

EXPLOSIVES

Explosives Act 26 of 1956, as amended in South Africa to April 1978 

Summary: This Act ([SA GG 5676](#)) regulates the manufacture, storage, sale, transport, import, export, use and possession of a wide range of explosives.

Repeals: The Act repeals the *Explosives Act 8 of 1911*, as amended.

Applicability to SWA: Section 31A, which was inserted by *Act 74 of 1972*, states “This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.”

Transfer of administration to SWA: The administration of this Act was transferred to SWA by the Executive Powers (Commerce) Transfer Proclamation (AG 28/1978), dated **28 April 1978**. At that time, the Act was administered in respect of SWA by the Minister of Economic Affairs.

In the original Act, “Minister” was defined as the Minister of Economic Affairs (section 1). In South Africa, RSA GN R.661/1978 ([RSA GG 5960](#)), published on 31 March 1978, assigned the administration of the Act to the Minister of Police with effect from 1 April 1978. However, this Government Notice was issued in terms of the South African *Interpretation Act 33 of 1957*, which never applied to SWA. In South Africa, the *Explosives Amendment Act 5 of 1981* substituted the Minister of Police for the Minister of Economic Affairs, but this amendment was made after the date of transfer and so did not apply to SWA. This is underscored by the fact that the Executive Powers (Commerce) Transfer Proclamation makes explicit reference to the transfer of administration of the Explosives Act.

Section 3(1)(c) of the transfer proclamation excluded the reference to the “Republic” in the Act from the operation of section 3(1) of the General Proclamation.

None of the amendments to the Act in South Africa after the date of transfer were made expressly applicable to SWA (*Act 5/1981*, *Act 18/1983* and *Act 97/1986*).

In South Africa, the *Application of Certain Laws in Namibia Abolition Act 56 of 1991* removed the references to SWA from the Act as it applies in South Africa.

Amendments: The following pre-independence South African amendments were applicable to SWA –

- *Explosives Amendment Act 79 of 1962* ([RSA GG 280](#))
- *Explosives Amendment Act 21 of 1963* ([RSA GG 456](#))
- *Mines and Works and Explosives Amendment Act 46 of 1964* ([RSA GG 807](#))
- *Explosives Amendment Act 20 of 1965* ([RSA GG 1066](#))
- *Explosives Amendment Act 12 of 1967* ([RSA GG 1665](#))
- *Explosives Amendment Act 74 of 1972* ([RSA GG 3573](#))
- *Explosives Amendment Act 35 of 1975* ([RSA GG 4698](#))
- *Explosives Amendment Act 101 of 1977* ([RSA GG 5638](#)).

Act 16/1986 ([OG 5238](#)) amends the Act substantially.

The Police Act 19 of 1990 ([GG 113](#)) amends the definition of “Minister” in section 1.

Note that the original *Gazette* was replaced by another GG 113 with the same date; the correct version states at the top: “*This Government Gazette replaces Government Gazette No. 113 of 3 December 1990.*”

Savings: Enactments issued under the repealed *Explosives Act 8 of 1911* survive pursuant to section 32(2):

Any proclamation, regulation, notice, approval, authority, licence, permit, certificate or document issued, made, given or granted and any other action taken under any provision of a law repealed by sub-section (1), shall be deemed to have been issued, made, given, granted or taken under the corresponding provision of this Act.

Regulations: Regulations issued under the current Act are contained in RSA Government Notice R.1604/1972 ([RSA GG 3648](#)), as corrected in respect of both English and Afrikaans texts by RSA GN R.474/1973 ([RSA GG 3826](#)) and as amended by –

RSA GN R.2371/1973 ([RSA GG 4103](#))

RSA GN R.155/1977 ([RSA GG 5395](#))

RSA GN R.2153/1977 ([RSA GG 5779](#)) (as corrected by RSA GN R.2497/1977 ([RSA GG 5825](#)) with respect to the Afrikaans text only)

RSA GN R.2135/1979 ([RSA GG 6665](#))

RSA GN R.2292/1979 ([RSA GG 6706](#))

AG GN 49/1989 ([OG 5761](#))

GN 51/2002 ([GG 2717](#)).¹²⁷

No other surviving regulations issued under the current Act or the repealed Act have been located.

Notices: Substances declared to be explosives are listed in Proc. 136/1961 ([SA GG 6694](#)) (Zinc-dust) and Proc. 221/1977 ([RSA GG 5739](#)) (which repeals Proc. 30/1956 ([SA GG 5630](#))).

Exemptions are contained in RSA GN 1037/1962 ([RSA GG 280](#)), which exempts the defence force of the United Kingdom from the provisions of the Act relating to the importation, storage, use or transport of explosives.

RSA GN R.1603/1972 ([RSA GG 3648](#)) lists **authorised explosives**, repealing RSA GN R.1151/1966. (RSA GN R.2372/1973 ([RSA GG 4103](#)) amends RSA GN R.1603/1972, but this amendment affects only the Afrikaans text.)

Cases: *S v Haimo* 1993 NR 301 (HC).

Commentary: Legal Assistance Centre, “Use of force by law enforcement officials in Namibia”, 2019, available [here](#).

INTERNATIONAL LAW

**Comprehensive Nuclear-Test-Ban Treaty, 1996*

Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, 1972

Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, 1993

Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (Ottawa Treaty), 1997

International Convention for the Suppression of Acts of Nuclear Terrorism, 2005

International Convention for the Suppression of Terrorist Bombings, 1997

¹²⁷ These 1972 regulations repeal the regulations contained in RSA GN R.2131/1962 (RSA GG 409), as amended by RSA GN R.848/1965, RSA GN R.568/1966, RSA GN R.753/1966 and RSA GN R.69/1968 (as corrected by RSA GN R.230/1968).

The 1962 regulations replace the regulations published in SA GN 876/1939 (SA GG 2655), as amended by SA GN 1141/1939, SA GN 1848/1940, SA GN 1900/1940, SA GN 1606/1941 and RSA GN 1273/1961.

The 1939 regulations repeal the regulations published in SA GN 1923/1911, as amended by SA GN 1425/1912, SA GN 1190/1913, SA GN 1933/1913, SA GN 189/1920, SA GN 1624/1920, SA GN 381/1922, SA GN 49/1924, SA GN 151/1925, SA GN 1468/1925, SA GN 1805/1925, SA GN 1631/1927, SA GN 1697/1927, SA GN 1881/1927, SA GN 1753/1928 and SA GN 1114/1931.

See also **ARMS AND AMMUNITION**.

See also *Riotous Assemblies Act 17 of 1956* (power to regulate transport of explosives) (**CRIMINAL LAW AND PROCEDURE**).