

HOSPITALS

Hospitals and Health Facilities Act 36 of 1994

Summary: This Act ([GG 996](#)) consolidates and amends the laws relating to state and private hospitals and health facilities (which are broadly defined to include clinics, pharmacies, laboratories etc). It repeals the Hospitals Ordinance 14 of 1972 ([OG 3265](#)) and was brought into force on 15 February 1995 by GN 25/1995 ([GG 1028](#)). Most of this Act is repealed by the National Health Act 2 of 2015 ([GG 5742](#)), which is not yet in force. Once it does come into force, the only remaining provisions of this Act will be:

- section 1 (definitions)
- Part VI (private hospitals)
- Part VII (private health facilities)
- section 33(1)(c)-(d)
- section 38(1)(b), (k) and (l)
- section 39(2)(b).

Act 2 of 2015 ([GG 5742](#)) repeals section 40, which contains the short title of this Act; it is not clear what the title of this Act should now be.

Amendments: Act 1/1998 ([GG 1804](#)) amends sections 1, 2, 4, 5, 18, 19, 23, 24, 27, 31, 38 and 39 of the Act. Portions of this amending Act – sections 1, 2, 3, 4, 5, 6, 11, 12 and 13 – are repealed by the National Health Act 2 of 2015 ([GG 5742](#)), which is not yet in force.

The National Health Act 2 of 2015 ([GG 5742](#)), which is not yet in force, repeals Part II, Part III, Part IV, Part V and sections 33(1)(a)-(b) and (2), 34, 35, 36, 37, 38(1)(a), (c), (d), (e), (f), (g), (h), (i), (j), (m), (n) and (2), 39(1) and (2)(a) and (c) and 40 of the Act.

Regulations: Regulations made under the State Hospitals Ordinance 49 of 1957, which was repealed by the State Hospitals Ordinance 17 of 1966 ([OG 2727](#)), survived in terms of section 41(4) of that Ordinance.

Regulations made under the State Hospitals Ordinance 17 of 1966, which was repealed by the Hospitals Ordinance 14 of 1972 ([OG 3265](#)), and by the Repeal of Obsolete Laws Act 21 of 2018 ([GG 6812](#)), which was brought into force by GN 32/2019 ([GG 6851](#)), survived in terms of section 43(3) of that Ordinance.

Regulations under the Hospitals Ordinance 14 of 1972, which was repealed by this Act survive in terms of section 39(2)(c) of this Act.

However, pre-independence regulations have not yet been researched.

The following regulations were made in terms of the current Act:

Regulations concerning the classification of hospitals and health facilities are contained in GN 184/2001 ([GG 2609](#)).

Regulations relating to the classification of state hospitals, the admission of state patients and the fees payable by patients, contained in GN 73/2010 ([GG 4459](#)). (These regulations repeal previous regulations made under the Hospitals Ordinance 14 of 1972, contained in GN 43/1993 ([GG 621](#)), as amended by GN 199/1995 ([GG 1183](#)) and GN 12/2001 ([GG 2468](#)). The regulations in GN 43/1993 ([GG 621](#)) repealed the regulations contained in “Government Notices 215 of 1973, 43 and 81 of 1974, 57 of 1976, 181 and 199 of 1977, 144 of 1988 and 4

of 1991”.)

Cases:

Lisse v The Minister of Health and Social Services 2004 NR 107 (HC), *Minister of Health and Social Services v Lisse* 2006 (2) NR 739 (SC)

Kaulinge v Minister of Health and Social Services 2006 (1) NR 377 (HC).

***National Health Act 2 of 2015 (only section 20(1) is in force)** 

Summary: This Act ([GG 5742](#)) consolidates the laws relating to state hospitals and state health services and regulates the conduct of such hospitals and services. It provides for state hospital committees by the health practitioners and staff at the hospital in question. It covers access to treatment and fees, and establishes a Special Fund for Treatment of State Patients to provide financial assistance for such special treatment. It also establishes regional and district health boards and offices, and provides for the authorisation of research at state hospital and grants for such research.

The Act repeals most of the Hospitals and Health Facilities Act 36 of 1994 ([GG 996](#)) (Part II, Part III, Part IV, Part V and sections 33(1)(a) and (b) and (2), 34, 35, 36, 37, 38(1)(a), (c), (d), (e), (f), (g), (h), (i), (j), (m) and (n) and (2), 39(1) and (2)(a) and (c) and 40) and most of its sole amending Act 1/1998 ([GG 1804](#)) (sections 1, 2, 3, 4, 5, 6, 11, 12 and 13). The Hospitals and Health Facilities Act 36 of 1994 replaced the Hospitals Ordinance 14 of 1972 ([OG 3265](#)).

Section 67(2)(b) of the Act provides a savings provision for actions taken under the repealed laws. The Act will be brought into force on a date set by the Minister by notice in the *Government Gazette*. However, section 20(1) was brought into force on 17 September 2020 by GN 231/2020 ([GG 7338](#)).

Regulations: Regulations made under the State Hospitals Ordinance 49 of 1957, which was repealed by the State Hospitals Ordinance 17 of 1966 ([OG 2727](#)), survived in terms of section 41(4) of that Ordinance.

Regulations made under the State Hospitals Ordinance 17 of 1966, which was repealed by the Hospitals Ordinance 14 of 1972 ([OG 3265](#)) and by the Repeal of Obsolete Laws Act 21 of 2018 ([GG 6812](#)), which was brought into force by GN 32/2019 ([GG 6851](#)), survived in terms of section 43(3) of that Ordinance.

Regulations under the Hospitals Ordinance 14 of 1972, which was repealed by the Hospitals and Health Facilities Act 36 of 1994 ([GG 996](#)), survived in terms of section 39(2)(c) of that Act.

Regulations under the Hospitals and Health Facilities Act 36 of 1994, which was substantially repealed by this Act ([GG 5742](#)), survive in terms of section 67(2)(b) of this Act.

However, pre-independence regulations have yet not been researched.

Surviving regulations made after independence under the Hospitals and Health Facilities Act 36 of 1994 are as follows:

Regulations concerning the classification of hospitals and health facilities are contained in GN 184/2001 ([GG 2609](#)).

Regulations relating to the classification of state hospitals, the admission of state patients and the fees payable by patients are contained in GN 73/2010 ([GG 4459](#)). (These regulations repeal previous regulations contained in GN 43/1993 ([GG 621](#)), as amended by GN 199/1995 ([GG 1183](#)) and GN 12/2001 ([GG 2468](#)).

COMMENTARY

Michaela Figueira, "AIDS, the Namibian constitution and human rights: an overview", 9 (1) *South African Journal on Human Rights* 30 (1993).

See also **HEALTH**.

See also **HEALTH PROFESSIONS**.

See also **MEDICAL AID**.

See also **MEDICINE**.

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