



Republic of Namibia
Annotated Statutes

Justices of the Peace and Commissioners of Oaths Act 16 of 1963 (RSA)

(RSA GG 456)

brought into force in South Africa on 1 December 1964 by RSA Proc. R.316/1964 (RSA GG 958);
came into force in South West Africa on 21 July 1972 when the amendments made by
Act 55 of 1970, including the insertion of section 11A, were brought into force
by RSA Proc. R.168/1972 (RSA GG 3619)

APPLICABILITY TO SOUTH WEST AFRICA: Section 1, as amended by Act 55 of 1970, defines "Republic" to include "the territory of South West Africa". Section 11A, which was inserted by Act 55 of 1970, states "This Act and any amendment thereof shall apply also in the territory of South-West Africa, including the Eastern Caprivi Zipfel." Act 55 of 1970 was brought into force on 21 July 1972 by RSA Proc. R.168/1972 (RSA GG 3619); it repealed the SWA Commissioners of Oaths Proclamation 24 of 1928.

TRANSFER TO SOUTH WEST AFRICA: The administration of this Act was transferred to SWA by the Executive Powers (Justice) Transfer Proclamation (AG 33/1979), dated 12 November 1979, as amended. None of the amendments to the Act in South Africa after the date of transfer and prior to Namibian independence - the *Justices of the Peace and Commissioners of Oaths Amendment Act 110 of 1984* (RSA GG 9360), the *Justices of the Peace and Commissioners of Oaths Amendment Act 36 of 1986* (RSA GG 10198) and the *Transfer of Powers and Duties of the State President Act 97 of 1986* (RSA GG 10438) - were made expressly applicable to South West Africa.

as amended by

General Law Amendment Act 80 of 1964 (RSA) (RSA GG 829)

came into force in relevant part on date of publication: 24 June 1964

Justices of the Peace and Commissioners of

Oaths Amendment Act 8 of 1965 (RSA) (RSA GG 1054)

came into force on date of publication: 10 March 1965

Justices of the Peace and Commissioners of

Oaths Amendment Act 21 of 1967 (RSA) (RSA GG 1677)

came into force on date of publication: 8 March 1967

Justices of the Peace and Commissioners of

Oaths Amendment Act 55 of 1970 (RSA) (RSA GG 2828)

brought into force on 21 July 1972 by RSA Proc. R.168/1972 (RSA GG 3619)

Parliamentary Service Act 33 of 1974 (RSA) (RSA GG 4374)

deemed to have come into operation on 1 August 1974 (section 23 of Act 33 of 1974)

Second Bantu Laws Amendment Act 102 of 1978 (RSA) (RSA GG 6095)

section 17 brought into force on 1 August 1978 by RSA Proc R.198/1978 (RSA GG 6120)

(not made expressly applicable to South West Africa, so applicable only to South African laws which had not been transferred to South West Africa by that date)

Native Laws Amendment Proclamation, AG 3 of 1979 (OG 3898)

came into force on 1 August 1978, except for section 1(1)(a), (b) and (c)
which were deemed to have come into operation on 17 May 1978 (section 5)

Justices of the Peace and Commissioners of Oaths Act 16 of 1963 (RSA)

ACT

To consolidate and amend the laws relating to the appointment, powers and duties of justices of the peace and commissioners of oaths, and to provide for matters incidental thereto.

(English text signed by the State President)

(Assented to 9th March, 1963)

ARRANGEMENT OF SECTIONS

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3. Powers and duties of justices of the peace
4. *Ex officio* justices of the peace

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OFFICES THE HOLDERS OF WHICH ARE *Ex Officio* JUSTICES OF THE PEACE

Second Schedule

LAWS REPEALED

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

JUSTICES OF THE PEACE

Definition

1. In this Act, unless the context otherwise indicates -

Justices of the Peace and Commissioners of Oaths Act 16 of 1963 (RSA)

“Republic” includes the territory of South-West Africa.

[section 1 repealed by Act 21 of 1967 and inserted by Act 55 of 1970]

Appointment of justices of the peace

2. (1) The Minister of Justice (hereinafter referred to as the Minister) may appoint for any magisterial district so many justices of the peace as he may deem fit.

[subsection (1) substituted by Act 8 of 1965 and by Act 21 of 1967]

(2) Any justice of the peace so appointed shall hold office during the Minister’s pleasure.

Powers and duties of justices of the peace

3. Any justice of the peace appointed under section 2 shall -
- (a) within the magisterial district for which he is appointed or is in terms of the provisions of the Justices of the Peace and Commissioners of Oaths Amendment Act, 1967, deemed to have been appointed, possess all such powers and perform all such duties as, by any law in force in such district, are conferred or imposed upon justices of the peace;

[The Act referred to is Act 21 of 1967.]

- (b) carry out such instructions for the preservation of the peace and good order in such magisterial district as he may receive from the magistrate of that magisterial district;
- (c) render all assistance possible in suppressing disorder or disturbance in such magisterial district;

and shall further have such other powers and perform such other duties as the Minister may lawfully confer or impose upon him.

[section 3 substituted by Act 21 of 1967]

***Ex officio* justices of the peace**

4. The holder of any office specified in the First Schedule shall be a justice of the peace for the Republic and shall possess all such powers and perform all such duties as are conferred or imposed on justices of the peace by any law.

[section 4 substituted by Act 80 of 1964]

COMMISSIONERS OF OATHS**Appointment of commissioners of oaths**

5. (1) The Minister may appoint any person as a commissioner of oaths for any area fixed by the Minister.

(2) Any commissioner of oaths so appointed shall hold office during the Minister’s pleasure.

Justices of the Peace and Commissioners of Oaths Act 16 of 1963 (RSA)

***Ex officio* commissioners of oaths**

6. The Minister may, by notice in the *Gazette*, designate the holder of any office as a commissioner of oaths for any area specified in such notice, and may in like manner withdraw or amend any such notice.

Powers of commissioners of oaths

7. Any commissioner of oaths may, within the area for which he is a commissioner of oaths, administer an oath or affirmation to or take a solemn or attested declaration from any person: Provided that he shall not administer an oath or affirmation or take a solemn or attested declaration in respect of any matter in relation to which he is in terms of any regulation made under section *ten* prohibited from administering an oath or affirmation or taking a solemn or attested declaration, or if he has reason to believe that the person in question is unwilling to make an oath or affirmation or such a declaration.

Powers as to oaths outside the Republic

8. (1) (a) The Minister may, by notice in the *Gazette*, declare that the holder of any office in any country outside the Republic shall in the country in which or at the place at which he holds such office, have the powers conferred by section *seven* upon a commissioner of oaths, and may in like manner withdraw or amend any such notice.

(b) Any person appointed as a commissioner of the Supreme Court of South Africa shall for the purpose of the exercise of his powers or the performance of his duties as such commissioner have, at any place outside the Republic, the powers conferred by section *seven* upon a commissioner of oaths.

(2) If any person referred to in sub-section (1) administers an oath or affirmation to or takes a solemn or attested declaration from any person, he shall authenticate the affidavit or declaration in question by affixing thereto the seal or impressing thereon the stamp used by him in connection with his office or, if he possesses no such seal or stamp, certifying thereon under his signature to that effect.

(3) Any affidavit, affirmation or solemn or attested declaration purporting to have been made before a person referred to in sub-section (1) and to be authenticated in accordance with the provisions of sub-section (2), may, on its mere production, be admitted in evidence in any court or received in any public office.

(4) Any affidavit, affirmation or solemn or attested declaration made before a person referred to in sub-section (1) and authenticated in accordance with the provisions of sub-section (2), shall be as effectual as if made in the Republic before a commissioner of oaths.

(5) Any court in the Republic shall have jurisdiction to try any person on a charge of having contravened section *nine* in relation to any affidavit or declaration made outside the Republic before a person referred to in sub-section (1), and for all purposes incidental to or consequential upon the trial of the offence, the offence shall be deemed to have been committed within the area of jurisdiction of the court so trying any person.

GENERAL**Penalties for false statements in affidavits and certain other declarations**

Justices of the Peace and Commissioners of Oaths Act 16 of 1963 (RSA)

9. Any person who, in an affidavit, affirmation or solemn or attested declaration made before a person competent to administer an oath or affirmation or take the declaration in question, has made a false statement knowing it to be false, shall be guilty of an offence and liable upon conviction to the penalties prescribed by law for the offence of perjury.

Regulations

10. (1) The State President may make regulations -
- (a) prescribing the matters in respect of which fees shall be payable to justices of the peace appointed in terms of section *two*, and the scale of such fees;
 - (b) prescribing the form and manner in which an oath or affirmation shall be administered and a solemn or attested declaration shall be taken, when not prescribed by any other law;
 - (c) prescribing the circumstances under which commissioners of oaths shall be prohibited from administering an oath or affirmation or taking a solemn or attested declaration;

and generally for the better carrying out of the objects and purposes of this Act.

(2) A differing scale of fees may in terms of paragraph (a) of sub-section (1) be prescribed in respect of different areas, and different regulations may in terms of paragraph (c) of the said sub-section be made in relation to different commissioners of oaths or in relation to commissioners of oaths of different classes.

Repeal of laws

11. (1) Subject to the provisions of subsections (2) and (4), the laws specified in the Second Schedule are hereby repealed to the extent set out in the third column of that Schedule.

[subsection (1) substituted by Act 21 of 1967]

(2) Any appointment made under or declared to remain in existence by any law repealed by sub-section (1), and any appointment equated by such law to an appointment made thereunder, and anything done in connection with or by virtue of any such appointment shall remain of full force and effect, and any condition or provision which immediately before the commencement of this Act applied in relation to any person by virtue of any such law, shall continue so to apply as if that law had not been repealed.

(3)

[subsection (3) deleted by Act 21 of 1967]

(4) Anything done under any provision of a law repealed by sub-section (1), shall be deemed to have been done under the corresponding provision of this Act, if any.

Application of this Act to South-West Africa

11A. This Act and any amendment thereof shall apply also in the territory of South-West Africa, including the Eastern Caprivi Zipfel.

[section 11A inserted by Act 55 of 1970]

Short title

Justices of the Peace and Commissioners of Oaths Act 16 of 1963 (RSA)

12. This Act shall be called the Justices of the Peace and Commissioners of Oaths Act, 1963, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

[Section 6 of Act 21 of 1987 contains the following transitional provision:

“Any justice of the peace appointed or deemed to have been appointed under the provisions of the principal Act [Act 16 of 1963] shall, as from the commencement of this Act [Act 21 of 1967], be deemed to have been appointed as justice of the peace for the magisterial district in which the ward for which he has been or is deemed to have been so appointed, is situated.”]

First Schedule

[The First Schedule is amended by Act 80 of 1964, substituted by Act 21 of 1967 and amended by Act 33 of 1974, Act 102 of 1978 and AG 3 of 1979.]

OFFICES THE HOLDERS OF WHICH ARE *Ex Officio* JUSTICES OF THE PEACE

Any office mentioned in Column II of the First Schedule to the Public Service Act, 1957 (Act No. 54 of 1957), any office of Deputy Secretary or of Under-Secretary of a department referred to in Column I of that Schedule and any office in a department so referred to which corresponds with such office of Deputy Secretary or Under-Secretary.

Chief Law Adviser, Deputy Chief Law Adviser and Law Adviser in the permanent service of the State. Secretary, Deputy Secretary, Under Secretary or Assistant Secretary to Parliament and the heads of the following sections, namely -

- Public Bill Section;
- Hansard Section (House of Assembly);
- Hansard Section (Senate);
- Translating Section;
- Serjeant-at-Arms Section;
- Accounts Section;
- Library of Parliament.

Commandant-General of the South African Defence Force and Commissioned Officer of the Permanent Force of the South African Defence Force.

Attorney-General, Deputy Attorney-General, Senior State Advocate and State Advocate.

Commissioner of the Railways and Harbours Police Force and Commissioned Officer of the Railways and Harbours Police Force.

Commissioned Officer of the South African Police.

Commissioned Officer of the Prisons Service.

Registrar of any division of the Supreme Court of South Africa.

Magistrate, Additional Magistrate and Assistant Magistrate.

Chief Commissioner, Commissioner, Additional Commissioner and Assistant Commissioner.

Chief Commissioner, Assistant Chief Commissioner, Additional Commissioner and Assistant Commissioner.

Second Schedule

LAWS REPEALED

| No. and Year of Law. | Short Title. | Extent of Repeal. |
|----------------------|--|-----------------------------|
| Act No. 16 of 1914. | Justices of the Peace and Oaths Act, 1914. | The whole. |
| Act No. 8 of 1931 | Justices of the Peace and Oaths (Amendment) Act, 1931. | The whole. |
| Act No. 46 of 1935. | General Law Amendment Act, 1935. | Section <i>eighty-two</i> . |

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|---------------------|--|---|
| Act No. 14 of 1939. | Justices of the Peace and Oaths (Amendment) Act, 1939. | The whole. |
| Act No. 54 of 1949. | General Law Amendment Act, 1949. | Sections <i>two</i> and <i>three</i> . |
| Act No. 32 of 1952. | General Law Amendment Act, 1952. | Section <i>five</i> . |
| Act No. 21 of 1953. | Justices of the Peace and Oaths Amendment Act, 1953. | The whole. |
| Act No. 68 of 1957. | General Law Amendment Act, 1957. | Sections <i>twenty-two</i> to <i>twenty-five</i> , inclusive. |

[Section 7 of Act 21 of 1967 contains additional repeals:

“The Ordinance for creating Justices of the Peace in this Colony, 1827 (Ordinance No. 32 of 1827 of the Cape), the Ordinance for regulating the duties and remuneration of Field-cornets, 1848 (Ordinance No. 9 of 1848 of the Cape), the Ordinance for creating Justices of the Peace within the District of Natal, 1846 (Ordinance No. 6 of 1846 of Natal), The Justices of the Peace Ordinance, 1902 (Ordinance No. 6 of 1902 of the Orange Free State), and the resolution of the 1st December, 1898, article 1870, of the ‘Eerste Volksraad’ of Transvaal are, in so far as those Ordinances and resolution are unrepealed, hereby repealed.”

Section 4 of Act 55 of 1970 contains additional repeals and transitional provisions:

“Repeal of laws

4. (1) Subject to the provisions of subsections (2) and (3), the laws of the territory of South-West Africa specified in the Schedule are hereby repealed to the extent set out in the third column of the Schedule.

(2) Any appointment made under or declared to remain in existence by any law repealed by subsection (1), and anything done in connection with or by virtue of any such appointment, shall remain of full force and effect as if that law had not been repealed.

(3) Anything done under any provision of a law repealed by subsection (a), shall be deemed to have been done under the corresponding provision, if any, of the principal Act.

(4) This section shall also apply in the Eastern Caprivi Zipfel.

**Schedule
LAWS REPEALED**

| No. and year of Law. | Short title. | Extent of repeal. |
|------------------------------|--|-------------------|
| Proclamation No. 24 of 1928. | Commissioners of Oaths Proclamation, 1928. | The whole. |
| Proclamation No. 17 of 1943. | Commissioners of Oaths Amendment Proclamation, 1943. | The whole. |
| Ordinance No. 17 of 1954. | Commissioners of Oaths Proclamation Amendment Ordinance, 1954. | The whole. |
| Ordinance No.9 of 1964. | Commissioners of Oaths Amendment Ordinance, 1964. | The whole. |
| Ordinance No. 36 of 1965. | General Law Amendment Ordinance, 1965. | Section 1. |

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