

DAMAGES

Apportionment of Damages Act 34 of 1956, as amended in South Africa to November 1979.

Summary: This Act apportions damages in cases of contributory negligence or joint or several liability.

Applicability to SWA: Section 6 states “This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.”

Transfer proclamation: Although this Act makes no reference to any minister, it probably fell under the Executive Powers (Justice) Transfer Proclamation (AG 33/1979, as amended), dated 12 November 1979. There was only one South African amending act after the date of transfer – the *Matrimonial Property Act 88 of 1984* – which was not made expressly applicable to SWA. .

Application: Section 37 of the Motor Vehicle Accidents Fund Act 10 of 2007 affects the application of this Act.

Cases:

Beukes v Mutual & Federal Insurance 1990 NR 105 (HC)

Johannes v South West Transport (Pty) Ltd 1992 NR 358 (HC), confirmed on other points on appeal to a full bench in 1994(1) SA 200 (Nm)

FS v Minister of Safety and Security 2009 (2) NR 417 (SC).

Assessment of Damages Act 9 of 1969, as amended in South Africa to November 1979.

Summary: This Act amends the law regarding assessment of damages for loss of support as a result of a person’s death.

Applicability to SWA: Section 2 states “The provisions of this Act and any amendment thereof shall apply also in the territory of South West Africa, including that portion of the said territory known as the Eastern Caprivi Zipfel and referred to in section 35(5) of the South West Africa Constitution Act, 1968 (Act No. 39 of 1968).”

Transfer proclamation: Although this Act makes no reference to any minister, it probably fell under the Executive Powers (Justice) Transfer Proclamation (AG 33/1979, as amended), dated 12 November 1979. There were no amendments to the Act in South Africa after the date of transfer and prior to Namibian independence.

Application: Section 37 of the Motor Vehicle Accidents Fund Act 10 of 2007 affects the application of this Act.

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