

LAW

Crown Liabilities Act 1 of 1910.

Summary: This act concerns state liability.

Applicability to SWA: This Act was extended to South West Africa by section 1(1)(b) of the Railway Management Proclamation 20 of 1920. According to *Mwandingi v Minister of Defence* 1990 NR 363 (HC) at 377C-D (approved of on appeal in *Minister of Defence v Mwandingi* 1993 NR 63 (SC) at 77C-F), “the Crown Liabilities Act 1 of 1910 was extended by the Railway Management Proclamation 20 of 1920 to the territory. It is true that it was so extended for purposes of that proclamation, but the act applied in its entirety and it seems to me, once it was extended, it was accepted by our courts as also binding on all other, at that stage, departments (see *Hwedhanga v Cabinet for the Territory of South West Africa* 1988 (2) SA 746 (SWA); *Binga v Cabinet for South West Africa & Others* 1988 (3) SA 155 (A)).”

Administration of Justice Proclamation 21 of 1919.

Summary: This Proclamation introduced Roman Dutch law to SWA. It originally contained provisions relating to courts and legal practitioners, but these have been repealed.

Amendments: The Proclamation is amended by Proc. 45/1920, Proc. 52/1921, Proc. 56/1921, Proc. 16/1930, Proc. 4/1933, Ord. 31/1935, Proc. 4/1936, Ord. 37/1939, Ord. 29/1960, Ord. 31/1960, Ord. 34/1963, Ord. 13/1966, the SA *Supreme Court Act 59 of 1959*, the RSA *Admission of Advocates Act 74 of 1964*, and the Legal Practitioners Act 15 of 1995.

Cases: *Tittel v Master of the High Court* 1921 SWA 58 and *Collisons v Kruger & Others* 1923 SWA 74 are significant early cases interpreting this Proclamation.

See also-

R v Goseb 1956 (2) SA 696 (SWA)

Binga v Administrator-General, South West Africa & Others 1984 (3) SA 949 (SWA)

S v Redondo 1992 NR 133 (SC).

Interpretation of Laws Proclamation 37 of 1920.

Summary: This Proclamation sets forth rules of interpretation for statutes.

Amendments: The Proclamation was amended by Proc. 11/1926, Ord. 4/1955 and Ord. 19/1961. It was extended to the Rehoboth Gebiet by Proc. 28/1923.

Cases: *DTA of Namibia & Another v SWAPO Party of Namibia & Others* 2005 NR 1(HC); *S v Nghitukwa* 2005 NR 116 (HC); *Gemfarm Investments v Trans Hex Group* 2009 (2) NR 477 (HC) (section 11(1)). The meaning of 12(3)(c) read together with the definition of ‘law’ is addressed in *Medical Association of Namibia Ltd & Another*

v Minister of Health and Social Services & Others, Case No A 199/2009 (judgment dated 28 June 2010, as yet unreported).

Justices of the Peace and Commissioners of Oaths Act 16 of 1963,

as amended in South Africa to November 1979.

Summary: This Act covers the appointment, powers and duties of justices of the peace and commissioners of oaths.

Applicability to SWA: Section 1 defines “Republic” to include “the territory of South West Africa”. Section 11A 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 (Justice) Transfer Proclamation (AG 33/1979, as amended), dated 12 November 1979. None of the amendments to the Act in South Africa after the date of transfer were made expressly applicable to SWA.

Regulations: Regulations governing oaths and affirmations are contained in RSA GN R.1258/1972. Regulations regarding holders of office who are commissioners of oath are contained in RSA GN R.1257/1972 (as amended by RSA GN R.56/1975), AG GN 128/1982 and GN 100/2000 (GG 2312) (regional councillors to be Commissioners of Oaths).

Cases: *De Roeck v Campbell & Others* (1) 1990 NR 28 (HC); *Gonschorek & Others v Asmus & Another* 2008 (1) NR 262 (SC) (regulations in RSA GN R.1258/1972).

Law Reform and Development Commission Act 29 of 1991.

Summary: This Act establishes a Law Reform and Development Commission. It came into force on 15 July 1992 (Proc. 21/1992, GG 439).

Amendments: Act 4/1995 amends sections 3, 5, 8 and 12. Act 2/2004 amends sections 3, 4, 5, 6, 8 and 12. It came into operation on 15 July 2004 (GN 147/2004, GG 3239).

MISCELLANEOUS

Administrative Directive 1/1993 (Government Notice 16/1993, GG 583) sets forth the procedures regarding proposed legislation.

SELECTED ARTICLES

SK Amoo, *An introduction to Namibian law: Materials and cases*, Windhoek: Macmillan Education Namibia, 2009 (reviewed by Steve Gray in *Namibia Law Journal*, Volume 1 Issue 2, 2009, available at www.namibialawjournal.org).

INTERNATIONAL LAW

Hague Convention on Abolishing the Requirement of Legalisation of Foreign Public Documents, 1961

accession: 25 April 2000

entry into force in respect of Namibia: 30 January 2001

(source: Hague Conference: <http://www.hcch.net/>)

Cases: *S v Koch* 2006 (2) NR 513 (SC).

Note: This is the only Hague Convention under the Hague Conference on Private International Law to which Namibia is a party. Namibia is not a member of the Hague Conference.

(source: Hague Conference: <http://www.hcch.net/>)

SADC Protocol on Legal Affairs, 2000

(entered into force within SADC on 1 September 2006) (source: SADC)

signature: 7 August 2000 (source: SADC)

ratification: 2 October 2001 (source: SADC; Ministry of Foreign Affairs)

SADC Protocol Against Corruption, 2001

(entered into force within SADC on 6 July 2005) (source: SADC)

signature: 14 August 2001 (source: SADC)

ratification approved by Parliament: 27 April 2004 (source: Parliament)

ratification: 23 June 2005 (source: SADC)

SADC Protocol on Extradition, 2002

(entered into force within SADC on 1 September 2006) (source: SADC)

signature: 3 October 2002 (source: SADC)

ratification approved by Parliament: 7 November 2006 (source: Parliament)

ratification: 1 February 2007 (source: SADC)

SADC Protocol on Mutual Legal Assistance in Criminal Matters, 2002

(entered into force within SADC on 2 March 2004) (source: SADC)

signature: 3 October 2002 (source: SADC)

ratification approved by Parliament: 7 November 2006 (source: Parliament)

ratification: 1 February 2007 (source: SADC)

See also **COURTS**.

See also *Criminal Law and Procedure Act 51 of 1977 (CRIMINAL LAW AND PROCEDURE)*.

See also **CUSTOMARY LAW**.

See also **DAMAGES**.

See also **EVIDENCE**.

See also **JUDGES**.

See also **LEGAL PRACTITIONERS**.

See also **PRESCRIPTION**.