

# PRESCRIPTION

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***Prescription Act 68 of 1969***, as amended in South Africa to November 1979.

**Summary:** This Act governs prescription (time limits on instituting legal proceedings). It replaced the Prescription Proclamation 13 of 1943. (According to *O'Linn v Minister of Agriculture, Water and Forestry & Others* 2008 (2) NR 792 (HC) at 797F-G, the South African *Prescription Act 18 of 1943* was never applicable to Namibia or South West Africa.)

**Applicability to SWA:** Section 21 state “This Act and any amendment thereof which may be made from time to time, shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel referred to in section 38(5) of the South West Africa Constitution Act, 1968 (Act No. 39 of 1968).”

**Transfer proclamation:** Although this Act makes no reference to any minister, it probably fell under the Executive Powers (Justice) Transfer Proclamation (AG 33/1979, as amended), dated 12 November 1979. There was one amendment to the Act in South Africa after the date of transfer and prior to Namibian independence – the *Prescription Amendment Act 11 of 1984* – which was not made expressly applicable to SWA.

**Amendments:** The Married Persons Equality Act 1 of 1996 amends section 3.

**Cases:**

*H Charney & Co (Pty) Ltd v Segall & Matheson Properties* 1995 NR 148 (HC)  
(sections 11(d) and 12(1))

*Seaflower Whitefish Corporation v Namibia Ports Authority* 1998 NR 316 (HC)  
(section 12(1) and (3))

*Seaflower Whitefish Corporation Ltd v Namibian Ports Authority* 2000 NR 57 (HC)  
(sections 11 and 12)

*Bank Windhoek Ltd v Kessler* 2001 NR 234 (HC) (section 13(1)(b))

*Andreas v La Cock & Another* 2006 (2) NR 472 (HC) (section 11)

*Karuaihe-Martin v Telecom Namibia NLLP* 2002 (2) 267 NLC (section 15)

*South Bakels (Pty) Ltd & Another v Quality Products & Another* 2008 (2) NR 419  
(HC)

*O'Linn v Minister of Agriculture, Water and Forestry & Others* 2008 (2) NR 792  
(HC) (sections 6 and 19); *Minister of Agriculture, Water and Forestry v O'Linn* 2008 (2) NR 792 (SC).

## ***Limitations of Legal Proceedings (Provincial and Local Authorities)***

***Act 94 of 1970***, as amended in South Africa to November 1979.

**Summary:** This Act prescribes time limits for legal proceedings in respect of certain debts against provincial administrations, local authorities and the Administration of the territory of South West Africa.

**Applicability to SWA:** Section 1 states “This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.”

**Transfer proclamation:** Although this Act makes no reference to any minister, it probably fell under the Executive Powers (Justice) Transfer Proclamation (AG 33/1979, as amended), dated 12 November 1979. There were no amendments to the Act in South Africa after the date of transfer.

**Amendments:** The Limitation of Legal Proceedings Act 25 of 1985 amends section 1.

Section 95(1) of the Local Authorities Act 23 of 1992 repeals section 9, insofar as it relates to Ord. 13/1963 (ie municipalities).