

PURCHASE AND SALE

Formalities in Respect of Contracts of Sale of Land Act 71 of 1969, as amended in South Africa to April 1978.

Summary: This Act sets forth the necessary formalities in contracts for the sale of land or certain interests in land.

Applicability to SWA: Section 3 of the Act states “This Act and any amendment thereof shall apply also in the territory of South West Africa.”

Transfer of administration to SWA: The administration of this Act was transferred to SWA by the Executive Powers (Commerce) Transfer Proclamation (AG 28/1978), dated 28 April 1978. There were no amendments to the Act in South Africa prior to its repeal. The Act was replaced in South Africa by the *Alienation of Land Act 68 of 1981*, which was not made applicable to SWA.

Cases: *Mack v Uni-Signal (Pty) Ltd* 1993 NR 304 (HC).

Sale of Land on Instalments Act 72 of 1971, as amended in South Africa to April 1978.

Summary: This Act regulates the purchase and sale of residential land, where payments are to be made in instalments over a period of at least one year.

Applicability to SWA: Section 19 of the Act 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 (Commerce) Transfer Proclamation (AG 28/1978), dated 28 April 1978.

Section 3(2)(b) of the transfer proclamation stated that the reference to the “Minister” in section 2(b)(i) of the Act should be construed as including a reference to the Administrator-General (rather than being construed as the Administrator-General only).

The only amendment to the Act in South Africa after the date of transfer -- the *Sale of Land on Instalment Amendment Act 74 of 1978* -- was not made expressly applicable to SWA.

Like the *Formalities in Respect of Contracts of Sale of Land Act 71 of 1969*, this Act was replaced in South Africa by the *Alienation of Land Act 68 of 1981*, which was not made applicable to SWA.

Amendments: Section 4 of the Executive Powers (Commerce) Transfer Proclamation (AG 28/1978) amends section 2 of the Act.

Credit Agreements Act 75 of 1980, as amended in South Africa to May 1981.

Summary: This Act replaced the *Hire-Purchase Act 36 of 1942*. It regulates transactions where movable goods are purchased or leased on credit. It also applies to services rendered on credit.

Applicability to SWA: Section 1 of the Credit Agreements Proclamation (AG 17/1981) states “Subject to the provisions of this Proclamation, the Credit Agreements Act, 1980 (hereinafter referred to as the Act), shall apply to the territory of South West Africa.”

Transfer of administration to SWA: Section 4 of the Credit Agreements Proclamation (AG 17/1981) makes certain amendments to the Act which had the effect of transferring the administration of the Act to SWA. There were two amendments to the Act in South Africa after the date of AG 17/1981 and prior to Namibian independence, neither of which was made expressly applicable to SWA.

Amendments: The Credit Agreements Proclamation (AG 17/1981) amends section 1 and section 30 of the Act. AG GN 67/1981 affects the application of the Act.

Regulations: Regulations are contained in AG GN 68/1981, GN 1/1986 and GN 177/1992 (GG 536).

Cases: *Courtney-Clarke v Bassingthwaighe* 1990 NR 89 (HC).

See also **ESTATE AGENTS**.

See also **LAND**.

RAILWAYS

Rating of Railway Property Act 25 of 1959, with some South African amendments.

Summary: This Act defines the power of local authorities with regard to the imposition of rates upon state-owned property being used by the South African Railways and Harbours Administration.

Applicability to SWA: Section 6 states “This Act shall apply to the Territory of South West Africa.” This wording does not make amendments to the Act in South Africa automatically applicable to SWA. However, all *except* one of the amendments to the Act in South Africa prior to Namibian independence -- the *Financial Relations Act 65 of 1976* -- contain provisions making them expressly applicable to SWA.

Transfer of administration to SWA: The administration of this Act was transferred to SWA by the Executive Powers (Transport) Transfer Proclamation (AG 14/1978), dated 15 March 1978. There were two amendments in South Africa after that date and prior to Namibian independence -- the *Railways and Harbours Acts Amendment Act 67 of 1980* and the *South Africa Transport Services Act 65 of 1981* -- both of which were made expressly applicable to SWA. The *Rating of State Property Act 79 of 1984* repealed the Act only “in so far as it applies in the Republic”.

Amendments: The Natives (Urban Areas) Amendment Act 12 of 1980 affects the application of this Act.

Railways and Harbours Finances and Accounts Act 48 of 1977, as amended in South Africa to March 1978.

Summary: This Act regulates the finances of the SAR and Harbours. Section 17 of the Act came into operation on 1 January 1977, and the remainder of the Act on 1 April 1977.

Applicability to SWA: Section 28 states that “This Act and any amendment thereto is also applicable 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 (Transport) Transfer Proclamation (AG 14/1978), dated 15 March 1978.

There were several amending acts in South Africa after the date of transfer. The following were made expressly applicable to SWA:

Railways and Harbours Acts Amendment Act 80 of 1979

Railways and Harbours Acts Amendment Act 67 of 1980

Railways and Harbours Acts Amendment Act 29 of 1981

South African Transport Services Amendment Act 6 of 1982

The Act was repealed in South Africa by *Act 17 of 1983*, which was not made expressly applicable to SWA.