

COMMUNICATIONS

This section now combines the laws previously indexed under BROADCASTING, POSTS AND TELECOMMUNICATIONS and PRESS AND PRINTING, to reflect the increasing integration of these modes of communication and their legal regulation.

Radio Act 3 of 1952, as amended in South Africa to April 1978.

Summary: This Act regulates radio activities. It is repealed by the Communications Act 8 of 2009, which had not come into force as of 30 June 2010.

Applicability to SWA: Section 19A(1) 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 (Posts and Telecommunications) Transfer Proclamation (AG 12/1978, as amended), which came into operation on 1 April 1978.

Section 3(3)(a) of the transfer proclamation excluded the references to the “Republic” in the Act from the operation of section 3(1) of the General Proclamation. There are only two references to the Republic in the Act, in the following sections:

- section 7(3), which concerns international telecommunication provisions to which the Republic is a party; and
- section 18(d), which empowers the Minister of Posts and Telecommunications to make regulations relating to the operation of radio installations on board ships within the territorial waters of the Republic or on aircraft in or flying over the Republic.

Although “Republic” is not defined in the Act, it was probably interpreted to mean South Africa and SWA in these sections because of the effect of section 19A(1), which makes the Act applicable to SWA.

Section 3(6) of the transfer proclamation excluded section 14(5) of the Act -- which concerns appeals to the Administrator-General by persons whose licenses or permits have been cancelled -- from the operation of the provisions of section 4(1) of the General Proclamation (which authorised the delegation of powers by the Administrator-General). Thus, where an appeal was made to the Administrator-General under this section, he could not delegate his power to confirm or overturn the initial decision.

None of the amendments to the Act in South Africa after the date of transfer were made expressly applicable to SWA.

Amendments: AG 37/1979 brings the RSA *Radio Amendment Act 2 of 1978* into operation in SWA with effect from 1 January 1980.

The Act is substantially amended by the Namibian Broadcasting Act 9 of 1991.

Amendments are also made by the Namibia Communications Commission Act 4 of 1992 and by the Posts and Telecommunications Companies Establishment Act 17 of 1992.

Regulations: The regulations issued in terms of the Act (contained in RSA GN R.2862 of 28 December 1979 as amended) have been amended since independence

by GN 71/1990 (GG 102), GN 76/1992 (GG 427), General Notice 286/1993 (GG 760), N 250/1997 (GG 1741), GN 52/1999 (GG 2057), GN 147/2001 (GG 2579) and GN 245/2001 (GG 2663). GN 250/2004 (GG 3326) further amends GN R.2862 and repeals GN 147/2001 and GN 245/2001. GN R.2862 is also amended by GN 6/2006 (GG 3573) and GN 213/2007 (GG 3942).

Newspaper and Imprint Registration Act 63 of 1971, as amended in South Africa to March 1978.

Summary: This Act provides for the registration of newspapers and printer's imprints and requires that the printer of all printed matter be identified.

Applicability to SWA: Section 1 defines "Republic" to include "the territory of South West Africa". Section 14(1) states that "this Act and any amendment thereof shall also apply 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 (Interior) Transfer Proclamation (AG 17/1978), dated 30 March 1978.

Section 3(2)(c) of the transfer proclamation excluded section 8 of the Act from the operation of section 3(1)(c) of the General Proclamation, which concerns the interpretation of the term "Republic". Section 8 requires that the editor of a newspaper published in the Republic must reside in the Republic; "Republic" in this section retained the meaning it was given in the definition section of the Act (South Africa and SWA).

The only amendment to the Act in South Africa after the date of transfer and prior to Namibian independence -- the *Registration of Newspapers Amendment Act 98 of 1982* -- was not made expressly applicable to SWA.

Post Office Service Act 66 of 1974, as amended in South Africa to April 1978.

Summary: This Act governs employment in the Department of Posts and Telecommunications.

Applicability to SWA: Section 1 defines "Republic" 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 (Post and Telecommunications) Transfer Proclamation (AG 12/1978, as amended), which came into operation on 1 April 1978. None of the amendments to the Act in South Africa after the date of transfer were made expressly applicable to SWA.

Amendments: Sections 55 and 56 are repealed by the Posts and Telecommunications Companies Establishment Act 17 of 1992.

Namibian Broadcasting Act 9 of 1991.

Summary: This Act provides for the establishment of a broadcasting corporation for Namibia and sets forth its objectives, powers, duties and functions.

Amendments: Sections 1 and 6 are amended by section 1 of the General Law Amendment Act 18 of 2000, which came into operation on 2 February 2001 (GN 25/2001, GG 2483). The State-owned Enterprises Governance Act 2 of 2006, which was brought into operation by Proc. 13/2006 (GG 3733), amends sections 6, 8 and 13.

Regulations: Regulations regarding television licences are contained in GN 118/1993 (GG 726). License fees are addressed in General Notice 245/1995 (GG 1128). Regulation 6 and the Annexure on television licence fees are amended by General Notice 95/1999 (GG 2113), which raises the standard television licence fee from N\$132 to N\$180. The Annexure on licenses is substituted in its entirety by GN 220/2001 (GG 2637), which is substituted in turn by GN 235/2004 (GG 3313), both of which set a sliding scale for license fees.

Appointments: The initial board was appointed by GN 88/1990 (GG 120), with the appointments of new board members being announced in GN 93/1995 (GG 1062) and GN 175/2000 (GG 2374).

Cases: *Kruger & Others v Namibian Broadcasting Corporation* 2006 (1) NR 233 (LC), *Namibian Broadcasting Corporation v Kruger & Others* 2009 (1) NR 196 (SC) (voluntary retrenchment of employees).

New Era Publication Corporation Act 1 of 1992.

Summary: This Act establishes a publication corporation for Namibia and sets forth its powers, duties and functions.

Amendments: Sections 1 and 5 are amended by section 2 of the General Law Amendment Act 18 of 2000, which is deemed to have come into operation on 29 November 2000 (GN 25/2001, GG 2483). The State-owned Enterprises Governance Act 2 of 2006, which was brought into operation by Proc. 13/2006 (GG 3733), amends sections 5, 6 and 10.

Appointments: The appointment of a Board of Directors is announced in GN 26/2001 (GG 2483) and GN 60/2004 (GG 3181).

Namibia Press Agency Act 3 of 1992.

Summary: This Act establishes a news agency for Namibia and sets forth its powers, duties and functions.

Amendments: Sections 1 and 6 are amended by section 3 of the General Law Amendment Act 18 of 2000, which is deemed to have come into operation on 29 November 2000 (GN 25/2001, GG 2483). Act 13/2004 amends sections 4, 5, 6, 11, and 14. The State-owned Enterprises Governance Act 2 of 2006, which was brought into operation by Proc. 13/2006 (GG 3733), amends sections 6, 7, 11 and 13.

Appointments: The appointment of Boards of Directors is announced in GN 114/1992 (GG 468), GN 197/1998 (GG 1927) and GN 27/2001 (GG 2483).

Application: The application of the Act is affected by the State-owned Enterprises Governance Act 2 of 2006.

Namibian Communications Commission Act 4 of 1992.

Summary: This Act establishes a Namibian Communications Commission and sets forth its powers, duties and functions, which include the issuing of broadcast licences and the control and supervision of certain broadcasting activities and programme content. It came into force on 7 April 1992 (Proc. 24/1992, GG 458). It is repealed by the Communications Act 8 of 2009, which had not come into force as of 30 June 2010.

Amendments: Act 1/1995 amends sections 1, 11, and 27 and adds section 22A. These amendments empower the commission to issue postal service licences and telecommunications service licences. Act 4/2004 amends sections 22A and 22B. It was deemed to have come into effect on 1 June 2003.

Sections 1 and 3 of the Act are amended by section 4 of the General Law Amendment Act 18 of 2000, which came into operation on 2 February 2001 (GN 25/2001, GG 2483).

Regulations: Regulations are contained in GN 25/1994 (GG 802), as amended by GN 251/2004 (GG 3326), GN 6/2006 (GG 3573) and GN 212/2007 (GG 3942).

Regulations pertaining to VSAT (very small aperture terminal) telecommunications licences are contained in GN 108/2007 (GG 3858).

Applications for licences and licence grants have not been recorded here.

Appointments: Commission members are appointed in General Notice 230/1998 (GG 1951), General Notice 307/2000 (GG 2447), General Notice 171/2003 (GG 3034) and GN 59/2004 (GG 3181).

Posts and Telecommunications Companies Establishment Act 17 of 1992.

Summary: This Act provides for the incorporation of a postal company, a telecommunications company and a holding company, and for the transfer of Namibia's postal and telecommunications enterprises to the postal and telecommunications companies. It also provides for the conditions of service of persons transferred to or employed by the postal or telecommunications companies, and for the control of the Post Office Savings Bank by the postal company.

Section 10 of the Act provided that the Act, with the exception of Chapter I, would come into force on a date to be determined by the Minister in the *Government Gazette*. The entire Act actually came into force at the same time: Chapter I came into force on 31 July 1992, the date of publication of the Act, and the remainder of the Act came into force on 31 July 1992 by virtue of GN 88/1992 (GG 446).

Amendments: The Customs and Excise Act 20 of 1998 repeals the amendments to the Customs and Excise Act 91 of 1964 set forth in the Schedule to this Act. Act 20/2000 amends section 2 of the Act to reduce the number of company directors.

The State-owned Enterprises Governance Act 2 of 2006, which was brought into operation by Proc. 13/2006 (GG 3733), amends section 2.

Regulations: A transfer date in terms of the Act was determined in GN 89/1992 (GG 446).

See also General Notice 279/2002 (GG 2823) with respect to the application to Telecom Namibia of amendments to the Value-Added Tax Act 10 of 2000.

Posts and Telecommunications Act 19 of 1992.

Summary: This Act provides for the regulation and control of postal and telecommunications services. It also sets forth the powers, duties and functions of Namibia Post Limited and Telecom Namibian Limited. Section 55 of the Act provides that the Act is deemed to have come into force on 1 August 1992, *with the exception of* section 2 (prohibition of conduct of a postal service or a telecommunications service), which was deemed to have come into force on 15 February 1995 (GN 126/2000, GG 2340).

Amendments: Act 20/1995 adds section 18A, which enables Namibian Post Ltd. to prescribe and levy service fees.

The Communications Act 8 of 2009 (which is not yet in force) repeals Chapters II and IV and section 45.

Regulations: Post Office Savings Bank Regulations are promulgated in General Notice 113/1996 (GG 1322), as amended by General Notice 276/1997 (GG 1684) and General Notice 64/1998 (GG 1829). These replace the “Savings Bank Regulations” contained in GN 16/1961 (as amended).

Tariffs set in terms of the Act are set and amended periodically and have not been recorded here.

Application of law: The application of this law is affected by the Financial Intelligence Act 3 of 2007, which places certain duties on the Post Office Savings Bank.

Communications Act 8 of 2009.

Summary: This Act provides for the regulation of telecommunications services and networks, broadcasting, postal services and the use and allocation of radio spectrum. It establishes an independent Communications Regulatory Authority of Namibia and an Association to manage the internet domain “.na”. It also provides for the interception of telecommunications.

The Act repeals the Radio Act 3 of 1952 and the Namibian Communications Commission Act 4 of 1992, and replaces some sections of the Posts and Telecommunications Act 19 of 1992. It will come into force on a date determined by the Minister.

Application of law: The application of this Act with respect to the Communications

Regulatory Authority of Namibia is affected by the State-owned Enterprises Governance Act 2 of 2006.

Regulations: There is no savings clause for regulations made under the repealed laws. Licences issued under the repealed laws must be reviewed for compliance with this Act, but remain valid until so reviewed. (Notices in respect of licences under the repealed laws and under this Act have not been recorded here.)

INTERNATIONAL LAW

Universal Postal Union, 1964

accession: 20 February 1992

International Telecommunications Satellite Organisation (INTELSAT)

accession: 11 October 1993 (source: Ministry of Foreign Affairs)

Amendments to the Agreement Relating to the International Telecommunications Satellite Organisation (INTELSAT/ITSO), 2000 (effective 18 July 2001)

signature: 18 November 2000

letter of approval: 8 July 2002 (source: Ministry of Foreign Affairs)

Constitution and Convention of the International Telecommunication Union, 1992

accession: 2 August 1994

SADC Protocol on Transport, Communications and Meteorology, 1996

(entered into force within SADC on 6 July 1998) (source: SADC)

signature: 24 August 1996 (source: SADC)

ratification: 19 September 1997 (source: SADC; Ministry of Foreign Affairs)

See Proc. 24/1997 (GG 1723).

See also **CENSORSHIP**.

See also General Law Amendment Ordinance 22 of 1958, section 1 (which makes it an offence to publish details of any person under 18 years old who is a party to civil proceedings) (**COURTS**).

See also *Criminal Procedure Act 51 of 1977*, section 154 (which prohibits the publication of any information which may reveal the identity of an accused or a witness in criminal proceedings who is under the age of 18, as well as the publication of information about any criminal proceedings held in closed court) (**CRIMINAL LAW AND PROCEDURE**).

See also *Protection of Information Act 84 of 1982* (which prohibits the disclosure of security-related information) (**DEFENCE**).

See also **FILMS**.

See also Exchequer and Audit Amendment Proclamation, AG 35 of 1979 (re: Post Office Account) (**FINANCE AND DEVELOPMENT**).