



REPUBLIC OF NAMIBIA

OFFICE OF THE PRIME MINISTER

Tel No: (061) 287 9111
Fax No: (061) 234 296

Private Bag 13338
WINDHOEK

11 April 2025

TO: All Executive Directors
Secretary to the National Assembly
Secretary to the National Council
Deputy Auditor-General
Director: Namibia Central Intelligence Service
Chief Electoral and Referenda Officer: ECN

SUBJECT: INTERPRETATION OF SECTION 35 OF THE LABOUR ACT, 2007 (ACT NO. 11 OF 2007)

1. The subject matter refers.
2. In order to gain legal clarity on the section 35 of the Labour Act, the Office of the Prime Minister requested the Office of the Attorney-General to provide an interpretation of Section 35 of the Labour Act, 2007. (Act No. 11 of 2007) in conjunction with the relevant provisions of the Public Service Act, 1995 (Act No. 13 of 1995) and the Public Service Staff Rules issued thereunder, particularly as it relates to resignation from the public service and the payment of severance pay.
3. In light of the above, I would like to draw your attention to the guidance provided by the Office of the Attorney General on this matter, as outlined below.
 - 3.1 In light of the judgment in Hardap Regional Council v. Labour Commissioner & Others, delivered on 27 February 2025, it is now confirmed that an employee who voluntarily resigns before reaching the age of 65 is not entitled to severance pay under Section 35(1) (c) of the Labour Act, 2007. This ruling overturns the precedent set by Gibeon Village Council v. Uaaka & Others, which had suggested an entitlement to severance pay upon resignation.

- 3.2 The High Court's interpretation clarifies that severance pay is payable only when an employee either resigns or retires upon reaching age 65. Therefore any previous understandings or legal positions permitting severance pay for employees resigning before 65 are no longer valid.
- 3.3 Given this definitive interpretation, there is no immediate need to amend the provision, despite noted drafting ambiguities. Additionally, as the Public Service Staff Rules already prohibit severance pay for public service employees upon resignation, the status quo remain unchanged. This ruling provides legal certainty and prevents financial and administrative burdens arising from misinterpretations.
- 3.4 Further, noting the legal age of retirement in the public service (including early retirement), public servants are not entitled to severance pay at retirement.
4. I trust this explanation has brought clarity and dispelled any misinterpretations concerning this section.

Yours Sincerely,

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Gladice Pickering
EXECUTIVE DIRECTOR

