



REPUBLIC OF NAMIBIA

MINISTRY OF LABOUR, INDUSTRIAL RELATIONS & EMPLOYMENT CREATION

1ST LAND CONFERENCE'S RESOLUTIONS

Resolution 10: Farmworkers

The 1st Land Conference took place in July 1991 and few months thereafter the first Labour Act (Act 6 of 1992) was enacted on 26 March 1992. Part V of the Labour Act established Basic Conditions of Employment that are available to all employees in Namibia including the **farmworkers**. Section 38 of the Act reads ***“If an employee is by virtue of his or her employment required to live in on the place of his/her employment or to reside on any premises of his/her employer, such employer shall: -***

(a) provide such employee with such housing, including sanitary and water facilities, as may comply with the reasonable requirements of such employee and, in the case of an employee who is required to live in or reside on agricultural land, of his/her dependants;

(b) permit, in the case of an employee who is required to live in or reside on agricultural land, such employee, in addition, to keep such livestock and to carry on such cultivation on such land as may be necessary for such employee to provide for the reasonable needs of himself or herself and his or her dependants.

The provisions of paragraph (b) of subsection (1) shall not apply in relation to an employee who is provided by his/her employer, on such basis as may be determined by mutual agreement, with food or rations or an additional allowance to provide for the reasonable needs of such employee and of his/her dependants.

For purposes of this section “dependants” mean, in relation to an employee, such employee’s husband or wife, as the case may be, whether or not such employee is married to him or her, and their or his/her dependent children”. (underlining own emphasis)

To understand the plight and status of farm workers in Namibia deeply and to give effect to these provisions, the Government in 1997 established a Commission of Inquiry into Labour Related Matters Affecting Agricultural and Domestic Employees chaired by Hon. Dr Zephania Kameeta hence it is known “Kameeta Commission”.

- a) Farm workers as pointed out earlier on, have been afforded all the rights and protections under the first Labour Act (Act 6 of 1992) as well as the current Labour Act (Act 11 of 2007).
- b) Charter of Rights for Farm Workers has not been enacted separately as the Labour Act provides the necessary rights and protection to farm workers. This was influenced by a policy on a single labour legislation that is applicable to all employers and employees and their organizations as the case may be.

a) **Chapter 3** of the current Labour Act makes comprehensive provisions for working hours, annual leave, sick leave, etc. Section 28 makes specific provision on adequate housing and the right to reside on the farm during employment. it reads as follows: -

- (1) ***“For the purposes of this section a “dependant” means the spouse and the dependent children of the employee or of the spouse.***
- (2) ***If an employee is required to live at the place of employment or to reside on any premises owned or leased by the employer, that employer must provide the employee with adequate housing including sanitary and water facilities.***
- (3) ***If an employee contemplated in subsection (2) lives on agricultural land, the employer must provide sufficient facilities referred to in that subsection to meet the reasonable needs of the employee and the employee’s dependants and must either: -***

- (a) *permit the employee to keep livestock and to cultivate land to meet the reasonable needs of that employee and the employee's dependants, or***
- (b) *in terms of an agreement with the employee -***
 - (i) *provide the employee with sufficient food to meet the reasonable needs of the employee and the employee's dependants or***
 - (ii) *pay the employee an additional amount to do so.***

(4) An employer who terminates the employment of an employee who is required to live at the place of employment or to reside on any premises owned, leased or provided by the employer may not require the employee to vacate the said premises or place unless -

(a) in the case of an employee residing on agricultural land, the employer gives to the employee three months' written notice to vacate; or

(b) in the case of all other employees, the employer gives to the employee at least one month's written notice to vacate".

(5) If an employee has referred a dispute to the Labour Commissioner alleging an unfair dismissal within 30 days following the termination of employment the employer may not, despite subsection (4), require the employee to vacate the place or premises until the dispute is resolved in terms of Part G of this Chapter or otherwise disposed of.

However, as demonstrated in paragraph (4)(a) of the Act, there is a limitation on the residing on the farm after termination of employment. Issues like schooling for children, medical care for farm workers and their families, retirement, grazing rights and pension are not directly legislated under the Labour Act as they are cross-cutting and administered by and through other different Acts of Parliament and various Policies of State. The provision for a living wage, the Labour Act allows for trade unions and employers' organizations to negotiate minimum wage and other conditions of employment in different sectors/industries of economy. To this end and in line with the Labour Act and the Kameeta Commission's Recommendation 15, the trade union representing farm workers, Namibia Farmworkers' Union (NAFWU) and Agricultural Employers' Association (AEA) have entered and concluded a Collective Agreement on Minimum Wage and Other Conditions of Employment in Agricultural Sector in 2014. This Agreement is currently under review by the same parties, and

The same Labour Act, has an elaborative provision on Occupational Safety and Health at work place accompanied by a detailed Regulation. These provisions are applicable to all employers and employees regardless of their sectors/industries.

The Employee Compensation Act and Social Security Act cover all employees including farm workers.

Represented

By

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2nd National Land Conference

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