

DEBTORS AND CREDITORS

Usury Proclamation 26 of 1921.

Summary: This Proclamation regulates the rates of interest on loans. Although it has not been technically repealed, it has been superseded by the *Usury Act 73 of 1968*.

Amendments: This Proclamation is amended by Ord. 25/1965.

Payment of Loans Proclamation 28 of 1933.

Summary: This Proclamation, which is now presumably obsolete, provides that repayment of money based on references to the price of gold, shall not be affected by variations in the price of gold.

Usury Act 73 of 1968, as amended in South Africa prior to Namibian independence.

Summary: This Act provides for the limitation and disclosure of finance charges on loan and credit transactions and sets maximum rates of interest for loans.

Applicability to SWA: Section 1 defines “Republic” to include “the territory”, which is defined as “the territory of South West Africa”. Section 19(1) states “The provisions of this Act and any amendment thereof shall apply also in the territory of South West Africa, including the area known as the Eastern Caprivi Zipfel and referred to in section 3(3) of the South West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951), and also in relation to all persons in that portion of the territory known as the ‘Rehoboth Gebiet’ and defined in the First Schedule to Proclamation No. 28 of 1923, of the Administration of the said territory.”

Amendments: Section 15(e) of the Act is repealed by Act 1/2000 (GG 2269). The Namibia Financial Institutions Supervisory Authority Act 3 of 2001 amends section 1.

Regulations: Maximum annual finance charge rates are announced in government notices from time to time. See GN 97/1992 (GG 455), GN 39/1993 (GG 617), GN 27/1994 (GG 807), GN 47/1995 (GG 1037), GN 97/1995 (GG 1090), GN 154/1995 (GG 1151), GN 126/1997 (GG 1590), GN 6/2000 (GG 2259), GN 135/2002 (GG 2782) and General Notice 196/2004 (GG 3266).

Certain exemptions relating to micro loan transactions are set forth in GN 34/2000 (GG 2267), which is replaced by GN 136/2002 (GG 2782), replaced in turn by GN 189/2004 (GG 3266).

Cases: *Open Learning Group Namibia Finance CC v Permanent Secretary, Ministry of Finance & Others* 2006 (1) NR 275 (HC).

Suretyship Amendment Act 57 of 1971.

Summary: This Act repeals the common law rules which previously protected women from the consequences of suretyship.

Applicability to SWA: Section 4 states “This Act shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.” This wording would not make amendments to the Act in South Africa automatically applicable to SWA, but there were no amendments to the Act in South Africa prior to Namibian independence.

Amendments: The Bills of Exchange Act 22 of 2003 repeals the entire reference to the Bills of Exchange Act 34 of 1964 in the Schedule to the Act.

Prescribed Rate of Interest Act 55 of 1975, as amended in South Africa prior to Namibian independence.

Summary: This Act prescribes the calculation of interest on debts in certain circumstances and provides for payment of interest on certain judgement debts.

Applicability to SWA: Section 4 states “This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.”

Participation Bonds Act 55 of 1981, as amended in South Africa prior to Namibian independence.

Summary: This Act provides for the rights of participants in certain mortgage bonds.

Applicability to SWA: Section 16 states “This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.”