

OFFICE NOTE

OF THE MEETING HELD BETWEEN THE EPA COUNCIL

AND THE NAL COMMITTEE

AT THE OFFICES OF THE NIA IN FELD STREET

ON 17 SEPTEMBER 2013, AT 8:30

Attendance: A Helmich (NAL Manager)
R Brunauer (NAL Coordinator, NAL Committee Member)
L Maritz (NAL Committee Member)
F Holzhausen (NAL Committee Member)

T Bednarek (EPA Secretary, NAL Registrar)

Apologies: EPA Council Members

1. The Meeting was called by the EPA Council to discuss matters concerning the National Adjudicator's List (NAL).
2. Ms Bednarek informed the meeting that unfortunately all members of the EPA Council made apologies, but that she would stand in as their representative, and that the meeting could therefore continue.
3. Revenue: The EPA was concerned about the operating expenses of the NAL. The NAL Committee members proposed to the EPA Council that, due to the fact that fees adjustments are long overdue, the following measures be implemented to address this concern (the EPA Council had previously decided to institute an annual registration fee for adjudicators, but that the fee structure needed to be agreed):

Revenue Type	Current	Proposed (as of 10 October 2013)
3.1 Annual Registration Fee: Junior Adjudicator	Nil	N\$350.00
3.2 Annual Registration Fee: Adjudicator	Nil	N\$500.00
3.3 Annual Registration Fee: Senior Adjudicator	Nil	N\$750.00
3.4 Annual Registration Fee: Employer (Major)	N\$14,000.00	N\$15,000.00
3.5 Annual Registration Fee: Employer (Minor)	N\$7,500.00	N\$8,000.00
3.6 Nomination Fee: Employer (Large) per event	N\$1,000.00	N\$1,500.00
3.7 Nomination Fee: Employer (Small) per event	N\$1,500.00	N\$2,000.00
3.8 Nomination Fee (Non-registered) per event	N\$2,000.00	N\$2,500.00

4. Decision of the NAL Committee pertaining to non-Namibians: The formal decision of the NAL Committee dated 12 June 2013, previously submitted to the EPA Council, and **attached** to this Office Note, is for the information of the EPA Council. The Decision is based on a process that evolved wide consultation over many months, and that included an industry-wide survey.
5. The updated NAL List: It appears that the NAL Registrar is still working with outdated documentation pertaining to adjudicator registration status. This leads to cumbersome administration of the nomination process by the NAL Manager. Mr Brunauer will forward the most recent list to both the NAL Registrar and the NAL Manager, to ensure that the correct information is used.
6. Forms used during the nomination process: It appears that the NAL Registrar is still working with outdated 'nomination forms'. This leads to cumbersome administration of the nomination process by the NAL Manager. Mr Brunauer will forward the most recent forms that should be used by both the NAL Registrar and the NASL Manager, to ensure that the correct information is used. All outdated forms should be deleted and no longer used.
7. Updating of information on the Website: It was decided that upon confirmation by the EPA Council that the proposal in point 3 above is accepted, Mr Brunauer will update all forms and documents to include such information, and will inform Mr Seydack accordingly to update the website.
8. Advert: Expression of Interest to be registered on the NAL. The advertisement has been approved by the EPA Council, pending amendments regarding the registration fees. Mr Brunauer will amend the advert accordingly and forward to Ms Bednarek for placement in the local print media.
9. Notice to Adjudicators: It was decided that Mr Brunauer will see to it that a formal notice be submitted to registered adjudicators, informing them of the applicable annual registration fee, and their individual registration status. Payment of the annual administration fee would become due on 1 October 2013.

The Meeting adjourned at 9:15.

END OF OFFICE NOTE

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.

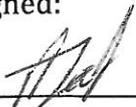
- 4 That the 'Rules for Nomination', the formal 'Nomination Request Form' and the Memorandum of Agreement between adjudicators and the EPA be amended to cater for the following:

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