

DECISION BY THE NAL COMMITTEE

21 JUNE 2013

REGISTRATION ON THE NAL OF NON-RESIDENTS

AMENDMENT OF THE RULES FOR SCORING APPLICANTS FOR THE LISTING ON THE NAL

The matter was first submitted to the NAL Committee of the EPA on 11 February 2011 (**attached**), for consideration. The Committee has met to make its decision on 21 June 2013.

DECISION

The NAL Committee has DECIDED

1. That in principle, non-residents would be allowed to be registered on the National Adjudicator's List (NAL), for reasons provided in the submission (**attached**);
2. That for the nomination of non-resident adjudicators to Dispute Boards, a specific set of conditions would apply as follows:
 - 2.1 That the contracting Parties (Contractor and Employer) would need to agree and indicate in their application form, that such foreign adjudicators be considered, and that the formal 'Nomination Request Form' be amended to facilitate such indication;
 - 2.2 That the onus of compliance with the Namibian law with regard to work permits and professional registration (as required) would be on the contracting Parties and the non-resident adjudicator, and they would indemnify the EPA accordingly.
 - 2.3 That the requirements of Decision 2.2 above be incorporated in the formal 'Nomination Request Form' and in the Memorandum of Agreement between the non-resident adjudicator and the EPA.

- 3 That the Rules for Scoring be amended to reflect the following:

Persons that are not resident in Namibia may be registered on the NAL. Applicants resident in other countries where professional registration is required by law, must accordingly be registered in such country. To amend the wording of Rule A.1 'Registration with Professional Council or Institute', which rule states that this is part of the minimum criteria for registration on the NAL is

ratified and stands 'except in cases where applicants reside outside Namibia and in a country where professional registration is not required by law'. Note: such persons forfeit the credits for A.1 and A.2, which implies such forfeited credits must be earned through higher credits on the experience-based sections.

- 4 That the 'Rules for Nomination', the formal 'Nomination Request Form' and the Memorandum of Agreement between adjudicators and the EPA be amended to cater for the following:

Adjudicators registered on the NAL and that reside outside Namibia only be considered for nominations to DAB's on construction projects:

- i) That have been reserved for 'Senior Adjudicators' in terms of value;
 - ii) Where the DAB is a 3-member DAB, and the other two members are resident in Namibia;
 - i) Where the Parties have agreed to include adjudicators that reside outside Namibia.
- 5 That Rule A.2 be amended as a minimum requirement, i.e. that the minimum years of experience be reduced from 8 years to 5 years for the registration category of 'Junior Adjudicator';
- 6 That the NAL Evaluation Committee be granted authority to evaluate and accredit applicants in line with the above provisions;
- 7 That the NAL Committee ensure that the above amendments be made to the NAL documentation accordingly;
- 8 That the NAL Committee revise the above provisions from time to time, in response to actual demand for adjudicator nominations by the industry.

End of Decision by the NAL Committee - 21 June 2013

Signed:



Date: 10.07.03

Ako Al-Jaf

Chairperson: NAL