

## **FINANCE AND DEVELOPMENT**

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***Finance and Financial Adjustments Acts Consolidation Act 11 of 1977***, in part, as amended in South Africa prior to Namibian independence.

**Summary:** This Act consolidates a number of previous laws dealing with a variety of financial matters. Only sections 5, 9(1), 41 and 47 of the Act were relevant to SWA, and none of these appear to have ongoing effect.

**Applicability to SWA:** Only certain sections of the Act were ever relevant or applicable to SWA.

Section 5 requires the Administration of South West Africa to pay a contribution toward certain pensions.

Section 9(1) exempts Black governments, assemblies, councils and authorities from payment of duties, fees and other taxes, and section 9(2) states “This section and any amendment thereof shall apply also in territory of South West Africa, including the Eastern Caprivi Zipfel.”

Section 41 allows money owed on a loan from the Administration of South West Africa to a magistrate of Rehoboth to be used for the promotion of the welfare of the residents of the “Rehoboth Gebiet”.

Section 47 requires that the Revenue Fund of South West Africa repay amounts that were paid into it from inactive Post Office Savings Accounts under a previous SWA Ordinance.

***Exchequer and Audit Proclamation, RSA Proclamation 85 of 1979***, as amended by *RSA Proclamation R.101 of 1979*.

**Summary:** The only provision of this Proclamation applicable to Namibia after independence is section 3 (as amended), which establishes a Central Revenue Fund for the deposit of all revenue as defined in section 1 of the State Finance Act 1 of 1982, which has since been replaced by the State Finance Act 31 of 1991.

**Applicability to SWA:** The original Proclamation applied the *Exchequer and Audit Act 66 of 1975* to SWA. However, this Act was repealed in SWA by the State Finance Act 1 of 1982.

**Amendments:** Most of the Proclamation is repealed by the State Finance Act 1 of 1982. Section 3 is amended by the National Assembly and Council of Ministers Proclamations Repeal Proclamation (AG 3/1983).

**Exchequer and Audit Amendment Proclamation, AG 35 of 1979.**

**Summary:** The sections of this Proclamation which remain in force establish the Central Revenue Account and the Post Office Account for revenue from the Directorate of Posts and Telecommunications.

**Amendments:** Numerous sections of the Proclamation are repealed by the Posts and Telecommunications Companies Establishment Act 17 of 1992.

### **Development Fund of South West Africa/Namibia Act 29 of 1987.**

**Summary:** This Act established the Development Fund of South West Africa/Namibia. It does not appear to have any ongoing effect.

### **State Finance Act 31 of 1991.**

**Summary:** This Act regulates the treatment of state moneys, stamps, securities, forms having a face value or a potential value, equipment, stores and other movable goods owned or leased by the state. It also covers the defrayal of expenditure on services of the state; payments made from bank accounts maintained in respect of state monies; the recovery of losses or damages caused to the state; the powers and duties of the Treasury and the Auditor-General; the raising and repayment of loans by the state; the determination of interest rates in respect of certain debts due to the state; and the furnishing of guarantees, indemnities and securities by the government in respect of certain statutory institutions, banks, companies or juristic persons. It replaces the State Finance Act 1 of 1982.

**Amendments:** The Act is amended by the Public Service Act 13 of 1995.

**Directives:** Administrative Directive 1/2006 relating to over-expenditure is contained in GN 56/2006 (GG 3611). It calls attention to sections 6, 9, 16 and 17 of the Act.

**Cases:**

*S v Skivikua* 1991 NR 101 (HC)

*Eimbeck v Inspector-General of the Namibian Police & Another* 1995 NR 13 (HC)(sections 1(1), 6, 7, 17 and 21).

### **State Repudiation (Cultura 2000) Act 32 of 1991.**

**Summary:** This Act provides for the repudiation of certain actions taken under laws in force prior to independence, pursuant to Article 140(3) of the Constitution. It came into force on 12 March 1992 (Proc. 5/1992, GG 366).

**Regulations:** Proc. 5/1992 (GG 366) assigned the administration of the Act to the Minister of Finance.

**Cases:** Much of the Act was declared unconstitutional in *Cultura 2000 v Government of the Republic of Namibia* 1992 NR 110 (HC) and *Government of the Republic of Namibia v Cultura 2000 & Another* 1993 NR 328 (SC).

### **Assistance Fund of South West Africa Repeal Act 13 of 1992.**

**Summary:** This Act repeals the Assistance Fund of South West Africa Act 1 of 1979 and provides that all moneys in the Assistance Fund be transferred to the State Revenue Fund. It has no other ongoing effect.

## **Namibia Development Corporation Act 18 of 1993.**

**Summary:** This Act establishes the Namibia Development Corporation and sets forth its powers, duties and functions. The Act came into force on 1 September 1993 (GN 99/1993, GG 707). It replaces the First National Development Corporation Proclamation (AG 61/1978).

This Act is repealed by section 22 of the Development Bank of Namibia Act 8 of 2002, but that section has never been brought into force.

**Cases:** *Namibia Development Corporation v Visagie* NLLP 1998 (1) 166 NLC (section 29 and personnel regulations); *Visagie v Namibia Development Corporation* 1999 NR 219 (HC) (appeal from Labour Court judgement which discusses the personnel regulations).

## **Development Bank of Namibia Act 8 of 2002.**

**Summary:** This Act establishes a Development Bank of Namibia to promote economic growth and social development through the financing of key development activities. It came into force on 15 May 2003, with the exception of sections 21 and 22 (GN 99/2003, GG 2978). Section 21 of the Act came into force on 14 July 2005 (GN 76/2005, GG 3459). Section 22, which repeals the Namibia Development Corporation Act 18 of 1993, was not yet in force as of 19 April 2010. (This was confirmed by the Development Bank of Namibia, which also reports that the Ministry of Finance transferred the Development Fund of Namibia assets to the Development Bank of Namibia on 14 July 2005.)

Note: The Namibia Development Corporation informed Namlex researchers that government policy changed in October 2007, with the result that section 22 is not expected to come into force. It is anticipated that the Namibia Development Corporation Act 18 of 1993 may be revised instead, although it is possible that a study will first be conducted to determine how the Development Fund will be handled.

**Amendments:** The State-owned Enterprises Governance Act 2 of 2006, which was brought into operation by Proc. 13/2006 (GG 3733), amends section 9 and 13.

**Regulations:** GN 77/2005 (GG 3459) transfers the assets, liabilities, rights and obligations of the Development Fund of South West Africa/Namibia to the Development Bank of Namibia with effect from 14 July 2005.

**Cases:** The following cases deal with the Namibia Development Corporation Act 18 of 1993, which was replaced (but not yet repealed) by this Act:

*Namibia Development Corporation v Visagie* NLLP 1998 (1) 166 NLC (section 29 and personnel regulations)

*Visagie v Namibia Development Corporation* 1999 NR 219 (HC) (appeal from Labour Court judgement which discusses the personnel regulations).

## **Lotteries Act 15 of 2002.**

**Summary:** This Act establishes a Lotteries Board for the promotion and conduct of

the National Lottery, and provides for the administration of the National Lottery Trust Fund and the Social Upliftment Fund. The National Lottery is to be conducted for the benefit of social welfare, sport and cultural activities and for the social upliftment of the Namibian people. The Act will come into force on a date set in the *Government Gazette*.

**Related laws:** See *Gambling Act 51 of 1965* (CRIMINAL LAW AND PROCEDURE).

## **INTERNATIONAL LAW**

### ***Articles of Agreement of the International Monetary Fund, 1944***

accession: 25 September 1990 (source: [www.imf.org/](http://www.imf.org/))

### ***Agreement Establishing the African Development Bank, 1963, as amended by resolution 05-79 adopted by the Board of Governors on 17 May 1979 (concluded at Lusaka on 7 May 1982)***

accession: 10 April 1994

### ***Agreement Establishing the International Fund for Agricultural Development, 1976***

accession: 16 October 1992

### ***Articles of Agreement of the International Bank for Reconstruction and Development, 1978***

accession: 25 September 1990

### ***Constitution of the United Nations Industrial Development Organization, 1979***

accession: 21 February 1986

### ***Agreement to Establish the South Centre, 1994***

signature: 30 September 1994; ratification: 24 October 2000 (source: Parliament)

### ***Treaty Establishing the African Economic Community, 1991***

ratification: 20 December 1991 (source: Ministry of Foreign Affairs)

### ***Agreement Establishing the NORساد Fund and the NORساد Agency***

(Nordic-Southern African Development Community)

accession: 15 April 1992 (source: Ministry of Foreign Affairs)

### ***Agreement for the Establishment of the African Export-Import Bank***

accession: 2003 (source: Ministry of Foreign Affairs)

### ***SADC Protocol on Finance and Investment, 2006***

(entered into force within SADC 16 April 2010) (source: SADC)

signature: 18 August 2008 (source: SADC)

ratification approved by Parliament: 2 March 2010 (source: Parliament)

ratification: 16 March 2010 (source: SADC)

**Note:** The UN Treaty Date Base lists Namibia as a party to the following agreement by virtue of territorial application prior to independence. This may no longer have effect in independent Namibia.

\* *Agreement on German external debts, 1953* (territorial application as of 1 January 1954, with effect from 1 January 1954).

See also Agricultural Bank of Namibia Act 5 of 2003 (**AGRICULTURE**).

See also Environment Investment Fund of Namibia Act 13 of 2001 (**ENVIRONMENT**).

See also **FINANCIAL INSTITUTIONS**.

See also National Housing Enterprise Act 5 of 1993 and National Housing Development Act 28 of 2000 (**HOUSING**).

See also **REVENUE**.

See also Trust Fund for Regional Development and Equity Provisions Act 22 of 2000 (**REGIONAL AND LOCAL GOVERNMENT**).

See also Road Fund Administration Act 18 of 1999 (**ROADS AND ROAD TRANSPORTATION**).

See also **TENDERS**.

See also the National Youth Service Act 6 of 2005 (Youth Service Fund) and the National Youth Council Act 6 of 2005 (Youth Development Fund) (**YOUTH**).