



Republic of Namibia
Annotated Statutes

First Law Amendment (Abolition of Discriminatory or Restrictive Laws for purposes of Free and Fair Election) Proclamation, AG 14 of 1989

(OG 5726)

came into force on date of publication: 8 June 1989

as amended by

Namibian Citizenship Act 14 of 1990 (GG 65)

brought into force with effect from 15 September 1990 by Proc. 13/1990 (GG 72)

Immigration Control Act 7 of 1993 (GG 690)

brought into force on 29 July 1994 by GN 133/1994 (GG 895)

PROCLAMATION

Repeal of laws which may abridge or inhibit the objective of a free and fair election for a Constituent Assembly, and amendment of certain laws in so far as they may abridge or inhibit such objectives

(Approved by the State President on 6 June 1989)

ARRANGEMENT OF SECTIONS

1. Repeal and amendment of certain laws
2. Further repeal or amendment of laws
3. Application of laws
4. [deleted]
5. Short title

WHEREAS a constituent assembly is to be elected for the territory of South West Africa in a free and fair election;

AND WHEREAS I am called upon -

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to repeal all laws which are of such a discriminatory or restrictive nature that they may abridge or inhibit the objective of a free and fair election or to amend laws of that nature in so far as they may abridge or inhibit that objective; and

to ensure that all laws which are in force in the territory of South West Africa shall not be applied by way of executive or administrative acts or measures or otherwise that such objective will thereby be abridged or inhibited;

AND WHEREAS I have identified certain laws which may abridge or inhibit such objective;

AND WHEREAS I foresee that further laws which may abridge or inhibit such objective may still be identified;

THEREFORE, under the powers vested in me by Proclamation 181 of 19 August 1977, I hereby make the laws set out in the Schedule.

L.A. PIENAAR
Administrator-General Windhoek, 6 June 1989

SCHEDULE

Repeal and amendment of certain laws

1. The laws specified in the Annexure which have been identified to be of such a discriminatory or restrictive nature that they may abridge or inhibit the objective of a free and fair election for the constitution of a constituent assembly for the territory of South West Africa, are hereby repealed or amended to the extent indicated in the third column of the Annexure.

Further repeal or amendment of laws

2. (1) Any person having an interest in the election referred to in section 1 who is of the opinion that any provision of any law which is in force in the territory of South West Africa, is of such a discriminatory or restrictive nature that it may abridge or inhibit the objective referred to in that section, may at any time in writing and specifying the grounds on which his opinion is based, request the Administrator-General to repeal or amend such a law in so far as it may abridge or inhibit such objective.

(2) The Administrator-General shall consider a request made to him under subsection (1) as soon as possible, but not later than 21 days after receipt of such request, and shall -

- (a) if he is of the opinion that the law specified in the request is of such a discriminatory or restrictive nature that it may abridge or inhibit the said objective, forthwith repeal or amend, subject to the provisions of section 38(2) of the South West Africa Constitution Act, 1968 (Act No. 39 of 1968), such a law in so far as that law may in his opinion abridge or inhibit such objective;
- (b) if he is of the opinion that the law specified in the request is not of such a discriminatory or restrictive nature, as soon as possible notify the person concerned of his decision and of the reasons for that decision.

Application of laws

3. (1) Any person having an interest in the election referred to in section 1 who is of the opinion that any person who -

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- (a) is in the government service mentioned in section 2 of the Government Service Act, 1980 (Act No. 2 of 1980);
- (b) is in the employment of a municipality established under section 2 of the Municipal Ordinance, 1963 (Ordinance No. 13 of 1963);
- (c) is in the employment of a village management board established under section 3 of the Village Management Boards Ordinance, 1963 (Ordinance No. 14 of 1963);
- (d) is in the employment of the Peri-Urban Development Board established by section 2 of the Peri-Urban Development Board Ordinance, 1970 (Ordinance No. 19 of 1970);
- (e) is in the employment of any commission, board, corporation, committee, body or other institution established by or under any law,

has taken any decision or performed any act or has failed to take any decision or to perform any act by virtue of any provision of any law which is in force in the territory of South West Africa or by virtue of the fact that he is in such government service or is so employed, in such a manner that the objective referred to in section 1 is thereby abridged or inhibited, may at any time in writing and specifying the grounds on which his opinion is based, lay the matter before the person holding the office of Ombudsman by virtue of an appointment under section 3 of the Ombudsman for South West Africa Act, 1986 (Act No. 26 of 1986).

(2) The Ombudsman shall *mutatis mutandis* in accordance with the provisions of the said Ombudsman for South West Africa Act, 1986, enquire into, and report to the Administrator-General on, any matter laid before him in terms of subsection (1) as if it is a matter that had been laid before him in terms of the said Act, and may make such recommendations as he may deem necessary or expedient in the circumstances.

(3) If it appears from a report submitted in terms of subsection (2) that any decision, act or failure referred to in subsection (1) is of such a nature that it abridges or inhibits or may abridge or inhibit the said objective, the Administrator-General shall take such steps as he may deem necessary or expedient in order to ensure that such objective is not so abridged or inhibited.

(4) The provisions of this section shall not be construed as prohibiting any person from instituting any judicial proceedings in the Supreme Court of South West Africa whereby an order is sought that any decision, act or failure referred to in subsection (1) is reviewed and corrected or set aside or whereby any other relief is granted on the ground thereof that such a decision, act or failure is unlawful.

4.

[Section 4 is deleted by Act 7 of 1993. It previously stated:

“Application of certain laws relating to aliens

4. For the purposes of any law relating to aliens any person who is the child or spouse of any person born in the territory of South West Africa shall be deemed not to be an alien, as referred to in such a law.”]

Short title

5. This Proclamation shall be called the First Law Amendment (Abolition of Discriminatory or Restrictive Laws for purposes of Free and Fair Election) Proclamation, 1989.

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ANNEXURE

LAWS REPEALED OR AMENDED
(Section 1)

Column 1	Column 2	Column 3
No. and year of law	Title of law	Extent to which repealed or amended
Proclamation No. 3 of 1917 of the Administrator of the Territory of South West Africa	Control and Treatment of Natives on Mines and Works	The repeal of the whole
Proclamation No. 6 of 1919 of the Administrator of the Territory of South West Africa	Native Locations (Entry of Europeans) Proclamation, 1919	The repeal of the whole
Proclamation No. 6 of 1924 of the Administrator of the Territory of South West Africa	Natives employed on Mines and Works	The repeal of the whole
Proclamation No. 6 of 1925 of the Administrator of the Territory of South West Africa	Native Labour Regulation Proclamation, 1925	The repeal of the whole
Proclamation No. 15 of 1928 of the Administrator of the Territory of South West Africa	Native Administration Proclamation, 1928	(a) The amendment of section 1 - (i) by the deletion in paragraph (b) of the words "found guilty of any political offence, or"; and (ii) by the deletion of paragraph (e); and (b) the repeal of section 26, in so far as it relates to section 17(1)(k) of Proclamation No. 3 of 1917
Proclamation No. 33 of 1929 of the Administrator of the Territory of South West Africa	Native Labour Regulation (Mines and Works) Proclamation, 1929	The repeal of the whole
Proclamation No. 35 of 1930 of the Administrator of the Territory of South West Africa	Native Labour Regulation (Mines and Works) Amendment Proclamation, 1930	The repeal of the whole
Proclamation No. 27 of 1931 of the Administrator of the Territory of South West Africa	Native Labour Regulation Amendment Proclamation, 1931	The repeal of the whole
Ordinance No. 13 of 1933 of the Legislative Assembly of the Territory of South West Africa	Criminal Law Amendment Ordinance, 1933	The repeal of the whole

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Proclamation No. 16 of 1935 of the Administrator of the Territory of South West Africa	Native Labour Regulation (Mines and Works) Amendment Proclamation, 1935	The repeal of the whole
Proclamation No. 51 of 1937 of the Governor-General of the Union of South Africa	South West Africa Affairs Proclamation, 1937	The repeal of the whole
Proclamation No. 4 of 1939 of the Administrator of the Territory of South West Africa	Native Labour Regulations (Mines and Works) Amendment Proclamation, 1939	The repeal of the whole
Act No. 44 of 1950 of the Parliament of the Republic of South Africa	Internal Security Act, 1950	The repeal of the whole
Act No. 3 of 1953 of the Parliament of the Republic of South Africa	Public Safety Act, 1953	The repeal of the whole
Act No. 17 of 1956 of the Parliament of the Republic of South Africa	Riotous Assemblies Act, 1956	(a) The repeal of section 2; (b) the amendment of section 4 by the deletion of the expression “section 2 (4) or”; (c) the amendment of section 5 by the deletion of the expression “2 or”; (d) the repeal of section 6; and (e) the amendment of section 7 - (i) by the deletion of paragraph (a) of subsection (1); and (ii) by the deletion in paragraph (b) of subsection (1) of the words “(whether or not the gathering has been so prohibited)”.
Act No. 44 of 1957 of the Parliament of the Republic of South Africa	Defence Act, 1957	(a) The amendment of section 3 by the deletion of subsection (1); (b) the repeal of Chapters IV, V and VI; (c) the amendment of section 56 by the addition of the following subsection: “(4) The provisions of this section shall not be construed that any person

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may be required to undergo training as a cadet.”;

(d) the repeal of section 57;

(e) the repeal of Chapter VIII;

(f) the repeal of Chapter IX, except in so far as it relates to the payment of salaries, pay and allowances of members of auxillary services who are such members immediately before the commencement of this Proclamation;

(g) the repeal of sections 103bis, 103ter and 103quat; and

(h) the amendment of section 118 by the deletion of paragraph (b) of subsection (1).

Act No. 44 of 1958 of the Parliament of the Republic of South Africa

Post Office Act, 1958

The amendment of section 118A -

(a) by the substitution in subsection (1) for the words “Minister or a Minister who is a member of the State Security Council established under the Security Intelligence and State Security Act, 1972, or an officer delegated thereto by the Minister” of the word “Administrator-General”;

(b) by the substitution in paragraph (a) of subsection (2) for the words “said State Security Council” of the word “Administrator-General”;

(c) by the substitution in paragraph (a) of subsection (3) for the word “A”, where it occurs for the first time, of the word “The”;

(d) by the insertion of the following paragraph after paragraph (a) of subsection (3):

“(aA) The functionary shall not issue a direction under subsection (1) for the interception of any postal article, telegram or communication to or

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from any person who is entitled to vote at any election or to be registered as a political party or to be a candidate at such election in order to obtain knowledge of anything in connection with such a person's or candidate's political views or the election campaign of such political party or candidate."

(e) by the deletion in paragraph (b) of subsection (3) of the words "or, if he is not available, any other functionary"; and

(f) by the substitution in subsection (4) for the word "a" , where it occurs for the first time, of the word "the".

Act No. 34 of 1960 of the Parliament of the Republic of South Africa	Unlawful Organizations Act, 1960	The repeal of the whole
Act No. 76 of 1962 of the Parliament of the Republic of South Africa	General Law Amendment Act, 1962	The repeal of the whole
Proclamation No. 148 of 1962 of the State President of the Republic of South Africa	Deportation of Undesirable Persons from South West Africa	The repeal of the whole
Act No. 37 of 1963 of the Parliament of the Republic of South Africa	General Law Amendment Act, 1963	The repeal of sections 3, 4, 5, 6, 7, 14, 15, 16 and 17
Act No. 62 of 1966 of the Parliament of the Republic of South Africa	General Law Amendment Act, 1966	The repeal of sections 3, 4, 5, 6, 22 and 23
Act No. 83 of 1967 of the Parliament of the Republic of South Africa	Terrorism Act, 1967	The repeal of the whole
Ordinance No. 21 of 1975 of the Legislative Assembly for the Territory of South West Africa	Education Ordinance, 1975	The amendment of section 78 by the deletion of subsection (2)
Act No. 42 of 1974 of the Parliament of the Republic of South Africa	Publications Act, 1974	The amendment of section 47 by the deletion in paragraph (e) of subsection (2) of the words "safety of the State"
Proclamation AG. 9 of 1977	Security Districts Proclamation, 1977	The repeal of the whole

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Proclamation AG. 26 of 1978	Detention for the Prevention of Political Violence and Intimidation Proclamation, 1978	The repeal of the whole
Proclamation AG. 34 of 1978	Security Districts Amendment Proclamation, 1978	The repeal of the whole
Proclamation AG. 26 of 1979	Detention for the Prevention of Political Violence and Intimidation Amendment Proclamation, 1979	The repeal of the whole
Act No. 9 of 1979 of the National Assembly of South West Africa	Security Districts Amendment Act, 1979	The repeal of the whole
Proclamation AG. 23 of 1979	Security Districts Amendment Proclamation, 1979	The repeal of the whole
Proclamation AG. 27 of 1979	Second Security Districts Amendment Proclamation, 1979	The repeal of the whole
Proclamation AG. 3 of 1980	Amnesty Proclamation, 1980	The repeal of the whole
Proclamation AG. 11 of 1980	Security Districts Amendment Proclamation, 1980	The repeal of the whole
Act No. 20 of 1980 of the National Assembly of South West Africa	Security Districts Amendment Act, 1980	The repeal of the whole
Proclamation AG. 59 of 1980	Second Security Districts Amendment Proclamation, 1980	The repeal of the whole
Proclamation 131 of 1980 of the State President of the Republic of South Africa	Defence Matters in South West Africa Proclamation, 1980	The repeal of the whole
Proclamation 198 of 1980 of the State President of the Republic of South Africa	Second Defence Matters in South West Africa Proclamation, 1980	The repeal of the whole
Act No. 20 of 1981 of the National Assembly of South West Africa	Security Districts Amendment Act, 1981	The repeal of the whole
Act No. 22 of 1981 of the National Assembly of South West Africa	Prohibition and Notification of Meetings Act, 1981	The repeal of the whole
Proclamation AG. 14 of 1983	State Council for South West Africa Proclamation, 1983	The repeal of the whole
Proclamation AG. 5 of 1985	Defence Matters in South West Africa Amendment Proclamation, 1985	The repeal of the whole
Proclamation AG. 8 of 1985	Security Districts Amendment Proclamation, 1985	The repeal of the whole

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<p>Act No. 33 of 1985 of the National Assembly</p>	<p>Residence of Certain Persons in South West Africa Regulation Act, 1985</p>	<p>The amendment of—</p> <p>(a) section 3 by the substitution for paragraph (a) of subsection (2) of the following paragraph:</p> <p style="padding-left: 40px;">“(a) who was born in the territory or who is the natural child or the spouse of such a person;” and</p> <p>(b) section 9 by the substitution in paragraph (a) of subsection (1) for the expression “3(2)(d) or (e) or any person born in the territory” of the expression “3(2)(a), (d) or (e)”.</p>
<p>[deleted by Act 14 of 1990, which repealed the underlying law]</p>		
<p>Proclamation 204 of 1986 of the State President of the Republic of South Africa</p>	<p>Defence Matters in South West Africa Amendment Proclamation, 1986</p>	<p>The repeal of the whole</p>
<p>Act No. 16 of 1988 of the National Assembly</p>	<p>Protection of Fundamental Rights Act, 1988</p>	<p>(a) The repeal of section 2; and</p> <p>(b) the amendment of section 3 by the substitution for the words following on subparagraph (iv) of paragraph (e) of the following words:</p> <p style="padding-left: 40px;">“shall be guilty of an offence and liable on conviction to a fine not exceeding R20 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.”.</p>