

DISASTERS

Civil Defence Act 39 of 1966, as amended in South Africa to 1977

Summary: This Act ([RSA GG 1567](#)) provides for a Directorate of Civil Defence in the public service and deals with emergency powers. It was repealed in its entirety in South Africa by the *Civil Protection Act 67 of 1977* ([RSA GG 5555](#)), which was not made expressly applicable to SWA.

Despite the fact that this Act was amended in post-independence Namibia, it appears that it may have been superseded by the Civil Defence Proclamation AG 54 of 1978 ([OG 3805](#)) or by the Civil Defence Ordinance 3 of 1979 ([OG 3917](#)), which was amended by the Civil Defence Amendment Act 19 of 1986 ([OG 5251](#)). This supposition is supported by SWA GN 116/1987 ([OG 5406](#)), as amended by SWA GN 179/1988 ([OG 5627](#)), which transferred the administration of certain provisions of these two laws, first to the Minister of Local Authorities and Civic Affairs, later amended to refer to the Minister of Finance and Governmental Affairs, without mentioning this Act.

Further support for this theory lies in the fact that the RSA regulations issued under the *Civil Defence Act 39 of 1966* cover the same subject matter as some of those issued under subsequent SWA civil defence laws that have now been repealed.¹¹⁵

Perhaps the *Civil Defence Act 39 of 1966* was understood to have been repealed in respect of SWA by the *Civil Protection Act 67 of 1977* ([RSA GG 5555](#)), even though the 1977 Act was not made expressly applicable to SWA and was also not referenced in the 1978 or 1979 SWA legislation.

Furthermore, even if the *Civil Defence Act 39 of 1966* is still technically in force, it appears to have been superseded by the Disaster Risk Management Act 10 of 2012 ([GG 5029](#)).

Applicability to SWA: Section 19 originally stated: “This Act and any amendments thereof 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).”

However, section 19 was substituted by the *RSA Civil Defence Amendment Act 69 of 1967* ([RSA GG 1754](#)), to give the State President of South Africa authority to make the Act and its amendments applicable to SWA. Section 19(1) as amended states:

The State President may by proclamation in the *Gazette* declare any of or all the provisions of this Act and of any amendment thereof to be *mutatis mutandis* applicable in the territory of South-West Africa (including the Eastern Caprivi Zipfel referred to in section 3 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” and defined in the First Schedule to Proclamation No. 28 of 1923 of the Administrator of the said territory.

¹¹⁵ The following regulations were issued in terms of the Civil Defence Proclamation, AG. 54 of 1978:

- **Regulations made under the Civil Defence Proclamation, 1978** are contained in AG GN 70/1980 ([OG 4188](#)). However, these have not been included in the database as they appear to conflict with provisions of the Disaster Risk Management Act 10 of 2012 (see section 25 in particular).
- **Civil Defence Regulations relating to Compensation for Physical Injuries, Death and Disability**, AG GN 3/1981 ([OG 4363](#)). These regulations have not been included in the database as they appear to have been superseded by the Disaster Risk Management Regulations contained in GG 349/2013 ([GG 5380](#)).

The following regulations were issued in terms of the Civil Defence Ordinance 3 of 1979:

- **Civil Defence Regulations, 1981** are contained in AG GN 9/1981 ([OG 4383](#)). These regulations have not been included in the database as they appear to have been superseded by the Disaster Risk Management Regulations contained in GG 349/2013 ([GG 5380](#)).

Both the Civil Defence Proclamation AG 54 of 1978 and the Civil Defence Ordinance 3 of 1979 were repealed by the Disaster Risk Management Act 10 of 2012 ([GG 5029](#)). Neither of the SWA enactments contains any repeals.

The Act was then again made applicable to South West Africa by the *RSA Application of the Provisions of the Civil Defence Act, 1966 (Act 39 of 1966), to the Territory of South-West Africa Proclamation*, RSA Proc. 205/1969 ([RSA GG 2495](#)), subject to certain interpretations and conditions specified in the Proclamation. This Proclamation stated:

Under the powers vested in me by section 19 of the Civil Defence Act, 1966 (Act 39 of 1966), I hereby declare that, subject to the provisions of the Schedule to this Proclamation, all the provisions of the said Act shall apply *mutatis mutandis* in the territory of South-West Africa [including the Eastern Caprivi Zipfel referred to in section 38(5) of the South-West Africa Constitution Act, 1968 (Act 39 of 1968)], and in relation to all persons in that portion of the said territory known as the 'Rehoboth Gebiet' and defined in the First Schedule to Proclamation 28 of 1923 of the Administrator of the said territory, with effect from the first day of April 1969.

[words in square brackets appear in the *Gazette*]

The *Civil Protection Act 67 of 1977* ([RSA GG 5555](#)), which repealed the statute in South Africa, was not made expressly applicable to South West Africa.

Transfer proclamation: The Administrator-General acquired authority to administer this Act in South West Africa by virtue of *RSA Proc. 205 of 1969* ([RSA GG 2495](#)). This did not qualify as a "transfer proclamation" in terms of the Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977, which defines "transfer proclamation" in section 1 as "a proclamation *by the Administrator-General* by which the administration of the affairs of the territory in relation to any matter is transferred from a Minister of the Republic to the Administrator-General" (emphasis added). Therefore, the Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977, was not applicable to this Act.

Amendments: There were no amendments to the Act in South Africa prior to the amendment to section 19 (regarding the method of applicability to SWA) by the *Civil Defence Amendment Act 69 of 1967* ([RSA GG 1754](#)).

After the amendment to section 19, the Act was amended in South Africa prior to Namibian independence by the *Defence Amendment Act 85 of 1967* ([RSA GG 1776](#)), the *Civil Defence Amendment Act 5 of 1969* ([RSA GG 2301](#)) and the *Defence Further Amendment Act 83 of 1974* ([RSA GG 4508](#)). However, section 19 as amended made amendments to the Act in South Africa applicable to South West Africa only if they were declared to be so applicable by proclamation, and no such proclamations could be located.

The Defence Act 1 of 2002 ([GG 2749](#)) repeals sections 20, 21 and 22.

Regulations: Regulations are authorised by section 18 of the Act. The following regulations were issued under the Act prior to independence, but have not been included in the database for the reasons stated below:

Regulations relating to Categories of Persons who are not competent to perform Functions provided for by a Provincial Ordinance in connection with Civil Defence are contained in RSA GN 638/1978 ([RSA GG 5962](#)), as amended by RSA GN 356/1979 ([RSA GG 6317](#)), RSA GN 1819/1980 ([RSA GG 7200](#)) and RSA GN 2687/1984 ([RSA GG 9520](#)). These regulations have not been included in the database since Namibia does not have provincial ordinances.

Civil Defence Regulations relating to Compensation for Physical Injuries, Death and Disability, RSA GN R.2461/1978 ([RSA GG 6244](#)), as amended by RSA GN R.2142/1986 ([RSA GG 10488](#)). These regulations have not been included in the database; although they have not been explicitly repealed, they appear to have been replaced by regulations on the same topic issued under the Civil Defence Proclamation, AG. 54 of 1978 and surviving under the Disaster Risk Management Act 10 of 2012, and then again by the Disaster Risk Management Regulations

issued directly under the Disaster Risk Management Act 10 of 2012 in GG 349/2013 ([GG 5380](#)).
(See the entry for that Act below.)

No post-independence regulations have been promulgated under this Act.

Disaster Risk Management Act 10 of 2012

Summary: This Act ([GG 5029](#)) establishes institutions for disaster risk management in Namibia, as well as a National Disaster Fund. It provides for an integrated and coordinated approach to disaster management which includes prevention, mitigation measures, emergency preparedness, disaster response and post-disaster recovery. It also covers the involvement of Namibia's uniformed forces in disaster situations. It repeals the Civil Defence Proclamation AG 54 of 1978 ([OG 3805](#)) and the Civil Defence Ordinance 3 of 1979 ([OG 3917](#)), which was amended by the Civil Defence Amendment Act 19 of 1986 ([OG 5251](#)). The Act was brought into force on 31 December 2013 by GN 348/2013 ([GG 5380](#)).

The 1986 amendments to the Civil Defence Ordinance 3 of 1979 were not repealed, but they would have no independent relevance.

Savings: Regulations, rules and codes of conduct made under the repealed laws remain valid until repealed, in terms of section 59(2):

The repeal referred to in subsection (1) does not affect anything done in terms of the repealed law and any such thing, including any regulation, rule or code of conduct made in terms of the repealed law remains valid until repealed.

Regulations: **Disaster Risk Management Regulations** made under this Act are contained in GG 349/2013 ([GG 5380](#)). These regulations do not repeal any of the surviving regulations made under previous legislation, even though there appears to be significant overlap.

The following regulations were issued in terms of the Civil Defence Proclamation, AG. 54 of 1978:

Regulations made under the Civil Defence Proclamation, 1978 are contained in AG GN 70/1980 ([OG 4188](#)). However, these appear to conflict with provisions of the Disaster Risk Management Act 10 of 2012 (see section 25 in particular).

Civil Defence Regulations relating to Compensation for Physical Injuries, Death and Disability, AG GN 3/1981 ([OG 4363](#)). These regulations appear to have been superseded by the Disaster Risk Management Regulations contained in GG 349/2013 ([GG 5380](#)).

The following regulations were issued in terms of the Civil Defence Ordinance 3 of 1979:

Civil Defence Regulations, 1981 are contained in AG GN 9/1981 ([OG 4383](#)). These regulations appear to have been superseded by the Disaster Risk Management Regulations contained in GG 349/2013 ([GG 5380](#)).

Notices: Proc. 14/2019 ([GG 6900](#)) declared a state of emergency with effect from 6 May 2019 "on account of the persisting national disaster of drought that exists in all the regions of the Republic of Namibia". This Proclamation cites Article 26(1) of the Namibian Constitution, read together with section 30(3) of this Act. (In contrast, a previous declaration of a state of emergency on account of drought, in Proclamation 5 of 2016 ([GG 6056](#)), made no mention of this Act.)

Appointments: The members of the National Disaster Risk Management Committee are announced in GN 149/2016 ([GG 6062](#)), with retroactive effect from 22 October 2015. The members of the Khomas Regional Disaster Risk Management Committee are announced in General Notice 449/2021 ([GG 7619](#)).

Related international agreements: There are no current international treaties regarding natural disasters. However, guidelines for model national laws on natural disasters have been developed by the International Federation of Red Cross/Red Crescent Societies with support from the UN. Information on these guidelines is available at www.atha.se/thematic-areas/international-disaster-response-law.

See also Local Authorities Fire Brigade Services Act 5 of 2006 (**REGIONAL AND LOCAL GOVERNMENT**).