methodist, Anglican and various other church denominations present in all major cities and towns.

Education

Primary and secondary schools exist in all major cities and towns, most of which are managed by the Ministry of Education, Arts and Culture. There are also a number of private schools in Namibia.

The University of Namibia and the Namibia University of Science and Technology provide various tertiary degrees and diplomas. Their main campuses are located in Windhoek with some satellite campuses in other parts of the country.

Health

The doctor-patient ratio in Namibia is one of the best in Africa, with one doctor for every 3,650 persons. Besides the government hospitals in most major cities and towns, there are several private hospitals and nursing homes that provide emergency services. The following are all private hospitals in Namibia.

Tsumeb Private Hospital	Tsumeb (North)
Welwitschia Hospital	Walvis Bay (West)
Catholic Mission Hospital	Windhoek
Lady Pohamba Private Hospital	Windhoek

Mediclinic	Windhoek Otjiwarongo (North) Swakopmund (West)
Rhino Park Private Hospital	Windhoek
Medipark Hospital	Ongwediva (North)
Quivermed	Keetmanshoop (South)

Recreation and tourist attractions

The Ministry of Environment and Tourism controls 12 wildlife and recreation parks in Namibia. These include the world famous Etosha National Park and Sossusvlei, where some of Namibia's famous scenery, animals and plant life can be viewed. Accommodation at these venues ranges from camping and self-catering to luxury bungalows and tented camps. In most of the game parks it is possible to view indigenous flora, such as the welwitschia plant on the west coast and the quiver tree in the south.

There are many privately-owned guest farms and hunting lodges throughout Namibia. Hunting rifles may be brought to Namibia during the hunting season. Visitors should ensure they have all relevant documents, including visas and permits, before entering Namibia. Various hunting and ammunition shops are located in the main cities and towns.

Namibia's western coastline is an angler's haven for local species such as kabeljou (cob), steenbras and catfish. Permits are required to catch these fish. The rock lobster diving season is from November to April each year.

Approximately 120 kilometres north of the coastal town of Swakopmund, visitors to Namibia can view colonies of seals in their natural habitat at Cape Cross. Viewing times are restricted and further information can be obtained from the local

authorities in coastal towns. Various water sports, such as yachting and windsurfing, are available in Walvis Bay. Equipment can be hired from several clubs.

Utilities

Broadcasting, television and the press

The Namibian constitution guarantees freedom of expression. Newspapers are available in English, Afrikaans and German, each with sections in some of the other languages.

There are two local television stations: the Namibian Broadcasting Corporation (NBC) and One Africa Television. Satellite television services are available to subscribers, offering international news programmes including CNN, BBC, Sky-TV, CNBC, SABC, Euronews and Al Jazeera.

The state-owned NBC also operates nine radio channels, which are available in English and most indigenous languages. Commercial radio stations include 99FM, Radiowave, Radio Kudu, Radio Energy, Radio Kosmos and Channel 7, all of which are privately owned stations broadcasting daily.

Internet services are available countrywide from various providers, including the telecoms operators Telecom Namibia and MTC.

Telephone and postal services

Telecom Namibia Limited provides a wide range of telephone and related services. The modern telecommunications infrastructure in Namibia is 97% digital and provides direct-dialling facilities to 242 countries, or 97% of the world. Mobile cellular telecommunication services have roaming capabilities in 108 major international countries with 28 networks, and are provided by MTC and TN Mobile.

Namibia has one of the most modern postal infrastructures in Africa. The state-owned Namibia Post Limited (affiliated to the Universal Postal Union) operates post offices throughout Namibia.

Electricity

Nampower Limited is responsible for Namibia's electricity network. Various projects are continuously being undertaken to enhance the existing network.

The economy

The growth of the Namibian economy has been positively influenced in recent years by strong private and public investment, high consumer spending and the country's prudent and sound macroeconomic policies.

Industry contributions to the growth of the Gross Domestic Product for the years 2012 to 2014 are illustrated in the table below:

Industry	2012	2013	2014	AVG
Primary Industries	14.4%	-3.2%	-2.2%	3.0%
Secondary Industries	-1.8%	8.6%	-9.4%	-0.9%
Tertiary Industries	3.9%	7.2%	7.4%	6.2%
GDP at market prices	5.1%	5.7%	6.4%	5.7%

Source: Bank of Namibia

Inflation

The inflation rate in Namibia is largely determined by price and interest rate developments in South Africa due to most of its imports being sourced from that country and common monetary policies.

Over the period 2012 to 2014 inflation rates have fluctuated between 5% and 7%.

Per capita income

With a Gross National Income per capita of US \$5,630 in 2014 Namibia falls within the group of countries classified as upper-middle-income economies by the World Bank. In the period 2012 to 2014, the average annual growth rate of total Gross National Income was 6.1 percent which is relatively high in comparison to other middle-income economies as well as developed countries.

Employment

The creation of employment opportunities is one of the main objectives of the Fourth National Development Plan (NDP4) of the Namibian Government. Several incentive schemes to promote manufacturing activities have been implemented with the aim of diversifying the

economy.

The unemployment rate in 2014 was 28.1%, according to the 2014 Labour Force Survey conducted by the Namibia Statistics Agency.

International trade

The country's exports are dominated by primary commodities, representing an average of about fifty percent of exports during the past decade. Exports mainly comprise unprocessed commodities, i.e. minerals, meat and fish. More than half of the income generated by the mining industry consists of diamond exports, followed by uranium. Imports mainly comprise manufactured goods and consumer goods. Namibia's dominant trading partners are members of the European Union and South Africa. Potential growth areas and trade opportunities are set out in Chapter 3.

Namibia's Planning Framework

Namibia's policy framework for long-term national development is set out in the "Namibia Vision 2030" or "Vision 2030".

The aim of Vision 2030 is to establish a long-term planning framework for Namibia that will foster a sense of direction, ambition and destiny for all Namibians. An extensive consultative process resulted in the following Vision Statement for the year 2030:

"A prosperous and industrialised Namibia, developed by her human resources, enjoying peace, harmony and political stability".

Vision 2030 is founded on theme-based development objectives which integrate economic, social and environmental dimensions and are based on key concerns identified in the Namibian Nation.

The Vision is based on the following three themes:

- Quality of Life (Relating to People and Economics);
- Enabling Environment; and
- Sustaining the Resource base (Relating to Ecosystems).

The national issues addressed by the formulation of Vision 2030 are:

- Inequalities and social welfare
- Peace and political stability
- Human resources and institutional and capacity-building
- Macro-economic issues
- Population, health and development
- Natural resources and environment
- Knowledge, information and technology
- Factors of the external environment

The major objectives of Vision 2030 are to:

- Ensure that Namibia is a fair, gender responsive, caring and committed nation in which all citizens are able to realise their full potential, in a safe and decent living environment.
- Create and consolidate a legitimate, effective and democratic political system (under the Constitution), and an equitable, tolerant and free society, that is characterised by sustainable and equitable development and effective institutions, which guarantee peace and political stability.
- Develop a diversified, competent and highly productive human resources and institutions, fully utilising human potential, and achieving efficient and effective

delivery of customer-focused services which are competitive not only nationally, but also regionally and internationally.

- Transform Namibia into an industrialised country of equal opportunities, which is globally competitive, realising its maximum growth potential on a sustainable basis, with improved quality of life for all Namibians.
- Ensure a healthy, food-secured and breastfeeding nation, in which all preventable, infectious and parasitic diseases are under secure control, and in which people enjoy a high standard of living, with access to quality education, health and other vital services, in an atmosphere of sustainable population growth and development.
- Ensure the development of Namibia's 'natural capital' and its sustainable utilization, for the benefit of the country's social, economic and ecological well-being.
- Accomplish the transformation of Namibia into a knowledge-based, highly competitive, industrialised and eco-friendly nation, with sustainable economic growth and high quality of life.
- Achieve stability, full regional integration and democratised international relations; the transformation from an aid-recipient country to that of a provider of development assistance.

The broad strategies for Vision 2030 are listed below:

- Maintaining an economy that is sustainable, efficient, flexible and competitive.
- Operating a dynamic and accessible financial sector.

- Achieving full and gainful employment.
- Providing excellent, affordable health care for all.
- Mainstreaming HIV/AIDS into development policies, plans and programmes.
- Creating access to abundant, hygienic and healthy food, based on a policy of food security.
- Providing full and appropriate education at all levels.
- Leveraging knowledge and technology for the benefit of the people.
- Promoting interpersonal harmony among all people.
- Operating a morally upright and tolerant society that is proud for its diversity.
- Ensuring an atmosphere of peace, security and hope for a better life for all.
- Maintaining stable, productive and diverse ecosystems managed for long-term sustainability.
- Establishing and sustaining business standards of competence, productivity, ethical behaviour and high trust.
- Upholding human rights and ensuring justice, equity and equality in the full sense for all, regardless of gender, age, religion, ethnicity, ability or political affiliation.
- Maintaining a low-level, responsive bureaucracy.
- Implementing a land and natural resource policy that ensures fair access by all to the means of production.

- Establishing and operating a fiscal policy that distributes wealth fairly, and encourages production, employment and development of wealth in a stable and sustainable economic climate.
- Operating a responsive and democratic government that is truly representative of the people, and able to adhere to transparent, accountable systems of governance, proactively.
- Achieving collaboration between public, private and Civil Society organisations, in policy formulation, programming and implementation.
- Maintaining sound international policies that ensure effective cooperation, favourable trade relations, peace and security.

Hints for the business visitor

Visa requirements

A valid passport is required to enter Namibia. Entry visas are also required for visitors from certain countries. Visitors are advised to check their local High Commission or embassy before departing. Before entering Namibia to work, a temporary work permit has to be granted by the Ministry of Home Affairs and Immigration. Foreigners are prohibited by law from working in Namibia unless they have an approved temporary work permit. Refer to Chapter 14 for more details.

Currency

In September 1993 Namibia introduced its own currency, the Namibia Dollar (N\$), divided into 100 cents. The Namibia Dollar is linked to the South African Rand (ZAR), which is also legal tender in Namibia.

Banking

Local banks provide comprehensive domestic and international banking services. The Namibian banking sector is linked to major international communications networks, ensuring fast and efficient transfers of funds to and from any centre in the world. Auto-teller machines are available throughout Namibia and Master, Visa and Electron cards (if clearance is obtained from your local bank) can be used to withdraw funds.

Business hours

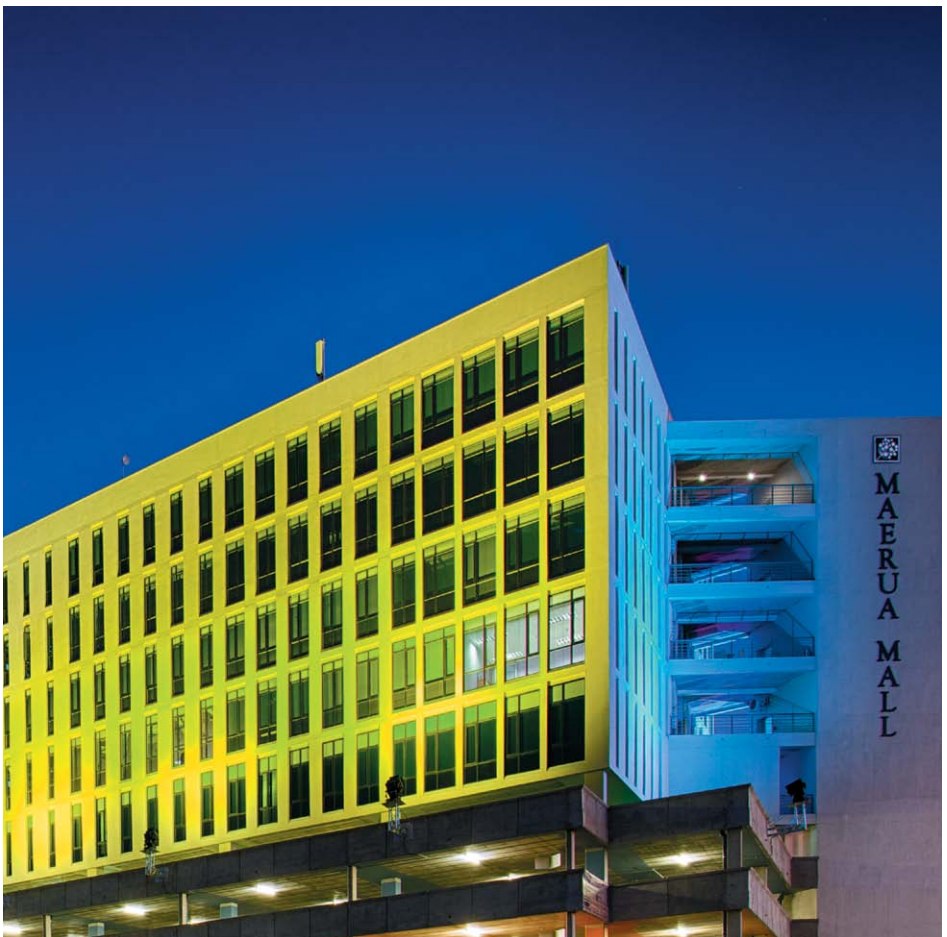
Most of the shopping malls in major towns and cities are open from 8:30 a.m. to 7:00 p.m. during weekdays, until 7:00 p.m. on Saturdays and until 1:00 p.m. on Sundays. Most shops accept Master, Visa and Electron cards.

International time

Namibia is one hour ahead of GMT from April to August, and two hours ahead of GMT from September to March. This provides for a common time zone and is of course to the advantage of its main trading partners in Africa and Europe. Time is set the first Sunday in April to GMT +1 and to GMT +2 the first Sunday of September.

Public holidays

New Year's Day	1 January
Independence Day	21 March
Good Friday	Varies each year
Easter Monday	3 days after Good Friday
Workers' Day	1 May
Ascension Day	40 days after Good Friday
Cassinga Day	4 May
Africa Day	25 May
Heroes' Day	26 August
International Human Rights Day	10 December
Christmas Day	25 December
Family Day	26 December



Chapter 2: Investor Support

Investor considerations

- Government policy supports and encourages free enterprise.
- Various incentives are available, especially with regard to manufacturing and the export of manufactured goods.
- The country possesses a highly sophisticated banking system.
- There is an open government attitude toward foreign direct investment, with the exception of farmland.

Industrial climate

Agriculture (livestock farming) and natural resource products (minerals, fishing) have always been important to the Namibian economy, while tourism is expanding rapidly. The industrial base is still small and appropriate government structures have been established to facilitate investment in this sector.

Framework of industry

Namibia possesses a well-developed and formally regulated company law regime (see Chapter 13), as well as a diversified informal sector.

A number of public services such as telecommunications and postal services, water, electricity, transport, seaport and airport services have been commercialized and are government owned.

Privately owned businesses are mostly small to medium-sized and are an

important component of the economy.

As described more fully in Chapter 7, the financial sector is highly developed and is dominated by a few large banks.

The Ministry of Industrialisation, Trade and SME Development

Recognising the important role of the private sector for the industrial development in Namibia, the Ministry of Industrialisation, Trade and SME Development has established appropriate instruments and mechanisms to enable investment, trade and industrial activities to flourish.

The Ministry of Industrialisation, Trade and SME Development is accountable for the development and management of Namibia's economic regulatory regime, on the basis of which the country's domestic and external economic relations are conducted. The Ministry's key objective is to promote the growth and development of the Namibian economy through the formulation and implementation of appropriate policies to attract investment, increase trade and develop and expand the country's industrial base.

The Ministry is divided into various structures aimed at creating an environment conducive to the promotion of Namibia's products in external markets.

The main structures of government policy are dealt with below.

The Namibia Investment Centre

The Namibia Investment Centre (NIC) is

Namibia's official investment promotion and facilitation office. Established in terms of the Foreign Investment Act, Act No. 27 of 1990, the NIC focuses on the promotion of foreign and domestic investment and provides a service to all investors, from initial inquiry through to the operational stage.

The NIC is the first point of call for potential investors as it provides general information packages and tailor-made advice on investment opportunities, incentives and procedures. It also facilitates interaction between the government and the private sector and assists investors in minimising bureaucratic obstacles. The NIC works closely with key productive sector ministries, as well as with service and regulatory bodies.

In addition to general promotion and facilitation services to local and foreign investors, the NIC administers Status Investment Certificates (for foreign investment) and investment incentive packages. The NIC has also been central to the launching of the Export Processing Zone (EPZ) regime in Namibia, and now works closely with the Offshore Development Company (ODC) in promoting the EPZ regime and general export-led industrialisation of the Namibian economy.

The NIC has commercial counsellors stationed in Berlin, Paris, Pretoria and Washington. These counsellors promote Namibia as a favourable investment destination by organising investment promotion events and participating in trade fairs and exhibitions in their respective areas of jurisdiction.

During 2010 the Namibian government reserved participation in the following sectors in Namibia for domestic development:

- Transport (taxi);
- Hairdressing (salon);
- Retail business (except if the Minister of Industrialisation, Trade

and SME Development has granted a special permission).

Currently the Foreign Investment Act is under review, however the NIC will continue as an entity under the new Investment Promotion Act. Under the new Act the NIC will be responsible for:

- promote both foreign and domestic investment;
- undertake, either in Namibia or abroad, promotional activities;
- keep the register of Namibian and foreign investors and their investments;
- provide support services to investors and investments after they are established;
- assess economic sectors and investment proposals and projects for investment potential, opportunities and social economic impact including local and public sector participation;
- undertake periodic reviews on investment policies and trends in Namibia and globally; and
- review compliance by investors and investments with any admission and registration requirements and conditions.

In addition, the NIC provides advice to Government on investment trends and policies.

The NIC has three divisions with the following sub-divisions:

1. *The Investment Promotion Division*
 - Subdivision External Investment Promotion;
 - Subdivision Investment Promotion.
2. *The Projects and Incentives Management Division*
 - Sub-division: Project Evaluation and Management
 - Sub-division: Investment Regime, Research, Development and Management

3. *The Investor Services Division*
 - Subdivision Investment Facilitation and Aftercare;
 - Subdivision Investment Agreement Negotiations;
 - Subdivision Investment Support Services.

The Department of Trade and Commerce

This Department is responsible for national policies and programmes geared towards management, regulation, promotion, development and facilitation of internal trade, commercial and business activities, and international trade activities such as bilateral, regional and multilateral trade relations.

Its functions include, amongst others, the development and management of Namibia's foreign trade policy and external trade relations, spearheading Namibia's membership in international and regional trade organisations and promoting Namibian products and services on international markets.

The Directorate of International Trade

The Directorate of International Trade is the national focal point for Namibia's external trade. All activities of the Directorate are geared towards the formulation and management of Namibian's foreign trade policy, and towards increasing the country's exports.

The Directorate's main functions are:

- Handling bilateral and multilateral trade relations as well as formulating Namibia's position on trade issues discussed in international forums such as the WTO and UNCTAD.
- Promotion of intra-regional trade and enhancement of regional economic co-operation and integration through active

participation in SACU and SADC activities and programmes.

- Planning, formulating and implementing Namibia's export promotional strategies.
- Assisting and supporting efforts of the local business community.
- Optimising cost and quality of imports through an efficient import management system.

The Directorate has the following divisions:

- Trade Policy and External Trade Relations division with two subdivisions:
 - » Trade Policy
 - » Research.
- Trade Promotion division with three subdivisions:
 - » Export Promotion
 - » Trade Information
 - » Import and Export Management.

Internal trade

The principal objective of the Directorate of Internal Trade is to create an environment that is conducive to business in Namibia through its Weights, Measures and Standards Division and the Registration of Companies, Patents, Trade Marks and Design Division.

The Weights, Measures and Standards Division of the Directorate consists of the following subdivisions:

- Trade Metrology and Trade Inspections; and
- Licence and Standards.

Through regular calibration of weights and measuring instruments, the Trade Metrology and Trade Inspections Subdivision ensures that business in Namibia is conducted in a fair manner.

The Directorate of Commerce

This Directorate's objectives are to facilitate and contribute to the creation of

a conducive commercial environment for the effective functioning of the domestic market and trading environment. Its functions include, among others, the development of policy and a legal framework for the management of quality, standards, company registration, intellectual property rights, traditional knowledge and domestic market regulations.

The Directorate of Industrial Development

It is a cliché in Namibia that economic growth is sustainable only if efficient use is made of the country's considerable natural resources, taking due account of the fragile environment. Namibia's industrial base at present is both small and underdeveloped.

The government believes that the share of industrial development in the national economy should increase.

This Directorate spearheads the promotion and development of industrialisation, SMEs and entrepreneurship with the primary aim of promoting growth and diversity within the economy and addressing poverty reduction, income disparities and unemployment. Its functions include, amongst others, industrial planning and appraisal, policy and strategy formulation and monitoring the implementation of such plans and programmes.

The Directorate of Industrial Development has three divisions:

- Entrepreneurial Development
- Regional Economic Development
- Industrial Policy, Planning and Development.

The Directorate also co-ordinates the work of the Ministry's six regional offices situated in Katima Mulilo, Keetmanshoop, Opuwo, Ondangwa, Otjiwarongo and Rundu, which serve as advisory centres at local level.

The Offshore Development Company

Namibia established the Offshore Development Company (ODC) as the flagship of the Namibian Export Processing Zone (EPZ) regime, working closely with the Namibia Investment Centre. To operate in the Namibia EPZ regime, companies must apply for EPZ status. Such applications are processed by the EPZ secretariat, run by the ODC.

The EPZ programme is expected to contribute significantly to the growth of the manufacturing sector. Several companies are currently registered in the regime plan to become, or are already, engaged in the manufacturing of various products such as motor vehicle parts, bathroom accessories, foam mattresses, electronic equipment, teddy bears and ostrich products, polished diamonds and gemstones. The refurbishing, repackaging and export warehousing activities are also growing.

EPZ companies have made use of the advantage of being able to set up their operations anywhere in Namibia, either as single factory enterprises or in one of the two specially developed EPZ Industrial Zones, namely Walvis Bay and the recently developed Oshikango EPZ Industrial Park. Elsewhere, single factory enterprises plan to establish or have already established operations in Windhoek, Swakopmund and numerous smaller towns, including a meat processing facility set up in Keetmanshoop and a zinc refinery for Rosh Pinah. The ODC, either individually or in conjunction with the Namibia Investment Centre (NIC), performs the following functions for the benefit of investors and in execution of Namibia's economic development objectives:

- Monitor and regulate the EPZ regime nationwide
- Manage the EPZ Secretariat

- Promote investments in the EPZ regime and the general economy
- Provide foreign investors with access to first class immigration facilitation and programme co-ordination
- Disseminate information on the domestic economy and business environment, including potential investment projects
- Develop and lease industrial parks for export-oriented economic activities
- Manage investment funds for the benefit of local entrepreneurs
- Co-ordinate Namibia's offshore financial services plan
- Provide technical support to the Ministry of Industrialisation, Trade and SME Development.

Development Bank of Namibia

The Development Bank of Namibia (DBN) was established in October 2002 through an Act of Parliament. The aim of the Namibian government was to contribute to economic growth, infrastructure and social development by providing financing in support of key development activities. The DBN acts as a catalyst in the Namibian economy by making affordable financing available for development, via its links with regional bilateral and multilateral development finance institutions as well as non-governmental agencies involved in facilitating accelerated socio-economic development both in Namibia and the SADC region as a whole. The mission of the DBN is to mobilise investment capital and facilitate national and international cooperation among public and private entities as well as community organizations, in the planning and implementation of larger scale projects capable of delivering sustainable

economic growth and social development in the form of human capital development and empowerment to Namibia.

The DBN was launched on 29 April 2004 and offers the following broad product facilities:

- » Public Sector
- » Private Sector
- » Enterprise Development
- » SME Finance.

SME Bank

SME Bank was founded by the Government of Namibia following the dissolution of the Small Business Credit Guarantee Trust (in the Ministry of Trade and Industry) and its transformation into a fully-fledged Commercial Banking Institution. It opened its doors to the public on 03 December 2012.

SME Bank offers banking services to the public at large. While the Bank's mandate is to pay special attention to SMEs and those catering to Rural Communities, Micro Enterprises and Previously Disadvantaged Individuals, the Bank has a full Commercial Banking Licence. SME Bank thus offers banking services to individuals and companies that are not necessarily SMEs, through Personal Banking (Retail), Corporate Banking, Treasury and Investment Management.

- The bank offers cellphone banking, issues cheque books ATM cards to its esteemed clients, and will launch its online banking services very soon.
- Clients enjoy the benefit of zero fees on all cash deposits
- Offices are open from 08:00 - 17:30 from Monday to Friday and from 08:00 - 14:00 on Saturday.

Public/private sector co-operation

Although it is the government's policy to promote private sector investment, there

is no formalised process of joint decision making between the public and private sectors in Namibia.

Labour/management relations

Namibia's labour market is characterised by imbalances between the demand and supply of different labour categories. Lower skilled labour is abundant and increasing, while a demand exists in certain highly skilled job categories. Jobs are essentially protected for Namibians by a work permit system. The Employment Equity Act furthermore provides for statutory measures to promote the employment of previously disadvantaged Namibians for all employers with a complement exceeding 25 staff members.

The formal labour/management relations system is discussed in Chapter 14.

Foreign trade relations

Namibia's membership of trade blocks is discussed in Chapter 3.

Chapter 3: Market Access and Investment Opportunities

Investor considerations

- Government promotes and encourages foreign investment.
- All forms of business entities are available to foreigners.
- The same incentives are available to foreign and local investors.
- Favourable incentives exist for manufacturers and exporters.
- Established professional service skills of international standard.
- A well-established and resilient business community.

Investment climate

The government's attitude toward foreign investment since Namibia gained its independence in 1990 is that it is welcome. The Ministry of Industrialisation, Trade and SME Development has established the Namibia Investment Centre as Namibia's national investment promotion and facilitation office (see Chapter 2). The acquisition of farmland, however, is restricted in terms of the Agricultural (Commercial) Land Reform Act, 1995.

Foreign trade relations

The Southern African Development Community (SADC)

As a member of SADC, Namibia is part of Africa's largest trade and cooperation pact, comprising fifteen member states in southern Africa.

Namibia by virtue of its SADC membership, has a comparative advantage in its

preferential access, via transport and trade links, to the landlocked sub-Saharan countries in the region.

The Southern African Customs Union (SACU)

Namibia is a member of SACU, along with South Africa, Botswana, Swaziland and Lesotho. Members of this Customs Union enjoy duty-free trade among themselves.

The Common Monetary Area (CMA)

The CMA established the South African Rand (ZAR) as legal currency in Namibia. Through this agreement the value of the Namibia Dollar is pegged to the Rand. The CMA is administered by the South African Reserve Bank and makes South African monetary policy the de facto policy of all the members of the Common Monetary Area (see Chapter 5).

Favourable infrastructure

Road network

Namibia has a well-established road infrastructure, regarded as one of the best on the continent. The majority of towns and communities can be reached via a road network comprising more than 44,500 km of either tarred or high quality gravel trunk, main and district roads despite country's surface area of 824,292 km. The road network consists of approximately 7,000 km of tarred roads, 37,000 km of gravel roads and 280 km of salt roads. In addition, there are more than 350 air strips throughout the country.

The country is linked by road to Angola, Zambia, Zimbabwe, Botswana and South Africa. The Trans-Kalahari and Trans-Caprivi highways provide a fast and comfortable road link between the Namibian port of Walvis Bay on the Atlantic coast and her landlocked neighbouring countries. The Trans-Kalahari highway links the port to Botswana and the Gauteng province, the industrial heart of South Africa. The Trans-Caprivi highway links Botswana, Zambia, Zimbabwe and the Democratic Republic of Congo to the port of Walvis Bay.

The highways provide a regional transport corridor intended to reduce shipping times for imports from the neighbouring countries to the markets of Western Europe and the Americas and vice versa by at least five days compared to traditional routes in southern Africa.

The Trans-Kalahari and Trans-Caprivi highways have transformed Namibia into a gateway location, fostering the evolution of the western corridor concept and ushering in a new phase of development for the entire SADC region.

Port development

While only a few years ago some envisaged the port of Walvis Bay competing for cargo with the East Africa ports, the current strategy for the port of Walvis Bay is to complement the East Africa ports via the Walvis Bay-Maputo Corridor. The Trans-Kalahari highway is seen as an integral part of the Walvis Bay-Botswana-Gauteng-Maputo Development Corridor.

The Port of Walvis Bay, as a key element of this corridor, is now viewed as an emerging transit point for commercial traffic bound to or from landlocked countries in the region. Once the transport corridor is fully developed, the southern African region can benefit from channelling its exports and imports via the Port of Walvis Bay. The port and highway provide SADC

countries with a very economical route for their exports and imports. In non-fiscal terms, the port enjoys a moderate climate all year round. Winds, though often fresh to strong, do not stop cargo transfers.

In terms of capacity, the port of Walvis Bay handles over five million tonnes of cargo annually. This consists mainly of dry bulk, break bulk, petroleum products and containerised cargo. The port prides itself on the fast transit times achieved for cargo, in particular containerized cargo, due to good weather and its modern facilities.

The Namibian Ports Authority (Namport) has commissioned a construction project to expand the port of Walvis Bay to one million containers. Construction commenced during 2013. Namport is also planning a project north of Walvis Bay known as North Port.

The Port of Lüderitz is historically Namibia's second largest port. Whilst originally a fishing port, it was expanded in recent years to ship cargo and support offshore petroleum exploration and mining activities.

Visit www.namport.com.na for more information on Namibian ports.

Air travel

Namibia has direct air links to major cities in sub-Saharan Africa such as Cape Town, Johannesburg, Lusaka, Luanda and Harare. International flights to and from Frankfurt land at and depart from Windhoek regularly. The country's two international airports are Hosea Kutako International Airport and Walvis Bay Airport. There are numerous smaller aerodromes as well as private landing strips throughout the country. The Hosea Kutako International Airport services Air Namibia and other major airlines on a daily basis and it is situated 48 kilometres from the Windhoek city centre. Smaller aircraft can land at the Eros Airport, about

three kilometres from the CBD.
Visit www.airnamibia.com.na for updated flight schedules and routes.

Rail

Rail services in Namibia are provided by state-owned TransNamib Holdings Limited, which operates approximately 2,400 km of track.

Communication

Namibia has invested heavily in the modernisation and expansion of its telecommunications infrastructure and service networks. An international satellite service links Namibia to worldwide telecommunication services.

Three licensed telecommunications operators, Telecom Namibia, MTC and TN Mobile (the former Leo, purchased by Telecom Namibia in 2012), provide fixed line and mobile (including GSM) services in Namibia.

Telecommunications operators have installed fibre optic cable technology across the country.

Domestic satellite communication links connect extremely remote sites to the rest of the network, while an international satellite link connects Namibia directly to the seven international destinations with the highest traffic patterns to and from Namibia. These destinations are South Africa, the UK, the USA, Germany, Sweden, Switzerland and Angola.

Broadband access is available countrywide through technologies such as ADSL, mobile 3G and 4G data and WiMAX.

Additionally, the Namibian government, Telecom Namibia and MTC commissioned a landing station at Swakopmund to connect the country to the West Africa Cable System (WACS), a 14,500 km-long high capacity broadband undersea

fibre optic cable system aimed at linking southern and West Africa to Europe. The cable allows Namibia, Botswana and other southern African countries to enjoy super-fast data transmission of over five terabytes per second. This gives customers of telecommunications service providers in these countries access to increased data transmission speed, improved voice quality and video conferencing that enable 'real-time' data communication.

The Communications Regulatory Authority (CRAN) regulates Namibian communications, broadcasting and postal services.

Value-added services

Value-added telecommunication services like teleconferencing, call forwarding and call barring are available in Namibia. ISDN was introduced in mid 1998, making Basic Rate Interface and Primary Rate Interface available.

The Centrex service was introduced in February 1998. This service caters primarily for corporate customers and allows them to enjoy PABX-like facilities spread over Telecom Namibia's EWSD switching network without incurring huge capital costs in equipment.

Cellphone coverage in Namibia is available in all major economic centres and on main roads. Roaming agreements are in place with most international destinations, including South Africa, Austria, Australia, Belgium, Denmark, France, Germany, Hong Kong, Indonesia, Luxembourg, Mauritius, Netherlands, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, Turkey, and the United Kingdom.

Taxation policy

The tax regime in Namibia offers various concessions. These concessions are not aimed specifically at attracting foreign investment to Namibia, but are available to all who carry out targeted activities (see Chapter 4 and Appendix II).

Local competitor attitude toward foreign investment

Namibian business and the local community welcome foreign investors.

Assistance and advice can be obtained from the Namibia Investment Centre and a well developed business services sector. Refer to Chapter 30 for contact details.

Labour attitude toward foreign investment

Generally, labour is quite receptive towards foreign investment. This is even more the case if foreign investors create jobs with wages and working conditions comparable to those in the existing industry. Particular attention should be paid to maintaining good labour relations.

Growth areas

The Mining sector is expected to remain a strong and growing contributor to the Namibian economy.

Namibia's Fourth National Development Plan (NDP4) is based on three overarching goals over five years (2012 - 2017):

- i. obtaining income equality;
- ii. job creation; and
- iii. promoting economic growth.

The plan, monitored by the National Planning Commission, has identified growth in the following sectors as crucial to the achievement of these targets:

1. Manufacturing

Namibia's manufacturing sector is relatively small and contributes approximately 14.3% to GDP. Considering the open nature of the Namibian economy, with almost all consumer goods being imported and most primary resources being exported largely unprocessed, there is scope for import-substitution manufacturing as well as value-addition to Namibia's rich natural resources.

NDP4 aims to grow the manufacturing industry in Namibia by 50% during the period 2012 – 2017.

2. Tourism

Tourism is one of the fastest growing economic sector in Namibia. Namibia, which is as large as France and Germany combined, is blessed with extensive tracts of wilderness and a rich diversity of scenery. The country's wildlife heritage is one of its richest assets. Its wide variety of game include more than 20 antelope species and large mammals such as elephant, rhino, giraffe and lion abound. In addition to being home to the so-called Big Five (elephant, rhino, lion, leopard and buffalo), as well as its unique desert elephants and rhino, Namibia has the largest cheetah population in the world.

In contrast to many other countries on the continent, Namibia is becoming an increasingly attractive destination to tourists and investors alike because of its peaceful and politically stable character as well as its sophisticated physical and telecommunications infrastructure. Excellent availability of medical services, including emergency medical evacuation by air and road from remote areas, strict enforcement of hygiene standards throughout the hospitality industry, and an excellent supply of first-class potable tap water in nearly all cities and towns, are only a few of the factors that help to take the trauma out of travelling in Namibia.

Namibia is also strategically placed for easy access to the entire southern African region and is increasingly becoming a destination for package tours which include Botswana and South Africa. Regional tours represent a fast-growing component of the tourist industry.

The projected growth in Namibia's tourism industry provides ideal opportunities for investment. New upmarket accommodation facilities especially in the three-star category are needed, particularly in rural areas and country towns. The upgrading and renovation of existing one and two-star facilities are some of the investment propositions available. Additional tourist transport is also urgently needed, in particular scheduled coach transport between tourism centres.

3. Agriculture

A large proportion of the Namibian population is directly dependent on agriculture for a living. The desired outcome identified by NDP4 is for agriculture to experience an average real growth of 4% per annum over the NDP4 period.

The proposed strategy to obtain this outcome is for government to continue to increase the financial and technical support it provides to those involved in agricultural activities.

4. Logistics

The desired outcome identified by NDP4 for logistics is to double cargo-handling and rail-transported cargo volumes by 2017 compared to 2012, and for the Port of Walvis Bay to become the preferred West African coastal port and logistics corridor for southern and central African logistics operations.



Chapter 4: Investment Incentives

Investor considerations

- Incentives apply equally to domestic and foreign investors.
- The Namibia Investment Centre (NIC) within the Ministry of Industrialisation, Trade and SME Development assists investors by facilitating the promotion and administration of foreign investments.
- The major goals of incentives are employment creation, industrial development and export promotion.
- Tax-based incentives are substantially approved by the Ministry of Finance.
- Taxable income derived from the export of Namibian manufactured goods, with the exception of fish and meat products, shall be reduced by an allowance equal to 80 percent of the amount.

Investment policy

In both fiscal and non-fiscal terms, Namibia represents an ideal location for local and international investors. Namibia is credited with one of the lowest credit risk ratings in Africa. Part of the reason for this positive rating lies in the highly competitive incentive regimes the government has put in place, not only to mobilise foreign direct investments but also to make doing business in Namibia an attractive proposition.

The Foreign Investment Act

Namibia's policy on foreign investment is vested in the Foreign Investment Act, Act No. 27 of 1990 (the Act). The Act created

the Namibia Investment Centre (NIC) within the Ministry of Industrialisation, Trade and SME Development to facilitate the promotion and administration of foreign investments. Potential investors should regard the Namibia Investment Centre as their first point of contact in order to obtain current information on and assistance with investment incentives, introductions and administration requirements.

The Act provides for the following:

- Liberal foreign investment conditions;
- Equal treatment of foreign and local investors;
- Openness of the majority of sectors of the economy to foreign investment;
- No local participation requirements (although some restrictions may apply to specific tenders);
- The awarding of a Certificate of Status Investment (CSI).

The main aim of the Act is to address and stimulate foreign investment in Namibia. The Act allows any foreign national to invest and engage in any business activity in Namibia (with the exception of the exemptions mentioned above) which may be undertaken by a Namibian. Furthermore, for the purpose of any law governing the establishment and operation of any business, or the taxation of such business, the Act ensures that a foreign national is in the same position as any Namibian.

Foreign nationals engaged in business

activities or intending to commence activities in Namibia are not required to have local equity participation (but see comment above regarding government contracts), nor to transfer their business or any part thereof to the government or to any Namibian. There is, however, one provision in the case of foreigners applying for a licence or authorisation of an agreement for rights over natural resources: the government is entitled to acquire an interest in any enterprise to be formed for the exploitation of such rights.

Currently the Government of Namibia is in the process of updating the Foreign Investment Act and will introduce a new Namibia Investment Promotion Bill later on in 2016. In comparison to the previous one, the new investment law will, among others, define the classifications of domestic, foreign and state investments; introduce compulsory investor registration (with the Namibia Investment Centre); ensure that admission procedures for foreign investors are transparent and simple, for example, by introducing a one-stop-shop procedure; and provide clear guidelines for investor dispute procedures.

Status investment

Sections 4 to 7 of the Foreign Investment Act deal with the concept of "status investments". The Minister of Industrialisation, Trade and SME Development may, under certain circumstances, issue a Certificate of Status Investment to a foreign investor in respect of particular investments in Namibia.

The criteria for the issuance of such a certificate are as follows:

- Significance of the size of the proposed investment;
- Involvement of the foreign national in the management of the local company or joint venture;
- The extent to which the proposed

investment is likely to contribute towards Namibia's development objectives, as well as towards the following:

- The utilisation of Namibian resources, including labour and natural resources;
- Increased employment opportunities;
- Providing for the training of Namibians;
- Earning or saving of foreign exchange;
- Generating development in the less developed areas in Namibia;
- The advancement of persons within Namibia who have been socially, economically or educationally disadvantaged by past discriminatory laws and practices.

Holders of a Certificate of Status Investment are allowed to buy convertible foreign currency freely to meet foreign financial obligations arising from the investment.

In addition, the Foreign Investment Act provides assurance that holders of these certificates will have preferential access to convertible foreign currency for the repatriation, without any restriction, of any the following:

- Profits of a Namibian branch of a foreign company;
- Dividends, after deduction of non-residents' shareholders tax;
- Profits on the sale of the business or any part thereof to a person ordinarily resident in Namibia;
- Any reduction in share capital.

The local banking institutions acting as agents for the Bank of Namibia would, however, still require documentation to assist with the repatriation of funds denominated in foreign currency.

Incentives for manufacturers/exporters

Incentive regimes are designed to give Namibian-based entrepreneurs who invest in manufacturing and export trade a competitive edge. These tax and non-tax incentives are accessible to both existing and new manufacturers. With the exception of meat and fish products, all manufacturing activities in all sectors, including local value-added processing of Namibia's minerals stand to benefit from these incentives. Tax incentives are also available to exporters when exporting Namibian manufactured goods.

A number of other special incentives are also available for manufacturing enterprises. The incentives are controlled and administered by the Namibia Investment Centre (Ministry of Industrialisation, Trade and SME Development), to whom application should be made. The incentives include:

- Subsidised loans from the Namibian Development Corporation;
- Cash grants for exporters of locally manufactured goods of up to fifty percent of the real cost of specified export promotion and marketing expenses incurred;
- Industrial studies that can be bought from the government at below cost.

Special non-tax incentives for manufacturers include:

- Export promotion funding of certain export promotion activities, up to a maximum of 50% of direct costs;
- Industrial studies undertaken by the government available at 50% of their production costs to companies that wish to develop investment opportunities.

Other incentives currently under investigation include:

- Reduced airfreight for exporters;
- Subsidised transport;
- Subsidies on electricity, housing, training and relocation costs;
- Price preference on tenders.

Export Processing Zone (EPZ) incentives

Various export processing zone incentives were launched in 1996 through the enactment of the Export Processing Zone Act, Act No. 9 of 1995.

The Namibia EPZ regime provides several attractive fiscal incentives. Refer to Appendix IV.

Chapter 5: Exchange Control Implications for Foreign Investment and Investors

Investor considerations

- Transfers of dividends or profits are controlled but not restricted.
- Local branches and subsidiaries are normally treated as residents.
- Individuals are allowed to transfer N\$4,000,000 abroad.
- Limited restrictions on local financial assistance where there is foreign ownership (Affected Person / EPZ status).
- Foreign Capital introduced into the Namibia may be repatriated to its country of origin.

Important to note

Please note that this chapter contains a short summary of Namibia's foreign exchange regulations. Investors are advised to contact a Namibian banking institution to obtain more detailed, up-to-date information relevant to the specific proposed transaction.

Exchange control territory

Different exchange control rulings apply to the transactions of residents of the Common Monetary Area ("CMA"), and other non-residents. The CMA is comprised of the Republic of South Africa, Lesotho, Namibia and Swaziland. There are no trade and exchange restrictions between the members of the CMA, and the members form a single exchange control territory. Lesotho, Namibia and Swaziland have their own exchange control authorities as well as their own acts

or regulations and rulings, but in terms of the CMA Agreement, the application of these authorities and rules must be at least as strict as that of South Africa. Accordingly, investments and transfers of funds from South Africa to other CMA countries do not require the approval of Exchange Control, but may require the approval of the host country.

Settlements by residents of Namibia with the non-resident area may be made to and from a non-resident account and in any foreign currency.

Regulatory climate

Namibia's own currency, the Namibia Dollar (NAD), was introduced in September 1993. The NAD remains linked to the South African Rand, which is accepted as legal tender in Namibia.

Exchange control in Namibia is administered by the central bank, namely Bank of Namibia, through authorised dealers, the latter being the commercial banks in the country. Control applies at present to all Namibian residents as well as to foreign-owned business undertakings operating in Namibia.

Exchange control regulations prescribe procedures that must be followed for making payments for imports, freight and other services, interest on foreign loans, dividend transfers, etc. The payments are unrestricted on presentation of the prescribed supporting documentation to an authorised dealer in foreign exchange.

Foreign transfers

The CMA member countries have undertaken to gradually liberalize exchange control within the region.

To allow broader investment by private individuals offshore, and to facilitate greater flow of funds, the maximum allowable foreign investment by private Namibian residents is N\$4 million, while Namibian resident companies may invest N\$750 million offshore. An application to invest offshore should be accompanied by a certificate of good standing from the Receiver of Revenue. These amounts may be changed by regulation from the Bank of Namibia and prospective investors are advised to confirm the thresholds with a Namibian forex agent.

Direct investment

Direct investment in Namibia by a foreign investor, including the establishment of new subsidiaries and branches, the acquisition of controlling or non-controlling interests in existing Namibian companies, and the increase of capital funds of existing local subsidiaries and associates may be provided by way of equity or loan capital, or a combination of the two. Exchange control permission is not required for the inward transfer of equity capital, but permission is required for loan funds. It is advised that all foreign investments are registered with the Bank of Namibia (BON). In respect of the repatriation of investment money, the BON requires a formal application to be submitted through an authorised dealer. An authorised dealer has advised that the BON may prescribe a minimum investment period before capital invested may be repatriated.

Remittance of dividends

In general, distributions of profit, including dividends from foreign investment, can be made freely and without prior approval,

except by concerns owned 75% or more by non-residents who have availed themselves of local borrowing facilities. In these cases, prior approval must be obtained before remittance. Evidence that the distributions have accrued as a result of trading or from income on investments must be produced. This would normally take the form of an auditor's certificate.

Other documentation that may be required to be submitted to the agent or Bank of Namibia are:

- Good standing certificate from Inland Revenue
- The company resolution approving the declaration of dividends.

It is further advised that share certificates are stamped as "Non-resident shareholders". This may be required for dividends to be repatriated subsequently.

Withholding taxes on dividends (normally 10%, but reduced for some countries under the various double taxation agreements), and royalties (30% of the current corporate tax rate, i.e., 9.9%, but also reduced for some countries) must be deducted before remittances are made.

Loans

The acceptance by a local company of loans from non-resident shareholders is subject to approval from Exchange Control at the Bank of Namibia prior to the funds being introduced into Namibia.

In terms of such an approval, the Bank of Namibia will require notification on drawdown of amounts (amortisation schedule) in terms of the facility and an appropriate interest rate.

Such debt funding from abroad is subject to a ratio of 3:1 (i.e. 75% to 25%) being adhered to in respect of the proportion of loan funds to share capital. Concessions to allow debt funding beyond the 75%

threshold can be obtained from Bank of Namibia in very special circumstances only.

Guideline interest rates are not publicly available and can be obtained from forex desks of commercial banks on a case by case basis.

General practice by the BON has indicated that foreign denominated loans may bear interest at LIBOR + 2%. The BON further stipulates that interest rates should not exceed the prime lending rate + 3%. Where a loan agreement is amended, the amendment should be submitted to the BON for approval.

As a BON general rule, capital repayment on loans can only take place after a period of six months, whereas interest on the loans can be immediately repatriated.

Foreign investment on the Namibia Stock Exchange

Namibia provides a favourable regime for foreign investors. There is no capital gains tax (other than on the sale of mining licences or right to mine minerals and the shares in a company holding such a licence/right) or marketable securities tax. The only special tax on foreign nationals is the non-resident shareholders' tax at between 10% and 20% of dividends remitted (depending on shareholding), mitigated by double tax treaties with certain countries.

There are also no general restrictions on foreign ownership of shares in Namibian listed companies, and all shares are freely tradable. Foreign exchange regulations are almost identical to those of South Africa, as both countries are members of the Common Monetary Area and the Namibia Dollar is linked at par with the South African Rand. Investors must apply through an authorized dealer to ensure free remittance of dividends and proceeds of sales.

Other foreign remittances

Royalties, technical, management and similar fees are also transferable, although prior approval of the terms of the underlying agreements must be obtained. Applications for the foreign exchange required must normally be supported by an auditor's certificate and possibly a good standing certificate from Inland Revenue.

Normal selling commissions to independent agents abroad who have assisted in the export of goods are remittable.

Directors' fees are also permitted to be remitted to each non-resident director upon prior approval. Withholding tax on directors' fees must be paid before remittance is effected.

Other documentation that may be required to be submitted to the agent or Bank of Namibia are:

- Good standing certificate from Inland Revenue
- Auditor's certificate
- The company resolution approving the payment of directors' fees.

Repatriation of capital

The local sale or redemption proceeds on non-resident owned assets in Namibia may be regarded as freely remittable, or be used freely by non-residents for investment purposes within the CMA.

EPZ enterprises

EPZ enterprises operate outside the normal foreign exchange regime in Namibia. To address their foreign exchange and operational requirements, two types of banking accounts have been tailor-made to the needs of enterprises operating in the Namibian EPZ:

EPZ Customer Foreign Currency Account

To facilitate the foreign company disbursements of EPZ enterprises, this account is kept in foreign currency in a local bank.

EPZ Non-resident Account

This is a Namibia Dollar account funded with foreign currency and used for the normal operational requirements/expenditure of the EPZ enterprise. Balances on this type of account are freely convertible.

Restrictions on local financial assistance where there is foreign ownership

There are various restrictions on local financial assistance relating to the degree of non-resident participation in an enterprise. These restrictions are calculated in accordance with a formula that takes into account the percentage of foreign participation in the equity.

Where 75% or more of a Namibian company's capital or earnings is controlled directly or indirectly by non-residents, such a company may borrow locally up to an agreed percentage of its total effective capital. Effective capital consists of share capital, reserves and loans from shareholders as specifically approved by Exchange Control. Unrealized profits on revaluations of assets are not recognised as reserves for this purpose. That portion of inter-company current accounts for imports, which may be regarded as permanent in character may, however, be accepted as forming part of the shareholders' loans.

The normal local financial assistance allowed is determined in accordance with guidelines that are available from foreign exchange agents (Namibian commercial banks).

The definition of local financial assistance embraces bank and other credit facilities including mortgage finance, hire purchase, factoring and financial leasing arrangements. Financial assistance does not include the granting of credit by a seller to a purchaser of equipment of a productive nature.

Sometimes temporary excess financial assistance is condoned, such as in situations where there is local expansion or modernization or where trading losses must be made good. In such circumstances the remittance of dividends or other withdrawals by non-residents would be restricted.

Temporary residents

Temporary residents are foreign nationals who are employed on specific contracts within Namibia or who are seconded to a local firm for a limited period. Provided they give a written undertaking to an authorized dealer that they will not place their foreign assets at the disposal of any third party resident in the CMA, they may deal freely with such assets and are not required to remit to Namibia any income earned thereon.

They are also permitted to transfer a reasonable proportion of their local earnings to their home countries on a regular basis, and on completion of their stay in Namibia they are permitted to transfer all local savings.

When returning abroad on termination of contract, temporary residents may take with them any savings accumulated from earnings. The realized profit from the sale of a house is deemed to be "savings."

Exchange Control is prepared to consider requests by contract workers to bring in funds to purchase residential property for their own occupation. If agreed, the basis would be that on conclusion of the contract, the same amount would leave the CMA, and any profit would be seen

as savings. If the house is retained after their departure it would be regarded as an investment by the non-resident, and on eventual disposal, the total proceeds could be remitted.

Immigrants

Virtually all foreign exchange control on non-residents has been abolished.

Immigrants to Namibia who are not former residents of a CMA country are permitted to retain their foreign assets, but they must remit any income thereon to Namibia. They are required to give an undertaking that they will not make such assets available to other residents of the CMA.

On taking up permanent residence in Namibia immigrants should complete the prescribed form MP 335(a), together with a declaration of their foreign assets and liabilities. On receipt of such documents, authorized dealers may permit the immigrants concerned to dispose of or otherwise invest their foreign assets as declared without interference from Exchange Control, provided the immigrants are not former residents of the CMA. This concession is also applicable to foreign capital subsequently accruing to such immigrants, provided they declare it to their bankers.

Immigrants to Namibia are permitted, within five years of the date of their immigration, to retransfer abroad all own assets introduced into Namibia during the five-year period, provided such transfers are not financed by local borrowing facilities.

Import and export controls

Namibia is open to trade with any country. However, in terms of import and export legislation, although some goods may be imported freely, permits are required for a wide range of imports and for certain

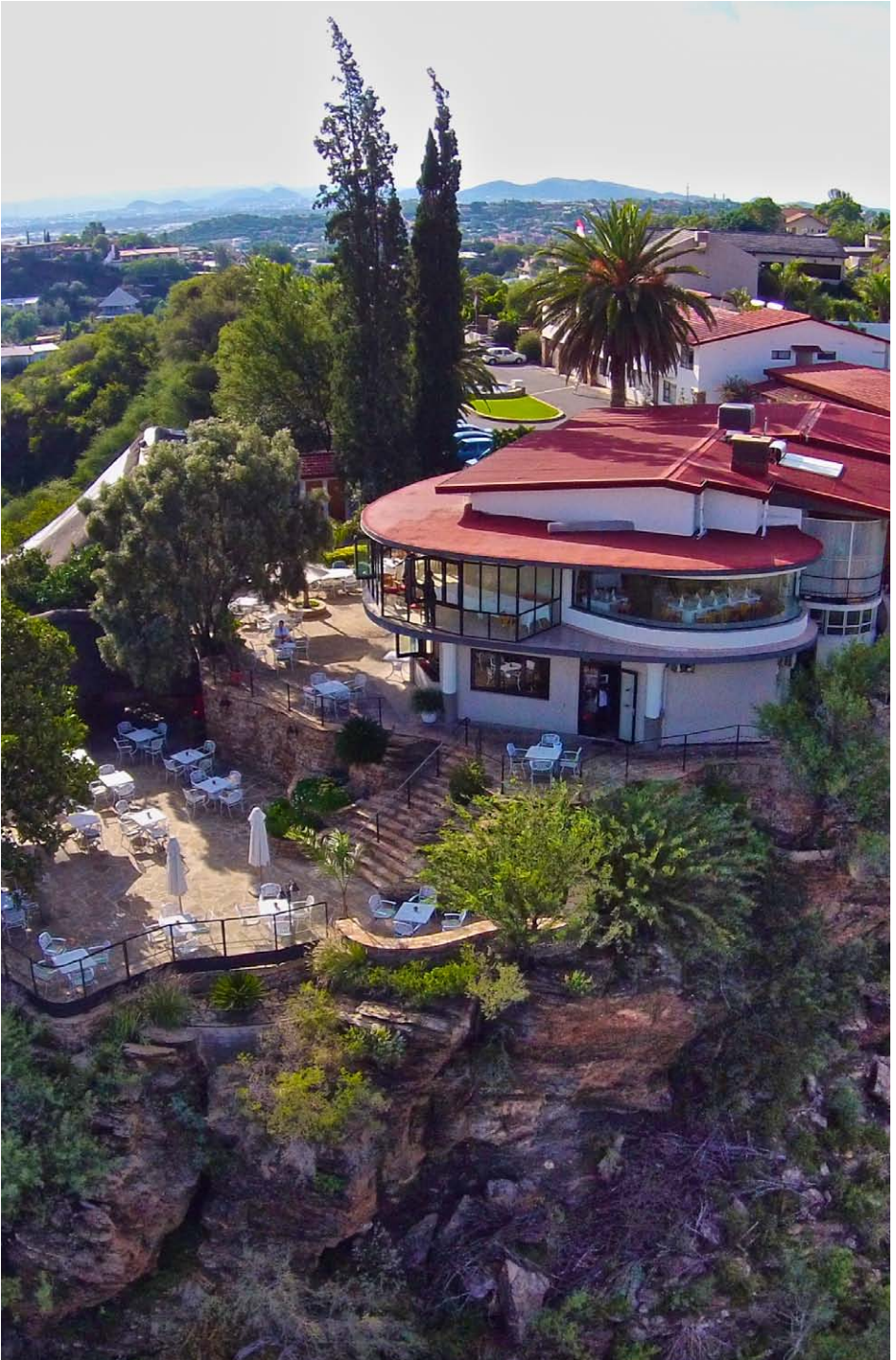
exports (having regard to local needs for any product). Permits are generally available both for consumable and for capital items. Importation of products of plant or animal origin may be subject to additional, e.g. phyto-sanitary controls and permits.

For capital goods, advance payments up to 100% of the ex-factory cost up to a maximum value of N\$20 million are permitted, provided such payments are customary and are a condition of the transaction. Advance payments for capital goods in excess of N\$20 million are only allowed up to 50% of the ex-factory costs. Advance payments for imports other than capital goods are restricted to N\$1 million. The proceeds of current export transactions must be received in Namibia within six months of the date of shipment and the foreign currency involved sold to an authorized dealer within 30 days of receipt. In exceptional cases, extended credit of up to 12 months may be granted by the exporter in order to maintain the foreign market.

Forward exchange cover may be obtained by both importers and exporters at prevailing market rates. The rates are determined by current interest differentials and ruling spot rates. Importers may obtain extended supplier credit, but import finance facilities may only be established abroad for periods of up to 12 months without prior permission of Exchange Control.

Similarly, local banks are permitted to provide exporters with overseas trade finance in respect of exports on a pre-shipment or post-shipment basis for periods not exceeding 12 months.

Import permits must be produced to support applications for the relevant foreign exchange.



Chapter 6: Regulatory Environment

Investor considerations

- Regulatory provisions generally apply to both local and foreign owned enterprises.
- The Namibian government is committed to promoting the principles of free enterprise.
- Certain restrictions exist with regard to employment practices.

Regulation of business

Responsibility for the basic legal framework for the regulation of industry and commerce rests primarily with the Ministry of Industrialisation, Trade and SME Development (refer to Chapter 2). The national and municipal levels of government exercise some control over commerce and industry, ranging from licensing requirements and conditions for employees at national level to restrictions imposed to serve the health of the population at municipal level.

In principle, there is freedom to conduct business in Namibia. Foreign individuals must obtain a residence and work or investor permit. Companies and branches of foreign companies must register with the Registrar of Companies and Inland Revenue as appropriate.

Anyone can set up a business, except for services, occupations or professions requiring special qualifications or licences and which are governed by regulatory bodies. Regulated lines of business include medical services, financial services (banking and insurance), education, mining, petroleum, some food production/processing, public accounting

and auditing, and gambling amongst others. A complete list of Namibian laws is included as Appendix X.

Securities market

The not-for-profit Namibian Stock Exchange Association is the custodian of the license to operate the stock exchange. This body comprises 43 associate members (banks, listed companies, investment institutions, etc.) who sponsored the establishment of the Namibian Stock Exchange (NSX) by each donating N\$10,000. Each year the members elect an Executive Committee of nine members of the business community, representing different business sectors, and the tenth member represents NAMFISA (the Namibia Financial Institutions Supervisory Authority), which is the financial services regulator. Sub-committees are appointed from time to time as the need arises, with the Listings Committee meeting regularly. The NSX is regulated by the Stock Exchanges Control Act and overseen by the Registrar of Financial Institutions¹.

The listing requirements of the NSX are:

- Share capital amounting to a minimum of N\$1 million.
- A minimum of 1 million shares must be in issue.
- A profitable trading record for three years, with a current audited profit

¹ <http://www.nsx.com.na/about.php>

before tax of at least N\$500,000. (Companies that do not comply with the latter requirement may list on the Development Capital Board.)

- An acceptable record in its field of business and adequate management to maintain business. Satisfactory evidence must be supplied to prove that the management as a whole has the required expertise.
- Other criteria such as the vulnerability of a company to specific factors or events will be taken into consideration.
- The company may not have had a qualified auditor's report during the preceding three years.

The Namibian Stock Exchange has established a Development Capital Board for listings of companies that do not comply with some or all of the above criteria. The purpose of this sector is specifically to facilitate listings of new ventures/businesses that do not have an adequate track record. (Such companies should have fully researched projects and at least 10% of the capital raised must be provided by management.)

Patents and trademarks

The Registration of Companies, Patents, Trademarks and Industrial Designs Division is entrusted with the government's task of registering and controlling business entities. The Division provides the legal and administrative framework for the protection of patents, trademarks and design rights of owners against unscrupulous users and competitors. The Division further initiates and reviews legislation in the area of companies and registration and administration of close corporations, as well as legislation in the area of industrial property.

In its quest to create an enabling environment for business, the Division

provides comprehensive protection for the rights of patents, trademarks and design holders by means of an effective industrial property regime which develops the necessary legislation. It also provides an international linking framework through international bodies such as the World Intellectual Property Organisation (WIPO), regional bodies such as the African Industrial Property Organisation (AFRO), and other bilateral agreements.

A special Division oversees the registration of Patents, Trademarks and Industrial Designs. The Division provides the legal and administrative framework for the protection of patents, trademarks and design rights against unauthorized use. The Division is also responsible for initiating and reviewing legislation pertaining to intellectual property.

In addition to its domestic legislation, Namibia has acceded to or signed the following international instruments in the intellectual property regime:

- Convention Establishing the World Intellectual Property Organisation 1967, amended in 1979 (WIPO Convention)
- Berne Convention for the Protection of Literary and Artistic Works, 1971
- WIPO Copyright Treaty, 1996
- WIPO Performance and Phonogram Treaty, 1996
- Madrid Agreement concerning the International Registration of Trademarks, 1891
- Protocol regarding the Madrid Agreement concerning the International Registration of Trademarks, 1989
- Hague Agreement concerning the International Deposits of Industrial Designs of 1925, as governed by the 1960 Act and the Geneva Act

- Paris Convention for the Protection of Industrial Property (Stockholm Act 1967)
- Patent Cooperation Treaty, 1970
- Harare Protocol on Patents and Industrial Design within the Framework of the African Regional Industrial Property Organisation, 1982
- Banjul Protocol on Marks within the Framework of the African Regional Industrial Property Organisation, 1993.
- the sale of liquor that contains more than 3% alcohol to persons under 18
- the supply of liquor to employees as remuneration
- the consumption of liquor in public places.

Licences

The requirements regarding the general licences and registrations required for conducting business in Namibia are summarised below. It is, however, advisable to obtain confirmation based on the specific circumstances from the authority/ies concerned.

Municipal licences

The municipality carries out a municipal inspection and approves business premise occupancy by reviewing applications for, and issuing, a town planning certificate. Business may only be conducted from appropriately zoned premises, i.e. with approved office or business zoning from the local municipality. Municipal health divisions will issue a health certificate. The time it will take to obtain a health certificate will depend on whether an inspection needs to be done on the premises.

Liquor licences

The Liquor Act regulates licensing procedures for the sale and supply of liquor in Namibia.

The Liquor Act, amongst its other provisions, forbids:

Standards

The Namibia Standards Institution (NSI) was established in terms of the Standards Act, Act No. 18 of 2005 as the national standards body of Namibia.

The NSI is responsible for enhancing product quality, industrial efficiency and productivity in Namibia by:

- Promoting the use of standards and quality assurance and control in industry, commerce and public sector;
- Providing conformity assessment services;
- Certification of systems, product and personnel systems;
- Inspecting and testing of products and materials;
- Trade (Legal) Metrology – enforcement of product labelling, weights and measures.

A Standards Information and Quality Office set up under the Directorate of Internal Trade gained recognition in January 1996 as a subscriber member of the International Organisation for Standardisation (ISO). The office provides information concerning quality and standards for the local industry.

Small Scale and Informal Industries Division (SSIID)

This division of the Ministry of Industrialisation, Trade and SME Development is tasked with articulating and implementing a development programme that will contribute to the improvement of productivity at small and informal industrial levels. It is now accepted that small and micro enterprises (SMEs) are one of the most important means of increasing production and reducing unemployment.

The government's role in the development of the SME sector is that of catalyst and enabler. It will facilitate the creation of an enabling environment in which the sector can flourish.



Chapter 7: Banking and Finance

Namibia has a well-established banking system which is regulated by legislation and by state agencies working through the country's central bank, the Bank of Namibia.

The Banking Institutions Act of 1998

The Banking Institutions Act passed in 1998 provides the legal framework for banking operations in Namibia and is designed to ensure international acceptability. The Bank of Namibia enforces compliance with Basel II.

The central bank

The Bank of Namibia is the country's central bank and has the responsibility to ensure the overall soundness and efficiency of the payment system and controls foreign exchange regulations.

Contact details of the Bank of Namibia are available at www.bon.com.na

Commercial banks

Commercial banks in Namibia operate through a nationwide network of branches and offer a comprehensive range of banking services, including current account and overdraft facilities, term deposits, discounting of bills, foreign exchange and a variety of loan products.

General banking facilities such as hire purchase and leasing packages are also available and most of the commercial banks are capable of providing specialised

merchant banking facilities. Branches of banks can be found in most towns in Namibia, with agencies in the smaller centres.

International services are available through interbank arrangements, while electronic banking and teller services are available in all major centres. Namibia currently has four major commercial banks:

Bank Windhoek Limited

Website: www.bankwindhoek.com.na

First National Bank of Namibia Limited

Website: www.fnbnamibia.com.na

Nedbank Namibia Limited

Website: www.nedbank.com.na

Standard Bank of Namibia Limited

Website www.standardbank.com.na

Smaller commercial banks

Licenses have also been awarded to the following smaller commercial banks in Namibia:

- SME Bank
- EBank
- Trustco Bank Namibia

Development Bank of Namibia

The Development Bank provides finance for private sector start-ups and expansions, equity deals, bridging finance, enterprise development finance, trade finance, small and medium enterprises, public private partnerships, public sector infrastructure, local authorities, and bulk finance to responsible micro-finance providers. The DBN only finances Namibian participation in projects.

Website: www.dbn.com.na

Cheque limits

In terms of a general notice published in respect of the determination on reduction of the limit for domestic cheque payments within the National Payment system which became effective on 10 June 2010:

- A cheque shall not be issued, accepted or processed for an amount greater than N\$500,000 (Five hundred thousand Namibia Dollars) in settlement of a Namibian account.
- No person shall be allowed to split cheque payments into units of N\$500,000 or less, where such multiple cheques are issued for the settlement of the same transaction.
- Businesses and individuals in Namibia should consult with their Namibian banking institutions in order to determine how payments above N\$500,000 should be transacted.

Chapter 8: Financial Intelligence Act

The purpose of the Financial Intelligence Act² is:

- The establishment of the Financial Intelligence Centre (the Centre);
- To combat money laundering and financing of terrorism activities;
- To establish an Anti-Money Laundering and Combating of the Financing of Terrorism Council;
- To provide for registration of accountable and reporting institutions;
- To provide for powers and functions of supervisory bodies;
- To authorise the Centre to collect, assess and analyse financial intelligence data, which may lead or relate to money laundering and combating of the financing of terrorism;
- To impose duties on institutions and other persons who may be used for money laundering;
- To provide for incidental matters.

The Financial Intelligence Act applies to:

- The Bank of Namibia (the Bank);
- Accountable Institutions;
- Supervisory Bodies; and
- Reporting Institutions.

The Financial Intelligence Centre

The Financial Intelligence Centre is responsible for administering the Financial Intelligence Act, Act No. 13 of 2012 (the Act). The Act thus does not apply to the Bank itself, except insofar as it grants powers to the Bank to perform functions contained in the Act or imposes responsibilities and duties on the Centre for monitoring and ensuring that accountable institutions comply with the Act.

Accountable Institutions

Institutions qualifying as accountable institutions are listed below:

² The Financial Intelligence Act, Act No. 13 of 2012

Accountable Institutions

1. The following persons in their capacities as such, who prepare or carry out for a client certain transactions specified in the Act:
 - Legal Practitioners³
 - Estate Agents⁴
 - Accountants and Auditors.
2. Any other person or entity that, as part of their normal business activities, buys and/or sells real estate for cash
3. Trust and Company Services Providers when they prepare for and carry out transactions for their clients as specified in the Act
4. Persons who carry on a “banking business” or who “receive funds from the public”⁵
5. Casino or gambling institutions
6. A person or entity that carries on the business of lending, including but not limited to the following:
 - The Agricultural Bank of Namibia
 - The Development Bank of Namibia
 - The National Housing Enterprise.
7. Traders in Minerals⁶ or Petroleum
8. Any person or entity trading in the following:
 - Money market instruments
 - Foreign exchange
 - Currency exchange
 - Exchange, interest rate and index instruments
 - Transferable securities
 - Commodity futures trading
 - Any other security services.
9. Investment consultants and/or investment brokers
10. Persons who issue, sell or redeem travellers’ cheques, money orders or similar payment instruments
11. Namibia Post Limited
12. Members of a stock exchange⁷
13. Any person or entity that carries on the business of electronic transfer of money or value

³ As defined in the Legal Practitioners Act, Act No. 6 of 1995

⁴ As defined in the Estate Agents Act, Act No. 112 of 1976

⁵ As defined in section 1 of the Banking Institutions Act, Act No. 2 of 1998

⁶ As specified in Schedule 1 of the Minerals (Prospecting and Mining) Act, Act No. 33 of 1992

⁷ Licensed under the Stock Exchange Control Act, Act No. 1 of 1985

14. Any person or entity regulated by NAMFISA who conducts as business any of the following:
 - Individual and/or collective portfolio management;
 - Long term insurance
 - Micro lending
 - Friendly society and
 - Unit trust manager.
15. A person or entity that carries on the business of lending money against the security of securities
16. Auctioneers.

Supervisory Bodies

Currently the Namibia Financial Institutions Supervisory Authority is the only one listed as a supervisory body.

Reporting Institutions

Institutions qualifying as reporting institutions are listed below:

Reporting Institutions	
1	A person or institution that carries on the business of a motor vehicle dealership
2	A person that carries on the business of trading in second hand goods
3	A person that carries on the business of a gambling house, a totalisator or bookmaker
4	A person that carries on the business of trading in jewellery, antiques or art
5	Any person or entity regulated by NAMFISA who conducts as a business an activity such as short term insurance.

Regulatory Bodies

Institutions qualifying as regulatory bodies are listed below:

Regulatory Bodies	
1	The Bank of Namibia as defined in the Bank of Namibia Act is to exercise its powers and fulfil its regulatory functions under the following Acts: <ul style="list-style-type: none"> • Banking Institutions Act • Currency and Exchanges Act • Prevention of Counterfeiting of Currency Act • Payment System Management Act
2	The Law Society
3	The Estate Agents Board
4	The Public Accountants and Auditors Board

5	The Namibian Stock Exchange
6	The Casino Board.

Money Laundering

“Money laundering” or **“money laundering activity”** is defined in section 1 of the Financial Intelligence Act, Act No. 13 of 2012 as:

- “(a) the act of a person who –*
- (i) engages, directly or indirectly, in a transaction that involves proceeds of any unlawful activity;*
 - (ii) acquires, possesses or uses or removes from or brings into Namibia proceeds of any unlawful activity; or*
 - (iii) conceals, disguises or impedes the establishment of the true nature, origin, location, movement, disposition, title of, rights with respect to, or ownership of, proceeds of any unlawful activity;*
- where –*
- (aa) as may be inferred from objective factual circumstances, the person knows or has reason to believe, that the property is proceeds from any unlawful activity; or*
 - (bb) in respect of the conduct of a person, the person without reasonable excuse fails to take reasonable steps to ascertain whether or not the property is proceeds from any unlawful activity; and*
 - (cc) any activity which constitutes an offence as defined in section 1 of the Payment System Management Act, Act No. 18 of 2003.”*

The principal objects of the Centre in terms of this Act are to combat money laundering and the financing of terrorism activities in collaboration with the other law enforcement agencies has the following functions in this regard:

- Collect, process and assess all reports and information received in terms if the Act or any other law
- Compile statistics and records, disseminate information within Namibia or elsewhere and make recommendations arising out of any information received
- Coordinate the activities of the various persons, bodies or institutions involved in the combating of money laundering
- Inform, advise and cooperate with investigating authorities and Namibia Central Intelligence Services and make information collected by the Bank available to these investigating authorities for the purpose of administration, intelligence collection and law enforcement
- Supervise compliance with this Act by accountable institutions and give guidance to accountable institutions to combat money laundering activities.

The Money Laundering Control Measures set by the Act are listed below:

Control Measures	Maximum liability for Offence
Identification of when business relationships are established or single transactions are concluded	Maximum fine of N\$100,000,000; or Maximum imprisonment of 30 years (individual); or Both
Identification of when transactions are concluded in the course of business relationship	Maximum fine of N\$100,000,000; or Maximum imprisonment of 30 years (individual); or Both
Identification of Risk clients	Maximum fine of N\$100,000,000; or Maximum imprisonment of 30 years (individual); or Both
On-going and enhanced due diligence	Maximum fine of N\$100,000,000; or Maximum imprisonment of 30 years (individual); or Both
Identification and account-opening for cross-border correspondent banking relationships	Maximum fine of N\$100,000,000; or Maximum imprisonment of 30 years (individual); or Both
Maintenance of records of business relationships and transactions	Maximum fine of N\$100,000,000; or Maximum imprisonment of 30 years (individual); or Both
Period for which record must be kept	Maximum fine of N\$100,000,000; or Maximum imprisonment of 30 years (individual); or Both
Record-keeping by third parties	Maximum fine of N\$100,000,000 or Maximum imprisonment of 30 years (individual); or Both
Admissibility of records	Not applicable
Centre has access to records	Maximum fine of N\$100,000,000; or Maximum imprisonment of 30 years (individual); or Both
Cash transactions above prescribed limits	Maximum fine of N\$100,000,000; or Maximum imprisonment of 30 years (individual); or Both
Suspicious transactions and activities	Maximum fine of N\$100,000,000; or Maximum imprisonment of 30 years (individual); or Both

Control Measures	Maximum liability for Offence
Electronic transfers of money to or from Namibia	Maximum fine of N\$100,000,000; or Maximum imprisonment of 30 years (individual); or Both
Obligations of and reporting by Supervisory Bodies	Maximum fine of N\$10,000,000; or Maximum imprisonment of 10 years (individual); or Both ⁸ And/or Maximum fine of N\$50,000; or Maximum imprisonment of 3 years; and in case of a continuing offence a further fine not exceeding N\$50,000 for each day during which the offence continues after conviction ⁹
Declaration of cross border movement of cash and bearer negotiable instruments amounting to or exceeding amount determined by Centre	Maximum fine of N\$100,000,000; or Maximum imprisonment of 30 years (individual); or Both
Obligations of Accountable institutions	Maximum fine of N\$100,000,000; or Maximum imprisonment of 30 years (individual); or Both
Intervention by the Centre	Maximum fine of N\$100,000,000; or Maximum imprisonment of 30 years (individual); or Both
Reporting procedures	Maximum fine of N\$100,000,000; or Maximum imprisonment of 30 years (individual); or Both ⁹ Or Maximum fine of N\$50,000; or Maximum imprisonment of 5 years (individual); or Both ¹⁰

⁸ Contravention/failure to comply with section 23(1) of the Financial Intelligence Act, Act No. 3 of 2007

⁹ Contravention/failure to comply with section 23(2) and (3) of the Financial Intelligence Act, Act No. 3 of 2007

¹⁰ Contravention/failure to comply with section 23(2) and (3) of the Financial Intelligence Act, Act No. 3 of 2007

¹¹ Accountable institution or supervisory authority fails to comply with section 26(2) of the Financial Intelligence Act, Act No. 3 of 2007

Control Measures	Maximum liability for Offence
Powers of officers of Customs and Excise in respect of cash or bearer negotiable instruments being conveyed in or out of Namibia	Maximum fine of N\$100,000,000; or Maximum imprisonment of 30 years (individual); or Both
Making declarations on cash or bearer negotiable instruments available to Centre	Maximum fine of N\$100,000,000; or Maximum imprisonment of 30 years (individual); or Both
Continuation of suspicious transactions	Not applicable
Monitoring orders	Maximum fine of N\$100,000,000; or Maximum imprisonment of 30 years (individual); or Both
Reporting duty not affected by confidentiality rules	Not applicable
Protection of persons making reports	Not applicable
Tipping-Off	Maximum fine of N\$100,000,000; or Maximum imprisonment of 30 years (individual); or Both
Admissibility as evidence of reports made to the Bank	Not Applicable
Access to information held by the Bank	Maximum fine of N\$100,000,000; or Maximum imprisonment of 30 years(individual); or Both
Protection of confidential information	Maximum fine of N\$100,000,000; or Maximum imprisonment of 30 years (individual); or Both
Protection of informers and information	Maximum fine of N\$100,000,000; or Maximum imprisonment of 30 years (individual); or Both

Offences in general

Section 63 of the Financial Intelligence Act, Act No. 13 of 2012 states that:

"A person who:

- ♦ *knowing or suspecting information is held by the Centre directly or indirectly brings, otherwise than in the course of discharging an obligation under this Act, that information or the fact that that information is held to the attention of another person;*
- ♦ *destroys or in any other way tampers with information kept by the Centre for the purposes of this Act;*
- ♦ *knowing or suspecting that information has been disclosed to the Centre, directly or indirectly brings information which is likely to prejudice an investigation resulting from that disclosure to the attention of another person;*
- ♦ *obstructs, hinders or threatens an official or representative of the Centre in the performance of their duties or the exercise of their powers in terms of this Act;*
- ♦ *with intent to defraud, in respect of a document to be produced or submitted under any provision of this Act, makes or causes to be made a false entry or omits to make, or causes to be omitted any entry,*

commits an offence and is liable on conviction to a fine not exceeding N\$100 million or to imprisonment for a period not exceeding 30 years or to both such fine and imprisonment."



Chapter 9: Unlisted Investment requirements in the Long-term Insurance and Pension Funds Acts

Regulation 15 under the Long-term Insurance Act, Act No. 5 of 1998 and Regulation 28 under the Pension Funds Act, Act No. 24 of 1956 require Long-term Insurers and Pension Funds to invest in Namibian unlisted instruments.

Highlights of the regulations are set out below:

Regulation 15 under the Long-term Insurance Act

1) Registered insurers or reinsurers (collectively 'insurers') are required to invest their assets in unlisted investments in Namibia so much as correspond to a minimum of five percent of the aggregate liabilities of the long-term insurance business of the insurer, provided that:

1. The unlisted investments do not cumulatively exceed 10% of the assets of the insurer as correspond to the mentioned aggregate liabilities and that the insurer invests at least five percent in Namibian unlisted instruments.
2. The entity in which the investment is intended:
 - Is in possession of a certificate by an auditor¹²

and approved by the Registrar certifying its compliance with the International Financial Reporting Standards¹³;

- Adheres to internationally accepted norms on good corporate governance;
- Has Namibian ownership of at least 25% prior to any investment by an insurer; and
- Complies with such other requirements that the Registrar (with the concurrence of the Minister) may determine from time to time.

"Unlisted investment" means a "share"¹⁴ and excludes:

- A share in a company listed on any stock exchange; and
- A debt instrument or any other investment as the Registrar (with the concurrence of the Minister) may determine by notice in the Gazette;

Insurers should on a quarterly basis, from 1 January each year following commencement of this regulation report to the Registrar the placement of

12 Registered under the Public Accountants' and Auditors' Act, Act No. 51 of 1951

13 As prescribed by the International Accounting Standards Board

14 As defined in the Companies Act, Act No. 28 of 2004

investments in unlisted investments and provide such information as the Registrar may require.

2) The insurer must, in terms of its long-term insurance business, invest inside Namibia not less than 35% of the market value of its total assets, provided that the assets consisting of listed shares acquired in companies incorporated outside Namibia on the Namibian Stock Exchange are regarded as assets invested inside Namibia, but may not exceed the value of investments inside Namibia by more than 10%.

3) Investments made outside the Common Monetary Area (CMA) should comply with the limitations as determined under the Currency and Exchanges Act, Act No. 9 of 1933 from time to time.

4) Limits of investments are indicated in the table below:

No.	Categories or kinds of assets	Maximum of the aggregate market value of the total assets of a fund
1	Bills, bonds or securities issued/guaranteed by or loans to/guaranteed by the Government of the Republic of Namibia	50%
2	Deposits with a credit balance in a current/savings account held with a banking institution (these include negotiable deposits and money market instruments in terms of which such banking institutions are liable, including deposits in the Post Office Savings Bank) - Per banking institution Per Post Office Savings Bank	20% 20%
3	Bills, bonds or securities issued/guaranteed by or loans to/guaranteed by: a) Local authority/ regional council authorised by law to levy rates upon immovable property – Per local authority/ regional council b) State owned enterprise – Total investment of an insurer in assets above	20% 20% 30%
4	Bills, bonds or securities issued or loans to an institution, which bills, bonds or securities have been approved by the Registrar in terms of section 5 of Schedule 1 of the Act and Bills, bonds or securities issued or loans to an institution which was likewise approved by the Registrar Per institution	20%
5	Bills, bonds or securities issued by the government of or by a local authority in a country other than Namibia, of which the country was approved by the Registrar in terms of section 6 of Schedule 1 to the Act and Bills, bonds or securities issued by an institution which was likewise approved by the Registrar Per institution	10%

6	Immovable property, units in unit trust schemes in property shares and shares in/loans to and debentures (convertible and non-convertible) of property companies Limit on investment in a single property or property development project	25% 5%
7	Preference and ordinary shares in companies and associated companies (excluding shares in property companies and Investment subsidiaries), convertible debentures (voluntary or compulsory, excluding debentures of property companies) and units in a unit trust scheme ¹⁵ (excluding units in unit trust schemes in property shares or a unit trust of which the underlying does not consist of at least 95% securities listed on a stock exchange) held in respect of a long-term insurance business - Provided that: The insurer may apply to the Registrar for exemption from this provision; Shares and convertible debentures in a single company listed on any stock exchange within the common monetary area other than in the development sector – a) with a market capitalization of N\$5,000 million or less; b) with a market capitalization greater than N\$5,000 million; c) shares and convertible debentures in a single company or associated company listed on the Namibian Stock Exchange– • with a market capitalization of N\$1,000 million or less • with a market capitalization greater than N\$1,000 million	65% 5% 10% 5% 10%
8	Loans to and non-convertible debentures of associates and associated companies	0.5%
9	Claims secured by mortgage bonds on immovable property, debentures (listed and unlisted excluding convertible debentures) or any other secured claims against natural persons (excluding loans referred to in paragraph c) of No. 8 above) or companies (excluding loans to and debentures of property companies) Claim against one individual is limited to – Claim against any single company is limited to –	25% 0.25% 5%
10	Computer equipment, furniture and other office equipment, and motor vehicles are limited to: Computer equipment Other equipment and motor vehicles	2.5% 5% 2.5%

¹⁵ As defined by in the Unit Trusts Control Act, 1981

Regulation 28 under the Pension Funds Act

Highlights of the amendments are as follows:

1) Pension Funds ('funds') are required to invest in unlisted investments in Namibia a minimum of 5% of the total assets of the fund, provided that:

1. The unlisted investments do not cumulatively exceed 10% of the assets of the fund and that the fund invests at least 5% in such investments.
2. The entity in which the investment is intended:
 - Is in possession of a certificate by an auditor¹⁶ and approved by the Registrar certifying its compliance with the International Financial Reporting Standards¹⁷;
 - Adheres to internationally accepted norms on good corporate governance;
 - Has Namibian ownership of at least 25% prior to any investment by a fund; and
 - Complies with such other requirements that the Registrar (with the concurrence of the Minister) may determine from time to time.

"Unlisted investment" means a "share"¹⁸ and excludes:

- A share in a company listed on any stock exchange; and
- A debt instrument or

any other investment as the Registrar (with the concurrence of the Minister), may determine by notice in the Gazette;

Funds should on a quarterly basis report to the Registrar on the placement of investments in unlisted investments and provide such information as the Registrar may require.

2) The fund must keep invested inside Namibia not less than 35% of the market value of its total assets, provided that the assets consisting of listed shares acquired in companies incorporated outside Namibia on the Namibian Stock Exchange are regarded as assets invested inside Namibia, but may not exceed the value of investments inside Namibia by more than 10%.

3) Investments made outside the Common Monetary Area ('CMA') should comply with the limitations as determined under the Currency and Exchanges Act, Act No. 9 of 1933 from time to time.

4) Limits of investments:

¹⁶ Registered under the Public Accountants' and Auditors' Act, Act No. 51 of 1951

¹⁷ As prescribed by the International Accounting Standards Board

¹⁸ As defined in the Companies Act, Act No. 61 of 1973

No.	Categories or kinds of assets	Maximum of the aggregate market value of the total assets of a fund
1	Bills, bonds or securities issued/guaranteed by or loans to/ guaranteed by the Government of the Republic of Namibia	50%
2	Deposits with a credit balance in a current/ savings account held with a banking institution (these include negotiable deposits, money market instruments in terms of which such banking institutions is liable, including deposits in the Post Office Savings Bank) Per banking institution Per Post Office Savings Bank	20% 20%
3	Bills, bonds or securities issued/ guaranteed by or loans to/ guaranteed by: a) Local authority/regional council authorised by law to levy rates upon immovable property – Per local authority/regional council b) State owned enterprise – Total investment of a fund in the above	20% 20% 30%
4	Bills, bonds or securities issued or loans to an institution, which bills, bonds or securities have been approved by the Registrar in terms of section 19(1)(h) of the Act prior to the deletion of that section by section 8(a) of Act 53 of 1989 and Bills, bonds or securities issued or loans to an institution which was likewise approved by the Registrar before the deletion of section 19(1)(h) of the Act Per institution	20%
5	Bills, bonds or securities issued by the government of or by a local authority in a country other than Namibia, of which the country was approved by the Registrar in terms of section 19(1)(i) of the Act prior to its deletion by section 8(a) of Act No. 53 of 1989 and Bills, bonds or securities issued by an institution which was likewise approved by the Registrar before the deletion of the said section 19(1)(i) Per institution	10%
6	Immovable property, units in unit trust schemes in property shares and shares in/loans to and debentures (convertible and non-convertible) of property companies Limit on investment in a single property or property development project	20% 5%

7	<p>Preference and ordinary shares in companies (excluding shares in property companies), convertible debentures (voluntary or compulsory, excluding debentures of property companies) and units in a unit trust scheme¹⁹ (excluding units in unit trust schemes, in property shares or a unit trust of which the underlying does not consist of at least 95% securities listed on a stock exchange):</p> <p>Provided that:</p> <ol style="list-style-type: none"> 1. Fund may apply to the Registrar for exemption from these provisions; 2. Shares and convertible debentures in a single company listed on any stock exchange within the common monetary area other than in the development sector – <ul style="list-style-type: none"> - with a market capitalization of N\$5,000 million or less; - with a market capitalization greater than N\$5,000 million; - shares and convertible debentures in a single company listed on the Namibian Stock Exchange – <ul style="list-style-type: none"> - with a market capitalization of N\$1,000 million or less - with a market capitalization greater than N\$1,000 million 	<p>65%</p> <p>5%</p> <p>10%</p> <p>5%</p> <p>10%</p>
8	<p>Claims secured by mortgage bonds on immovable property, debentures (listed and unlisted excluding convertible debentures) or any other secured claims against natural persons or companies (excluding loans to and debentures of property companies)</p> <p>Claim against one individual is limited to –</p> <p>Claim against any single company is limited to –</p>	<p>25%</p> <p>0.25%</p> <p>5%</p>
9	<p>Any other asset not referred to above</p> <p>Per category or kind of asset –</p> <p>Excluding:</p> <ul style="list-style-type: none"> • Moneys in hand; • Loans granted to members of the fund in accordance with – <ul style="list-style-type: none"> - provisions of section 19(5) of the Act; and - exemptions as may have been granted to the fund in terms of section 19(6) of the Act; • Investments in the business of participating employer to the extent that it has been allowed by an exemption in terms of – <ul style="list-style-type: none"> - the provision to section 19(4) of the Act; or - section 19(6) of the Act. 	<p>2.5%</p>

¹⁹ As defined in the Unit Trusts Control Act, Act No. 54 of 1981

Chapter 10: New Equitable Economic Empowerment

NEEEF

The Government has issued a policy framework called “The New Equitable Economic Empowerment Framework” (NEEEF) that deals with principles similar to those of Black Economic Empowerment (BEE).

At the time of print the Namibian Government started the consultative and legal process for the National Equitable Economic Empowerment Bill, which aims to legislate NEEEF.

Visit www.opm.gov.na/ or www.pwc.com/na/empowerment-law for the latest status on the legislative process.

The following is an extract from the “The New Equitable Economic Empowerment Framework” (NEEEF) issued by the Government of Namibia:

The New Equitable Economic Empowerment Framework (NEEEF) represents a subset of the policies required to achieve greater equity in society. NEEEF consists of policies designed to encourage the private business sector to become more equitable and to make a greater contribution towards national economic empowerment and transformation.

The NEEEF will promote transformation in business through six empowerment pillars (of which the first three are mandatory and all are subject to scoring):

1. *Ownership;*
2. *Management Control and Employment Equity;*
3. *Human Resources and Skills Development;*

4. *Entrepreneurship Development and Marketing;*
5. *Corporate Social Responsibilities; and*
6. *Value Addition, Technology and Innovation.*

Further empowerment policies on land and other natural resources, technology and innovation, and marketing must be developed by relevant Sector Ministries.

The aim of NEEEF is to provide a clear overarching policy framework into which all other policies will slot.

The objectives of NEEEF include but are not limited to the following:

1. Ensuring the sharing of Namibian resources in an equitable and sustainable basis by the people of Namibia;
2. Creating a socially just society;
3. Implementation of measurable policies of redress and redistribution;
4. Creating vehicles for empowerment;
5. Removing barriers of socio-economic advancement in order to enable previously disadvantaged persons to access productive assets and opportunities for empowerment;
6. Actively guarding against the repugnant tendencies of window-dressing, favouritism, nepotism and self-enrichment;

7. Providing measurement of empowerment targets;
8. Ensuring that an empowering act is meant to launch individuals to empower themselves in the future using the basis of their initial empowerment by introducing concrete deterrents in the NEEEF law to curb non-compliance with the minimum requirements;
9. Economic empowerment may be organised in the following forms of ownership: public, private, joint public-private, cooperative, co-ownership, and small-scale family owned businesses; and
10. Equitable empowerment is addressing disparities occasioned by class, gender and generational relationships.

Summarised NEEEF Scorecard

The latest NEE Framework, although not legislated at the time of print, was approved by Cabinet on 11 November 2015. The following is an extract from the framework:

Pillar	Minimum	Maximum
Ownership - mandatory A business will score a minimum of 10 points if it is 25% owned by previously disadvantaged Namibians. For every additional 7.5% owned by previously disadvantaged Namibians, a business will score 1 additional point up to a maximum of 100% giving a total of 20 points. However, any business must score a minimum of 10 points in order to be able to enter into a public contract for procurement purposes or for obtaining a right to exploit natural resources or to continue to conduct a licenced trade.	25% ownership	100% ownership
Management Control and Employment Equity – mandatory A business will score a minimum of 10 points if its combined board and top management structures are 50% filled by previously disadvantaged Namibians. For every additional 10%, a business will score 2 additional points up to a maximum of 100% giving a total of 20 points. However, any business must score a minimum of 10 points in order to be able to enter into a public contract for procurement purposes or for obtaining a right to exploit natural resources.	50% board and management	100% board and management

<p>Human Resources and Skills Development – mandatory</p> <p>A business will score a minimum of 10 points for devoting the equivalent of 0.5% of its gross wages to training, with training costs being calculated as total training costs minus the VET Levy contribution. For every additional 0.1% of gross wages spent on training, a business will score 2 additional points up to a maximum of 1% of gross wages giving a total of 20 points.</p>	1.5% of gross wages	2% of gross wages
<p>Entrepreneurship Development and Marketing</p> <p>A business will score points in proportion to the value of its procurement spending allocated to businesses owned by previously disadvantaged Namibians up to a maximum of 50%. Additional points may be made available for other support given to businesses owned by previously disadvantaged Namibians including mentorship programmes, joint ventures, market access and other initiatives. The points awarded for such initiatives will be based on more detailed criteria laid down by the relevant Office, Ministry or Agency.</p>	0% of procurement	50% of procurement
<p>Corporate Social Responsibility</p> <p>A business will score a minimum of 10 points for devoting 1% of after-tax profits to community investment. For every additional 0.2% spent on community investment, a business will score 2 additional points up to a maximum of 2% of after-tax profits giving a total of 20 points. More detailed criteria will be laid down by the relevant Office, Ministry or Agency.</p>	1% of after-tax profits	2% of after-tax profits
<p>Value Addition, Technology and Innovation Pillar</p> <p>A business that has accommodated previously disadvantaged persons or entities in terms of ownership on the threshold as set in section 5.1 and in terms of Management Control and Employment equity on the threshold as set out in section 5.2 will score a minimum of 10 points for processing at least 50% of its raw material output into a secondary stage. For every additional 10% stage of local processing, a business will score 2 additional points up to a maximum of 100% processing to finished product.</p>	50% local processing	100% local processing



Chapter 11: Competition Act

Introduction

The Competition Act, Act No. 2 of 2003 (the Act) was implemented in order to safeguard and promote competition in the Namibian market, to establish the Namibian Competition Commission and to make provision for its powers, duties and functions.

Purpose of the Act

The purpose of the Act is to enhance the promotion and safeguarding of competition in Namibia in order to promote the efficiency, adaptability and development of the Namibian economy.

Application of the Act

The Competition Act applies to all economic activity within Namibia or having an effect in Namibia, except –

- Collective bargaining activities or collective agreements negotiated or concluded in terms of the Labour Act, Act No. 6 of 1992;
- Concerted conduct designed to achieve a non-commercial socio-economic objective;
- In relation to goods or services which the Minister, with the concurrence of the Commission, declares, by notice in the Gazette, to be exempt from the provisions of this Act (refer to section 3.2 of this Act).

Namibian Competition Commission

The Competition Act makes provision for the establishment of the Namibian Competition Commission, including the functions, powers and duties of the Commission.

In terms of the Act, the Commission, with the approval of the Minister and by notice in the Gazette, will make rules:

- Relating to the administration, organization and operations of the Commission;
- Prescribing the procedures to be followed in respect of applications and notices to, and proceedings of, the Commission;
- Prescribing fees to be paid for the purpose of this Act;
- Prescribing the manner for making a submission in relation to the subject matter of any application to, or investigation by, the Commission;
- Prescribing the procedures for investigations under the Act;
- Prescribing the requirements for a small undertaking.

Restrictive Business Practice

Restrictive agreements, practices and decisions

According to section 23 of the Competition Act:

“Agreements between undertakings, decisions by associations of undertakings or concerted practices by undertakings which have as their object or effect the prevention or substantial lessening of competition in trade in any goods or services in Namibia, or a part of Namibia, are prohibited, unless they are exempt in accordance with the provisions of the Act.”

The Act provides the following definition of its terms:

‘Undertaking’ means any business carried on for gain or reward by an individual, a body corporate, an unincorporated body of persons or a trust in the production, supply or distribution of goods or the provision of any service.

‘Concerted practice’ means deliberate conjoint conduct between undertakings achieved through direct or indirect contact that replaces their independent actions.

Agreements and concerted practices include agreements concluded between:

- Parties in a horizontal relationship – undertakings trading in competition with each other
- Parties in a vertical relationship – an undertaking and its suppliers or customers or both.

The rules of the Act specifically apply to any agreement, decision or concerted practice which:

- Fixes purchase prices, selling prices or any other trading conditions
- Divides markets by allocating customers, suppliers, areas or

specific types of goods or services

- Involves collusive tendering
- Involves a practice of minimum resale price maintenance (other than recommended)
- Limits or controls production, market outlets or access, technical development or investment
- Applies dissimilar conditions to equivalent transactions with other trading parties
- Makes the conclusion of contracts subject to acceptance by other parties of supplementary conditions which have no connection with the subject of the contracts.

It is presumed that agreements and concerted practices which are prohibited in terms of the Competition Act exist between two or more undertakings if:

- Any one of the undertakings owns a significant interest in the other or they have at least one director or one substantial shareholder in common; and
- Any combination of the undertakings engages in any of the practices mentioned above.

This assumption may be rebutted if a reasonable basis exists to conclude that the actions of the undertakings were a normal commercial response to conditions prevailing in the market.

The prohibition on restrictive business practices does not apply to agreements and practices engaged in by:

- A company and its wholly owned subsidiary or
- A wholly owned subsidiary of a wholly owned subsidiary

- Undertakings other than companies, each of which is owned or controlled by the same person or persons.

Abuse of dominant position

The Commission must prescribe criteria to be applied to determine if an undertaking or a group of undertakings has a dominant position in the market. The Commission must also determine thresholds by notice in the Gazette, below which this part of the Act will not apply to an undertaking.

The Competition Act prohibits any conduct which amounts to the abuse of a dominant position in a market in Namibia or a part of Namibia.

Abuse of a dominant position includes:

- Directly or indirectly imposing unfair purchase or selling prices
- Directly or indirectly imposing unfair trading conditions
- Limiting or restricting production, market outlets or market access
- Limiting or restricting investment, technical development or technical progress
- Applying dissimilar conditions to equivalent transactions with other trading partners
- Making the conclusion of contracts subject to acceptance by other parties of supplementary conditions which have no connection with the subject matter of the contracts.

Exemption of certain restrictive practices

Grant of exemption for certain restrictive practices

Any undertaking may apply to the Commission to be exempted for any agreement, decision or concerted practice or any category thereof from the provisions of the Competition Act.

Following notice in the Government Gazette, a period of 30 days shall apply within which interested parties may make representations to the Commission, and after investigating the application for exemption the Commission must make a decision to either:

- grant exemption;
- deny the exemption; or
- issue a certificate of clearance stating that the agreement, decision or concerted practice does not constitute an infringement of the prohibitions of the Competition Act.

Exemptions may be granted if there are exceptional and compelling reasons of public policy why the agreement, decision or concerted practices should be exempted.

Revocation or amendment of exemption

The Commission may revoke or amend the exemption or revoke the certificate of clearance at any time if:

- The exemption granted/certificate issued was based on materially incorrect or misleading information;
- There has been a material change of circumstances;
- A condition upon which an exemption was granted has not been complied with.

Exemption in respect of intellectual property rights and professional rules

Upon receiving an application for exemption the Commission may grant an exemption in relation to any agreement or practice relating to the exercise of any rights or interest acquired or protected in terms of any law relating to copyright, patents, designs, trademarks or any other intellectual property rights.

Some professional associations have rules that contain restrictions which prevent or substantially reduce competition in the market. Those professional associations may apply to the Commission for an exemption.

The Commission may grant exemption to all or part of the rules of a professional association for a specified period if the rules of these professional associations are reasonably required to maintain:

- professional standards; or
- the ordinary function of the profession.

The exemption of a rule or the revocation of an exemption has effect from the date specified by the Commission.

“Professional associations” means the controlling body established by or registered under any law in respect of the following professions:

- Accountants and auditors
- Architects
- Engineers
- Estate agents
- Legal practitioners
- Quantity surveyors
- Surveyors
- Town and regional planners
- Health services professions governed by:
 - » The Medical and Dental Professions Act
 - » The Nursing Professions Act
 - » The Pharmacy Profession Act

- » The Veterinary and Para-veterinary Professions Proclamation
- » The Allied Health Services Professions Act
- Any other profession to which the provisions of this section of the Competition Act have been declared applicable by notice in the Gazette.

The Commission must ensure that notice is given in the Gazette of every exemption granted and of any or every exemption revoked.

Investigation into prohibited practices

Investigation by Commission

The Commission may start an investigation on its own initiative or upon receipt of information or a complaint from any person.

An action that will constitute an infringement or a possible infringement of prohibited practices will lead to an investigation by the Commission. If the Commission intends to conduct an investigation written notice must be provided to the undertaking to be investigated.

Entry and search of premises

In order to conduct an investigation an inspector may enter upon and search any premises for information and evidence supporting the infringement.

The inspector must obtain a warrant to search premises from a judge of the Court beforehand, except if the owner or any other person in control of the premises consents to the entry and search. A receipt will be issued by the inspector for anything removed from the premises to be used as evidence.

Proposed decision of Commission

If upon conclusion of an investigation the Commission proposes to make a decision it must give written notice to the undertaking that was the subject of the investigation.

The notice must:

- Provide the reason for the decision reached by the Commission;
- Inform the undertaking that they may submit written representation;
- Indicate to the undertaking whether they will have an opportunity to make an oral representation to the commission.

Conference to be convened for oral representation

If an undertaking requires an opportunity to make an oral representation to the Commission, the Commission must convene a conference to be held and give written notice detailing when the conference will be held.

An undertaking may be accompanied by any person whose assistance it may require at the conference.

Action following investigation

After consideration of any representation made by the undertaking the Commission may institute Court proceedings.

The Commission will request an order: declaring that the conduct of the undertaking constitutes an infringement of the prohibitions of the Act restraining the undertaking from engaging in such conduct directing any action to be taken by the undertakings to remedy the infringement or effects thereof imposing a pecuniary penalty or other appropriate relief.

The Commission may make application to

the Court for an interim order restraining an undertaking if the Commission believes this will prevent serious irreparable damage to any person or protect the public interest.

Consent agreement

The Commission may at any time during or after an investigation enter into an agreement of settlement with the undertaking concerned. The terms submitted by the Commission will be confirmed as an order of the Court.

The agreement of settlement may include:

- an award of damages;
- any amount proposed to be imposed as pecuniary penalty.

Publication of decision of Commission

The Commission must ensure that notice be given in the Gazette of any action or consent agreement including:

- The name of the undertaking involved;
- The nature of the conduct that is subject to the action or the consent agreement.

Mergers

Merger defined

*For purposes of the Competition Act "A merger occurs when one or more undertakings directly or indirectly acquire or establish direct or indirect **control** over the whole or part of the business of another undertaking".*

A merger may be achieved in any manner, including the purchase or lease of shares, an interest, or assets of the other undertaking or amalgamation or other

combination with the other undertaking.

A person **controls** an undertaking if that person:

- a) beneficially owns more than one half of the issued share capital of the undertaking
- b) is entitled to a majority vote or has the ability to control the voting of a majority of votes, either directly or through a controlled entity of that undertaking
- c) is able to appoint or to veto the appointment or a majority of the directors of the undertaking
- d) is a holding company and the undertaking is a subsidiary of that company
- e) in the case of the undertaking being a trust, has the ability to control the majority if the votes of the trustees or to adopt the majority if the trustees of to appoint or chance the majority if the beneficiaries of the trust
- f) in the case of the undertaking being a close corporation, owns the majority of the members' interest or controls directly or has the right to control the majority of the members' votes in the close corporation,
- g) has the ability to materially influence the policy of the undertaking in a manner comparable to a person who, in ordinary commercial practice, can exercise an element of control referred to in paragraphs (a) to (f).

Control of mergers

The requirements set out in the Competition Act apply to all proposed

mergers. Certain classes of mergers may be exempted by the Commission by way of notice in the Gazette.

The Minister of Industrialisation, Trade SME Development, in concurrence with the Competition Commission, determined the class of mergers to be excluded from Chapter 4 "Mergers" of the Act by way of Government Notice.

Chapter 4 does not apply to a merger if the value of the merger equals or does not exceed the values set out below-

(a) If the combined annual turnover in, into or from Namibia of the acquiring undertaking and target undertaking is equal to or valued below N\$30 million;

(b) If the combined assets in Namibia of the acquiring undertaking and target undertaking are equal to or valued below N\$30 million;

(c) If the annual turnover in, into or from Namibia of the acquiring undertaking plus the assets in Namibia of the target undertaking are equal to or valued below N\$30 million;

(d) the annual turnover in, into or from Namibia of the target undertaking plus the assets in Namibia of the acquiring undertaking are equal to or valued below N\$30 million;

(e) If the annual turnover in, into or from Namibia, of the target undertaking is equal to or valued below N\$15 million;

(f) If the asset value of the target undertaking is equal to or valued below N\$15 million.

Despite the above regulation, the Commission may demand notification of a merger which falls below the compulsory notification threshold if the Commission considers it necessary to deal with the merger in terms of the Act.

No other proposed mergers may be implemented unless:

- the proposed merger was approved by the Commission and implemented in accordance with the conditions set out in the approval; or
- the time limits as set out in point 4.4 of the Act, have lapsed without the Commission having made a determination in relation to a proposed merger.

Notice to be given to Commission of proposed merger

Where undertakings propose to merge, each undertaking involved must notify the Commission of the proposal in the prescribed manner. In response, the Commission may request additional information regarding the proposed merger, if considered necessary, within 30 days after receiving the notification.

Period for making determination in relation to a proposed merger

The Commission must make a determination regarding a proposed merger within the following time limits:

- Within 30 days after receiving notice of the proposed merger;
- If the Commission request additional information from the undertakings, within 30 days after the receipt of this additional information;
- If a conference is convened for the undertaking to make oral representation, within 30 days after the date of conclusion of the conference.

The time limits above may be extended if deemed necessary by the Commission by giving notice for a further period not exceeding 60 days.

Conference in relation to proposed merger

The Commission has the discretion to call a conference to be held regarding a proposed merger and must give reasonable notice to the undertakings involved.

Determination of proposed merger

In “making determination of a proposed merger” the Commission will make a decision whether it will give or decline approval for the implementation of the merger.

Criteria which the Commission will consider in its determination will include:

- a) The extent to which competition will be prevented or lessened, trade will be restricted, services will be provided and/or the services will be supplied on a continued basis
- b) The extent to which the proposed merger would be likely to result in any undertaking acquiring or strengthening a dominant position in the market
- c) The extent to which the proposed merger would be likely to result in a benefit to the public which would outweigh any detriment resulting from an undertaking acquiring or strengthening a dominant position in the market
- d) The extent of the effect on a particular industrial sector or region
- e) The extent of the effect on employment
- f) The extent of the effect on

small undertakings having the ability to gain access to or to be competitive in any market

- g) The extent of the effect on the ability of national industries to compete in international markets
- h) Any benefits likely to be derived relating to research and development, technical efficiency, increased production, efficient distribution of goods or provision of services and access to markets.

The Commission may refer the investigation to an inspector and if referred the Commission must give notice to the undertaking. Any person may voluntarily submit to the inspector of the Commission any relevant information regarding the proposed merger. The Commission may give approval for the implementation of a proposed merger on such conditions as the Commission may consider appropriate.

The Commission must give notice of the determination made in respect of a proposed merger to the relevant parties as well as in the Gazette.

Written reasons for the Commission's determination must be given if:

- (i) the proposed merger is prohibited or conditionally approved;
- (i) requested to do so by any party to the merger.

Revocation of approval of proposed merger

The Commission may revoke, at any time, any decision approving the implementation of a proposed merger if the decision was based on materially incorrect or misleading information or if any condition attached to the approval of the merger that is material to its implementation is not complied with.

If a decision is revoked, the Commission must give written notice to every party involved and inform the relevant parties to submit within 30 days of the receipt of such notice, any representation which they may wish to make.

Review of decisions of Commission on mergers by the Minister

Not later than 30 days after the Commission has given notice of its determination, any party to the proposed merger may apply to the Minister to review the decision made by the Commission. Section 49 of the Competition Act specifies the procedures and time limits to be followed and applied in such an instance.

It should be noted that approval of a proposed merger in terms of the Competitions Act does not relieve an undertaking from complying with any other law which requires that the sanction of the Court be obtained for the merger. It should also be noted that the approval of the Commission is not binding on the Court.

Merger implemented in contravention of the Act

If a merger is implemented in contravention of the requirements set out under point 4 of the Act and its subsections the Commission may apply to the Court for:

- (i) an interdict restraining the undertakings from implementing the merger;
- (ii) an order directing any party to the merger to sell or dispose of any shares, interest or other assets it has acquired pursuant to the merger;
- (iii) declaring an agreement or provision of an agreement to which the merger was subject as void;
- (iv) The imposition of a pecuniary penalty.

Jurisdiction of Court

The Court has jurisdiction to hear and determine any matter arising from proceedings instituted in terms of the Competition Act.

Pecuniary penalties

The Court may impose pecuniary penalties in certain instances. The pecuniary penalty may be of any amount which the Court considers appropriate but shall be limited to a maximum of 10% of the global turnover of the undertaking during its preceding financial year.

Offences and Penalties

Offences

A person commits an offence if the person:

- (i) hinders administration of the Act
- (ii) fails to comply with summons
- (iii) fails to comply with an order of the Court
- (iv) commits other offences such as improperly influencing or misleading the Commission.

Penalties

A person convicted of an offence is liable for penalties.

Offence	Penalty
Contravention of section 62 of the Act: Failure to comply with order of the Court	Fine not exceeding N\$500,000; or Imprisonment for a period not exceeding 10 years; or Both a fine and imprisonment
Contravention of section 55 of the Act: Prohibition on disclosure of information	Fine not exceeding N\$50,000; or Imprisonment for a period not exceeding three years; or Both a fine and imprisonment
Any other case	Fine not exceeding N\$20,000; or Imprisonment for a period not exceeding one year; or Both a fine and imprisonment

Chapter 12: Exporting to Namibia

Tips for exporters to Namibia

- Exports into Namibia from non-SACU (Southern African Customs Union) countries may be subject to customs duties.
- Excisable goods imported into Namibia are subject to customs duties equal to the excise duties payable on such locally produced goods, unless excise duties have already been levied in another SACU country in terms of the “duty at source” procedure.
- Value-added tax (VAT) is levied generally in addition to customs duties on imports, including imports from SACU member countries.
- Most goods originating from Southern African Development Community (SADC) countries may be imported at free or reduced rates of duty, in accordance with existing protocols.
- Imports by Export Processing Zone (EPZ) companies are exempt from duties and VAT.
- Most imports are cleared through Customs by local clearing and forwarding agents familiar with the requirements of the Customs and Excise Act.
- Advice on import restrictions and general Customs and Excise requirements can be obtained from trade commissions or professional advisers.

Import restrictions

The importation of certain goods (e.g., specified foodstuffs, second-hand vehicles, animals, plants, chemicals, and pharmaceuticals) is subject to licence/permit or import control regulations.

Import duties

Following independence in 1990, Namibia elected to remain a member of SACU.

The new SACU Agreement signed in December 2002 by the Heads of State of Botswana, Lesotho, Namibia, South Africa and Swaziland provides for a new institutional framework consisting of a Council of Ministers, SACU Commission, Secretariat and Technical Committees and sets out the basis for sharing customs and excise revenue among the member states.

Rates

All imported goods will attract VAT at 15% after the value of the goods imported has been uplifted by 10%, unless the importation is exempt.

In addition, goods imported from outside SACU may attract customs duties, specific customs duties and ad valorem customs duties. Rates at which duties are levied vary significantly and depend on the nature of the goods imported, e.g. passenger motor vehicles currently attract customs duties at a rate of 26%, while certain other goods, e.g. golf carts, may be imported duty-free.

Customs requirements

All imported goods cleared on a customs bill of entry are valued in terms of the WTO Valuation code. Particular attention must therefore be paid to transfer pricing, royalties and related party transactions.

Customs entries are electronically processed through the Asycuda system, with links to the border posts, airports, harbours and major railway stations.

All imported goods must be cleared through Customs and Excise by means of a Customs Import Bill of Entry (Form SAD 500) and foreign exchange worksheet (for ex-SACU imports). Further permits and police clearance or certificates issued by other authorities may also be required, e.g. a birthing certificate confirming the authenticity of motor vehicle details is mandatory should the vehicle be imported for registration in Namibia.

After checking and/or examination by customs officials that entries are correctly declared, an assessment setting out the Import VAT and/or Customs duties payable is issued.

While payment of import VAT may currently be deferred through an import VAT account facility arranged at the Receiver of Revenue, customs duties normally must be paid by the importer before the goods can be released for home consumption. Should significant quantities of goods subject to fuel levies, additional duties, Customs and excise duties be imported for immediate home consumption, a credit account facility could be approved by Customs Namibia to provide for deferred payment of such levies and duties.

Duty on goods intended for export, or to be moved in transit to neighbouring states, may be rebated.

Goods imported on a temporary basis (i.e. to be exported within 365 days) should be cleared through the applicable procedures

at Customs and acceptable security for import VAT and/or customs duties must be provided. Application for extension of temporary import customs entries (up to a maximum of a further 365 days) must be lodged at Customs prior to expiry of original temporary customs entries.

Private vehicles not registered in Namibia which are being used in Namibia by holders of a work permit should be declared on entry into Namibia at Customs in terms of the above Customs procedures and are also subject to cross-border permits.

It is advisable to obtain professional advice and the services of a local clearing and forwarding agent to ensure correct customs clearance and compliance with the latest customs procedures.

Chapter 13: Business Entities

Investor considerations

- Foreign investors generally conduct business through a Namibian company or as a branch of its home corporation.
- Company formation is simple and inexpensive. Shelf companies are available from accounting and legal firms.
- Close corporations are simpler to administer and are not subject to statutory audit obligations.
- Legal, tax and accounting advisers should be retained in the early planning stages of establishing a business entity.
- The appropriate industrial council governing the trade or industry in which the business is proposing to operate;
- The Department of Inland Revenue with regard to income, value-added, withholding and employee taxes.

Business registrations

Business may be conducted in Namibia in a variety of forms, as follows:

- Public company or private company
- Branch of a foreign company
- Close corporation
- Partnership, including joint venture
- Sole proprietor
- Business trust.

Prior to commencing business, it is necessary to obtain the appropriate registration certificate from the local municipal health department. Certain businesses, such as financial service providers, mining, oil and gas, tourism, fishing and pharmaceutical companies may require industry-specific licences. It is also necessary to register with the following bodies:

- The Social Security Commission as employer as well as for Employee's Compensation where applicable;

Companies

Companies are regulated in Namibia under the Companies Act, Act No. 28 of 2004, which is based on UK company law. The Companies Act covers both domestic companies and those incorporated outside Namibia but trading through a local branch. The liability of shareholders is limited to the issued share capital.

Public companies may offer their shares for sale to the public, although they need not be listed on the stock exchange, nor is it required that the public hold an interest in their shares. Their characteristics are that the number of shareholders is unlimited, there are no restrictions on the transfer of their shares and they must file a copy of their annual financial statements with the Registrar of Companies.

Private companies are those that:

- Restrict the right of transfer of their shares.
- Limit the number of members to 50.
- May not offer shares for sale to the public.
- Are not required to file their annual financial statements with the Registrar.
- Must include the word "Proprietary" or "Pty" at the end of the registered name immediately before the word "Limited".

For both types of companies, an annual audit by a registered Namibian accountant and auditor is obligatory.

Companies incorporated in Namibia must have a registered office, and must maintain certain statutory and accounting records. The statutory records, which include registers of share allotments and transfers, members and directors and officers, must be maintained in Namibia. If the accounting records are maintained outside Namibia, the company must receive such financial information and returns as will enable the statutory financial statements to be prepared and audited locally.

It is not necessary for directors or shareholders to be resident in Namibia, although many overseas holding companies appoint local directors to their local subsidiaries. Nominee shareholders are also permitted without disclosure of the identity of the beneficial ownership.

It is necessary to obtain approval from the Registrar of Companies for the name of the company before incorporation. Each company must pay an annual duty calculated with reference to its total issued share capital (including share premium).

Local equity participation and directors

There are no local equity requirements laid down in the Companies Act.

Local equity participation may, however, be a sound business strategy, especially in industry sectors that involve the exploitation of natural resources. An example is the fishing industry, where this is taken into account in the allocation of fishing quotas.

There are no requirements with regard to local directors in the Companies Act. Other Acts governing certain industry sectors (e.g., insurance) may, however, require local directors.

Companies are required to appoint a Public Officer who is resident in Namibia.

50% or more of the interest in agricultural land may not be owned by a foreigner (unless specific approval is obtained from the Minister of Lands and Resettlement).

Branch of a foreign company (external company)

A foreign company that establishes a place of business in Namibia is known as an "external company" and is required to register with the Registrar of Companies. It must appoint a local agent and a local auditor who must be a registered accountant and auditor. An external company must maintain certain statutory records at the company's registered address in Namibia, and such accounting records as are necessary to fairly present its state of affairs and business in Namibia. If the accounting records are kept outside Namibia, returns sufficient for the preparation and audit of the annual financial statements must be sent to Namibia.

Audited annual financial statements in respect of the business in Namibia, and a certified copy, with a certified translation if necessary, of its latest complete annual financial statements as prepared under the requirements of its country of incorporation must also be lodged with the Registrar.

Upon registration, notarially certified copies of the company's memorandum and articles of association should be lodged with the local Registrar of Companies.

Any subsequent changes to an external company's memorandum should be lodged under cover of the prescribed form with the Registrar within three months of such alteration.

External companies are also required to open and maintain a register of directors

and secretaries. Furthermore, a minute book must be kept with minutes of all meetings of directors pertaining to the local business of the company.

PwC offers company secretarial work as part of its range of services, and could provide assistance in meeting the above requirements.

Considerations for determining whether businesses operated in Namibia should be conducted through a branch or through a subsidiary are as follows:

- A branch may remit its after tax profit without deduction of withholding tax but when the foreign branch declares dividends, withholding tax will be payable on those dividends declared in relation to profits in Namibia. Dividends from a subsidiary are subject to such tax (rates may be reduced under a relevant double taxation agreement).
- A private company subsidiary does not have to file its annual financial statements, or those of its parent company, with the Registrar of Companies.
- If there are to be dealings on a large scale with the Namibian government, a local subsidiary may be viewed more favourably.
- Annual duty of a subsidiary is calculated with reference to the share capital of the subsidiary. In the case of a local branch of a foreign company, annual duty is determined by the amount of the share capital of the foreign company, which is often very high.
- Administrative and similar charges from the foreign head office to a Namibian branch are generally not deductible under Namibian tax law.
- The liability of a subsidiary is theoretically limited to its share

capital and reserves, and these should be less than those of the foreign company. In practice, this advantage may be negated by the need for the overseas parent to support its subsidiary through sub-ordinations of loans and through guarantees.

Close corporations

A close corporation is a simplified and less expensive form of a limited liability business entity created by the Close Corporations Act, Act No. 26 of 1988. Like a company, the members are sheltered from any liabilities of the corporation, provided that the conditions of the Act are complied with. It is a suitable medium for any enterprise owned and run by up to ten individuals actively involved in the business. There is no statutory audit requirement, but an accounting officer must be appointed, who has certain duties to fulfil under the Act. A close corporation cannot become the subsidiary of a company or another close corporation as only natural persons may hold members' interests in closed corporations.

Partnerships and sole traders

There are no specific registration requirements. However, joint venture arrangements are frequently made between companies in partnership. In this case each company would be governed by the legal requirements affecting companies operating in Namibia.

Business trusts

A trust is a sui generis legal institution in which a trustee or trustees hold or administer property, separately from his own property, for the benefit of another, namely the beneficiary or beneficiaries.

Trusts can be divided into two categories, namely discretionary trusts and vested

interest trusts. In terms of a discretionary trust, the trustee or trustees are afforded a discretion as to the allocation and distribution of the trust property to the beneficiaries, whereas in terms of a vested interest trust the beneficiaries are afforded vested interests in the trust property and the discretion of the trustee/s as to allocation and distribution of the trust to the beneficiaries is limited in accordance with the vested interest held by the beneficiaries.

A business trust is a legal arrangement for the conduct of business or the holding of assets for the benefits of its beneficiaries.

Business trusts are subject to even fewer formalities and administration restraints than close corporations. Liability is limited to the extent of their assets, although trustees may become personally liable for losses in some circumstances.

Reporting requirements

Companies

Each company or external company in Namibia must produce audited annual financial statements in conformity with the disclosure requirements of the Companies Act. The financial statements must present fairly the financial position of a company and the results of its operations in accordance with the requirements of the Act and with generally accepted accounting practice in Namibia.

More detail regarding accounting and audit principles and practices are included in Chapters 15 and 16. Tax filing requirements are covered in Chapters 17 and 18.

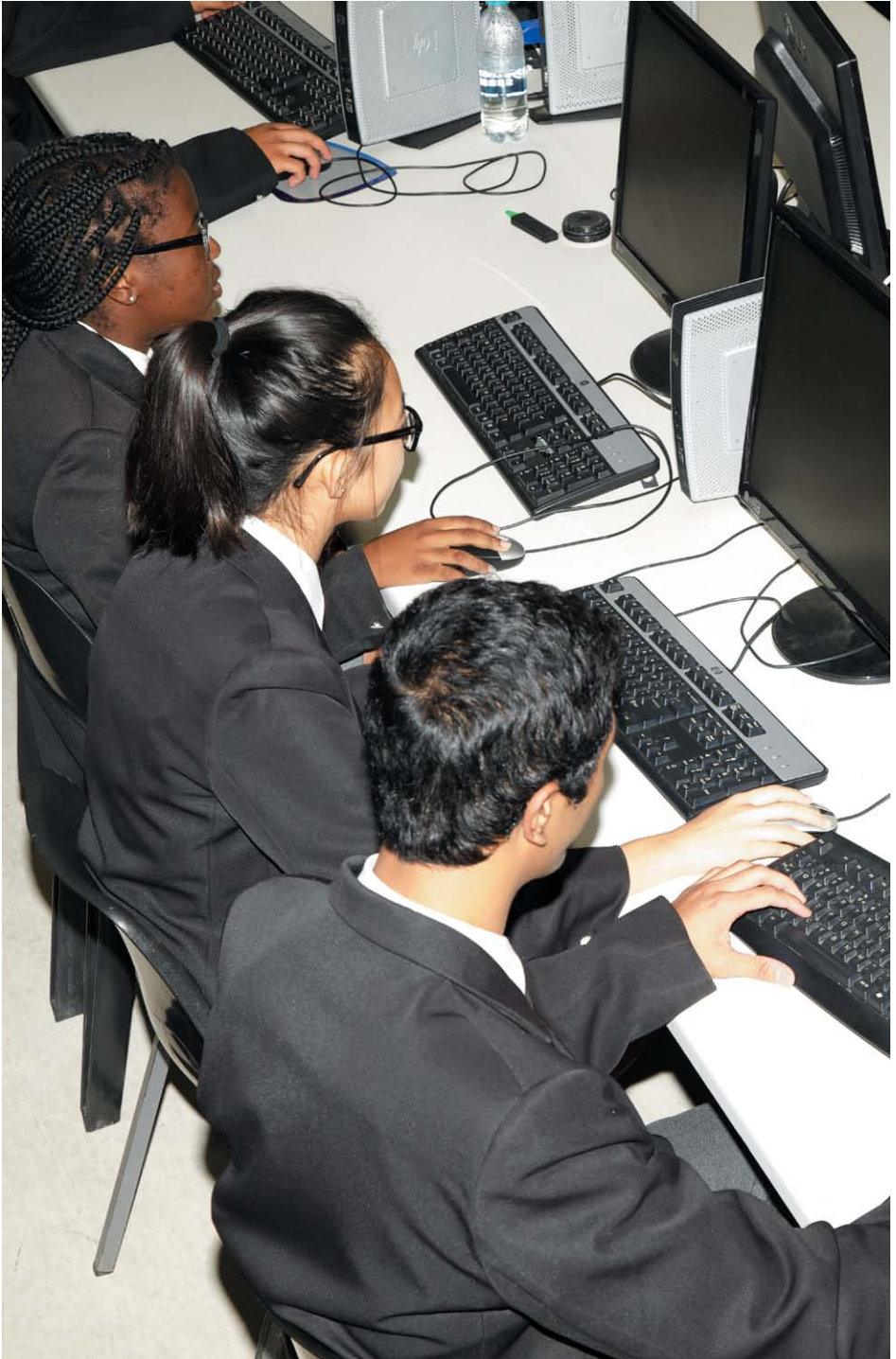
Close corporations

The Close Corporations Act requires that the financial statements of a corporation must fairly present its state of affairs and results of operations in accordance with

generally accepted accounting practice. Unlike the Companies Act, the Close Corporations Act does not lay down detailed reporting requirements.

Partnerships and sole proprietors

There are no statutory reporting requirements for trusts (unless specifically required in the trust deed), unincorporated partnerships or sole traders, except that for tax purposes each must produce financial statements in sufficient detail to accompany the annual return of income to the Receiver of Revenue to enable tax assessments to be made.



Chapter 14: Employees - Labour Relations, Social Security, Levies and Immigration

Investor considerations

- There is an abundant supply of unskilled labour.
- Namibia currently has a shortage of skilled labour.
- There is an active trade union movement.
- Compulsory social security costs include workers' compensation, maternity leave, sick leave and death benefits.
- Currently most retirement benefits are provided through self-administered retirement funds or through private insurance companies.
- Employment equity legislation is in force.
- A Vocational and Education Training (Skills) levy was introduced in April 2014.

The Labour Act

The Labour Act, Act No. 11 of 2007 (the Act) makes provision for, amongst other items, the regulation of conditions of employment, the termination of contracts of employment and industrial relation procedures. It also provides for the registration of trade unions and employers' organizations and defines the rights and obligations of these organizations. A Labour Advisory Council, a Labour Court, Wages Commission and a Labour Commissioner and Deputy Labour Commissioner were also established by the Act.

Chapter 3 of the Labour Act deals with basic conditions of employment and some of the pertinent aspects addressed in that chapter are set out below:

Minimum wages

Minimum wages are determined by the Wage Commission and are currently prescribed for the following workers:

- Construction workers;
- Agricultural workers;
- Domestic workers; and
- Security guards.

Working hours

The Act specifies a 45-hour work week for all employees, excluding security guards and emergency healthcare personnel. The latter are allowed to work a maximum of 60 hours per week. By agreement, overtime is limited to 10 hours per week with a maximum of three hours per day. The rate of ordinary overtime payment is one and a half times the ordinary remuneration rate. Working on a Sunday in certain sectors without permission from the Ministry of Labour, Industrial Relations and Employment Creation is prohibited. Sunday work is to be compensated at twice the ordinary hourly rate.

Work performed on public holidays is compensated at twice the normal hourly rate and work performed between 8:00 p.m. and 7:00 a.m. must be compensated at normal rate per hour plus 6% (night work allowance).

Minimum prescribed annual leave

Number of days in ordinary work week	Annual leave entitlement in working days
6	24
5	20
4	16
3	12
2	8
1	4

Sick leave

During the first 12 months of employment, employees who work five days per week accrue one day sick leave for every 26 days worked. Five-day week employees are entitled to 30 working days of sick leave over a period of 36 consecutive months, and six-day per week employees are entitled to 36 working days of sick leave over a period of 36 consecutive months. It may be required that a medical certificate be provided to the employer upon an employee being absent from work for a period of two days or longer.

Compassionate leave

Compassionate leave of five working days is available in a 12-month period at full remuneration in cases of death or serious illness in the family. Family includes the employee's child or adopted child, spouse, parents, grandparents, brothers, sisters, mother-in-law and father-in-law.

Compassionate leave may not be carried forward to the next year. Employees are required to produce a death certificate to their employer.

Maternity leave

After six months of continuous service,

a female employee is entitled to at least four weeks of maternity leave before the expected date of confinement and at least eight weeks of leave after the date of confinement.

The rights of any female employee, including remuneration (except Basic salary claimable from SSC), seniority, promotion and other benefits shall continue uninterrupted during the period of maternity leave.

Termination of employment

The notice period ranges from one day to one month, depending on the length of employment.

In the event of unfair dismissal, death, retirement or retrenchment a severance allowance, based on one week's remuneration for every year of completed service, must be paid to the employee.

Industrial relations

The Labour Act regulates industrial relations between employers, employees and trade unions. It also regulates the prevention and settlement of labour disputes.

Some of the major provisions of the Act are as follows:

- The prevention and remedy of any unfair dismissals and unfair disciplinary actions against employees;
- The regulation of termination of contracts of employment;
- The provision for registration of trade unions and employers' organizations;
- Definition of the rights and obligations of trade unions and employers' organizations;

- Provision for the settlement of disputes between employees or registered trade unions and employers or registered employers' organizations;
- Definition of the powers, duties and functions of the Labour Commission and Labour inspectors;
- The establishment of a Labour Court and Wages Commission for the purpose of the Labour Advisory Council;
- Provision for the health, safety, welfare and incidental matters of employees.

Trade unions/employers' organisations

These are also regulated by the Labour Act. Some of the most important provisions are as follows:

- All trade unions and employers' organizations should be registered with the Labour Commissioner's office.
- Constitutions of trade unions and employers' organizations are scrutinized by the Labour Commissioner's office during the process of application for registration to ensure compliance with the provisions of the Labour Act and any other law in force in Namibia.
- Trade unions and employers' organizations should define the industry in which they wish to operate as an industry, occupation or trade.
- Notice in case of a strike or lock-out action should be issued to the other party in the dispute at least 48 hours before such action is taken.

Employment equity

The Affirmative Action (Employment) Act, Act No. 29 of 1998 (the Act), was promulgated at the end of 1998. The Act provides for the establishment of the framework of an obligatory Employment Equity Programme (EEP) by employers, to be administered by an independent government agency, the Employment Equity Commission, which will have two main tasks, namely:

- To investigate complaints of discriminatory practices in employment; and
- To assist employers to develop and implement EEPs and to ensure compliance therewith.

An EEP is a set of measures designed to ensure that persons in designated groups enjoy equal employment opportunities and are equitably represented in the various positions of employment. In the private sector, employers who employ 25 or more employees will be required to develop and implement EEPs and it is proposed that EEPs will benefit previously disadvantaged groups, including people of colour, women and handicapped persons.

Progress reports on the EEPs are to be submitted to the Commissioner annually.

The primary focus of an EEP should be to achieve equitable demographics in the workplace. A further focus should be the up-skilling and empowerment of the employer's workforce.

Social security contributions

The Social Security Act, Act No. 34 of 1994 (the Act) provides for an income support system designed for the broadest possible number of Namibians. The system provides for maternity leave, sick leave and death benefits for its members. Social security is based on a principle of 50-50 contributions from employers and employees. This entitles the employee to certain benefits after a set period of time.

Every employer must register with the Social Security Commission, and the employer must register all employees younger than 65 years of age.

Registered employers will be issued with a social security registration number and registered employees will receive a social security number.

Contributions should be paid over within 30 days after the end of the month. The contributions are calculated as follows.

- Employer's contribution – 0.9% of earnings. (Minimum of N\$2.70 and maximum of N\$81)
- Employee's contribution – 0.9% of earnings. (Minimum of N\$2.70 and maximum of N\$81)

Maternity leave, sick leave and death benefit fund benefits only start six months after commencement of membership and are calculated as a percentage of an employee's monthly remuneration, as follows:

	Maximum N\$	Minimum N\$
Maternity leave benefits for female employees at 100% of remuneration:	10,500	None
Sick leave benefit at 75% of basic salary (after twelve months the benefit is reduced by 65% for a maximum period of 18 months):	10,500	None
Death, disability and retirement benefits (single payment):	5,515	

Maternity leave benefits cover a 12-week period, i.e. four weeks before expected date of delivery and eight weeks thereafter.

The sick leave benefit is payable after an employee has exhausted the leave period provided for under the Labour Act or contract of employment.

Employee's compensation

Employers are required, under the Employee's Compensation Act, Act No. 30 of 1941 (the Act), as read with the Employee's Compensation Amendment Act, Act No. 5 of 1995, to contribute to a fund that provides cash benefits for injury and accident while on duty. Contribution rates vary according to inherent occupational risk, from less than one percent in most low-risk commercial/administrative occupations, to eight percent (drilling, tunnelling and rock blasting) of the employer's salary and wage bill.

For the purposes of the Employee's Compensation Act the term "employee" means any person whether employed permanently, temporarily or casually, with the exception of the following:

- Persons earning more than N\$81,300 per annum or N\$6,775 per month.
- Persons employed casually and not for the purpose of the employer's business.

- Seamen or airmen under a contract of service whose remuneration is fixed solely by a share in the takings.
- Outworkers performing work on a premises not under control of the employer.
- Persons temporarily employed outside Namibia for more than 12 months.

Assessments are payable by employers to the Accident Fund in terms of section 69 of the Act. Assessments are not calculated on that part of an employee's earnings that exceeds N\$81,300 per annum.

Vocational Educational and Training (VET) levy

Following the announcement from the Minister of Education of the VET Levy requirements in the Government Gazette on 27 January 2014, eligible employers are required to register with the Namibia Training Authority. The commencement date for the imposition of the VET Levy was 1 April 2014.

All companies with an annual payroll of more than N\$1,000,000 are liable to pay a Vocational Education and Training (VET) levy of one percent of the monthly payroll to the Namibia Training Authority (NTA) before or on the 20th of each month. The NTA acts as a collection agent and is responsible for the administration of the VET Fund in Namibia.

Website: www.nta.com.na

Immigration documents applicable to employees

Business visa

Any person who intends to enter Namibia for the purpose of business prospects or attendance of any business activity (excluding productive work for which income is received) for a period less than three months is required to apply for a business visa beforehand. It takes approximately 7 – 14 days for approval by Home Affairs, subject to the availability of the approval committee. All outcomes of applications submitted to the Ministry of Home Affairs and Immigration are based on the discretion of the relevant officials.

Work visa

Any person who intends to enter Namibia or any particular part of Namibia for the purpose of employment or conducting a business or carrying on a profession or occupation in Namibia for a period of less than three months is required to apply for a work visa beforehand. It takes approximately 7–14 days for approval by Home Affairs, subject to the availability of the approval committee. All outcomes of applications submitted to the Ministry of Home Affairs and Immigration are based on the discretion of the relevant officials.

Work permit

Anyone intending to take up permanent employment or for a period exceeding three months in Namibia is required to apply for a work permit beforehand. Approval for a period of one year to a maximum of two years is granted at the discretion of Home Affairs. It takes approximately three to six months for approval by Home Affairs, subject to the availability of the approval committee. All outcomes of applications submitted to the Ministry of Home Affairs and Immigration are based on the discretion of the relevant officials.

Renewal of work permit or change of conditions

Approval by Home Affairs of applications for renewal or change of conditions of a work permit takes approximately three to six months, subject to the availability of the approval committee. All outcomes of applications submitted to the Ministry of Home Affairs and Immigration are based on the discretion of the relevant officials.

Permanent residence

The criteria to qualify for permanent residency are:

- The person must be on a valid renewable work permit in Namibia for a continuous period of five years and the person should own property in Namibia.
- If the person is retired, he/she may qualify after five years of residency on a valid temporary residence permit. All of the above requirements must be met.

The approval process for permanent residence takes approximately six months or more, subject to the availability of the approval committee. All outcomes of applications submitted to the Ministry of Home Affairs and Immigration are based on the discretion of the relevant officials.

Citizenship

Namibian citizenship may be granted under the following conditions:

- when the individual concerned is married to a Namibian citizen and has been present in Namibia for 10 years under a work permit, temporary permanent residence or domicile;

- when the individual concerned has been present in Namibia for 10 years under a work permit or permanent residence.

Application for citizenship takes six months or up to two years to process, subject to the availability of the approval committee. All outcomes of applications submitted to the Ministry of Home Affairs and Immigration are based on the discretion of the relevant officials.

Chapter 15: Audit Requirements and Practices

Statutory requirements - Companies

The Companies Act, Act No. 28 of 2004 (the Act), requires that every company keep, in English, accounting records that fairly present the state of affairs and business of the company and reflect its transactions and financial position.

It is the duty of the directors of the company to prepare annual financial statements and to present the statements at an annual general meeting for approval by the shareholders. A full statutory audit is required for each financial period (the financial year end is elected by the shareholders).

The Companies Act requires the appointment of an external auditor registered with the Public Accountants and Auditors Board of Namibia to audit the financial statements of a company.

Namibian branches of foreign companies (i.e. external companies) as well as branches and subsidiaries of Namibian registered entities also have to be audited in accordance with the laws and regulations prevailing in Namibia.

Statutory requirements – Other legal entities

Statutory audits are not required for partnerships, sole proprietorships, trusts and close corporations, and these types of entities are not required to publicly disclose their affairs. While these three forms of business are not required by law to have their financial statements

audited, professional assistance is often advantageous. A trust deed or partnership agreement may, however, stipulate that the books of the partnership should be audited and in this case a professional accountant/auditor would need to be appointed.

Accounting and auditing profession

The Institute of Chartered Accountants of Namibia (ICAN) is a member of the International Federation of Accountants (IFAC) and has a reciprocity agreement with the South African Institute of Chartered Accountants (SAICA).

Audits in Namibia are performed in terms of International Standards on Auditing and financial statements for companies are prepared in terms of International Financial Reporting Standards (IFRS).

International Standards on Auditing are also applied to the auditing of other information and to related services.

Professional accountants

Professional accountants are defined as those persons who are members of ICAN or registered with the Public Accountants' and Auditors' Board (PAAB), whether they are in public practice (as a sole practitioner or partnership), industry, commerce, the public sector or education. The term "professional accountant" includes the term "auditor" but also recognizes that assurance engagements deal with a broader range of subject matter and

reporting arrangements than the issuing of an audit opinion on financial statements by external auditors.

In addition to audit services most professional accountants in Namibia also provide the following services:

- Agreed-upon procedures
- Compilation of financial or other information
- Tax compliance and consulting
- Management consulting
- Other advisory services.

The fundamental principles that professional accountants have to observe include:

- Integrity
- Objectivity
- Professional competence and due care
- Confidentiality
- Professional behaviour
- Application of technical standards.

Professional accountants in public practice also have to observe the independence requirements of the Code of Professional Conduct of the PAAB, which includes a requirement to be independent when conducting an assurance engagement.

Audit

The auditor's opinion enhances the credibility of financial statements by providing a high, but not absolute, level of assurance. Absolute assurance in auditing is not attainable as a result of such factors as the need for judgement, the use of sample testing, the inherent limitations of any accounting and internal control system, and the fact that most of the evidence available to the auditor is persuasive, rather than conclusive, in nature.

Chapter 16: Accounting Principles and Practices

Approval of Namibian Statements of Generally Accepted Accounting Practice (GAAP) and IFRS

The Institute of Chartered Accountants of Namibia (ICAN) adopted all International Financial Reporting Standards (IFRS) as Namibian Statements of Generally Accepted Accounting Practice (GAAP).

Requirement for generally accepted accounting practice

Section 286(3) of the Companies Act, Act No. 28 of 2004 requires that “The annual financial statements of a company should, in conformity with generally accepted accounting practice, fairly present the state of affairs... and the profit or loss...”.

Compliance with legal requirements

The requirements of the Companies Act and schedule 4 of the Act are taken into account in the preparation of financial statements in accordance with IFRS. The overriding requirement of the Companies Act is fair presentation. The appropriate application of IFRS, with additional disclosure when necessary, results, in virtually all circumstances, in financial statements that achieve fair presentation. Some entities may be required to prepare financial statements that comply with other statutes.

Components of financial statements

A complete set of financial statements includes the following components:

- a statement of financial position as at the end of the period;
- a statement of comprehensive income for the period;
- a statement of changes in equity for the period;
- a statement of cash flows for the period;
- notes, comprising a summary of significant accounting policies and other explanatory information;
- a statement of financial position as at the beginning of the earliest comparative period when an entity applies an accounting policy retrospectively or makes a retrospective restatement of items in its financial statements, or when it reclassifies items in its financial statements.

Financial statements should present fairly the financial position, financial performance and cash flows of an enterprise.

In the extremely rare circumstances when management concludes that compliance with a requirement in a statement would be misleading, and therefore that departure from a requirement is necessary to achieve fair presentation, an enterprise should disclose the following:

- that management has concluded that the financial statements present fairly the entity's financial

position, financial performance and cash flows;

- that it has complied with applicable IFRSs, except that it has departed from a particular requirement to achieve a fair presentation;
- the title of the IFRS from which the entity has departed, the nature of the departure, including the treatment that the IFRS would require, the reason why that treatment would be so misleading in the circumstances that it would conflict with the objective of financial statements set out in the Framework, and the treatment adopted; and
- for each period presented, the financial effect of the departure on each item in the financial statements that would have been reported in complying with the requirement.

Accounting policies

An enterprise's accounting policies ensure that statutory financial statements comply with all the requirements of each applicable IFRS statement. Financial statements should therefore be the following:

- Relevant to the decision-making needs of users;
- Reliable in that they reflect the following:
 - Fairly present the results and financial position of the enterprise.
 - Reflect the economic substance of events and transactions, and not merely the legal form
 - Are neutral, i.e. free from bias
 - Are prudent
 - Are complete in all material respects.

Going concern

When preparing financial statements, management should make an assessment

of an enterprise's ability to continue as a going concern. Financial statements should be prepared on a going concern basis unless management either intends to liquidate the enterprise or to cease trading, or has no realistic alternative but to do so. When management is aware, in making its assessment, of material uncertainties related to events or conditions that could cast significant doubt upon the enterprise's ability to continue as a going concern, those uncertainties should be disclosed. When the financial statements are not prepared on a going concern basis, that fact should be disclosed, together with the basis on which the financial statements are prepared and the reason why the enterprise is not considered to be a going concern.

Consistency of presentation

The presentation and classification of items in the financial statements should be retained from one period to the next unless the following applies:

- A significant change in the nature of the operations of the enterprise or a review of its financial statements presentation demonstrates that the change will result in a more appropriate presentation of events or transactions.
- A change in presentation is required by IFRS or an approved interpretation.

Materiality and aggregation

Each material item should be presented separately in the financial statements. Immaterial amounts should be aggregated with amounts of a similar nature or function and need not be presented separately.

Offsetting

Assets and liabilities should not be offset except when offsetting is required or permitted by an IFRS.

An entity reports separately both assets and liabilities, and income and expenses.

Measuring assets net of valuation allowances (for e.g. obsolescence stock allowances on inventories and doubtful debts allowances on debtors) is not offsetting.

Gains, losses and related expenses arising from the same or similar transactions and events which are not material need not be presented separately unless they are material.

beginning of the current period), and

- the beginning of the earliest comparative period.

Comparative information

When the presentation or classification of items in the financial statements is amended, comparative amounts should be reclassified (unless it is impracticable to do so) to ensure comparability with the current period, and the nature, amount of, and reason for, any reclassification should be disclosed. When it is impracticable to reclassify comparative amounts, an enterprise should disclose the reason for not reclassifying and the nature of the changes that would have been made if amounts were reclassified.

An entity disclosing comparative information shall present, as a minimum, two statements of financial position, two of each of the other statements, and related notes.

When an entity applies an accounting policy retrospectively or makes a retrospective restatement (prior period error) of items in its financial statements or when it reclassifies items in its financial statements, it shall present, as a minimum, three statements of financial position, two of each of the other statements, and related notes. An entity presents statements of financial position as at:

- the end of the current period,
- the end of the previous period (which is the same as the



Chapter 17: Tax System and Income Tax

Tax system

Introduction

Income tax is levied under the Income Tax Act, Act No. 24 of 1981 (the Income Tax Act), as amended, except for income derived from petroleum, which is taxed in accordance with the Petroleum (Taxation) Act, Act No. 3 of 1991.

The Income Tax Act provides that all companies, close corporations, individuals and other taxable entities (e.g. trusts) are liable for normal tax on taxable income derived from a source within or deemed to be within Namibia. "Source" is not defined in the Act, and it is therefore necessary to refer to case law to determine whether income is or is not from a source within Namibia.

The Income Tax Act provides for withholding taxes on interest, dividends, royalties, management, admin, technical, consulting, entertainment and directors fees (refer to Appendix V for more detail).

The Income Tax Act and schedules thereto further provide that Pay-As-You-Earn (PAYE) should be withheld by an employer and be paid over to the Directorate of Inland Revenue (DIR) on behalf of the employees (refer to Chapter 23).

There is no estate duty, donations tax, capital gains (other than profits on the sale of mining and petroleum licences/rights) or wealth taxes in Namibia.

Value-Added Tax (VAT) is levied under the Value-Added Tax Act, Act No. 10 of 2000,

as amended (refer to Chapter 25).

Stamp duties are payable on numerous documents, including transfers of listed and unlisted marketable securities in terms of the Stamp Duty Act, Act No. 15 of 1993 (the Stamp Duty Act). Transfers of immovable property are also subject to transfer duty in terms of the Transfer Duty Act, Act No. 14 of 1993 (the Transfer Duty Act). Expected amendments to the Transfer Duty Act that will levy transfer duty on the sales of shares/members' interest in property-owning entities are expected to be tabled in the near future (refer to Chapter 26).

The Directorate Customs and Excise levies customs and excise duties on goods imported from outside SACU and on certain locally manufactured goods, including alcoholic and non-alcoholic beverages (refer to Chapter 26).

Municipalities and similar bodies charge rates and taxes based on immovable property values such as the site value (A), improvement value (B) and open space value (A + B). There are no other property imposts.

General

Income tax (i.e. normal tax) is levied upon the taxable income of companies and individuals from sources within or deemed to be within Namibia. Non-residents earning taxable income in Namibia through ownership of property, employment, carrying on a business or from other activities giving rise to taxable income, are taxed on their Namibian

source or deemed source taxable income, subject to the stipulations of the tax treaty between Namibia and the respective non-resident's country.

Taxable income is calculated by first determining gross income. This is the total amount, whether in cash or otherwise, received by or accrued to or in favour of the taxpayer during the year of assessment, excluding receipts and accruals:

- Of a capital nature, subject to some specific inclusions; and
- From any source outside Namibia, other than amounts deemed to be from a source within Namibia.

From gross income, the following may be deducted:

- All amounts exempt from normal tax; and
- The deductions, allowances and set-offs allowed by the Income Tax Act.

The Income Tax Act deals in considerable detail with what may be deducted to arrive at taxable income. The following is a summary, which is by no means exhaustive. The first two are general deductions and the remaining deductions are specified in the Act:

- All expenditure and losses, not of a capital nature, actually incurred in Namibia in the production of income
- Expenditure and losses, not of a capital nature, incurred outside Namibia in the production of income within Namibia, as allowed by the Minister of Finance;
- A capital allowance in respect of the cost of vehicles, aircraft, sea-going craft, machinery, implements, utensils and articles acquired by a taxpayer for the purpose of his/her trade, deductible in equal instalments over three years. This allowance is not applicable to

buildings; and

- An initial allowance of 20% on the cost of erection of buildings in the year in which the buildings are brought into use by the taxpayer for the purposes of his/her trade, and an annual allowance of 4% for each of the 20 years following the year in which the building was brought into use.

Tax year

The tax year for individuals and trusts run from 1 March to 28 February, while the year of assessment of companies and close corporations is the same as their chosen financial years.

Tax compliance

Filing of returns

The due dates of returns prescribed by the Income Tax Act are summarized below:

Returns	Due Date
Income Tax Return: Individuals ²⁰ Companies ²¹ Taxpayers (other than companies or “salaried individuals”) carrying on wholly/partially a business, profession or farming	Within four months after the tax year end (i.e. 30 June each year) Within seven months after the financial year end Within seven months after the tax year end (i.e. 30 September each year)
Provisional Tax Returns*: Individuals: 1st provisional 2nd provisional Companies: 1st provisional 2nd provisional Taxpayers deriving wholly or mainly income from farming other than companies	Within 6 months from commencement of the respective tax year (i.e. on/before 31 August) On or before the last day of the respective tax year (i.e. 28 February) Within 6 months from the commencement of the company’s financial year On or before the last day of the company’s financial year end On or before the last day of the tax year (i.e. 28 February each year – only one provisional tax return)
PAYE Returns	The employer should submit a PAYE Return within 20 days following the month during which the PAYE is required to be withheld
PAYE Reconciliation Return	An annual PAYE reconciliation should be submitted by the employer on the prescribed form within 30 days from the tax year end (i.e. 30 March each year)

²⁰ Individuals include trusts and estates for income tax purposes. These individuals are referred to as “salaried individuals” when they do not carry on a business wholly/ partially.

²¹ Companies include close corporations for income tax purposes.

Withholding Tax Returns:	
Dividends	Within 20 days following the month during which the dividend accrued or was received by non-residents
Royalties	Within 20 days following the month during which the royalty payments accrued or were received
Interest	Within 20 days following the month during which the interest accrued or was received
Services	Within 20 days following the month during which the amount was withheld or deducted.

* Persons required to submit provisional tax returns in terms of the definition of a “provisional taxpayer” in Schedule 2 to the Income Tax Act, are:

- Persons deriving income other than remuneration from an employer;
- A director of a private company managed or controlled or having a registered office in Namibia, or when the director is ordinarily resident in Namibia;
- A person notified by the Minister that he/she is a provisional taxpayer; and
- Any company.

Taxpayers may apply in writing for the extension of the submission of their income tax returns for a period no later than 12 months after the tax year end (individual taxpayers) or the financial year end (companies), whichever is applicable. However, it should be noted that the DIR does not grant extension when there are any outstanding returns for the respective taxpayer.

Payment of taxes

From the table above it is clear that a system of provisional tax payments as well as self-assessment applies in Namibia.

The due dates contained in the table above apply not only to the submission of the required returns, but also to the

payment of the respective taxes. The payment of taxes is explained in further detail below, distinction being made between salaried persons and provisional taxpayers.

Salaried persons

The monthly tax called Pay-As-You-Earn (PAYE) should be subtracted from the salaries of employees as well as payments to directors and should be paid over to the Directorate of Inland Revenue by employers within 20 days following the month during which the PAYE was subtracted or withheld by the employers.

Any outstanding taxes on the final taxable income of salaried persons are required to be paid by the employees within four months after the tax year end i.e. on or before 30 June each year. This also applies to directors of companies other than private companies that are not registered as provisional taxpayers.

Provisional taxpayers

PAYE is also required to be withheld from the salary or remuneration of provisional taxpayers deriving income in addition to their salaries/ remuneration. Provisional taxpayers may apply for a tax directive regarding the exemption to withhold PAYE on their salaries, but the DIR rarely grants such directives. Employers are thus

required to withhold PAYE unless provided with a tax directive granting exemption to withhold PAYE in respect of a specific employee.

In general, two provisional payments are made, the first being half of the estimated tax liability for the year, payable within six months of the commencement of the year of assessment, and the second at year end. A top-up payment is payable when the first and second provisional payments together with the PAYE withheld (if applicable) did not cover the final taxes payable upon submission of the income tax return within the prescribed period as stated in the table above.

It is imperative to note that the first and second provisional payments should be equal to at least 40% and 80% respectively of the tax payable for the year. Penalties and interest may be levied on an underestimation of provisional taxes.

Penalties and interest on non-compliance

In terms of the Income Tax Act, penalties and interest may be levied in the following instances –

PAYE Returns and PAYE Reconciliations:

Non-compliance	Penalty	Interest
Late filing of return (employer)	None	None
Late payment of tax (employer)	10% of the PAYE outstanding calculated from the first day of the month during which the PAYE became due until the date of payment, limited to the amount of PAYE outstanding.	20% per annum on the outstanding tax limited to amount payable.
Failure to withhold PAYE (employer)	10% of the PAYE outstanding calculated from the first day of the month during which the PAYE became due until the date of payment, limited to the amount of PAYE outstanding.	20% per annum on the outstanding tax limited to amount payable.

1st Provisional Tax Return:

Non-compliance	Penalty	Interest
Late filing of return	N\$100 per day	None
Late payment of tax	10% of the outstanding amount once-off.	20% per annum on the outstanding tax limited to amount payable.

Under-estimation of provisional tax	Up to 100% of the under-estimation amount of tax.	20% per annum on the outstanding tax limited to amount payable.
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2nd Provisional Tax Return:

Non-compliance	Penalty	Interest
Late filing of return	N\$100 per day	None
Late payment of tax	10% of the outstanding amount once-off.	20% per annum on the outstanding tax limited to amount payable.
Under-estimation of provisional tax	Up to 100% of the under-estimation amount of tax.	20% per annum on the outstanding tax limited to amount payable.

Income Tax Returns:

Non-compliance	Penalty	Interest
Late filing of return	A fine of N\$300 or three months imprisonment, or both such fine or imprisonment upon conviction.	None
Late payment of tax (top-up payment)	10% once off penalty of the outstanding taxes ²² .	20% per annum on the outstanding tax limited to amount payable.
Omission of amounts or the incorrect statement in the return	An additional tax of 200% of the difference in the tax payable as furnished in the return to the DIR and the tax payable when the omitted amount is included or the incorrect statement is corrected in the return.	20% per annum on the outstanding tax limited to amount payable.

²² The penalty is calculated on outstanding taxes, thus any payment of outstanding taxes before submission of the Income Tax Return will not trigger a penalty.

Withholding Tax Returns:

Non-compliance	Penalty	Interest
Late filing of return	None	None
Late payment of tax	For late payment of withholding tax on services, royalties, interest and dividends, a penalty of 10% per month is levied, limited to the tax payable.	20% per annum on the outstanding tax limited to amount payable.

Foreign tax relief

As income tax is levied only on taxable income derived or deemed to be derived from sources within in Namibia, and on certain foreign dividends, the question of foreign tax relief does not normally arise. Relief will generally only be granted if provided for in a tax treaty (i.e. a double taxation agreement) with the foreign state.

Loss carryovers

An “assessed loss” results where permissible deductions exceed the income in a year of assessment. An assessed loss is carried forward indefinitely, and set off against the taxable income of subsequent years with the proviso that the taxpayer continues to carry on business.

Special provisions are included in the Act to protect the fiscus against trafficking in assessed loss companies.

Consolidation of income

In Namibia each company and each individual is a separate legal entity for tax purposes. Subvention of losses or the consolidation or combining of income or expenditure between group companies is not permitted.

Transactions between related parties

The Directorate of Inland Revenue (DIR) is entitled to disregard transactions that are not conducted at arm's length and which result in avoidance, diminution or deferment of tax. In practice DIR seldom interferes with trading relationships between taxpayers in Namibia, unless special circumstances (such as an assessed loss) suggest that tax avoidance may be the motive for the transaction. DIR has discretion to allow a deduction to a Namibian taxpayer claiming expenditure incurred outside Namibia in the production of income from carrying on any trade within Namibia. Various tax treaties contain provisions under which revenue transactions are adjusted to terms that would have prevailed on an arm's length basis.

Transfer pricing

Namibia introduced transfer pricing legislation on 14 May 2005. The legislation was aimed at enforcing the arm's-length principle in cross-border transactions carried out between connected persons. On 5 September 2006, the Directorate of Inland Revenue issued Income Tax Practice Note 2 of 2006 that contains guidance on the application of the transfer pricing legislation. The Practice Note is based on guidance set out by the Organisation for Economic Co-operation and Development (OECD) Transfer Pricing Guidelines for multinational enterprises and tax administrations.

The objective of this Practice Note is to provide taxpayers with guidelines regarding the procedures to be followed in the determination of arm's-length prices, taking into account the Namibian business environment. It also sets out the Minister of Finance's views on documentation and other practical issues that are relevant in setting and reviewing transfer pricing in international agreements.

Transfer pricing legislation is essentially aimed at ensuring that cross-border transactions between companies operating in a multinational group are fairly priced and that profits are not stripped out of Namibia and taxed in lower tax jurisdictions. The legislation achieves this by giving the Minister of Finance (who essentially delegates to the Directorate of Inland Revenue) the power to adjust any non-market related prices charged or paid by Namibian entities in cross-border transactions with related parties to arm's-length prices and to tax the Namibian entity as if the transactions had been carried out at market-related prices.

In terms of the normal penalty provisions of the Income Tax Act, the Directorate of Inland Revenue may levy penalties of up to 200% on any amount of underpaid tax. Consequently, the Inland Revenue may invoke such provisions in the event that a taxpayer's taxable income is understated as a result of prices that were charged

in affected transactions which were not carried out at arm's length. Further, interest will be charged on the unpaid amounts at 20% per annum.

Thin capitalisation

Thin capitalisation rules in Section 95A(2) of the Income Tax Act empowers the Minister to disallow the interest expense on the portion of a related party/shareholder loan that he considers to be excessive in relation to the equity of the company.

Where a non-resident (referred to as the "investor") has granted financial assistance (directly or indirectly) to:

- any "connected person" (who is a resident) in relation to him; or
- any other person (in whom he has a (25% or more) direct or indirect interest) (other than a natural person) who is a resident (the "recipient"),

and the Minister (having regard to the circumstances) is of the opinion that the total value of financial assistance given by the "investor" is excessive in relation to the fixed capital of the Namibian borrower (the "connected person" or the "recipient"), then the cost of the financial assistance (interest and finance charges) on the portion of the financial assistance which is considered excessive, will not be allowed as a tax deduction in the hands of the borrower.

There is no guidance that provides a definition for 'excessive'. Therefore, each case should be considered on the basis of the facts provided. The 3:1 ratio is generally applied by the Bank of Namibia for exchange control purposes, and this guideline is therefore deemed suitable until otherwise determined by Inland Revenue.

Document retention

There is currently no official prescription period in Namibia relating to income tax and PAYE. Debts to the state prescribe after 30 years.

Chapter 18: Tax Administration

The Ministry of Finance consists of the Department of Inland Revenue and the Directorate of Customs and Excise that administer the Namibian tax system and customs services, respectively.

The Commissioner is the head of the Department of Inland Revenue. The Department is responsible for collecting, enforcing and administering all taxes, duties and levies in Namibia.

The Department is composed of three Directorates, namely Directorate Large Taxpayers and Investigations, Directorate Small and Medium Taxpayers, Support Services, and Directorate Tax Administration. The head of each Directorate is called a Director.

The Directorates are divided into divisions according to specific functions and coverage of various regions in Namibia. The head of each division is called a Deputy Director.

The Directorate Large Taxpayers and Investigations is comprised of the following divisions:

- Large Taxpayers
- Forensic Tax Investigations.

The Directorate Small and Medium Taxpayers is comprised of the following divisions, which are regarded as regional offices:

- Central Region, with its offices located in Windhoek
- Northern Region, with its offices located in Oshakati
- Western Region, with its offices located in Walvis Bay
- North Central Region, with its

- offices located in Otjiwarongo
- Southern Region, with its offices located in Keetmanshoop
- North Eastern Region, with its offices located in Rundu
- Far North Eastern Region, with its offices located in Katima Mulilo.

The Directorate Tax Administration and Support Services is comprised of the following divisions:

- Tax Administration and Support Services
- Legislation, Tax Policies and International Relations.

The Customs and Excise Directorate is divided into the following divisions:

- Legal and Technical Services
- Operations
- Administration
- Southern Region
- Central and Eastern Region
- Walvis Bay Region
- Northern Region
- North Eastern Region

The Commissioner for Customs and Excise oversees the above divisions which in turn are each headed by Deputy Directors.

The table below outlines the Customs and Excise official points of entry for the declaration and clearing of goods, their normal office hours, days, telephone numbers and fax numbers as per the various Customs and Excise regions:

NAMIBIA CUSTOMS AND EXCISE OFFICIAL POINTS OF ENTRY

Central Region	Normal O/Hours	Days	Telephone No.	Fax No.
Hosea Kutako International Airport	08h30 – 21h00 (depending on scheduled flights)	Mon-Sun	062-540369/269	062-540025
Windhoek Regional Office	08h00 – 17h00	Mon-Fri	061-2092422/3/4	061-220013
Eros Airport	08h00 – 17h00 (depending on scheduled flights)	Mon-Fri	061-254233	061-254223
Pro Parcel	08h00 – 17h00	Mon-Fri	061-2945214	061-263242
Otjiwarongo	08h00 – 17h00	Mon-Fri	067-303971	067-303974
Southern Region				
Keetmanshoop	08h00 – 17h00	Mon-Fri	063-222749	063-223043
Lüderitz	08h00 – 17h00	Mon-Fri	063-202259	063-202924
Oranjemund	08h00 – 22h00	Mon-Sun	063-233552	063-233552
Noordoewer	24 HOURS	Mon-Sun	063-297148	063-297138
Ariamsvlei	24 HOURS	Mon-Sun	063-280023/4	063-280020
Klein Menassa*	07h30 – 16h30	Mon-Sun	063-280680	063-280680
Hohlweg*	07h30 – 16h30	Mon-Sun	063-280682	063-280682

Eastern Region	Normal O/Hours	Days	Telephone No.	Fax No.
Trans-Kalahari Border Post	06h00 – 24h00	Mon-Sun	062-560401	062-560418
Gobabis	08h00 – 17h00	Mon-Fri	062-563605	062-563607

Northern Region	Normal O/Hours	Days	Telephone No.	Fax No.
Oshakati	08h00 – 17h00	Mon-Fri	065-229600 229601	065-222277
Ruacana	08h00 – 18h00	Mon-Sun	065-270039	065-259525
Omahenene	08h00 – 18h00	Mon-Sun	065-259512	065-259525
Oshikango	08h00 – 18h00	Mon-Sun	065-264613	065-264614
Grootfontein	08h00 – 17h00	Mon-Fri	067-242829	067-242906
Tsumeb	08h00 – 17h00	Mon-Fri	067-220041	067-220061

North Eastern Region	Normal O/Hours	Days	Telephone No.	Fax No.
Wenela	06h00 – 18h00	Mon-Sun	066-253153	066-252401
Ngoma	07h00 – 18h00	Mon-Sun	066-250601	066-250609
M'Pacha Airport	08h00 – 17h00	Mon-Fri	066-253222	066-253268
Muhembo	06h00 – 18h00	Mon-Sun	066-259908	066-259917
Katima Mulilo	08h00 – 17h00	Mon-Fri	066-253222/ 252404/252026	066-253268

Harbours	Normal O/Hours	Days	Telephone No.	Fax No.
Lüderitz	08h00 – 17h00	Mon-Fri	063- 202259	063-202924
Walvis Bay	08h00 – 17h00	Mon-Fri	064-208606001	064-2086100
Swakopmund	08h00 – 17h00	Mon-Fri	064-463181	064-463125

*These facilities are not staffed or equipped for the processing of commercial cargo.

Chapter 19: Taxation of Corporations

Rates

Corporations may be either companies or close corporations, both of which are taxed on the same basis. The principles discussed in this Chapter are therefore also applicable to close corporations.

Taxable income of companies is subject to income tax at the following rates:

- Companies other than from mining and long-term insurance business are taxed at 32%;
- Mining companies other than diamond mines are taxed at 37.5%;
- Diamond mining companies are taxed at 55%;
- Long term insurance companies are taxed at 12.8%;
- Companies generating income from petroleum production are taxed at 35%.

An example of a corporate tax calculation is included in Appendix III.

Classification of companies

For tax purposes, close corporations are classified as companies. Otherwise, companies are classified as follows:

- Namibian companies - companies incorporated in Namibia
- External companies - companies that are not incorporated in Namibia that carry on business in Namibia through a branch and are therefore required to register under the Companies Act of Namibia (refer to Chapter 6 for more detail).

Income determination

Income received by a company is only subject to tax in Namibia where the source of the income is within or deemed to be within Namibia. Double taxation is generally avoided by double taxation treaties and unilateral relief. Capital gains (other than the sale of a mining licence or right to mine minerals), dividend receipts and amounts specifically exempt under the Income Tax Act are not subject to corporate income tax.

Transfer pricing

Transfer pricing regulations may result in a tax adjustment to income or expenses where goods or services are supplied across borders between related parties at prices which are not arm's length.

Transfer pricing in Namibia is based on OECD Guidelines and has been set out in a Practice Note to the Income Tax Act. Taxpayers are required to maintain adequate documentation in order to demonstrate that a sound transfer pricing policy has been developed in terms of which transfer prices are determined in accordance with the arm's length standard. However, there is currently no requirement for a policy document to be filed with the Income Tax return.

Deductions

There is a general deduction for current, non-capital trading expenditure and losses incurred in the production of income.

In addition, specific deductions are allowed, mainly for capital expenditure. For example, a spread depreciation (wear and tear) allowance may be deducted for the cost of vehicles, aircraft, sea-going craft, machinery, implements, utensils and articles used for the purpose of trade. The deduction is spread over three years (i.e. 1/3 per tax year) and apportionment is not applicable to the capital allowances. Please note that certain assets, for example dams, pipelines and power lines do not fall within this allowance and a 1/3 capital allowance may thus not necessarily be deducted from taxable income in respect of such assets. A technical analysis of the facts should be considered in these cases.

A capital allowance in respect of the erection costs of new buildings used for purposes of trade is also allowed. This allowance has two parts; an initial allowance of 20% on the erection costs of new buildings in the year in which the buildings are brought into use by the taxpayer for purposes of his trade, and for the next 20 years following the year in which the building was brought into use, an annual allowance of 4% on the erection costs of the new buildings is granted. Please note that for income tax purposes case law has established that a building is defined as "a structure with a roof and walls".

Interlocking paving, fences and building improvements (other than leasehold improvements effected under an obligation in terms of a lease contract) may fall outside the ambit of this definition.

Assessed losses may be carried forward as long as the entity is carrying on a trade. There is no group relief, and the assessed loss of one company in a group may not be set off against the income of another group company.

Export Processing Zone (EPZ)

The enactment of the EPZ Act in 1996 launched the Export Processing Zone (EPZ) concept that offers investors attractive fiscal incentives, tax and non-tax incentives, in exchange for technology transfers, capital inflow, skills development and job creation. Refer to Appendix IV for more detail.

Manufacturing enterprises

Namibian-based enterprises that invest in manufacturing and export trade are given a competitive edge by way of manufacturing incentives.

Tax incentives

- An additional 25% allowance on manufacturing wages (section 17A) of the Income Tax Act;
- An additional 25% allowance on marketing expenses incurred in export countries in relations to goods exported for sale (section 17B);
- An 80% allowance on the manufacturing gross profit of a manufacturer (other than one exporting manufactured fish or meat products) whose income is mainly derived from the export of goods manufactured in Namibia (section 17C);
- An additional 25% allowance, for a period of ten years from registration as manufacturer under section 5A of the Income Tax Act, on land-based transport costs (road or rail) incurred in relation to materials used in the manufacturing activity or to the importation of manufacturing equipment (section 17D);
- An initial building allowance of 20% on the erection costs of buildings used solely for manufacturing

purposes in the year in which the building is brought into use for purposes of trade;

- An annual building allowance of 8% on such erection costs as referred to above for the next 10 years following the year in which the building was brought into use; and
- Registered manufacturers are taxed at 18% for the first 10 years from registration, and at 34% for all following years;
- Value-Added Tax (VAT) exemption on the purchase and import of machinery and equipment used in the manufacturing process.

In order for the above tax incentives to apply to a manufacturing enterprise, such an enterprise must be registered as a manufacturer under section 5A of the Income Tax Act.

Mining companies

All mining companies other than diamond mines are taxed at a rate of 37.5% on services rendered in connection with the actual mining as well as on services in connection with any mining activity.

A diamond mine is taxed at a rate of 55% on services rendered in connection with both the actual mining of diamonds as well as any mining activity.

Development and exploration costs incurred by mining companies are deductible for tax purposes. Exploration costs are deductible in the year that mining commences with production and not in the prior years when incurred. Development costs incurred prior to the commencement of mining operations are also deductible in the year in which mining commences with production over a period of three years. Any development costs incurred after the commencement of mining are deductible over three years.

Oil and Gas companies

The laws that regulate the petroleum industry in Namibia are the Petroleum (Taxation) Act, Act No. 3 of 1991 (PTA), the Income Tax Act, Act No. 24 of 1981 dealing with administrative provisions and the Petroleum (Exploration and Production) Act, Act No. 2 of 1991 which levies royalties and tax on profits.

Petroleum Tax as levied under the PTA is paid annually for the benefit of the State Revenue Fund in respect of taxable income received by or accrued to or in favour of any person from a licence area in connection with exploration or production operations carried out in any tax year in such licence area. The tax rate is 35% with an additional profit tax payable on a sliding scale of between 15% and 25%.

Royalties are payable at 5% of gross revenues. The market value of crude oil is used as the basis for levying royalty and petroleum tax.

Activities relating to downstream activities are not considered to be petroleum activities and are taxed under the Income Tax Act.

Branches

The taxable income of Namibian branches of foreign companies is taxed at the corporate tax rate applicable to the Namibian companies with a similar trade.

The taxable income of a Namibian branch is determined in accordance with the Namibian Income Tax legislation which is source-based and not resident-based. The gross income definition includes income received or accrued to (in this case a branch), from sources or deemed sources within Namibia, provided the income is not of a capital nature.

The Income Tax Act makes provision for the deduction of expenses incurred in production of income as well as special

allowances in the determination of taxable income. However, charges between a Namibian branch and a foreign holding company are not deductible due to them being considered as one legal entity which cannot transact with itself.

Dividends declared by the Namibian branch to a foreign shareholder will be subject to Non-Resident Shareholders Tax (NRST)²³, a withholding tax, at a rate of 10% - 20%²⁴ unless a double tax agreement (DTA) specifies a lower rate.

‘Dividends’ is defined as “any amount distributed by a company... to its shareholders...”²⁵.

If the branch is not registered as a local company (i.e. the branch is registered as an external company) in Namibia and does not have any shareholders, NRST would apply if profits are distributed to the head office and the head office declares dividends from Namibian profits to a non-Namibian-shareholder, even if the head office company is not a Namibian resident. Double taxation relief may, however, apply. If the branch is registered in Namibia as a local company (subsidiary) and has non-resident shareholders, NRST will apply.

Namibian subsidiaries of foreign parent companies are not subject to any special rules and are treated in the same manner as domestic Namibian companies for tax purposes.

Long-term insurance companies

These companies are taxed only on 40% of the gross investment income derived from investments within or outside Namibia in respect of any long-term insurance business carried on by such business inside or outside Namibia.

²³ Section 42 of the Income Tax Act

²⁴ Section 45 of the Income Tax Act

²⁵ The definition of a ‘dividend’ in section 1 of the Income Tax Act

Income Tax Practice Note 1 of 2006 was issued on 5 September 2006 in order to clarify the misconceptions in the market regarding the determination of taxable income of long-term insurance companies, which, in short, can be illustrated as follows:

Gross amounts (section 32(1))	XXX
Less: dividend deduction (section 20(4))	YYY
Total gross amounts after section 20(4)	ZZZ ²⁶
Taxable Income (TI)	ZZZ x 40%
Tax Payable	TI x corporate tax rate for non-mining companies

It is, however, important to note that income generated from non-insurance business is taxable in terms of the normal provisions of the Income Tax Act, i.e. 100% of the income is taxable at the corporate tax rate for non-mining companies.

Short-term insurance companies

The taxable income of short-term insurance companies is determined in the same manner as other companies but has additional incentives by claiming against all premiums received or accrued, including reinsurance premiums, the following:

- Premiums incurred on reinsurance;
- Claims incurred in respect of the business of insurance, less the value of any claims recovered or recoverable under any contract of

²⁶ According to a ruling issued by the Directorate of Inland Revenue, realised capital gains do not form part of the gross amounts.

insurance, guarantee, security or indemnity;

- Expenditure, other than those listed above, incurred in respect of the business of insurance;
- Allowance made by the Minister in respect of unexpired risks, provided such allowance is included in the taxable income of the short-term insurer in the following year of assessment;
- Allowance made by the Minister in respect of claims which have been intimated but not paid, provided such allowance is included in the taxable income of the short-term insurer in the following year of assessment; and
- Allowance made by the Minister in respect of claims which have not been intimated or paid, provided such allowance is included in the taxable income of the short-term insurer in the following year of assessment.

The taxable income of a short-term insurance business is taxed at the corporate tax rate for non-mining companies.

Dividends

Dividend receipts are generally exempt from income tax. Expenses incurred in the generation of such dividend income, e.g. interest paid on money borrowed to purchase shares, are therefore not deductible for tax purposes.

Namibia imposes a tax on dividends paid by a company if the shareholder to whom the dividend is paid is a company neither managed nor controlled in Namibia, or a person not ordinarily resident in Namibia. The standard rate for NRST will be 10% of the dividend declared (where more than 25% shareholding is held).

Where it comprises less than 25% of shareholding, the rate of NRST will be 20%. The DTA may reduce the tax rate, depending on which country the dividends are paid to.

The deducted NRST shall be paid to Inland Revenue, within 20 days following the month during which the dividend accrued or was received.

NRST is not payable on dividends declared by insurance companies.

Tax compliance

A company's tax year is the same as its financial/fiscal year. It may be changed upon application showing reasonable cause.

Annual returns must be submitted within seven months of the end of the company's fiscal year unless an extension is granted.

Refer to Chapter 17 for more detail on tax payments and filing requirements.

Chapter 20: Taxation of Foreign Corporations

Taxation of foreign direct investments

Namibia has a source-based tax system, which means that income from a source within Namibia or deemed to be within Namibia will be subject to tax in Namibia, unless a specific exemption is available.

Income earned by foreign companies from a source within or deemed to be within Namibia will be subject to tax in Namibia. In such cases, the foreign entity must determine whether it is obliged to register a local entity or branch. A company is required to register a branch if it has established a place of business in Namibia. A local subsidiary company may be registered as an alternative to a branch.

In the event that Namibia has entered into a double tax agreement (DTA) with the country where the foreign company resides, such entity will only be taxable in Namibia if it has established a permanent establishment (PE) in Namibia. If a PE exists, only the portion of income attributable to the PE will be subject to tax in Namibia.

Non-residents who do not have a place of business in Namibia may, however, be subject to withholding taxes.

Withholding taxes

Dividends paid by a Namibian company to a non-resident shareholder are subject to Non-Resident Shareholders Tax (NRST). NRST is levied on the foreign shareholder based on its percentage shareholding. The Namibian companies are liable to

withhold and pay over NRST to Inland Revenue. Currently NRST is levied at 10% for shareholding of more than 25%. For shareholding less than 25%, 20% NRST applies. Where a Double Taxation Agreement is in place it may reduce the NRST rates.

Interest paid by a Namibian company to a non-resident is subject to withholding tax on interest of 10%.

Royalty and know-how payments to a non-resident for the use of intellectual property or know-how in Namibia are subject to a withholding tax (royalty tax), at the rate of 10% of the gross payment, which may be reduced by DTA treaty relief.

A Withholding Tax on Services (WTS) applies to management, administration, technical and consulting fees paid to a head office or other foreign supplier. The rate is currently 10%. However, DTA relief may apply. Foreign directors' fees are also subject to WTS at 10% (it should be noted that the majority of DTAs do not provide relief on this rate).

Transfer pricing

Namibia introduced transfer pricing legislation on 14 May 2005. The legislation was aimed at enforcing the arm's-length principle in cross-border transactions carried out between connected persons. On 5 September 2006, the Directorate of Inland Revenue issued Income Tax Practice Note 2 of 2006 that contains guidance on the application of the transfer pricing legislation. The Practice Note is based on guidance set out by the

Organisation for Economic Co-operation and Development (OECD) Transfer Pricing Guidelines for multinational enterprises and tax administrations.

The objective of this Practice Note is to provide taxpayers with guidelines regarding the procedures to be followed in the determination of arm's-length prices, taking into account the Namibian business environment. It also sets out the Minister of Finance's views on documentation and other practical issues that are relevant in setting and reviewing transfer pricing in international agreements.

Transfer pricing legislation is essentially aimed at ensuring that cross-border transactions between companies operating in a multinational group are fairly priced and that profits are not stripped out of Namibia and taxed in lower tax jurisdictions. The legislation achieves this by giving the Minister of Finance (who essentially delegates to the Directorate of Inland Revenue) the power to adjust any non-market related prices charged or paid by Namibian entities in cross-border transactions with related parties to arm's-length prices and to tax the Namibian entity as if the transactions had been carried out at market-related prices.

In terms of the normal penalty provisions of the Income Tax Act, the Directorate of Inland Revenue may levy penalties of up to 200% on any amount of underpaid tax. Consequently, Inland Revenue may invoke such provisions in the event that a taxpayer's taxable income is understated as a result of prices that were charged in affected transactions, which were not carried out at arm's length. Further, interest will be charged on the unpaid amounts at 20% per annum.

Taxpayers are required to maintain documentation to substantiate that they are transacting at arm's length on cross-border connected party transactions. A transfer pricing policy, updated and reviewed on a regular basis should meet this requirement. There is no requirement to file transfer pricing policies with Inland

Revenue, although Inland Revenue retains the right to ask for documentation in case of an audit.

Thin capitalisation

Thin capitalisation rules in Section 95A(2) of the Income Tax Act empower the Minister to disallow the interest expense on the portion of a related party/shareholder loan that he/she considers to be excessive in relation to the equity of the company.

Where a non-resident (referred to as the "investor") has granted financial assistance (directly or indirectly) to:

- any "connected person" (who is a resident) in relation to him/her; or
- any other person (in whom she/he has a (25% or more) direct or indirect interest) (*other than a natural person*) who is a resident (the "recipient"),

and the Minister (having regard to the circumstances) is of the opinion that the total value of financial assistance given by the "investor" is excessive in relation to the fixed capital of the Namibian borrower (the "connected person" or the "recipient"), then the cost of the financial assistance (interest and finance charges) on the portion of the financial assistance which is considered excessive, will not be allowed as a tax deduction in the hands of the borrower.

There is no guidance that provides a definition for 'excessive'. Therefore, each case should be considered on the basis of the facts provided. The 3:1 ratio is generally applied by the Bank of Namibia for exchange control purposes, and this guideline is therefore deemed suitable until otherwise determined by Inland Revenue.

Chapter 21: Taxation of Shareholders

Dividends

Dividends received by a local shareholder are exempt from income tax.

Dividends paid by a Namibian company to a non-resident shareholder are subject to Non-Resident Shareholders Tax (NRST). NRST is levied on the foreign shareholder based on its percentage shareholding. The Namibian company is liable to withhold and pay over NRST to Inland Revenue. Currently NRST is levied at 10% for shareholding of more than 25%. For shareholding less than 25%, 20% NRST applies. Where a Double Taxation Agreement is in place, it may reduce the NRST rates.

Conversely, the profits from the disposal of shares (excluding those of entities which owns mining or petroleum licences/rights) held as long-term investments to earn dividends and capital growth, may be of a capital nature. Namibia currently does not levy capital gains tax and the gain would accordingly not be taxable.

Profits on the sale of shares in entities who own mining or petroleum licences/rights are subject to income tax at the corporate tax rate.

Duties on change in shareholding

The transfer of shares on the Namibian Stock Exchange (NSX) may be subject to marketable securities tax. The transfer of shares not listed on the NSX is subject to stamp duty of N\$2 for every N\$1,000 or part thereof of the consideration/fair market value of the shares sold.

Gains on sale of shares

These gains may be of a capital or a revenue nature. Profits from share transactions are of a revenue nature and subject to income tax where the taxpayer is a share dealer (based on his/her intention and the frequency and volume of the transactions indicating that a taxpayer carries on a profit-making business as a share trader).

Chapter 22: Taxation of Partnerships and Joint Ventures

Joint ventures are often set up as partnerships for a specific venture or period (i.e. an unincorporated joint venture). Partnerships (including unincorporated joint ventures, syndicates and consortiums) are not taxed as separate entities for income tax purposes. Once determined, the partners' shares of the partnership's taxable income or loss will be accounted for in the hands of the partners.

It may be required that a copy of the annual financial statements of the joint venture or partnership is submitted along with the company's annual tax return.

Unincorporated joint ventures and partnerships may also be required to register for VAT, PAYE (employee taxes) and Withholding Taxes on services, interest and royalties.

Chapter 23: Taxation of Individuals

General

Both resident and non-resident individuals are subject to tax on income arising from sources within or deemed to be within Namibia. The same rates of tax are applicable to each. An example of a tax calculation for an individual is given in Appendix VII.

As part of the relaxation of exchange controls, from 1 July 1999, individuals are able to make investments offshore. Certain passive offshore investment income (interest, annuities and similar income) is deemed to be Namibian source income for individuals who are ordinarily resident in Namibia.

Married persons are taxed separately on their income. Dividends received by an individual are exempt from Namibian income tax.

Individuals earning interest from Banks and Unit Trusts will be liable for withholding tax of 10%. This will be deducted from the interest payable to them by the Bank and Unit Trust respectively. Refer to Chapter 20 on withholding taxes for further details.

Interest income accruing from a source outside Namibia may be exempt provided certain requirements are met. Refer to the Appendix on the taxability of interest for further details.

Rates

Income tax is calculated on the taxable income of individuals and trusts on a sliding scale with seven bands and a

marginal rate of 37% above N\$1,500,000. On taxable income up to N\$50,000 no tax is payable. Refer to Appendix VI for the tax table for individuals.

Rebates

The Income Tax Act does not provide for any rebates against taxable income.

Tax returns and Payment of taxes

Employee taxes are collected through a Pay-As-You-Earn (PAYE) deduction system, with top-up payments required by 30 June for individuals who are not provisional taxpayers. Individuals who are subject to PAYE must also render their tax returns by June 30 each year.

Business individuals who are not subject to PAYE must render their tax returns and make top-up payments by 30 September. Extension of up to 12 months can be requested for tax return submission.



Chapter 24: Taxation of Trusts and Estates

Trusts

The income of a trust may be taxed in the trust, in the hands of its beneficiaries, or in the hands of a donor to the trust. Trusts are taxed on the same tax scales as individuals. Refer to the tax rate table in Appendix VI.

Trust income distributed to beneficiaries is taxed in their hands, where it retains its character and nature. Income that has been taxed in the trust and is subsequently distributed to beneficiaries is of a capital nature and not taxable in their hands.

However, to counter income splitting, there are sections in the Income Tax Act that may deem trust income attributable to a “donation, settlement or other disposition” to the trust, to be that of the donor, settlor or disposer.

Namibia currently does not levy donations tax or capital gains tax.

Deceased estates

The income of a deceased estate may be taxed in the estate (which is taxed as an individual) of either the deceased or the heirs.

Income received by the estate but that accrued or is deemed to have accrued to the deceased is taxable in the deceased's hands in the tax period ending on his death.

Other income accrued to the estate that can be attributed to the immediate benefit of ascertained heirs is taxed in their

hands. In other cases the estate income is taxed in the estate or, strictly speaking, in the hands of the estate executors in their capacity as such.

Namibia currently does not levy estate duty or capital gains tax.

Insolvent estates

An insolvent estate, through its trustee, administrator or liquidator, is subject to income tax. The insolvent is assessed up to the date of insolvency and the insolvent estate is assessed for the period of insolvency.

As the insolvent and the insolvent estate are deemed to be the same person, an assessed loss of an insolvent is to be carried forward for set-off against income derived during insolvency, provided that, in the case of a company, the insolvent estate continues to trade. If the insolvency or sequestration order is subsequently set aside, the assessed loss of the insolvent estate may be carried forward for utilisation by the person whose estate was previously in insolvency.

Chapter 25: Value-Added Tax (VAT)

In terms of the Value-Added Tax Act, Act No. 10 of 2000 (the VAT Act), VAT is payable:

- When supplies of goods and services are made;
- By a registered person;
- In the course of a taxable activity,

or when

- Goods and services are imported.

The events referred to above may result in a liability for VAT or may be exempt from VAT.

Supplies that are not exempted from VAT and are taxable supplies and are subject to VAT at one of two rates, namely:

- A standard rate of 15%; or
- A zero rate (0%).

Registered persons

There is an obligation on every person who carries on a taxable activity and who makes taxable supplies exceeding the threshold of N\$500,000 (as from 1 January 2016) in any 12-month period preceding his/her application or if the taxable supplies is expected to exceed the threshold in the following 12-month period, to register for VAT.

Taxable supplies mean the value of all zero-rated supplies and standard rated supplies. Taxable supplies do not include exempt supplies.

A person who becomes liable to

register for VAT will have to apply to the Commissioner of Inland Revenue for registration within 21 days of becoming liable to register.

A person is, however, not obliged to register if the Commissioner is satisfied that the N\$500,000 limit has been or will be exceeded solely as a consequence of any cessation, or substantial and permanent reduction in the extent of the taxable activity or the replacement of capital goods.

In deciding whether to register or not, an unregistered person must consider both his past and his future turnover.

Voluntary VAT registration has been addressed specifically. If a person reasonably expects to at least make taxable supplies exceeding N\$200 000 in any 12 month period, application can be made for voluntary VAT registration. If a person however failed to comply previously to VAT or income tax obligations, Inland Revenue may refuse voluntary VAT registration. All the other requirements as for compulsory VAT registration, i.e. a Namibian bank account, place of business, adequate accounting system, etc. must also be observed.

A person who does not carry on any taxable activity cannot register for VAT. A taxable activity is any activity carried on continuously or regularly within or partly within Namibia in the course of which goods or services are supplied for a consideration, whether or not for a pecuniary profit. Included are certain activities of local authorities, welfare organizations and share block companies. Specifically excluded are the activities of

a permanent, independent branch located outside Namibia, activities of the state, services rendered by an employee to their employer, and activities involving the making of exempt supplies.

Once registered, registered persons pay VAT on taxable supplies made to them for the purpose of their entity and charge VAT on the taxable supplies made by them in the course of furtherance of their taxable activities. If the VAT the registered person pays exceeds the VAT the registered person charges in a tax period, the registered person obtains a refund of the excess from the Receiver of Revenue. If the VAT charged exceeds the VAT paid by a registered person in a tax period, the registered person pays the excess to the Receiver.

A registered person will have a two (calendar) month tax period. Farmers may (subject to their preferences) elect to have a two, four, six or twelve calendar month tax period. For each tax period a person must submit a VAT return together with the payment of any VAT owing. The return also activates a refund of VAT in appropriate cases.

A person applying for voluntary VAT registration may elect a tax period of 6 calendar months at the time of application. If not, the default tax period under voluntary VAT registration will be 2 calendar months.

In terms of recent amended legislation, a person may apply for de-registration after registered for VAT. Previously a waiting period of 2 years applied.

Registration for VAT

To register for VAT, the taxpayer must provide the following information:

- A bank account in the name of the taxpayer;
- A bank stamp on the VAT application form verifying the bank

- account details of the taxpayer;
- A health and fitness certificate from the municipality in the region in which the taxpayer's offices are situated; and
- A signed VAT application form.

Goods and services

There must be a supply of goods or services or an importation of goods or services for VAT liability to exist. Goods are corporeal movable or immovable property, thermal or electrical energy, heat, gas, refrigeration, air conditioning and water, but does not include money.

The meaning of "services" is very wide, and means anything that is not goods or money; and covers anything done or to be done, including the granting, assignment, cession or surrender of any right or the making available of any facility or advantage.

Imported goods

To make Namibian suppliers competitive with foreign suppliers, the importation of goods and services is subject to VAT. In addition, the VAT Act has a schedule that lists goods that are exempt from VAT on importation, whether by a registered VAT person or an unregistered VAT person.

Inland Revenue has been authorised under recent VAT amending legislation to request a guarantee for import VAT due by import VAT account holders. The misuse of an import VAT account or VAT account further has been criminalised, with penalties up to N\$8 000 or 2 years imprisonment or both.

Imported services

VAT is only payable upon 'imported services' as defined in the Act. These are services:

- received by a person who is a resident of Namibia; and
- who is not intending to utilise the services in order to make taxable supplies,
- supplied by a non-resident person; or
- by a supplier who is resident and carries on business outside Namibia.

Where the imported service is to be utilised in order to make taxable supplies it will not constitute an imported service, and no VAT will be payable. VAT will, however, be payable on services imported by registered or non-registered VAT persons and if utilised in order to make non-taxable supplies.

No VAT is payable on the importation of services, if the service would be exempt or zero-rated if it were rendered in Namibia (e.g. transport of passengers by road).

Where tax is payable on an import of services, the recipient of the imported service is required to furnish the Commissioner with an import declaration and the tax payable within 30 days after the time of the import. The value of the import of services shall be the amount of the consideration for that import and the tax payable will be 15% of the value of the import.

Zero-rated supplies

The VAT Act contains a list of the supplies of goods or services that are taxed at the zero rate. Most of the items refer to exports and international transport, but certain other goods, for example basic food stuff, the sale of an enterprise as a going concern, fuel subject to the fuel levy, and goods deemed supplies by welfare organisations are also zero-rated.

A zero-rated supply made by a registered person is subject to VAT, but at a rate of 0%. On a zero-rated supply, a registered person does not charge VAT on the consideration for the supply and he

obtains a refund or credit for the VAT paid on taxable supplies utilised in the making of the zero-rated supplies.

Exempt supplies

Similarly, the VAT Act contains a list of the supplies of goods or services that are exempt from VAT. The main exempt supply is that of financial services. All fee-based financial services are subject to VAT.

The VAT Amendment Act 2015 contains a provision which exempts financial services to non-residents but further clarity or legislative drafting might be required to address conflicting interpretation issues in this regard.

The charging of interest remains exempt. Other exempt supplies include residential rentals, domestic passenger transport by road or rail, educational services, etc.

For exempt supplies by registered persons, the registered persons do not charge VAT on the supplies and they are not entitled to a deduction or credit for the VAT paid by them on goods and services supplied to them for the making of the exempt supply. Accordingly, registered persons will treat the VAT paid by them and for which they do not obtain a deduction or credit as another cost, and will recover it in the consideration they charge for the making of the exempt supply.

Fixed property

The sale of immovable property for residential purposes is a zero-rate supply. The sale of immovable property for commercial purposes constitutes a standard rated supply, which includes farming property or farm land. Any VAT incurred in erecting or extending a building to be sold as either a residential or commercial building can be deducted by a registered person.

The provision of residential accommodation by way of letting in a 'dwelling' is exempt from VAT. Accordingly, rentals received from the letting of flats and houses, for instance, are generally not subject to VAT. However, the provision of accommodation in a 'commercial rental establishment' is wholly subject to VAT provided that the person supplying the accommodation is a registered person.

Agents and Principals

Section 46A of the VAT Act authorises registered agents providing taxable supplies on behalf of their Principals to issue tax invoices, credit and debit notes on behalf of Principals. Principals may not issue tax invoices on the same supply.

If goods and services are supplied to the agent on behalf of his or her Principal a tax invoice may be supplied to the agent on request.

The import and export of goods may be made in the name of the Agent acting for a non-registered foreign Principal. Agents acting on behalf of foreign Principals may deduct import VAT paid by the Agent, provided certain contractual and documentary conditions are met.

The Act contains specific provisions on contemporaneous documentation to be kept by Agents and Auctioneers, as well as requirements for notifications to be given to Principals.

Liability of Shareholders for Tax Debts

Shareholders of companies or members of close corporations are liable for tax debts under the VAT Act in terms of an amending provision as from 1 January 2016. Further clarity or amending legislation could be required since this could have a serious impact on any shareholders of any company (including a public company).

Filing of returns

The due dates of returns prescribed by the Income Tax Act are summarized below:

Returns	Due Date
VAT	25th of the month following the end of 2 month tax period
Import VAT	20th of the month following the end of the previous month
Import VAT on services	30 days from date of import of services
Customs and Excise	Payment at time of clearing per customs assessment notice (excluding fuel import levy payment)

Document availability requirements

In terms of section 48 of the VAT Act, every registered person and every person other than a registered person who is liable for the payment of tax under the VAT Act shall maintain accounting records at such registered or other person's place or places of business in Namibia.

The accounting records required to be maintained in terms of the above may be maintained in a country other than Namibia, provided-

- those accounting records are maintained on a centralised computer system in the country where such registered or other person's main activities are located; and
- that centralised computer system is linked to such registered or other person's place or places of business in Namibia; and
- such registered or other person, if at any time requested thereto in writing by the Commissioner-
 - » furnishes the Commissioner with such computer print-outs as may be specified in that request; or
 - » grants a taxation officer (employed in the directorate of Inland Revenue) access to that centralised computer system, within 24 hours from receiving that request.

Document retention

VAT records are required to be retained for a period of at least five years after the end of the tax period to which they relate, and such records shall (in so far as they are required to be so retained) be produced on demand by a taxation officer.

Chapter 26: Other Taxes

An up to date summary of Namibian taxes is available on www.pwc.com/na/en/namibia-tax-rate-card.

The following Namibian taxes are covered in specific chapters:

- Income tax – individuals and corporates (Chapters 17, 19 and 23);
- Value-added tax (Chapter 25);
- Customs duties (Chapter 25);
- Social Security Contributions (Chapter 17);
- Vocational Education and Training (Skills) levy (Chapter 17);
- Withholding taxes on interest, foreign dividends, royalties and services (management, technical, administrative, consultative, entertainment and directors fees) (Chapter 20);
- Petroleum Taxation (Chapter 19).

The Namibian Government collects further revenues through the following taxes:

Fuel levy

Current fuel levy rates in terms of Part 5 to Schedule I of the Customs and Excise Act, 1998 are as follows:

- Petrol 12c/l
- Diesel 10c/l
- On paraffin (mixtures of heating and illuminating kerosene) 47c/l.

In addition the following levies are currently included in the pump prices of fuel in Namibia:

- Road Fund
- MVA Fund

- Road Safety Secretariat
- Equalization Fund

Vehicles with a GVM exceeding 3,500 kg should be registered with the Road Fund Administration in Namibia and are subject to Mass Distance Charges.

Stamp duties

Stamp duties are payable on a variety of instruments. The most important is the duty on the registration of the transfer of Namibian securities, including shares or stock, at 0.2% of the consideration given for, or the value of the security, whichever is greater.

Other instruments that attract stamp duty are deeds of transfer of immovable property, bills of exchange, promissory notes, debit entries made by banks and others, mortgage bonds, certain customs and excise documents, fixed deposit receipts, instalment credit agreements, leases of fixed property, life insurance policies and security documents.

Customs and excise duties

Customs duties are levied on certain goods imported into Namibia. The rates are usually calculated on an ad valorem basis. Namibia applies the Harmonised System and is party to the World Trade Organisation (WTO). Namibia is also a member of the Southern Africa Custom Union (SACU), hence the application of common external tariffs on imports outside SACU. Specific and ad valorem excise duties and the corresponding specific and ad valorem customs duties are levied on production or importation of excisable products such as fuel, jewellery, tobacco, beer, cigarettes and liquor.

Transfer duty

Transfer duty is imposed on the value of property acquired by any person by way of a transaction, or in any other manner, or on the amount by which the value of the property is enhanced by renunciation of an interest upon the use or disposal of the property.

The rates of transfer duty for the acquisition of fixed property by natural persons are as follows:

Natural Persons: Non-Agricultural property	
Value of property N\$	
0 – 600,000	Nil
600,001 – 1,000,000	1% of value exceeding N\$ 600,000
1,000,001 – 2,000,000	N\$ 4,000 plus 5% of value exceeding N\$ 1,000,000
2,000,000 and above	N\$ 54,000 plus 8% of value exceeding N\$ 2,000,000
Other persons	
Any value	12%
Special rates are applicable on natural persons who acquired commercial farmland through the Affirmative Action Loan Scheme.	

Environmental taxes

The Ministry of Finance proposed the introduction of a number of environmental levies. It is expected that the Bill for environmental taxes might be introduced during the first half of 2016.

The first levies proposed to be introduced will be a tax on incandescent bulbs, tyres and carbon emission tax on motor vehicles. Details of the rates and how the levies will be payable are not yet available.

Levies on plastic bags and bottles are being investigated.

Export Levies

The Ministry of Finance intends to introduce legislation to tax certain mineral, plant or other products from Namibia that are exported. Further details will be available once the Bill is introduced in the National Assembly of Namibia, which is expected to be during the first half of 2016.

Mining royalties

Royalties are levied in terms of the Prospecting and Mining Act as a percentage of the market value of the minerals extracted by licence holders in the course of finding or mining any mineral or group of minerals. The rates are determined as follows:

Group of Minerals	Royalties %
Precious metals / Base and rare metals	3%
Semi-Precious stones/Industrial metals/Non-Nuclear fuel minerals	2%
Nuclear fuel minerals	3%
Oil and Gas	5%

Chapter 27: Tax Treaties

Namibia has Double Taxation Agreements (DTAs) with the following countries:

- South Africa
- Russian Federation
- Sweden
- Mauritius
- Malaysia
- Romania
- India
- United Kingdom (Extension of 1962, SA treaty)
- Germany
- France
- Botswana

The DTA between Namibia and Canada was not ratified by the Namibian Government at the time of print.

The majority of Namibian DTAs are based on the OECD model.

When dealing with the taxation of non-residents, the DTA should be considered, as it could influence the amount of tax payable.

It is imperative to note that a DTA will only apply when both countries have a taxing right on a particular income.

Generally the domestic tax laws of countries impose tax in one of three ways:

- The taxation of persons (natural or non-natural) who are either nationals or residents of the country (residence);
- The taxation of income arising from economic activity occurring within the country (source);
- The taxation of income arising from property located in the country (source).

The Department of Inland Revenue is currently in the process of compiling a national framework for DTAs. It indicated that DTAs will subsequently be re-negotiated based on the framework.

Chapter 28: Education

The office of the Permanent Secretary of the Ministry of Education, Arts and Culture is responsible for co-ordinating the activities of the ministry and for ensuring that the ministry provides education to Namibians in line with Article 20 of the country's Constitution²⁷.

The Ministry of Higher Education, Training and Innovation was established in March 2015 to be the main driver of the economic and sustainable development of the country through a qualified and skilled workforce.

Along many functions, this Ministry primarily seeks to expand and promote the following:

- access to higher education;
- quality of higher education;
- knowledge creation;
- skills' development;
- creativity and innovation;
- job creation; and
- poverty reduction.

Pre-primary education

A number of Namibian schools previously offered pre-primary grades, but early childhood development was considered to be a function that would best be handled at the local and community level. It was, therefore, decided to shift the responsibility for early childhood education to the Ministry of Regional and Local Government, Housing and Rural Development.

In 1995, pre-primary grades in public schools were closed, with the exception of

pre-primary grades within special schools. Private schools could continue with pre-primary education, but were no longer subsidized by government.

Primary and Secondary education

There are approximately 1,698 primary and secondary schools in towns across Namibia. The majority are managed by the Ministry of Education, Arts and Culture and others are privately owned.

A free primary and secondary education directive for public school learners has been implemented within the past three years. According to this directive, learners up to grade twelve at public schools do not have to pay school fees anymore.

Government schools follow a curriculum programme offered by the Ministry of Education, Arts and Culture in collaboration with the University of Cambridge called the Namibia Senior Secondary Certificate.

Private schools offer various curriculums (including those followed in government schools), including the International Baccalaureate Diploma Programme (IBDip). Each private school offers something different.

Refer to the website of the Ministry of Education, Arts and Culture for a list of schools: <http://www.moe.gov.na/>

²⁷ <http://www.moe.gov.na>

Tertiary/Higher education

There are a number of tertiary educational institutions in Namibia, some of which are listed below:

- The Namibia University of Science and Technology;
- The University of Namibia;
- The International University of Management;
- Caprivi College of Education;
- Rundu College of Education;
- Ongwediva College of Education;
- Windhoek College of Education;
- Monitronic Success College; and
- National Graduate School of Accounting (NGSA).

Various South African and other tertiary institutions offer correspondence courses and seminars in Namibia.

Namibia also has a number of vocational training institutions, including:

- Caprivi Vocational Training Centre;
- Rundu Vocational Training Centre;
- Windhoek Vocational Training Centre.



Chapter 29: Industries

Investment Landscape - policy, plans and priorities

The Namibian Government is currently implementing the Fourth National Development Plan (NDP4), which will contribute to the goals of the long-term national Vision 2030 goals.

The main aim of NDP4 is accelerated economic growth and deepening rural development, while under Vision 2030 Namibia aims to become an industrialised and knowledge-based economy. The aim is to achieve economic diversification and rapid growth to reduce widespread poverty, unemployment, urban-rural disparities and the incidence of HIV/AIDS, while accelerating productivity increases in agriculture. Namibia is accelerating structural reforms with a focus on encouraging domestic and foreign investment through a more flexible labour market and further improving the business climate.

Namibia is considered a favourable investment destination for its progressive

macroeconomic environment, political stability, independent judicial system, protection of property and contractual rights, good quality infrastructure and easy access to SADC and other African markets.

The Namibian economy has become less dependent on agriculture and mining and has diversified its exports. The variety of Namibian goods and services sold abroad as well as markets in which they are sold have also increased.

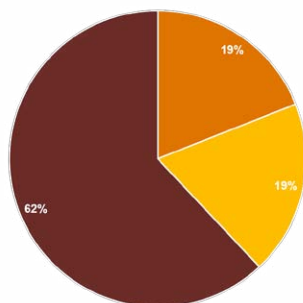
The main sectors in the Namibian economy are:

- Agriculture
- Mining
- Fishing
- Diamond cutting and polishing
- Manufacturing
- Construction
- Electricity
- Water
- Tourism
- Transport

Real economy – structure and performance

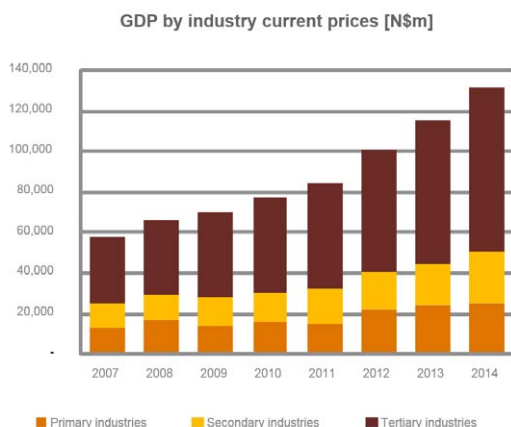
Structure of Namibian economy 2014 current prices [N\$m]

■ Primary industries ■ Secondary industries ■ Tertiary industries

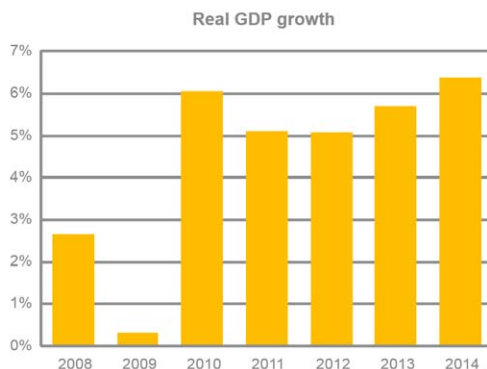


Source: Namibia Statistics Agency





Source: Namibia Statistics Agency



Source: Namibia Statistics Agency

The data used for all illustrations in this document is sourced from the Namibia Statistics Agency's Revised National Accounts 2014.

Why Invest in Namibia

Sovereign Credit Quality

Moody's Investor Service accords Namibia an investment grade credit rating (Baa3 stable). This implies a considerably lower risk profile relative to its Sub-Saharan Africa peers.

Modern infrastructure

A well developed telecommunication, road and port infrastructure facilitates fluidity of trade and investment initiatives. This network provides access to over 30 million consumers in landlocked neighbouring African markets.

Established financial system

The Namibian economy is characterised by relatively sophisticated savings and investment institutions. The Financial Intelligence Act No. 13 of 2012 protects investors from activity which may relate to possible money laundering or the financing of terrorism. The Namibian Dollar is linked to the South African Rand, the largest economy in Southern Africa.

Stable business operating environment

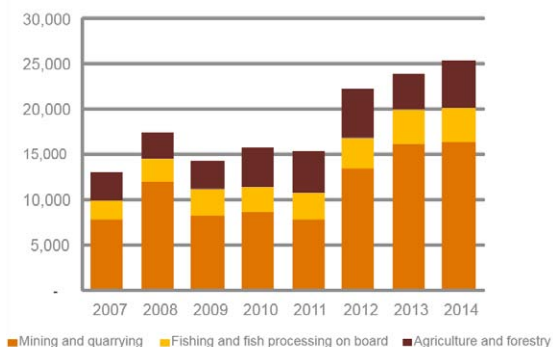
Namibia has solid foundations for democracy, good governance, peace and stability. The Namibian Foreign Investment Act provides specific protection to foreign investors in Namibia.

Opportunities

- Industrialisation – focus on growing the domestic manufacturing base
- Trade and logistics – the world's gateway to Southern Africa and beyond
- Tourism – contrasting landscapes, pristine destinations
- Exploration – diverse mix of commodities
- Mineral beneficiation – tapping into the domestic extractive industries
- Manufacturing – growing off a low base
- Agriculture and Agro-processing – branding and marketing

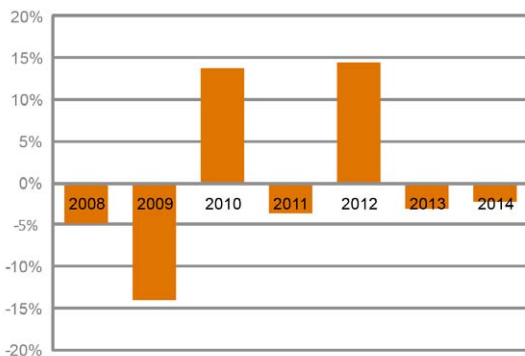
Primary Industries

Primary industries GDP current prices [N\$m]



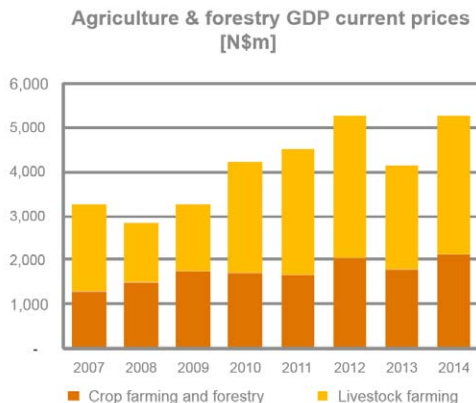
The Namibian economy has traditionally been led by the extractive industries, mainly mining. As a result, volatility inherent in these industries generally translated to the broader economy.

Primary industries real growth



In order to diversify the economy and to enhance economic development, value addition is a key focus of Namibia's Growth at Home Strategy.

Agriculture and forestry



The agricultural sector is estimated to have recovered by 9.6% in real terms during 2014 compared to a contraction of 19.3% recorded in 2013. This is mainly due to the severe drought experienced in 2013 which negatively impacted both crop and livestock farming. Agriculture is a key focus area for the Namibian government for food security reasons and because it is an important source of income for the majority of Namibians. The Green Scheme policy of the government offers great potential to expand and increase production of food under irrigation. The policy aims to establish approximately 22,000 hectares under irrigation along the perennial rivers bordering Namibia. The construction of storage facilities in strategic regions will enable grain produced by small-scale farmers to be bought and stored in the silos for use during time of need. This policy has been responsible for growth in the sector prior to the drought of 2013. Investment opportunities in this sector can broadly be classified as follows:

- Land and water management
- Access to retail markets through branding and distribution
- Agricultural research.

Livestock farming

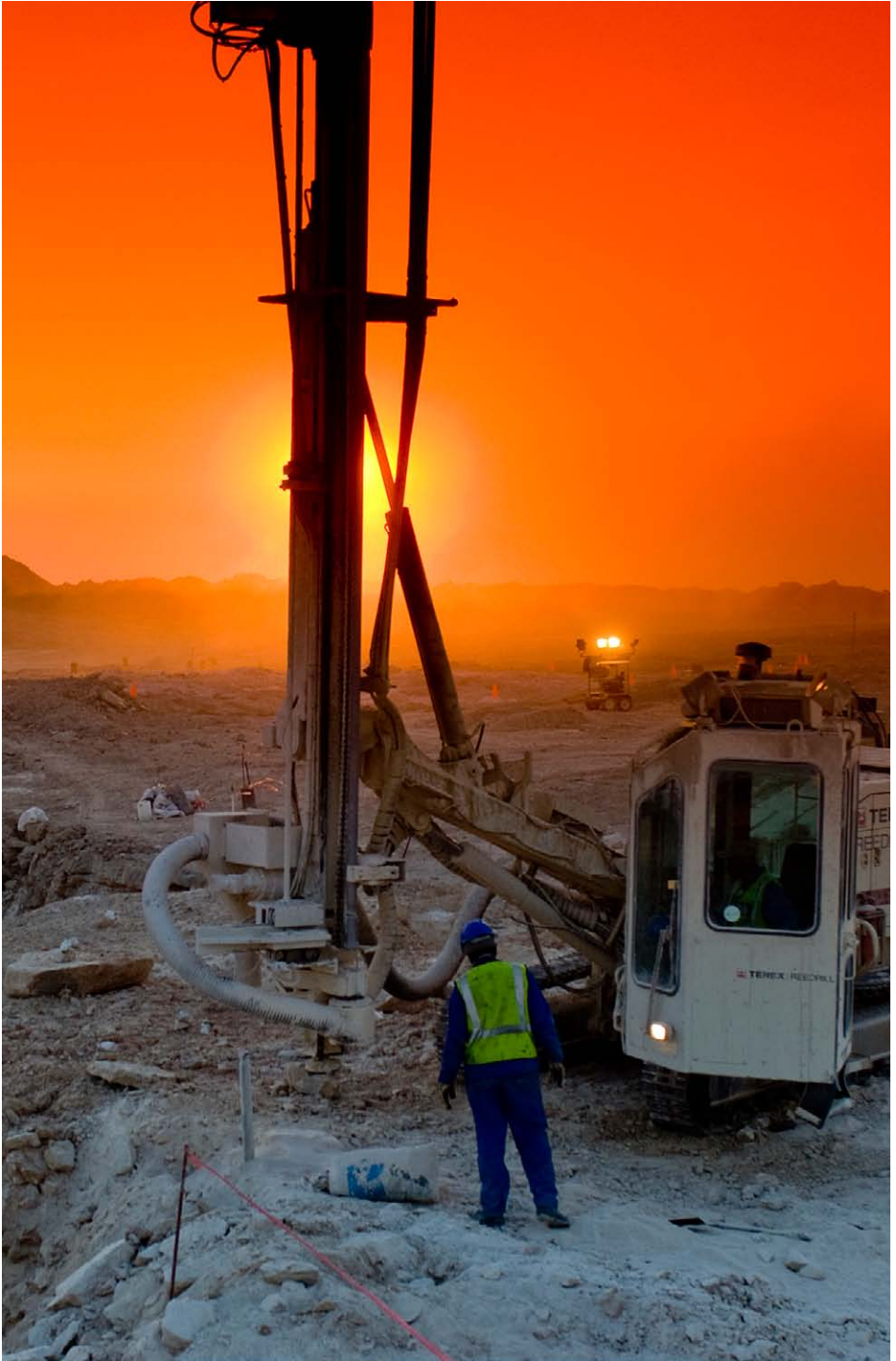
Namibia's livestock farming sector was valued at N\$3.1bn in 2014 having recovered by 13% following a drought-induced 25.5% contraction in 2013. In this sector, investors can gain exposure to value addition opportunities through increased volumes at local abattoirs, processing, branding and finding alternative markets. Lessons from the drought also pointed to the following investment opportunities:

- Producer value addition
- Development of fodder capacity
- Establishment of feedlots.

Crop farming and forestry

The Green Scheme policy creates a favourable environment for investments in crop farming and agro-processing. As Namibia is also a signatory to the Kyoto Protocol, green projects can benefit from carbon credits. There is potential for:

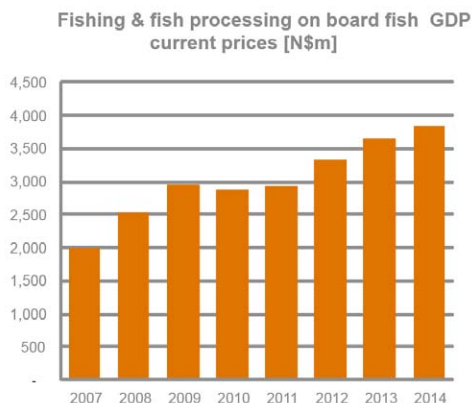
- Crop farming
- Agro-processing
- Irrigation technologies
- Agricultural research
- Carbon trading.



Fishing and fish processing on board

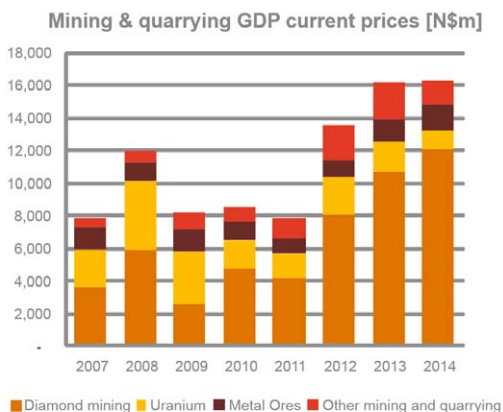
Namibia's fishing grounds stretch up to 370 km along its 1,570 km coastline and benefit from the nutrient rich Benguela current system. Over 20 fish species are prudently managed and landed. This economic sub-sector recorded a real decline of 2.5% in 2014 following growth of 3% in 2013. The sector is exposed to oceanic and exchange rate conditions. Investment opportunities include:

- Fleet replacement and maintenance
- Mariculture
- On-shore fish processing
- Financial services relating to hedging against a strong domestic currency.



Namibia's aquaculture potential remains to be fully explored considering that this is the fastest growing food producing sector globally. Investments in infrastructure and downstream activities would hasten this sector's growth.

Mining and quarrying



Namibia is a world-class producer of gem-quality rough diamonds, uranium oxide, special high-grade zinc and acid-grade fluorspar, as well as a producer of gold bullion, blister copper, lead concentrate, salt and dimension stone. The Chamber of Mines of Namibia has a membership base of 104 companies and represents the interests of all major mining and exploration companies active in the country.

Mining activity contracted by 6.3% in real value during 2014 following growth of 2.6% in 2013. The decline can be attributed to uranium (-9.9% on weak demand and depressed prices) and other mining and quarrying (-39.7% owing to the closure of the fluorspar mine and lower production of granite and marble).

Diamond mining

Namibia is world-renowned for its gem-quality diamonds that occur along the Orange River as well as onshore and offshore along the coastline. At N\$12 bn diamond mining remains the mainstay of the domestic mining industry accounting for 8.6% of GDP in 2014. The sub-sector recorded real growth in output of 6.2% in 2014 a slowdown compared to the 10% recorded in 2013.

Uranium

Namibia is one of the world's principal uranium producers and its role in this industry is expected to grow in prominence going forward as a considerable number of nuclear plants around the world are restarted and commissioned. At an investment of N\$22 bn, Husab is set to become the world's second largest uranium mine which would rank Namibia second in global uranium production. In 2014, uranium mining registered a decline in real value added of 9.9% compared to a 6.9% contraction recorded in 2013. The N\$1.2 bn value of output from the sub-sector now represents 0.9% of GDP compared to 1.5% in 2013.

Metal Ores

The value of metal ore output increased marginally (+0.6% to N\$1.5bn in 2014) after dropping 25.8% in 2013. The price of metal ores in general fell in 2013 as a result of oversupply while the marginal growth experienced in 2014 is attributable to lower zinc (-12%) and manganese (-16.8%) production.

Copper

Tschudi mine is being developed with a capital investment of N\$900 m and will produce copper cathode for the first time in the history of Namibia, creating possible downstream value addition activities.

Dundee Precious Metals Smelter at Tsumeb is designed to treat complex ores containing high levels of copper, lead, zinc, arsenic and cadmium. The smelter's copper blister production capacity increased from 147,000 mt of concentrate in 2010 to a current capacity of 240,000 mt per year.

Gold

With an investment of N\$2 bn, B2Gold's Otjikoto Gold will become Namibia's second gold mine. In the first five years of its twelve year mine life, the Otjikoto Mine is expected to produce approximately 141,000 ounces of gold per year at an average cash operating cost of \$524 per ounce.

Zinc

Economic deposits of zinc are mined in southern Namibia where Rosh Pinah and Skorpion are operational zinc mines. Southern Namibia, in particular the Gariep Belt is highly prospective for Rosh Pinah-type massive sulphide deposits, as well as for Skorpion-type non-sulphide zinc

deposits. Skorpion deposits are treated by direct acid leach, solid liquid separation, a unique zinc solvent extraction and electro-winning to produce high-purity zinc on site at low cost.

Steel

Otavi Steel is in the process of establishing a steel production facility consisting of a steel nano-mill with an annual production capacity of 300,000 mt of steel and the Otavi Steel mill which is expected to produce ten million metric tons per year.

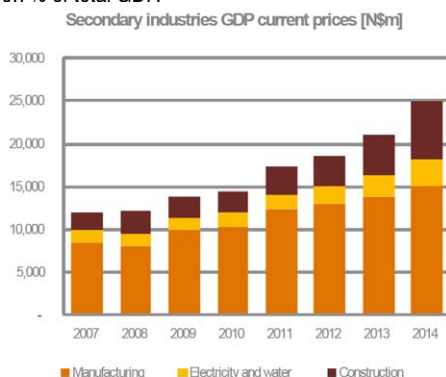
Other mining and quarrying

Other mining and quarrying dropped by 39.7% in 2014 compared to growth of 11% in 2013 as the fluor spar mine closed down due to weak prices and production of granite and marble declined.

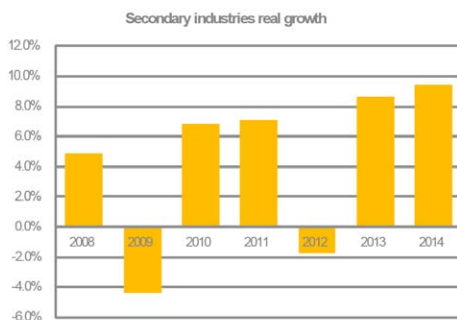
This sector has a total output of N\$1.5 bn and comprises of industrial chemicals like fluor spar and construction industry inputs such as dimension stone, concrete aggregate and sand.

Secondary Industries

Namibia's secondary industries are led by manufacturing which is valued at N\$15.1 bn representing 10.7% of total GDP.

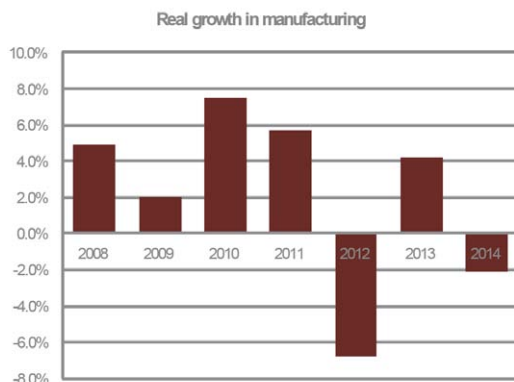


Value addition is a critical part of Government policy and is defined as the transformation of an original product into a new product or products by processing and/or manufacturing operations across the value chain of the industries with special emphasis on the degree of transformation.



Manufacturing

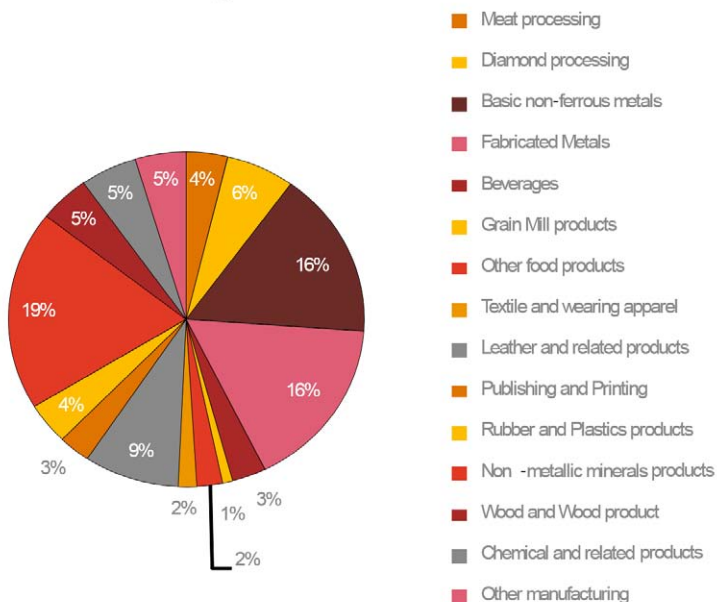
Increased manufacturing through greater downstream beneficiation is a key focus of the Namibian Government's Growth at Home strategy.



The manufacturing sector recorded a decline of 2.2% in 2014 meat processing (-17.4%), beverages (-18.1%), textile and wearing apparel (-30.3%) and basic non-ferrous metals (-3.2%). The contraction compares to growth of 4.2% in 2013.

In order to stimulate manufacturing growth, government policy includes tax incentives for exporting manufacturers and exemption from paying value added tax on imported machinery and equipment.

Manufacturing sector structure 2014



GDP by activity current prices - N\$ m		
Industry	2013	2014
Manufacturing	13,828	15,094
Meat processing	683	568
Grain mill products	853	938
Other food products	2,172	2,436
Beverages	2,181	2,502
Textile and wearing apparel	721	467
Leather and related products	128	141
Wood and wood products	314	354
Publishing and printing	219	250
Chemical and related products	1,131	1,306
Rubber and plastic products	360	439
Non-metallic mineral products	472	604
Nonferrous base metals	2,725	2,914
Fabricated metals	623	697
Diamond processing	699	778
Other manufacturing	548	700

A key opportunity in Namibian manufacturing is that of growth coming off a low base, due to the limited ability of most local manufacturers to market their products regionally and internationally. Such an export market strategy would enable greater economies of scale in the domestic manufacturing industry and lower per unit costs.

Meat processing

Namibia's meat processing industry was valued at N\$0.6 bn in 2014 declining by 17.4% due to stock accumulation following a 30.4% surge during the drought of 2013.

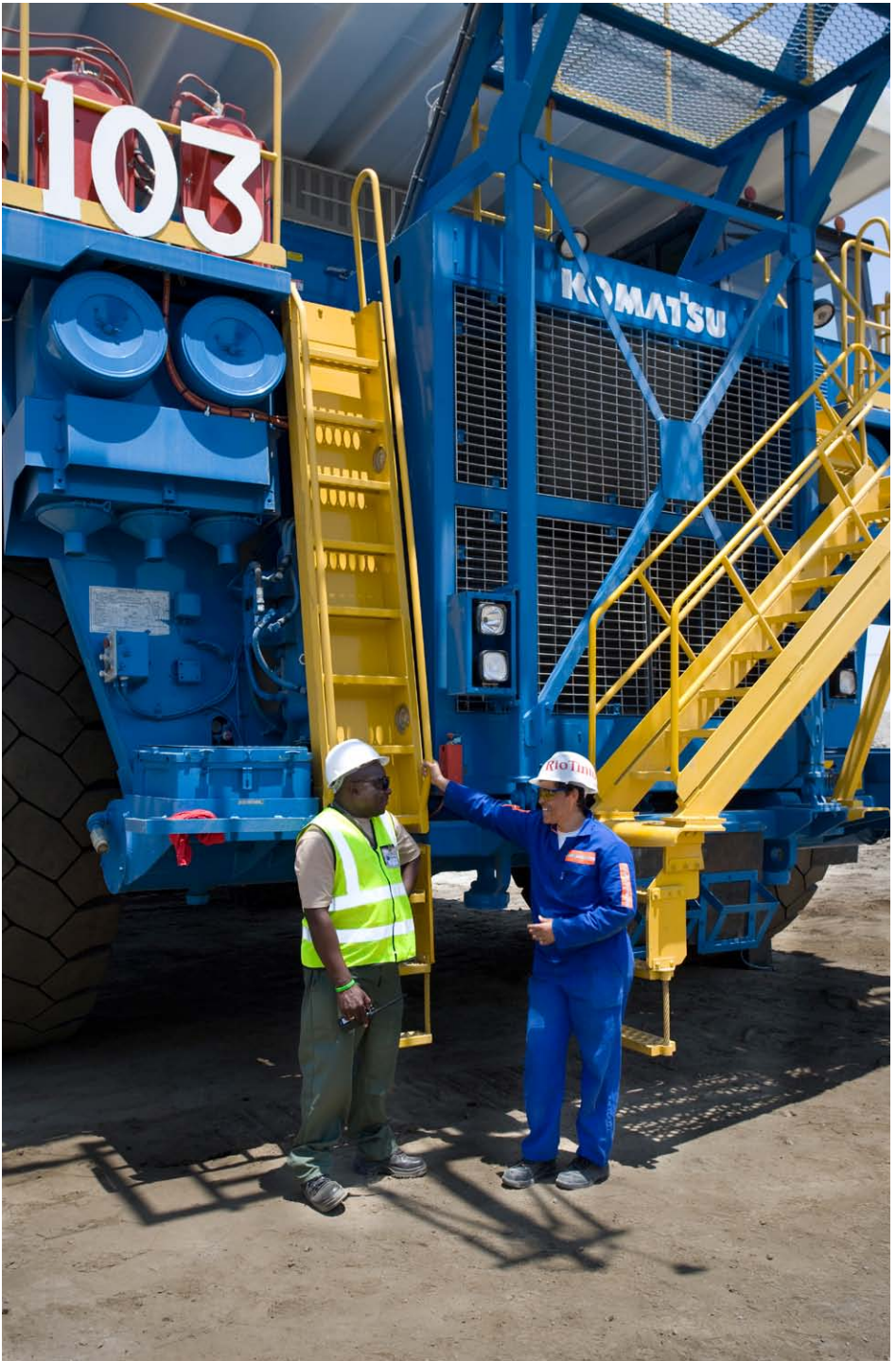
Government policy remains in favour of domestic value addition in the meat industry versus live exports of livestock. Increased through-put at local abattoirs would also support volumes in the domestic leather industry. Direct investment opportunities in this sector include:

- Leather tanning
- Meat processing
- Production of sodium stearate
- Access to markets through branding and distribution.

Diamond processing

In 2014, diamond processing grew by 8.2% after declining by 7.3% in 2013. The value of output from this sub-sector was N\$0.8 bn in 2014. A clear disconnect between the value of output from diamond mining and the related beneficiation remains and this presents an investment opportunity. Through the Namibia Diamond Trading Company, the government is making efforts to increase the supply of gem-quality rough diamonds directly into the local cutting and polishing industry. The availability of numerous semi-precious stones presents an opportunity to cut, polish and manufacture a diverse range of export quality jewellery.

- Cutting and polishing of both diamonds and semi-precious stones
- Jewellery manufacturing
- Jewellery retail (access to markets).



Nonferrous base metals

This manufacturing sub-sector was valued at N\$2.9 bn in 2014 representing 2.1% of GDP.

Beneficiation according to the Minerals Policy of Namibia includes recovery and recycling operations. Namibia holds considerable potential for investment in the beneficiation of the following metals:

- Copper
- Zinc
- Iron ore and iron ore pellets

Fabricated metals

The sector grew 4% to N\$0.7bn in 2014 on the back of continued buoyancy in construction activity.

Beverages

The domestic N\$2.5 bn beverage industry consists of distribution outlets for various brands and the brewing of malt beer for both the domestic and export markets. The 18.1% real decline was due to export market woes faced by Namibia Breweries. Beverages contribute 1.8% to the value of domestic output. The industry's output is expected to grow after another brewer entered the market in 2015. Investment opportunities include:

- brewing inputs
- packaging materials
- industry support services.

Grain mill products

Valued at N\$0.9 bn in 2014 the domestic grain mill industry has grown an average 4.8% over the past five years and represents 0.7% of GDP. With a captive local market, the grain mill industry avails investment opportunities in terms of crop production and value addition mentioned earlier in this document.

Other food products

The green scheme policy aims to ensure domestic supply of key crops and vegetable. The success of this initiative would secure the requisite volumes required to undertake commercially viable processing of vegetables and fruits amongst other agricultural produce.

Namibia Dairies operates one of the most modern dairy farms in the world. With its own fodder production, dairy farms and strategic milk-producing partners, Namibia Dairies forms an integrated network of milk supply, processing, value-adding production and the largest national cold-chain distribution network in Namibia.

Investment opportunities in food production range from input supplies to branding. Imported inputs such as feed in the poultry industry for example can lead to higher prices; therefore locally produced inputs would have a competitive advantage.

Textile and apparel

Valued at N\$0.5 bn this sector plunged 30.3% in 2014, after growing by 4.7% in 2013. Supported by the African Growth and Opportunity Act, the textile and apparel industry has access to considerably larger markets. This industry has also grown from a domestic demand point of view in the form of locally manufactured uniforms and protective clothing.

Leather and related products

This manufacturing sub-sector grew by 1.5% in 2014 following a 7.3% drop in 2013 after three consecutive years of double digit growth. Namibia is endowed with diverse livestock and game which can supply the local leather industry with world class hides. The devastating drought undoubtedly had a negative impact on this sector in 2013.

Namibia's famous Swakara pelts continue to fetch record prices at the pelt auctions

in Copenhagen. Manufacturing of pelts under the Nakara brand reflects how investment in technology and innovation creates a global brand.

Publishing and printing

Opportunities in this sector lie mainly in the design of printed products and the provision of express and overnight services.

Wood and wood products

Wood and Wood products increased by 1.8% in 2014, the industry is only valued at N\$0.3 m and mainly comprises wood products such as curios, tables, chairs, beds, cupboards and doors. Investment opportunities lie upstream in forestry initiatives aimed at ensuring sustainable harvesting of raw material.

Charcoal is considered Namibia's black gold and production is promoted as a method of combating bush encroachment and thus, of increasing the carrying capacity for livestock on farms. The main markets for Namibian charcoal are Europe and South Africa.

Chemical and related products

The chemicals industry in Namibia is worth N\$1.3 bn and has grown an average 6.9% over the last five years. The industry is set to grow on the back of growing industrialisation and increasingly diverse mining activity.

Namibia's windy, arid coastal climate is highly favourable for cost effective production of solar salt, due to a virtually unlimited source of brine from the ocean. Walvis Bay Salt Refiners uses one of the largest solar evaporation facilities in Africa to produce in excess of 850,000 tons of primarily coarse industrial salt per year. The bulk of production is unrefined, chemical grade salt which is used for the production of chlorine and caustic soda, necessary for the production of a variety of synthetic products, among them plastic

and water treatment chemicals. In addition, coarse unrefined salt is also used as feed supplement in the agricultural sector or preservation agent in the fishing industry.

Dundee Precious Metals Tsumeb commissioned its new 340,000 mt per annum sulphuric acid plant in 2015. Rössing has signed an off-take agreement with Dundee Precious Metals Tsumeb to acquire 225,000 tonnes of sulphuric acid per year.

Pharmaceuticals and cosmetics

The formal market for Namibian indigenous natural products encompasses value-added products such as hoodia (capsules, gel and drops) and devil's claw (tea and capsules), as well as skin and hair care products containing ingredients derived from ximenia and marula oil. Industry investment opportunities range from research and commercial production to manufacturing, marketing and distribution.

Electricity and Water

The regional power supply deficit compels Namibia to augment its generation, transmission and subsequently energy trading ability. These challenges present numerous opportunities in the energy space. With increasing mining and industrial activity NamPower has embarked on a programme encompassing demand side management, refurbishments, new power stations, transmission and renewable energy to boost its capacity. NamPower will invest N\$18 bn in new power supply projects over the next 4 to 5 years. Namibia's proposed flagship energy project, the Kudu gas-to-power project which would make Namibia a net exporter of electricity, is expected to be operating commercially in 2019.

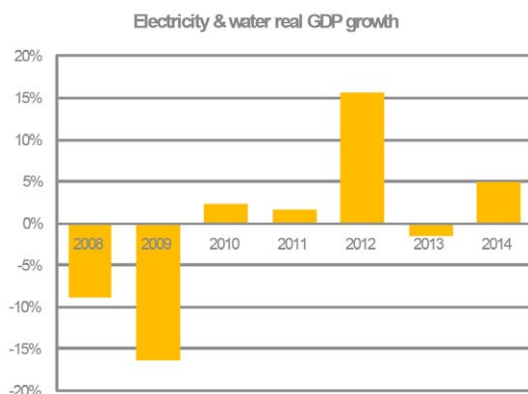
The potential for renewable energy in Namibia lies in its sun intensity and open spaces to harness wind and solar power. The financial feasibility study of bush-to-electricity power plants which will be fuelled with invader bush is currently

ongoing in the form of a 250 kw plant.

Namibia's electricity pricing policy states that tariffs should reflect the long-term marginal cost of supply and be based on sound economic principles.

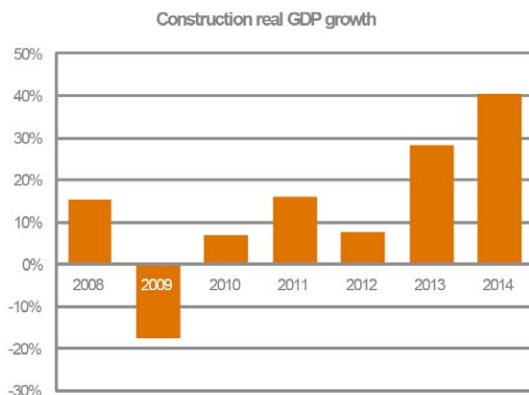
With a water crisis prevailing in the central regions and coastal demand for water expected to double by 2018 desalination is widely considered the most viable and sustainable option. Consultations are underway regarding plans by Namwater and the Ministry of Agriculture Water and Forestry to supply mines with desalinated water while towns are to be phased in when groundwater sources have been fully utilized.

Areva Namibia, which operates a desalination plant, has an agreement to supply Rössing Uranium and Husab mines with several million cubic metres of water per year.



Construction

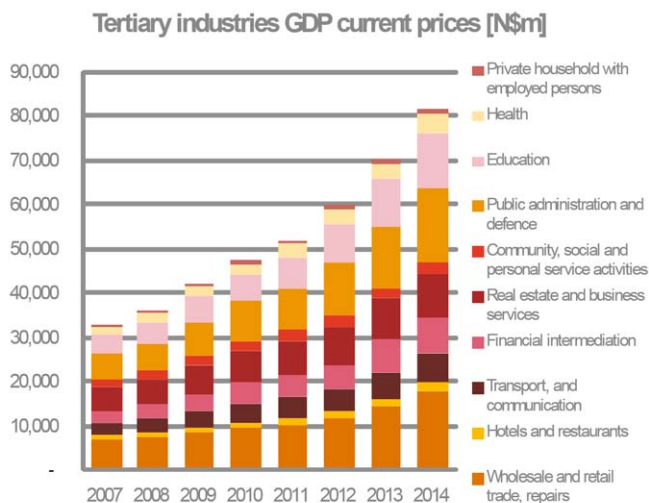
Valued at N\$6.9 bn in 2014, the Namibian construction industry grew by 40.5% and has grown at an average 19.8% over the last five years. The sector has been driven by the insatiable need for housing and large scale infrastructure projects.



The trend is expected to continue based on the housing backlog, continued rural-urban migration, higher levels of disposable income and infrastructure projects in the pipeline. Invariably this creates investment opportunities in:

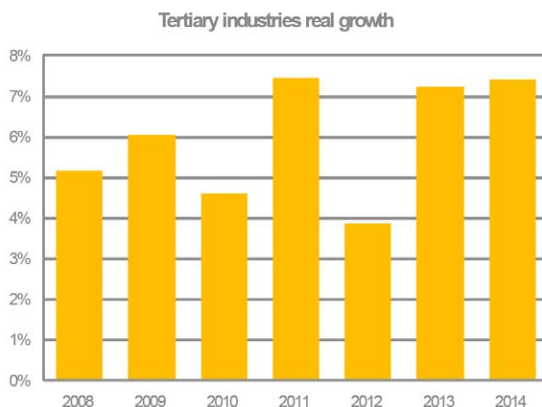
- Building supplies
- Conventional construction
- Alternative building and energy efficient concepts
- Funding.

Tertiary Industries



Tertiary industries are mainly led by government services; they contribute N\$81.4 bn to the value of total output and represent 62% of GDP at basic prices compared to 57% in 2007.

The Namibian economy's recovery following the global financial crisis has undoubtedly been supported by government spending.



Wholesale, retail trade and repairs

The N\$17.5 bn wholesale and retail trade industry (representing 12.4%) has grown an average 9.4% over the past five years. Growth has been supported by shifting consumption patterns and rising disposables incomes. Initiatives to increase the shelf presence of Namibian products will help establish firmer linkages between the local manufacturing and retail sectors. Through the port of Walvis Bay, Namibia is well positioned to become a regional player in the auto and automotive spare parts trade.

Transport

Growth in the N\$2.9 bn transport industry (representing 2% of domestic output) has averaged a respectable 7.6% over the last five years, boosted by improved infrastructure, increased logistics activities in Namibia and the expansion of capacity at the Namibia Ports Authority (Namport).

Transport and logistics are a key focus growth area with volumes expected to be boosted by demand both domestic and from neighbouring landlocked countries. Regional growth to a large extent relies on extending capacity at the Port of Walvis Bay, and upgrading the complementary rail and road infrastructure.

Business Services

The Namibian economy has become increasingly diverse since independence and as a result the value of business services rendered in the economy has increased from N\$1.1 bn in 2007 to N\$2.6 bn in 2014. The sub-sector's contribution to GDP is 1.9%. Prospects for business service investments include:

- Capacity building
- Business support services
- IT development and support
- Call centre operations
- Automotive testing.

Tourism

The contribution of tourism to the economy is not adequately captured in the national accounts. The World Tourism and Travel Council (WTTC), tourism satellite accounts place the direct contribution of the travel and tourism to Namibian GDP was N\$3.8 bn (or 3.0% of total GDP) in 2014. The sector is expected to grow by 7.5% in 2015 and estimated to reflect annual average real growth of 8.8% until 2025.

According to the WTTC, the total contribution of travel and tourism to GDP was N\$18.4 bn (14.9% of GDP) in 2014. This is expected to grow 5.6% in 2015 and forecast to grow on average by a real 7.2% per annum until 2025.

The increasing role of conferencing and related events in the economy is expected to boost the number of visitors to Namibia directly as well as serve as a marketing platform for the country's breathtaking and diverse tourism potential. We consider the following broad travel and tourism investment prospects:

- Hospitality
- Conferencing
- Tour operations
- Marketing.

National Development Plan Target Sectors

Namibia's Fourth National Development Plan (NDP4) identifies key economic development goals and targets for the country from 2012 to 2017. The three goals of NDP 4 are sustained economic growth, employment creation and increased income equality.

The following sectors have been identified as key focus areas required to create solid base to build on:

- Logistics
- Tourism
- Manufacturing
- Agriculture.

This section looks at these sectors and underlying investment opportunities given the prevailing business operating and policy environment.

Logistics

Namport has a key competitive advantage, which is proximity to trans-Atlantic markets. This gives time and cost related savings as well as a competitive edge in shipping time compared to the ports of Cape Town and Durban. The congestion (and associated risks) experienced at South African ports implies that through increasing operational efficiencies Namport can become even more competitive on Indian Ocean routes. Namibia's port expansion agenda gives investors opportunities to participate directly in infrastructural development and management or invest in related support services.

The port expansion project is expected to enable Namport to handle a million twenty-foot equivalent units (TEUs). It includes the construction of a quay wall, quay cranes and dredging works at the Port of Walvis Bay. The features of the new N\$3 billion container terminal include 40 hectares of new land to be used for construction of a modern container terminal, adding 600 m of quay length to the existing 1500 m, adding 650,000 TEU per annum capacity to the existing 350,000 TEU capacity.

The following opportunities in the logistics and distribution industry will benefit from Namport's expansion drive:

- Break bulk services
- Co-ordinating shipments from point of loading to the final destination
- Arranging necessary documentation and permits
- Loading of containers
- Groupage services for cargo that does not completely occupy the entire container
- Cross border services such as customs clearance
- Handling of project specific cargo

- Offering of bonded warehousing, customs licenced container terminals, covered storage, cold storage and open storage.

Tourism

In spite of existing tourist volumes, the local tourism industry can be considered relatively underdeveloped. Industry prospects lie mainly in its ability to evolve products and services offered in line with shifting patterns in the global tourism industry. Interest in activities that are conservation based, historical, cultural and adventurous has been growing and the availability of packaged holidays that cater for such activities would add value to local industry participants.

Tourism industry investment opportunities lie mainly in market diversification. This is essential in order to mitigate risks related to variability and seasonality.

Investment opportunities exist in the following business segments of the tourism sector:

- Travel (bookings, holiday packaging and tour operations)
- Hospitality
- Marketing
- Niche development (adventure, cultural and historic tourism)
- Conferencing.

Manufacturing

The emphasis on value addition implies continued growth of the domestic manufacturing sector. By manufacturing for the regional export market rather than for local consumption investors can realise economies of scale.

Innovation is critical to ensure sustainable investment opportunities. Manufacturing sector investment opportunities are in agro-processing, mining activity inputs and mineral beneficiation.

Processing of imported raw materials for

manufacturing for example, importing metals for smelting or processing food products have the potential to increase overall mineral beneficiation.

- Value addition (of both locally available and imported raw materials)
- Food processing
- Equipment supply, maintenance and repairs.

Agriculture

Food security remains a concern particularly given recurring food price shocks on the back of supply constraints. Grain exporting countries may resort to cutting or banning exports in the wake of supply disruptions. Such aggressive measures underscore the sensitivity of food security as a humanitarian concern. Government's Green Scheme projects must be complemented by private crop farming initiatives and agro-processing activities in order to make a meaningful contribution to the supply chain.

Government policy is focused on increasing livestock production, developing the livestock sector in the Northern Communal Areas (NCA) and increased value addition to primary products. Increased investment can add value to:

- Irrigation technologies
- Agricultural research
- Agro processing (both in the livestock and crop farming sectors)
- Feedlot management
- Agricultural inputs (ranging from livestock feed to fertilizer and seeds).



Chapter 30: Contacts

PwC in Namibia

A leading professional services firm

PwC Namibia is a Namibian owned organisation with global links and is committed to helping our clients meet the challenges posed by the local and global economy.

A market leader

We combine leadership, excellence and teamwork to help our clients across a diverse range of industries overcome complex situations and create long-term value. We aim to deliver exceptional value with integrity, confidence and humility. We support one another and our communities. PwC Namibia is the country's largest professional services firm that provides a range of professional services, including Assurance, Tax and Advisory Services, and operates from offices in Windhoek and Walvis Bay.

The firm's diverse client base covers the full spectrum of economic activities in Namibia. With a total complement of 14 partners, 4 associate directors and more than 200 people, PwC brings appropriate local knowledge and experience to bear and uses the depth of its resources to bring clients a professional service, specifically tailored to meet their requirements.

PwC Namibia is a member of PricewaterhouseCoopers International, the world's largest professional services organization. The international firm draws on the knowledge and skills of more than 200,000 people across 756 locations in

157 countries worldwide.

Client relationship building based on quality and integrity forms an integral part of our service delivery strategy.

The section below summarises PwC's professional services and industry expertise.

Namibia service expertise summary

Assurance provides assurance to clients on their financial performance and operations, as well as helping them improve their external financial reporting and adapting new regulatory requirements. Other services include accounting and regulatory advice, and attest and attest-related services.

Tax assists clients in complying with tax-related legislation and regulations. The firm's advice covers all aspects of Namibian tax and incorporates Human Resource Services.

Advisory provides advice and assistance based on financial, analytical and business process skills to corporations, government bodies and intermediaries in the implementation of strategies relating to creating/acquiring/financing business, integrating them into current operations, enhancing performance, improving management and control, dealing with crises and restructuring and realizing value.

PwC Services

- Assurance
- Advisory
- Tax

- PwC Business School
- Market Research & Surveys

Advisory

Consulting

- Strategic Plans
- Sector Growth Strategies
- Business Plans, Business Models
- Operational Plans and Models
- Facilitation of Strategic Planning Workshops
- Value Chain Analysis
- Market Analysis
- Feasibility and Viability Studies
- Transactional Advisory Services (PPPs)

Risk Advisory Services

- Investigations
- Accounting litigation support
- Forensic technology solutions
- Anti-corruption and fraud services
- Internal Audit services
- Systems Process Assurance
- Governance and Sustainability
- Risk and Regulatory solutions
- Financial Risk services
- Anti-Money Laundering consulting
- Integrated reporting services

Process Improvement

- Business Process Management
- Turnaround and Transformation
- Business Continuity Management
- Asset Management
- Project Management

People and Organisation

HR Transformation

- Benchmarking Surveys and other relevant research
- HR audits
- HR Strategy and Planning
- HR service delivery effectiveness
- Support in Mergers and Acquisitions
- Thought Leadership

Workforce Transformation and Talent Management

- Workforce restructuring
- Organisational Development and Restructuring
- Human Resource Policy and Procedures

- Job Description and Competency Development
- Performance Agreements
- Competency Based Recruitment and Selection
- Lean Six Sigma
- Performance and Talent Management

Change Management

- Change Management
- Change Impact and Readiness
- Culture alignment/transformation

Developing People

- Skills assessment and learning paths
- Coaching & Mentoring service offerings
- Specialised development programmes
- Skills development
- Profiling
- Team Building

Market Research & Surveys

- Delivering strategic solutions based on comprehensive stakeholder & brand research
- Aid organisations to build and sustain relationships with internal and external brands
- Equip organisations or brands with necessary resources to improve potential
- Assist to gain a competitive advantage in client's field of expertise to grow their market share

Product offering

- Advertising pre & post testing
- Brand audits
- Brand reputation analysis
- Customer service audits
- Employee satisfaction surveys
- Feasibility Studies
- Mystery shopping
- Packaging pre & post testing
- Perception testing
- Product testing

- Taste pre & post testing
- Usage & attitude studies

Assurance

- Auditing services
- Accounting services
- Agreed upon procedures
- Compilation of financial statements
- Other non audit assurance services
- Assistance on capital market transactions
- Accounting, technical and regulatory advice

Tax

Corporate Tax

- Consulting
- Tax Accounting services
- Tax Function Effectiveness reviews
- Corporate International Tax and Transfer Pricing

Value Added Tax & Customs

- Consulting
- Compliance
- Value Added Tax reviews
- Training
- Customs and Excise

Human Resource Services

- Remuneration, benefits and reward consulting
- International Assignee Services and Immigration
- Payroll and Employees' tax
- Receiver of Revenue liaison on all PAYE related matters

Compliance Services

- Preparation of financial statements
- Preparation of accounting records
- Tax compliance services – Registration
- Tax compliance services – Returns
- Company secretarial services
- Trust administration services
- Estate planning and administration

PwC Partners and Directors



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Country Senior Partner
Windhoek



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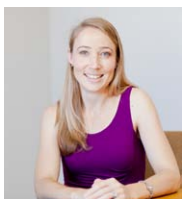
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Namibia Investment Centre

The Namibia Investment Centre (NIC) was established in 1990 under the Foreign Investment Act, Act No. 27 of 1990 with the major responsibility of promotion FDI (Foreign Direct Investment). The NIC is the first port of call for local and foreign investors.

Vision

To market Namibia as the preferred investment destination in the region by attracting and retaining both local and foreign investment.

Mission

1. Market Namibia as a favourable investment destination
2. Facilitate and create an enabling investment environment and regulatory framework
3. Ensure that Namibia has a fair share of regional and global FDI flows
4. Identify and encourage the attraction and growth of inward and outward domestic investment.

The Namibia Investment Centre is a department within the Ministry of Industrialisation, Trade and SME Development. The organisational structure of the Ministry of Industrialisation, Trade and SME Development is as follows:

Organisational Structure

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Appendix I: Corporate Tax Rates

The following table summarises the corporate tax rates (at the time of publication) of the following types of companies²⁸ on their taxable income for the years of assessment commencing on or after 1 January 2016:

	2016
	%
Non-mining companies	32
Mining companies other than diamond mines	37.5
Diamond mines	55 ²⁹
Life insurance companies ³⁰	12.8
Registered manufacturers ³¹	18
Petroleum production companies	35

Up to date tax rates are available on

www.pwc.com/na/en/namibia-tax-rate-card



²⁸ Companies include close corporations.

²⁹ Tax rate of 50% plus a surcharge of 10%, effective rate of 55%

³⁰ Company tax rate of 32% is applied to 40% of the gross amounts earned from the investment of funds.

³¹ Companies registered at the Directorate of Inland Revenue ('DIR') as registered manufacturers in terms of section 5A of the Income Tax Act, Act 24 of 1981 are taxed at a rate of 18% for the first 10 years from registration, and from then onwards at the normal corporate tax rate.

Appendix II: Tax Allowances and Incentives

Capital allowances

The cost (including finance charges) of machinery, equipment, and other articles used by the taxpayer to generate income is deductible in three equal annual allowances. No apportionment is allowed where an asset is held for less than 12 months.

Buildings used by the taxpayer to generate income qualify for an initial allowance of 20% of erection costs in the year they are first brought into use. Thereafter, an annual allowance of 4% is deductible for the 20 following years. Additions to existing buildings (not alterations, improvements, or repairs) qualify for the same 20% and 4% deductions. Note that the allowance is calculated on the cost of erection and not the cost of acquisition.

Mining exploration and initial development expenditure incurred before commencement of mining production are deductible in full in the first year that income is generated from the mine. Subsequent development expenditures are deductible in three equal annual allowances.

Capital allowances may also be deducted with respect to patents, trademarks, leasehold improvements and lease premiums.

A recovery or recoupment of allowances previously claimed should be included in the gross income of a taxpayer in the event that the allowance is recovered or recouped by way of disposal, withdrawal from trade for non-trade purposes, or removal from Namibia. The recoupment is calculated at the market value of the asset.

Goodwill

The amortisation of goodwill is not deductible for tax purposes and should be excluded from calculating taxable income.

Manufacturing incentives

All manufacturing concerns claiming incentives must register with the Ministry of Industrialisation, Trade and SME Development and, in respect of taxation incentives, must also be registered with the Ministry of Finance in accordance with section 5A of the Income Tax Act.

To promote control and prevent the misuse of taxation incentives, enterprises qualifying for such incentives will not be relieved of the duty to submit fully substantiated annual tax returns. Only corporates will qualify for these allowances.

Reduced tax rate for registered manufacturers

Manufacturing entities approved and registered as such with Inland Revenue may apply an 18% corporate tax rate for 10 years following the effective date of registration.

Accelerated building allowance claim

Registered manufacturers may claim the building allowance described above, at 8% p.a. from the second year of use (vs. 4% for non-manufacturers).

Remuneration and training allowance

Deductions in respect of expenditure for remuneration and training of employees who are registered manufacturers:

A registered manufacturer is entitled to deduct additional expenditure incurred in providing training to employees who are directly engaged in the manufacturing process of 25% of remuneration or contributions to a pension or provident fund.

This allowance may not create an assessed loss.

Marketing allowance

Enterprises manufacturing for export are entitled to an additional deduction against taxable income derived from export sales of 25% of export promotion and foreign marketing expenditure.

This allowance may not create an assessed loss.

Special export allowance

When a taxpayer's income is derived from the export of goods manufactured in Namibia, other than manufactured fish or meat products, a special export allowance of 80% is allowed on the taxable income from the income so derived. This allowance may not create an assessed loss.

Special transport allowance

From 1 January 2003 registered manufacturers may claim an allowance of 25% for a period of ten years of the land based transport costs incurred in relation to materials used in the manufacturing activity or to the importation of manufacturing equipment.

Export Processing Zone (EPZ) status

Significant tax incentives apply for registered EPZ entities. Refer to Appendix IV for detail.

Housing allowance for employees

Under a Housing Scheme approved and registered by Inland Revenue, the taxable value of housing benefits granted to employees may be reduced by one third.

Mining Licences/Rights

An allowance was introduced in 2015 to make provision for deductions against taxable income received from the disposal of a mining or petroleum licence/right. For mining, the acquisition cost of the mineral licence or right may be deducted against the taxable proceeds.

For oil and gas companies, the acquisition and exploration costs, as well as the costs incurred to add value to the licence or right, may be claimed against the taxable proceeds when the licence/right is disposed of.

Appendix III: Corporate Tax Calculations

Example of Corporate tax calculations

Financial year ending	28 February 2016
Calculation of corporate tax	N\$
Profit before tax as per annual financial statements	1,000,000
Less: Non-taxable amounts –	
Foreign sourced branch profits (Note 1)	(100,000)
Sale of former head office (Note 2)	(250,000)
Dividends received (Note 3)	(45,000)
Unrealised foreign exchange gain	(20,000)
Fair value gains	(15,000)
Profit on sale of assets (see recoupment below)	(10,000)
Add: Non-deductible amounts –	
Depreciation	42,000
Donations	1,100
Legal expenses	12,500
Traffic fines	300
Penalties and interest on taxes	50,000
Stamp duties	10,000
Loss on loan written off	20,000
Expenses incurred in respect of exempt income	5,000
Bad Debt Provision	55,000
Other Provisions (Note 4)	40,000
Straight-line portion of operating leases	8,000
Capital expenses charged to maintenance (Note 5(c))	1,600
Expenditure on leasehold improvements	1,800
Moving expenses (Note 5(c))	3,000

Add:	Taxable amounts not in the Income Statement –	
	Income received in advance	50,000
	Deposits received (Note 6)	10,000
Less:	Deductible amounts not in the Income Statement –	
	Prepayments of operating expenses	(30,000)
	Deposits paid (non-refundable - excluding rental deposits)	(5,000)
Less:	Deductible allowances –	
	25% Bad debt allowance	(13,750)
	Capital and wear and tear allowances (Note 5)	(33,544)
	Amortisation of leasehold improvements (Note 7)	(360)
	Building allowance	(10,000)
	Scrapping allowance	(5,000)
Add:	Recoupments ³⁷	
	Recoupment on sale of assets	20,000
	Recoupment on credit loan written off	20,000
	Prior year reversals –	
Add:	25% Bad debt allowance	6,250
	Unrealised foreign exchange gain	10,000
	Prepayments	12,000
	Deposits paid	10,000
Less:	Bad debt provision	(25,000)
	Other provisions added back	(20,000)
	Income received in advance	(13,000)
	Deposits received	(15,000)
Less:	Assessed loss brought forward from prior year	0
	Taxable income	777,896

³² In terms of section 14(4) of the Income Tax Act Act No. 24 of 1981

Tax at 32%	248,927
Provisional taxes paid –	
1st provisional (paid 31 August 2015)	(100,000)
2nd provisional (paid 28 February 2016)	(100,000)
Taxes due	48,7927

Non-resident shareholders' tax (NRST) calculation

Gross dividend declared	600,000
NRST at 10% (Note 8)	60,000

Notes:

1. Namibia imposes income tax on receipts or accruals received from a source within Namibia or deemed to be within Namibia. Receipts or accruals received outside Namibia will accordingly not form part of the taxpayer's gross income for the year.
2. Namibia does not currently impose any tax on capital gains, except where a sale of a mining licence or right to mine minerals takes place (including the sale of shares in a company that holds a mining licence or has the right to mine minerals).
3. Dividends received are exempt from tax in terms of section 16(1)(n) of the Income Tax Act, Act No. 24 of 1981, as amended.
4. Provisions are normally deductible if the company has an unconditional liability to pay the related expense at year end. Each provision should be considered on an individual basis.
5. Capital and wear and tear allowances:

Capital and wear and tear allowances N\$

a) Machinery purchased in 2014

Original cost	30,000
Less – Allowance for 2014	(10,000)
Tax value 2014	20,000
Less – Allowance for 2015	(10,000)
Less - Allowance 2016	(10,000)
Tax value 2016	0

b)

Original cost 2015	50,000
Less – Allowance (33.3%, 2015)	(16,667)
Tax value – 2015	33,333
Less – Allowance (33.3%, 2016)	(16,667)

Tax value at 2016	16,667
-------------------	--------

c) Machinery purchased in 2014

Tax written down value	14,130
Additions during year	1,900
Additions charged to maintenance	1,600
Moving to new head office	3,000
	20,630
Less – Annual wear and tear allowance (33.3%)	(6,877)
Tax value 2016	13,753

Total capital and wear and tear allowance for 2016:

Capital allowances [5(a) and (b)]	26,667
Wear and tear allowance [5(c)]	6,877
	33,544

6. Income is taxable in the year of receipt or accrual and therefore deposits received in advance are taxable in the year of receipt except when the income was deposited in a separate trust account (i.e. with a liability to repay to the depositor if certain conditions are not met).
7. Claimed over a five-year period (i.e. over the remaining period of the lease agreement in terms of which the obligation to effect improvements were stipulated)
8. NRST rate is 10% where more than 25% shareholding is applicable. For shareholding less than 25%, 20% NRST is applicable. A Double Taxation Agreement (DTA) may lower the rate to 5%.

Appendix IV: Export Processing Zone Incentives

Background

In 1995, The Government of the Republic of Namibia adopted the Export Processing Zone (EPZ) Act, Act No. 9 of 1995 as a legal framework for promoting export led industrialisation of the primarily sector-driven national economy.

As a policy instrument, the EPZ regime intends to:

- Facilitate imports of foreign productive capital and technology as well as the transfer of technical and industrial skills to the local workforce;
- Contribute towards the increased share contribution of the manufactured (industrial) sector to job-creation, the country's gross domestic product (GDP) and exports of manufactured goods; and
- Enhance the diversification of the local economy.

Activities eligible for admission under EPZ regime

The main focus of the EPZ regime is on export-orientated manufacturing activities, excluding fishing, mining and meat processing.

Enterprises which undertake manufacturing and assembly, and gear all or almost all of their production for export, earn foreign exchange and employ Namibians will be eligible for EPZ status, which confers an attractive range of both tax and non-tax benefits.

A company already in operation and involved in manufacturing and exporting or which plans to export, cannot be converted into an EPZ enterprise.

An EPZ enterprise must export all of its products outside the SACU market (Namibia, Botswana, Lesotho, Swaziland and South Africa). However after having been in operation for at least a year, an EPZ enterprise may apply to the Minister of Trade and Industry for special consideration and permission to sell up to a maximum of 30% of its previous year's production output in the domestic (SACU) market.

Tax incentives for EPZ enterprises

Enterprises with EPZ status do not pay the following:

- Corporate tax;
- Value-Added Tax (VAT);
- Stamp Duty and Transfer Duty on goods and services required for EPZ activities; and
- Import duties on imported intermediate and capital goods.

These benefits are of unlimited duration.

Other incentives for EPZ enterprises

- No foreign exchange control and the authority to hold foreign currency accounts in local banks.
- No geographical limitations apply to the location of their operations in Namibia.
- The Ministry of Industrialisation, Trade and SME Development and the Offshore Development Company (ODC) provide factory facilities at economical rates to EPZ enterprises depending on the availability.
- The ODC and Investment Centre provide fast and free services and facilitation to EPZ investors.

Sources:

- “Namibia Investment Legislation, Incentives and Institutions: Recommendations for reform - Foreign Investment Advisory Services. A joint service of the International Finance Corporation and the World Bank.” (December 14, 2006)
- “Export Processing Zone (EPZ) Industrial Development Strategy – Harnessing Namibia’s Manufacturing and Exporting Potential – Investors Guide.” (Ministry of Industrialisation, Trade and SME Development)

Appendix V: Withholding Taxes

Withholding taxes

Withholding taxes (WHTs) apply to interest, dividends, royalties and fees for administrative, managerial, technical, or consultative services or any similar services as well as entertainment and directors fees paid, declared or distributed to non-Namibian residents.

Dividends

Dividends declared by a Namibian company to a non-resident holding company are subject to non-resident shareholders' tax (NRST), a WHT. NRST is payable at a rate of 10% and 20% of dividends remitted (depending on the percentage shareholding), unless treaty relief is available. NRST is payable within 20 days following the month during which the dividend accrued or was declared.

Royalties or similar payments

WHT on royalties are payable when a Namibian company pays a royalty to a non-resident. WHT is levied at a rate of 10% and is payable within 20 days after the end of the month during which the liability for payment is incurred.

A royalty includes payment for the use or right to use any patent or design, trademark, copyright, model, pattern, plan, formula, or process, or any other property or right of a similar nature. A royalty also includes the imparting of any scientific, technical, industrial, or commercial knowledge or information for use in Namibia. The nature of fees payable should therefore be carefully considered in order to determine whether

the relevant amount represents a royalty. It also includes the payments made for the right to use industrial, commercial or scientific equipment.

Withholding tax on royalties and interest should be withheld by the Namibian entity and paid to Inland Revenue within 20 days after the end of the month during which the payment of the royalties was made.

Interest

A WHT of 10%, calculated on the gross amount of interest, is payable on interest accruing to any person, other than a Namibian company, from a registered Namibian banking institution or unit trust scheme. The tax withheld is a final tax, and the financial institution is responsible withholding the tax.

Namibian companies however, are taxed on interest at the corporate tax rate.

It is the obligation of the financial institution to withhold the tax and pay such tax to the revenue authorities.

A withholding tax of 10% is applicable on interest payments made by a Namibian to a non-resident. The tax is payable within 20 days following the month in which the interest payment was made.

Services

Section 35A applies to any Namibian resident (i.e. a company incorporated or managed and controlled in Namibia, and natural persons ordinarily resident in Namibia) paying a management, consultancy, or entertainment fee to a

non-resident.

Management and consulting fees are specifically defined as: “any amount payable for administrative, managerial, technical, or consultative services or any similar services, whether such services are of a professional nature or not”.

The legislation imposes the obligation on the Namibian resident to withhold a 10% WHT on such fees paid to the non-resident. It is important to note that the legislation also specifically includes any directors fees paid to a foreign director.

The amount of withholding tax deducted or withheld is payable to Inland Revenue within 20 days after the end of the month during which the amount was deducted or withheld.

Summary of WHT payable

The WHT rates and treaty relief for Namibian DTAs can be summarised as follows. Note that the tax treaties contain certain requirements that should be met before the reduced tax rate may be applied.

The definitions of dividends, royalties, and interest in the various treaties should also be considered.

Recipient	WHT (%)				
	Dividends	Interest	Royalties/ Rent	Technical fees	Directors fees
Non-treaty	10	10*	10	10	10
Botswana	10	10	10	10	10
France	5	10	10	0	10
Germany	10	0	10	0	10
India	10	10	10	10	10
Malaysia	5	10	5	5	10
Mauritius	5	10	5	0	10
Romania	N/A**	10	5	0	10
Russian Federation	5	10	5	0	10
South Africa	5	10	10	0	10
Sweden	5	10	5	10	10
United Kingdom	5	N/A**	5	0	10

* Namibian companies are taxed at the corporate tax rate on interest received.

**N/A means that the provisions of the tax treaty limited the rate to a rate that is higher than the local Namibian rate. It should be noted that a treaty may only provide tax relief and cannot impose a higher tax rate.

Refer to our Namibia 2016 Tax Reference and Rate Card
www.pwc.com/na/en/namibia-tax-rate-card



Mining royalties

The Minerals (Prospecting and Mining) Act levies a royalty on minerals won or mined by a licence holder in Namibia, based on the table below:

Group of minerals	Percentage of market value of minerals leviable as a royalty (%)
Precious metals	3
Base and rare metals	3
Semi-precious stones	2
Nuclear fuel minerals	3
Industrial minerals	2
Non-nuclear fuel minerals	2

Appendix VI: Individual Tax Rates

Rates of Taxes

The rates set out below are applicable to all individuals, including estates and trusts, excluding companies:

Taxable Income (N\$)	Rates of tax for year of assessment ending 28 February 2016 (N\$)
0 - 50 000	Not taxable
50 001 - 100 000	18% for each N\$ above 50 001
100 001 - 300 000	9 000 + 25% for each N\$ above 100 001
300 001 - 500 000	59 000 + 28% for each N\$ above 300 001
500 001 – 800 000	115 000 + 30% for each N\$ above 500 001
800 001 - 1 500 000	205 000 + 32% for each N\$ above 800 001
Above 1500 001	429 000 + 37% for each N\$ above 1 500 001

Deductions and allowances

The aggregate deduction allowed for current pension, provident, retirement annuity and educational policy contributions by an individual is N\$40,000 per annum per taxpayer for the tax year ending 28 February 2016.

A withholding tax on interest received by individuals from financial institutions and unit trusts was introduced effective 1 March 2009. A withholding tax of 10% will be withheld by the financial institutions and/or unit trusts and be paid to the Directorate of Inland Revenue within 20 days after the end of the month during which the interest accrued or was received by the individual.

Interest received by an individual from a deposit in at the Nampost Savings Bank is exempt from tax.

Appendix VII: Individual Tax Calculations

Example of individual tax calculation:

Individual tax is calculated according to the following formula:

Trade income	600,000
Employment income	400,000
Directors fees (Namibian sources)	75,000
Interest (Foreign investments)	5,000
Interest (Namibian financial institutions and unit trusts)	7,000 ³⁸
Dividends (Namibian and foreign investments)	10,000 ³⁹
Gross Income	1,097,000

Less: Exempt Income

Dividends (Namibian and foreign investments)	(10,000)
Interest from foreign investments	(5,000)
Income	1,082,000

Less: Deductions

Deductible trade expenses	(450,000) ⁴⁰
Capital allowances on assets used for purpose of trade	(50,000) ⁴¹
Contributions to pension, provident and retirement annuity funds	40,000 ⁴²
Taxable Income	542,000
Less: Assessed loss carried forward from prior years	(10,000)
Total Taxable Income/Loss:	532,000

33 A withholding tax of 10% is applicable on interest received from financial institutions and unit trusts.

34 A withholding tax of 10% is applicable on interest received from financial institutions and unit trusts.

35 Expenses actually incurred in production of income for purposes of trade and not of a capital nature are deductible from taxable income.

36 Allowances deductible in terms of section 17(1)(e), section 17(1)(f) and any other applicable section of the Income Tax Act, Act No. 24 of 1981.

37 Contributions are limited to N\$ 40,000 per annum in terms of section 17(2) of the Tax Act, Act No. 24 of 1981.

Tax due / (receivable)	124,600
Less: PAYE deducted	(111,650)
1st Provisional Tax Payment	(5,000)
2nd Provisional Tax Payment	(5,000)
Tax due / (receivable)	2,950

Appendix VIII: Setting up in Namibia

Strategic

- ☐ Equity investors' perception and requirements towards investment in Namibia
- ☐ Perception surrounding political stability, safety and security
- ☐ Namibian Government's commitment to reform and transformation
- ☐ National Development agenda
- ☐ Industry and sector specific development policies and incentives
- ☐ International and regional Trade Environment

Market

- ☐ Market size and location and accessibility
- ☐ Marketing and distribution networks and infrastructure
- ☐ General Terms of trade
- ☐ Competitive environment
- ☐ Premises and Location
- ☐ Customs duties and other protective trade related barriers

Form of entity

- ☐ Company
- ☐ Public
- ☐ Private
- ☐ Branch
- ☐ Close Corporation
- ☐ Partnership
- ☐ Joint Venture
- ☐ Sole Proprietor

Regulatory considerations

- ☐ Limitations on foreign ownership
- ☐ Transfer Pricing and other tax implications
- ☐ Formation and administration procedures and costs
- ☐ Competition Commission Approvals
- ☐ Registration with Industry Regulatory bodies/License registrations
- ☐ Affirmative Action legislation
- ☐ Personal Liability
- ☐ Governance

Legal and Business adviser's considerations

- ☐ General considerations
- ☐ Formation procedures
- ☐ Registration procedures
- ☐ Corporate secretarial services
- ☐ Tax implications of group structures
- ☐ Repatriation of investments and profits

Other considerations

- ☐ Access to and availability of financial resources
- ☐ Availability of labour/management including recruitment and local remuneration
- ☐ Labour relations
- ☐ Expatriates – immigration, tax, benefits
- ☐ Environmental requirements
- ☐ Exchange control regulations
- ☐ Income, Value-Added, employee and other Withholding tax obligations, registrations and filings

Appendix IX: Acquiring a Business Enterprise

A checklist

The checklist below suggests points that an investor should consider when contemplating the acquisition of a business enterprise in Namibia.

History and current status

- ☐ History of company and future prospects
- ☐ Why the business is for sale
- ☐ Trade reputation of business and its owners/shareholders
- ☐ Capital and group structure
- ☐ Business strengths and weaknesses
- ☐ Compliance with regulations including Companies Act and tax laws.

Capital

- ☐ Acquisition costs
- ☐ Ownership, state and value of underlying assets
- ☐ Additional funding requirements
- ☐ Foreign exchange regulations
- ☐ Structuring to support repatriation of funds

Market and competitors

- ☐ Principle competitors
- ☐ Level of market saturation
- ☐ Proposed new products, research and development plans
- ☐ Existing and potential markets
- ☐ Existing and potential sales and marketing aids
- ☐ Market entry barriers
- ☐ Price sensitivity levels of consumers
- ☐ Competitions Act
- ☐ Financial Intelligence Act

Production evaluation

- ☐ Sourcing of raw material and continuity of supply
- ☐ Production capacity
- ☐ Patents and trademarks
- ☐ Quality of plant and equipment and the production method used
- ☐ State of the current and access to new technology
- ☐ Labour productivity levels

Legal and Business advisers' considerations

- ☐ Corporate statutory and regulatory documents
- ☐ Contractual obligations and future commitments
- ☐ Property, titles and liens
- ☐ Competition commission
- ☐ Pending litigation

Financial and accounting considerations

In considering any acquisition, the following merits attention:

Post trading results

- ☐ Accounting policies, compliance with accounting standards and the law, and consistency of application
- ☐ Seasonal and operational trends
- ☐ Critical analysis of results
- ☐ Analysis of management accounts
- ☐ Comparison of budgets and productive estimates with actual results and the identification and explanation of variances

Financing

- ☐ Availability of grant aid and equity investments
- ☐ Capital commitments
- ☐ Adequacy of working capital and relationship with bankers
- ☐ Availability of low cost external financing

- ☐ Existence of debt and gearing position

Future prospects

- ☐ Profit and cash flow forecast and assumptions
- ☐ Long-term growth prospects and corresponding funding requirements
- ☐ Asset replacement and maintenance strategy
- ☐ Sensitivity to external factors (e.g. interest rates, exchange rates)

Accounting records

- ☐ Adequacy of management information system and control procedures
- ☐ Nature of degree of computerisation

Taxation

- ☐ Tax status
- ☐ Tax provisions and potential additional liabilities, including interest and penalties
- ☐ Matters in dispute
- ☐ Availability of allowances, losses and relief
- ☐ Public or private company

Tax planning

- ☐ Purchase of shares or assets
- ☐ Group restructuring and reorganisation relief

- ☐ Foreign tax considerations
- ☐ Potential allowances and relieves
- ☐ Long-term planning
- ☐ Executive remuneration
- ☐ Impact on future legislation
- ☐ Tax purpose of parties involved

Other considerations

- ☐ Availability and quality of management including recruitment and local remuneration
- ☐ Number and availability of workforce
- ☐ Labour relations with management and unions
- ☐ Value and realisability of investments
- ☐ Treasury management
- ☐ Valuation of fixed and current assets
- ☐ Contingent liabilities and guarantees
- ☐ Impact of proposed legislation and transformation charters
- ☐ Stamp duties on purchase price

Appendix X: Namibian Acts

Accountants and Auditors

- Public Accountants' and Auditors' Act, Act No. 51 of 1951

Agriculture

- Abattoir Industry Act, Act No. 54 of 1976
- Agricultural Bank of Namibia Act, Act No. 5 of 2003
- Agricultural Pests Act, Act No. 3 of 1973
- Agronomic Industry Act, Act No. 20 of 1992
- Canned Fruit Export Marketing Act, Act No. 100 of 1967
- Control of the Importation and Exportation of Dairy Products and Dairy Product Substitutes Act, Act No. 5 of 1986
- Dairy Industry Act, Act No. 30 of 1961
- Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, Act 36 of 1947
- Karakul Pelts and Wool Act, Act No. 14 of 1982
- Land Tenure Act, Act No. 32 of 1966
- Livestock Improvement Act, Act No. 25 of 1977
- Marketing Act, Act No. 59 of 1968
- Meat Corporation of Namibia Act, Act No. 1 of 2001
- Meat Industry Act, Act No. 12 of 1981

- Stock Brands Act, Act No. 24 of 1995

- Sugar Act, Act No. 28 of 1936

Alcohol, Drugs and Tobacco

- Liquor Act, Act No. 6 of 1998

Animals

- Animal Diseases and Parasites Act, Act No. 13 of 1956
- Animals Protection Act, Act No. 71 of 1962
- Performing Animals Protection Act, Act No. 24 of 1935
- Prevention of Undesirable Residue in Meat Act, Act No. 21 of 1991
- Stock Brands Act, Act No. 24 of 1995

Arbitration

- Arbitration Act, Act No. 42 of 1965

Architects and Quantity Surveyors

- Architects' and Quantity Surveyors' Act, Act No. 13 of 1979

Archives

- Archives Act, Act No. 12 of 1992

Arms and Ammunition

- Arms and Ammunition Act, Act No. 7 of 1996
- Tear-gas Act, Act No. 16 of 1964

Aviation

- Airports Company Act, Act No. 25 of 1998
- Air Services Act, Act No. 51 of 1949
- Carriage by Air Act, Act No. 17 of 1946

Births, Marriages and Deaths

- Births, Marriages and Deaths Registration Act, Act No. 81 of 1963, as amended in South Africa to March 1978
- Burial Place Ordinance 27 of 1966
- Crematorium Ordinance 6 of 1971

Censorship

- Indecent or Obscene Photographic Matter Act, Act No. 37 of 1967
- Publications Act, Act No. 42 of 1974

Census and Statistics

- Identification Act, Act No. 21 of 1996
- Statistics Act, Act No. 66 of 1976

Children

- Age of Majority Act, Act No. 57 of 1972
- Children's Status Act, Act No. 6 of 2006
- Children's Act, Act No. 33 of 1960

Churches

- The Apostolic Faith Mission of South Africa (Private) Act, Act No. 24 of 1961, as amended in South Africa prior to Namibian independence

Citizenship and immigration

- Aliens Act, Act No. 1 of 1937
- Immigration Control Act, Act No. 7 of 1993
- Namibian Citizenship Act, Act No. 14 of 1990
- Namibian Citizenship Special Conferment Act, Act No. 14 of 1991
- Namibia Refugees (Recognition and Control) Act, Act No. 2 of 1999

Commissions

- Commissions Act, Act No. 8 of 1947

Communications

- Communications Act, Act No. 8 of 2009
- Newspaper and Imprint Registration Act, Act No. 63 of 1971
- Namibia Press Agency Act, Act No. 3 of 1992
- Namibian Broadcasting Act, Act No. 9 of 1991
- Namibian Communications Commission Act, Act No. 4 of 1992
- New Era Publication Corporation Act, Act No. 1 of 1992
- Post Office Service Act, Act No. 66 of 1974
- Posts and Telecommunications Companies Establishment Act, Act No. 17 of 1992
- Posts and Telecommunications Act, Act No. 19 of 1992

- Radio Act, Act No. 3 of 1952

Companies

- Close Corporations Act, Act No. 26 of 1988
- Companies Act, Act No. 28 of 2004
- Namibia Wildlife Resorts Company Act, Act No. 3 of 1998
- State-owned Enterprises Governance Act, Act No. 2 of 2006

Constitution

- Namibian Constitution
- Assignment of Powers Act, Act No. 4 of 1990
- Commonwealth Relations (Temporary Provision) Act, Act No. 41 of 1961
- National Anthem of the Republic of Namibia Act, Act No. 20 of 1991
- National Coat of Arms of the Republic of Namibia Act, Act No. 1 of 1990
- National Planning Commission Act, Act No. 15 of 1994
- Ombudsman Act, Act No. 7 of 1990
- Powers, Privileges and Immunities of Parliament Act, Act No. 17 of 1996
- Special Advisors and Regional Representatives Appointment Act, Act No. 6 of 1990
- Public Office-Bearers (Remuneration and Benefits) Commission Act, Act No. 3 of 2005
- Security Commission Act, Act No. 18 of 2001
- South West Africa Affairs Act, Act No. 25 of 1969, as amended in South Africa prior to Namibian independence

- Walvis Bay and Off-Shore Islands Act, Act No. 1 of 1994

Contracts

- Conventional Penalties Act, Act No. 15 of 1962

Co-operatives

- Co-operatives Act, Act No. 23 of 1996

Courts

- Admiralty Jurisdiction Regulation Act, Act No. 5 of 1972
- Community Courts Act, Act No. 10 of 2003
- Enforcement of Foreign Civil Judgements Act, Act No. 28 of 1994
- High Court Act, Act No. 16 of 1990
- Magistrates Act, Act No. 3 of 2003
- Magistrates Court Act, Act No. 32 of 1994
- Reciprocal Service of Civil Process Act, Act No. 27 of 1994
- Supreme Court Act, Act No. 15 of 1990
- Vexatious Proceedings Act, Act No. 3 of 1956

Criminal Law and Procedure

- Anti-Corruption Act, Act No. 8 of 2003
- Boxing and Wrestling Control Act, Act No. 11 of 1980
- Combating of Immoral Practices Act, Act No. 21 of 1980
- Combating of Rape Act, Act No. 8 of 2000
- Criminal Procedure Act, Act No. 51 of 1977

- Gambling Act, Act No. 51 of 1965
- Prevention of Organised Crime Act, Act No. 29 of 2004
- Prohibition of Disguises Act, Act No. 16 of 1969
- Protection of Fundamental Rights Act, Act No. 16 of 1988
- Racial Discrimination Prohibition Act, Act No. 26 of 1991
- Riotous Assemblies Act, Act No. 17 of 1956
- Stock Theft Act, Act No. 12 of 1990

Culture and Cultural Institutions

- Cultural Institutions Act, Act No. 29 of 1969
- National Arts Fund of Namibia Act, Act No. 1 of 2005
- National Art Gallery of Namibia Act, Act No. 14 of 2000

Currency

- Currency and Exchanges Act, Act No. 9 of 1933
- Prevention of Counterfeiting of Currency Act, Act No. 16 of 1965

Customary Law

- Council of Traditional Leaders Act, Act No. 13 of 1997
- Traditional Authorities Act, Act No. 25 of 2000

Customs and Excise

- Customs and Excise Act, Act No. 20 of 1998

Damages

- Apportionment of Damages Act, Act No. 34 of 1956

- Assessment of Damages Act, Act No. 9 of 1969

Debtors and Creditors

- Participation Bonds Act, Act No. 55 of 1981
- Payment of Loans Proclamation Act, Act No. 28 of 1933
- Prescribed Rate of Interest Act, Act No. 55 of 1975
- Suretyship Amendment Act, Act No. 57 of 1971
- Usury Act, Act No. 73 of 1968

Deeds

- Deeds Registries Act, Act No. 47 of 1937
- Registration of Deeds in Rehoboth Act, Act No. 93 of 1976

Defence

- Civil Defence Act, Act No. 39 of 1966
- Defence Act, Act No. 1 of 2002
- Namibia Central Intelligence Service Act, Act No. 10 of 1997
- Moratorium Act, Act No. 25 of 1996
- Protection of Information Act, Act No. 84 of 1982

Disabilities

- Aged Persons Act, Act No. 81 of 1967
- Blind Persons Act, Act No. 26 of 1968
- National Disability Council Act, Act No. 26 of 2004

Domestic Violence

- Combating of Domestic Violence Act, Act No. 4 of 2003

Education

- Education Act, Act No. 16 of 2001
- Higher Education Act, Act No. 26 of 2003
- Namibia College of Open Learning Act, Act No. 1 of 1997
- Namibia Students Financial Assistance Fund Act, Act No. 26 of 2000
- National Education Act, Act No. 30 of 1980
- National Vocational Training Act, Act No. 18 of 1994
- Namibia University of Science and Technology Act, Act 7 of 2015
- Teachers' Education Colleges Act, Act No. 25 of 2003
- University of Namibia Act, Act No. 18 of 1992
- Vocational Education and Training Act, Act No. 1 of 2008

Elections

- Electoral Act, Act No. 24 of 1992

Electricity

- Electricity Act, Act No. 4 of 2007
- Powers of the SWA Water and Electricity Corporation Act, Act No. 14 of 1980

Engineering

- Engineering Profession Act, Act No. 18 of 1986

Environment

- Atomic Energy and Radiation Protection Act, Act No. 5 of 2005
- Biosafety Act, Act No. 7 of 2006
- Environmental Investment Fund of Namibia Act, Act No. 13 of 2001
- Environmental Management Act, Act No. 7 of 2007
- Forest Act, Act No. 12 of 2001
- Game Products Trust Fund Act, Act No. 7 of 1997
- Mountain Catchment Areas Act, Act No. 63 of 1970
- Prevention and Combating of Pollution of the Sea by Oil Act, Act No. 6 of 1981
- Plant Quarantine Act, Act No. 7 of 2008
- Soil Conservation Act, Act No. 76 of 1969

Estate Agents

- Estate Agents Act, Act No. 112 of 1976

Estates

- Administration of Estates (Rehoboth Gebiet) Proclamation 36 of 1941
- Administration of Estates Act, Act No. 66 of 1965

Evidence

- Civil Proceedings Evidence Act, Act No. 25 of 1965
- Computer Evidence Act, Act No. 32 of 1985
- Foreign Courts Evidence Act, Act No. 2 of 1995

Explosives

- Explosives Act, Act No. 26 of 1956

Films

- Namibia Film Commission Act, Act No. 6 of 2000

Finance and Development

- Assistance Fund of South West Africa Repeal Act, Act No. 13 of 1992
- Development Bank of Namibia Act, Act No. 8 of 2002
- Development Fund of South West Africa/Namibia Act, Act No. 29 of 1987
- Finance and Financial Adjustments Acts Consolidation Act, Act No. 11 of 1977
- State Finance Act, Act No. 31 of 1991
- State Repudiation (Cultura 2000) Act, Act No. 32 of 1991
- Lotteries Act, Act No. 15 of 2002
- Namibia Development Corporation Act No. 18 of 1993

Financial Institutions

- Banking Institutions Act, Act No. 2 of 1998
- Bank of Namibia Act, Act No. 15 of 1997
- Building Societies Act, Act No. 2 of 1986
- Financial Institutions (Investment of Funds) Act, Act No. 39 of 1984
- Financial Intelligence Act, Act No. 13 of 2012
- Inspection of Financial Institutions Act, Act No. 38 of 1984

- Namibia Financial Institutions Supervisory Authority Act, Act No. 3 of 2001
- Payment System Management Act, Act No. 18 of 2003

Fuel and Energy

- Petroleum Products and Energy Act, Act No. 13 of 1990

Health

- International Health Regulations Act, Act No. 28 of 1974

Hospitals

- Hospitals and Health Facilities Act, Act No. 36 of 1994

Housing

- Sectional Titles Act, Act No. 66 of 1971
- National Housing Enterprise Act, Act No. 5 of 1993
- National Housing Development Act, Act No. 28 of 2000
- Sectional Titles Act, Act No. 2 of 2009

Import and Export

- Export Credit and Foreign Investments Re-insurance Act, Act No. 78 of 1957
- Import and Export Control Act, Act No. 30 of 1994

Income Tax

- Petroleum (Taxation) Act, Act No. 3 of 1991
- Income Tax Act, Act No. 24 of 1981

Inquests

- Inquests Act, Act No. 6 of 1993

Insolvency

- Insolvency Act, Act No. 24 of 1936

Insurance

- Demutualisation Levy Act, Act No. 9 of 2002
- Long-term Insurance Act, Act No. 5 of 1998
- Second Finance Act, Act No. 27 of 1987
- Short-term Insurance Act, Act No. 4 of 1998

Intellectual Property

- Geneva Conventions Act, Act No. 15 of 2003
- Heraldry Act, Act No. 18 of 1962
- Patents, Designs, Trade Marks and Copyright Act, Act No. 9 of 1916
- Patents and Designs Proclamation 17 of 1923
- Trade Marks Act, Act No. 48 of 1973

Judges

- Judges' Remuneration Act, Act No. 18 of 1990
- Judicial Service Commission Act, Act No. 18 of 1995

Labour

- Affirmative Action (Employment) Act, Act No. 29 of 1998
- Development Brigade Corporation Act, Act No. 32 of 1992

- Employees' Compensation Act, Act No. 30 of 1941
- Labour Act, Act No. 11 of 2007
- Namibia Qualifications Authority Act, Act No. 29 of 1996
- Shop Hours and Shop Assistants Ordinance 15 of 1939

Land

- Agricultural (Commercial) Land Reform Act, Act No. 6 of 1995
- Communal Land Reform Act, Act No. 5 of 2002
- Expropriation Act, Act No. 63 of 1975, as amended in South Africa to February 1978
- Land Survey Act, Act 33 of 1993
- Professional Land Surveyors', Technical Surveyors' and Survey Technicians' Act, Act No. 32 of 1993
- Town Planning Ordinance 18 of 1954
- Trespass Ordinance 3 of 1962
- Townships and Division of Land Ordinance 11 of 1963

Landlord and Tenant

- Formalities in Respect of Leases of Land Act, Act No. 18 of 1969

Law

- Justices of the Peace and Commissioners of Oaths Act, Act No. 16 of 1963
- Law Reform and Development Commission Act, Act No. 29 of 1991

Legal Practitioners

- Legal Aid Act, Act No. 29 of 1990
- Legal Practitioners Act, Act No. 15 of 1995

Libraries

- Namibia Library and Information Service Act, Act No. 4 of 2000

Maintenance

- Maintenance Act, Act No. 9 of 2003
- Reciprocal Enforcement of Maintenance Orders Act, Act No. 3 of 1995

Marine and Freshwater Resources

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