

CURRENCY

Payment of Bank Notes Proclamation 3 of 1933

Summary: This Proclamation ([OG 498](#)) provides that the holder of a bank note shall not be entitled to be paid in gold. It is probably obsolete since it applies to bank notes issued under the Banks Proclamation 29 of 1930, which is no longer in force.

Regulations: The Proclamation makes no provision for regulations.

Currency and Exchanges Act 9 of 1933, section 9, in part, as amended in South Africa prior to Namibian independence

Summary: This Act ([SA GG 2098](#)) regulates legal tender, currency, exchange and banking. The only section applicable to Namibia is section 9 which authorises the making of regulations on these matters.

Applicability to SWA: Section 9 of the Act was made applicable to SWA by the addition of subsection 9(6) by *Act 36 of 1950* ([SA GG 4413](#)), with effect from 23 June 1950, which states that “the provisions of this section shall apply also to the Territory of South-West Africa”. The wording of this provision did not seem to make South African amendments to section 9 automatically applicable to SWA after section 9 was applied to SWA in 1950.

Transfer of administration to SWA: The administration of the Act does not appear to have been transferred to South West Africa. No Minister is mentioned in the Act. In any event, since the wording of section 9(6) does not make amendments to the Act automatically applicable to South West Africa, the issue of transfer would not affect the content of the Act.

Amendments: Prior to and contemporaneous with section 9 being applied to SWA, it was amended in South Africa by the following –

- *Finance Act 27 of 1940* ([SA GG 2762](#))
- *Finance Act 43 of 1941* ([SA GG 2911](#))
- *Finance Act 36 of 1950* ([SA GG 4413](#)).

Regulations: There is no savings provision in the *Currency and Exchanges Act 9 of 1933*. The following pre-independence regulations issued in terms of the sole remaining section of the Act remain in force and have been amended since independence.

Exchange Control Regulations, 1961 are contained in RSA GN R.1111/1961 ([RSA GG 123](#), republished in [OG 2355](#)), as amended by -

- RSA GN R.872/1966 ([RSA GG 1458](#))
- RSA GN R.1647/1966 ([RSA GG 1570](#))
- RSA GN R.650/1968 ([RSA GG 2048](#))
- RSA GN R.355/1976 ([RSA GG 4996](#))
- RSA GN R.357/1981 ([RSA GG 7415](#))
- RSA Proc R.157/1985 ([RSA GG 9926](#))
- RSA GN R.2868/1985 ([RSA GG 10054](#))
- RSA GN R.957/1987 ([RSA GG 10730](#))
- RSA GN R.1416/1987 ([RSA GG 10803](#))
- RSA GN R.224/1988 ([RSA GG 11140](#))
- RSA GN R.881/1988 ([RSA GG 11287](#))
- RSA GN R.1472/1988 ([RSA GG 11434](#))

GN 111/1995 ([GG 1095](#))
GN 135/2004 ([GG 3232](#))
GN 126/2011 ([GG 4767](#)).⁴¹

Government Notices 111/1995, 135/2004 and 126/2011 all list RSA GN R.2610/1984 ([RSA GG 9513](#)) as an amendment to the regulations, but RSA GN R.2610/1984 only deletes “the Exchange Control Regulations-General Exemption *in terms of* regulation 3(1)(c), published under Government Notice R.1555 of 15 August 1975”.⁴²

The following regulations, which were also made in terms of the surviving section 9, also appear to remain in force; no repeals have been located. However, none of them appear to have any relevance to independent Namibia and so they have not been included in the database of annotated laws. (Although these regulations were all issued pursuant to section 9 of the Act, several of them refer to other financial laws which are no longer in force in Namibia or concern specific time frames that have long since passed.)⁴³

Regulations to provide for the participation of the Union in the International Monetary Fund and the International Bank for Reconstruction and Development, contained in SA GN 2561/1945 ([SA GG 3583](#)).

Regulations on the temporary modification of reserve requirements for commercial banks, contained in SA GN 1754/1949 ([SA GG 4225](#)).

Regulations relating to the revaluation of the gold reserves held by the South African Reserve Bank, contained in SA Proc. 337/1949 ([SA GG 4308](#))

Regulations relating to the devaluation of the South African pound on a specific date (19 September 1949), contained in SA Proc. 227/1949 ([SA GG 4239](#)), as amended by .

Regulations concerning the collection of information required for the purposes of the compilation of official statements of the Union’s international balance of payments and its international investment position, contained in SA GN 702/1956 ([SA GG 5663](#); republished in OG 2019).

Regulations conferring powers on the SA Reserve Bank to prescribe maximum rate of interest on certain deposits, contained in RSA Proc. 47/1965 ([RSA GG 1055](#)).

Notices issued pursuant to this Proclamation are not recorded here.

Regulations giving the South African Reserve Bank power to to make orders and rules relating to matters which affect or have any bearing upon credit extension by banking institutions contained in RSA Proc. R.184/1967 ([RSA GG 1809](#)).

Orders and rules issued pursuant to these regulations and which remained unrepealed prior to Namibian independence include those contained in RSA GN 2730/1986 ([RSA GG 10559](#)), RSA GN 46/1987 ([RSA GG 10565](#)), RSA GN 430/1987 ([RSA GG 10620](#)) and RSA GN R.1468/1988 ([RSA GG 11428](#)).

⁴¹ These regulations withdraw the ones published in SA GN 2800/1951 (SA GG 4721), SA GN 797/1958, SA GN 194/1959, and RSA GN 84/1961 – which in turn withdraw the regulations published in SA GN 163/1948, as amended by SA GN 2085/1948, SA GN 377/1949 and SA GN 2067/1949 and the following SA Government Notices: 164/1948, 564/1948, 2227/1948, 2853/1948, 2761/1949, 1870/1950, 101/1951, 203/1951, and 2234/1951.

⁴² Note that RSA GN R.1555/1975 ([RSA GG 4816](#)) contained the following exemption under Regulation 3 of the Exchange Control Regulations, 1961:

“...the Treasury hereby exempts any person from the obligation to obtain, as a prerequisite to the institution of any court action in connection with a transaction mentioned in subregulation (1)(c), permission to make a payment to or in favour, or on behalf of a person resident outside the Republic, or place any sum to the credit of such person.”

However, this exemption was deleted by RSA GN R.2610/1984 ([RSA GG 9513](#)).

⁴³ These regulations and enactments are listed as remaining in force in *Juta’s Index to the South African Government and Provincial Gazettes* (formerly “The Windex”), 1920-1989 at pages 179-180.

Regulations authorising the Registrar of Financial Institutions to prescribe maximum rates of interest on certain debentures and loans, contained in RSA Proc. R. 88/1972 (RSA GG 3451).

Notices issued pursuant to this Proclamation are not recorded here.

Regulations on a new parity for the rand and a new statutory gold price, contained in RSA Proc. R. 280/1972 ([RSA GG 3692](#)).

Regulations prohibiting gold and foreign exchange transactions and transactions in stocks and shares between 28 August 1985 and 1 September 1985, contained in RSA Proc. 150/1985 ([RSA GG 9916](#)).

Regulations relating to the payment of foreign creditors from 2 September 1985 until 31 December 1985, and to banking institutions with foreign subsidiaries, contained in RSA Proc R.157/1985 ([RSA GG 9926](#)), as amended by RSA Government Notice R.2305/1985 ([RSA GG 9969](#))

These regulations also amend the Exchange Control Regulations, 1981.

Regulations relating to the payment of foreign creditors from 1 April 1986 until 30 June 1987, and to banking institutions with foreign subsidiaries, contained in RSA GN R.603/1986 ([RSA GG 10166](#)), as amended prior to Namibian independence by RSA GN R.1078/1986 ([RSA GG 10258](#)) and by RSA GN R.1190/1987([RSA GG 10757](#)).⁴⁴

Rules: Orders and Rules under the Exchange Control Regulations are contained in RSA GN R.1112/1961 ([RSA GG 123](#), republished in OG 2355) as amended prior to Namibian independence by –

- RSA GN R.1212/1961 (RSA GG 136)
- RSA GN R.512/1962 (RSA GG 213)
- RSA GN R.1208/1962 (RSA GG 299)
- RSA GN R.691/1963 (RSA GG 497)
- RSA GN R.1222/1963 (RSA GG 575)
- RSA GN R.1223/1963 (RSA GG 575)
- RSA GN R.1604/1963 (RSA GG 635)
- RSA GN R.1922/1963 (RSA GG 671)
- RSA GN R.940/1964 (RSA GG 835)
- RSA GN R.1181/1965 (RSA GG 1201)
- RSA GN R.1778/1965 (RSA GG 1278)
- RSA GN R.1961/1965 (RSA GG 1300)
- RSA GN R.2038/1966 (RSA GG 1619)
- RSA GN R.85/1967 (RSA GG 1639)
- RSA GN R.230/1967 (RSA GG 1668)
- RSA GN R.987/1968 (RSA GG 2086)
- RSA GN R.1238/1968 (RSA GG 2131)
- RSA GN R.1793/1968 (RSA GG 2179)
- RSA GN R.801/1969 (RSA GG 2398)
- RSA GN R.1012/1969 (RSA GG 2439)
- RSA GN R.3114/1969 (RSA GG 2504)
- RSA GN R.1264/1970 (RSA GG 2767)
- RSA GN R.2205/1970 (RSA GG 2944)
- RSA GN R. 309/1971 (GG 3008)
- RSA GN R.1011/1971 (RSA GG 3153)
- RSA GN R.1974/1971 (RSA GG 3300)

⁴⁴ These regulations were further amended in South Africa after the date of Namibian independence. They repeal the regulations contained in RSA GN R.2868/1985 ([RSA GG 10054](#)), as amended by RSA GN R.1078/1986 ([RSA GG 10258](#)) and by RSA GN R.1190 of 1987([RSA GG 10757](#)).

RSA GN R.1976/1971 (RSA GG 3300)
RSA GN R.2314/1971 (RSA GG 3340)
RSA GN R.253/1972 (RSA GG 3390)
RSA GN R.423/1972 (RSA GG 3425)
RSA GN R.580/1972 (RSA GG 3467), as corrected by RSA GN R. 736/1972 (RSA GG 3484)
RSA GN R.678/1972 (RSA GG 3478)
RSA GN R.936/1972 (RSA GG 3538)
RSA GN R.1339/1972 (RSA GG 3625)
RSA GN R.1767/1972 (RSA GG 3670)
RSA GN R.166/1973 (RSA GG 3780)
RSA GN R.299/1973 (RSA GG 3793)
RSA GN R.2231/1973 (RSA GG 4091)
RSA GN R.1601/1974 (RSA GG 4383)
RSA GN R.83/1975 (RSA GG 4558)
RSA GN R.787/1976 (RSA GG 5114)
RSA GN R.1480/1976 (RSA GG 5256), which gives effect to the withdrawal of Botswana from
the Rand Monetary Area with effect from 23 August 1976
RSA GN R.2029/1976 (RSA GG 5324)
RSA GN R.12/1977 (RSA GG 5372)
RSA GN R.937/1978 (RSA GG 6003)
RSA GN R.1867/1978 (RSA GG 6154)
RSA GN R.1492/1979 (RSA GG 6562)
RSA GN R.2286/1979 (RSA GG 6699)
RSA GN R.2404/1979 (RSA GG 6710)
RSA GN R.32/1980 (RSA GG 6801)
RSA GN R.2332/1981 (RSA GG 7867)
RSA GN R.2410/1981 (RSA GG 7903)
RSA GN R.1060/1982 (RSA GG 8226)
RSA GN R.1165/1982 (RSA GG 8257)
RSA GN R.1602/1982 (RSA GG 8320)
RSA GN R.1822/1982 (RSA GG 8351)
RSA GN R.2323/1982 (RSA GG 8428)
RSA GN R.561/1983 (RSA GG 8604)
RSA GN R.944/1983 (RSA GG 8694)
RSA GN R.2241/1983 (RSA GG 8929)
RSA GN R.506/1984 (RSA GG 9129)
RSA GN R.755/1984 (RSA GG 9175)
RSA GN R.2596/1984 (RSA GG 9513)
RSA GN R.1640/1985 (RSA GG 9870)
RSA GN R.616/1986 (RSA GG 10173)
RSA GN R.1223/1986 (RSA GG 10283)
RSA GN R.2642/1986 (RSA GG 10546)
RSA GN R.75/1987 (10575) which replaces RSA GN R.2642/1986 (RSA GG 10546) and which
is amended by RSA GN R.443/1987 (RSA GG 10621)
RSA GN R.926/1987 (RSA GG 10716)
RSA GN R.1400/1987 (RSA GG 10790)
RSA GN R.2217/1987 (RSA GG 10970)
RSA GN R.2218/1987 (RSA GG 10970)
RSA GN R.2238/1987 (RSA GG 10970)
RSA GN R.2349/1987 (RSA GG 10988)
RSA GN R.748/1989 (RSA GG 11833)
RSA GN R.904/1989 (RSA GG 11863), as amended by RSA GN R.1233/1989 (RSA GG 11954)
RSA GN R.2187/1989 (RSA GG 12131)
RSA GN R.266/1990 (RSA GG 12293), as amended by RSA GN 556/1990 (RSA GG 12339)
RSA GN R.227/1990 (RSA GG 12293)
RSA GN 569/1990 (RSA GG 12339)

RSA GN R.656/1990, dated 21 March 1990 (RSA GG 12374)
GN 4/1990 ([GG 24](#))
GN 20/1990 ([GG 49](#))
GN 49/1990 ([GG 76](#))
GN 52/1991 ([GG 196](#))
GN 218/1996 ([GG 1387](#))
GN 19/2005 ([GG 3386](#))
General Notice 251/2007 ([GG 3900](#))
General Notice 254/2009 ([GG 4364](#))
GN 251/2007 ([GG 3900](#))
GN 254/2009 ([GG 4364](#))
General Notice 335/2010 ([GG 4632](#))
General Notice 443/2013 ([GG 5344](#))
General Notice 95/2014 ([GG 5454](#))
General Notice 558/2015 ([GG 5892](#))
General Notice 361/2016 ([GG 6118](#))
General Notice 75/2018 ([GG 6538](#)).

Application of law: The application of this law is affected by the Financial Intelligence Act 13 of 2012 ([GG 5096](#)).

Notices: Authorised dealers in foreign exchange are appointed in General Notice 335/2010 ([GG 4632](#)), General Notice 443/2013 ([GG 5344](#)), General Notice 95/2014 ([GG 5454](#)), General Notice 558/2015 ([GG 5892](#)), General Notice 361/2016 ([GG 6118](#)) and General Notice 75/2018 ([GG 6538](#)). As indicated above, these notices also amend the Orders and Rules issued under the Exchange Control Regulations, 1961.

Cases:

Ruch v Ferrari 1993 NR 103 (HC), 1994 NR 287 (SC)
Samco Import & Export CC & Another v Magistrate of Eenhana & Others 2009 (1) NR 290 (HC)
(Exchange Control Regulations)
S v Mfuka 2013 (4) NR 965 (HC) (Exchange Control Regulations)
Rashed v Inspector General of the Namibian Police & Others 2018 (2) NR 619 (HC) (Exchange Control Regulations discussed at paras 25-31).

Prevention of Counterfeiting of Currency Act 16 of 1965, sections 1-4 and 12,
as amended in South Africa prior to Namibian independence  

Summary: This Act ([RSA GG 1060](#)) sets forth various offences relating to counterfeiting.

Applicability to SWA: Section 11 states “Sections *one* to *four*, inclusive, and section *twelve*, and any amendment thereof, shall apply also in the territory of South West Africa, including that portion thereof known as the Eastern Caprivi Zipfel and referred to in section *three* of the South West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951), and in relation to all persons in that portion of the said territory known as the ‘Rehoboth Gebiet’ which is defined in the First Schedule to Proclamation No. 28 of 1923 of the Administrator of that territory.” (Those sections which do *not* apply to SWA are all amendments to other acts.)

Transfer of administration to SWA: It is not clear what transfer proclamation, if any, applied to this Act. However, the sections applicable to South West Africa were not amended in South Africa prior to Namibian independence.

Regulations: The portions of this Act in force in Namibia make no provision for regulations.

Application of law: The application of this law is affected by the Financial Intelligence Act 13 of 2012 ([GG 5096](#)).

Related international agreements: South Africa became a party to the *International Convention for the Suppression of Counterfeiting Currency* on 28 August 1967, after the termination of its mandate over South West Africa in 1966. South Africa was not a predecessor state to Namibia, but an illegal occupying power as from that date, thus making it impossible for it to bind Namibia. The UN Institute for Namibia made a few exceptions to this approach for “general conventions of a humanitarian character”, on the basis of the 1971 advisory opinion of the International Court of Justice – but this Convention was not amongst them. There is, in any case, no indication that South Africa made any attempt to expressly extend the treaty to South West Africa (ie, no declaration and no note under “territorial application”). Accordingly, Namibia does not appear to be a party to the *International Convention for the Suppression of Counterfeiting Currency*.

NOTES AND COINS

issued in terms of the Bank of Namibia Act 8 of 1990 ([GG 42](#))
Proclamation 19/1993 ([GG 682](#)) (repealed by Act 11/2004)
General Notice 339/1996 ([GG 1452](#))
General Notice 8/2000 ([GG 2258](#))
General Notice 108/2012 ([GG 4936](#)).

COMMEMORATIVE NOTES AND COINS

(issued in terms of the Bank of Namibia Act 8 of 1990)
General Notice 74/1995 ([GG 1057](#))
General Notice 125/1995 ([GG 1083](#))
General Notice 91/1996 ([GG 1308](#))
General Notice 54/1999 ([GG 2067](#))
General Notice 7/2000 ([GG 2258](#))
General Notice 166/2010 ([GG 4520](#)).

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