

# CONSTITUTION

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The Namibian Constitution is not legislation in the same way as the other laws listed here, but is the Supreme Law of independent Namibia.

## NAMIBIAN CONSTITUTION

**Summary:** The Namibian Constitution ([GG 2](#)) is the fundamental law of independent Namibia. All other laws are subject to it. It was adopted by elected representatives of the Namibian people after Namibia's first democratic elections. It was published and came into force on the date of Independence: 21 March 1990 (Article 130 of the Namibian Constitution).

**Amendments:** Article 132 of the Namibian Constitution sets out the procedures for its amendment. It has been amended by the following –

- Namibian Constitution First Amendment Act 34 of 1998 ([GG 2014](#))
- Namibian Constitution Second Amendment Act 7 of 2010 ([GG 4480](#))
- Namibian Constitution Third Amendment Act 8 of 2014 ([GG 5589](#)).

Because of their importance, these amending Acts all have separate entries in this section.

**Notes:** The Legal Assistance Centre publishes a simple summary of key provisions of the Constitution in multiple languages in a booklet entitled *Know Your Constitution*.

**Cases:** Cases involving the Constitution are numerous and are not listed here. Where other legislation has been tested against the Constitution, those cases are listed under the entries for the statute in question. A few selected cases are cited at the end of this section.

**Commentary:** For commentary on constitutional issues, see the list at the end of this section.

## Assignment of Powers Act 4 of 1990

**Summary:** This Act ([GG 29](#)) 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.

**Notices:** 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](#)), Proc. 1/2002 ([GG 2704](#)), Proc. 8/2005 ([GG 3456](#)) and Proc. 6/2012 ([GG 4891](#)). (See also GN 28/2002, [GG 2704](#).)

**Regulations:** The Act makes no provision for regulations.

## Special Advisers and Regional Governors Appointment Act 6 of 1990

**Summary:** This Act ([GG 31](#)) provides for the appointment of persons by the President as special advisers and regional governors. It also sets forth the powers, duties and functions of such appointees. (The Act was initially known as the Special Advisers and Regional Representatives Appointment Act 6 of 1990. It originally provided for the appointment of persons as regional representatives, but this portion

of the Act was repealed in 1992. The name of the Act was changed by Act 15/2010 ([GG 4617](#)), which inserted a section on the appointment of regional governors.)

**Amendments:** Section 2 of the Act was repealed by the Regional Councils Act 22 of 1992 ([GG 469](#)), as of 30 November 1992.

Act 15/2010 ([GG 4617](#)) inserts a new section 2 to provide for regional governors, and substitutes section 3 (the short title).

**Regulations:** The Act makes no provision for regulations.

**Appointments:** Regional representatives are appointed in Proc. 14/1990 ([GG 75](#)).

The appointment of Regional Governors is announced in Proc. 1/2011 ([GG 4645](#)), Proc. 18/2013 ([GG 5188](#)) and Proc. 8/2018 ([GG 6527](#)).

Regional governors were appointed in 2015, but these appointments were not gazetted. See President announces governors”, *The Namibian*, 10 April 2015 (listing the names of each governor).

Note that GG 6527 was initially numbered incorrectly as GG 6528. A corrected version was subsequently issued.

The following Special Advisers have been appointed (in chronological order):

Special Adviser: National Security – Proc. 7/1994 ([GG 813](#))

Special Adviser: State Security – Proc. 8/1995 ([GG 1071](#))

Special Adviser to the Minister of Health and Social Services – Proc. 8/1995 ([GG 1071](#))

Special Adviser to the Minister of Health and Social Services: Inspection of Hospitals and Health Facilities – Proc. 8/1995 ([GG 1071](#))

Special Advisers to the President on political and economic matters – Proc. 32/1997 ([GG 1759](#))

Special Adviser (Commercial Law) to the Attorney-General – appointment renewed in Proc. 40/2004 ([GG 3253](#))

The original appointment could not be located.

Special Adviser to the Minister of Labour and Social Welfare – Proc. 3/2005 ([GG 3433](#))

Note that the original GG 3433 was replaced by another GG 3433 with the same date; the correct version states at the top: “*This Gazette replaces Gazette No. 3433 of 18 May 2005.*”

Special Adviser to the Minister of Veterans Affairs – Proc. 5/2007 ([GG 3785](#))

Special Adviser (Commercial Lawyer) to the Minister of Justice – Proc. 13/2007 ([GG 3900](#))

Special Adviser (labour matters) to the Minister of Labour and Social Welfare – Proc. 14/2008 ([GG 4022](#))

Special Adviser to the Director-General of the National Planning Commission – Proc. 2/2009 ([GG 4197](#))

Special Adviser to the President on Political Matters – Proc. 21/2009 ([GG 4391](#))

Special Adviser to the Minister of Veterans’ Affairs – Proc. 21/2009 ([GG 4391](#))

Special Adviser to the Minister of Health and Social Services – Proc. 9/2010 ([GG 4468](#))

Special Adviser to the Prime Minister – Proc. 8/2011 ([GG 4757](#))

Special Adviser to the Minister of Regional and Local Government, Housing and Rural Development – Proc. 8/2011 ([GG 4757](#))

Special Adviser to the Minister of Youth, National Service, Sport and Culture – Proc. 8/2011 ([GG 4757](#))

Special Advisers to the Governors of each of the 13 regions – Proc. 10/2011 ([GG 4757](#))

Special Adviser to the Minister of Justice – Proc. 13/2012 ([GG 4958](#))

Special Adviser to the Minister of Home Affairs and Immigration – Proc. 15/2012 ([GG 4996](#))

Special Adviser to the Minister of Finance – Proc. 11/2013 ([GG 5160](#))

Special Adviser to the Minister of Lands and Resettlement – Proc. 19/2013 ([GG 5188](#))

Special Adviser to the Minister of Regional and Local Government, Housing and Rural Development – Proc. 19/2013 ([GG 5188](#))

Special Adviser to the Minister of Health and Social Services – Proc. 26/2013 ([GG 5264](#))

Special Adviser to the Regional Governor of the Kharas Region – Proc. 36/2015 ([GG 5869](#))

Special Adviser on Social and Political Issues to the Regional Governor of the Hardap Region – Proc 36/2015 ([GG 5869](#))

Special Adviser on Social and Political Issues to the Regional Governor of the Kunene Region – Proc 36/2015 ([GG 5869](#))

Special Adviser on Social and Political Issues to the Regional Governor of the Kunene Region [a second such adviser] – Proc 36/2015 ([GG 5869](#))

Special Adviser to the Regional Governor of the Khomas Region – Proc. 36/2015 ([GG 5869](#))

Special Adviser to the Regional Governor of the Otjozondjupa Region – Proc. 36/2015 ([GG 5869](#))

Special Adviser to the President: Policy Implementation and Monitoring – Proc. 36/2015 ([GG 5869](#))

Special Adviser to the President: Press Secretary – Proc. 36/2015 ([GG 5869](#))

Special Adviser to the President: Youth Affairs and Enterprise Development – Proc. 36/2015 ([GG 5869](#))

Special Adviser to the President: Community Coordination and Liaison – Proc. 36/2015 ([GG 5869](#))

Special Adviser to the President: Economic Affairs – Proc 36/2015 ([GG 5869](#))

Special Adviser to the President: Private Sector Interface and Constitutional Affairs – Proc. 36/2015 ([GG 5869](#))

Special Advisers to the Minister of International Relations and Cooperation and the Minister of Urban and Rural Development – Proc. 7/2017 ([GG 6333](#))

Special Adviser to the Governor of the Ohangwena Region – Proc. 8/2017 ([GG 6333](#))

Special Advisers to the Minister of Defence and the Prime Minister – Proc. 7/2018 ([GG 6527](#))  
 Note that GG 6527 was initially numbered incorrectly as GG 6528. A corrected version was subsequently issued.

Special Advisers to the Governors of Hardap and ||Karas Regions – Proc. 17/2018 ([GG 6767](#))

Special Adviser: Health and Social Services in the Office of the Vice President – Proc. 2/2019 ([GG 6824](#))

Special Adviser to Minister of Poverty Eradication and Social Welfare - Proc. 7/2019 ([GG 6868](#))

Special Adviser on Veterans Affairs to the Vice President (with effect from 1 November 2019 until 20 March 2020) - Proc. 61/2019 ([GG 7069](#))

Special Adviser to the Minister of Agriculture, Water and Land Reform (with effect from 12 July 2020 to 11 July 2023) - Proc. 30/2020 ([GG 7258](#))

Special Adviser to the President on Economic Matters (with effect from 1 September 2020) – Proc. 53/2020 ([GG 7349](#))  
 Note that some Gazettes refer to Special “Advisors” rather than “Advisers”. The Act uses the spelling “Advisers”.

**NOTE:** Section 1 of the Act authorises the appointment by the President of Special Advisers “to the President, the Cabinet or any Minister designated by the President”, stating that this may be done “from time to time by proclamation in the *Gazette*”.

However, not all of the appointments of Special Advisers seem to have been gazetted. For example, a tender advertisement in [GG 1519](#) refers to equipment for a Special Adviser to the Minister of Justice, although no such appointment had been gazetted by that date. Proc. 14/2000 in [GG 2434](#) refers to a Special Adviser to the Ministry of Justice and a Special Adviser to the Attorney-General (in connection with pension fund coverage), but these appointments were not previously gazetted. The same is true with respect to the Special Advisers referred to in Proc. 17/2001 in [GG 2607](#) and Proc. 33/2004 in [GG 3198](#) (in connection with pension fund coverage). As another

example, [GG 4725](#) refers to the appointment of a Special Adviser on Social and Political Issues for the Erongo Region (in discussing a vacancy) which is not gazetted (although this position may fall outside the parameters of the Act altogether).

The apparent failure to announce all appointments under the Act in the *Gazette* as section 1 requires also appears to raise a Constitutional issue. Article 32(3)(i) of the Namibian Constitution discusses the President's powers of appointment of persons to specific offices as well as covering the appointment of "any other person or persons who are required by any other provision of this Constitution or any other law to be appointed by the President". Article 32(8) states that all such appointments "shall be announced by the President by Proclamation in the *Gazette*".

**Commentary:** Nangula Shejavali, "Regional Governors: The Good, The Bad and The Ugly; Do the Benefits of Appointment by the President Outweigh the Loss of Democratic Representation?", Institute for Public Policy Research, 2015, available [here](#).

## Ombudsman Act 7 of 1990

**Summary:** This Act ([GG 32](#)) defines the powers, duties and functions of the Ombudsman in accordance with Chapter 10 of the Constitution.

**Appointments:** Appointments have been made by Proc. 10/1990 (Acting Ombudsman); Proc. 16/1992 (Ombudsman); Proc. 7/1993 and Proc. 8/1993 (Deputy Ombudsman); Proc. 7/1996 (Ombudsman); Proc. 29/2003 (Acting Ombudsman) and Proc. 39/2004 (Ombudsman).

**Regulations:** The Act makes no provision for regulations.

**Notes:** Regulations 5(7)(d), 5(8)(d), 10 and 13 of the Regulations relating to Conditions of Service of Judges contained in Proc. 28/2015 ([GG 5834](#)) are applied with the necessary changes to the Ombudsman with effect from 23 September 2015 by Proc. 45/2019 ([GG 7049](#)).

### Commentary:

John Walters, "The protection and promotion of human rights in Namibia: The constitutional mandate of the Ombudsman" in N Horn & A Bösl (eds), *Human Rights and the Rule of Law in Namibia*, Macmillan Namibia, 2008, available [here](#)

Katharina G Ruppel-Schlichting, "The independence of the Ombudsman in Namibia" in Nico Horn & Anton Bösl, *The Independence of the Judiciary in Namibia*, Konrad Adenauer Stiftung, 2008, available [here](#)

OC Ruppel & KG Ruppel-Schlichting, "Between formal and informal justice? The mandate of the Ombudsman in Namibia" in MO Hinz (ed) in cooperation with C Mapaure, *In search of justice and peace: Traditional and informal justice systems in Africa*, Windhoek: Namibia Scientific Society, 2010

John C Mubangizi, "The South African Public Protector, the Ugandan Inspector-General of Government and the Namibian Ombudsman: a comparative review of their roles in good governance and human rights protection" 45 (3) *The Comparative and International Law Journal of Southern Africa* 304 (2012).

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

**Summary:** This Act ([GG 805](#)) 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 was brought into force on 1 March 1994 by 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 ([GG 1884](#)) 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 ([GG 470](#)). The Road Traffic and Transport Act 22 of 1999 ([GG 2251](#)) repeals Clause 2 of Part IV of the Schedule.

**Regulations:** The Act makes no provision for regulations.

**Cases:** *Gauseb v Minister of Home Affairs* 1996 NR 90 (HC); *Municipality of Walvis Bay v Du Preez* 1999 NR 106 (LC) (section 13; Part III, sections 1(6) and 5(c)). The Act is also discussed in *dicta* in *Tlhoru v Minister of Home Affairs* 2008 (1) NR 97 (HC) beginning at 112E.

## **Powers, Privileges and Immunities of Parliament Act 17 of 1996**

**Summary:** This Act ([GG 1382](#)) 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.

**Regulations:** The Act makes no provision for regulations.

**Cases:** *Swartbooi & Another v Speaker of the National Assembly & Another*, Namibia Supreme Court, Case No: SA 38/2021, 4 August 2021, overruling *Swartbooi & Another v Speaker of the National Assembly* HC-MD-CIV-MOT-GEN-2020/00149 [2021] NAHCMD 207 (06 May 2021).

### **Commentary:**

Frederico Links & Ellison Tjirera, “Nothing to Disclose: Critiquing Namibia’s passive approach to conflict of interest”, Institute for Public Policy Research, 2011, available [here](#)  
Ellison Tjirera, “Asset Disclosure in Namibia: The Need for Reform and Enforcement”, Institute for Public Policy Research, 2012, available [here](#)  
Max Weylandt, “Asset Declarations in Parliament: Too Little, Too Late?”, Institute for Public Policy Research, October 2015, available [here](#)  
Max Weylandt, “Asset Declarations in Namibia”, Institute for Public Policy Research, 2016, available [here](#) (UN Convention on Corruption).

## **Namibian Constitution First Amendment Act 34 of 1998**

**Summary:** This Act ([GG 2014](#)) amends Article 134 of the Namibian Constitution to provide that the first President of Namibia may hold office for three terms. It came into force on its date of publication: 24 December 1998.

## **Application of Laws to the Eastern Caprivi Zipfel Act 10 of 1999**

**Summary:** This Act ([GG 2139](#)) is necessary because section 38(5) of the South-West Africa Constitution Act 39 of 1968 (which was repealed by Article 147 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*.

**Regulations:** The Act makes no provision for regulations. Section 1(2) provides that notices issued to make specific laws applicable to the Eastern Caprivi Zipfel “may prescribe such measures or conditions as the Minister may regard necessary” to provide for the smooth application of such laws in the Eastern Caprivi Zipfel.

**Notices:** Only one notice issued under this Act has been located; GN 4/2000 ([GG 2259](#)) was issued in terms of this Act to apply the Accommodation Establishments and Tourism Ordinance 20 of 1973 to the Eastern Caprivi Zipfel.

## Security Commission Act 18 of 2001

**Summary:** This Act ([GG 2676](#)) 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 (now the Commissioner General of Correctional Services). The Act gives the Commission additional powers relating to internal security. The Act was brought into force on 2 May 2002 by GN 65/2002 ([GG 2734](#)).

**Regulations:** The Act makes no provision for regulations.

**Appointments:** Members of the Security Commission were appointed in terms of the Constitution by Proc. 18/1992 and Proc. 20/2010 ([GG 4595](#)).

**Cases:** *Government of the Republic of Namibia v Sikunda* 2002 NR 203 (SC) (Composition of the Security Commission pursuant to Article 114 of the Constitution; Security Commission as subject to Articles 18 and 12 of the Constitution).

**Related laws:** The Security Commission is given certain responsibilities under the Prevention and Combating of Terrorist and Proliferation Activities Act 4 of 2014.

## Public Office-Bearers (Remuneration and Benefits) Commission Act 3 of 2005

**Summary:** This Act ([GG 3426](#)) establishes a Commission to make recommendations to the President on the remuneration, benefits and conditions of office of Members of Parliament, members of Regional Councils and other persons whom the President declares to be public office-bearers by Proclamation. It was brought into force on 3 August 2005 by Proc. 9/2005 ([GG 3473](#)).

**Regulations:** Section 11 gives the President authority to make regulations under this law. Regulations relating to transport benefits for public office-bearers are contained in Proc. 12/2021 ([GG 7476](#)).

**Notices:** Section 8 of the Act authorises proclamations by the President determining remuneration and benefits, and section 1 authorises proclamations by the President declaring any person to be a public office-bearer. The Proclamations listed below were issued pursuant to these provisions.

Persons who hold certain offices are declared to be officer-bearers for the purposes of this Act in Proc. 6/2008 ([GG 3983](#)), and in Proc. 29/2015 and Proc. 30/2015 (both in [GG 5838](#)), and in Proc. 34/2020 ([GG 7271](#)). Certain such declarations are withdrawn by Proc. 16/2013 ([GG 5188](#)).

Percentage increases in the remuneration of certain office-bearers are specified in terms of section 8 in Proc. 1/2009 ([GG 4192](#)), Proc. 6/2010 ([GG 4440](#)), Proc. 5/2013 ([GG 5134](#)), Proc. 19/2014 ([GG 5554](#)) – which also re-aligns the salaries of various office-bearers with specified GRN Levels and Paterson Grades – and Proc. 2/2016 ([GG 5997](#)). (No underlying statements of remuneration or housing benefits were located.)

Percentage increases in housing benefits are specified in terms of section 8 in Proc. 22/2013 ([GG 5241](#)). (No underlying statements of remuneration or housing benefits were located.)

The remuneration of the Vice-President is determined pursuant to section 8 in Proc. 32/2015 ([GG 5838](#)), set at 10 per cent above the remuneration payable to the Prime Minister. (No underlying statements of remuneration or housing benefits were located.)

The remuneration and benefits of certain public office-bearers are set out pursuant to section 8 in Proc. 4/2017 ([GG 6259](#)), which also sets the remuneration of the President and the Vice-President and the pension of the first former President and former President pursuant to Article 32(8) of the Namibian Constitution.

A determination of additional benefits for the leader of the official opposition, made in terms of section 8 of the Act, is contained in Proc. 13/2021 ([GG 7476](#)).

## Namibian Constitution Second Amendment Act 7 of 2010

**Summary:** This Act ([GG 4480](#)) does the following-

- amends Article 4 of the Namibian Constitution to extend the residency requirements for citizenship by marriage and naturalisation;
- amends or substitutes Articles 9, 23, 32, 47, 91, 93, 114 and Chapter 15 to alter the term “prison service” to “correctional service” and the term “Commissioner of Prisons” to “Commissioner General of Correctional Service”;
- amends Article 70 to change the term of office of members of the National Council from 6 years to 5 years;
- amends Article 82 to remove the possibility of extending the retirement age of judges by Act of Parliament and to provide that judges who are non-Namibian citizens must be appointed under a fixed-term contract of employment;
- amends Article 91 to remove corruption from the remit of the Ombudsman;
- inserts Article 94A on Anti-Corruption Measures, which makes the Anti-Corruption Commission a Constitutional body;
- substitutes Article 107 on the remuneration of members of Regional Councils; amends Article 109 on the terms of office of Management Committees of Regional Councils;
- amends Article 23 and substitutes Chapter 15 to place provisions on the defence force ahead of those on the police force.

This amending Act came into force on the date of its publication: 7 May 2010, with the exception of the amendments to Articles 70 and 109 (concerning terms of office) which came into effect at the end of the term of office of the members of the National Council in office at the time of its passage.

## Conferment of National Honours Act 11 of 2012

**Summary:** This Act ([GG 5071](#)) establishes a National Honours Advisory Committee to advise the President in exercising his or her discretion to confer honours on Namibian citizens, residents or friends, during the recipient’s lifetime or posthumously, as contemplated in Article 32(3)(h) of the Constitution. It also covers the revocation of honours, but provides that the honour of a State Funeral or interment at National Heroes Acre may not be revoked after the event in question has taken place. The Act was brought into force on 15 July 2013 by GN 181/2013 ([GG 5241](#)).

**Regulations:** Conferment of National Honours Regulations are contained in GN 336/2013 ([GG 5375](#)).

**Conferment of National Honours:** Proclamations conferring national honours are issued in terms of

the Constitution. These are listed below, at the end of this section.

## National Planning Commission Act 2 of 2013

**Summary:** This Act ([GG 5178](#)) provides for the membership, powers, functions and personnel of the National Planning Commission referred to in Article 129(1) of the Constitution. It repeals the National Planning Commission Act 15 of 1994 ([GG 929](#)), and provides that all references to the 1994 Act in any law must be construed as a reference to this Act.

**Regulations and notices:** Anything done under the previous law which could have been done under this Act survives pursuant to section 16(2). However, no regulations appear to have been issued under the previous statute and, in any event, this Act makes no provision for regulations.

**Appointments:** Appointments done under the previous law which could have been done under this Act survive. Appointments under this Act are announced in Proc. 14/2017 ([GG 6374](#)).

## Namibian Constitution Third Amendment Act 8 of 2014

**Summary:** This Act ([GG 5589](#)) does the following-

- creates the post of Vice-President, provides for the Presidency and provides a hierarchy of succession;
- provides a procedure for run-offs for the post of President;
- creates a Parliamentary Service Commission and provides that Parliamentary staff need not be members of the public service;
- increases the size of the National Assembly, in respect of both members selected through the party list system and Presidential appointees;
- amends the quorum requirements for the National Assembly;
- increases the size of the National Council and provides for a Secretary of the National Council;
- alters the review powers of the National Council in relation to bills on taxes and appropriations;
- amends the quorum requirements for the National Council;
- makes the Judiciary an independent organ of the state in terms of both finance and administration;
- provides for a Deputy-Chief Justice and Deputy Judges-President;
- provides for the Magistrates Commission and other lower court commissions;
- provides for a tribunal to investigate misconduct of judicial officers, a tribunal to investigate misconduct of the Prosecutor-General and a tribunal to investigate misconduct of the Ombudsman;
- changes the composition of the Judicial Service Commission;
- changes the title of the Director and Deputy Director of the Anti-Corruption Commission to Director-General and Deputy Director-General respectively;
- inserts an Article on the Electoral Commission of Namibia and an Article creating the Boundaries Delimitation and Demarcation Commission to substitute for the Delimitation Commission;
- provides for Regional Governors and their powers and functions;
- clarifies the advisory functions of the Public Service Commission;
- establishes the Intelligence Service, provides for the Head of the Intelligence Service and outlines his or her functions, provides for the Presidential appointment of this Head and makes this Head a member of the Security Commission;
- introduces terminology referring to the Minister responsible for finance;



- provides for multiple Deputy-Governors of the Central Bank and amend the functions of the Central Bank;
- provides for the National Planning Commission within the Presidency;
- substitutes Schedule 2;
- amends Schedule 4 to provide for the resolution of ties by lot.

The Act came into force on the date of its publication: 13 October 2014, with the following exceptions:

- Sections 1, 2(a), (b) and (d), 4(a) and (b), 5, 6, 7, 8, 9, 41 and 43 came into force after the expiry of the term of office of the President in office at the time the Act was passed;
- Sections 4(d), 10, 12 and 44 came into force after the expiry of the term of office of the members of the National Assembly in office at the time the Act was passed;
- Sections 14 and 18 came into force after the expiry of the term of office of the members of the National Council in office at the time the Act was passed.

## National Symbols of the Republic of Namibia Act 17 of 2018

**Summary:** This Act ([GG 6807](#)) determines the national coat of arms, national anthem, national seal and presidential standard for the Republic of Namibia pursuant to the Namibian Constitution. It also sets forth rules for the use and display of the various national symbols. It repeals the National Coat of Arms of the Republic of Namibia Act 1 of 1990 and the National Anthem of the Republic of Namibia Act 20 of 1991.

**Regulations:** Regulations are authorised by section 7, but none have yet been promulgated. There is no savings clause for regulations that may have been issued under the repealed laws.

**Notices:** Logos are approved in terms of section 6(5) of the Act as follows:

- Financial Intelligence Centre, Office of the Judiciary (E-Justice) and Namibia Training Authority - Proc. 38/2019 ([GG 7029](#))
- Office of the President - Proc. 62/2019 ([GG 7069](#)).

## CONSTITUTIONAL APPOINTMENTS AND ACTIONS (in chronological order)

President of the Republic of Namibia, Proc. 2/1990 ([GG 8](#))

First Chief of the Defence Force, Proc. 7/1990 ([GG 45](#))

First Inspector-General of Police and First Commissioner of Prisons, Proc. 8/1990 ([GG 46](#))

Acting Ombudsman, Proc. 10/1990 ([GG 52](#))

First Delimitation Commission and the Duties thereof, Proc. 12/1990 ([GG 69](#))

Prosecutor-General, Proc. 31/1991 ([GG 304](#))

Ombudsman, Proc. 16/1992 ([GG 415](#))

Members of the Security Commission, Proc. 18/1992 ([GG 432](#))

Deputy Ombudsman, Proc. 7/1993 ([GG 582](#)) and Proc. 8/1993 ([GG 597](#))

Minister, Proc. 4/1994 ([GG 791](#))

Deputy Ministers, Proc. 22/1994 ([GG 913](#))

Various officials, Proc. 8/1995 ([GG 1071](#))

Delimitation Commission, Proc. 9/1995 ([GG 1089](#))

Ombudsman, Proc. 7/1996 ([GG 1468](#))

Commissioner of Prisons, Proc. 34/1997 ([GG 1765](#))

Inspector-General of Police, Proc. 35/1997 ([GG 1765](#))

Director-General of Namibia Central Intelligence Service, Proc. 14/1999 ([GG 2062](#))

Ministers and Deputy Ministers, Proc. 18/1999 ([GG 2088](#))

Deputy-Minister of Information and Broadcasting, Proc. 31/1999 ([GG 2213](#)).

Ministers, Deputy Ministers and Members of Parliament, Proc. 8/2000 ([GG 2366](#))

Minister of Lands, Resettlement and Rehabilitation, and Attorney-General, Proc. 5/2001 ([GG 2501](#))

Delimitation Commission, Proc. 6/2002 ([GG 2855](#))  
 Acting Prosecutor-General, Proc. 8/2002 ([GG 2869](#))  
 Extension of Term of Acting Prosecutor-General, Proc. 20/2003 ([GG 3023](#))  
 Ministers and Deputy Ministers, Proc. 28/2003 ([GG 3060](#))  
 Acting Ombudsman, Proc. 29/2003 ([GG 3071](#))  
 Extension of term of Acting Prosecutor-General, Proc. 31/2003 ([GG 3101](#))  
 Prosecutor-General, Proc. 32/2003 ([GG 3101](#))  
 Ombudsman, Proc. 39/2004 ([GG 3229](#))  
 Establishment of Ministries and Appointment of Ministers and Deputy Ministers and other officials,  
 Proc. 4/2005 ([GG 3436](#))  
 Minister and Deputy Ministers, Proc. 6/2005 ([GG 3436](#))  
 Inspector-General of Police, Proc. 7/2005 ([GG 3450](#))  
 Deputy-Minister of Works, Proc. 20/2005 ([GG 3562](#))  
 Dissolution and establishment of Ministries and Appointment of Ministers and Deputy Ministers, Proc.  
 17/2008 ([GG 4039](#))  
 Transfer of National Forensic Institute of Namibia from Ministry of Home Affairs and Immigration to  
 Ministry of Safety and Security, Proc. 18/2008 ([GG 4047](#))  
 Attorney-General in Interim, Proc. 3/2009 ([GG 4202](#))  
 Prime Minister, Deputy Prime Minister, Ministers and Deputy Ministers, Proc. 8/2010 ([GG 4468](#))  
 Deputy Ministers, Proc. 5/2011 ([GG 4669](#))  
 Chief of Defence Force, Proc. 16/2012 ([GG 4996](#))  
 Delimitation Commission, Proc. 1/2013 ([GG 5119](#))  
 Prime Minister, Ministers and Deputy Ministers, Proc. 3/2013 ([GG 5126](#))  
 Minister and Deputy Minister, Proc. 7/2013 ([GG 5143](#))  
 Chief of Defence Force, Proc. 1/2014 ([GG 5387](#))  
 Commissioner-General of Correctional Service, Proc. 4/2014 ([GG 5407](#))  
 Establishment of Ministries and Appointment of Ministers, Deputy-Ministers and other Office Bearers,  
 Proc. 34/2015 ([GG 5869](#))  
 Note that there are two Proclamations numbered as Proclamation 34 of 2015, in GG 5853 and  
 GG 5869.  
 Establishment and Dissolution of Ministries, Appointment of Ministers, Deputy-Ministers and Other  
 Office Bearers, Proc. 18/2017 ([GG 6387](#)) (which withdraws Proc. 34/2015)  
 Vice-President, Ministers, Deputy Ministers, Attorney-General, Director-General of the National  
 Planning Commission, Proc. 13/2018 ([GG 6645](#))  
 Member of National Assembly and Minister of Health and Social Services, Proc. 1/2019  
 ([GG 6824](#)).  
 Establishment and dissolution of Ministries, Proc. 10/2020 ([GG 7167](#)), withdrawn and replaced by Proc.  
 18/2021 ([GG 7505](#))  
 Vice-President, Prime Minister, Deputy Prime Minister, Ministers, Deputy Ministers, Attorney-General,  
 Director-General of the National Planning Commission and Director-General of the Namibia  
 Central Intelligence Service, Proc. 11/2020 ([GG 7167](#)), withdrawn and replaced by Proc.  
 15/2020 ([GG 7193](#)) but then amended by Proc. 30/2021 ([GG 7551](#)).  
 It appears that Prov. 30/2021 should have stated that it was amending Proc. 15/2020.  
 Direction of Special Session for Sitting of National Assembly under Article 62(1)(c) of Namibian  
 Constitution for purposes of Appointing Director-General and Deputy Director-General of Anti-  
 Corruption Commission and Approving Nomination of Applicants for Appointment as  
 Chairperson and Members of Electoral Commission, Proc. 38/2021 ([GG 7586](#)), as amended by  
 Proc. 39/2021 ([GG 7587](#)) and by Proc. 40/2021 ([GG 7588](#))  
 See *Popular Democratic Movement Namibia v Katjavivi* (HC-MD-CIV-MOT-GEN-  
 2021/00305) [2021] NAHCMD 385 (31 August 2021), where an urgent application challenging  
 the validity of this Proclamation was dismissed for lack of urgency.

Appointments of judges and acting judges, and extensions of the retirement ages of judges, are listed  
 under **JUDGES**. Appointments of members of the Judicial Service Commission are listed under the  
 Judicial Service Commission Act 18 of 1995 (**JUDGES**). Appointments relating to specific statutory

institutions are listed under the entries for those statutes. See also appointments made in terms of the Special Advisors and Regional Governors Appointment Act 6 of 1990 (**CONSTITUTION**) and the Electoral Act 5 of 2014 (**ELECTIONS**).

## **SELECTED CASES**

### **Cases on constitutional challenges to legislation:**

*Lameck & Another v President of the Republic of Namibia & Others* 2012 (1) NR 255 (HC) at para 58 (importance of identifying impugned provisions precisely and substantiating attack on them), reiterated in *Shalli v Attorney-General & Another* 2013 (3) 613 (HC) at para 6

*S v Paulo & Another (Attorney-General as amicus curiae)* 2013 (2) NR 366 (SC) at paras 14-18 (undesirable to raise attack on Constitutional validity of legislation for first time on appeal).

### **Cases on constitutional appointments:**

*Ex Parte Attorney-General: In re The Constitutional Relationship between the Attorney-General and the Prosecutor-General* 1998 NR 282 (SC)

*Ekanjo-Imalwa v The Law Society of Namibia & Another; The Law Society of Namibia & Another v The Attorney-General of the Republic of Namibia & Others* 2003 NR 123 (HC)

*S v Zembukura (2)* 2003 NR 200 (HC)

*Lameck & Another v President of the Republic of Namibia & Others* 2012 (1) NR 255 (HC).

### **Cases on separation of powers in statutory regimes:**

*Mostert v The Minister of Justice* 2002 NR 76 (HC); 2003 NR 11 (SC)

*Alexander v Minister of Justice & Others* 2009 (2) NR 712 (HC) (appealed on other grounds in 2010 (1) NR 328 (SC))

*Minister of Justice v Magistrates' Commission & Another* 2012 (2) NR 743 (SC).

### **Cases on separation of powers re: member of executive bringing legislation into force**

*Itula & Others v Minister of Urban & Rural Development & Others* 2020 (1) NR 86 (SC) (selective implementation is not permitted; see para 70: "The legislature may delegate subordinate legislative powers (to regulate) to the executive and to put legislation into operation but the legislature cannot devolve upon the executive any entitlement to select statutory sub-provisions to implement.")

*Kruger v Minister of Finance of the Republic of Namibia & Others* 2020 (4) NR 913 (HC) (paras 102-106, citing *Itula & Others v Minister of Urban & Rural Development & Others* 2020 (1) NR 86 (SC))

### **Cases on transitional provisions in article 140:**

These cases are particularly relevant to the interpretation of statutes inherited from South Africa or the South West African Administration.

*S v Tcoeib* 1999 NR 24 (SC)

*Müller & Another v President of the Republic of Namibia & Another* 1999 NR 190 (SC)

*Minister of Health and Social Services & Others v Medical Association of Namibia Ltd & Another* 2012 (2) NR 566 (SC).

## **HONOURS SYSTEM**

Proclamation 2 of 1995 ([GG 1048](#)) establishes an honours system for Namibia consisting of order and medals, in terms of Article 32(3)(h) of the Namibian Constitution.

## **CONFERMENT OF NATIONAL HERO STATUS**

(in terms of Article 32 of the Namibian Constitution)

- The late David Moses Meroro, Proc. 5/2004 ([GG 3138](#))  
The late Maxton Joseph Mutongolome, Proc. 32/2004 ([GG 3191](#))  
The late Reverend Markus Kooper, Proc. 19/2005 ([GG 3562](#))  
The late Dr Mosé Tenaani Tjitendero, Proc. 5/2006 ([GG 3628](#))  
The late Mr Richard Kapelwa Kabajani, Proc. 10/2007 ([GG 3846](#))  
The late Honourable John Alphons Pandeni, Minister of Regional and Local Government, Housing and Rural Development, Proc. 13/2008 ([GG 4019](#))  
The late Mr Nikolaus Onverwag “Niko” Bessinger, Proc. 15/2008 ([GG 4023](#))  
The late Honourable Rev Dr Hendrik Witbooi, Pastor and Presiding Elder of the African Methodist Episcopal Church, Captain of the /Khowese Community and First Deputy Prime Minister of the Republic of Namibia, Proc. 15/2009 ([GG 4363](#)).  
The late Mr Peter Tsheehama, Proc. 18/2010 ([GG 4578](#))  
The late Mr John Otto Nankudhu, Proc. 7/2011 ([GG 4746](#))  
The late Reverend Bartholomeus Karuaera, Proc. 31/2013 ([GG 5307](#))  
The late Comrade Frederick Mwala Matongo, Proc. 34/2013 ([GG 5335](#))  
The late Comrade Eneas Peter Nanyemba “Ndilimani”, Proc. 16/2014 ([GG 5545](#))  
The late Comrade Putuse Leonora Deywili-Appolus “Meekulu”, Proc. 16/2014 ([GG 5545](#))  
The late Comrade Linekela Hailundu Kalenga, Proc. 16/2014 ([GG 5545](#))  
The late Comrade Walde Homateni Timoteus Kalwenja, Proc. 16/2014 ([GG 5545](#))  
The late Comrade Isak Ndeshitiwa Shikongo “Pondo”, Proc. 16/2014 ([GG 5545](#))  
The late Comrade Natalia Ndahambelela Shikangala Mavulu, Proc. 16/2014 ([GG 5545](#))  
The late Comrade Augustus Hafeni Sakaria Nghaamwa “McNamara”, Proc. 16/2014 ([GG 5545](#))  
The late Comrade Lameck Ithete “Kagwaanduka”, Proc. 17/2014 ([GG 5548](#))  
The late Comrade Simon Hafeni “Mzee” Kaukungwa, Proc. 27/2014 ([GG 5567](#))  
The late Comrade Simeon Linekela “Kambo” Shixungileni, Proc. 34/2014 ([GG 5590](#))  
The late Gerson Hitjevi Veii, Proc. 2/2015 ([GG 5674](#))  
The late Hidipo Livius Hamutenya, Proc. 8/2016 ([GG 6147](#))  
The late Andimba Toivo ya Toivo, Proc. 11/2017 ([GG 6338](#))  
The late Dr Theo-Ben Gurirab, Proc. 14/2018 ([GG 6654](#))  
The late Petrus “Ekanda” Nangolo Ilonga, Proc. 19/2018 ([GG 6797](#))  
The late Dr Nickey Iyambo, Proc. 15/2019 ([GG 6918](#)).

## **CONFERMENT OF OTHER HONOURS**

(in terms of Article 32 of the Namibian Constitution)

- The late Honourable Chief Munyuku Nguvauva II, Paramount Chief of the Mbanderu community and Deputy Chairperson of the Council of Traditional Leaders, Proc. 10/2008 ([GG 4005](#))  
The late Meekulu Mpingana-Helvi Kondombolo, Proc. 40/2008 ([GG 4177](#))  
The late Dr Abraham Iyambo, Proc. 4/2013 ([GG 5129](#))  
The late Comrade Nelson Rolihlahla Mandela, former President of the Republic of South Africa, Proc. 35/2013 ([GG 5361](#))  
The late Honourable Chief Kuaima Riruako, Proc. 11/2014 ([GG 5492](#))  
The late Comrade Aaron Mushimba, Proc. 26/2014 ([GG 5567](#))  
The late Fidel Alejandro Castro Ruz, Proc. 11/2016 ([GG 6189](#))  
The late Reverend Junias Vaino Kaapanda, Proc. 12/2016 ([GG 6205](#))  
The late Honourable Nangolo Leonard Mukwiilongo, Proc. 6/2017 ([GG 6323](#))  
The late retired Brigadier-General Erasmus Kayambu Amupolo, Proc. 15/2017 ([GG 6382](#))  
The late Angelika Kazetjindire Muharukua, Proc. 24/2017 ([GG 6446](#))  
The late Rosalia Annette Ndilinasho Nghidinwa, Proc. 2/2018 ([GG 6516](#))  
The late Isak Ashinkono “Nangata” Shoome, Proc. 3/2018 ([GG 6516](#))  
The late Nora Schimming-Chase, Proc. 9/2018 ([GG 6547](#))  
The late Comrade Auguste Mukwahepo “Immanuel”, Proc. 11/2018 ([GG 6520](#))  
The late Reverend Hosea Nampala, Proc. 16/2018 ([GG 6722](#))

The late Colonel (Rtd) Matias “Mbulunganga” Ndakolo, Proc. 18/2018 ([GG 6792](#))  
 The late Major General (retired) Peter Kagadhinwa Nambundunga, Proc. 3/2019 ([GG 6827](#))  
 The late Omukwaniilwa Tatekulu Immanuel Kauluma Elifas, Proc. 9/2019 ([GG 6872](#))  
 The late Comrade Peter Mvula Ya Nangolo, Proc. 13/2019 ([GG 6898](#))  
 The late Lieutenant Colonel Shivute “Osituwakula” Shipune, Proc. 24/2019 ([GG 6950](#))  
 The late Lieutenant Colonel Sindimba “Mwashahili” Sikindo, Proc. 25/2019 ([GG 6950](#)).  
 The late Mr Martin Lazarus Shipanga, Proc. 31/2020 ([GG 7261](#))  
 The late Mr Nekwaya Hango, Proc. 37/2020 ([GG 7281](#))  
 The late Mr Jason Angula, Proc. 38/2020 ([GG 7281](#))  
 The late Col (Rtd) Lasarus Hamutele, Proc. 42/2020 ([GG 7292](#))  
 The late Col (Rtd) Justus Shiimbashike Haita, Proc. 45/2020 ([GG 7302](#))  
 The late Mr Sylvanus Vatuva, Proc. 51/2020 ([GG 7337](#))  
 The late Mr Eliah Lemmy Muremi, Proc. 57/2020 ([GG 7364](#))  
 The late Noah Shimbatekela Ndafenongo, Proc. 58/2020 ([GG 7370](#))  
 The late Meekulu Teresia Namundjebo, Proc. 61/2020 ([GG 7406](#))  
 The late Meekulu Jakobina Taukondjele Sheehama, Proc. 62/2020 ([GG 7406](#))  
 The late Brigadier General (Rtd) Bernard Kawa, Proc. 63/2020 ([GG 7416](#))  
 The late Wilbard Amwaalwa Iita (Ngatulwe), Proc. 64/2020 ([GG 7418](#))  
 The late Mandela Asser Kapere, Proc. 65/2020 ([GG 7423](#))  
 The late Mr Cleophas Jens Mutjavikua, Proc. 1/2021 ([GG 7435](#))  
 The late Mr Elago Negumbo, Proc. 2/2021 ([GG 7440](#))  
 The late Mr Gabriel Ekanjjo, Proc. 9/2021 ([GG 7464](#))  
 The late Mr Shikalepo Jack Hayoonga, Proc. 10/2021 ([GG 7464](#))  
 The late Colonel (Rtd) George Mwauvikange Kaxuxwena, Proc. 11/2021 ([GG 7475](#))  
 The late Colonel (Rtd) Naftal Ndamono Nambandi, Proc. 14/2021 ([GG 7478](#))  
 The late Lt. Col. (rtd) Vilho Andreas Shafombabi, Proc. 16/2021 ([GG 7485](#))  
 The late Brigadier General (rtd) Holden Japuleni Chrispus Uulenga, Proc. 17/2021 ([GG 7485](#))  
 The late Joseph Ndeshipanda Kashea, Proc. 20/2020 ([GG 7517](#)), as amended by Proc. 27/2021 ([GG 7536](#))  
 The late Colonel (rtd) Phillipus Amutenya Nandenga, Proc. 21/2020 ([GG 7517](#))  
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 The late Dr Jarimbovandu Alexander Theophilus Kaputu, Proc. 26/2021 ([GG 7536](#))  
 The late Reverend Willem Konjore, Proc. 32/2021 ([GG 7560](#))  
 His Excellency, the late Dr. Kenneth Kaunda, Proc. 33/2021 ([GG 7560](#))  
 The late Marco Mukoso Hausiku, Proc. 43/2021 ([GG 7631](#))  
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 The late Benedictus Johannes Nkundu, Proc. 3/2022 ([GG 7787](#))  
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 The late Hon. Lahja Iyambo, Proc. 5/2022 ([GG 7801](#))  
 The late Mr. Alphaus Muheua Vehonga, Proc. 6/2022 ([GG 7801](#)).

## **COMMENTARY**

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## **HISTORICAL NOTE**

There have been three declarations of a state of emergency under Article 26(1) of the Constitution.

- 1) The Declaration of State of Emergency: Caprivi, Proclamation 23 of 1999 ([GG 2156](#)) declared a state of emergency in the Caprivi Region with effect from 2 August 1999. Emergency Regulations were promulgated in Proc. 24/1999 ([GG 2157](#)). 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](#)). The declaration and the regulations were both revoked on 26 August 1999 by Proc. 27/1999 ([GG 2176](#)). 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 by GN 160/1999 ([GG 2163](#)). The case of *Mazila v Minister of Home Affairs* 2000 NR 224 (HC) discussed the applicability of the Emergency Regulations to areas outside the Caprivi Region.
- 2) The Declaration of State of Emergency: National Disaster (Drought) Proclamation 5 of 2016 ([GG 6056](#)) declared a state of emergency in all regions of Namibia on account of the persisting national disaster of drought, with effect from the date of publication of the Proclamation (28 June 2016).
- 3) The Declaration of State of Emergency: National Disaster (Drought) Proclamation 14/2019 ([GG 6900](#)) declared a state of emergency in all regions of Namibia on account of the persisting national disaster of drought, with effect from 6 May 2019.

4) The Declaration of State of Emergency: National Disaster (COVID-19) Proclamation 7/2020 ([GG 7148](#)) declared a state of emergency in the whole of Namibia on account of the outbreak of the Coronavirus disease (COVID -19), with effect from 17 March 2020. This state of emergency involved a number of regulations and directives. See the box below for details.

### THE COVID-19 STATE OF EMERGENCY AND FOLLOW-UP MEASURES

**Declaration of state of emergency:** The Declaration of State of Emergency: National Disaster (COVID-19) Proclamation 7/2020 ([GG 7148](#)) declared a state of emergency in the whole of Namibia on account of the outbreak of the Coronavirus disease (COVID -19), with effect from 17 March 2020. This Proclamation was approved by a resolution of the National Assembly as required by Article 26 of the Namibian Constitution (see, for example, "[Parliament blesses state of emergency](#)", *The Namibian*, 20 March 2020).

**Emergency regulations for the whole of Namibia:** The first "**Stage 1**" **State of Emergency – COVID-19 Regulations** were issued on 23 March 2020 in Proclamation 9/2020 ([GG 7159](#)) and amended on 18 April 2020 by Proclamation 13/2020 ([GG 7180](#)). The lockdown period covered by these regulations was initially stated in Proclamation 9/2020 to be from 14:00 on 28 March 2020 until 23:59 on 17 April 2020, then **amended** by Proclamation 13/2020 to continue from 23:59 on 17 April 2020 to 23:59 on 4 May 2020. The amending Proclamation also made numerous substantive changes. This first set of emergency regulations expired at the end of lockdown on 4 May 2020.

The initial regulations were replaced with new "**Stage 2**" **State of Emergency – COVID-19 Regulations** issued on 4 May 2020 in Proclamation 17/2020 ([GG 7203](#)). These regulations covered the period from 23:59 on 4 May 2020 to at 23:59 on 1 June 2020.

The "Stage 2" regulations were amended on 1 June 2020 by Proclamation 21/2020 ([GG 7225](#)) for application to "**Stage 3**". These amended regulations covered the period from 23:59 on 1 June 2020 to 23:59 on 28 June 2020. This amendment of the national Stage 3 regulations also took into account the return of the local authority of Walvis Bay to Stage 1. The national "Stage 3" regulations were **further amended** on 8 June 2020 by Proclamation 25/2020 ([GG 7235](#)), to take account of the fact that the whole of the Erongo Region had returned to Stage 1, and **again amended** on 22 June 2020 by Proclamation 27/2020 ([GG 7251](#)) when the Erongo Region migrated from Stage 1 to Stage 3.

Portions of the "**Stage 1**" **State of Emergency – COVID-19 Regulations** issued in Proclamation 9/2020 (reg 14) and the "**Stage 2**" **State of Emergency – COVID-19 Regulations** issued in Proclamation 17/2020 (reg 15) were declared unconstitutional and invalid by the High Court in *Namibian Employers' Federation and Others v President of the Republic of Namibia and Others* (HC-MD-CIV-MOT-GEN 2020/00136) [2020] NAHCMD 248 (23 June 2020). (This finding of invalidity also applies to the "Stage 2" regulations issued in Proclamation 17/2020 as amended for application to "**Stage 3**" by Proclamation 21/2020 (reg 15).)

On 28 June 2020, **Stage 4: State of Emergency - Covid-19 Regulations** were issued in Proclamation 28/2020 ([GG 7255](#)). These regulations were initially intended to apply to the whole of Namibia for the period from 00:00 on 29 June 2020 to 24:00 on 17 September 2020, with some exceptions pertaining to the Erongo Region.

However, these initial Stage 4 regulations were repealed before their anticipated date of expiry, on 14 July 2020, by Proclamation 33/2020 ([GG 7270](#)) which issued a replacement set of **Stage 4: State of Emergency - Covid-19 Regulations**. This second set of Stage 4 regulations applied to the whole of Namibia from the time of publication on 14 July 2020 to 24:00 on 17 September 2020, with some exceptions pertaining to the Erongo Region. This second set of Stage 4 regulations was initially



virtually identical to the first set of Stage 4 regulations which it repealed. The second set of Stage 4 regulations was **amended** on 24 July 2020 by Proclamation 40/2020 ([GG 7284](#)). This amendment substituted regulation 2 (application of regulations), regulation 7 (restrictions relating to liquor) and regulation 12 (restrictions relating to transportation of goods and persons). The second set of Stage 4 regulations was **further amended** on 3 August 2020 by Proclamation 44/2020 ([GG 7295](#)). This amendment substituted regulation 4 (schools, higher education institutions and other educational institutions) and regulation 6 (gatherings; to reduce the maximum gathering size from 250 to 100), and amended regulation 8 (with respect to certain sports events).

The second set of Stage 4 regulations was repealed (along with its amendments) before its anticipated date of expiry by Proclamation 46/2020 ([GG 7307](#)), which issued new **Stage 3: State of Emergency – Covid-19 Regulations** after the entire country was moved from Stage 4 to Stage 3 on 13 August 2020 in light of the dramatic increase in Covid-19 cases. These regulations applied to the entire country from their publication on 13 August 2020 to 24:00 on 29 August 2020, with some individual regulations being applicable only to the restricted areas of (a) Arandis, Swakopmund and Walvis Bay and (b) Windhoek, Rehoboth and Okahandja.

These regulations were repealed and replaced by a second set of **Stage 3: State of Emergency – Covid-19 Regulations** in Proclamation 48/2020 ([GG 7320](#)). These regulations applied to the entire country from 00:00 on 30 August 2020 to 24:00 on 12 September 2020. Some of these Stage 3 regulations applied only to the restricted areas of Windhoek, Rehoboth and Okahandja. Regulation 4 of these regulations (on the resumption of face-to-face learning) was substituted on 6 September 2020 by Proclamation 49/2020 ([GG 7329](#)).

These regulations upon their expiry by a third set of **Stage 3: State of Emergency – Covid-19 Regulations** in Proclamation 50/2020 ([GG 7332](#)). Most of these regulations applied to the entire country from 00:00 on 13 September 2020 to 24:00 on 17 September 2020, while a few regulations applied only to the restricted areas of Windhoek, Rehoboth and Okahandja.

**Emergency regulations for Erongo Region and specific areas within that region:** On 29 May 2020, the Walvis Bay Local Authority Area was returned to Stage 1. New **Stage 1: State of Emergency - Covid-19 Regulations: Walvis Bay Local Authority Area** were issued for Walvis Bay in Proclamation 20/2020 ([GG 7222](#)), as **amended** on 4 June 2020 by Proclamation 23/2020 ([GG 7229](#)). The initial period of lockdown for Walvis Bay was from the publication of Proclamation 20/2020 on 29 May 2020 to 23:59 on 4 June 2020, then amended by Proclamation 23/2020 to be from 24:00 on 29 May 2020 until 23:59 on 8 June 2020. The national “Stage 3” regulations were amended to take account of the situation of Walvis Bay (along with other amendments relating to the national movement from Stage 2 to Stage 3) on 1 June 2020 by Proclamation 21/2020 ([GG 7225](#)).

The Walvis Bay regulations were repealed by Proclamation 24/2020 ([GG 7234](#)), which issued **Stage 1: State of Emergency - Covid-19 Regulations: Erongo Region** returning the whole of the Erongo Region (including Walvis Bay) to Stage 1 from 00:00 on 9 June 2020 to 24:00 on 22 June 2020. The national “Stage 3” regulations were accordingly amended on 8 June 2020 by Proclamation 25/2020 ([GG 7235](#)) to take account of the fact that the whole of the Erongo Region had returned to Stage 1.

The Erongo Region was moved from Stage 1 to Stage 3, from 00:00 on 23 June 2020 to 24:00 on 6 July 2020. **Stage 3: State of Emergency - Covid-19 Regulations: Erongo Region** were issued for the Erongo Region in Proclamation 26 of 2020 ([GG 7250](#)), with some specific Stage 3 restrictions for that region due to the particularly high incidence of Covid-19 cases there. Some individual regulations applied only to the “restricted area” in Erongo Region, which essentially covers Arandis, Swakopmund and Walvis Bay, where the incidence of Covid-19 was highest. The national “Stage 3” regulations were accordingly amended on 22 June 2020 by Proclamation 27/2020 ([GG 7251](#)).

A new set of **Stage 3: State of Emergency - COVID-19 Regulations: Erongo Region** was issued on 6 July 2020 in Proclamation 32/2020 ([GG 7264](#)), to replace the expiring set of Stage 3 regulations for the Erongo Region. This new set of Stage 3 Erongo regulations was intended to apply to the

Erongo Region from 00:00 on 7 July 2020 to 24:00 on 3 August 2020. (Some individual regulations applied only to the “restricted area” in Erongo Region, which essentially covered Arandis, Swakopmund and Walvis Bay.)

This second set of Stage 3 Erongo Region regulations was repealed and replaced on 22 July 2020, before its intended date of expiry, by a third set of **Stage 3: State of Emergency - COVID-19 Regulations: Erongo Region** contained in Proclamation 39/2020 ([GG 7283](#)). This third set of Stage 3: Erongo Region regulations initially applied to the Erongo Region from 00:00 on 22 July 2020 to 24:00 on 3 August 2020, but was **amended** on 3 August 2020 by Proclamation 43/2020 ([GG 7294](#)) to apply to the Erongo Region (as amended) from 00:00 on 4 August 2020 to 24:00 on 31 August 2020. The amendments also changed the provisions on education. (Some individual regulations applied only to the “restricted area” in Erongo Region, which essentially covers Arandis, Swakopmund and Walvis Bay.)

The third set of Stage 3 Erongo Region regulations (along with its amendments) was repealed before its anticipated date of expiry by Proclamation 46/2020 ([GG 7307](#)), which issued new **Stage 3: State of Emergency – Covid-19 Regulations** after the entire country was moved from Stage 4 to Stage 3 on 13 August 2020 in light of the dramatic increase in Covid-19 cases. Some of the new Stage 3 regulations applied only to the restricted areas of (a) Arandis, Swakopmund and Walvis Bay and (b) Windhoek, Rehoboth and Okahandja.

**Suspension of certain laws:** Article 26(5)(b) of the Namibian Constitution empowers the President “to suspend the operation of any rule of the common law or statute or any fundamental right or freedom protected by this Constitution, for such period and subject to such conditions as are reasonably justifiable for the purpose of dealing with the situation which has given rise to the emergency”, subject to Article 24 of the Constitution on non-derogable rights. The listed Proclamations were issued pursuant to that power. Note that some provisions in these Proclamations applied only to specific time periods and/or specific areas, while others applied nationally throughout the State of Emergency.

- State of Emergency - Covid-19: Suspension of Operation of Provisions of Certain Laws and Ancillary Matters Regulations: Namibian Constitution, Proc. 16/2020 ([GG 7194](#)) [**“Stage 1” Suspension Regulations**].
- State of Emergency - Covid-19: Further Suspension of Operation of Provisions of Certain Laws and Ancillary Matters Regulations: Namibian Constitution, Proc. 18/2020 ([GG 7204](#)) [**“Stage 2” Further Suspension Regulations**], amended on 1 June 2020 by Proclamation 22/2020 ([GG 7226](#)) [**“Stage 3” Further Suspension Regulations**].
- **State of Emergency - Covid-19: Suspension of Operation of Provisions of Certain Laws and Ancillary Matters Regulations**, Proclamation 36/2020 ([GG 7275](#)). Many of these regulations apply to the “restricted area” and/or the “specified period” referred to in the Stage 3: State of Emergency Regulations: Erongo Region. The specified period initially extended from 00:00 on 7 July 2020 to 24:00 on 3 August 2020, but was extended by Proclamation 43/2020 ([GG 7294](#)) to 24:00 on 31 August 2020. The “restricted area” was essentially the local authority areas of Arandis, Swakopmund and Walvis Bay. However, some of the regulations applied throughout Namibia but only for limited time periods specified in these individual regulations, while some of the regulations applied generally throughout Namibia during the entire State of Emergency.

Portions of the **“Stage 1” Suspension Regulations** issued in Proclamation 16/2020 (regs 19(1)(a), (b) and (c), (2), (4), (6) and (8), and 25 in part) and the **“Stage 2” Further Suspension Regulations** issued in Proclamation 17/2020 (2020 (regs 12(1)(a) and (b), (2), and (5), and 16 in part) were declared unconstitutional and invalid by the High Court in *Namibian Employers’ Federation and Others v President of the Republic of Namibia and Others* (HC-MD-CIV-MOT-GEN 2020/00136) [2020] NAHCMD 248 (23 June 2020). (This finding of invalidity also applies to the “Stage 2” Further Suspension Regulations issued in Proclamation 17/2020 and amended for application to **“Stage 3”** by Proclamation 21/2020 – but the invalid portions of the “Stage 2” Further Suspension Regulations had already been repealed by Proclamation 22/2020 for the purposes of Stage 3.)

**Directives:** Both the initial Stage 1 regulations (reg 14) and the subsequent Stage 2 and Stage 3 regulations (reg 15) provided that the President may authorise a minister to issue directives that supplement or explain any of the regulations, or assist with their enforcement – with these directives having the force of law if approved by the Attorney-General and published in the *Government Gazette*. The following directives were gazetted:

- Directions relating to **judicial proceedings** issued by the Chief Justice in terms of regulation 13(1) of the State of Emergency - Covid-19 Regulations, GN 90/2020 ([GG 7160](#)), as amended by GN 111/2020 ([GG 7198](#))
- Note that GN 111/2020 erroneously states that it is amending GN 19/2020 instead of GN 90/2020.
- Directive relating to **Regional Councils and Local Authority Councils**: State of Emergency - Covid-19 Regulations, GN 104/2020 ([GG 7183](#))
- Directive relating to visiting hours of inmates, delivery of food items to inmates and issuing of permits to offenders and persons accompanying offenders during period of lockdown: State of Emergency - Covid-19 Regulations, GN 105/2020 ([GG 7184](#))
- Directives relating to **registered business entities and operational matters for retail traders and other businesses**: State of Emergency - Covid-19 Regulations, GN 106/2020 ([GG 7185](#))
- **Health Directives** relating to Covid-19: State of Emergency - Covid-19 Regulations, GN 107/2020 ([GG 7189](#))
- Directives relating to **environment, forestry and tourism**: State of Emergency - Covid-19 Regulations, GN 108/2020 ([GG 7190](#)), repealed by GN 123/2020 ([GG 7224](#))
- Directives relating to **open markets and informal trading** during period of lockdown: State of Emergency - Covid-19 Regulations, GN 109/2020 ([GG 7191](#))
- **Labour Directives** relating to Covid-19: State of Emergency - Covid-19 Regulations, GN 110/2020 ([GG 7195](#))
- Directives relating to **Works and Transport**: State of Emergency - Covid-19 Regulations, GN 113/2020 ([GG 7200](#))
- Directives Relating to **Fishing Industry**: Stage 2: State of Emergency - Covid-19 Regulations, GN 119/2020 ([GG 7213](#))
- Directive Relating to **Child Protection Response** during COVID-19: State of Emergency - Covid-19 Regulations, GN 120/2020 ([GG 7214](#))
- Directive Relating to **Sale of Liquor**: Stage 2: State of Emergency - Covid-19 Regulations [amended to be applicable to Stage 3], GN 129/2020 ([GG 7236](#))

However, the High Court in *Namibian Employers' Federation and Others v President of the Republic of Namibia and Others* (HC-MD-CIV-MOT-GEN 2020/00136) [2020] NAHCMD 248 (23 June 2020) found the provisions authorising such directives (reg 14 of Proc. 9/2020 and reg 15 of Proc. 17/2020) to be unconstitutional and invalid delegations of power, so the directives issued in terms of those provisions would accordingly be invalid.

**Health regulations:** Health regulations were issued in Proclamation 47/2020 ([GG 7318](#)).

**Related documents:**

- **Bank of Namibia:** Determination on policy changes in response to economic and financial stability challenges, following the fallout of the Covid-19 Pandemic (BID-33) (issued in terms of the Banking Institutions Act 2 of 1998), General Notice 127/2020 ([GG 7166](#)), which was repealed by the Determination on policy changes in response to economic and financial stability challenges as a result of the Covid-19 Pandemic (BID-33), General Notice 590/2021 ([GG 7665](#)).
- **Namibia Financial Institutions Supervisory Authority:** Covid - 19 Pandemic: Declaration of undesirable practice (issued in terms of section 4(9) of the Medical Aid Funds Act 23 of 1995), General Notice 129/2020 ([GG 7169](#))
- State of Emergency Covid-19: **Finance Regulations** (relating to section 9(2) of the State Finance Act 31 of 1991), Proc. 14/2020 ([GG 7182](#))
- **Alcohol-based Hand Sanitisers Regulations** (issued in terms of the Standards Act 18 of 2005), GN 114/2020 ([GG 7201](#)), as amended by GN 250/2021 ([GG 7687](#)).

**End of state of emergency:** The state of emergency expired at midnight on 17 September 2020. The government did not seek to extend the period of emergency, instead electing to deal with Covid-19 through the Public and Environmental Health Act 1 of 2015, which was brought into force on 17 September 2020 by GN 230/2020 ([GG 7338](#)).

An initial set of **Public Health Covid-19 General Regulations** was issued in terms of that Act in GN 233/2020 ([GG 7342](#)), as amended by GN 235/2020 ([GG 7346](#)). These regulations were applicable from 00:00 on 24 September 2020 to 24:00 on 21 October 2020 (regulation 2(2)).

- They were then amended by GN 256/2020 ([GG 7367](#)) and made applicable as amended from 00:00 on 22 October 2020 to 24:00 on 30 November 2020 (regulation 2(2) as amended).
- They were further amended by GN 309/2020 ([GG 7404](#)) and made applicable as amended from 1 December 2020 to 24:00 on 25 January 2021 (regulation 2(2) as amended).
- This version of the regulations was superseded by further amendments made by GN 319/2020 ([GG 7421](#)), with these amended regulations made applicable with effect from 00:00 on 17 December 2020 to 24:00 on 30 December 2020 (regulation 2(2) as amended).
- This version of the regulations was superseded by amendments made by GN 326/2020 ([GG 7429](#)), with these amended regulations made applicable from 00:00 on 24 December 2020 to 24:00 on 13 January 2021 (regulation 2(2) as amended).
- The regulations were then amended by GN 1/2021 ([GG 7436](#)) and made applicable as amended from 00:00 on 14 January 2021 to 24:00 on 3 February 2021 (regulation 2(2) as amended).
- They were further amended by GN 9/2021 ([GG 7451](#)) and made applicable as amended from 00:00 on 4 February 2021 to 24:00 on 24 February 2021 (regulation 2(2) as amended).
- The regulations were again amended by GN 29/2021 ([GG 7467](#)) and made applicable as amended from 00:00 on 25 February 2021 to 24:00 on 31 March 2021 (regulation 2(2) as amended). GN 29/2021 was amended by GN 35/2021 ([GG 7472](#)) to change the Government Notice number from 9, as it incorrectly appeared, to 29.
- The regulations were next amended by GN 54/2021 ([GG 7495](#)) and made applicable as amended from 00:00 on 1 April 2021 to 24:00 on 30 April 2021 (regulation 2(2) as amended).

The amended set of Public Health Covid-19 General Regulations was then replaced by a new set of similar **Public Health Covid-19 General Regulations** contained in Government Notice 91/2021 ([GG 7522](#)), with the new regulations being applicable from 00:00 on 1 May 2021 to 31 May 2021 (regulation 2(2)).

- These regulations were amended by GN 108/2021 ([GG 7544](#)) and made applicable as amended from 00:00 on 1 June 2021 to 24:00 on 30 June 2021 (regulation 2(2) as amended).
- These regulations were further amended by GN 128/2021 ([GG 7554](#)) and made applicable as amended from 00:00 on 17 June 2021 to 24:00 on 30 June 2021 (regulation 2(2) as amended).
- These regulations were further amended by GN 138/2021 ([GG 7568](#)) and made applicable as amended from 00:00 on 1 July 2021 to 24:00 on 15 July 2021 (regulation 2(2) as amended). They were then further amended by GN 144/2021 ([GG 7576](#)), with no change to the dates of applicability.
- These regulations were further amended by GN 151/2021 ([GG 7581](#)) and made applicable as amended from 00:00 on 16 July 2021 to 24:00 on 31 July 2021 (regulation 2(2) as amended).
- These regulations were further amended by GN 160/2021 ([GG 7593](#)) and made applicable as amended from 00:00 on 1 August 2021 to 24:00 on 14 August 2021 (regulation 2(2) as amended).
- These regulations were further amended by GN 175/2021 ([GG 7604](#)), and made applicable as amended from 00:00 on 15 August 2021 to 24:00 on 15 September 2021 (regulation 2(2) as amended), and then amended by GN 176/2021 ([GG 7624](#)) with no change to the dates of applicability.
- These regulations were further amended by GN 205/2021 ([GG 7637](#)) and made applicable as amended from 00:00 on 16 August 2021 to 24:00 on 15 October 2021 (regulation 2(2) as amended).
- These regulations were further amended by GN 232/2021 ([GG 7662](#)) and made applicable as amended from 00:00 on 16 October 2021 to 24:00 on 15 November 2021 (regulation 2(2) as amended), then amended by GN 246/2021 ([GG 7680](#)) with no change to the dates of applicability.

- These regulations were further amended by GN 249/2021 ([GG 7686](#)) and made applicable as amended from 00:00 on 16 November 2021 to 24:00 on 15 December 2021 (regulation 2(2) as amended).
- These regulations were further amended by GN 281/2021 ([GG 7703](#)) and made applicable as amended from 00:00 on 16 December 2021 to 24:00 on 15 January 2022 (regulation 2(2) as amended).
- These regulations were further amended by GN 7/2022 ([GG 7726](#)) and made applicable as amended from 00:00 on 16 January 2022 to 24:00 on 15 February 2022 (regulation 2(2) as amended).
- These regulations were further amended by GN 56/2022 ([GG 7748](#)) and made applicable as amended from 00:00 on 16 February 2022 to 24:00 on 15 March 2022 (regulation 2(2) as amended).
- These regulations were further amended by GN 85/2022 ([GG 7765](#)) and made applicable as amended from 00:00 on 16 March 2022 to 24:00 on 15 April 2022 (regulation 2(2) as amended).
- These regulations were further amended by GN 121/2022 ([GG 7788](#)) and made applicable as amended from 00:00 on 16 April 2022 to 24:00 on 15 May 2022 (regulation 2(2) as amended).

**Vaccines:** GN 39/2021 ([GG 7479](#)) exempts specified COVID-19 vaccines, subject to certain conditions, from section 18(1) of the Medicines and Related Substances Control Act 13 of 2003 which prohibits the sale of unregistered medicines. The exempted vaccines are Sinopharm Vero Cell (People’s Republic of China), Sputnik V (Russian Federation), Johnson & Johnson Ad26.COVS.2.S (USA), Bharat Biotech COVAXIN (India), AstraZeneca AZD1222 (Republic of South Korea) and Moderna mRNA-1273 (USA). The conditions of exemption are that the importer must have an import licence issued by the Namibia Medicines Regulatory Council under section 31(5)(c) of the Act for the vaccines in question, that the vaccines’ labelling and package insert must be written or translated into English.

**Procurement during the State of Emergency:** In 2021, the Auditor-General produced a “Special Report of the Auditor-General on the Response to COVID-19 by the Government of the Republic of Namibia during the State of Emergency Period March-June 2020 for the Financial Year ended 31 March 2020 and First Quarter of the Financial Year 2020-2021”. This report, which focuses on compliance with the Public Procurement Act 15 of 2025 during the State of Emergency, was tabled in the National Assembly on 28 September 2021. A summary of the report is contained in the *Procurement Tracker Namibia*, IPPR, Issue No. 16, April 2022, available [here](#).

See also **CORRECTIONAL FACILITIES**.

See also Anti-Corruption Act 8 of 2003 (**CRIMINAL LAW AND PROCEDURE**).

See also Racial Discrimination Prohibition Act 26 of 1991 (**CRIMINAL LAW AND PROCEDURE**).

See also Bank of Namibia Act 1 of 2020 (**FINANCIAL INSTITUTIONS**).

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 Members of Parliament and other Office-bearers Pension Fund Act 20 of 1999 (**PENSIONS**).

See also **POLICE**.

See also **PRESIDENT**.

See also **PUBLIC SERVICE**.

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

See also **REGIONAL AND LOCAL GOVERNMENT**.