

MEDICAL AID

Medical Scheme for Members of the National Assembly, Judges and other Office Bearers Act 23 of 1990

Summary: This Act ([GG 118](#)) extends membership of the medical scheme established for the public service under the Public Service Act 2 of 1980 to members and former members of the National Assembly, judges and former judges of the Supreme Court and the High Court, certain other office-bearers and other persons, and to their surviving spouses.

Regulations: The Act makes no provision for regulations.

Notices: Certain officials are named as office-bearers for purposes of the Act from time to time, but these designations have not been recorded here.

Medical Aid Funds Act 23 of 1995

Summary: This Act ([GG 1226](#)) regulates medical aid funds and establishes the Namibian Association of Medical Aid Funds. Part III of the Act was brought into force on 1 February 1996 by GN 25/1996 ([GG 1255](#)). The remainder of the Act was brought into force on 11 February 1997 by GN 11/1997 ([GG 1496](#)).

Repeals: The Act repeals the *Medical Schemes Act 72 of 1967* ([RSA GG 1759](#)), as amended.

Amendments: The Namibia Financial Institutions Supervisory Authority Act 3 of 2001 ([GG 2529](#)), which was brought into force by GN 85/2001 ([GG 2528](#)), amends section 1 and substitutes section 3.

Act 11/2016 ([GG 6180](#)) amends section 1 and substitutes section 7 and 45.

The Act is also amended by the Financial Institutions and Markets Act 2 of 2021 ([GG 7645](#)), which has not yet been brought into force.

Regulations: Section 46(2) provides that anything done under a repealed law “which could have been done under a corresponding provision of this Act” survives.

With respect to regulations made under the *Medical Schemes Act 72 of 1967*, the relevant transfer proclamation was the Executive Powers (Health) Transfer Proclamation, AG 14 of 1977, which came into force on **1 December 1977**. The most recent regulations made prior to the transfer date were contained in RSA GN R.2395/1976 ([RSA GG 5352](#)), but these were repealed in Namibia by the regulations made under the current Act.²⁷⁴

Regulations made under the current Act are contained in GN 12/1997 ([GG 1496](#)), as amended by GN 193/2018 ([GG 6688](#)).²⁷⁵

²⁷⁴ These regulations replace the ones contained in RSA GN R.2417/1972 ([RSA GG 3750](#)), as amended by RSA GN R.908/1974 ([RSA GG 4287](#)), which replaced the regulations in RSA GN R.1486/1970 ([RSA GG 2806](#)), which in turn replaced those published in RSA GN R.174/1968 ([RSA GG 1977](#), republished in [OG 2858](#)).

The 1972 regulations were replaced in South Africa by a new set of regulations made under the *Medical Schemes Act 72 of 1967*, contained in RSA GN R.2768/1984 ([RSA GG 9533](#)), but these regulations were made after the relevant transfer date and were not made expressly applicable to SWA. The 1972 regulations were repealed in Namibia by the regulations made under the current Act and contained in GN 12/1997 ([GG 1496](#)).

²⁷⁵ As noted above, these regulations repeal the ones contained in RSA GN R.2395/1976 ([RSA GG 5352](#)).

Notices: General Notice 19/2007 ([GG 3788](#)) declares it an undesirable practice for medical aid funds to use certain game shows and other competitions as forms of advertisement.

General Notice 363/2017 ([GG 6399](#)) declares certain rules on restrictions and exclusions in respect of third party claims to be undesirable practices for medical aid funds.

General Notice 129/2020 ([GG 7169](#)) issues a “Covid-19 Pandemic: Declaration of undesirable practice” in terms of section 4(9) of the Act.

The particulars of individual registered funds are not recorded here.

Cases:

Namibian Association of Medical Aid Funds v Namibian Competition Commission (A 348/2014) [2016] NAHCMD 80 (17 March 2016), overturned on appeal in *Namibian Association of Medical Aid Funds v Namibia Competition Commission* 2017 (3) NR 853 (SC) (holding that funds established pursuant to the Act do not fall within the definition of “undertaking” in the Competition Act 2 of 2003)

Heritage Health Medical Aid Fund v Registrar of Medical Aid Funds & Others 2022 (4) NR 1127 (SC) (sections 30 (1)(l) and (m), 31(1) and (3)).

Commentary:

Patric Kauta & Mercy Kuzeeko, “Supreme Court of Namibia: NAMAFA and others v Namibian Competition Commission and another. Where is the solidarity?”, *Namibia Law Journal*, Volume 9, Issue 1, 2017

PM Balhao, “NAMAFA v NCC: Was the wealth behind the health overlooked?”, *Namibia Law Journal*, Volume 10, Issue 1, 2018.

See also Hospitals and Health Facilities Act 36 of 1994 (tariffs for state patients) (**HOSPITALS**).

See also *Employees’ Compensation Act 30 of 1941* (tariff of fees for medical aid) (**LABOUR**).

See also the Presidential Emoluments Act 17 of 1990 and Former Presidents’ Pension and Other Benefits Act 18 of 2004 (medical aid benefits for President and former Presidents) (**PRESIDENT**).

See also Social Security Act 34 of 1994 (Maternity Leave, Sick Leave and Death Benefit Fund; National Medical Benefit Fund) (**SOCIAL SECURITY**).