

LANDLORD AND TENANT

Formalities in respect of Leases of Land Act 18 of 1969, as amended in South Africa prior to independence  

Summary: This Act ([RSA GG 2318](#)) concerns formalities in leases of land.

Applicability to SWA: Section 2 states “This Act and any amendment thereof shall apply also in the territory of South West Africa.” Although amendments to the Act in South Africa would have been automatically applicable to SWA, there were no amendments to the Act in South Africa prior to Namibian independence.

Transfer of administration to SWA: Since the Act does not indicate what Minister administered the Act, it is not clear which transfer proclamation, if any, was applicable. However, the date of transfer is not relevant to the content of the statute, as there were no amendments to the law in South Africa prior to Namibian independence.

Regulations: The Act makes no provision for regulations.

Rents Ordinance 13 of 1977

Summary: This Ordinance ([OG 3634](#)) regulates the letting and hiring of non-commercial immovable property. It was brought into force with effect from 1 January 1978 by Proc. 1/1978 ([OG 3685](#)).

Repeals: The Ordinance repeals the Rents Proclamation 4 of 1944 ([OG 1088](#)), as amended, which in turn repealed the Rents Proclamation 43 of 1920, as amended.

Amendments: The Ordinance is amended by Ord. 4/1980 ([OG 4134](#)) and by the Married Persons Equality Act 1 of 1996 ([GG 1316](#)) (which substitutes section 1).

Savings: Section 39(3) of the Ordinance contains a savings clause:

Any notice issued or anything done under a provision of a law repealed by subsection (1) shall be deemed to have been issued or done under the corresponding provisions of this Ordinance.

However, the repealed Rents Proclamation 4 of 1944 contained no provision for regulations and no savings clause in respect of anything done under the laws which it in turn repealed.

Regulations: Regulations are authorised by section 38 of this Ordinance.

Regulations issued pursuant to this Ordinance are contained in GN 10/1978 ([OG 3685](#)). These regulations came into operation with effect from 1 January 1978.

No post-independence regulations have been promulgated.

Application of law: Proc. 24/1973 ([OG 3300](#)), issued in terms of the repealed Rents Proclamation 4 of 1944, exempts all dwellings which are let by any municipality in terms of section 233(1)(a) or 240(19) of the Municipal Ordinance 13 of 1963 or any village management board in terms of section 28 of the Village Management Boards Ordinance 14 of 1963 from the provisions of the Rents Proclamation 4 of 1944.

The Local Authorities Act 23 of 1992 repealed the Municipal Ordinance 13 of 1963 and the Village Management Boards Ordinance 14 of 1963.

GN 147/1978 ([OG 3759](#)) and AG 21/1985 ([OG 5005](#)) exempt certain dwellings from the provisions of the Ordinance.²³⁶

GN 147/1978 applies to the properties owned by certain listed municipalities, where these properties are being leased by the municipalities and are situated in the municipality's area of jurisdiction. AG 21/1985 applies to every dwelling leased by any Village Management Board constituted under the provisions of the Village Management Boards Ordinance 14 of 1963 or the Peri-Urban Development Board constituted under the provisions of the Peri-Urban Development Board Ordinance 19 of 1970. The Local Authorities Act 23 of 1992 repealed the Village Management Boards Ordinance 14 of 1963 and the Peri-Urban Development Board Ordinance 19 of 1970.

Appointments: GN 318/2018 ([GG 6784](#)) establishes Rent Boards for certain areas (Oshana Region, Kavango East Region, Erongo Region (Swakopmund), Erongo Region (Walvis Bay) and Khomas Region (City of Windhoek)), and announces the appointment of their members.

Cases: *Lida Marie CC v O'Portuga Restaurant CC* 2013 (3) NR 895 (HC) (application re: notice to vacate in terms of section 31(1)(a), decided on basis of incorrect identity of tenant).

See also **LAND AND HOUSING**.

²³⁶ Proc. 86/1967 ([OG 2831](#)), issued in terms of the repealed Rents Proclamation 4 of 1944, excluded certain rent boards, but this Proclamation was repealed by Proc. 25/1973 ([OG 3342](#)).