

**REPUBLIC OF NAMIBIA**

**NATIONAL ASSEMBLY**

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**NAMIBIAN CONSTITUTION  
SECOND AMENDMENT BILL**

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*(As read a First Time)*

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*(Introduced by the Prime Minister)*

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**EXPLANATORY NOTE:**

- \_\_\_\_\_ Words underlined with a solid line indicate insertions in existing provisions.
- [            ] Words in bold type in square brackets indicate omissions from existing provisions.
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**BILL**

To amend the Namibian Constitution so as to extend a waiting period required for acquiring Namibian citizenship by marriage from a period of not less than two years to a period of not less than ten years of ordinarily residing in Namibia as spouse subsequent to such marriage; to extend a waiting period required for non-Namibian citizens who may apply for Namibian citizenship by naturalisation from a period of not less than five years to a period of not less than ten years of continuous residence in Namibia; to decrease the limit of tenure of members of the National Council from six years to five years; to limit regional council elections to intervals not exceeding five years; to subject the appointment of non-Namibian citizens as judges to a fixed term contract of employment; to delete the word "corruption" from the functions of the Ombudsman; to insert an Article on Anti-Corruption Measures; to substitute the word "powers" for the words "executive powers" vested with Management Committees of Regional Councils; to substitute the terms "correctional service" and "Commissioner of Correctional Service" for the terms "prison service" and "Commissioner of Prisons"; and to provide for incidental matters.

**BE IT ENACTED** by the Parliament of the Republic of Namibia, in accordance with Article 132 of the Namibian Constitution, as follows:

**Amendment of Article 4 of Namibian Constitution**

1. Article 4 of the Namibian Constitution is amended -
  - (a) by the substitution for subparagraph (bb) of paragraph (a) of Sub-Article (3) of the following subparagraph:

“(bb) subsequent to such marriage have ordinarily resided in Namibia as the spouse of such person for a period of not less than [**two (2)**] ten (10) years; and”; and
  - (b) by the substitution for paragraph (b) of Sub-Article (5) of the following paragraph:

“(b) have been so resident in Namibia for a continuous period of not less than [**five (5)**] ten (10) years [(**whether before or after the date of Independence**)]; and”.

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### **Amendment of Article 70 of Namibian Constitution**

2. Article 70 of the Namibian Constitution is amended by the substitution for Sub-Article (1) of the following Sub-Article:

“(1) Members of the National Council shall hold their seats for ~~six (6)~~ five (5) years from the date of their election and shall be eligible for re-election.”.

### **Amendment of Article 82 of Namibian Constitution**

3. Article 82 of the Namibian Constitution is amended by the substitution for Sub-Article (4) of the following Sub-Article:

“(4) All Judges, except Acting Judges, appointed under this Constitution shall hold office until the age of sixty-five (65) but the President shall be entitled to extend the retiring age of any Judge to seventy (70) [**It shall also be possible by Act of Parliament to make provision for retirement at ages higher than those specified in this Article**]; provided that non-Namibian citizens are appointed as Judges under a fixed term contract of employment.”.

### **Amendment of Article 91 of Namibian Constitution**

4. Article 91 of the Namibian Constitution is amended -

(a) by the substitution for paragraph (a) of the following paragraph:

“(a) the duty to investigate complaints concerning alleged or apparent instances of violations of fundamental rights and freedoms, abuse of power, unfair, harsh, insensitive or discourteous treatment of an inhabitant of Namibia by an official in the employ of any organ of Government (whether central or local), manifest injustice, [**or corruption**] or conduct by such official which would properly be regarded as unlawful, oppressive or unfair in a democratic society;”; and

(b) by the substitution for paragraph (f) of the following paragraph:

“(f) the duty to investigate vigorously all instances of alleged or suspected [**corruption and the**] misappropriation of public monies by officials and to take appropriate steps, including reports to the Prosecutor-General and the Auditor-General pursuant thereto;”.

### **Insertion of Article 94A of Namibian Constitution**

5. The Namibian Constitution is amended by the insertion after Article 94 of the following Article:

“CHAPTER 10A  
ANTI-CORRUPTION MEASURES

**Article 94A Anti-Corruption Measures**

- (1) The State shall put in place administrative and legislative measures necessary to prevent and combat corruption.
- (2) There shall be established by an Act of Parliament an Anti-Corruption Commission with its powers and functions provided for in such Act.
- (3) The Anti-Corruption Commission shall be an independent and impartial body and no person or organ of the State may interfere with the functioning of the Commission.
- (4) The Anti-Corruption Commission shall consist of a Director, a Deputy Director and other staff members of the Commission.
- (5) The National Assembly shall appoint the Director of the Anti-Corruption Commission and the Deputy Director upon nomination by the President.
- (6) The Director of the Anti-Corruption Commission and the Deputy Director shall be appointed for a period of five years and their qualifications for appointment and conditions and termination of service shall be determined in accordance with an Act of Parliament.”

**Amendment of Article 106 of Namibian Constitution**

6. Article 106 of the Namibian Constitution is amended by the substitution for Sub-Article (4) of the following Sub-Article:

“(4) All Regional Council elections for the various regions of Namibia shall be held on the same day and at intervals not exceeding five (5) years.”

**Substitution of Article 107 of Namibian Constitution**

7. The following Article is substituted for Article 107 of the Namibian Constitution:

**“Article 107 Remuneration and Allowances and Other Benefits of Members of Regional Councils**

[The remuneration and allowances to be paid to members of Regional Councils shall be determined by Act of Parliament] Members of Regional Councils shall be entitled to such remuneration and allowances and other benefits as may be determined in accordance with the provisions of an Act of Parliament.”

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### **Amendment of Article 109 of Namibian Constitution**

8. Article 109 of the Namibian Constitution is amended by the substitution for Sub-Article (1) of the following Sub-Article:

“(1) Each Regional Council shall elect from amongst its members a Management Committee, which shall be vested with [executive] powers in accordance with the provisions of an Act of Parliament.”.

### **Substitution of Article 121 of Namibian Constitution**

9. The following Article is substituted for Article 121 of the Namibian Constitution:

#### **“Article 121 Establishment of Correctional Service**

There shall be established by Act of Parliament a Namibian [prison] correctional service with prescribed powers, duties and procedures.”.

### **Substitution of Article 122 of Namibian Constitution**

10. The following Article is substituted for Article 122 of the Namibian Constitution:

#### **“Article 122 Commissioner of Correctional Service**

- (1) There shall be a Commissioner of [Prisons] Correctional Service who shall be appointed by the President in terms of Article 32(4)(c)(cc) hereof.
- (2) The Commissioner of [Prisons] Correctional Service shall make provision for a balanced structuring of the [prison] correctional service and shall have the power to make suitable appointments to the [prison] correctional service, to cause charges of indiscipline among members of the [prison] correctional service to be investigated and prosecuted and to ensure the efficient administration of the [prison] correctional service.”.

### **Substitution of Article 123 of Namibian Constitution**

11. The following Article is substituted for Article 123 of the Namibian Constitution:

#### **“Article 123 Removal of the Commissioner of Correctional Service**

The President may remove the Commissioner of [Prisons] Correctional Service from office for good cause and in the public interest and in accordance with the provisions of any Act of Parliament which may prescribe procedures considered to be expedient for this purpose.”.

**Short title**

12. This Act is called the Namibian Constitution Second Amendment Act, 2009.

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