



**REPUBLIC OF NAMIBIA**

**MOTIVATION STATEMENT BY**

**HON. LUCIA IIPUMBU MP**

**MINISTER OF INDUSTRIALISATION AND TRADE**

**FOR THE TABLING OF THE NAMIBIA INVESTMENT PROMOTION  
AND FACILITATION ACT (NIPA)**

**17<sup>th</sup> NOVEMBER 2021**

**NATIONAL ASSEMBLY**

**Honourable Speaker,**

**Honourable Members of the National Assembly,**

I rise to introduce and table for consideration and subsequently ratification by this August House, the Namibia Investment Promotion and Facilitation Act (NIPA). The principal purpose of this Act is to enable a conducive environment to attract, retain and facilitate both domestic and foreign sustainable investment in our country. The Act therefore also not only covers and define its objects, the Minister's powers, but also the duties and functions of key institutional poles within the NIPA framework.

**Honourable Speaker,**

**Honourable Members,**

In consideration of its strategic priorities, role and responsibilities towards achieving Industrialisation in the Namibian economy, the Ministry of Industrialisation and Trade (MIT) recognised from an investment perspective that:

- a) Numerous studies and research such as The World Bank's Namibia Investor Roadmap of 2005 and the 2006 Foreign Investment Advisory Services in 2006 has continuously highlighted, since 1990, the need to shore up our Foreign Investment Act of 1990 as it was mainly aimed at attracting foreign direct investment only and thereby wholly excluding domestic investment; and
- b) The need to embrace a modern and clear legal framework that accommodates newer economy dictates and developments to ensure that Namibia leverage on dimensions that emanates from the 4<sup>th</sup> Industrial Revolution; Economic Nationalism Agenda, the Digital Economy Imperatives, Smarter Approach towards Economic Incentives, Regional and Continental Free Trade Areas as well as fostering Regional and Bilateral Value Chains through New Generation Special Economic Zones.**

There is therefore a critical need to ensure that Namibia embrace and adopt its revamped and revived Investment legislation due to several pressing reasons:

- a) The current version of NIPA evolved out of the 2016 Namibia Investment Promotion Act, which was assented to by His Excellency the President of Namibia, Dr. Hage. G. Geingob, but had to be withdrawn to ensure final consultative engagements. There was and is still is a need to ensure that Namibia is not duly left with a policy gap when it comes to the investment environment.
- b) The Ministry of Industrialisation and Trade started working on revamping the investment legislation in 2010 characterised by numerous consultations with various stakeholders. It is now five year after the withdrawal of the 2016 Act and this severely affect the investment environment regime in Namibia.
- c) This has led to increasing **investor uncertainty**, a situation that Namibia can ill - afford any further. The investor uncertainty is felt in the very low investment the country secured over the last three years. Although global investment levels have also experienced a downturn and exacerbated further by the Covid-19 Pandemic, Namibia is one of the economies that has been severely affected with investor uncertainty a key determinant thereof.
- d) Although the country's fall-back position has been the 1993 Foreign Direct Investment Act, the said legislation is outdated, partial in that it does not foster domestic investment nor does it embraces newer dictates such as innovation and sustainable investment as highlighted above.
- e) The old legislation therefore will not support any viable initiatives that foster the adoption of 4<sup>th</sup> Industrial Revolution driven investments nor will it adequately enhance new policy developments around Special Economic Zones which aims to ensure that Namibia can attract investments for trading in through the African Continental Free Trade Area (ACFTA) and the rest of the world.

**Honourable Speaker,**  
**Honourable Members,**

The absent investment policy regime is enabling an impaired environment in Namibia wherein we are not able to leverage on newer investment strategies pertaining to

renewable energies, resuscitate a post Covid-19 economy within a updated investment legislative and policy framework and protect our local enterprises comprehensively. The absent investment policy regime therefore does not auger well for the country.

Further our country's premier publication to frontload key governmental initiatives - **The Harambee Prosperity Plan II of 2021 - 2025** posit several key investment initiatives around Green Hydrogen and Ammonia, Designing Competitive Investment Incentives and an Investment Plan for Green and Blue Economy. All these will hinge largely on an enabling investment policy and legislative environment, for which NIPA is therefore detailed as a specific action/milestone to be completed during this financial year.

**Honourable Speaker,**  
**Honourable Members,**

In pursuance of the attainment of Vision 2030 and the drive to industrialise the Republic of Namibia, the Ministry of Industrialisation and Trade therefore re-posit the introduction of a new investment legislation which is more responsive and overarching embodying the following, among others:

- a) Defining a domestic and foreign investor, as well as investment with an emphasis on sustainability of the said investment;
- b) Restriction of some economic sectors and or subsectors to foreign investors;
- c) Mainstreaming a national investment policy imperative within the investment law;
- d) Enabling a viable institutional framework to support the ambitions of the policy by addressing an institutional framework (Namibia Investment Promotion and Development Board) as well as requisite investor friendly infrastructure (the Integrated Client Service Facility or a One-Stop Shop);
- e) Investor performance requirements;
- f) Ensure an effective structure to support our Economic Nationalism Agenda, by introducing Business Inspectors;
- g) Ensuring that admission procedures for foreign investors are transparent;

- h) Make investor registration compulsory, and hence introduce a crucial aspect of investor tracking and management;
- i) Clear guidelines for investor dispute procedures.

The motive for a modern investment law has been highlighted in my introduction, however of cardinal importance is also to ensure a law that is congruent and aligned to new policy imperatives frameworks such as the Special Economic Zones, SADC Industrialisation Strategy and Roadmap, SADC Protocol on Industry which this house recently ratified and the SACU Industrialisation Agenda. These initiatives are all anchoring their ambitions on an effective investment frameworks to drive sustainable investment.

Furthermore, embracing a modern investment law shall help ensure that Namibia can develop a new Industrial Policy that will replace the 2012 version but accommodated within a modern investment law. Similarly the emphasis on **Sustainable Investments** speaks largely to the country's global commitment to ensure that promote and attract environmentally friendly economic projects which are also congruent with social stability and the equitable distribution of their returns.

**Honourable Speaker,**  
**Honourable Members,**

**Key chapters in the NIPA Act are as follows:**

### **SECTIONS 1 and 2**

These sections provides for the definitions of the key words used in the Act for ease of reference and clarity and emphasis on the definition of **Investment** to ensure clear clarification of concept and to ensure mainstreaming sustainability.

### **SECTIONS 3 AND 4**

These sections state the objectives to be achieved by the Act, which are, *inter alia*, aimed at providing a clear and transparent framework for sustainable investment in Namibia in order to ensure economic development.

## **SECTION 5**

This section bestows crucial powers on the Minister to ensure the attainment of the objects of the Act.

## **SECTIONS 6 TO 10**

These sections establish the designated investment promotion agency (Namibia Investment Promotion and Development Board), introduce Business Inspectors, and introduce the framework for performance agreement with investors, the dictates of investment promotion a facilitation as well as the requisite infrastructure - the Integrated Client Service Facility. The cries of our local businessmen and women against some unscrupulous foreign investors' business practices are to be formally accommodated through the appointment of Business Inspectors with full powers to investigate businesses in terms of compliance.

## **SECTION 11**

This section introduce a National Investment Policy imperative which will be crucial to ensure dynamisms and a sustained awakened approach towards Namibia' policy space in investments.

## **SECTIONS 12 TO 29**

These sections deals with frameworks around sector reservations, investment approvals - these will be further enhanced through Regulations. Further crucially these sections deals with not only the **Rights** but also very much importantly the **Obligations** of investors (a matter that has been often neglected in investment laws especially in Africa and the rest of the developing world). The final section here deals with aspects of the transfer of funds.

## **SECTION 30**

This section ensures that dispute resolution mechanisms, access paths and frameworks are consistent to ensure a comfortable environment for both the country as well as the investor.

## **SECTIONS 31 TO 39**

These final sections deal with the further provisions applicable to the Act. These provisions include the policy space for the Minister to further prescribe and regulate investments to maintain national security and international peace. The sections also deals with requisite offences and penalties where in the unfortunate event an investor may have committed an offence. The sections also provide the accommodative stance of a High Court appeal pathway for investors.

These sections further deal with the provisions of Ministerial Regulations, Repealing of certain laws (Foreign Investment Act, 1990 (Act No 27 of 1990), the Foreign Investment Act, 1993 (Act No 24 of 1993) and the Namibia Investment Promotion Act, 2016 (Act No. 9 of 2016). Importantly the Section also provide for current holders of the investment certificates under the old law not to be prejudiced or negatively affected by this Act.

**Honourable Speaker,**  
**Honourable Members,**

The Ministry of Industrialisation and Trade has been working on a revised and revamped investment legislation since 2010, however the process had to be rightly marked by extensive process of consultations both locally and internationally to ensure a 'meeting of minds' across various aspects that affects all stakeholders. The Ministry gives credence to such an elaborated stakeholder consultative approach and is grateful for all participants who ensured the delivery of this final piece of legislation today.

Allow me therefore, at this juncture to table the **NAMIBIA INVESTMENT PROMOTION AND FACILITATION ACT** for your consideration and ratification.

Your positive consideration and ratification of this Act, Honourable Members, will reinforce and grant momentum for the speedy implementation of the Growth at Home strategy which would resultantly bring about the realization of Vision 2030 and Harambee Prosperity Plan aspirations.

I am counting on your usual and continued support.

**I thank you.**