



Republic of Namibia
Annotated Statutes

Admiralty Jurisdiction Regulation Act 5 of 1972 (RSA)

(RSA GG 3406)

This statute was made applicable to South West Africa by section 5, but it was never brought into force in South Africa or South West Africa, as confirmed in *Euromarine International of Mauren v The Ship Berg and Others* 1984 (4) SA 647 (N) at 665E (South Africa) and *Freiremar SA v The Prosecutor-General of Namibia and Another* 1996 NR 18 (HC) at 28 (Namibia).

APPLICABILITY TO SOUTH-WEST AFRICA: Section 5 states “This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.” Section 6 states “This Act shall be called the Admiralty Jurisdiction Regulation Act, 1972, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.” No such Proclamation was issued, meaning that the Act was never in force in South West Africa or in independent Namibia.

TRANSFER TO SOUTH-WEST AFRICA: The administration of this Act was transferred to South West Africa by the Executive Powers (Justice) Transfer Proclamation, AG 33 of 1979, dated 12 November 1979. The Act was repealed in South Africa by the *Admiralty Jurisdiction Regulation Act 105 of 1983* (RSA GG 8891), which was not made applicable to South West Africa.

In terms of section 3(1) of the Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977, a reference to the Republic is to be construed as a reference to the territory of South West Africa. However, section 3(1)(r) of the transfer proclamation excluded sections 1 and 2 of this Act from the operation of section 3(1) of the Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977. Thus, in those sections, prior to Namibian independence, “Republic” retained the meaning of the Republic of South Africa while in sections 3 and 4, “Republic” was to be construed as referring to South-West Africa.

ACT

To vest the powers and jurisdiction of the admiralty courts of the Republic in the provincial and local divisions of the Supreme Court of South Africa; to repeal the Colonial Courts of Admiralty Act, 1890, of the United Kingdom, in so far as it applies in relation to the Republic; and to provide for incidental matters.

(English text signed by the State President)
(Assented to 2nd March, 1972)

ARRANGEMENT OF SECTIONS

Admiralty Jurisdiction Regulation Act 5 of 1972 (RSA)

1. Powers and jurisdiction of courts of admiralty to vest in provincial and local divisions of the Supreme Court
2. Rules of court
3. Pending matters
4. Repeal of Colonial Courts of Admiralty Act, 1890, of the United Kingdom
5. Application of Act in South-West Africa
6. Short title and commencement

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:-

Powers and jurisdiction of courts of admiralty to vest in provincial and local divisions of the Supreme Court

1. The powers and jurisdiction of the courts of admiralty of the Republic, referred to in the Colonial Courts of Admiralty Act, 1890 (53 and 54 Victoria, C.27), of the United Kingdom shall, as from the commencement of this Act, and notwithstanding the repeal of that Act by this Act, vest in the provincial and local divisions of the Supreme Court of South Africa.

[Section 3(1)(r) of the Executive Powers (Justice) Transfer Proclamation, AG 33 of 1979, excluded section 1 from the operation of section 3(1) of the Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977. Thus, prior to Namibian independence, "Republic" in section 1 retained the meaning of the Republic of South Africa.]

Rules of court

2. The rules of the courts of admiralty of the Republic, in force at the commencement of this Act, shall be deemed to be rules made in terms of section 43(2)(a) of the Supreme Court Act, 1959 (Act No. 59 of 1959).

[The Supreme Court Act 59 of 1959 has been replaced by the Supreme Court Act 15 of 1990.]

[Section 3(1)(r) of the Executive Powers (Justice) Transfer Proclamation, AG 33 of 1979, excluded section 2 from the operation of section 3(1) of the Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977. Thus, prior to Namibian independence, "Republic" in section 2 retained the meaning of the Republic of South Africa.]

Pending matters

3. Any matter pending in any court of admiralty of the Republic at the commencement of this Act, shall be proceeded with in the relevant provincial or local division of the Supreme Court of South Africa.

Repeal of Colonial Courts of Admiralty Act, 1890, of the United Kingdom

4. The Colonial Courts of Admiralty Act, 1890 (53 and 54 Victoria, C.27), of the United Kingdom, is hereby repealed in so far as it applies in relation to the Republic.

[Since this Act was never brought into force in South West Africa or Namibia, the repeal made by this section did not become effective. The Colonial Courts of Admiralty Act, 1890 (53 and 54 Victoria, C.27) is still in force in Namibia.]

Application of Act in South-West Africa

5. This Act and any amendment thereof shall apply also in the territory of South-West Africa, including the Eastern Caprivi Zipfel.

Admiralty Jurisdiction Regulation Act 5 of 1972 (RSA)

Short title and commencement

6. This Act shall be called the Admiralty Jurisdiction Regulation Act, 1972, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

[No Proclamation bringing the Act into force was ever issued.]