

AGRICULTURE

Cold Storage Works and Abattoirs Proclamation 50 of 1921

Summary: This Proclamation ([OG 74](#)) places limits on the construction and operation of cold storage works used for the export of meat.

Amendments: The Proclamation is amended by Proc. 3/1923 ([OG 101](#)) (which repeals section 5), and by the Agricultural Produce Export Ordinance 13 of 1928 ([OG 283](#)) (which repeals section 4).

Regulations: Regulations are authorised by section 8 of the Proclamation, but no regulations could be located.

Agricultural Produce Export Ordinance 13 of 1928

Summary: This Ordinance ([OG 283](#)) regulates the export of agricultural produce and meat. It was brought into force on 1 April 1929 by Proc. 4/1929 ([OG 309](#)) and extended to the Rehoboth Gebiet by the Rehoboth *Gebiet* (Extension of Laws Proclamation 12 of 1930 ([OG 365](#))).

Regulations: Regulations are authorised by section 6 of the Ordinance. The following regulations appear to remain in force; no repeals have been located:

Regulations governing Inspection of Livestock and Meat Exported, GN 18/1929 ([OG 309](#))

Butter and Cheese Export Regulations, GN 152/1931 ([OG 441](#))⁶

Regulation concerning cold storage of butter and cheese intended for export, GN 38/1932 ([OG 453](#))

Regulations governing Export of Beef to United Kingdom, GN 29/1935 ([OG 598](#))⁷

Regulations governing Packing and Marking of Wool and Karakul Hair, GN 146/1942 ([OG 985](#)).⁸

Application of law: The Agricultural Produce Export Interpretation Proclamation 62 of 1931 ([OG 441](#)) states in full as follows:

The Administrator may, under and by virtue of the powers in him vested by section *eleven* of the Agricultural Produce Export Ordinance, 1928 (Ordinance No. 13 of 1928), declare any animal or other article which was or is declared to be agricultural produce under the said powers, to be no agricultural produce in regard to the export thereof to a specified country.

Notices: Subsidiary notices declaring specific products to be agricultural produce for the purposes of the Ordinance have been issued from time to time, but have not been recorded here. It is not clear if

⁶ Regulation 1 repeals the regulations in Government Notice 148/1929 ([OG 348](#)).

⁷ Regulation 8 cancels GN 60/1933 ([OG 507](#)) and GN 14/1935 ([OG 597](#)).

⁸ Regulation 10 repeals the Regulations on Export of Wool in GN 125/1935 ([OG 624](#)), as amended by GN 14/1936 ([OG 653](#)) and GN 138/1936 ([OG 683](#)), and the Regulations governing Export of Karakul Hair in GN 172/1936 ([OG 688](#)) as amended by GN 69/1938 ([OG 749](#)). A note at the bottom of the Regulations governing Export of Karakul Hair, GN 172/1936 ([OG 688](#)) states that the previous regulations on Export of Karakul Hair in GN 160/1936 ([OG 687](#)) are *ultra vires*.

these have any ongoing relevance. Levies issued under this Ordinance have also been omitted.

Karakul Sheep Farming Industry Protection Proclamation 31 of 1930

Summary: This Proclamation ([OG 388](#)) governs the export of Karakul sheep capable of breeding.

Amendments: The Proclamation is amended by Ord. 11/1938 ([OG 748](#)), Proc. 24/1951 ([OG 1600](#)) and Ord. 25/1952 ([OG 1690](#)).

It was extended to the Rehoboth Gebiet by Proc. 30/1963 ([OG 2474](#)).

Regulations: This Proclamation makes no provision for regulations.

Tobacco Growers Protection Ordinance 2 of 1933

Summary: This Ordinance ([OG 515](#)) regulates the importation and sale of tobacco used for farming purposes.

Amendments: The Ordinance is amended by Ord. 7/1933 ([OG 529](#)).

Regulations: Regulations are authorised by section 2 of the Ordinance. A single regulation is contained in GN 127/1933 ([OG 529](#)), which reads in full as follows:

Lick and dip tobacco shall be treated by being mixed with flowers of sulphur, in the proportion of one pound of sulphur to five pounds of tobacco.

Cattle Improvement Consolidation Ordinance 14 of 1941

Summary: This Ordinance ([OG 898](#)) makes provision for the establishment and regulation of “cattle improvement areas”. It repeals the Cattle Improvement Ordinance 10 of 1930 as amended from time to time.

Amendments: The Ordinance is amended by Proc. 14/1941 ([OG 905](#)).

Regulations: The Ordinance explicitly repeals any regulations framed under the repealed Cattle Improvement Ordinance 10 of 1930 (section 16).

Cattle Improvement Regulations made in terms of this Ordinance are contained in GN 87/1941 ([OG 904](#)), as amended by GN 47/1943 ([OG 1035](#)).

Notices: Pre-independence notices relating to specific cattle improvement areas are not recorded here.

Abattoirs Restriction Proclamation 8 of 1944

Summary: This Proclamation ([OG 1097](#)) places restrictions on the types of animals which can be slaughtered in abattoirs.

Regulations: The Proclamation makes no provision for regulations.

Bonemeal and Superphosphates Control Proclamation 37 of 1944

Summary: This Proclamation ([OG 1147](#)) controls the importation, sale and supply of bonemeal, bonemeal products and superphosphates. It is still in force, but there is some overlap with the provisions of the *Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act 36 of 1947*.

Amendments: The Proclamation is amended by Proc. 33/1947 ([OG 1322](#)).

Regulations: The Proclamation makes no provision for regulations.

Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act 36 of 1947, as amended in South Africa to March 1978

Summary: This Act ([SA GG 3834](#)) governs the registration, importation, sale and use of the items listed in the title. It was originally called the *Fertilizers, Farm Feeds, Seeds and Remedies Act 36 of 1947*. However, the name was changed several times by various amendments to the Act.

Repeals: The Act repeals the *Fertilizers, Farm Foods, Seeds and Pest Remedies Act 21 of 1917*. The RSA *Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Amendment Act 17 of 1972* (RSA GG 3459), which made this Act applicable to South West Africa, also repealed the SWA Fertilisers, Farm Foods, Seeds and Pest Remedies Ordinance 15 of 1930.

Applicability to SWA: Section 1, as added in 1972, defines “Republic” to include “the territory of South West Africa”. Section 24, as inserted in 1972, states “This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.”

Transfer of administration to SWA: The administration of the Act was transferred to SWA by the Executive Powers (Agricultural Technical Services) Transfer Proclamation (AG 11/1978), dated **2 March 1978**.

Section 3(1)(b) of the transfer proclamation excluded section 2 of the Act (which deals with the designation of a Registrar of Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies by the Minister) from the operation of section 3(1) of the General Proclamation, meaning that this section of the Act continued to be administered by the South African Minister of Agriculture.

Section 3(1)(b) of the transfer proclamation also excluded the references to the “Republic” in sections 16(1) and 16(6)(a)(i) of the Act from the operation of section 3(1) of the General Proclamation, meaning that in these sections “Republic” retained the meaning it was given in the definition section of the Act (South Africa and SWA).

Section 3(1)(g) of the transfer proclamation exempted section 23 of the *Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Amendment Act 24 of 1977* (regarding regulations) from the operation of section 3(1) of the General Proclamation.

There was only one South African amendment to the Act after the date of transfer and prior to Namibian independence – the *Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Amendment Act 4 of 1980* – which was not made expressly applicable to SWA.

Amendments: The following pre-independence South African amendments were applicable to SWA –

- *Fertilizers, Farm Feeds, Seeds and Remedies Amendment Act 48 of 1950* ([SA GG 4422](#))
- *Seeds Act 28 of 1961* ([SA GG 6673](#))
- *Fertilizers, Farm Feeds and Remedies Amendment Act 60 of 1970* ([RSA GG 2845](#))

- *Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Amendment Act 17 of 1972* ([RSA GG 3459](#))
- *Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Amendment Act 24 of 1977* ([RSA GG 5461](#))

Section 15 of this amending Act, which amends section 16 of Act 36 of 1947, was brought into force in South Africa on 3 October 1980 by RSA Proc. R.189/1980 ([RSA GG 7243](#)). This date is after the date of transfer of Act 36 of 1947. Therefore, in terms of section 3(4) of the Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977, section 15 of the amending Act was not thereby brought into force in South West Africa because the proclamation in question did not contain an express statement that it was issued with the consent of the Administrator-General and applies also in the territory.

The Act was amended by the *Animal Slaughter, Meat and Animal Products Hygiene Amendment Act 13 of 1975* ([RSA GG 4632](#)). However, this Act was never brought into force in South Africa or South West Africa. The portions of the amending Act relevant to Act 36 of 1947 (section 16 and the Schedule to Act 13 of 1975) were repealed by the *Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Amendment Act 4 of 1980* ([RSA GG 6907](#)), but this repeal was not effective in respect of South West Africa because it occurred after the date of transfer and was not made expressly applicable to South West Africa.

After Namibian independence, the Medicines and Related Substances Control Act 13 of 2003 ([GG 3051](#)) amended sections 1, 3, 7, 15, 23, and 26, deleted section 7(2)(b) and amended the short title of the Act – but these amendments were all repealed by the Medicines and Related Substances Control Amendment Act 13 of 2003 ([GG 3051](#)). These amendments would have removed “stock remedies” from the Act’s coverage. However, section 47 of Act 13 of 2003 was amended by the Namibian Medicines and Related Substances Control Amendment Act 8 of 2007 ([GG 3968](#)), brought into force on 1 August 2008 by GN 187/2008 ([GG 4091](#)). The amended section states in relevant part that “all amendments to the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947), contained in the Schedule are repealed”. Thus, it appears that the amendments to Act 36 of 1947 by Act 13 of 2003 are no longer applicable.

Regulations: Pre-independence regulations which appear to remain in force are listed below. There are no savings clauses for regulations made under the laws repealed by this Act, but several sets of pre-independence regulations were issued under this Act.

Note that section 23 of the Act, which gives the Minister power to make regulations, was *excluded* from transfer by section 3(1)(g) of the relevant transfer proclamation. Thus, regulations which came into force after the date of transfer were applicable to SWA. No repeals have been located in respect of the regulations listed below, although some appear to have been superseded by subsequent regulations covering the same issues. The regulations listed here have not been added to the database of annotated laws, given that they seem to be superseded (or substantially superseded) by the post-independence regulations made under the Act.

Regulations on returns to be rendered by manufacturers of fertilizers are contained in SA GN 1522/1951 ([SA GG 4636](#)). No amendment or repeal has been located.

Regulations on returns by manufacturers and importers of farm feeds and prohibitions in connection with farm feeds of animal origin are contained in SA GN 1229/1955 ([SA GG 5491](#)), as amended by SA GG 643/1956 ([SA GG 5662](#)), which substitutes Schedule 1. No repeal has been located.

Regulations on the registration and sale of agricultural remedies are contained in SA GN 1243/1951 ([SA GG 4614](#)). No amendments or repeal has been located, but the registration of agricultural remedies is covered by the post-independence regulations discussed below.

Regulations relating to the registration and sale of stock remedies are contained in RSA GN R.857/1971 ([RSA GG 3121](#)), as amended by RSA GN R.1012/1971 ([RSA GG 3153](#)), RSA GN R.2296/1977 ([RSA GG 5800](#)) (which repeals regulation 10), RSA GN R.1679/1978 ([RSA GG 6133](#)), RSA GN R.2042/1980 (RSA GG 7243) and RSA GN R.1449/1983 ([RSA GG 8783](#)). No repeal has been located, but the registration of stock remedies is covered by the post-independence regulations discussed below.

Regulations relating to the registration, importation, manufacture, movement and sale of farm feeds and the registration of sterilizing plants are contained in RSA GN R.987/1973 ([RSA GG 3927](#)), as amended by RSA GN R.1373/1973 ([RSA GG 3994](#)), RSA GN R.1996/1974 ([RSA GG 4478](#)) (which erroneously cites RSA GN R.897/1973 as being the original regulations), RSA GN R.254/1976 ([RSA GG 4984](#)), RSA GN R.2296/1977 ([RSA GG 5800](#)), and RSA GN R.1679/1978 ([RSA GG 6133](#)). RSA GN R.2296/1977, which contains a provision repealing regulation 3 of these regulations, was repealed by RSA GN R.1449/1983 ([RSA GG 8783](#)). These regulations were *repealed except insofar as they relate to sterilizing plants* by the regulations relating to farm feeds contained in RSA GN R.1359/1980 ([RSA GG 7105](#)). These 1980 regulations post-dated the relevant date of transfer, but, in addition to the exemption from transfer of the Minister's power to make regulations (as noted above), regulation 27 of these 1980 regulations states: "These regulations are made with the consent of the Administrator-General for the Territory of South West Africa and shall also apply in the Territory." No repeal has been located, but the registration of sterilizing plants is covered by the post-independence regulations discussed below.

Regulations relating to the registration and sale of fertilizers are contained in GN R.799/1977 ([RSA GG 5552](#)), as corrected by RSA GN R.1371/1977 ([RSA GG 5680](#)), and as amended by RSA GN R.2296/1977 ([RSA GG 5800](#)) (which repeals regulation 6), RSA GN R.775/1978 ([RSA GG 5996](#)), RSA GN R.473/1980 ([RSA GG 6880](#)), RSA GN R.2042/1980 (RSA GG 7243) and RSA GN R.1449/1983 ([RSA GG 8783](#)). (RSA GN R.473/1980 erroneously refers to the original regulations as being contained in RSA GN R.779 of 20 May 1977.) No repeal has been located, but the registration of fertilizers is covered by the post-independence regulations discussed below.

Regulations relating to farm feeds are contained in GN R.1359/1980 ([RSA GG 7105](#)). These 1980 regulations post-dated the relevant date of transfer, but regulation 27 states: "These regulations are made with the consent of the Administrator-General for the Territory of South West Africa and shall also apply in the Territory." These regulations are amended by RSA GN R.1420/1981 ([RSA GG 7655](#)) and RSA GN R.1449/1983 ([RSA GG 8783](#)). No repeal has been located, but the registration of farm feeds is covered by the post-independence regulations discussed below.

Regulations relating to agricultural remedies are contained in RSA GN R.2561/1981 ([RSA GG 7934](#)). Regulation 24 states that these regulations "(a) shall come into operation on 2 January 1982; and (b) shall apply in the territory of South West Africa and are, in so far as they thus apply, made with the consent of the Administrator-General of that territory". These regulations are amended by RSA GN R.1449/1983 ([RSA GG 8783](#)), which was made expressly applicable to SWA, and by RSA GN R.1637/1984 ([RSA GG 9346](#)) which does not mention SWA and so is probably not applicable to SWA given the statement in regulation 24. No repeal has been located, but the registration of agricultural remedies is covered by the post-independence regulations discussed below.

Regulations relating to the registration of fertilizers, farm feeds, agricultural remedies, stock remedies, sterilising plants and pest control operators, appeals and imports are contained in RSA GN R.1449/1983 ([RSA GG 8783](#)). These regulations make no specific reference to South West Africa. They are amended by RSA GN R.96/1984 ([RSA GG 9035](#)), RSA GN R.2055/1984 ([RSA GG 9419](#)) and RSA GN R.1053/1988 ([RSA GG 11326](#)). No repeal has been located, but the registration of fertilizers, farm feeds, agricultural remedies and

sterilising plants (but not “stock remedies”) is covered by the post-independence regulations discussed below.⁹

Post-independence regulations concerning the **registration of fertilizers, farm feeds, sterilizing plants and agricultural remedies** are contained in GN 112/2007 ([GG 3863](#)),¹⁰ which is amended by GN 311/2020 ([GG 7409](#)).

Application of law: Section 13 of the Act, which authorises exclusions of certain fertilizers, farm feeds, agricultural remedies or stock remedies from the operation of the Act, was covered by the relevant transfer proclamation.

Certain farm feeds are excluded from the operation of the Act by SA Proc. 218/1948 ([SA GG 4016](#)).

Certain remedies are excluded from the operation of the Act by SA Proc. 109/1948 ([SA GG 3977](#)), as amended by SA GN 111/1951 ([SA GG 4614](#)).

Certain fertilizers are excluded from the operation of the Act by RSA GN R.1701/1973 ([RSA GG 4027](#)) and RSA GN R.1651/1977 ([SA GG 5721](#)).

Exclusions issued after the date of transfer would presumably not have applied to SWA and so are not listed here.

Notices: Some pre-independence notices made prior to the date of transfer appear to remain in force.

SA Proc. 204/1950 ([SA GG 4435](#)) confers upon the Secretary for Agriculture the power to prohibit by notice in the *Gazette* the acquisition, disposal or use of any Group I fertilizer, as defined in SA GN 1156/1948 ([SA GG 3977](#)).

SA GN 1156/1948 ([SA GG 3977](#)) contained regulations on the registration and sale of fertilizers, which were repealed and replaced by regulations in SA GN 2099/1955 ([SA GG 5564](#)), repealed and replaced in turn by regulations in RSA GN R.1541/1963 ([RSA GG 622](#)), repealed and replaced in turn by regulations in RSA GN R.2105/1971 ([RSA GG 3314](#)), repealed and replaced in turn by regulations in RSA GN R.799/1977 ([RSA GG 5552](#)).

SA Proc. 122/1952 ([SA GG 4860](#)) confers upon the Secretary for Agriculture the power to prohibit by notice in the *Gazette* the acquisition, disposal or use of farm feeds except on such conditions as he may determine.

⁹ **Repealed regulations:** The following list of *repeals* of pre-independence regulations may be helpful, although it is not comprehensive.

- **Regulations on returns by manufacturers and importers of farm feeds and prohibition in connection with farm feeds of animal origin** were published in SA GN 630/1949 ([SA GG 4137](#)), but *repealed* by GN 1229/1955 ([SA GG 5491](#)).
- **Regulations in connection with the registration and sale of fertilizers** were published in RSA GN R.2105/1971 ([RSA GG 3314](#)) but *repealed* by RSA GN R.799/1977 ([RSA GG 5552](#)).
- **Regulations pertaining to the registration, importation, manufacture, movement and sale of agricultural remedies** were published in RSA GN R.538/1974 ([RSA GG 4241](#)) but *repealed* by RSA GN R.2561/1981 ([RSA GG 7934](#)).
- **Regulations relating to appeals against decisions of the Registrar** were published in RSA GN R.2296/1977 ([RSA GG 5800](#)) but *repealed* by RSA GN R.1449/1983 ([RSA GG 8783](#)).
- **Regulations relating to the importation of fertilizers, farm feeds, agricultural remedies and stock remedies** were published in RSA GN R.2042/1980 ([RSA GG 7243](#)) but *repealed* by RSA GN R.1449/1983 ([RSA GG 8783](#)).
- **Regulations relating to pest control operators** were published in RSA GN R.663/1983 ([RSA GG 8617](#)) but *repealed* by RSA GN R.1449/1983 ([RSA GG 8783](#)).

¹⁰ GN 112/2007 repeals GN 202/2001 ([GG 2624](#)) and replaces GN 58/2007 ([GG 3812](#)) – which had previously repealed GN 202/2001. None of the post-independence regulations repeal any pre-independence regulations.

Section 7bis, added to the Act in 1950, gave the Minister power to prohibit by notice in the *Gazette* the acquisition, disposal, sale or use of certain fertilizers, farm feeds, agricultural remedies and stock remedies. A notice was issued pursuant to section 7bis of the Act in SA GN 1886/1950 ([SA GG 4435](#)), but the controls on fertilizer were lifted with respect to all fertilizers *other than bonemeal* by SA GN 2392/1953 ([SA GG 5172](#)). A notice was issued pursuant to section 7bis of the Act in RSA GN R.1933/1970 ([RSA GG 2916](#)) prohibiting the acquisition, disposal or use of certain farm feeds without a permit. (This notice was repealed in respect of South Africa after the date of transfer by RSA GN R.472/1980 ([RSA GG 6880](#)).)

After independence, prohibitions on certain types of farm feeds were issued in terms of section 7bis in GN 199/1998 ([GG 1927](#)) and GN 201/2003 ([GG 3060](#)).

Related laws: See GN 179/2008 ([GG 4088](#)) for exemptions from the application of section 29 of the Medicines and Related Substances Control Act 13 of 2003 ([GG 3051](#)) to certain substances registered under this Act.

Related international agreement:

Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention), 1998.

Weeds Ordinance 19 of 1957

Summary: This Ordinance ([OG 2087](#)) provides for the eradication of plants which are identified as “weeds” by proclamation in the *Gazette*.

Regulations: Regulations are authorised by section 7 of the Ordinance. No pre-independence regulations have been located.

Proclamations: Section 1 of the Ordinance authorises the Administrator to declare any plant to be a weed for the purposes of this Ordinance, by proclamation, throughout the Territory or in specific areas only. Only one such proclamation has been located:

Proc. 58/1966 ([OG 2739](#)) declares the following to be weeds throughout SWA with effect from 1 October 1966:

Upright starbur	<i>Acanthospermum hispidum</i>
Burweed	<i>Xanthium spionsum</i> .

Commentary: See “National Review of Invasive Alien Species Namibia”, Ministry of Environment and Tourism, Directorate of Environmental Affairs, September 2004, available [here](#); .

Note: There is at least one unpublished secondary source cited in the commentary above¹¹ which indicates that the South African *Weeds Act 42 of 1937* ([SA GG 2443](#)) is in force in Namibia. This South African statute was amended by SA Act 2/1939 ([SA GG 2620](#)), SA Act 32/1964 ([RSA GG 781](#)) and SA Act 74/1969 ([RSA GG 2435](#)). It was repealed in South Africa by the *Conservation of Agricultural Resources Act 43 of 1983* ([RSA GG 8673](#)), which did not apply to SWA. Neither the *Weeds Act 42 of 1937* nor any of its amendments make any direct reference to the statute’s applicability in SWA, nor is there a definition of “Union” or any other term that suggests that it was applicable to SWA. If the South African *Weeds Act 42 of 1937* were in force in SWA, it would seem strange for the Weeds Ordinance 19 of 1957 have been to enacted without repealing it – particularly since the structure and wording of the two legislative enactments are very similar. On the other hand, the Weeds Ordinance 19 of 1957 does not seem to have been very active in SWA, given the fact that so few weeds have been declared as such under the Ordinance. The authors are of the view that the *Weeds Act 42 of 1937* was never in force

¹¹ J Malan, “Discussion Document on the Regulation of Alien Invasive Species”, unpublished DEA discussion paper, undated.

in Namibia – and that if it had been in force in SWA at some stage, the similar Weeds Ordinance 19 of 1957 would have repealed it by implication.

Dairy Industry Act 30 of 1961, in part, as amended in South Africa to December 1977

Summary: This Act ([SA GG 6673](#)) governs the registration of dairy premises, the marketing of dairy products, and the dairy industry in general. ***Only the portions of the Act relating to margarine apply to Namibia.***

Repeals: The Act repeals the RSA *Dairy Industry Act 63 of 1957* ([SA GG 5894](#)), which in turn repealed the SA *Dairy Industry Act 16 of 1918* ([SA GG 890](#)).

Note that the Dairy Industry Control Ordinance 29 of 1962 ([OG 2415](#)), which repealed the Dairy Industry Ordinance 2 of 1926 ([OG 208](#)), was repealed by the Dairy Industry Control Ordinance Repeal Act 21 of 1982 ([OG 4731](#)) – which contained no savings clause for subordinate legislation.¹²

Applicability to SWA: The Act was applied to SWA only in so far as it relates to margarine, as a result of amendments made to the Act by the *Dairy Industry Amendment Act 7 of 1976* ([RSA GG 5015](#)), brought into force on 1 July 1976 by RSA Proc. R.103/1976 ([RSA GG 5161](#)). Section 1 as amended defines “Republic” as including the territory “in relation to margarine”, and the “territory” is defined as “the territory of South West Africa, including the Eastern Caprivi Zipfel”. Section 35A, inserted by Act 7 of 1976, states “This Act, and any amendment thereof which may be made from time to time, in so far as it relates to margarine or to a margarine factory, shall apply also in the territory.”

Transfer of administration to SWA: The administration of this Act was transferred to SWA by the Executive Powers (Agricultural Economics and Marketing) Transfer Proclamation (AG 18/1977), dated **20 December 1977**.

Section 3(1) of the transfer proclamation excluded section 13 of the Act (which deals with the sale of falsely marked dairy produce) from the operation of section 3(1) of the General Proclamation, meaning that in this section “Republic” retained the meaning it was given in the definition section of the Act.

There were two amendments to the Act in South Africa after the date of transfer and prior to Namibian independence – the *Dairy Industry Amendment Act 37 of 1983* ([RSA GG 8662](#)) and the *Transfer of Powers and Duties of the State President Act 97 of 1986* ([RSA GG 10438](#)) – which were not made expressly applicable to South West Africa.

The Act was repealed in South Africa, after Namibian independence, by the *Agricultural Product Standards Act 119 of 1990* ([RSA GG 12641](#)), gazetted on 13 July 1990.

Amendments: The following pre-independence South African amendments were applicable to SWA –

- *Proclamation R.21 of 1961* ([RSA GG 36](#)), under the authority of section 28(1) of the Act
- *Proclamation R.293 of 1964* ([RSA GG 943](#)), under the authority of section 28(1) of the Act
- *Dairy Industry Amendment Act 34 of 1965* ([RSA GG 1079](#))
- *Dairy Industry Amendment Act 1 of 1969* ([RSA GG 2287](#))
- *Marketing Amendment Act 52 of 1969* ([RSA GG 2384](#))
- *Proclamation R.158 of 1970* ([RSA GG 2733](#)), under the authority of section 28(1) of the Act
- *Dairy Industry Amendment Act 96 of 1971* ([RSA GG 3212](#))
- *Proclamation R.194 of 1971* ([RSA GG 3238](#)), under the authority of section 28(1) of the Act
- *Dairy Industry Laws Amendment Act 32 of 1972* ([RSA GG 3492](#))
- *Dairy Industry Amendment Act 7 of 1976* ([RSA GG 5015](#)).

¹² The Dairy Industry Control Ordinance Repeal Act 21 of 1982 also repeals RSA Proclamation R.203/1970 and RSA Proclamation R.211/1970. The repealing Act contains no savings clause in respect of any of the laws repealed.

The Importation of Margarine Amendment Proclamation, AG 32/1978 ([OG 3754](#)), amends section 15 to prohibit the importation of margarine into South West Africa without a permit from the Administrator-General.

Section 15(3) is deleted by the Dairy Industry Amendment Act 6 of 1997 ([GG 1685](#)).

Savings: This Act contains a savings clause in section 35 for things done under the repealed RSA *Dairy Industry Act 63 of 1957* ([SA GG 5894](#)):

Any proclamation, regulation, notice, order, prohibition, authority or document issued, made, promulgated, given, granted or imposed and any other action taken under any provision of a law repealed by this Act shall, if not inconsistent with the provisions of this Act, be deemed to have been issued, made, promulgated, given, granted, imposed or taken under the corresponding provisions of this Act.

The repealed RSA *Dairy Industry Act 63 of 1957* ([SA GG 5894](#)) contained a savings clause in section 21(2) for anything done under the repealed SA *Dairy Industry Act 16 of 1918* ([SA GG 890](#)):

Any proclamation or regulation issued or made, or any other action taken or deemed to have been taken under any provision of a law repealed by sub-section (1), shall be deemed to have been issued, made or taken under the corresponding provision of this Act.

Regulations: No regulations pertaining to margarine made in terms of the repealed laws appear to remain in force.¹³

Under this Act, there is one set of pre-independence regulations relating specifically to margarine, listed below. Margarine and margarine factories would also appear to fall under the general regulations on registration, inspection and sampling, noting that the definition of “dairy produce” in section 1 of the Act includes margarine. The regulation sets listed below all appear to remain in force *insofar as they may relate to margarine*.

Regulations relating to the structure, sanitation, drainage, ventilation, lighting and equipment of, the accommodation in, and the equipment, instruments, appliances and utensils to be used on premises registered in terms of the Dairy Industry Act, 1961 are contained in RSA GN R.2061/1964 ([RSA GG 973](#)) and include provisions on margarine factories.¹⁴

These regulations were not amended in South Africa prior to the date of transfer. They were amended in South Africa after the date of transfer by RSA GN R.1254/1989 ([RSA GG 11954](#)), which was not made specifically applicable to SWA.

Regulations providing for the manner of registration, and renewal of registration, of premises under the Dairy Industry Act, 1961 are contained in RSA GN R.2062/1964 ([RSA GG 973](#)), as corrected by RSA GN R.328/1965 ([RSA GG 1056](#)) and as amended by RSA GN R.176/1971 ([RSA GG 2991](#)).¹⁵

These regulations were amended in South Africa after the date of transfer by RSA GN R.1256/1989 ([RSA GG 11954](#)) which was not made specifically applicable to SWA.

¹³ *Juta's Index to the South African Government and Provincial Gazettes* (formerly “The Windex”), 1920-1989 at 352-353.

¹⁴ These regulations are made in substitution for the regulations contained in SA Government Notice 899 of 29 May 1931, as amended by SA Government Notice 741 of 10 June 1932, SA Government Notice 868 of 29 June 1934, SA Government Notice 92 of 16 January 1942, and SA Government Notice 1307 of 20 July 1956.

¹⁵ These regulations are made in substitution for the regulations contained in SA Government Notice 1629 of 12 December 1918 and SA Government Notice 1900 of 12 November 1924.

Regulations providing for the manner of registration, and renewal of registration, of premises under the Dairy Industry Act, 1961 (in respect of premises under section 3, which covers margarine) were contained in RSA GN R.2080/1964 (RSA GG 973). However, this notice was *cancelled* by GN. R.100/1965 (RSA GG 1011), which explained that they were inadvertently published. RSA GN R.2080/1964 was subsequently repealed in South Africa by RSA GN R.1254/1989 (RSA GG 11954), which was not made specifically applicable to SWA.

Regulations prescribing the form of an inspector's order for a prohibition under the Dairy Industry Act, 1961 are contained in RSA GN R.2063/1964 ([RSA GG 973](#)). No amendments were located.

Regulations. relating to the taking of samples of dairy produce for the purpose of analysis or examination under the Dairy Industry Act, 1961 are contained in RSA GN R.2070/1964 ([RSA GG 973](#)), as amended by RSA GN R.176/1971 ([RSA GG 2991](#)).¹⁶

Regulations relating to the manufacture, composition, packing and marking of margarine are contained in RSA GN R.1716/1977 ([RSA GG 5725](#)), dated 2 September 1977, which was prior to the date of transfer.¹⁷

These regulations were amended in South Africa only after the date of the transfer proclamation (20 December 1977), by RSA GN R.2121/1985 ([RSA GG 9935](#)), which was corrected by RSA GN R.2850/1985 ([RSA GG 10048](#)); this amendment is not made explicitly applicable to SWA. These regulations were repealed in South Africa by RSA GN 562/1990 ([RSA GG 12341](#)), dated 16 March 1990 – which was after the date of transfer and would not have been effective in SWA. No repeal in respect of SWA has been located, so these regulations appear to remain in force.

Regulations which have no applicability to margarine are not discussed here.

No Namibian regulations have been issued under this Act since independence.

Canned Fruit Export Marketing Act 100 of 1967, as amended in South Africa to April 1978

Summary: This Act ([RSA GG 1778](#)) provides for the control and promotion of the marketing of canned fruit on export markets. It was brought into force in both South Africa and South West Africa on 16 February 1968 by RSA Proc. R.22 of 1968 ([RSA GG 1982](#)), read together with section 11 of the Act.

Repeals: The Act repeals the *Canned Fruit and Vegetables Export Control Act 66 of 1956* ([SA GG 5715](#)). The *Canned Fruit and Vegetables Export Control Act 66 of 1956* applied to South West Africa by virtue of the definition of “the Union” in section 1, which included “the territory of South-West Africa”, and by virtue of section 7, which stated: “This Act shall apply also in the territory of South-West Africa.” Act 66 of 1956 was amended by the *Canned Fruit and Vegetables Export Control Amendment Act 83 of 1957* ([SA GG 5908](#)), the *Canned Fruit and Vegetables Export Control Amendment Act 28 of 1958* ([SA GG 6109](#)) and the *Canned Fruit and Vegetables Export Control Amendment Act 69 of 1959* ([SA GG 6259](#)); Act 69 of 1959 expressly made all three amending Acts applicable to South West Africa. The three amending Acts do not seem to have been repealed in South West Africa or Namibia; thus, they remain in force, but they have no independent relevance given the repeal of the principal Act which they amended.

Applicability to SWA: Section 11 of the Act originally stated: “This Act shall apply also in the territory of South-West Africa, including the Eastern Caprivi Zipfel referred to in section 3 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” and defined in the First Schedule to Proclamation No. 28 of 1923 of the said territory.”

¹⁶ These regulations are made in substitution for the regulations contained in SA Government Notice 855 of 21 May 1924.

¹⁷ These regulations are made in substitution for the regulations contained in RSA GN R.1495/1971 (RSA GG 3238), as amended by RSA GN R.2186/1972 (RSA GG 3718), RSA GN R.2100/1973 (RSA GG 4074) and RSA GN R.1132/1976 (RSA GG 5194).

Section 11 (as substituted by *Act 48 of 1971*, [RSA GG 3135](#), which was brought into force on 2 August 1971 by Proc. R.168 of 1971, [RSA GG 3221](#)), states that “This Act and any amendment thereof shall apply also in the territory of South-West Africa, including the Eastern Caprivi Zipfel”.

Transfer of administration to SWA: The administration of this Act (which was the responsibility of the Minister of Economic Affairs) was transferred to SWA by the Executive Powers (Commerce) Transfer Proclamation (AG 28/1978), dated **28 April 1978**. The only amendment to the Act in South Africa after the date of transfer and prior to Namibian independence – the *Canned Fruit Export Marketing Amendment Act 15 of 1981* ([RSA GG 7436](#)) – was not made expressly applicable to SWA. The Act and its amendments were repealed in South Africa by the *Marketing Amendment Act 79 of 1987* ([RSA GG 10956](#)), which was not made expressly applicable to SWA.

Amendments: The following pre-independence South African amendments were applicable to SWA –

- *Canned Fruit Export Marketing Amendment Act 48 of 1971* ([RSA GG 3135](#))
- *Finance Act 111 of 1977* ([RSA GG 5663](#)).

Regulations: There is no savings clause regarding regulations made under the repealed Act. Regulations are authorised by section 10 of the current Act. Pre-independence regulations made under this Act have not yet been comprehensively researched.

Regulations on meetings of the South African Canned Fruit Export Board were made in terms of this Act in South Africa prior to independence and prior to the date of transfer, and are contained in RSA GN R.1336/1971 ([RSA GG 3224](#)), which withdraws RSA GN R.660/1968 (RSA GG 2053). These regulations would appear to have no relevance in independent Namibia and have not been included in the database of annotated laws.

Notices: Certain canned products are declared to be canned fruit for the purposes of the Act in RSA GN R.2230/1971 ([RSA GG 3327](#)), which withdraws RSA GN R.819/1968 (RSA GG 2072).

A notice on export licences for canned fruit, which covered both RSA and SWA, was issued in terms of section 8 of the Act in RSA GN 723/1978 ([RSA GG 5981](#)) (dated 14 April 1978, just before the date of transfer). This notice is amended in South Africa by RSA GN R.1384/1980 ([RSA GG 7112](#)), which postdates the date of transfer but makes specific mention of SWA (without discussing its applicability to SWA explicitly).

This notice withdraws RSA GN R.1846/1975 (RSA GG 4856), which withdrew RSA GN R.1933/1971 (RSA GG 3296), which in turn withdrew RSA GN R.818/1968 (GG 2072).

Note: Canned fruit is also covered by other laws listed under AGRICULTURE.

Marketing Act 59 of 1968, as amended in South Africa to December 1977  

Summary: This Act ([RSA GG 2107](#)) regulates the production and sale of agricultural products, as well as the grading and standardisation of such products. It also establishes various boards and control bodies.

Repeals: The Act repeals the *Marketing Act 26 of 1937* and its amendments.

Applicability to SWA: Section 99 of the original Act stated “The provisions of this Act, in so far as they relate to karakul pelts, shall also apply in the territory of South-West Africa.” Section 99(1), as amended by *Act 78 of 1971*, states “This act and any amendments thereof shall apply also in the territory, including the Eastern Caprivi Zipfel.” Section 99(2) states “Any proclamation, regulation or notice issued or made under this Act prior to the commencement of the Marketing Amendment Act, 1971, and which does not apply in the territory immediately prior to such commencement, shall, subject to the provisions of this Act, not apply in the territory.” In definitions inserted by *Act 78 of 1971*, “Republic” is defined to include the “territory”, which is defined as “the territory of South West Africa”.

Transfer of administration to SWA: The administration of this Act was transferred to SWA by the Executive Powers (Agricultural Economics and Marketing) Transfer Proclamation (AG 18/1977), dated **20 December 1977**.

The provisions of the Act which relate to the Karakul Scheme published under the Act in Proclamation R.172 of 1968 ([RSA GG 2112](#)), and the Wool Scheme published under the Act in Proc. R.155 of 1972 ([RSA GG 3585](#)) were excluded from the operation of section 3(1) of the General Proclamation, meaning that they were not transferred to SWA. However, the Executive Powers (Agricultural Economics and Marketing) Transfer Proclamation (AG 18/1977) was amended by the Karakul Scheme Amendment Proclamation AG 41 of 1978 ([OG 3771](#)), to remove the references to the Karakul Scheme from this exemption with effect from 1 July 1978.

The provisions of the Act relating to boards and control bodies relevant to these schemes were excluded from transfer by section 3(2)(b) of the General Proclamation, which exempted from the operation of section 3(1) of the General Proclamation “those provisions of any law... which provide for or relate to the institution, constitution or control of any juristic person or any board or any other body of persons that may exercise powers or perform other functions in or in respect of both the territory and the Republic”.

None of the amending acts in South Africa after the date of transfer were made expressly applicable to SWA. The *Marketing Amendment Act 79 of 1987* ([RSA GG 10956](#)) repealed section 99 of the Act (concerning applicability to SWA) in South Africa, but this amending Act was not made expressly applicable to SWA.

Amendments: The following pre-independence South African amendments were applicable to SWA –

- *Marketing Amendment Act 52 of 1969* ([RSA GG 2384](#))
- *Marketing Amendment Act 69 of 1970* ([RSA GG 2864](#))
- *Marketing Amendment Act 78 of 1971* ([RSA GG 3189](#))
- *Marketing Amendment Act 68 of 1972* ([RSA GG 3558](#))
- *Marketing Amendment Act 31 of 1973* ([RSA GG 3860](#))
- *Marketing Amendment Act 73 of 1974* ([RSA GG 4501](#))
- *Marketing Amendment Act 38 of 1975* ([RSA GG 4701](#))
- *Marketing Amendment Act 50 of 1976* ([RSA GG 5075](#))
- *Marketing Amendment Act 109 of 1977* ([RSA GG 5661](#))

This Act came into force on its date of publication (20 July 1977), with the exception of section 10 of the amending Act (which amended section 28 of the Act), which came into force on 1 July 1978, after the date of transfer to South West Africa and so was not applicable to South West Africa.

Schedule 1 of the Act was amended in South Africa after the date of transfer by RSA Proc. 119/1986 (RSA GG 10279), RSA GN 1177/1987 (RSA GG 10753), RSA GN 2579/1987 (RSA GG 11037) and RSA GN 119/1989 (RSA GG 1673) – but none of these amendments were made explicitly applicable to SWA.

The Marketing Amendment Act 19 of 1980 ([OG 4293](#)) amends section 46D.

The Meat Industry Act 12 of 1981 ([OG 4506](#)), which is now named the Livestock and Livestock Products Act 12 of 1981, repealed the Act insofar as it relates to controlled products, which it defines as being “livestock, meat or meat products”.

The Karakul Pelts and Wool Act 14 of 1982 ([OG 4707](#)) repealed the Act insofar as it relates to karakul pelts or wool.

Regulations: Section 100(2) of the Act includes a savings provision in respect of regulations issued under the repealed *Marketing Act 26 of 1937* and its amendments. Regulations under this Act are authorised by section 89. Pre-independence regulations have not yet been researched.

The **import of vegetable oil** is governed by AG 31/1979 ([OG 4031](#)) (as amended by AG 20/1986 ([OG 5182](#))), which is issued under the authority of the principal Act).

See also AG GN 112/1980 ([OG 4160](#)), read together with the Marketing Amendment Act 19 of 1980 ([OG 4293](#)) (re: levies and regulations); section 2 of Act 19 of 1980 states: “The general levy imposed by Government Notice AG. 112 of 1980 and the directions, regulations and determinations made thereby, shall be deemed to have been so imposed and made with effect from 17 July 1980.”

Abattoir Industry Act 54 of 1976, as amended in South Africa to December 1977

Summary: This Act ([RSA GG 5077](#)) covers a wide range of matters relating to abattoirs. It was brought into force in South Africa and South West Africa on 1 February 1977 by RSA Proc. R.14/1977 ([RSA GG 5387](#)), pursuant to section 75 of the Act.

Repeals: The Act repeals the *Abattoir Commission Act 86 of 1967*.

Applicability to SWA: Section 1 defines “the territory” as “the territory of South West Africa”. Section 75 states “This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.”

Transfer of administration to SWA: The administration of this Act was transferred to SWA by the Executive Powers (Agricultural Economics and Marketing) Transfer Proclamation (AG 18/1977), dated **20 December 1977**. None of the amendments to the Act in South Africa after the date of transfer and prior to Namibian independence – the *Abattoir Industry Amendment Act 69 of 1982* ([RSA GG 8214](#)), the *Abattoir Industry Amendment Act 32 of 1984* ([RSA GG 9169](#)) and the *Transfer of Powers and Duties of the State President Act 97 of 1986* ([RSA GG 10438](#)) – were made expressly applicable to SWA.

Section 3(2) of the transfer proclamation provided that, notwithstanding section 3(2)(b) of the General Proclamation, references to the Minister of Agriculture in sections 3(1)(c) and (e) and sections 46(j) and (l) of the Act (which deal with certain powers and functions of the Abattoir Commission and the South African Abattoir Corporation) should be construed as a reference to the Administrator-General.

Savings: Section 76(3) contains the following savings clause:

Anything done before the commencement of this Act in terms of the provisions of the Abattoir Commission Act, 1967 -

- (i) by or on behalf of such Abattoir Commission and which could have been done by the Minister in terms of the provisions of this Act, shall be deemed to have been done by the Minister in terms of the latter provisions;
- (ii) by or on behalf of the Minister and which could have been done by him in terms of the provisions of this Act, shall be deemed to have been done by the Minister in terms of the latter provisions;
- (iii) by or on behalf of such Abattoir Commission and which could have been done by the Corporation in terms of the provisions of this Act, shall be deemed to have been done by the Corporation in terms of the latter provisions.

Regulations: Regulations are authorised by section 35. General regulations are contained in RSA GN R.93/1977 ([RSA GG 5387](#)), as amended by RSA GN R.625/1977 ([RSA GG 5516](#)) and RSA GN

R.1122/1977 ([RSA GG 5607](#)). These regulations appear to remain in force in Namibia;¹⁸ no regulations made under the repealed law appear to survive.¹⁹

Application of law: RSA Proclamation R.15/1977 ([RSA GG 5387](#)) declares South West Africa to be a proclaimed area for purposes of the Act.

RSA Proclamation R.624/1977 ([RSA GG 5516](#)) determines, in terms of section 35 read with section 43(b), that Chapter I of the said Act does not apply to abattoirs where not more than eight units are slaughtered per month.

RSA Proclamation R.63/1977 ([RSA GG 5486](#)) also limits the application of the Act, in terms of section 42 of the Act.²⁰

*****Livestock Improvement Act 25 of 1977, as amended in South Africa to March 1978***



Summary: This Act ([RSA GG 5462](#)) provides for the development and promotion of the livestock industry and regulates breeding. It was brought into force in part in South Africa on 1 May 1979 by RSA Proc. R.80/1979 ([RSA GG 6416](#)), with the *exception* of portions of section 1; portions of section 9(3)(b); sections 18, 19, 20, 21, 22, 23, 30(1)(q), (r) and (s), 34(1)(k) and 36; section 30(1)(i) in so far as it relates to section 30(1)(q), (r) and (s); and portions of section 37.

There is some question as to whether the Act is in force in Namibia. **The 1993 judgment of *S v Loft-Eaton & Others (1)* 1993 NR 370 (HC) (dated 1 November 1993) found that the Act had never been brought into operation in South West Africa or Namibia by proclamation, as section 38 of the Act requires.** This case also found that the organs and procedures mentioned in section 16 must be in place before the Act can be operational. **However, the Act was amended in independent Namibia in 1993, and the Ministry continues to issue subsidiary notices under the Act as if it were in force.**

Repeals: The Act repeals the *Artificial Insemination of Animals Act 23 of 1954*, the *Prohibition of Export of Ostriches Act 18 of 1963* and the *Livestock Improvement Act 64 of 1963*. It initially stated that it would repeal the *Registration of Pedigree Livestock Act 28 of 1957*, but that repeal was never brought into force. See RSA Proc. R.80/1979 ([RSA GG 6416](#)).

Applicability to SWA: Prior to the 1993 amendments to the Act, section 1 of the Act defined “Republic” to include “the territory”, which was defined as “the territory of South West Africa”. Section 35 stated: “This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.” However, section 38 stated that the Act would come into operation only on a date fixed by the State President by Proclamation in the South African *Government Gazette*.

Portions of the Act were brought into force in South Africa as of 1 May 1979 by RSA Proc. R.80/1979 ([RSA GG 6416](#)):

I hereby declare that all the provisions of the said Act except –

- (a) the definitions of “Stud Book Association” and “livestock breeders’ society” in section 1;

¹⁸ In South Africa, these regulations were substituted *after the date of transfer* by RSA GN R.2555/1977 ([RSA GG 5835](#)), dated 23 December 1977. These regulations made no reference to SWA and so were not applicable to SWA.

¹⁹ *Juta’s Index to the South African Government and Provincial Gazettes* (formerly “The Windex”), 1920-1989 at page 351 lists only the regulations cited in the previous footnote, which did not apply to SWA; thus, only the previous regulations which were repealed by the listed regulations appear to remain in force in respect of Namibia.

²⁰ In South Africa, this notice was amended after the date of transfer by RSA GN R.70/1980 ([RSA GG 6928](#)), which makes no mention of SWA.

- (b) section 9(3)(b) in so far as it relates to other animals than those of which the pedigree and performance records have been evaluated in terms of a scheme, irrespective of whether the scheme concerned was established under the said Act or not;
 - (c) sections 18, 19, 20, 21, 22, 23, 30(1)(q), (r) and (s), 34(1)(k) and 36;
 - (d) sections 30(1)(i) in so far as it relates to section 30(1)(q), (r) and (s); and
 - (e) section 37 in so far as it relates to (i) the Registration of Pedigree Livestock Act, 1957 (Act 28 of 1957); (ii) the Registration of Pedigree, Livestock Amendment Act, 1962 (Act 27 of 1962); and (iii) the Registration of Pedigree Livestock Amendment Act, 1967 (Act 1 of 1967):
- shall come into operation on 1 May 1979.

The State President was acting in terms of section 38 of the Act, which was excluded from transfer to SWA, and so had the authority to bring the Act into force with respect to SWA. However, the Proclamation which brought the Act into force in part in RSA was arguably not applicable to SWA because it occurred *after the date of transfer* and yet made no explicit reference to SWA or to the consent of the SWA Administrator-General. Section 3(4) of the General Proclamation provides as follows:

Any proclamation, regulation or rule which is issued or made after the commencement of any transfer proclamation by, or on the authority of, the State President or Minister under a law which at such commencement applies both in the territory and in the Republic, and which is published in the *Government Gazette* of the Republic, shall, notwithstanding the provisions of subsection (1) apply in the territory if such proclamation, regulation or rule or the notice by which it is so published, contains a statement that it was or is issued or made with the consent of the Administrator-General, and applies also in the territory: Provided that for the purposes of the application of such proclamation, regulation or rule in the territory, the provisions of subsection (1) shall apply.

A possible counterargument might be that the Act did not “apply” in either RSA or SWA before it was brought into force and so did not fall under section 3(4) of the General Proclamation. However, it should be noted that the post-independence case of *S v Lofty-Eaton & Others (1)* 1993 NR 370 (HC) (discussed below) drew a distinction between “applying” and being “operative”, and found that the Act is ***not*** actually in force in Namibia.

Transfer of administration to SWA: The administration of this Act was transferred to SWA by the Executive Powers (Agricultural Technical Services) Transfer Proclamation (AG 11/1978), dated **2 March 1978**.

Section 3(1)(h) of the transfer proclamation excluded section 4(1), the references to the “Minister” in section 33, and section 38, of the Act from the operation of section 3(1)(c) of the General Proclamation. Section 3(2) of the transfer proclamation excluded the Act from the operation of section 3(1)(c) of the General Proclamation, meaning that “Republic” retained the meaning given to it in the definition section of the Act (South Africa and SWA).

The provisions of the Act relating to the Advisory Board for Animal Production were excluded from transfer by section 3(2)(b) of the General Proclamation, which exempted from the operation of section 3(1) of the General Proclamation “those provisions of any law ... which provide for or relate to the institution, constitution or control of any juristic person or any board or any other body of persons that may exercise powers or perform other functions in or in respect of both the territory and the Republic”.

There was only one amendment to the Act in South Africa after the date of transfer and prior to Namibian independence – the *Livestock Improvement Amendment Act 31 of 1984* ([RSA GG 9168](#)) – which was not made expressly applicable to SWA. (This amending Act does not apply to SWA despite the continuing definition of “Republic” to include SWA, due to section 3(5) of the General Proclamation, as amended.)

After independence, the Act was substantially amended by Act 25/1993 ([GG 753](#)), which establishes a Livestock Improvement Board. However, Act 25/1993 does not repeal section 38, which requires that a date for the commencement of the Act be set by a Proclamation of the State President, nor does it otherwise expressly bring the primary Act into force.

The nature of the notices issued under the Act indicates that Government believes the Act to be operative. However, we have not been able to locate any legal instrument bringing the Act into force in Namibia in light of the ruling in *S v Lofty-Eaton & Others (1)* 1993 NR 370 (HC).

Amendments: As noted above, in South Africa, the Act was amended after the relevant date of transfer, and prior to Namibian independence, by the *Livestock Improvement Amendment Act 31 of 1984* ([RSA GG 9168](#)) – which was not made expressly applicable to SWA. This amending Act was to be brought into force by Proclamation of the State President. It was brought into force in part as of 29 June 1984 by RSA Proc. R.107/1984 ([RSA GG 9277](#)):

Under the powers vested in me by section 23 of the Livestock Improvement Amendment Act, 1984 (Act 31 of 1984), I hereby declare that the provisions of sections 1, 3, 15, 16, 17, 18, 19, 20(h), (i), (j) and (k), 21 and 22(h) of the said Act shall come into operation on the date of publication hereof.

The remainder of the amending Act was brought into force as of 1 July 1986 by RSA Proc. R.104/1986 ([RSA GG 10288](#)):

By virtue of the powers vested in me by section 23 of the Livestock Improvement Amendment Act, 1984 (Act 31 of 1984), I hereby declare that the provisions of sections 2, 4 to 14, 20(a) to (g) and 22(a) to (g) and (i) of the said Act shall come into operation on 1 July 1986.

There is no indication that the amendments made in South Africa in terms of this amending Act were made applicable to SWA.

After Namibian independence, the Act was substantially amended by Act 25/1993 ([GG 753](#)).

Regulations: In South Africa, **regulations relating to the artificial insemination and inoovulation of animals and the import and export of animals, semen, ova and eggs** were promulgated in RSA GN R.851/1979 ([RSA GG 6416](#)), effective as of 1 May 1979. These regulations *post-date* the relevant date of transfer, coming into force at the same time as the Act came into force in part in South Africa. However, they were amended by RSA GN R.1753/1979 ([RSA GG 6620](#)) to add regulation 38A which states:

These regulations shall also apply in the Territory and were, in so far as they so apply, made with the consent of the Administrator-General.

Prior to independence, these regulations were amended in South Africa by RSA GN R.1753/1979 ([RSA GG 6620](#)), RSA GN R.580/1981 ([RSA GG 7494](#)), RSA GN R.516/1982 ([RSA GG 8111](#)), RSA GN R.568/1983 ([RSA GG 8604](#)) and RSA GN R.1109/1985 ([RSA GG 9744](#)). After independence, they were amended by GN 60/1993 ([GG 653](#)).²¹

Notices: See AG GN 61/1979 ([OG 3991](#)), concerning kinds and breeds of animals to which the Act applies. (This notice replicates RSA GN R 850/1979 ([RSA GG 6416](#)) in all respects other than the date of coming into force.) The animals covered by the Act are as follows:

- (1) animals specified in column 1 of Annexure A which are of the breeds specified in column 2 of that Annexure for the purposes of all the provisions of the Act *except* sections 14 and 15:

Annexure A	
Cattle.....	Dairy breeds: Ayrshire, Friesland, Guernsey and Jersey. Beef and dual purpose breeds:

²¹ In South Africa, this set of regulations was repealed and replaced, prior to the date of Namibian independence, by RSA GN R.1181/1986 ([RSA GG 10288](#)). Like the 1979 regulations, the 1986 regulations were issued in terms of section 34(1) of the Act (which was not excluded from transfer) and make no reference to SWA. Prior to Namibian independence, the 1986 regulations were corrected by RSA GN R.1441/1986 ([RSA GG 10341](#)), amended by RSA GN R.1245/1987 ([RSA GG 10759](#)), corrected by RSA GN R.1305/1987 ([RSA GG 10779](#)) and RSA GN R.1536/1987 ([RSA GG 10827](#)), and amended by RSA GN R.1602/1989 ([RSA GG 12024](#)) and by RSA GN R.2506/1989 ([RSA GG 12181](#)). However, it would seem that these regulations were not applicable to SWA because of the effect of the relevant transfer proclamation – which is reinforced by the fact that the previous set of regulations is the one which has been amended in Namibia since independence.

	Aberdeen Angus, Afrikaner, Bonsmara, Brangus, Brahman, Brown Swiss, Charolais, Deutsches Rotvieh, Dexter, Drakensberger, Galloway and Hereford. Shorthorn: Lincoln Red, Beef, Dairy, Weebollabolla, Limousin, North Devon, Pinzgauer, Red Poll, Rotbunte Schleswich Holsteiner, Santa Gertrudis, Simmentaler, South Devon, Sussex and Tuli.
Goats.....	Angora, Boerbok, British Alpine, Saanen and Toggenberger
Horses.....	American Quarter Horse, American Saddle, Appaloosa, Arab, Boerperd, Clydesdale, Connemara Pony, Partred [Partbred] Welsh Pony, English Halbblut, Hackney, Hackney Pony, Hafflinger, Historiese boerperd, Highland Pony, Lippizaner, Morgan Horse, Nooitgedacht Pony, Percheron, Shetland Pony, Shire, Suffolk, Trakehner, Thouroughbred [Thoroughbred] and Welsh Pony.
Sheep.....	Border Leicester, Corriedale, Dohne Merino, Dorper, Dorset Horn, Hampshire, Ile de France, Karakoel, Lincoln Longwool, Merino, Merino Landsheep, S.A. Mutton Merino, Merino. Southdown, Suffolk and Walrich.
Pigs	S.A. Landrace, Large Black, Large White and Welsh.

- (2) animals specified in Annexure B, for the purposes of all the provisions of the Act, *except* sections 7, 8, 9, 10, 11, 12, 13, 14 and 15:

Annexure B

Poultry.....	Ducks, Pheasants, Geese, Fowls, Turkeys, Quails, Muscovies and Guinea-fowls.
Ostriches	
Other.....	Chinchillas, Hamsters, Rabbits and Nutria.

The following have been declared to be breeds of animals in Namibia (with capitalisation reproduced as it appears in the respective Government Notices):

dorper breed-GN 238/2009 ([GG 4391](#)).
 Gellaper breed-GN 63/2010 ([GG 4451](#)).
 indigenous goat breed-GN 220/2010 ([GG 4574](#))
 nguni breed-GN 2/2011 ([GG 4645](#))
 Damara Sheep breed-GN 68/2011 ([GG 4725](#))
 Meatmaster Breed-GN 59/2014 ([GG 5455](#))
 Draughtmaster Breed-GN 104/2015 ([GG 5760](#))
 Veldmaster Breed-GN 105/2015 ([GG 5760](#))
 Pinto Horse-GN 38/2017 ([GG 6254](#))
 Boerboel Breed-GN 83/2017 ([GG 6285](#)).

The karakoel breed was renamed swakara breed by GN 202/2011 ([GG 4823](#)).

Post-independence notices issuing certificates of incorporation to livestock breeders' societies have been issued under this Act in GN 61/2005 ([GG 3439](#)), GN 172/2006 ([GG 3721](#)), GN 144/2010 ([GG 4530](#)), GN 171/2011 ([GG 4792](#)), GN 172/2011 ([GG 4792](#)) and GN 192/2011 ([GG 4808](#)).

Cases: *S v Lofty-Eaton & Others* (1) 1993 NR 370 (HC).

The relevant passage is quoted here at length as it may be relevant to the applicability of other South African statutes which mention "South West Africa":

"The problem is that s 35 applied the Act to Namibia, but did not make it operative in Namibia because s 38 of the said Act provided:

(1) This Act shall be called the Livestock Improvement Act, 1977, and shall come into operation on a date to be fixed by the State President by proclamation in the Gazette.

(2) Different dates may be fixed under s (1) in respect of different provisions of this Act.’

The proclamation which put part of the said Act into operation was Proc R80 of 1979, but only in South Africa. It must be assumed that the State President deliberately did not put the Act into operation in Namibia. He could have done so by merely stating in Proc R80 of 1979 that Proc R80 of 1979 applies in the territory of South West Africa, and is made with the consent of the Administrator-General.

Even in South Africa the said Livestock Improvement Act was passed and assented to by the State President and published in Government Gazette 5462 of 23 March 1977. Part of it was, however, only put into operation in South Africa by Proc R80 of 1979 on 1 May 1979.

The question is why? Again the answer is obvious. It was provided for in the Act itself that a large number of administrative organs and the appointment of officials to carry on the day-to-day administration of the Act would be in place once it, or a relevant part of it, would come into operation. So, for example:

- (a) The Minister had to appoint 16 members to the Advisory Board in s 3 of that Act, of which two had to be officers of the Department of Agriculture and one had to be an officer of the Department of Agriculture, Economics and Marketing.
- (b) The Minister had to appoint a Registrar in terms of s 4 of that Act.
- (c) The Registrar had to invite a list of names of three persons to be submitted to him by each one of the 13 associations, Boards or companies contemplated in s 3(2)(b)(i)-(xiii).
- (d) The Minister had to appoint the executive committee of the Studbook Association and the other committees contemplated in s 3(5)(c)(i)-(iii) read with s 16(2)(b).
- (e) A register had to be prepared as contemplated in s 5 of the Act.
- (f) Notices as contemplated in s 2 and regulations contemplated in s 34 had to be prepared to be ready for promulgation before, on or shortly after the date on which the Livestock Improvement Act had come into operation.
- (g) The application forms in terms whereof one could apply for –
 - (i) registration as an inseminator;
 - (ii) registration of premises as an artificial insemination centre;
 - (iii) a certificate for the approval of an animal to collect semen;
 - (iv) the renewal of a registration of an artificial insemination centre;
 - (v) the renewal of certificates in respect of animals for the collection of ova, and the like – see, for

example, the numerous forms and certificates contemplated in Schedules I-XVI of Government Gazette 6416, dated 27 April 1979.

It is important to note that, when a law provides for certain organs and procedures to be established without which the Act cannot be implemented properly, the Legislature usually provides that the law will only become ‘operative’, as distinguished from ‘applicable’, on a date to be determined by the President, Administrator, Minister or similar entity by proclamation or notice in the Gazette.

The Legislature that enacts an Act may even provide for bringing different parts of an Act into operation on different dates, as was the case in the Livestock Improvement Act, 1977. This last procedure should of course only be used if the various sections or parts of such an Act are severable and would not be applicable to s 16(1) and (2)(a) and (b) of the Livestock Improvement Act 1977 and its various parts.

That an Act is capable of being administered (notwithstanding the fact that it has not as yet come into operation) is furthermore explicitly envisaged in s 12(3) of the Interpretation of Laws Proclamation 37 of 1920 [OG 35], which provides as follows:

- ‘(3) Where a law confers a power –
- (a) to make any appointments; or
 - (b) to make . . . rules, regulations or by-laws; or
 - (c) to give notices; or
 - (d) to prescribe forms; or
 - (e) to do any other act or thing for the purpose of the law,
- that power may, unless the contrary intention appears, be exercised at any time after the passing of the law so far as may be necessary for the purpose of bringing the law into operation at the commencement thereof, subject to this restriction that any instrument . . . rules, regulations or by-laws made . . . under the power shall not . . . come into operation until the law comes into operation.*’ (My emphasis.)

See also s 14 of the equivalent South African Act 33 of 1957, and *S v Manelis* 1965 (1) SA 748 (A) at 753.

It is common cause between the State and defence that at the time of the alleged offences, ie in April 1993, about six years after the Act was passed, the crucial organs and procedures for receiving, considering and deciding applications for written authorisation to import, as provided for in s 16 of the said Act, had still not been established in Namibia.

Mr Small is correct in contending that the Administrator-General had the power himself to declare the Act operative in Namibia, but for that an AG proclamation expressly stating that the Act is operative from a certain date would have been necessary. I do not understand Mr Small to contend that such an AG proclamation was ever

issued. *[With respect, this contention appears to be incorrect. Section 3(1)(h) of the transfer proclamation excluded section 38 from the operation of section 3(1) of the Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977, meaning that the reference to the State President in section 38 was not to be construed as referring to the Administrator-General.]*

In conclusion on this issue I must point out that the provision in an Act of Parliament that the date of operation is to be decided on and promulgated by an organ of the Executive may be regarded as an administrative function or as delegated legislation or a combination of both. In all instances, however, the decision to declare operative, and the declaration itself, must comply with the provisions of the enabling Act, and must in itself be reasonable and not ambiguous, particularly where it provides for criminal offences and criminal sanctions for non-compliance with the provisions of the Act.

To declare an Act operative, when essential organs or procedures for complying with the law and for avoiding a contravention and avoiding criminal sanctions are not yet established, appears to me not only to be *ultra vires* the enabling Act but in conflict with art 18 of the Namibian Constitution. See also art 21 of the Namibian Constitution; Steyn Die Uitleg van Wette 5th ed at 238-49.

Even if the State President, or the Administrator-General in this instance, declared the Act as a whole or parts of it operative at any point in time, when the organs and procedures to be set up under s 16 were not yet established, it seems to me that such declaration would in itself be *ultra vires* or unconstitutional, particularly insofar as it purported or purports to make s 16(1) and 16(2)-(8) of the said Act operative.”

Notes: A “Draft Livestock Improvement Proclamation” was published for comment in General Notice 123/1989 ([OG 5810](#)), dated 26 September 1989. It would have repealed and replaced the *Livestock Improvement Act 25 of 1977*. However, this draft did not progress to a final law.

Livestock and Livestock Products Act 12 of 1981

Summary: This Act ([OG 4506](#)), originally named the Meat Industry Act 12 of 1981, establishes a meat board and sets forth its objects, powers, duties and functions. It also provides for control over the grading, sale, import and export of livestock, meat and meat products, and the levies on these items. It was brought into force by AG 30/1981 ([OG 4553](#)), and applied to Rehoboth by the Meat Industry in Rehoboth Act 5 of 1986 (Rehoboth) (*Official Gazette 152 of Rehoboth*, dated 10 April 1987). The Act was re-named by the Livestock and Livestock Products Amendment Act 15 of 2023 ([GG 8182](#)).

Repeals: This Act repeals the Meat Trade Control Ordinance 20 of 1962 ([OG 2409](#)) and the *Marketing Act 59 of 1968* in so far as it relates to controlled products (defined in this Act as “livestock, meat or meat products”).

The Livestock and Livestock Products Amendment Act 15 of 2023 ([GG 8182](#)), which amends the Act, also repeals the Control of the Importation and Exportation of Dairy Products and Dairy Product Substitutes Act 5 of 1986 ([OG 5195](#)).²²

Note that the repealing Act erroneously refers to the repealed law as the “Control of the *Import and Export* of Dairy Products and Dairy Product Substitutes Act”.

Amendments: Prior to independence, the Act was amended by Act 3/1987 ([OG 5349](#)).

²² *Matador Enterprises (Pty) Ltd v Minister of Trade and Industry & Others* 2015 (2) NR 477 (HC) found that Act 5 of 1986 was not impliedly repealed by Import and Export Control Act 30 of 1994 because of its specialised nature, and should be the basis for controlling the import of dairy products rather than the more general 1994 legislation; on appeal, in *Minister of Trade and Industry v Matador Enterprises (Pty) Ltd* 2020 (2) 362 (SC), the Supreme Court agreed that the Import and Export Control Act 30 of 1994 did not repeal Act 5 of 1986, but distinguished the two laws as follows (para 49, Shivute, CJ):

...although the Dairy Products Act remains the main or primary legislation which must be invoked when regulating the importation and exportation of dairy products, Government may invoke either of the two Acts depending on the intention or purpose of restricting or prohibiting the importation of dairy products. The Dairy Products Act only gives power to restrict or prohibit dairy products from being imported into Namibia *for purposes of trade* and therefore, the power conferred by this Act cannot be invoked to prohibit or restrict the importation of dairy products into Namibia *for general use*.

Act 21/1992 ([GG 466](#)), which was brought into force by GN 125/1992 ([GG 482](#)), amends sections 1, 2, 4, 8, 10, 12 and 21, inserts section 10A, and substitutes certain expressions and the long title to make the Act consistent with an independent Namibia and to extend the powers of inspectors in certain circumstances.

The State-owned Enterprises Governance Act 2 of 2006 ([GG 3698](#)) which was brought into force on 1 November 2006 by Proc. 13/2006 ([GG 3733](#)) and later re-named the Public Enterprises Governance Act 2 of 2006, amends sections 4 and 8, and deletes sections 5, 7(1) and 15. (That statute has since been replaced by the Public Enterprises Act 1 of 2019.)

The Livestock and Livestock Products Amendment Act 15 of 2023 ([GG 8182](#)) amends and renames the Act .

Savings: Section 26(2) of the current Act contains a savings clause that applies to certain specified acts done under the repealed Meat Trade Control Ordinance 20 of 1962 ([OG 2409](#)) and the repealed portions of the *Marketing Act 59 of 1968* pertaining to the controlled products of “livestock, meat or meat products”:

Any regulation made or any levy or prohibition imposed or any permit, exemption or certificate issued or any registration or appointment made under any provision of any law repealed by this Act or any regulation made thereunder, which could be made, imposed or issued under a corresponding provision of this Act, shall be deemed to have been made, imposed or issued under the said corresponding provision, and any reference in or in respect of any such regulation, levy, prohibition, permit, exemption, certificate, registration or appointment -

- (a) to the old board shall be construed as a reference to the board;
- (b) to any law repealed by this Act shall be construed as a reference to this Act;
- (c) to the holder of any office shall be construed as a reference to the holder of a similar office under this Act.

The repealed Meat Trade Control Ordinance 20 of 1962 ([OG 2409](#)), which in turn repealed the Meat Trade Control Ordinance 8 of 1935 ([OG 613](#)), contained a savings clause in section 10(2) which stated:

Any proclamation, regulation, by-law, notice, order, prohibition, authority, approval, information or document issued, made, promulgated, given, or granted and any other action taken under the provisions of any law repealed by sub-section (1) shall, if not inconsistent with the provisions of this ordinance, be deemed to have been issued, made, promulgated, given, granted or taken under the corresponding provisions of this ordinance in respect of regulations or notices issued under the 1935 Ordinance.

The Livestock and Livestock Products Amendment Act 21 of 2023 ([GG 8182](#)) contains no savings clause with respect to the repealed Control of the Importation and Exportation of Dairy Products and Dairy Product Substitutes Act 5 of 1986 ([OG 5195](#)).

Regulations: Pursuant to the chain of savings clauses, two sets of regulations issued under the Meat Trade Control Ordinance 20 of 1962 appear to remain in force:²³

Meat Trade Control Regulations in GN 87/1963 ([OG 2483](#)), as amended by GN 189/1963 ([OG 2515](#)), GN 114/1964 ([OG 2573](#)), GN 107/1966 ([OG 2731](#)), GN 197/1967 ([OG 2838](#)), RSA GN R.649/1970 ([RSA GG 2689](#)), RSA GN R.842/1971 ([RSA GG 3110](#)), RSA GN R.1859/1971 ([RSA GG 3290](#)), RSA GN R.2085/1973 ([RSA GG 4074](#)), RSA GN R.2304 of 1975 ([RSA GG 4915](#)), RSA GN R.2572/1976 ([RSA GG 5368](#)), RSA GN R.694/1977 ([RSA GG 5530](#)), AG GN 43/1978 ([OG 3813](#)), AG GN 77/1978 ([OG 3864](#)), AG GN 173/1980 ([OG 4315](#)), and AG GN 150/1982 ([OG 4703](#)).

²³ The “Meat Trade Control Regulations: Repeal of Government Notices” in GN 89/1963 ([OG 2484](#)) repeals the Meat Trade Control Regulations in GN 157/1935 as amended, the Meat Trade Control Board Regulations in GN 305/1958, and the Meat Trade Control Board Regulations in GN 183/1960 as amended, along with some related notices concerning allowances paid to members.

Regulations relating to the Grading and Marking of Meat sold in certain Areas in GN 142/1968 ([OG 2925](#)), as amended by RSA GN R.3433/1969 ([RSA GG 2532](#)), RSA GN R.2061/1970 ([RSA GG 2929](#)) and RSA GN R.2217/1971 ([RSA GG 3327](#)).²⁴

Regulations made under the repealed aspects of the *Marketing Act 59 of 1968* (as it related to “livestock, meat or meat products”) that may survive have not yet been researched.

The following regulations were made under the current Act:

Regulations made under the current Act are contained in AG GN 153/1981 ([OG 4554](#)) as amended by GN 110/1992 ([GG 468](#)), GN 126/1992 ([GG 482](#)), GN 4/2013 ([GG 5119](#)) and GN 289/2022 ([GG 7916](#)).

The amendments made to the regulations by GN 110/1992 and by GN 126/1992 are identical. GN 4/2013 cites only GN 126/1992 as a previous amendment, but no repeal or withdrawal of GN 110/1992 has been located. GN 289/2022 cites both GN 110/1992 and GN 126/1992 as previous amendments.

Notices: A notice of certain record-keeping requirements and prohibitions relating to livestock is contained in General Notice 8/1982 ([OG 4613](#)), as amended by General Notice 90/1982.

AG GN 20/1983 ([OG 4735](#)) prohibited the import and export of certain controlled products, but was withdrawn by GN 129/2004 ([GG 3214](#)).

A notice concerning record-keeping in respect of controlled products and livestock is contained in General Notice 3/1993 ([GG 567](#)).

A notification of measures to promote the interests of the meat industry in Namibia is contained in General Notice 115/2004 ([GG 3214](#)).

Prohibitions relating to abattoirs, factories and refrigeration plants of unregistered producers are addressed in General Notice 91/2006 ([GG 3620](#)).

GN 94/2007 ([GG 3841](#)) prohibits the import and export of certain controlled products.²⁵

Levies are periodically set in terms of the Act, but have not been included in the database. The ones that remain in force appear to be as follows:

GN 114/2006 ([GG 3672](#)), which is amended by GN 210/2006 ([GG 3746](#)), imposes general and special levies in respect of livestock for three specific purposes: (a) 15% of the general levy must be utilized for funding the Farm Assured Namibian (FAN) Meat Scheme, as implemented by the Meat Board of Namibia; (b) 5% of the general levy must be utilized for the provision of emergency veterinary services; (c) the special meat classification levy must be utilized for funding carcass classification services provided by the Meat Board of Namibia.

These levies as amended appear to be superseded by the ones imposed by GN 272/2010 (summarised below), but no repeal of GN 114/2006 has been located.

GN 119/2007 ([GG 3869](#)) imposes special levies on livestock producers south of the Red Line during the period 1 July 2007 to 30 May 2012, for the purpose of improving access to livestock markets by producers north of the Red Line.

These levies do not appear to have any current applicability, but no repeal has been located.

²⁴ These regulations replace the ones in Government Notice 126/1966 ([OG 2734](#)) as amended, which replaced the regulations on Grading and Marking of Meat sold in Certain Areas contained in GN 86/1963 ([OG 2483](#)).

²⁵ RSA GN 103/1970 ([RSA GG 2606](#)) previously contained a prohibition on the sale of meat in certain areas of SWA, unless graded and marked in a manner prescribed by regulation. It repealed SWA Proc. 33/1963 ([OG 2483](#)).

RSA GN 103/1970 was amended by RSA GN R.2166/1970 ([RSA GG 2938](#)), RSA GN R.2256/1972 ([RSA GG 3726](#)) and RSA GN R.651/1972 ([RSA GG 3474](#)) and then *repealed* by RSA GN R.1775/1975 ([RSA GG 4847](#)).

GN 272/2010 ([GG 4629](#)) imposes special levies in respect of livestock for three specific purposes: (a) 15% of the general levy must be utilized for funding the Farm Assured Namibian (FAN) Meat Scheme implemented by the Meat Board of Namibia; (b) 5% of the general levy must be utilized for the provision of emergency veterinary services; (c) the special meat classification levy must be utilized for funding carcass classification services provided by the Meat Board of Namibia. GN 272/2010 is amended by GN 139/2012 ([GG 4958](#)), GN 3/2013 ([GG 5119](#)), GN 51/2015 ([GG 5711](#)), GN 146/2015 ([GG 5783](#)) and GN 288/2022 ([GG 7916](#)).²⁶

Cases: *Matador Enterprises (Pty) Ltd v Minister of Trade and Industry & Others* 2015 (2) NR 477 (HC); upheld on different reasoning in *Minister of Trade and Industry v Matador Enterprises (Pty) Ltd* 2020 (2) 362 (SC) (both judgments discuss in *dicta* the relationship between this Act and the more generalised Import and Export Control Act 30 of 1994).

Notes: See the related Swameat Corporation Ordinance 2 of 1986 (*Official Gazette 75 of the Representative Authority of the Whites*), which has since been repealed by the Meat Corporation of Namibia Act 1 of 2001 ([GG 2522](#)).

Karakul Pelts and Wool Act 14 of 1982

Summary: This Act ([OG 4707](#)) establishes a Karakul Board and regulates classification, sale, marketing, packing, and the import and export of karakul pelts and wool. The Act was brought into force by AG 30/1982 ([OG 4709](#)).

Repeals: The Act repeals the *Marketing Act 59 of 1968*, and any scheme in operation under that Act, “in so far as such Act or scheme relates to karakul pelts or wool”.

Amendments: This Act is amended by Act 15/1986 ([OG 5237](#)) and Act 22/1986 ([OG 5277](#)).

The State-owned Enterprises Governance Act 2 of 2006 ([GG 3698](#)), which was brought into force on 1 November 2006 by Proc. 13/2006 ([GG 3733](#)) and later re-named the Public Enterprises Governance Act 2 of 2006, amends sections 4 and 8, and deletes sections 5, 7(1) and 16. (That statute has since been replaced by the Public Enterprises Act 1 of 2019.)

Regulations: Regulations are authorised by section 22 of the Act. Section 26(2) contains a savings clause for regulations made under the repealed portions of the *Marketing Act 59 of 1968*:

Any regulation made or any levy or prohibition imposed or any permit, exemption or certificate issued or any registration or appointment made under any provision of any law or scheme repealed by this Act or any regulation made thereunder, which could be made, imposed or issued under a corresponding provision of this Act, shall be deemed to have been made, imposed or issued under the said corresponding provision, and any reference in or in respect of any such regulation, levy, prohibition, permit, exemption, certificate, registration or appointment -

- (a) to the old board shall be construed as a reference to the board;
- (b) to any law or scheme repealed by this Act shall be construed as a reference to this Act;
- (c) to the holder of any office shall be construed as a reference to the holder of a similar office under this Act.

²⁶ GN 272 /2010 withdraws GN 285/2008 (GG 4181), GN 285/2008 revokes GN 210/2006 (GG 3746). GN 210/2006 revokes GN 62/2006 (GG 3620). (GN 62/2006 is also withdrawn by GN 114/2006 (GG 3672).) GN 62/2006 withdraws GN 116/2005 (GG 3498). GN 116/2005 withdraws GN 227/1994 (GG 985). GN 227/1994 revokes GN 120/1994 (GG 875). GN 120/1994 repeals GN 93/1992 (GG 449). GN 93/1992 revokes GN 9/1992 (GG 336) and GN 4/1992. GN 4/1992 (GG 336) abolish the levies imposed by GN 198/1986 (which were also abolished by GN 9/1992). GN 9/1992 abolishes the levies imposed by GN 198/1986 (OG 5271). GN 198/1986 abolishes the levies imposed by AG GN 113/1983 (GG 4794). AG GN 113/1983 abolishes the levies imposed by AG GN 154/1981 (OG 4554). AG GN 154/1981 abolishes all levies imposed by any law repealed by the Meat Industry Act.

Pre-independence regulations have not yet been researched.

Notices: A levy and a special levy on wool are contained in GN 117/1991 ([GG 289](#)), replaced by GN 87/2002 ([GG 2754](#)). A levy and special levy on karakul pelts are contained in GN 40/2010 ([GG 4440](#)), as corrected by GN 66/2010 ([GG 4451](#)).

Prevention of Undesirable Residue in Meat Act 21 of 1991

Summary: This Act ([GG 322](#)) controls the administration of certain products to animals which may cause undesirable residue in meat and meat products, and further regulates the marketing of meat and meat products. It was brought into force on 28 November 1994 by Proc. 29/1994 ([GG 975](#)).

Amendments: Act 11/1994 ([GG 923](#)) amends sections 1 and 2. This amending Act is deemed to have come into operation on the date of commencement of the principal Act.

Regulations: Regulations are contained in GN 219/1994 ([GG 975](#)).

Notices: Prohibited substances are listed in GN 220/1994 ([GG 975](#)), as amended and supplemented by GN 58/2011 ([GG 4711](#)) and amended by GN 278/2020 ([GG 7386](#)).

Agronomic Industry Act 20 of 1992

Summary: This Act ([GG 465](#)) establishes the Namibian Agronomic Board and sets forth its powers and functions. It was brought into force on 5 October 1992 by Proc. 33/1992 ([GG 496](#)).

Repeals: The Act repeals the Agronomic Industry Proclamation, AG 11/1985 ([OG 5017](#)).

Amendments: The State-owned Enterprises Governance Act 2 of 2006 ([GG 3698](#)), which was brought into force on 1 November 2006 by Proc. 13/2006 ([GG 3733](#)) and later re-named the Public Enterprises Governance Act 2 of 2006, amends sections 1, 4, 5, 7 and 8 and deletes section 15.²⁷ (That statute has since been replaced by the Public Enterprises Act 1 of 2019.)

The Abolition of Payment by Cheque Act 16 of 2022 ([GG 7995](#)), which was brought into force on 15 March 2023 by GN 47/2023 ([GG 8050](#)), amends section 14.

Savings: Section 25(2) of this Act contains a savings provision:

Notwithstanding the provisions of subsection (1) of this section, any regulation made, levy or prohibition imposed, permit, exemption certificate or order issued or registration or appointment made under the repealed Proclamation and in force at the commencement of this Act, shall be deemed to have been made, imposed or issued, as the case may be, under this Act, and shall continue in force until it expires.

Regulations: The following regulations were made under the current Act:

Regulations relating to the **grading and classification of maize** are contained in GN 71/1994 ([GG 854](#))

Regulations relating to the **composition and quality of pearl millet (mahangu)** products are

²⁷ The State-owned Enterprises Act, which has now been replaced by the Public Enterprises Governance Act 1 of 2019, inconsistently referred to this Act as the “Agronomic Industry Act” in Schedule 1 and the “Namibian Agronomic Industry Act” in Schedule 2. The correct name is the “Agronomic Industry Act”. However, the Act establishes the “Namibian Agronomic Board”.

contained in GN 97/2016 ([GG 6015](#)).

Regulations under the repealed Proclamation survive under the new Act, pursuant to the savings clause quoted above.

Regulations made under the repealed Proclamation are contained in GN 57/1986 ([OG 5187](#)).

Notices: Notices and other actions under the repealed Proclamation survive under the current Act pursuant to the savings clause quoted above:

General provisions relating to the establishment of the SWA Agronomic Board, and to the control of and levies imposed in respect of certain agronomic crops and products are contained in AG Proclamation 11 of 1985 ([OG 5017](#)). Note that these provisions were issued in terms of Proclamation 181/ 1977 rather than in terms of the repealed Agronomic Industry Proclamation, AG 11/1985.

GN 55/1986 ([OG 5187](#)) contains a prohibition on the sale of agronomic products obtained from the seeds of the agronomic crops wheat, maize and sunflowers without certain marking of the container.

GN 56/1986 ([OG 5187](#)) imposes a general levy on certain categories of seeds of the agronomic crops wheat, maize and sunflowers, and on certain products derived from these crops. It is amended by GN 102/1986 ([OG 5218](#)) and GN 144/1987 ([OG 5427](#)).

GN 58/1986 ([OG 5187](#)) concerns the import and export of certain agronomic crops and products (discussed in *Matador Enterprises (Pty) Ltd t/a National Cold Storage v Chairman of the Namibian Agronomic Board* 2010 (1) NR 212 (HC)).

The following notices were issued under the current Act:

Standards for maize products in terms of section 19(1) of the Act are contained in GN 72/1994 ([GG 854](#)).

Agronomic crops are addressed in GN 45/1993 ([GG 626](#)), GN 293/1996 ([GG 1435](#)), GN 146/2002 ([GG 2802](#)) and GN 109/2008 ([GG 4047](#)).

Controlled products levies have been announced from time to time in terms of section 18(3) of the Act. The levies currently in force are contained in the following:

- GN 147/2002 ([GG 2802](#)); Paragraph 3 of the Schedule to GN 147/2002 is amended by GN 125/2012 ([GG 4947](#)). The entire Schedule to GN 147/2002 is substituted by GN 268/2014 ([GG 5645](#)), which repeals GN 125/2012.
- GN 116/2003 ([GG 2990](#)), amended by GN 36/2015 ([GG 5681](#)).
- GN 111/2008 ([GG 4047](#)).

The importation of certain products without a permit is prohibited by GN 101/2006 ([GG 3661](#)) and GN 110/2008 ([GG 4047](#)).

Appointments: The appointment of agents to assist the Namibian Agronomic Board with certain specified functions is announced in General Notice 247/2014 ([GG 5523](#)).

Cases: *Matador Enterprises (Pty) Ltd t/a National Cold Storage v Chairman of the Namibian Agronomic Board* 2010 (1) NR 212 (HC).

Stock Brands Act 24 of 1995

Summary: This Act ([GG 1227](#)) consolidates and amends the laws relating to the branding of stock. It was brought into force on 9 April 1999 by GN 57/1999 ([GG 2078](#)).

Repeals: The Act repeals the Native Stock Brands Proclamation 15 of 1923 ([OG 111](#)) and the Stock Brands Ordinance 8 of 1931 ([OG 425](#)).

Amendments: Act 7/2001 ([GG 2569](#)) inserts sections 20A and 21A and amends section 22.

Regulations: There is no savings provision in respect of any regulations or notices which might have been made under the repealed laws.

Regulations made under this Act are contained in GN 73/2004 ([GG 3187](#)), which repeals the regulations in GN 58/1999 ([GG 2078](#)). Regulation 7 is amended by GN 39/2007 ([GG 3799](#)), GN 239/2009 ([GG 4391](#)) and GN 145/2015 ([GG 5783](#)).

Notices: GN 72/2004 ([GG 3187](#)) declares sheep and goats to be stock in terms of section 2.

Note: The Executive Powers (Agricultural Technical Services) Transfer Proclamation, AG 11 of 1978 (OG 3713), which came into force on 2 March 1978, exempts the *Livestock Brands Act 87 of 1962* from the operation of the General Proclamation – which suggests that it applied to SWA but that the administration of the Act was not transferred to SWA. However, the original Act ([RSA GG 284](#)) contains no reference to SWA, nor does RSA Proc. 73/1979 ([RSA GG 2026](#)), which brought the Act into force in South Africa and was issued *after* the date of the transfer proclamation.

Meat Corporation of Namibia Act 1 of 2001

Summary: This Act ([GG 2522](#)) establishes the Meat Corporation of Namibia (“Meatco”) to establish and manage abattoirs and other meat factories. It was brought into force on 3 May 2001 by GN 80/2001 ([GG 2521](#)).

Repeals: The Act repeals the Swameat Corporation Ordinance 2 of 1986 (*Official Gazette 75 of the Representative Authority of the Whites*).

Amendments: Act 21/2004 ([GG 3353](#)) amends sections 5 and 9 and inserts section 30A. The State-owned Enterprises Governance Act 2 of 2006 ([GG 3698](#)), which was brought into force on 1 November 2006 by Proc. 13/2006 ([GG 3733](#)) and later re-named the Public Enterprises Governance Act 2 of 2006, amends sections 1, 5, 7, 9 and 12, and substitutes section 8. (That statute has since been replaced by the Public Enterprises Act 1 of 2019.

Regulations: This Act contains no authorisation for regulations. There is a savings clause in section 33(2) of the Act for anything done under a provision of the repealed Ordinance which could be done under a corresponding provision of this Act – but that could not apply to regulations.

Appointments: The Board of Directors is announced in GN 182/2001 ([GG 2607](#)).

Cases: *Ngavetene & Others v Minister of Agriculture, Water and Forestry & Others* 2019 (1) NR 129 (HC), partly upheld on appeal in *Minister of Agriculture, Water and Forestry & Others v Ngavetene & Others* 2021 (1) NR 201 (SC) (appointment of board was in violation of section 5 read with relevant provisions of the repealed Public Enterprises Governance Act 2 of 2006; the Supreme Court agreed with the High Court that the appointments were unlawful, but declined to set them aside since the Board’s term of office had expired by the time the appeal was heard; two justices on the Supreme Court agreed with the High Court that the delay in challenging the appointments was not unreasonable, but one justice

dissented on this point).

Agricultural Bank of Namibia Act 5 of 2003

Summary: This Act ([GG 3003](#)) provides for the Agricultural Bank of Namibia (Agribank). It was brought into force on 15 November 2003 by GN 225/2003 ([GG 3092](#)).

Repeals: The Act repeals the *Agricultural Bank Act 13 of 1944*, the *Land and Agricultural Bank of South West Africa Proclamation R.147 of 1979* and the Rehoboth Investment and Development Corporation Repeal Act 15 of 1996 ([GG 1379](#)).

Amendments: Act 22/2004 ([GG 3355](#)) amends sections 7, 8, 16, 22 and 29 and substitutes section 10.

The State-owned Enterprises Governance Act 2 of 2006 ([GG 3698](#)), which was brought into force on 1 November 2006 by Proc. 13/2006 ([GG 3733](#)) and later re-named the Public Enterprises Governance Act 2 of 2006, substitutes section 7, and amends sections 8, 10, 11, 16 and 17. (That statute has since been replaced by the Public Enterprises Act 1 of 2019.)

Regulations: This Act contains no authorisation for regulations. There is a savings clause in section 30(4) of the Act which applies to “notices”, but this savings clause could not apply to regulations since the current Act contains no “corresponding provision”:

Any notice made under a provision of a law repealed by this Act is deemed to have been made under a corresponding provision of this Act.

Application of law: Structures established under this Act are affected by directives issued in terms of the State-owned Enterprises Governance Act 2 of 2006 ([GG 3698](#)), which was brought into force on 1 November 2006 by Proc. 13/2006 ([GG 3733](#)) and later re-named the Public Enterprises Governance Act 2 of 2006, on remuneration for chief executive officers and senior managers of state-owned enterprises and annual fees and sitting allowances for board members. (Act 2 of 2006 has been replaced by the Public Enterprises Act 1 of 2019, which contains a savings clause for directives issued under the previous statute.)

The Financial Intelligence Act 13 of 2012 ([GG 5096](#)) places certain duties on the Agricultural Bank of Namibia.

Notices: Notices made under the repealed law survive pursuant to section 30(4) of this Act, which states:

Any notice made under a provision of a law repealed by this Act is deemed to have been made under a corresponding provision of this Act.

Certain activities are declared to be “activities related to agriculture” as defined in section 1 of the Act in GN 109/2006 ([GG 3672](#)).

Appointments: The re-appointment of board members is announced in GN 191/2012 ([GG 5005](#)). No previous appointments could be located in the *Government Gazettes*.

Note that GN 191/2012 ([GG 5005](#)) erroneously refers to the Act as the “Agribank Act”.

The appointment of one board member is announced in GN 272/2021 ([GG 7701](#)). The appointment of board members is announced in GN 22/2023 ([GG 8031](#)).

Cases:

The following cases concern this Act –

Witvlei Meat (Pty) Ltd v Agricultural Bank of Namibia 2014 (2) NR 464 (SC)

Mberira v Chairperson of Board of Directors, Agricultural Bank of Namibia 2019 (4) NR 1095 (HC) (refusal of loan is administrative action reviewable under Art 18 of Namibian

Constitution; character and role of Bank)

As a money lending institute, Agribank is not exactly like another commercial banking institution in the country. It has a unique character and a special role to play as a development financing institution. It acts as a financier to inter alia dispense funds for special schemes such as the affirmative action loan scheme, underwritten by government for the purpose of enabling previously disadvantaged Namibians to acquire commercial agricultural land. Although Agribank is not the primary custodian of land reform or the affirmative action loan scheme, it cannot divest itself from the fundamental role that it plays as a development partner to the relevant Ministries and the government at large. Agribank's role as a financier and as a long term credit provider at more favourable terms and conditions is thus of public interest.

The position taken by Agribank that it is not involved in addressing the national objective of unequitable land ownership of commercial farmland and that it is a bank like any other bank in Namibia, is in my view not sustainable. Furthermore, the institution is not subjected to the Banking Institutions Act 2 of 1998 [now replaced by the Banking Institutions Act 13 of 2023] which is indicative that it is not quite the same as a commercial bank. (paras 45-46)

The following case concerns previous legislation –

Du Plessis v Government of the Republic of Namibia 1994 NR 227 (HC) (section 10 of the previous *Agricultural Credit Act 28 of 1966* and section 23 of the *Agricultural Bank Amendment Act 27 of 1991* (GG 329), which amended the previous *Agricultural Bank Act 13 of 1944* and repealed the *Agricultural Credit Act 28 of 1966*).

Commentary:

Sidney Haring & Willem Odendaal, “*One Day We Will All Be Equal*”: *A Socio-Legal Perspective on the Namibian Land Reform and Resettlement Process*, Legal Assistance Centre, 2002, available [here](#)

Legal Assistance Centre, *Our Land We Farm: An analysis of the Namibian Commercial Agricultural Land Reform Process*, 2005, Legal Assistance Centre, available [here](#)

Sidney L Haring & Willem Odendaal, “*No Resettlement Available*”: *An assessment of the expropriation principle and its impact on land reform in Namibia*, Legal Assistance Centre, 2007, available [here](#)

Wolfgang Werner & Willem Odendaal, *Livelihoods after Land Reform*, Legal Assistance Centre, 2010, available [here](#).

Related international agreement:

Agreement Establishing the International Fund for Agricultural Development, 1976.

*Seed and Seed Varieties Act 23 of 2018

Summary: This Act ([GG 6814](#)) establishes a Registrar of seed and seed varieties and provides for the registration of producers, processors and dealers of seed. It also establishes a Namibia Seed Council and a Seed Varieties Committee, a National Seed Varieties Register and a Seed Certification Service. It also covers the import and export of seed. It will be brought into force on a date set by the Minister in the *Government Gazette*.

The correct name of the Act is the “Seed and Seed Varieties Act”, according to section 54(1) of the Act. However, the table of contents and the header of the *Government Gazette* erroneously refer to the “Seeds and Seeds Varieties Act” (with the word “seed” being plural instead of singular).

Regulations: Section 53 provides for regulations, but none have yet been promulgated.

COMMISSIONS

Commission of Inquiry into the Meat Industry in South West Africa (AG 1/1984).

MISCELLANEOUS

Grading standards for whole and decorticated pearl millet (mahangu) grains are published for general information for prospective buyers and sellers in General Notice 89/2000 ([GG 2353](#)).

INTERNATIONAL LAW

Charter Establishing the Centre for Coordination of Agricultural Research and Development (CCARDESA), 2010

†*Constitution of the Food and Agriculture Organization of the United Nations (FAO), 1945*

Free Trade Agreement between the European Free Trade Association (EFTA) and the Southern African Customs Union (SACU), 2006

Agricultural Agreement between the Southern African Customs Union (SACU) States and Iceland, 2006

Agricultural Agreement between the Southern African Customs Union (SACU) States and Norway, 2006

Agricultural Agreement between the Southern African Customs Union (SACU) States and Switzerland, 2006

International Agreement for the Creation of an International Office for dealing with Contagious Diseases of Animals (Arrangement international pour la création, à Paris, d'un Office international des epizooties), 1925

International Plant Protection Convention, 1951, as revised in 1979 and 1997

International Treaty on Plant Genetic Resources for Food and Agriculture, 2001

Statutes of the International Centre for Genetic Engineering and Biotechnology (ICGEB), 1983

Protocol of the Reconvened Plenipotentiary Meeting on the Establishment of the International Centre for Genetic Engineering and Biotechnology, 1984

Protocol to the Statutes of the International Centre for Genetic Engineering and Biotechnology on the Seat of the Centre, 2007

See also **ANIMALS**.

See also Stock Theft Act 12 of 1990 (**CRIMINAL LAW AND PROCEDURE**).

See also **ENVIRONMENT**.

See also Labour Act 11 of 2007 (collective agreements setting minimum wages for agricultural industry) (**LABOUR**).

See also Agricultural (Commercial) Land Reform Act 6 of 1995 (**LAND AND HOUSING**).

See also Aquaculture Act 18 of 2002 and Inland Fisheries Resources Act 1 of 2003 (**MARINE AND FRESHWATER RESOURCES**).

See also *Sugar Act 28 of 1936* (**TRADE AND INDUSTRY**).