MARINE AND FRESHWATER RESOURCES


Summary: This Act (GG 330) provides for the formation of the National Fishing Corporation of Namibia Limited, a company with the object of exploiting fish and other marine resources, and promoting the establishment, development and efficiency of other businesses engaged in the fishing industry.

Application of law: The application of the Act is affected by the State-owned Enterprises Governance Act 2 of 2006 (GG 3698), which was brought into force on 1 November 2006 by Proc. 13/2006 (GG 3733) and which has since been re-named the Public Enterprises Governance Act 2 of 2006.

Regulations: The Act makes no provision for regulations.


Summary: This Act (GG 2458) provides for the conservation of the marine ecosystem; for the responsible utilisation, conservation, protection and promotion of marine resources on a sustainable basis; and for the control of marine resources for these purposes. It repeals the Sea Fisheries Act 29 of 1992 (GG 492), which in turn replaced the Sea Fisheries Act 58 of 1973. It also repeals the Sea Birds and Seals Protection Act 46 of 1973, and the Fishing Boat and Factory Owners’ Committee Ordinance 16 of 1968. The Act was brought into force on 1 August 2001 by GN 152/2001 (GG 2591).

Amendments: The State-owned Enterprises Governance Act 2 of 2006 (GG 3698), which was brought into force on 1 November 2006 by Proc. 13/2006 (GG 3733) and which has since been re-named the Public Enterprises Governance Act 2 of 2006, amends section 13, 16, and 17, and deletes section 15.

Act 9/2015 (GG 5837) amends sections 1, 3, 32, 38 and 39 and inserts section 39A.

Regulations: Regulations made under previous legislation remain in force, in terms of section 64(2) of the Act. Pre-independence regulations have not been comprehensively researched.


GN 153/2001 (GG 2591) states that it repeals the “regulations promulgated by Government Notice No. 566 of 4 January 1993”. There is no such regulations.
Government Notice. However, the repeal probably intended to refer to Government Notice No. 1 of 4 January 1993, which was published in Government Gazette 566.

Regulations made under the current Act are as follows:

**Regulations relating to the Exploitation of Marine Resources** are contained in GN 241/2001 (GG 2657), as amended by GN 63/2015 (GG 5721), GN 55/2016 (GG 5985) and GN 93/2018 (GG 6601). These regulations repeal the ones on the same topic initially contained in GN 153/2001 (GG 2591).

GN 92/2018 (GG 6601) announces a period for applications for rights to harvest certain marine resources in terms of these regulations, along with criteria for granting rights to harvest these resources. Both the time period and the criteria were amended by GN 150/2018 (GG 6657).

**Vessel Monitoring Regulations** are contained in GN 65/2005 (GG 3446), as amended by GN 2/2014 (GG 5391).

**Regulations relating to the licensing of foreign flag vessels for the purpose of harvesting Namibia’s marine resources** are contained in GN 147/2006 (GG 3696).

These regulations refer to “conservation and management measures published by Government Notice No. 126 of 30 August 2006”. This appears to be an error. GN 126/2006 is dated 1 September 2006 and contains Otjiwarongo Amendment Scheme No. 8 (GG 3688). No Government Gazette was published on 30 August 2006. The reference was probably intended to be to the conservation and management measures published by Government Notice 148 of 8 September 2006 (GG 3696).

**Regulations relating to Namibian Islands’ Marine Protected Area** are contained in GN 316/2012 (GG 5111).

**Regulations relating to Inspection of Register** are contained in GN 238/2015 (GG 5853).

**Regulations to Reduce Incidental By-catch of Seabirds in the Hake Demersal Trawl Vessels** are contained in GN 269/2015 (GG 5877).

**Regulations to Reduce Incidental By-catch of Seabirds in the Hake Demersal Longline Vessels** (07) are contained in GN 270/2015 (GG 5877), as amended by GN 68/2016 (GG 5990).

**Notices:** In terms of section 37(2) of the Act, conservation and management measures adopted under Article VIII of the International Convention for the Conservation of Atlantic Tunas are published in GN 148/2006 (GG 3696).


The Namibian Islands Marine Reserve was declared in GN 17/2009 (GG 4210).
GN 2/2013 (GG 5119) requires persons harvesting marine resources under a right, an exploratory right or a fisheries agreement to carry aboard a fishing vessel a specified number of fisheries observers, depending on the type and size of vessel.

A Designation Agreement between the Ministry of Fisheries and Marine Resources and the National Fishing Corporation of Namibia Limited is published in GN 74/2016 (GG 5996). A Co-operation Agreement and a Designation Agreement between the Ministry of Fisheries and Marine Resources and the National Fishing Corporation of Namibia Limited are published in GN 99/2016 (GG 6017), which withdraws GN 74/2016, and is amended by GN 113/2017 (GG 6307) (by the addition of Addendum No. 1 to the Co-operation Agreement as set out in the Schedule).

GN 92/2018 (GG 6601) announces a period for applications for rights to harvest certain marine resources, along with criteria for granting rights to harvest these resources. Both the time period and the criteria were amended by GN 150/2018 (GG 6657).

**Total allowable catches**: Total allowable catches for various types of fish are set periodically in terms of the relevant law and have not been recorded here.

**Fees and levies**: Fees and levies on certain marine resources have been issued in terms of this Act, each of which replaces its predecessor – with the most recent one in this series contained in GN 158/2017 (GG 6342).

Fees and levies on other marine resources have been issued in another series of notices, each of which replaces its predecessor – with the most recent one in this series contained in GN 159/2017 (GG 6342).

Levies for the benefit of the Fisheries Observer Fund are imposed in another series of notices, each of which replaces its predecessor – with the most recent one in this series contained in GN 146/2014 (GG 5559).

**Cases**: The following are post-independence cases concerning the 1973 South African Sea Fisheries Act 58 of 1973 –

- *S v Curras* 1991 NR 208 (HC)
- *Pineiro & Others v Minister of Justice & Others* 1991 NR 283 (HC)
- *Slabber v Blanco & Others* 1991 NR 404 (HC)
- *S v Pineiro & Others* 1991 NR 424 (HC); 1993 NR 424 (HC) (concurring judgment)
- *S v Redondo* 1992 NR 133 (SC)
- *S v Carracelas & Others (1)* 1992 NR 322 (HC)
- *S v Carracelas & Others (2)* 1992 NR 329 (HC)
- *S v Carracelas & Others (3)* 1992 NR 336 (HC)
- *Banco Exterior De Espana SA & Another v Government of the Republic of Namibia & Another* 1996 NR 1 (HC)
- *S v Martinez* 1993 NR 1 (HC)
- *S v Pineiro & Others (1)* 1993 NR 24 (HC)
- *S v Pineiro & Others (2)* 1993 NR 49 (HC)
- *Freiremar SA v The Prosecutor-General of Namibia & Another* 1996 NR 18 (HC) (holding that part of the proviso to section 17(1) was unconstitutional)
- *S v Pineiro & Others* 1999 NR 13 (HC).

**International agreements**: An agreement between Namibia and Mozambique on co-operation in the fisheries sector, in terms of section 35(1) of the Act, is announced in Proc. 2/2003 (GG 2910).
An agreement providing for the implementation of a 1990 General Agreement on Economic, Scientific, Technical and Cultural Co-operation between Namibia and Mozambique in respect of fisheries and aquaculture is announced in Proc. 21/2015 (GG 5784).

An agreement between Namibia and Angola on co-operation in fisheries and aquaculture is published in Proc. 22/2015 (GG 5785).


**Aquaculture Act 18 of 2002.**

**Summary:** This Act (GG 2888) regulates and controls aquaculture activities and provides for the sustainable development of aquaculture resources. It was brought into force on 3 December 2003 by GN 245/2003 (GG 3104).

**Regulations:** Regulations related to licensing are contained in GN 246/2003 (GG 3104).

Regulations related to the import and export of aquatic organisms and aquaculture products are contained in GN 70/2010 (GG 4453).

**Inland Fisheries Resources Act 1 of 2003.**

**Summary:** This Act (GG 2962) provides for the conservation and protection of aquatic ecosystems and the sustainable development of inland fisheries resources. It was brought into force on 6 June 2003 by GN 117/2003 (GG 2992).

**Regulations:** Regulations are contained in GN 118/2003 (GG 2992), as amended by GN 12/2004 (GG 3141) and by GN 80/2006 (GG 3639).

**Notices:** Fisheries reserves are declared in GN 276/2015 (GG 5883), GN 298/2015 (GG 5903), GN 270/2016 (GG 6172), GN 297/2016 (GG 6197) and GN 298/2016 (GG 6197).

GN 296/2016 (GG 6197), issued under section 22(3) of the Act, prohibits the use of monofilament nets in inland waters of Namibia and the issue of licences for the use of such nets as a regulated fishing gear.

**Designations:** GN 11/2004 (GG 3141) designates the officer stipulated in column 1 of the Schedule to the Act, of the regional council listed in column 2, to perform functions mentioned in column 3 of that Schedule.

**COMMISSIONS**
See also GN 103/1991 (GG 258).
INTERNATIONAL LAW

Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, 2009

**Benguela Current Convention, 2013**


Additional Protocol to the Abidjan Convention concerning Cooperation in the Protection and Development of Marine and Coastal Environment from Land-based Sources and Activities in the Western, Central and Southern African Region, 2012

Convention on the Conservation and Management of Fishery Resources in the South East Atlantic Ocean, 2001


International Convention for the Conservation of Atlantic Tunas (ICCAT), 1966, as amended

International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F), 1995

SADC Protocol on Fisheries, 2001


See also ENVIRONMENT.

See also SEA AND SEASHORE.