

# ARBITRATION

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*Arbitration Act 42 of 1965*, as amended in South Africa prior to Namibian independence.

**Summary:** This Act provides for the settlement of disputes by arbitration tribunals.

**Applicability to SWA:** Section 41 states “This Act and any amendment thereof shall apply also in the territory.” Section 1 defines “the territory” as “the territory of South West Africa including that portion of the territory known as the ‘Rehoboth Gebiet’, and the Eastern Caprivi Zipfel referred to in subsection (3) of section three of the South West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951)”.

**Transfer of administration to SWA:** There is no reference to any minister in the Act, so it is not clear from the face of the Act what transfer proclamation, if any, was applicable. In any event, there were no amendments to the Act in South Africa prior to Namibian independence.

**Cases:**

*Erongo Mining and Exploration Co Ltd t/a Navachab Gold Mine v Mineworkers Union of Namibia* 1993 NR 270 (LC) (section 30)  
*Nel v Kalahari Holdings (Pty) Ltd* 1995 NR 244 (HC) (sections 3(1) and (6))  
*RL Civil Engineering v Ministry of Regional and Local Government and Housing & Another* 1998 NR 61 (HC) (sections 4(2) and 21(f)).

**Related international agreements:** The *Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958* (the “New York” Convention), which entered into force internationally on 7 June 1959, is relevant. The Ministry of Foreign Affairs lists Namibia as a party to this Convention, but Namibia is not listed as a State Party on [www.uncitral.org](http://www.uncitral.org) and the accession could not be located in the Parliament records.

See also **LABOUR**.