



Republic of Namibia
Annotated Statutes

Prevention of Counterfeiting of Currency Act 16 of 1965 (RSA), sections 1-4 and 12

(RSA GG 1060)

brought into force in South Africa and South West Africa
on 17 November 1967 by RSA Proc. R.295/1967 (RSA GG 1892)
(see section 11 of Act, noting that it makes only
sections 1-4 and 12 applicable to South West Africa)

APPLICABILITY TO SOUTH WEST AFRICA: Section 11 states “Sections *one* to *four*, inclusive, and section *twelve*, and any amendment thereof, shall apply also in the territory of South West Africa, including that portion thereof known as the Eastern Caprivi Zipfel and referred to in section *three* of the South West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951), and in relation to all persons in that portion of the said territory known as the ‘Rehoboth Gebiet’ which is defined in the First Schedule to Proclamation No. 28 of 1923 of the Administrator of that territory.” **The sections which were not made applicable to South West Africa are all amendments to other acts.**

TRANSFER TO SOUTH WEST AFRICA: The administration of this Act does not appear to have been transferred to South West Africa. In any event, the sections applicable to South West Africa were not amended in South Africa prior to Namibian independence.

ACT

To provide for the prevention of the counterfeiting of coin and the forging or altering of certain bank notes and for matters incidental thereto, to provide for certain persons being dealt with under the law relating to extradition, and to amend the Native Territories Penal Code (Act No. 24 of 1886 of the Cape of Good Hope), the Crimes Ordinance, 1904, of the Transvaal, the South African Reserve Bank Act, 1944, and the Criminal Procedure Act, 1955.

*(English text signed by the State President)
(Assented to 10th March, 1965)*

ARRANGEMENT OF SECTIONS

1. Definitions
2. Offences relating to current coin and bank notes
3. Certain offences in respect of currency extraditable offences in certain circumstances
4. Evidence and onus of proof

Prevention of Counterfeiting of Currency Act 16 of 1965 (RSA), sections 1-4 and 12

11. Application of certain sections in South-West Africa
12. 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:-

Definitions

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

“bank note” includes any paper money which is legal tender in the State or territory in which it is issued, irrespective of the name by which it is known, but does not include a bank note issued under section ten of the South African Reserve Bank Act, 1944 (Act No. 29 of 1944);

[The South Africa Reserve Bank Act 29 of 1944 was replaced by the South African Reserve Bank Act 90 of 1989. That Act was repealed by the Bank of Namibia Act 8 of 1990, which was replaced by the Bank of Namibia Act 15 of 1997, which was replaced by the Bank of Namibia Act 1 of 2020.]

“counterfeit coin” means any coin, other than current coin, resembling or apparently intended to resemble or pass for current coin, and includes current coin prepared or altered so as to resemble or pass for coin of a higher denomination;

“current coin” means any coin the issue and circulation of which, in any State or territory, as money have been authorized by law;

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

Offences relating to current coin and bank notes

2. Any person who -
 - (a) counterfeits or performs any part of the process of counterfeiting any current coin;
 - (b) forges or alters a bank note;
 - (c) utters, tenders or accepts any counterfeit coin, knowing it to be counterfeit, or a forged or altered bank note, knowing it to be forged or altered;
 - (d) without lawful authority or excuse -
 - (i) imports or receives into the Republic; or
 - (ii) exports from the Republic or puts or takes or causes to be put or taken on board any ship, vessel, boat, aircraft or vehicle for the purpose of being so exported,
 any counterfeit coin or any forged or altered bank note;
 - (e) with intent to counterfeit current coin or to forge a bank note, makes, mends, obtains, has in his possession or disposes of any tool, instrument or machine -
 - (i) intended for making any counterfeit coin or forged bank note;

Prevention of Counterfeiting of Currency Act 16 of 1965 (RSA), sections 1-4 and 12

- (ii) intended for the marking of coin round the edges with letters, grainings or other marks or figures resembling letters, grainings, marks or figures round the edges of any current coin; or
- (iii) capable of being used for preparing any material for receiving any impression resembling that on any current coin;
- (f) gilds, silvers or colours any piece of metal of a size or figure fit to be coined, for the purpose of coining it into counterfeit coin;
- (g) makes any piece of metal into a size or figure fit to be coined, with intent to facilitate the coining therefrom of counterfeit coin or for the purpose of coining therefrom counterfeit coin;
- (h) buys, sells or is in possession of a piece of metal referred to in paragraph (f) or (g) for a purpose referred to therein;
- (i) impairs, diminishes or lightens any current coin with intent that such coin when so impaired, diminished or lightened may pass as current coin;
- (j) without lawful authority or excuse has in his possession or disposes of or in any way deals with any filing or clipping, or any gold or silver bullion, or any gold or silver in dust, solution or otherwise, produced or obtained by impairing, diminishing or lightening current coin, knowing that it has been so produced or obtained;
- (k) with intent to defraud, utters, tenders, disposes of or otherwise uses as current coin any medal or piece of metal which is not current coin;
- (l) without lawful authority or excuse defaces any current coin by stamping thereon any word, letter, device or mark,

shall be guilty of an offence and liable on conviction -

- (i) in the case of an offence referred to in paragraph (a), (b), (c), (e), (f), (g) or (i), to imprisonment for a period not exceeding fifteen years;
- (ii) in the case of an offence referred to in paragraph (d) or (h), to imprisonment for a period not exceeding five years;
- (iii) in the case of an offence referred to in paragraph (j), to imprisonment for a period not exceeding three years; and
- (iv) in the case of an offence referred to in paragraph (k) or (l), to imprisonment for a period not exceeding twelve months.

Certain offences in respect of currency extraditable offences in certain circumstances

- 3. (1) If -
 - (a) the Republic has acceded to the Convention for the Suppression of Counterfeiting Currency drawn up at Geneva on the twentieth day of April, 1929; and

[South Africa acceded to the *Convention for the Suppression of Counterfeiting Currency, 1929* on 28 August 1967 (source: United Nations Treaty Collection), after South Africa's mandate over South West Africa was revoked by United Nations General Assembly Resolution 2145 (XXI), dated 27 October 1966. Therefore, the accession to the Convention by South Africa could not

Prevention of Counterfeiting of Currency Act 16 of 1965 (RSA), sections 1-4 and 12

possibly have made it binding on Namibia. Namibia has not acceded to this treaty since independence, and it is not listed as a party to the treaty by the United Nations Treaty Collection.]

- (b) a person is accused or has been convicted within the jurisdiction of a foreign State as defined in section *one* of the Extradition Act, 1962 (Act No. 67 of 1962), of one or more of such offences as are mentioned in sub-section (2) of this section; and
- (c) an extradition agreement which has been or is deemed to have been entered into under the said Act with such State or a State under whose sovereignty or protection such first-mentioned State is, is in force; and
- (d) the State referred to in paragraph (b) or a State under whose sovereignty or protection such first-mentioned State is, has signed and ratified or acceded to the said Convention,

such person may, notwithstanding anything to the contrary contained in the said Extradition Act, 1962, or in the said agreement, but subject to the provisions of sub-section (3) of this section, be surrendered, to the State in respect of which such agreement is so in force, in the manner prescribed by any law relating to extradition and in force in the Republic.

[The Extradition Act 67 of 1962 has been replaced by the Extradition Act 11 of 1996.]

(2) The offences referred to in paragraph (b) of sub-section (1) shall be the following, namely -

- (a) counterfeiting any current coin;
- (b) an offence referred to in paragraph (b) of section *two*;
- (c) an offence referred to in paragraph (c) of section *two*;
- (d) without lawful authority or excuse importing or receiving into the State or territory in question a counterfeit coin or a forged or altered bank note;

[The word "counterfeit" is misspelt in the Government Gazette, as reproduced above.]

- (e) an offence referred to in paragraph (e) of section *two*; and
 - (f) attempting to commit any offence referred to in paragraph (a), (b), (c) or (d) of this section.
- (3) The provisions of sub-section (1) shall cease to apply -
- (a) if the Convention referred to in the said sub-section (1) is denounced on behalf of the Republic; or
 - (b) in respect of a State or territory, if the said Convention is denounced on behalf of that State or the State under whose sovereignty or protection that territory is, as the case may be,

and a period of at least one year has lapsed after such denunciation.

Evidence and onus of proof

4. (1) A certificate purporting to have been signed by the Secretary for Foreign Affairs, or a person designated thereto by him, to the effect that a State mentioned therein has

Prevention of Counterfeiting of Currency Act 16 of 1965 (RSA), sections 1-4 and 12

signed and ratified or acceded to the Convention referred to in subsection (1) of section *three* shall, upon its production by any person in any proceedings under any law relating to extradition, be admissible in evidence in such proceedings and be *prima facie* proof of the facts set forth therein.

(2) If in any prosecution for a contravention of paragraph (d), (j) or (l) of section *two* the question arises whether any person had lawful authority or excuse for possessing or doing any thing referred to in the said paragraphs, the onus of proving that such was the case shall be on the accused.

Application of certain sections in South-West Africa

11. Sections *one* to *four*, inclusive, and section *twelve*, and any amendment thereof, shall apply also in the territory of South-West Africa, including that portion thereof known as the Eastern Caprivi Zipfel and referred to in section *three* of the South-West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951), and in relation to all persons in that portion of the said territory known as the "Rehoboth Gebiet" which is defined in the First Schedule to Proclamation No. 28 of 1923 of the Administrator of that territory.

[Section 11 was not made directly applicable to South West Africa, but it is included here to explain the applicability of the other sections of the Act to South West Africa.]

Short title and commencement

12. This Act shall be called the Prevention of Counterfeiting of Currency Act, 1965, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.