

HEALTH

Ordinance for Prevention and Combating of Alcoholism and Anti-Social Conduct 11 of 1965

Summary: This Ordinance ([OG 2614](#)) provides for the certification of institutions for the treatment of person addicted to drink, drugs, gambling, etc. and the detention of such persons for treatment. It was brought into force on 1 September 1965 by Proc. 78/1965 ([OG 2674](#)).

Amendments: Section 63(1) of the *Abuse of Dependence-Producing Substances and Rehabilitation Centres Act 41 of 1971* states:

Subject to the provisions of subsections (2) and (3), the Retreats and Rehabilitation Centres Act, 1963 (Act No. 86 of 1963), is, except in so far as it is necessary for the administration thereof by the Minister of Coloured Affairs in terms of Proclamation No. 57 of 1964, and the Ordinance for the Prevention and Combating of Alcoholism and Anti-social Conduct, 1965 (Ordinance No. 11 of 1965), of the territory, hereby repealed.

Although the wording may seem at first glance to be somewhat ambiguous, this provision is understood to mean that Act 86 of 1963 is repealed – except insofar as that Act is relevant to the administration of the other two laws cited (Proc. 57 of 1964 and Ord. 11 of 1965). This interpretation is supported by the use of the verb “is...repealed” – which indicates that the provision refers to only a single repealed law – and by the placement of commas in the provision. Thus, it appears that Act 41 of 1973 does *not* repeal this Ordinance as has been assumed in some sources.

Regulations: Regulations are contained in GN 182/1965 ([OG 2670](#)). No amendments have been located.

International Health Regulations Act 28 of 1974, as amended to December 1977

Summary: This Act ([RSA GG 4219](#)) applies the International Health Regulations adopted by the World Health Assembly in 1969 to South Africa.

On 25 May 1951 WHO Member States adopted the *International Sanitary Regulations – World Health Organisation Regulations No. 2*, which entered into force internationally on 01 October 1952 (Source: UNTC). In accordance with Article 106 – 110 of the Regulations entered into force in the Union of South Africa (including the territory of South West Africa) upon acceptance on the same date 01 October 1952 (Source: UNTC).

The International Sanitary Regulations were replaced by the *International Health Regulations* in 1969. The 1969 Regulations were subject to minor modifications in 1973 and 1981.

The 1969 International Health Regulations were replaced in turn by the *International Health Regulations, 2005*, which entered into force internationally on 15 June 2007 (source: WHO). Namibia is bound by these 2005 Regulations from that date in accordance with Articles 21(a) and 22 of the WHO Constitution.

According to Article 58 of these regulations, headed “*International sanitary agreements and regulations*”, the 2005 Regulations replace *inter alia* the International Sanitary Regulations, 1951 and the Additional Regulations of 1955, 1956, 1960, 1963 and 1965, as well as the International Health Regulations of 1969 and the amendments of 1973 and 1981.

However, this South African statute, which is still in force in Namibia, incorporates the 1969 version of the International Health Regulations directly into Namibian domestic law.

For more information on the international context, see the Namlex Appendix entry on the *Constitution of the World Health Organization (WHO), 1946*.

Applicability to SWA: Section 1 defines “Republic” to include “the territory of South West Africa”. Section 5 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 (Health) Transfer Proclamation (AG 14/1977), dated **1 December 1977**. There was only one amendment to the Act in South Africa after the date of transfer and prior to Namibian independence – the *Transfer of Powers and Duties of the State President Act 97 of 1986* ([RSA GG 10438](#)) – which was not made expressly applicable to SWA.

Amendments: The regulations in this law are amended by RSA Proc. R.139/1975 ([RSA GG 4741](#)).

Regulations: Pre-independence regulations have not yet been comprehensively researched.

Supplementary regulations are contained in RSA GN R.2001/1975 ([RSA GG 4878](#)), and amended by RSA GN R.2069/1978 ([RSA GG 6188](#)) and RSA GN R.790/1980 ([RSA GG 6954](#)). The 1975 and 1980 notices specifically mention that they are being effected with the consent of the Administrator-General for the Territory of South-West Africa and that they also apply in the Territory. The 1978 notice makes no mention of SWA and thus – being after the date of transfer – would seem not to be applicable to SWA. These regulations have not yet been processed for inclusion in the database of annotated laws.

Notices: Designations of approved ports and airports are contained in RSA Proc 241/1975 ([RSA GG 4877](#)).

Foodstuffs, Cosmetics and Disinfectants Ordinance 18 of 1979

Summary: This Ordinance ([OG 4011](#)) controls the sale, manufacture and import of foodstuffs, cosmetics and disinfectants. It repeals the Food, Drugs and Disinfectants Ordinance 36 of 1952.

Amendments: This Ordinance originally authorised local authorities to enforce it locally. It was extended to all of SWA by the Health Act 21 of 1988 ([OG 5651](#)).

Regulations: Pre-independence regulations have not yet been comprehensively researched.

Regulations made in terms of the repealed Food, Drugs and Disinfectants Ordinance 36 of 1952 survive pursuant to section 28(2) of this Ordinance:

Any proclamation, regulation, notice, authority or order issued, made or granted, or any other thing done in terms of any provision of the said Ordinance, shall, in so far as it is not inconsistent with the provisions of this Ordinance, be deemed to have been issued, made, granted or done in terms of the corresponding provision of this Ordinance.

Regulations relating to the standards of food, drugs and disinfectants were made under the repealed Ordinance and are contained in GN 195/1968 ([OG 2949](#)); they were amended after independence by GN 123/1994 ([GG 883](#)).

Notices: Standards regarding salt and iodised salt are amended in GN 124/1994 ([GG 883](#)).

Related laws: See GN 179/2008 ([GG 4088](#)) for exemptions from the application of section 29 of the

Medicines and Related Substances Control Act 13 of 2003 ([GG 3051](#)) to certain substances approved under this Act.

Public and Environmental Health Act 1 of 2015

Summary: This Act ([GG 5740](#)) provides a framework for a structured uniform public and environmental health system in Namibia. It covers notification, prevention and control of diseases and sexually-transmitted infections; maternal, ante-natal and neo-natal care; water and food supplies; infant nutrition; waste management; health nuisances; public and environmental health planning and reporting. It repeals the *Public Health Act 36 of 1919* ([SA GG 979](#)), the SWA Public Health Proclamation 36 of 1920 ([OG 37](#)) (which made the *Public Health Act 36 of 1919* applicable to South West Africa as well as amending it) and some of its other amendments.⁶⁹ The Act does not amend any other laws, but section 91 states: “If any other law is in conflict or inconsistent with this Act, this Act prevails.”

Part 3 of the Act was brought into force temporarily by the State of Emergency - COVID-19 Regulations, Proclamation 9 of 2020 ([GG 7159](#)) issued pursuant to Article 26(5) of the Namibian Constitution, subsequent to the declaration of a State of Emergency in the whole of Namibia, following a worldwide outbreak of the disease known as Coronavirus Disease 2019 (COVID-19), in Proclamation No. 7 of 2020 ([GG 7148](#)). In addition, these regulations provided that, despite the provisions of section 22(2) of the Act, Covid-19 is deemed to be a “formidable epidemic disease” which necessitates the measures referred to in section 29(1) of the Act.

After the end of the State of Emergency, the Act was brought permanently into force on 17 September 2020 by GN 230/2020 ([GG 7338](#)). The “severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) known as COVID-19” is deemed to be a “formidable epidemic disease” for the purposes of the Act in GN 232/2020 ([GG 7338](#)).

Savings: Section 94 provides as follows:

Anything done under a law repealed by section 95 and which could have been done under a corresponding provision of this Act is deemed to have been done under this Act.

Regulations: The savings clause could include regulations, as regulations on a variety of topics are authorised by this Act. However, pre-independence regulations have not yet been researched.

Public Health Covid-19 General Regulations applicable to the whole of Namibia from 00:00 on 24 September 2020 to 24:00 on 21 October 2020 were contained in GN 233/2020 ([GG 7342](#)), as amended by GN 235/2020 ([GG 7346](#)). These regulations were then amended by GN 256/2020 ([GG 7367](#)) and made applicable as amended from 00:00 on 22 October 2020 to 24:00 on 30 November 2020 (regulation 2(2) as amended). They were again amended by GN 309/2020 ([GG 7404](#)) and made applicable as amended from 1 December 2020 to 24:00 on 25 January 2021 (regulation 2(2) as amended). This version of the regulations was superseded by further amendments made by GN 319/2020 ([GG 7421](#)), with these amended regulations made applicable with effect from 00:00 on 17 December 2020 to 24:00 on 30 December 2020 (regulation 2(2) as amended). This version was again superseded by amendments made by GN 326/2020 ([GG 7429](#)), with these amended regulations made applicable from 00:00 on 24 December 2020 to 24:00 on 13 January 2021 (regulation 2(2) as amended). The regulations were then amended by GN 1/2021 ([GG 7436](#)) and made applicable as amended from 00:00 on 14 January 2021 to 24:00 on 3 February 2021 (regulation 2(2) as amended). They were further amended by GN 9/2021 ([GG 7451](#)) and made applicable as amended from 00:00 on 4 February 2021 to 24:00 on 24 February 2021 (regulation 2(2) as amended). The regulations were again amended by GN 29/2021 ([GG 7467](#)) and made

⁶⁹ Regarding the *Public Health Act 36 of 1919*, the amending Acts repealed are Ord. 50/1957 ([OG 2094](#)), Ord. 35/1958 ([OG 2153](#)), and Ord. 2/1971 ([OG 3147](#)). However, the amendments made by Ord. 7/1932 ([OG 476](#)), Proc. 16/1936 ([OG 676](#)), Proc. 20/1938 ([OG 761](#)) and Ord. 10/1964 ([OG 2565](#)) are not repealed.

applicable as amended from 00:00 on 25 February 2021 to 24:00 on 31 March 2021 (regulation 2(2) as amended). GN 29/2021 was amended by GN 35/2021 ([GG 7472](#)) to change the Government Notice number from 9, as it incorrectly appeared, to 29. The regulations were next amended by GN 54/2021 ([GG 7495](#)) and made applicable as amended from 00:00 on 1 April 2021 to 24:00 on 30 April 2021 (regulation 2(2) as amended).

This amended set of Public Health Covid-19 General Regulations was then replaced by a new set of similar **Public Health Covid-19 General Regulations** contained in Government Notice 91/2021 ([GG 7522](#)), with the new regulations being applicable from 00:00 on 1 May 2021 to 31 May 2021 (regulation 2(2)). These regulations were amended by GN 108/2021 ([GG 7544](#)) and made applicable as amended from 00:00 on 1 June 2021 to 24:00 on 30 June 2021 (regulation 2(2) as amended). They were further amended by GN 128/2021 ([GG 7554](#)) and made applicable as amended from 00:00 on 17 June 2021 to 24:00 on 30 June 2021 (regulation 2(2) as amended). They were further amended by GN 138/2021 ([GG 7568](#)) and made applicable as amended from 00:00 on 1 July 2021 to 24:00 on 31 August 2021 (regulation 2(2) as amended), and again amended by GN 144/2021 ([GG 7576](#)) with no change to the dates of applicability. The regulations were further amended by GN 151/2021 ([GG 7581](#)) and made applicable as amended from 00:00 on 16 July 2021 to 24:00 on 31 July 2021 (regulation 2(2) as amended). They were then further amended by GN 160/2021 ([GG 7593](#)) and made applicable as amended from 00:00 on 1 August 2021 to 24:00 on 14 August 2021 (regulation 2(2) as amended). They were further amended by GN 175/2021 ([GG 7604](#)) and made applicable as amended from 00:00 on 15 August 2021 to 24:00 on 15 September 2021 (regulation 2(2) as amended), and again amended by GN 176/2021 ([GG 7624](#)) with no change to the dates of applicability. The regulations were further amended by GN 205/2021 ([GG 7637](#)) and made applicable as amended from 00:00 on 16 August 2021 to 24:00 on 15 October 2021 (regulation 2(2) as amended). They were further amended by GN 232/2021 ([GG 7662](#)) and made applicable as amended from 00:00 on 16 October 2021 to 24:00 on 15 November 2021 (regulation 2(2) as amended), then amended by GN 246/2021 ([GG 7680](#)) with no change to the dates of applicability. The regulations were further amended by GN 249/2021 ([GG 7686](#)) and made applicable as amended from 00:00 on 16 November 2021 to 24:00 on 15 December 2021 (regulation 2(2) as amended). They were further amended by GN 281/2021 ([GG 7703](#)) and made applicable as amended from 00:00 on 16 December 2021 to 24:00 on 15 January 2022 (regulation 2(2) as amended).

They were further amended by GN 7/2022 ([GG 7726](#)) and made applicable as amended from 00:00 on 16 January 2022 to 24:00 on 15 February 2022 (regulation 2(2) as amended), and then further amended by GN 56/2022 ([GG 7748](#)) and made applicable as amended from 00:00 on 16 February 2022 to 24:00 on 15 March 2022 (regulation 2(2) as amended). The regulations were further amended by GN 85/2022 ([GG 7765](#)) and made applicable as amended from 00:00 on 16 March 2022 to 24:00 on 15 April 2022 (regulation 2(2) as amended), and then again amended by GN 121/2022 ([GG 7788](#)) and made applicable as amended from 00:00 on 16 April 2022 to 24:00 on 15 May 2022 (regulation 2(2) as amended).

Notices: Pre-independence notices which could survive in terms of the savings clause have not been researched.

GN 232/2020 ([GG 7338](#)) declares under section 22(2) of the Act that the “severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) known as COVID-19” is a “formidable epidemic disease” for purposes of the Act.

Cases: *S v Mateus* (CR 16/2022) [2022] NAHCNLD 39 (19 April 2022) (convictions and sentences for violations of Public Health Covid-19 General Regulations set aside due to improperly formulated charge sheets).

SELECTED CASES

LM & Others v Government of the Republic of Namibia 2012 (2) NR 527 (HC).

COMMENTARY

Chantal J Badul & Ann Strode, “LM and Others v Government of the Republic of Namibia: the first sub-Saharan African case dealing with coerced sterilisations of HIV-positive women – Quo vadis?: recent developments”, 13 (1) *African Human Rights Law Journal* 214 (2013).

COMMISSIONS

Commission of Inquiry into Health Services (AG 19/1981)

Commission of Inquiry into Activities, Affairs, Management and Operations of Ministry of Health and Social Service (Proc. 20/2012, [GG 5013](#)).

INTERNATIONAL LAW

Constitution of the World Health Organization (WHO), 1946

Amendments to Articles 24 and 25 of the Constitution of the World Health Organization, 1986

Amendments to Articles 24 and 25 of the Constitution of the World Health Organization, 1998

**Amendment to Article 7 of the Constitution of the World Health Organization, 1965*

**Amendment to Article 74 of the Constitution of the World Health Organization, 1978*

International Convention against Doping in Sport, 2005

Minamata Convention on Mercury, 2013

SADC Protocol on Health, 1999

See also **DISABILITIES**.

See also Atomic Energy and Radiation Protection Act 5 of 2005 (**ENVIRONMENT**).

See also **HEALTH PROFESSIONS**.

See also **HOSPITALS**.

See also **LABOUR** (health and safety at workplaces).

See also **MEDICINE**.

See also **MENTAL HEALTH AND MENTAL DISORDERS**.