

# SOCIAL SECURITY

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## Social Security Act 34 of 1994

**Summary:** This Act ([GG 992](#)) establishes a Social Security Commission as well as the following funds: a Maternity Leave, Sick Leave and Death Benefit Fund; a National Medical Benefit Fund; a National Pension Fund; and a Development Fund. The Act – *with the exception of* Parts VI (National Medical Benefit Fund) and VII (National Pension Fund) – was brought into force on 15 January 1995 by GN 7/1995 ([GG 1006](#)).

**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 later re-named the Public Enterprises Governance Act 2 of 2006, amends section 4, 5 and 12. That statute has since been replaced by the Public Enterprises Act 1 of 2019.)

The State-owned Enterprises Governance Act incorrectly refers to this Act as the “Social Security Commission Act” in Schedule 2.

The Labour Act 11 of 2007 ([GG 3971](#)), brought into force in relevant part on 1 November 2008 (GN 260/2008, [GG 4151](#)), amends the definition of “employee” in section 1.

The Abolition of Payment by Cheque Act 16 of 2022 ([GG 7995](#)), which was brought into force on 15 March 2023 by GN 47/2023 ([GG 8050](#)), amends section 16.

**Regulations:** Regulations are contained in GN 198/1995 ([GN 1181](#)), as amended by:

GN 31/1996 ([GG 1258](#)) (amends Reg 2)

GN 80/1996 ([GG 1291](#)) (amends Reg 2)

GN 244/1997 ([GG 1741](#)) (amends Regs 9-10 and substitutes Form 7)

GN 235/1998 ([GG 1952](#)) (substitutes Form 7 with a Social Security Card confirming registration as an employee)

GN 101/2001 ([GG 2544](#)) (amends Reg 11 to increase the death benefit)

GN 227/2003 ([GG 3092](#)) (amends Reg 11 to increase the death benefit)

GN 53/2008 ([GG 4002](#)) (amends definition of “remuneration” and Regs 2, 3, 5; amends Reg 9 to make maternity benefits 100 per cent of remuneration up to a specified ceiling, and adjusts the ceiling; amends Reg 10 to adjust the percentage of sick leave benefits; and amends Reg 11 to increase the death benefit)

GN 49/2009 ([GG 4236](#)) (substitutes “basic wage” for “remuneration”; amends Reg 9 to increase the ceiling for maternity benefits; amends Reg 10 to raise sick leave benefits; and amends Reg 11 to increase the death benefit)

GN 147/2010 ([GG 4530](#)) (amends Reg 9 to increase the ceiling for maternity benefits; amends Reg 10 to raise the ceiling for sick leave benefits; and amends Reg 11 to increase the death benefit)

GN 147/2010 states that the regulations were previously amended by Government Notice 101 of 11 May 2001, but this is an error; there is no such Government Notice. This Government Notice also lists Government Notice 101 of 1 June 2001, which is correct.

GN 69/2011 ([GG 4725](#)) (amends Reg 9 to raise the ceiling for maternity leave benefits)

GN 129/2011 ([GG 4767](#)) (substitutes Reg 3(4), authorising fee as fixed by Commission for replacement social security card or registration certificate)

GN 129/2011 states that the regulations were previously amended by Government Notice 101 of 11 May 2001; the correct date for this Government Notice is 1 June 2001. GN 129/2011 lists GN 5 of 2 January 2009 as a previous amendment to these regulations, but this is an error as GN 5/2009 is actually an announcement of members of the Social Security Commission.

GN 97/2012 ([GG 4919](#)) (amends Reg 9 to raise the ceiling for maternity leave benefits to N\$10

500/month; amends Reg 10 to set sick leave benefits at 75% of basic wage up to ceiling of N\$7 875/month for first 12 months, and 65% of basic wage up to ceiling of N\$6 825/month thereafter; and amends Reg 11 to raise the death benefit to a single payment of N\$5 515)

This Government Notice states that the regulations were previously amended by Government Notice 101 of 11 May 2001, but this is an error; there is no such Government Notice. This Government Notice also lists Government Notice 101 of 1 June 2001, which is correct.

GN 301/2012 ([GG 5101](#)) (amends definition of “basic wage” in Reg 1)

GN 44/2016 ([GG 5967](#)), as corrected by GN 51/2016 ([GG 5971](#)) (amends maternity, sick leave and death benefits; amends reg 9 to raise the ceiling for maternity leave benefits to N\$13 500/month; amends reg 10 to set sick leave benefits at 75% of basic wage up to ceiling of N\$9 750/month for first 12 months, and 65% of basic wage up to ceiling of N\$8 450/month thereafter; and amends reg 11 to raise the death benefit to a single payment of N\$8 475)

This Government Notice states that the regulations were previously amended by Government Notice 101 of 11 May 2001, but this is an error; there is no such Government Notice. This Government Notice also lists Government Notice 101 of 1 June 2001, which is correct. It also states that the regulations were previously amended by Government Notice 277 of 15 November 2003; the correct reference is Government Notice 227 of 15 November 2003. It also states that the regulations were previously amended by Government Notice 301 of 18 December 2012; the correct date is 20 December 2012.

GN 89/2022 ([GG 7773](#)) (amends maternity, sick leave and death benefits; amends reg 9 to raise the ceiling for maternity leave benefits to N\$15 000/month; amends reg 10 to set sick leave benefits at 75% of basic wage up to ceiling of N\$11 250/month for first 12 months, and 65% of basic wage up to ceiling of N\$9 750/month thereafter; and amends reg 11 to raise the death benefit to a single payment of N\$12 000).

This Government Notice states that the regulations were previously amended by Government Notice 277 of 15 November 2003; the correct reference is Government Notice 227 of 15 November 2003. It also states that the regulations were previously amended by Government Notice 301 of 1 March 2012, but this is an error; there is no such Government Notice. This reference must have been intended to refer to Government Notice 301 of 20 December 2012, which came into force on 1 March 2013, and is also listed.

Social Security Development Fund Regulations are contained in GN 215/2010 ([GG 4565](#)), as substantially amended by GN 302/2012 ([GG 5101](#)).

**Notices:** Notices regarding unclaimed monies in terms of the maternity leave, sick leave and death benefits fund are not listed here.

**Appointments:** Members of the Social Security Commission are announced in GN 133/1995 ([GG 1119](#)), GN 38/2003 ([GG 2927](#)), GN 5/2009 ([GG 4192](#)), GN 237/2011 ([GG 4859](#)), GN 327/2013 ([GG 5364](#)), GN 267/2014 ([GG 5644](#)), GN 167/2016 ([GG 6086](#)), GN 251/2017 ([GG 6426](#)), GN 39/2018 ([GG 6538](#)), GN 316/2018 ([GG 6784](#)), GN 85/2021 ([GG 7521](#)) and GN 16/2023 ([GG 8021](#)).

**Notes:** (1) The wording of the appointments differs in these different Government Notices. Most of the notices refer to the appointment of members of the Social Security Commission, but two notices have different wordings: GN 167/2016 ([GG 6086](#)) (appointed as Commissioners) and GN 39/2018 ([GG 6538](#)) (appointed as board members). (2) Note that there are two versions of GG 8021. However GN 16/2023 is identical in both versions.

A Chairperson is announced in GN 234/1998 ([GG 1952](#)), GN 38/2003 ([GG 2927](#)), GN 5/2009 ([GG 4192](#)) and GN 21/2015 ([GG 5853](#)).

#### **Cases:**

*Engelbrecht & Others v Hennes* 2007 (1) NR 236 (LC) (deductions made from commissions in respect of social security payments are an indication of an employment relationship)

*Christian Congregation of Jehovah's Witnesses of Namibia v Social Security Commission* 2017 (3) NR 724 (LC) (application of section 45 on form of appeal given elimination of district labour courts; definitions of "employee" and "employer" in section 1, and indications of employment relationship; lack of provision in Act for de-registration of employers once registered); *Christian Congregation of Jehovah's Witnesses of Namibia (Incorporated Association Not for Gain) v Social Security Commission of Namibia* 2019 (1) NR 342 (SC) (definitions of "employee" and "employer" in section 1; Commission's refusal to deregister the religious group as an employer upheld).

## **COMMISSIONS**

Commission of Inquiry into the Activities, Affairs, Management and Operation of the Social Security Commission (Proc. 7/2002, [GG 2857](#)).

See also GN 200/2002 ([GG 2857](#)), GN 81/2003 ([GG 2956](#)).

See also **LABOUR**.