

ENVIRONMENT

Soil Conservation Act 76 of 1969, as amended in South Africa to March 1978.

Summary: This Act covers the prevention and combating of soil erosion; the conservation, improvement and manner of use of the soil and vegetation; and the protection of water sources.

Applicability to SWA: Section 27A (inserted in 1971) states “This Act and any amendment thereof shall also apply in the territory”, which is defined in section 1 as “the territory of South West Africa”.

Transfer of administration to SWA: The administration of the Act was transferred to SWA by the Executive Powers (Agricultural Technical Services) Transfer Proclamation (AG 11/1978), dated 2 March 1978.

The reference to the “Minister” in section 24 of the Act (which deals with limitation of liability) was excluded from the operation of the General Proclamation, meaning that in this section “Minister” continued to refer to the South African Minister of Agriculture.

There was only one amendment to the Act in South Africa after the date of transfer and prior to Namibian independence -- the *Forest Act 122 of 1984* -- which was not made expressly applicable to SWA.

Amendments: Section 13 is amended by the Forest Act 12 of 2001.

Regulations: Regulations are contained in RSA GN R.2121/1973. See also the regulations promulgated under the Communal Land Reform Act 5 of 2002, contained in GN 37/2003 (GG 2926). Regulation 31 and 32 deal with the prevention of soil erosion and the protection of pastoral resources.

Mountain Catchment Areas Act 63 of 1970.

Summary: This Act provides for the management and conservation of land in designated mountain catchment areas.

Applicability to SWA: Section 19 states “This Act shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.” This wording did not make amendments to the Act in South Africa automatically applicable to SWA, and none of the amending acts were made specifically applicable to SWA.

Transfer of administration to SWA: The administration of this Act was transferred to SWA by the Executive Powers (Forestry) Transfer Proclamation (AG 16/1977), dated 1 December 1977.

Hazardous Substances Ordinance 14 of 1974.

Summary: This ordinance provides for the control of toxic substances. It covers manufacture, sale, use, disposal and dumping as well as import and export.

Amendments: This Ordinance is affected by the Health Act 21 of 1988, which made it applicable to all of SWA.

Nature Conservation Ordinance 4 of 1975.

Summary: This Ordinance covers game parks and nature reserves, the hunting and protection of wild animals (including game birds), problem animals, fish, and the protection of indigenous plants. It also establishes a Nature Conservation Board.

Amendments: The Ordinance is amended by Ord. 4/1977, Ord. 16/1980, Act 27/1986, Act 6/1988, Act 17/1988, Act 31/1990 (sections 20, 26 and Schedule 3), and Act 5/1996 (brought into force on 29 April 1997 by GN 78/1997, GG 1546) (conservancies). The Ordinance is also amended by the Inland Fisheries Resources Act 1 of 2003, which came into force on 6 June 2003 (GN 117/2003, GG 2992) (sections 18, 65-71 and 84).

Schedules 3 and 4 are amended by GN 75/1987. Schedule 3 is further amended by GN 115/1978 and GN 90/1988. Schedule 4 is further amended by GN 131/1996 (GG 1320).

The application of the Ordinance is affected by the Provision for Control of the Import, Export and Possession of and Trading in Controlled Game Products Proclamation, AG 42/1980.

Regulations: The basic set of regulations under the Ordinance is contained in GN 240/1976 (OG 3556). These regulations are amended as follows-

GN 256/1976 (Regs 4(1)-(2))	OG 3563
GN 112/1977 (Regs 4,36A-E)	OG 3599
GN 248/1977 (Regs 99, 108, 146, 154)	OG 3638
GN 302/1977 (Reg 1)	OG 3644
GN 314/1977 (Reg 4(1))	OG 3647
GN 364/1977 (Regs 8,73)	OG 3659
GN 32/1978 (Reg 1)	OG 3705
GN 114/1978 (Reg 1)	OG 3741
GN 190/1978 (Regs 9,26)	OG 3798
GN 247/1978 (Reg 1, Chpt 12)	OG 3845
GN 10/1979 (Regs 4,5,6(3), 7)	OG 3894
GN 50/1979 (Regs 36,104,114-16, Chpt 17A)	OG 3916
GN 56/1979 (Reg 103)	OG 3916
AG GN 8/1981 (Regs 1,4)	OG 4368
AG GN 41/1982 (Chpt 11A-11B)	OG 4609
AG GN 23/1983 (Chpt 11)	OG 4741
AG GN 49/1983 (Reg 115)	OG 4752
AG GN 61/1983 (Regs 1,4-7)	OG 4757
AG GN 72/1984 (Reg 4)	OG 4901
GN 3/1985 (Reg 31)	OG 5064
AG GN 36/1985 (Reg 122)	OG 5019

GN 101/1985 (Reg 25A)	OG 5125
GN 121/1985 (Reg 4)	OG 5134
GN 122/1986 (Reg 125)	OG 5219
GN 242/1986 (definitions, Regs 28,36)	OG 5297
GN 81/1987 (Reg 27)	OG 5365
GN 89/1988 (definitions, Regs 60,101, 106-111, 114-115,117-118, 125,147-148, Chpt 12A)	OG 5547
AG GN 37/1989 (Reg 128A)	OG 5733
AG GN 44/1989 (Reg 118K, Schedule C)	OG 5751
GN 152/1993 (deletes Reg 128B)	GG 765
GN 83/1997 (Regs 147, 148, Chapter XVIIIB on Conservancies and Wildlife Councils; replaces GN 304/1996, GG 1446)	GG 1554
GN 119/1997 (Regs 107, 108, 108A, 108B-bow hunting guides, 110A-bow hunting for trophies, 111, 114, 115(1), 118).	GG 1580

The topics covered in the regulations include tariffs (game parks); regulations relating to game parks; swimming baths and use of boats in game parks; inland fisheries; keeping game and other wild animals in captivity; game dealers; game skins; protected plants and permits for them; regulations for cage bird societies; trophy hunting, manufacturing and dealers' licences and the export of trophies; hunting of huntable game, hunting at night and the export of game and game meat; sea bird guano; private game parks and nature reserves; succulent societies; game-proof fences, recognition and regulation of associations; and registers for coyote getters.

GN 203/1973 (which is amended by GN 132/1996 (GG 1320) declares certain animals as problems animals. GN 246/1977 (OG 3638) contains prohibitions on the export of processed or tanned leopard & cheetah skins.

Most of the other Government Notices issued in terms of the Ordinance deal with the establishment or dis-establishment of private game parks, hunting seasons, honorary nature conservators, and the boundaries of public game parks, nature reserves and conservancies. These notices have not been recorded here.

Cases:

- S v Ngombe* 1990 NR 165 (HC)
- S v Machinga* 1990 NR 157 (HC) (Controlled Game Products Proclamation 42 of 1980)
- Skeleton Coast Safaris v Namibia Tender Board & Others* 1993 NR 288 (HC) (section 17(1))
- S v Makwele* 1994 NR 53 (HC) (sections 20(1) and 30(1)(a))
- S v Koortzen* 1994 NR 356 (HC) (sections 27(1), 38(1)(a) and 50(1))
- S v Kau & Others* 1995 NR 1 (SC) (sections 26(1) and 85(2))
- S v Vorster* 1996 NR 177 (HC) (sections 30(1)(a), 27(1) and 89)
- S v Seibeb & Another; S v Eixab* 1997 NR 254 (HC) (sections 27(1), 30(1)(a), 40(1)(a)).

Atmospheric Pollution Prevention Ordinance 11 of 1976.

Summary: This Ordinance provides for the prevention of air pollution.

Amendments: This Ordinance is affected by the Health Act 21 of 1988, which made it applicable to all of SWA.

Regulations: The entire area of Namibia, with the exception of East Caprivi, is proclaimed as a controlled area for the purposes of section 4(1)(a) of the Ordinance in GN 309/1976.

Prevention and Combating of Pollution of the Sea by Oil Act 6 of 1981, as amended in South Africa to Namibian independence.

Summary: This Act prohibits the discharge of oil from ship, tanker or off-shore installation and gives the state certain powers to prevent such pollution and to deal with the removal of oil spills.

Applicability to SWA: RSA Proclamation 93/1985 makes the Act “and all amendments thereof” applicable to SWA from 7 June 1985.

Transfer of administration to SWA: The relevant transfer proclamation is the Executive Powers (Transport) Transfer Proclamation (AG 14/1989), dated 15 March 1978). However, section 3(1)(e) of the transfer proclamation excludes this Act from the operation of the General Proclamation, meaning that the administration of the Act was not transferred to SWA.

Amendments: Act 24/1991 amends sections 1, 7, 8, 9, 12, 19, 20, 21, 27 and 30; repeals section 26; and substitutes certain expressions to make the Act consistent with an independent Namibia and to abolish the Oil Pollution Prevention Fund. The Namibian Ports Authority Act 2 of 1994 amends section 21 of the Act.

Game Products Trust Fund Act 7 of 1997.

Summary: This Act establishes a Game Products Trust Fund to support the conservation and management of wildlife resources and rural development. It also establishes a Game Products Trust Fund Board. The Act came into force on 1 September 1998 (GN 196/1998, GG 1927).

Forest Act 12 of 2001.

Summary: This Act consolidates the laws relating to the use and management of forests and forest produce, provides for the control of forest fires and creates a Forestry Council. It replaces the Preservation of Bees and Honey Proclamation (Proc. 1/1923), the Preservation of Trees and Forests Ordinance 37 of 1952 and the *Forest Act 72 of 1968*. It came into force on 15 August 2002 (GN 138/2002, GG 2793).

Environment Investment Fund of Namibia Act 13 of 2001.

Summary: This Act establishes an Environmental Investment Fund of Namibia to be used to support sustainable environmental and natural resource management. It will come into operation on a date set by notice in the *Government Gazette*.

INTERNATIONAL LAW

International Convention on Civil Liability for Oil Pollution Damage, 1969

accession: 9 October 2001 (source: Parliament)

International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971, as replaced by the 1992 Protocol

accession: 9 October 2001

(source: Parliament; International Maritime Organisation, <http://www.imo.org/home.asp>)

Convention Concerning the Protection of the World Cultural and Natural Heritage, 1972

accession: 6 April 2000 (source: www.epi.freedom.org/whtrty.htm)

World Heritage Convention, 1975

accession: 6 April 2000 (source: www.unesco.org/whc)

International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto

accession: 9 October 2001 (source: Parliament)

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), 1973

accession: 18 December 1990; effective: 18 March 1991

(source: <http://www.cites.org/eng/parties/alphabet.shtml>; <http://sedac.ciesin.org/>)

Amendment to Article XI of the Convention, Bonn (Germany), 22 June 1979

(entered into force on 13 April 1987)

accession: 18 December 1990, effective 18 March 1991

(source: <http://www.cites.org/eng/parties/bonn.shtml>)

Namibia has NOT agreed to the following amendment:

* *Amendment to Article XXI of the Convention, Gaborone (Botswana), on 30 April 1983* (not yet in force internationally as of 20 January 2005).

Vienna Convention for the Protection of the Ozone Layer, 1985

accession: 20 September 1993; effective date: 20 December 1993

(source: <http://sedac.ciesin.org/>)

Montreal Protocol on Substances that Deplete the Ozone Layer, 1987

accession: 20 September 1993; effective date: 20 December 1993

(source: <http://sedac.ciesin.org/>)

Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, Adopted at the Second Meeting of the Parties at London on 29 June 1990

ratification: 6 November 1997

Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, Adopted at the Fourth Meeting of the Parties at Copenhagen on 25 November 1992
ratification: 20 May 2003

Namibia has NOT agreed to the following amendments:

- * * *Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, Adopted by the Ninth Meeting of the Parties at Montreal on 17 September 1997* (came into force internationally on 10 November 1999)
- *Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, Beijing, 3 December 1999* (came into force internationally as of 25 February 2002)

Convention on Wetlands of International Importance, especially as Waterfowl Habitat, 1971 (Ramsar Convention)

effective date in respect of Namibia: 23 December 1995

(source: Environmental Treaties and Resource Indicators Service, <http://sedac.ciesin.org/entri>.)

Protocol to amend the Convention on Wetlands of International Importance especially Waterfowl Habitat, 1982 (came into force 1 October 1986)

accession: 23 December 1995

(sources: Environmental Treaties and Resource Indicators Service,

<http://sedac.ciesin.org/entri>;

International Environmental Policy Reference Guide

<http://environment.harvard.edu/guides/intenvpol/indexes/treaties/RAMSAR.html#prot>)

Amendments to Article 6 and 7, 1987

accession: 23 December 1995

(source: Environmental Treaties and Resource Indicators Service, <http://sedac.ciesin.org/entri>

International Environmental Policy Reference Guide

<http://environment.harvard.edu/guides/intenvpol/indexes/treaties/RAMSAR.html#prot>)

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 1989

accession: 15 May 1995; effective date: 13 August 1995 (source: <http://sedac.ciesin.org/>)

On 31 January 1995, the Government of Egypt informed the Secretary-General that its instrument of accession should have been accompanied by three declarations, one of which concerns Namibia. These declarations, were not transmitted to the Secretary-General at the time the instrument of accession. In keeping with the depositary practice followed in similar cases, the Secretary-General proposed to receive the declarations in question for deposit in the absence of any objection on the part of any of the Contracting States, either to the deposit itself or to the procedure envisaged, within a period of 90 days from the date of their circulation (i.e. 17 July 1995). However, the Secretary-General received several objections, meaning that the declarations were not accepted for deposit. Namibia itself did not make any declarations at the time of accession.

Third Declaration

The Governments of Bahrain, Belgium, Benin, Côte d'Ivoire, Denmark, Egypt, the Federal Republic of Germany, Finland, France, the German Democratic Republic, Ghana, Greece, Hungary, Italy, Jordan, Kenya, Kuwait, Lebanon, Luxembourg, Malaysia, Malta, Namibia, Netherlands, Niger, Norway, the Philippines, Portugal, Saudi Arabia, Senegal, Sweden, Switzerland, Turkey, the United Arab Emirates and the United Kingdom of Great Britain and Northern Ireland. Sweden, Switzerland, Turkey, the United Arab Emirates and the United Kingdom of Great Britain and Northern Ireland, as well as the Commission of the European Union, which will sign the Convention and/or the final document referring to the Control of Transboundary

Movements of Hazardous Wastes and their Disposal, (referred to hereinafter as "the Convention"),

Concerned that the transboundary movement of hazardous wastes constitutes a great danger to the health of both humans and the environment,

Considering that the developing countries have a limited ability to manage wastes, especially hazardous wastes, in an environmentally sound manner,

Believing that a reduction in the production of hazardous wastes and their disposal in environmentally sound conditions in the country which exports them must be the goal of waste management policy,

Convinced that the gradual cessation of transboundary movements of hazardous wastes will undoubtedly be a major incentive to the development of appropriate national facilities for the disposal of wastes,

Recognizing the right of every State to ban the import to or export from its territory of hazardous wastes,

Welcoming the signature of the Convention,

Believing it necessary, before applying the provisions of the Convention to impose immediate and effective control on transboundary movement operations, especially to developing countries, and to reduce them,

Declare the following:

- 1. The signatories to this Convention affirm their strong determination that wastes should be disposed of in the country of production.*
- 2. The signatories to this Convention request States which accede to the Convention to do so by making every possible effort to effect a gradual cessation of the import and export of wastes for reasons other than their disposal in facilities which will be set up within the framework of regional cooperation.*
- 3. The signatories to this Convention will not permit wastes to be imported to or exported from countries deficient in the technical, administrative and legal expertise in administering wastes and disposing of them in an environmentally sound manner.*
- 4. The signatories to this Convention affirm the importance of assistance to develop appropriate facilities intended for the final disposal of wastes produced by countries referred to in paragraph 3 above.*
- 5. The signatories to this Convention stress the need to take effective measures within the framework of the Convention to enable wastes to be reduced to the lowest possible level and to be recycled.*

Namibia has NOT agreed to the following amendment:

* *Amendment to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, 1995 (not yet in force internationally).*

Agreement for the Establishment of Southern African Centre for Ivory Marketing (SACIM), 1991

in force in Namibia: 20 June 1991

(source: Environmental Treaties and Resource Indicators Service, <http://sedac.ciesin.org/entri>.)

Note: *The name SACIM was changed to the Southern African Convention for Wildlife Management (SACWM) in 1996. (source: www.art.org.uk/newsletter/1996_09_expands.html)*

Framework Convention on Climate Change, 1992

signature: 12 June 1992

ratification: 16 May 1995; effective date: 14 August 1995 (source: <http://sedac.ciesin.org/>)

Kyoto Protocol, 1997

ratification approved by Parliament: 12 November 2002

ratified: 4 September 2003 (source: <http://untreaty.un.org>)

Convention on Biological Diversity, 1992

signature: 12 June 1992

ratification: 16 May 1997

Cartegena Protocol on Biosafety, to the Convention on Biological Diversity, Montreal, 2000

(came into force internationally as of 11 September 2003)

(source: <http://untreaty.un.org>)

signature: 24 May 2000 (source: <http://untreaty.un.org>)

ratification approved by Parliament: 29 September 2004
(source: Ministry of Foreign Affairs)

United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, 1994

signature: 24 October 1994

ratification: 16 May 1997

Convention on the Law of the Non-Navigational Uses of International Watercourses, 1997

signature: 19 May 2000

ratification: 29 August 2001

Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, 1998

(came into force internationally on 24 February 2004)

signature: 11 September 1998; not yet ratified

SADC Protocol on Shared Watercourse Systems in the Southern African Region, 1995

signature: 28 August 1995

ratification: 5 June 1998 (source: Ministry of Foreign Affairs)

SADC Revised Protocol on Shared Watercourses, 2000

(came into force within SADC on 22 September 2003) (source: <http://www.sadc.int>)

signature: 7 August 2000

ratification: 11 September 2001 (source: Ministry of Foreign Affairs)

SADC Protocol on Wildlife Conservation and Law Enforcement, 1999

(came in force within SADC on 30 November 2003) (source: <http://www.sadc.int>)

signature: 18 August 1999

ratification: 14 January 2000 (source: <http://www.satradehub.org/reports/>; Ministry of Foreign Affairs)

SADC Protocol on Forestry, 2002

(not yet in force within SADC as of 10 February 2003)

signature: 3 October 2002

not yet ratified as of June 2003

Agreement between the governments of the Republic of Angola, the Republic of Botswana, and the Republic of Namibia on the establishment of a permanent Okavango river basin water commission (OKACOM, Windhoek, 16 September 1994

effective date: 15 September 1994

Agreement between the Governments of the Republic of Botswana, the Kingdom of Lesotho, the Republic of Namibia and the Republic of South Africa on the Establishment of the Orange-Sengou River Commission

ratification approved by Parliament: 19 June 2001 (source: Ministry of Foreign Affairs)

letter of notification: 2 August 2001 (source: Ministry of Foreign Affairs)

International Treaty on Plant Genetic Resources for Food and Agriculture, 2001

signature: 9 November 2001

ratification approved by Parliament: 23 June 2004. (source: Parliament)

ratification: 7 October 2004

(source: <http://www.fao.org/Legal/TREATIES/033s-e.htm>)

See also **AGRICULTURE**.

See also **ANIMALS**.

See also Namibia Wildlife Resorts Company Act 3 of 1998 (**COMPANIES**).

See also **HEALTH**.

See also Labour Act 6 of 1992 (section 97: hazards extending beyond workplace) (**LABOUR**).

See also **LAND**.

See also **MARINE AND FRESHWATER RESOURCES**.

See also **MINING AND MINERALS**.

See also **SEA AND SEASHORE**.

See also Controlled Game Products Proclamation 42 of 1980 and Foreign Investments Act 27 of 1990 (**TRADE AND INDUSTRY**).

See also **WATER**.