

CONSTITUTION

The pre-independence laws, while still technically in force, are primarily of historical interest.

Commonwealth Relations (Temporary Provision) Act 41 of 1961.

Summary: This Act provides that references to any Commonwealth country or countries in laws in force in South Africa or South West Africa immediately prior to 31 May 1961 shall not be automatically affected by the establishment of the Republic of South Africa.

Applicability to SWA: Section 3 states “This Act shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel referred to in section three of the South West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951).”

South West Africa Affairs Act 25 of 1969, as amended in South Africa prior to Namibian independence.

Summary: This Act related to the administration of South West Africa, principally by transferring authority over a number of issues to Ministers of the relevant South African departments, by extending the power of the State President to make South African laws applicable to South West Africa, and by changing several of the financial aspects of the administration of the territory. It was repealed in South Africa by Act 108/1993 and has no current relevance to Namibia.

Applicability to SWA: According to sections 1 and 24, this Act applies to “the territory of South West Africa,” including the Eastern Caprivi Zipfel.

Amendments: The application of this Act was affected by the subsequent SWA Transfer Proclamations, which transferred administration of certain matters back to South West Africa.

The Customs and Excise Act 20 of 1998 repeals section 6.

National Coat of Arms of the Republic of Namibia Act 1 of 1990.

Summary: This Act determines the national coat of arms for the Republic of Namibia, in accordance with Article 2(2) of the Constitution.

Assignment of Powers Act 4 of 1990.

Summary: This Act empowers the President to establish departments and other administrative divisions and to assign the administration of certain laws to the Prime Minister or to any Minister. It also provides for the temporary performance of the functions of the Prime Minister or a Minister by another Minister.

Regulations: Specific assignments of powers are made in GN 61/1991 (GG 211), GN 62/1991 (GG 211), GN 98/1992 (GG 455), GN 141/1993 (GG 750), GN 277/1999 (GG 2248) and Proc. 1/2002 (GG 2704). (See also GN 28/2002, GG 2704.)

Special Advisors and Regional Representatives Appointment Act 6 of 1990.

Summary: This Act provides for the appointment of persons as Special Advisors to the Cabinet or Ministers. It also sets forth the powers, duties and functions of such appointees. (It originally provided for the appointment of persons as regional representatives, but this portion of the Act has been repealed.)

Amendments: Section 2 of the Act was repealed by the Regional Councils Act 22 of 1992 as of 30 November 1992.

Appointments: Regional representatives were appointed in Proc. 14/1990 (GG 75). A Special Advisor: National Security was appointed in Proc. 7/1994 (GG 813). Special Advisors to the President on political matters and on economic matters are appointed in Proc. 32/1997 (GG 1759).

Ombudsman Act 7 of 1990.

Summary: This Act defines the powers, duties and functions of the Ombudsman in accordance with Chapter 10 of the Constitution.

Appointments: Appointments under the Act have been made in terms of Proc. 10/1990 (Acting Ombudsman); Proc. 16/1992 (Ombudsman); Proc. 7/1993; Proc. 8/1993 (Deputy Ombudsman); Proc. 7/1996 (Ombudsman); Proc. 29/2003 (Acting Ombudsman) and Proc. 39/2004 (Ombudsman).

National Anthem of the Republic of Namibia Act 20 of 1991.

Summary: This Act sets forth the national anthem of Namibia and empowers the President to make regulations in respect of the use of the anthem.

Walvis Bay and Off-Shore Islands Act 1 of 1994.

Summary: This Act gives effect to Article 1(4) of the Constitution by providing for the transfer of control over Walvis Bay and the off-shore islands from South Africa to Namibia. It came into force on 1 March 1994 (Proc. 6/1994, GG 806).

Amendments: The application of the Act is affected by Procs. 15/1994 and 16/1994 (GG 873). Act 14/1998 amends clause 1 of Part III of the Schedule to provide for the retrospective application of certain provisions of the Local Authorities Act 23 of 1992. The Road Traffic and Transport Act 22 of 1999 repeals Clause 2 of Part IV of the Schedule.

Cases: *Gauseb v Minister of Home Affairs* 1996 NR 90 (HC); *Municipality of Walvis Bay v Du Preez* (LCA 15/97), reported as 1999 NR 106 (LC) (section 13; Part III, sections 1(6) and 5(c)).

National Planning Commission Act 15 of 1994.

Summary: This Act provides for the membership, powers, functions and personnel of the National Planning Commission referred to in Article 129(1) of the Constitution.

Honours System for Namibia, Proclamation 2 of 1995.

Summary: This Proclamation establishes an honours system for Namibia consisting of decorations, medals and awards. It was enacted in terms of Article 32(3)(h) of the Namibian Constitution.

Powers, Privileges and Immunities of Parliament Act 17 of 1996.

Summary: This Act provides for the right of freedom of speech and debate as well as other powers, privileges and immunities for Parliamentarians. It also establishes a Committee of Privileges to investigate the conduct of Parliamentarians.

Namibian Constitution First Amendment Act 34 of 1998.

Summary: This Act amends Article 134 of the Namibian Constitution to provide that the first President of Namibia may hold office for three terms.

Application of Laws to the Eastern Caprivi Zipfel Act 10 of 1999.

Summary: This Act is necessary because section 38(5) of the South-West Africa Constitution Act 39 of 1968 (which was repealed by Article 14 of the Namibian Constitution) provided that laws applied to South West Africa after 1 November 1951 would apply in the Eastern Caprivi Zipfel only if this was expressly stated. In light of this historical exclusion, this Act gives Ministers the power to make the laws which they administer applicable to the Eastern Caprivi Zipfel by notice in the *Gazette*.

Declaration of State of Emergency: Caprivi, Proclamation 23 of 1999.

Summary: This Proclamation declared a state of emergency in the Caprivi Region in terms of Article 26(1) of the Constitution, effective as of 2 August 1999. It was revoked on 26 August 1999 by Proc. 27/1999 and has no ongoing effect.

Regulations: Emergency Regulations were promulgated in Proc. 24/1999 (GG 2157). These were also revoked by Proc. 27/1999.

Lists of persons detained under the Emergency Regulations were published in GN 172/1999 (GG 2167) and GN 173/1999 (GG 2172).

It is relevant to note that the Katima Mulilo police cells (in the Caprivi Region) were declared to be a prison in terms of the Prisons Act 17 of 1998 by GN 160/1999 (GG 2163).

Appointments: An Advisory Board as referred to in Article 26(5)(c) of the Constitution was appointed with respect to the state of emergency by Proc. 25/1999 (GG 2159).

Cases: *Mazila v Minister of Home Affairs* 2000 NR 224 (HC) (applicability of the regulations to areas outside the Caprivi Region).

Security Commission Act 18 of 2001.

Summary: This Act relates to the Security Commission established by Article 114 of the Namibian Constitution. In terms of the Constitution, the Security Commission has the function of making recommendations to the President on the appointment of the Chief of the Defence Force, the Inspector-General of Police and the Commissioner of Prisons. The Act gives the Commission additional powers relating to internal security. The Act came into force on 2 May 2002 (GN 65/2002, GG 2734).

CONSTITUTIONAL APPOINTMENTS

(in chronological order)

Appointment of Members of the Judicial Service Commission, Proc. 1/1990, GN/96/2002 (GG 2759).

Announcement of Appointments under Article 32 of the Constitution of the Republic of Namibia, Proc. 2/1990.

Appointment of the First Chief of the Defence Force under Article 142 of the Namibian Constitution, Proc. 7/1990.

Appointment of the First Inspector-General of Police and First Commissioner of Prisons under Article 142 of the Namibian Constitution, Proc. 8/1990.

Appointment of Acting Ombudsman, Proc. 10/1990.

Establishment of the First Delimitation Commission and the Duties thereof, Proc. 12/1990.

Announcement in terms of Article 32(8) of Certain Appointments (Chief Justice, Judge President, Judge of the High Court and Prosecutor-General), Proc. 31/1991.

Appointment of Ombudsman, Proc. 16/1992.

Appointment of High Court Judges, Proc. 17/1992.

Appointment of Members of the Security Commission, Proc. 18/1992.

Appointment in terms of Article 32(8) of members of Electoral Commission and Director of Elections, Proc. 44/1992.

Appointment of Deputy Ombudsman, Proc. 7/1993 and Proc. 8/1993

Appointment in terms of Article 32(8) of Director of Elections, Proc. 24/1993.

Appointment of Governor of Bank of Namibia, Proc. 3/1994.

Appointment of Minister, Proc. 4/1994.

Appointment of Deputy Ministers, Proc. 22/1994.

Appointment of High Court Judge, Proc. 26/1994.

Announcement of Appointments under Article 32 of the Constitution, Proc. 8/1995.

Appointment of Delimitation Commission, Proc. 9/1995.

Appointment of Ombudsman, Proc. 7/1996.

Appointment of Commissioner of Prisons, Proc. 34/1997 (GG 1765).

Appointment of Inspector-General of Police, Proc. 35/1997 (GG 1765).

Appointment of Director-General of Namibia Central Intelligence Service, Proc. 14/1999

(GG 2062)

- Announcement in terms of Article 32(8) of the Appointment of the Electoral Commission, Proc. 15/1999 (GG 2070)
- Announcement of appointments under Article 32 of the Constitution of the Republic of Namibia, Proc. 18/1999 (GG 2088)
- Announcement in terms of Article 32(8) of the Appointment of the Deputy-Minister of Information and Broadcasting, Proc. 31/1999 (GG 2213)
- Announcement of appointments in terms of Article 32(8), Proc. 8/2000 (GG 2366)
- Announcement in terms of Article 32(8) of the Appointment of the Electoral Commission, Proc. 10/2000 (GG 2391)
- Announcement in terms of Article 32(8) of the Appointment of the Minister of Lands, Resettlement and Rehabilitation, and Attorney-General, Proc. 5/2001 (GG 2501)
- Announcement of Appointment of an Acting Prosecutor-General, Proc. 8/2002 (GG 2869)
- Announcement in terms of Article 32(8) of Extension of Term of Appointment of Acting Prosecutor-General, Proc. 20/2003 (GG 3023).
- Announcement in terms of Article 32(8) of Certain Appointments (Judges of the High Court, Judge President of the High Court, Judge of the Supreme Court), Proc. 22/2003 (GG 3034).
- Announcement in terms of Article 32(8) of Certain Appointments, Proc. 28/2003 (GG 3060).
- Announcement of the Appointment of the Acting Ombudsman, Proc. 29/2003 (GG 3071)
- Announcement in terms of Article 32(8) of the Appointment of Acting Judges for the Supreme Court and High Court, Proc. 30/2003 (GG 3092).
- Announcement of extension of term of Appointment of the Acting Prosecutor-General, Proc. 31/2003 (GG 3101).
- Announcement of Appointment of a Prosecutor-General, Proc. 32/2003 (GG 3101).
- Announcement of Appointment of Acting Judge of the High Court, Proc. 3/2004 (GG 3128).
- Announcement in terms of Article 32(8) of Appointments of Acting Judges of the High Court, Proc. 4/2004 (GG 3133).
- Announcement in terms of Article 32(8) of Appointments of Acting Judges of the High Court, Proc. 35/2004 (GG 3207).
- Announcement in terms of Article 32(8) of Appointments of Acting Judges of the High Court, Proc. 36/2004 (GG 3207).
- Announcement of Appointment of Ombudsman, Proc. 39/2004 (GG 3229).
- Announcement in terms of Article 32 of renewal of Appointment of Special Adviser (Commercial Law) to the Attorney-General, Proc. 40/2004 (GG 3253).
- Announcement in terms of Article 32(8) of Certain Appointments (Acting Chief Justice of the Supreme Court, Judges of the High Court), Proc. 41/2004 (GG 3259)
- Announcement in terms of Article 32(8) of Appointments of Acting Judges of the High Court, Proc. 49/2004 (GG 3304)
- Announcement in terms of Article 32(8) of Certain Appointments (Acting Chief Justice of the Supreme Court, Acting Judges of the High Court), Proc. 55/2004 (GG 3319)
- Announcement in terms of Article 32(8) of Certain Appointments (Chief Justice of the Supreme Court, Judge President of the High Court), Proc. 56/2004 (GG 3322)
- Announcement in terms of Article 32(8) of Appointments of Acting Judges of the High Court, Proc. 58/2004 (GG 3336).
- Announcement in terms of Article 32(8) of Appointment of Acting Judge of the High Court, Proc. 59/2004 (GG 3336).

CONFERMENT OF NATIONAL HERO STATUS

(in terms of Article 32(3)(h) of the Namibian Constitution)

The late David Mosea Meroro, Proc. 5/04 (GG 3138)

The late Maxton Joseph Mutonyolume, Proc. 32/04 (GG 3191)

See also Council of Traditional Leaders Act 13 of 1997 (**CUSTOMARY LAW**).

See also Namibia Central Intelligence Service Act 10 of 1997 (**DEFENCE**).

See also **JUDGES**.

See in particular Judicial Service Commission Act 18 of 1995 (**JUDGES**).

See Crown Liabilities Act 1 of 1910 (state liability) (**LAW**).

See also **POLICE**.

See also **PRESIDENT**.

See also **PRISONS**.

See also **PUBLIC SERVICE**.

See in particular Public Service Commission Act 2 of 1990 (**PUBLIC SERVICE**).

See also **REGIONAL AND LOCAL GOVERNMENT**.