

LEGAL PRACTITIONERS

Government Attorney Proclamation R.161 of 1982

Summary: This Proclamation ([RSA GG 8367](#)) concerns the functions of the Government Attorney. It converts the Windhoek branch of the Office of the State Attorney in Pretoria into the Government Attorney's Office for the Territory of South West Africa. It was brought into force on 1 April 1984 by RSA Proc. 52 /1984 ([RSA GG 9162](#)).

Repeals: This Proclamation appears to have replaced the *State Attorney Act 56 of 1957* in SWA.

Applicability to SWA: The Proclamation applies to SWA because it was issued in terms of section 38 of the *South-West Africa Constitution Act 39 of 1968*, which gave the State President of South Africa certain powers to make laws for SWA. It appears to replace the *State Attorney Act 56 of 1957* in SWA.

The *State Attorney Act 56 of 1957* ([SA GG 5894](#)) – as amended by the *General Law Further Amendment Act 93 of 1962* ([RSA GG 284](#)) and the *State Attorney Amendment Act 7 of 1966* ([RSA GG 1380](#)) – was made applicable to SWA by section 6 of *Act 7 of 1966* which states:

The principal Act and any amendment thereof shall apply also in the territory of South-West Africa, (including the Eastern Caprivi Zipfel referred to in section 3 of the South-Africa West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951)), and in relation to all persons in that portion of the said territory known as the “Rehoboth Gebiet” and defined in the First Schedule to Proclamation No. 28 of 1923 of the Administrator of the said territory.

Section 7 of *Act 7 of 1966* provided:

In the principal Act, unless the context otherwise indicates, “Republic” also includes the territory of South-West Africa.

These two sections were independent provisions of *Act 7 of 1966* rather than amendments to *Act 56 of 1957*.

Section 9 of *Act 7 of 1966* also repealed the State Attorney Proclamation, 46 of 1921, and the State Attorney Proclamation, 1921 Amendment Ordinance 17 of 1963 (in respect of SWA)

Act 7 of 1966 was brought into force on 3 January 1967 by RSA Proc. R.376/1966 ([RSA GG 1626](#)). After the *State Attorney Act 56 of 1957* and its amendments became applicable to SWA, *Act 56 of 1957* was further amended by the *State Attorney Amendment Act 45 of 1980* ([RSA GG 6992](#)), which was deemed to have come into force on 13 September 1979 (section 2 of the amending Act).

Sections 6 and 7 of *Act 7 of 1966* were both repealed by the *Government Attorney Proclamation, R.161 of 1982*, which converted the Windhoek branch of the Office of the State Attorney in Pretoria into the Government Attorney's Office for the Territory of South West Africa. (This Proclamation states in section 13 that sections 11-14, which amend some provisions of the *State Attorney Act 56 of 1957*, repeal sections 6 and 7 of the *State Attorney Amendment Act 7 of 1966*, and provide transitional provisions, “shall apply also in the Republic of South Africa”).

Some of these amendments refer to South West Africa, but without making *Act 56 of 1957* applicable to SWA; they seem rather to have given the South African State Attorney's Office authority to act on behalf of the SWA administration or the government of Rehoboth, if arrangements were made with that administration or government. Section 3(2) of the *State Attorney Act 56 of 1957*, as substituted by *Act 7 of 1966* and amended by *Proclamation R.161 of 1982*, states:

There may also be performed at the State Attorney's office or at any of its branches like functions for or on behalf of the administration of any province, any department established under the laws relating to the government service of the Territory of South-West Africa, the government of Rehoboth and the South

African Railways and Harbours Administration, subject to such terms and conditions as may be arranged between the Minister of Justice and the administration, department or government concerned.

Section 3(3) of the *State Attorney Act 56 of 1957*, as substituted by *Act 93 of 1962* and amended by *Proclamation R.161 of 1982*, states:

Unless the Minister of Justice otherwise directs, there may also be performed at the State Attorney's office or at any of its branches like functions in or in connection with any matter in which the Government or such an administration, department or government as aforesaid, though not a party, is interested or concerned in, or in connection with any matter where, in the opinion of the State Attorney or of any person acting under his authority, it is in the public interest that such functions be performed at the said office or at one of its branches.

Section 8 of *Act 7 of 1966*, provided that any references in any law to the State Attorney for the territory of South-West Africa should be construed as references to the State Attorney in *Act 56 of 1957*. Section 12 of *Proclamation R.161 of 1982* appears to follow on section 8 of *Act 7 of 1966* (which was not repealed), by providing that references in any law to the Windhoek branch of the State Attorney shall be construed as references to the Government Attorney's office. Thus, *Proclamation R.161 of 1982* appears to have replaced the *State Attorney Act 56 of 1957* in SWA – an understanding which is supported by the fact that *Proclamation R.161 of 1982* duplicates much of *Act 56 of 1957*.

Transfer of administration to SWA: This Proclamation post-dated the SWA transfer proclamations.

The relevant transfer proclamation for the *State Attorney Act 56 of 1957* which preceded it was the Executive Powers (Justice) Transfer Proclamation (AG 33/1979), dated 12 November 1979, as amended. However, section 3(1)(g) of this transfer proclamation excluded the *State Attorney Act 56 of 1957* from the provisions of section 3(1) of the General Proclamation, meaning that the administration of this Act was not transferred to SWA. Therefore, the amendments made to that Act in South Africa after the date of the transfer proclamation continued to be automatically applicable to SWA – until the legal provision which made that Act applicable to SWA was repealed by the *Government Attorney Proclamation, R.161 of 1982* with effect from 1 April 1984.

Transitional provisions: There is no “savings” clause as such, but section 12(2) and (3) of the Proclamation reads as follows:

(2) Anything done by, in or in relation to the Windhoek branch of the office of the State Attorney or the holder of any office therein in the exercise of his powers or the performance of his functions, shall be deemed to have been done by, in or in relation to the Government Attorney's office or, as the case may be, the holder of a similar office in such office.

(3) Subject to the provisions of subsections (1) and (2), any reference in any law or document to the holder of any office in the Windhoek branch of the State Attorney shall be construed as a reference to the holder of a similar office in the Government Attorney's office.

Regulations: Regulations are authorised by section 10 of the Proclamation.

In South Africa, the following regulations were issued under the *State Attorney Act 56 of 1957*: RSA GN R.2117/1966 ([RSA GG 1626](#)), as amended by RSA GN R.274/1970 ([RSA GN 2627](#)), R.2714/1985 ([RSA GN 10029](#)) and RSA GN R.1918/1988 ([RSA GG 11512](#)).²⁴¹ These regulations initially applied to SWA, as evidenced by the previous regulations they repealed. Their continued applicability after *Proclamation R.161 of 1982* replaced the *State Attorney Act 56 of 1957* in SWA is unclear, but in any event they appear to be superseded by the regulations cited below. They are thus omitted from the database of annotated laws.

The following regulations were made in terms of section 10 of this Proclamation: Government Notice AG 61 of 1984 ([OG 4895](#)). They do not include any repeals.

No post-independence regulations have been promulgated.

²⁴¹ These regulations repealed GN 199/1963 of the Territory of South West Africa, and RSA GN R.40/1964.

Cases:

Eimbeck v Inspector-General of the Namibian Police & Another 1995 NR 13 (HC) refers to this Proclamation at page 18:

The Government Attorney acted in terms of his functions in pursuance of s 4 of the Government Attorney Proclamation No R161 of 1982, which came into force on 1 April 1984 and which is still in force.

Minister of Health and Social Services v Medical Association of Namibia 2012 (2) NR 566 (SC) (discusses the role of the Government Attorney; also discusses *State Attorney Act 56 of 1957* and *Government Attorney Proclamation R. 161 of 1982* in para 28)

Prior to independence, the State Attorney at Windhoek was a branch office of the office of the State Attorney, Pretoria, in terms of the State Attorney Act 56 of 1957. (Section 3(2) of Act 56 of 1957.) However, by State President's proclamation R161 of 1982, the Windhoek branch office was converted into the Government Attorney's office for the Territory of South West Africa. It did not repeal Act 56 of 1957 but amended certain words to bring it in line with the proclamation. Section 4 of the proclamation sets out the functions of the Government Attorney which, in general, are the same as set out in s 3 of Act 56 of 1957. (para 28)

Maletzky v The President of the Republic of Namibia & Others 2016 (2) NR 420 (HC) (it is not improper for the Government Attorney to represent a judicial officer in the employ of the State; section 4(b)(ii) of the Proclamation)

Bukalo Village Council v Labour Commissioner & Others 2022 (1) NR 99 (LC) (it is not necessary for the Government Attorney to file a power of attorney when representing the government, which includes regional and local authorities).

Legal Aid Act 29 of 1990

Summary: This Act ([GG 131](#)) provides for the granting of legal aid in civil and criminal matters to persons whose means are inadequate to enable them to engage legal practitioners to assist and represent them. It was brought into force on 7 October 1991 by Proc. 23/1991 ([GG 272](#)).

Repeals: The Act repeals the *Legal Aid Act 22 of 1969*.

Amendments: Act 17/2000 ([GG 2421](#)) amends sections 1, 3, 6, 8, 10, 13, 15, and 20 and inserts section 24A.

Regulations: There is no savings clause for regulations issued under the repealed Act.

Legal Aid Regulations issued under this Act are contained in GN 374/2018 ([GG 6818](#)), as amended by GN 85/2019 ([GG 6892](#)).²⁴²

Notices: Specified offences in terms of the Act are listed in GN 106/1991 ([GG 273](#)).

Cases:

Mwilima & Others v Government of the Republic of Namibia & Others 2001 NR 307 (HC), *Government of the Republic of Namibia & Others v Mwilima & all other accused in the Caprivi treason trial* 2002 NR 235 (SC)

S v Monday 2002 NR 167 (HC)

S v Tembwe 2005 NR 409 (HC)

²⁴² Legal Aid Regulations issued under this Act were initially contained in GN 107/1991 ([GG 273](#)). These regulations were first repealed by the regulations contained in GN 303/2018 ([GG 6774](#)), but then GN 303/2018 was withdrawn and replaced by GN 374/2018 ([GG 6818](#)). (GN 303/2018 was withdrawn because it accidentally repealed the regulations in GN 107/1991 with immediate effect but brought the replacement regulations into force only on 1 April 2019.) GN 374/2018 simultaneously repeals the regulations in GN 107/1991 ([GG 273](#)) and substitutes new regulations with effect from 1 April 2019.

S v Kasanga 2006 (1) NR 348 (HC)

JCL Civils Namibia (Pty) Ltd v Steenkamp 2007 (1) NR 1 (HC)

S v Luboya & Another 2007 (1) NR 96 (SC) (application of Article 18 of Constitution to application for legal aid)

Nationwide Detectives & Professional Practitioners CC v Standard Bank of Namibia Ltd 2008 (1) NR 290 (SC) (applicability to artificial persons discussed in *dicta* at 300-301)

Ultimate Safaris (Pty) Ltd v Gariseb 2022 (2) NR 487 (SC) (taxation of costs: section 17(2) and reg 6(1) of the Legal Aid Regulations).

Commentary:

Brigit Rudd, Dianne Hubbard and Yolande Engelbrecht, “Trapped In Marriage? Divorce Law and Legal Aid”, *The Namibian*, 8 November 2013

D Zongwe, “Nobody can Really Afford Legal Services: The Price of Justice in Namibia”. 24 *Potchefstroom Electronic Law Journal* 1, 2021, available [here](#)

Ministry of Justice, “Requirements for Legal Aid Applications” (brochure), undated.

Legal Practitioners Act 15 of 1995

Summary: This Act ([GG 1141](#)) governs the legal profession and legal practitioners, who were formerly known as attorneys and advocates. It establishes a Board for Legal Education, a Law Society of Namibia and a Legal Practitioners’ Fidelity Fund. It was brought into force on 7 September 1995 by GN 150/1995 ([GG 1148](#)).

Repeals: The Act repeals the Legal Practitioners’ Fidelity Fund Act 22 of 1990 ([GG 117](#)) and the Legal Practitioners’ Fidelity Fund Ordinance 28 of 1967, as well as the *RSA Attorneys Act 53 of 1979* ([RSA GG 6473](#)) and *RSA Admission of Advocates Act 74 of 1964* ([RSA GG 835](#)).

Amendments: Act 4/1997 ([GG 1586](#)) amends sections 11, 21, 54, 67, 72, and 87 and substitutes section 22.

Act 6/1999 ([GG 2126](#)) temporarily suspends sections 79(1), (2) and (3) relating to the conferment of Senior Counsel status, until such time as the Minister of Justice reinstates them by notice in the *Gazette*. However, Act 6/1999 was repealed by Act 22/2002 ([GG 2892](#)), which was brought into force on 1 November 2005 by GN 139/2005 ([GG 3529](#)).

Act 10/2002 ([GG 2849](#)) amends sections 5 and 18.

Act 22/2002 ([GG 2892](#)), which was brought into force on 1 November 2005 by GN 139/2005 ([GG 3529](#)), amends sections 1, 21, 32, 52 and 72, substitutes section 45 and repeals section 79.

Savings: Section 94(4) contains a broad savings clause:

Anything made or prescribed, including regulations or rules, or done under the provisions of any law repealed by subsection (1), and having the force of law immediately before the commencement of this Act shall, insofar as they are not inconsistent with any of the provisions of this Act, continue to be in force, until altered or revoked by the competent authority under the provisions of this Act.

The Legal Practitioners’ Fidelity Fund Act 22 of 1990 ([GG 117](#)) repealed Chapter II and subsections 81(2) and (3) of the *RSA Attorneys Act 53 of 1979*, but provided in section 31(3) that regulations made under section 81(2) would survive:

Any regulations made under section 81(2) of the Attorneys Act which were in force in Namibia before the commencement of this Act, shall remain in force in so far as any such regulations are compatible with the provisions of this Act.

The *RSA Attorneys Act 53 of 1979* ([RSA GG 6473](#)) repealed the *Attorneys, Notaries and Conveyancers Admission Act 23 of 1934* ([SA GG 2196](#)), as amended and the *Attorneys’ Admission Amendment and*

Legal Practitioners' Fidelity Fund Act 19 of 1941 ([SA GG 2893](#)), both of which authorised regulations. It also repealed the *Law Societies' Act 41 of 1975*, which gave individual law society councils the power to make rules. Section 86(3) of the *RSA Attorneys Act 53 of 1979* contains a broad savings clause in respect of these repealed laws:²⁴³

Anything done or deemed to have been done under any provision of a law repealed by subsection (1), shall be deemed to have been done under the corresponding provision of this Act.

The *Law Societies' Act 41 of 1975* ([RSA GG 4708](#)) in turn repealed (in respect of SWA) the Law Society (South West Africa) Private Proclamation 32 of 1921, the Law Society (South West Africa) Amendment Ordinance 30 of 1961 and the Attorneys, Notaries and Conveyancers Admission Amendment Ordinance 21 of 1966 – and provided a savings clause in section 24(2)(a):

Any rule, bye-law or regulation made under any provision of a law repealed by subsection (1) shall be deemed to be a rule made under the corresponding provision of this Act, and any provision of any law so repealed prescribing or otherwise dealing with any matter which in terms of this Act may be prescribed shall notwithstanding the repeal of such law be deemed to be a rule made in terms of this Act.

The *RSA Admission of Advocates Act 74 of 1964* ([RSA GG 6473](#)) repealed the *Admission of Advocates Act 19 of 1921*, and provided only a limited and time-bound savings clause for rules made under that Act in section 13(1):

...notwithstanding the repeal of the Admission of Advocates Act, 1921 (Act No. 19 of 1921), the rules made under section two of the said Act and in force at the commencement of this Act, shall remain in force until the thirty-first day of December, 1974.

The relevant transfer proclamation for both the *Admission of Advocates Act 74 of 1964* and the *Attorneys Act 53 of 1979* was the Executive Powers (Justice) Transfer Proclamation, AG 33 of 1979, but both Acts were explicitly excluded from transfer to SWA.

Regulations: The following subsidiary enactments are in force and are listed by the Law Society of Namibia on its [webpage](#):

Regulations relating to the **fidelity fund** are contained in GN 136/1993 ([GG 741](#)). These regulations were issued in terms of the previous Legal Practitioners' Fidelity Fund Act 22 of 1990, but survive under the new Act in terms of section 94(4).²⁴⁴ (This position is confirmed in *Van der Merwe v Director of the Law Society of Namibia & Others* 2013 (1) NR 98 at para 26, but the case erroneously refers to GN 135/1993 instead of GN 136/1993.)

Regulations relating to **candidate legal practitioners** issued in terms of this Act are contained in GN 228/1995 ([GG 1207](#)), as amended by GN 58/1997 ([GG 1528](#)), GN 67/1997 ([GG 1537](#)) and GN 8/1999 ([GG 2025](#)). GN 8/2011 ([GG 4649](#)) substitutes Annexure 6 to these regulations.

The following regulations appear to remain technically in force as a result of the chain of savings clauses:

Regulations under section 81(1) of the Attorneys Act, 1979 (Act 53 of 1979), originally made under section 30 of the *Attorneys, Notaries and Conveyancers Admission Act 23 of 1934* as “rules”, but later referred to as “regulations” under the *RSA Attorneys Act 53 of 1979*, are contained in SA GN 638/1937 ([SA GG 2431](#)) as amended by SA GN 830/1940 ([SA GG 2768](#)),

²⁴³ The *RSA Attorneys Act 53 of 1979* repealed several other laws which did not make provision for subsidiary enactments and so are not relevant here.

²⁴⁴ These regulations repeal the regulations in SA R.1581/1941 (SA GG 2960) and all the amendments thereof. These previous regulations were made under the *Attorneys' Admission Amendment and Legal Practitioners' Fidelity Fund Act 19 of 1941* in SA GN R.1581/1941 (SA GG 2960) as amended by SA GN 2691/1942, SA GN 2144/1943, SA GN 1476/1948, SA GN 1264/1951, SA GN 354/1955, SA GN1785/1955, SA GN 731/1957 – and further amended after the date of the Fidelity Fund Ordinance 28 of 1967 – by RSA GN 508/1972, RSA GN 1458/1984 and RSA GN 47/1987.

SA GN 1206/1944 ([SA GG 3370](#)), SA GN 1613/1948 ([SA GG 4006](#)), SA GN 1048/1959 ([SA GG 6257](#)), RSA GN 833/1961 ([RSA GG 95](#)), RSA GN 2113/1962 ([RSA GG 405](#)), RSA GN 2022/1964 ([RSA GG 967](#)), RSA GN 1726/1965 ([RSA GG 1273](#)), RSA GN R.1065/1982 ([RSA GG 8226](#)), RSA GN R.872/1987 ([RSA GG 10716](#)), RSA GN R.1708/1987 ([RSA GG 10852](#)), RSA GN R.1936/1988 ([RSA GG 11512](#)), RSA GN R.1350/1989 ([RSA GG 11979](#)). These regulations seem to primarily concern recognition of degrees, exemptions from examinations and the syllabus for certain examinations. They appear to have been superseded by the current Act and regulations. They have thus not been included in the regulations database.

Regulations issued in terms of the Fidelity Fund Ordinance 28 of 1967 are contained in in GN 193/1967 ([OG 2836](#)). No repeal has been located, but they have been superseded by Chapter VI of the current Act and the more recent regulations in GN 136/1993 ([GG 741](#)), which address the same issues. They have thus not been included in the regulations database.

Regulations Prohibiting the Liquidation or Distribution of the Estates of Deceased Persons by any Person other than an Attorney, Notary, Conveyancer or Law Agent, originally made in terms of the *Attorneys, Notaries and Conveyancers Admission Act 23 of 1934*, are contained in RSA GN R.910/1968 ([RSA GG 2080](#)) as amended by RSA GN R.1013/1969 ([RSA GG 2439](#)) and RSA GN R.1376/1971 ([RSA GG 3227](#)). These are included in the database in case they have continued relevance.

Rules: Rules governing the **Disciplinary Committee** are set forth in GN 54/1996 ([GG 1270](#)). The Law Society of Namibia posts these Rules online [here](#).

Rules of the Law Society of Namibia are set forth in General Notice 340/2002 ([GG 2848](#)). General Notice 251/2004 ([GG 3313](#)) amends rule 24. General Notice 385/2007 ([GG 3948](#)) amends rules 1, 6, 9, 13, 19, 20, 21, 22 and 24 and inserts rule 20A. General Notice 308/2008 ([GG 4120](#)) amends rule 21. General Notice 376/2017 ([GG 6410](#)) amends rules 21 and 23 and Annexure A. The Law Society of Namibia posts an amended set of these rules online [here](#). Note that professional standards for legal practitioners are set out in rule 21.

The following rules made in terms of the *Attorneys Act 53 of 1979* appear to survive as a result of the chain of savings clauses, but it is not clear if they have any current relevance:

Rules of court governing the practical examinations and the admission of attorneys, notaries and conveyancers are contained RSA GN 23/1988 ([RSA GG 11091](#)).²⁴⁵

Application of law: The application of this law is affected by the Financial Intelligence Act 13 of 2012, which places certain duties on legal practitioners and on the Law Society.

A decision of the Namibian Competition Commission on an application by the Law Society for exemption in respect of professional rules is contained in General Notice 564/2015 ([GG 5906](#)).

Notices: Various *Government Gazettes* have prescribed degrees which are recognised in Namibia for the purpose of the practice of law. These have not been recorded here.

Fees: Regulations relating to the fee for a certificate of enrolment as a legal practitioner are contained in GN 201/1995 ([GG 1183](#)).

The following scale of fees appears to survive as a result of the chain of savings clauses, but it is unclear whether it has any ongoing relevance:

Scale of fees payable to Law Societies contained in RSA GN R.898/1964 ([RSA GG 824](#)), originally made in terms of section 20 of the *Attorneys, Notaries and Conveyancers Admission*

²⁴⁵ These rules withdraw RSA GN R.1127 of 4 July 1969 as amended.

Act 23 of 1934.

Appointments: The Board for Legal Education is announced in GN 184/1995 ([GG 1165](#)) and GN 15/1996 ([GG 1241](#)).

Cases:

Vaatz v Law Society of Namibia 1990 NR 332 (HC) (dealing with *Attorneys Act 53 of 1979*)

Vaatz v Law Society of Namibia 1991 (4) SA 382 (Nm) (dealing with Law Society Rule 95.1.3 promulgated in terms of *Attorneys Act 53 of 1979*).

Hailemo v Security Force Services (LC 5/95), reported as 1996 NR 99 (LC) (section 21)

Vaatz v Law Society of Namibia & Others 1996 NR 272 (HC) (dealing with Law Society Rule 114 promulgated in terms of *Attorneys Act 53 of 1979*).

Compania Romana De Pescuit (SA) v Rosteve Fishing 2002 NR 297 (HC) (section 21)

Miller & Paschke v The Law Society of Namibia NLLP 2002 (2) 328 NHC (application of section 4 to non-Namibians married to Namibian citizens and domiciled in Namibia)

Ekandjo-Imalwa v The Law Society of Namibia & Another; The Law Society of Namibia & Another v The Attorney-General of the Republic of Namibia & Others 2003 NR 123 (HC) (amending Act 10/2002; sections 5(1)(cA) (ii) and 18(1)(b))

Law Society of Namibia v Kamwi & Another 2005 NR 91 (HC) (sections 4(1), 5, 41, 42(1)), 2009 (2) NR 569 (SC) (sections 21 and 22(1)); see also *Kamwi v Law Society of Namibia* 2007 (2) NR 400 (HC) and *Kamwi v Law Society of Namibia* 2011 (1) NR 196 (SC)

Afshani & Another v Vaatz 2007 (2) NR 381 (SC) (approach to costs since law no longer distinguishes between attorneys and advocates)

Nationwide Detectives & Professional Practitioners CC v Standard Bank of Namibia Ltd 2008 (1) NR 290 (SC) (section 21(1)(c))

Worku v Equity Aviation (Pty) Ltd 2010 (2) NR 621 (SC) (although not dealing with Act specifically, includes general discussion of attorney-client relationship with reference to authority to settle at 6630E-ff)

Disciplinary Committee for Legal Practitioners v Murorua & Another 2012 (2) NR 481 (HC) (construction and application of sections 32-33; 12-month suspension from practice – wholly suspended for 3 years – imposed for unprofessional, dishonourable or unworthy conduct; dissenting judge would have found wilful misleading of court and struck respondent from roll of legal practitioners); appeal dismissed on basis of late filing in *Disciplinary Committee for Legal Practitioners v Murorua & Another* 2016 (2) NR 374 (SC) (discussion of mandate of Disciplinary Committee in course of discussion of the Committee's non-compliance with Rules of the High Court)

Van der Merwe v Director of the Law Society of Namibia & Others 2013 (1) NR 98 (HC) (requirements for issue of Fidelity Fund Certificate under section 68)

S v Hoabeb 2013 (1) NR 222 (HC) (example of contravention of section 21(1)(c)) (discussed in Nico Horn, *S v Hoabeb: A Dummy's Guide on How to Avoid Justice in Namibia for Ten Years*, *Namibia Law Journal*, Volume 5, Issue 1, 2013)

Witvlei Meat (Pty) Ltd v Disciplinary Committee for Legal Practitioners & Others 2013 (1) NR 245 (HC) (section 35), confirmed on appeal in *Witvlei Meat (Pty) Ltd & Others v Disciplinary Committee for Legal Practitioners & Others* 2014 (1) NR 217 (SC) (meaning of appeal in section 35(3); principles relating to legal practitioner's duties of loyalty and confidentiality)

Maletzky v Zaaluka 2013 (3) NR 649 (HC) (cessation of claim as a ruse to circumvent prohibition in section 3 on practising law without being admitted as a legal practitioner, in violation of section 21); see also *Maletzky v Zaaruka*, *Maletzkey v Hope Village* [2013] NAHCMD 343 (19 November 2013))

De Beers Marine Namibia (Pty) Ltd v Lange NO & Others 2014 (2) NR 437 (HC) (section 85(2))

Maletzky v Gaseb & Another 2014 (3) NR 645 (HC) (section 21)

S v Conradie 2015 (3) NR 863 (HC) (although not dealing with the Act specifically, grant of postponement in criminal case based on constitutional right to legal representative of choice)

Makando v Disciplinary Committee for Legal Practitioners 2016 (4) NR 1127 (SC) (section 35: Disciplinary Committee is an administrative body in terms of Art 18 of Namibian Constitution, but section 35 procedure does not violate that Article; issue considered in context of prospects

of success in condonation application).

This case includes criticism of the Disciplinary Committee at para 23: “Once again this court must chide the Disciplinary Committee for its failure to comply with the time limits stipulated in the rules of this court. It is not acceptable for an institution charged with the responsibility of regulating the conduct of legal practitioners itself to fail to observe the rules.” It also includes similar criticism of the Law Society of Namibia at para 27.)

De Beers Marine Namibia (Pty) Ltd v Loubser 2017 (1) NR 20 (SC) (certificates of authorisation under section 85(2) of the Act had been refused to South African legal practitioners who were acting for the respondent on a contingency basis, which is not allowed in Namibia; the same legal practitioners then agreed to act gratuitously for the respondent, who was allowed to proceed on an *in forma pauperis* basis)

Ex parte: Mukondomi (HC-NLD-CIV-MOT-ALP-2020/00004) [2020] NAHCNLD 89 (20 July 2020) (deals with question of domicile by virtue of good faith marriage for purposes of an application for admission as a legal practitioner; discusses requirements of good faith marriage for this purpose)

EK v BK 2017 (2) NR 474 (HC) (duties of legal practitioners in connection with hierarchy of courts; duty of legal practitioner to client is secondary to duty to court)

Ex parte Siambango 2020 (1) NR 162 (HC) (discussion of role of Law Society; “fit and proper person” under section 4(1))

Watson v Law Society of Namibia 2022 (4) NR 919 (SC) (section 5(1)(d); “fit and proper person” to be admitted and enrolled as a legal practitioner in Namibia)

Kisilipile & Another v First National Bank of Namibia Ltd 2021 (4) NR 921 (SC) (comments at paras 44-ff on “important aspects of legal ethics”:

[44] [...] The first is that a legal practitioner should not accept, and if already seized therewith should return, an instruction if he or she does not have the time to attend to the matter. Secondly, a legal practitioner should not accept an instruction if it relates to a matter or subject that falls outside his or her competence.

[45] When a legal practitioner accepts instructions, he or she must be in a position to fulfil his or her mandate properly and timeously and if, because of his or her workload, the practitioner is unable to do so then he or she has an ethical duty to refuse the work. Where a legal practitioner has received acquiescence from client to attend to the work at a later stage, he or she has a further duty to satisfy himself or herself that the work can wait without prejudice to the client and if it cannot he or she must refer the client elsewhere.

[46] A legal practitioner is required to have reasonable competence in the performance of his or her work. Where the practitioner is seized with an instruction which is outside his or her expertise and skill, the practitioner should not be eager to undertake it, but should consider referring the client to a colleague who has the experience and/or expertise. (footnote omitted)).

Commentary:

Clive L Kavendjii and Nico Horn, “The independence of the legal profession in Namibia” in Nico Horn & Anton Boesl, *The Independence of the Judiciary in Namibia*, Konrad Adenauer Stiftung, 2008, available [here](#)

Fritz Nghiishililwa, “*Adda K Angula & Others v The Board for Legal Education & Others*, Case No. A 348/2009”, *Namibia Law Journal*, Volume 2, Issue 1, 2010, available [here](#).

COMMENTARY

New Perimeter, *Namibia-Access to Justice: Paralegal Manual*, 2012, available [here](#).

See also **COURTS**.

See also Namibia Qualifications Authority Act 29 of 1996 (occupational and curriculum standards) (**EDUCATION**).

See also **LAW**.