

## FINANCIAL INSTITUTIONS

---

***Financial Institutions (Investment of Funds) Act 39 of 1984***, as amended in South Africa prior to Namibian independence.

**Summary:** This Act governs the administration of funds and trust property by financial institutions.

**Applicability to SWA:** Section 10 states “This Act and any amendment thereof shall also apply in the territory of South West Africa, including the Eastern Caprivi Zipfel.”

***Inspection of Financial Institutions Act 38 of 1984***, as amended in South Africa prior to Namibian independence.

**Summary:** This Act provides for inspection of the affairs of insurers, pension fund organisations, friendly societies, medical schemes and unit trust schemes.

**Applicability to SWA:** Section 10 states “This Act and any amendment thereof also apply to the territory of South West Africa, including the Eastern Caprivi Zipfel.”

**Amendments:** The Building Societies Act 2 of 1986 repeals the portions of this Act relating to building societies. The Married Persons Equality Act 1 of 1996 substitutes section 62. The Banking Institutions Act 2 of 1998 repeals section 11(1). The Namibia Financial Institutions Supervisory Authority Act 3 of 2001 amends sections 1 and 2.

### **Building Societies Act 2 of 1986.**

**Summary:** This Act regulates the registration, management and dissolution of building societies.

**Amendments:** Prior to independence, this Act was amended by Act 15/1987.

Act 25/1990 amends sections 1, 2 and 49 and substitutes certain words and expressions.

Act 8/1992 amends section 38 so as to remove the prescribed limitation on the amount which may be advanced by a building society on immovable property used for residential purposes.

Act 25/1994 substitutes the title of Chapter VII and adds a new section 52A.

**Regulations:** The application of the Act is affected by GN 61/1990 (role of the Central Bank), GN 63/1990 (approval to undertake certain business), GN 64/1990 (approval of certain shares and loans as securities), GN 54/1993 and GN 187/1999 (liquid assets).

## Bank of Namibia Act 15 of 1997.

**Summary:** This Act replaces the Bank of Namibia Act 8 of 1990. It provides for the continuation of the Bank of Namibia as a central bank. It also regulates the issue of bank notes and coins, and the monetary system. The Act came into force, with the exception of section 35, on 16 February 1998 (GN 11/1998, GG 1794). Section 35 came into force on 1 June 1998 (GN 117/1998, GG 1872).

**Amendments:** Act 11/2004 amends sections 1, 4, 5, 8, 9, 26, 35, 46 and 56, inserts sections 3A and 3B, substitutes sections 17 and 54.

**Regulations:** Regulations, directives, appointments, etc. made in terms of the previous act continue to be valid in terms of section 60 of the new act.

Liquid assets are addressed in GN 125/1993 (GG 732). The application of the previous act is affected by GN 61/1990, which deals with building societies.

Monetary units and symbols are set forth in Proc. 19/1993 (GG 682), General Notice 339/1996 (GG 1452) and General Notice 8/2000 (GG 2258) (enhanced N\$50 and N\$100 banknotes). However, Proclamation 19/1993 is repealed by Act 11/2004.

Commemorative coins are announced in General Notice 74/1995 (GG 1057), General Notice 125/1995 (GG 1083) General Notice 91/1996 (GG 1308), General Notice 54/1999 (GG 2067) and General Notice 7/2000 (GG 2258).

**Appointments:** The Board is appointed by Proc. 11/1990, Proc. 6/1993 and Proc. 4/2002 (GG 2746). Governors are appointed by Proc. 4/1993 (GG 581) and Proc. 3/1994 (GG 791). A deputy governor is appointed by Proc. 5/1993 (GG 581).

**Cases:** The following cases concern the previous Bank of Namibia Act 8 of 1990-  
*S v Kamapoha* 1994 NR 322 (HC)  
*S v Appelgrein* 1995 NR 118 (HC).

## Banking Institutions Act 2 of 1998.

**Summary:** This Act consolidates and amends the laws relating to banking institutions. It replaces the *Banks Act 23 of 1965*. The Act came into force on 1 April 1998 (GN 63/1998, GG 1827).

**Regulations:** Regulations made in terms of the previous *Banks Act 23 of 1965* survive in terms of section 74(2) of the new Act. Regulations pertaining to fees are contained in GN 75/1998 (GG 1831), which repeals Parts II, III, VI and VII of RSA GN R.2747 of 31 December 1986.

In addition, a number of determinations have been published in terms of the Act:

Appointment, Duties and Responsibilities of Directors and Principal Officers of Banking Institutions	General Notice 119/1998 (GG 1899)
Money Laundering and “Know Your Customer Policy”	General Notice 121/1998 (GG 1899)
Minimum Liquid Assets Requirement	General Notice 124/1998 (GG 1899) General Notice 281/2003 (GG 3078) (repeals General Notice 90/1999)

Minimum Local Assets	General Notice 125/1998 (GG 1899)
Fraud and Other Economic Crime	General Notice 16/1999 (GG 2026)
Compulsory Suspension of Cheque Accounts by Banking Institutions	General Notice 17/1999 (GG 2026)
Disclosure of Bank Charges, Fees and Commissions	General Notice 18/1999 (GG 2026)
Minimum Insurance for Banking Institutions	General Notice 89/1999 (GG 2105)
Appointment, Duties and Responsibilities of Independent Auditors	General Notice 280/1999 (GG 2190)
Asset Classification, Suspension of Interest and Provisioning	General Notice 278/2003 (GG 3078) (repeals General Notice 120/1998)
Limits and Exposures to Single Borrowers	General Notice 279/2003 (GG 3078) (repeals General Notice 122/1998)
Capital Adequacy	General Notice 280/2003 (GG 3078) (repeals General Notice 123/1998)
Limits on Inter-Bank Placements	General Notice 282/2003 (GG 3078) (repeals General Notice 122/1998)
Foreign Currency Exposure Limits	General Notice 283/2003 (GG 3078) (repeals and replaces any previous regulation or guideline issued by the bank in regard to foreign exchange positions)

### **Namibia Financial Institutions Supervisory Authority Act 3 of 2001.**

**Summary:** This Act establishes an authority to exercise supervision over the business of financial institutions and services. It came into force on 14 May 2001 (GN 85/2001, GG 2528).

**Regulations:** Irregular or undesirable practices pertaining to registered medical aid funds are declared in GN 121/2002 (GG 2774).

The Road Fund Administration is designated as an institution which may issue loan stock in General Notice 202/2002 (GG 2796).

**Appointments:** Members of the Board are announced in GN 124/2001 (GG 2552).

**Levies:** Provisions pertaining to levies on financial institutions are contained in GN 82/2002 (GG 2746) as amended by GN 154/2002 (GG 2804), which is replaced by GN 78/2003 (GG 2947) as amended by GN 64/2004 (GG 3181), GN 160/2004 (GG 3254) and GN 161/2004 (GG 3254).

### **Payment System Management Act 18 of 2003.**

**Summary:** This Act provides for the management, administration, operation, regulation, oversight and supervision of payment, clearing and settlement systems in Namibia. It came into force on 15 May 2004 (GN 111/2004, GG 3207).

## **INTERNATIONAL LAW**

*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

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

See also **FINANCE AND DEVELOPMENT**.

See also Posts and Telecommunications Companies Establishment Act 17 of 1992 and Posts and Telecommunications Act 19 of 1992 with regard to the Post Office Savings Bank. (**POSTS AND TELECOMMUNICATIONS**).