

THE COVID-19 STATE OF EMERGENCY

Declaration of state of emergency: The Declaration of State of Emergency: National Disaster (COVID-19) Proclamation 7/2020 ([GG 7148](#)) declared a state of emergency in the whole of Namibia on account of the outbreak of the Coronavirus disease (COVID -19), with effect from 17 March 2020. This Proclamation was approved by a resolution of the National Assembly as required by Article 26 of the Namibian Constitution (see, for example, "[Parliament blesses state of emergency](#)", *The Namibian*, 20 March 2020).

Emergency regulations for the whole of Namibia: The first "**Stage 1**" State of Emergency – COVID-19 Regulations were issued on 23 March 2020 in Proclamation 9/2020 ([GG 7159](#)) and amended on 18 April 2020 by Proclamation 13/2020 ([GG 7180](#)). The lockdown period covered by these regulations was initially stated in Proclamation 9/2020 to be from 14:00 on 28 March 2020 until 23:59 on 17 April 2020, then **amended** by Proclamation 13/2020 to continue from 23:59 on 17 April 2020 to 23:59 on 4 May 2020. The amending Proclamation also made numerous substantive changes. This first set of emergency regulations expired at the end of lockdown on 4 May 2020.

The initial regulations were replaced with new "**Stage 2**" State of Emergency – COVID-19 Regulations issued on 4 May 2020 in Proclamation 17/2020 ([GG 7203](#)). These regulations covered the period from 23:59 on 4 May 2020 to at 23:59 on 1 June 2020.

The "Stage 2" regulations were amended on 1 June 2020 by Proclamation 21/2020 ([GG 7225](#)) for application to "**Stage 3**". These amended regulations covered the period from 23:59 on 1 June 2020 to 23:59 on 28 June 2020. This amendment of the national Stage 3 regulations also took into account the return of the local authority of Walvis Bay to Stage 1. The national "Stage 3" regulations were **further amended** on 8 June 2020 by Proclamation 25/2020 ([GG 7235](#)), to take account of the fact that the whole of the Erongo Region had returned to Stage 1, and **again amended** on 22 June 2020 by Proclamation 27/2020 ([GG 7251](#)) when the Erongo Region migrated from Stage 1 to Stage 3.

Portions of the "**Stage 1**" State of Emergency – COVID-19 Regulations issued in Proclamation 9/2020 (reg 14) and the "**Stage 2**" State of Emergency – COVID-19 Regulations issued in Proclamation 17/2020 (reg 15) were declared unconstitutional and invalid by the High Court in *Namibian Employers' Federation and Others v President of the Republic of Namibia and Others* (HC-MD-CIV-MOT-GEN 2020/00136) [2020] NAHCMD 248 (23 June 2020). (This finding of invalidity also applies to the "Stage 2" regulations issued in Proclamation 17/2020 as amended for application to "**Stage 3**" by Proclamation 21/2020 (reg 15).)

On 28 June 2020, **Stage 4: State of Emergency - Covid-19 Regulations** were issued in Proclamation 28/2020 ([GG 7255](#)). These regulations were initially intended to apply to the whole of Namibia for the period from 00:00 on 29 June 2020 to 24:00 on 17 September 2020, with some exceptions pertaining to the Erongo Region.

However, these initial Stage 4 regulations were repealed before their anticipated date of expiry, on 14 July 2020, by Proclamation 33/2020 ([GG 7270](#)) which issued a replacement set of **Stage 4: State of Emergency - Covid-19 Regulations**. This second set of Stage 4 regulations applied to the whole of Namibia from the time of publication on 14 July 2020 to 24:00 on 17 September 2020, with some exceptions pertaining to the Erongo Region. This second set of Stage 4 regulations was initially virtually identical to the first set of Stage 4 regulations which it repealed. The second set of Stage 4 regulations was **amended** on 24 July 2020 by Proclamation 40/2020 ([GG 7284](#)). This amendment substituted regulation 2 (application of regulations),

regulation 7 (restrictions relating to liquor) and regulation 12 (restrictions relating to transportation of goods and persons). The second set of Stage 4 regulations was **further amended** on 3 August 2020 by Proclamation 44/2020 ([GG 7295](#)). This amendment substituted regulation 4 (schools, higher education institutions and other educational institutions) and regulation 6 (gatherings; to reduce the maximum gathering size from 250 to 100), and amended regulation 8 (with respect to certain sports events).

The second set of Stage 4 regulations was repealed (along with its amendments) before its anticipated date of expiry by Proclamation 46/2020 ([GG 7307](#)), which issued new **Stage 3: State of Emergency – Covid-19 Regulations** after the entire country was moved from Stage 4 to Stage 3 on 13 August 2020 in light of the dramatic increase in Covid-19 cases. These regulations applied to the entire country from their publication on 13 August 2020 to 24:00 on 29 August 2020, with some individual regulations being applicable only to the restricted areas of (a) Arandis, Swakopmund and Walvis Bay and (b) Windhoek, Rehoboth and Okahandja.

These regulations were repealed and replaced by a second set of **Stage 3: State of Emergency – Covid-19 Regulations** in Proclamation 48/2020 ([GG 7320](#)). These regulations applied to the entire country from 00:00 on 30 August 2020 to 24:00 on 12 September 2020. Some of these Stage 3 regulations applied only to the restricted areas of Windhoek, Rehoboth and Okahandja. Regulation 4 of these regulations (on the resumption of face-to-face learning) was substituted on 6 September 2020 by Proclamation 49/2020 ([GG 7329](#)).

These regulations upon their expiry by a third set of **Stage 3: State of Emergency – Covid-19 Regulations** in Proclamation 50/2020 ([GG 7332](#)). Most of these regulations applied to the entire country from 00:00 on 13 September 2020 to 24:00 on 17 September 2020, while a few regulations applied only to the restricted areas of Windhoek, Rehoboth and Okahandja.

Emergency regulations for Erongo Region and specific areas within that region: On 29 May 2020, the Walvis Bay Local Authority Area was returned to Stage 1. New **Stage 1: State of Emergency - Covid-19 Regulations: Walvis Bay Local Authority Area** were issued for Walvis Bay in Proclamation 20/2020 ([GG 7222](#)), as **amended** on 4 June 2020 by Proclamation 23/2020 ([GG 7229](#)). The initial period of lockdown for Walvis Bay was from the publication of Proclamation 20/2020 on 29 May 2020 to 23:59 on 4 June 2020, then amended by Proclamation 23/2020 to be from 24:00 on 29 May 2020 until 23:59 on 8 June 2020. The national “Stage 3” regulations were amended to take account of the situation of Walvis Bay (along with other amendments relating to the national movement from Stage 2 to Stage 3) on 1 June 2020 by Proclamation 21/2020 ([GG 7225](#)).

The Walvis Bay regulations were repealed by Proclamation 24/2020 ([GG 7234](#)), which issued **Stage 1: State of Emergency - Covid-19 Regulations: Erongo Region** returning the whole of the Erongo Region (including Walvis Bay) to Stage 1 from 00:00 on 9 June 2020 to 24:00 on 22 June 2020. The national “Stage 3” regulations were accordingly amended on 8 June 2020 by Proclamation 25/2020 ([GG 7235](#)) to take account of the fact that the whole of the Erongo Region had returned to Stage 1.

The Erongo Region was moved from Stage 1 to Stage 3, from 00:00 on 23 June 2020 to 24:00 on 6 July 2020. **Stage 3: State of Emergency - Covid-19 Regulations: Erongo Region** were issued for the Erongo Region in Proclamation 26 of 2020 ([GG 7250](#)), with some specific Stage 3 restrictions for that region due to the particularly high incidence of Covid-19 cases there. Some individual regulations applied only to the “restricted area” in Erongo Region, which essentially covers Arandis, Swakopmund and Walvis Bay, where the incidence of Covid-19 was highest. The national “Stage 3” regulations were accordingly amended on 22 June 2020 by Proclamation 27/2020 ([GG 7251](#)).

A new set of **Stage 3: State of Emergency - COVID-19 Regulations: Erongo Region** was issued on 6 July 2020 in Proclamation 32/2020 ([GG 7264](#)), to replace the expiring set of Stage 3 regulations for the Erongo Region. This new set of Stage 3 Erongo regulations was intended to apply to the Erongo Region from 00:00 on 7 July 2020 to 24:00 on 3 August 2020. (Some individual regulations applied only to the “restricted area” in Erongo Region, which essentially covered Arandis, Swakopmund and Walvis Bay.)

This second set of Stage 3 Erongo Region regulations was repealed and replaced on 22 July 2020, before its intended date of expiry, by a third set of **Stage 3: State of Emergency - COVID-19 Regulations: Erongo Region** contained in Proclamation 39/2020 ([GG 7283](#)). This third set of Stage 3: Erongo Region regulations initially applied to the Erongo Region from 00:00 on 22 July 2020 to 24:00 on 3 August 2020, but was **amended** on 3 August 2020 by Proclamation 43/2020 ([GG 7294](#)) to apply to the Erongo Region (as amended) from 00:00 on 4 August 2020 to 24:00 on 31 August 2020. The amendments also changed the provisions on education. (Some individual regulations applied only to the “restricted area” in Erongo Region, which essentially covers Arandis, Swakopmund and Walvis Bay.)

The third set of Stage 3 Erongo Region regulations (along with its amendments) was repealed before its anticipated date of expiry by Proclamation 46/2020 ([GG 7307](#)), which issued new **Stage 3: State of Emergency – Covid-19 Regulations** after the entire country was moved from Stage 4 to Stage 3 on 13 August 2020 in light of the dramatic increase in Covid-19 cases. Some of the new Stage 3 regulations applied only to the restricted areas of (a) Arandis, Swakopmund and Walvis Bay and (b) Windhoek, Rehoboth and Okahandja.

Suspension of certain laws: Article 26(5)(b) of the Namibian Constitution empowers the President “to suspend the operation of any rule of the common law or statute or any fundamental right or freedom protected by this Constitution, for such period and subject to such conditions as are reasonably justifiable for the purpose of dealing with the situation which has given rise to the emergency”, subject to Article 24 of the Constitution on non-derogable rights. The listed Proclamations were issued pursuant to that power. Note that some provisions in these Proclamations applied only to specific time periods and/or specific areas, while others applied nationally throughout the State of Emergency.

- State of Emergency - Covid-19: Suspension of Operation of Provisions of Certain Laws and Ancillary Matters Regulations: Namibian Constitution, Proc. 16/2020 ([GG 7194](#)) [**“Stage 1” Suspension Regulations**].
- State of Emergency - Covid-19: Further Suspension of Operation of Provisions of Certain Laws and Ancillary Matters Regulations: Namibian Constitution, Proc. 18/2020 ([GG 7204](#)) [**“Stage 2” Further Suspension Regulations**], amended on 1 June 2020 by Proclamation 22/2020 ([GG 7226](#)) [**“Stage 3” Further Suspension Regulations**].
- **State of Emergency - Covid-19: Suspension of Operation of Provisions of Certain Laws and Ancillary Matters Regulations**, Proclamation 36/2020 ([GG 7275](#)). Many of these regulations apply to the “restricted area” and/or the “specified period” referred to in the Stage 3: State of Emergency Regulations: Erongo Region. The specified period initially extended from 00:00 on 7 July 2020 to 24:00 on 3 August 2020, but was extended by Proclamation 43/2020 ([GG 7294](#)) to 24:00 on 31 August 2020. The “restricted area” was essentially the local authority areas of Arandis, Swakopmund and Walvis Bay. However, some of the regulations applied throughout Namibia but only for limited time periods specified in these individual regulations, while some of the regulations applied generally throughout Namibia during the entire State of Emergency.

Portions of the **“Stage 1” Suspension Regulations** issued in Proclamation 16/2020 (regs 19(1)(a), (b) and (c), (2), (4), (6) and (8), and 25 in part) and the **“Stage 2” Further Suspension Regulations** issued in Proclamation 17/2020 (2020 (regs 12(1)(a) and (b), (2), and (5), and 16 in part) were declared unconstitutional and invalid by the High Court in *Namibian Employers’ Federation and Others v*

President of the Republic of Namibia and Others (HC-MD-CIV-MOT-GEN 2020/00136) [2020] NAHCMD 248 (23 June 2020). (This finding of invalidity also applies to the “Stage 2” Further Suspension Regulations issued in Proclamation 17/2020 and amended for application to “**Stage 3**” by Proclamation 21/2020 – but the invalid portions of the “Stage 2” Further Suspension Regulations had already been repealed by Proclamation 22/2020 for the purposes of Stage 3.)

Directives: Both the initial Stage 1 regulations (reg 14) and the subsequent Stage 2 and Stage 3 regulations (reg 15) provided that the President may authorise a minister to issue directives that supplement or explain any of the regulations, or assist with their enforcement – with these directives having the force of law if approved by the Attorney-General and published in the *Government Gazette*. The following directives were gazetted:

- Directions relating to **judicial proceedings** issued by the Chief Justice in terms of regulation 13(1) of the State of Emergency - Covid-19 Regulations, GN 90/2020 ([GG 7160](#)), as amended by GN 111/2020 ([GG 7198](#))
Note that GN 111/2020 erroneously states that it is amending GN 19/2020 instead of GN 90/2020.
- Directive relating to **Regional Councils and Local Authority Councils**: State of Emergency - Covid-19 Regulations, GN 104/2020 ([GG 7183](#))
- Directive relating to **visiting hours of inmates, delivery of food items to inmates and issuing of permits to offenders and persons accompanying offenders** during period of lockdown: State of Emergency - Covid-19 Regulations, GN 105/2020 ([GG 7184](#))
- Directives relating to **registered business entities and operational matters for retail traders and other businesses**: State of Emergency - Covid-19 Regulations, GN 106/2020 ([GG 7185](#))
- **Health Directives** relating to Covid-19: State of Emergency - Covid-19 Regulations, GN 107/2020 ([GG 7189](#))
- Directives relating to **environment, forestry and tourism**: State of Emergency - Covid-19 Regulations, GN 108/2020 ([GG 7190](#)), repealed by GN 123/2020 ([GG 7224](#))
- Directives relating to **open markets and informal trading** during period of lockdown: State of Emergency - Covid-19 Regulations, GN 109/2020 ([GG 7191](#))
- **Labour Directives** relating to Covid-19: State of Emergency - Covid-19 Regulations, GN 110/2020 ([GG 7195](#))
- Directives relating to **Works and Transport**: State of Emergency - Covid-19 Regulations, GN 113/2020 ([GG 7200](#))
- Directives Relating to **Fishing Industry**: Stage 2: State of Emergency - Covid-19 Regulations, GN 119/2020 ([GG 7213](#))
- Directive Relating to **Child Protection Response** during COVID-19: State of Emergency - Covid-19 Regulations, GN 120/2020 ([GG 7214](#))
- Directive Relating to **Sale of Liquor**: Stage 2: State of Emergency - Covid-19 Regulations [amended to be applicable to Stage 3], GN 129/2020 ([GG 7236](#))

However, the High Court in *Namibian Employers’ Federation and Others v President of the Republic of Namibia and Others* (HC-MD-CIV-MOT-GEN 2020/00136) [2020] NAHCMD 248 (23 June 2020) found the provisions authorising such directives (reg 14 of Proc. 9/2020 and reg 15 of Proc. 17/2020) to be unconstitutional and invalid delegations of power, so the directives issued in terms of those provisions would accordingly be invalid.

Health regulations: Health regulations were issued in Proclamation 47/2020 ([GG 7318](#)).

Related documents:

- **Bank of Namibia:** Determination on policy changes in response to economic and financial stability challenges, following the fallout of the Covid-19 Pandemic (BID-33) (issued in terms of the Banking Institutions Act 2 of 1998), General Notice 127/2020 ([GG 7166](#))
- **Namibia Financial Institutions Supervisory Authority:** Covid - 19 Pandemic: Declaration of undesirable practice (issued in terms of section 4(9) of the Medical Aid Funds Act 23 of 1995), General Notice 129/2020 ([GG 7169](#))
- **State of Emergency Covid-19: Finance Regulations** (relating to section 9(2) of the State Finance Act 31 of 1991), Proc. 14/2020 ([GG 7182](#))
- **Alcohol-based Hand Sanitisers Regulations** (issued in terms of the Standards Act 18 of 2005), GN 114/2020 ([GG 7201](#)).

End of state of emergency: The state of emergency expired at midnight on 17 September 2020. The government did not seek to extend the period of emergency, instead electing to deal with Covid-19 through the Public and Environmental Health Act 1 of 2015, which was brought into force on 17 September 2020 by GN 230/2020 ([GG 7338](#)).

An initial set of **Public Health Covid-19 General Regulations** was issued in terms of that Act in GN 233/2020 ([GG 7342](#)), as amended by GN 235/2020 ([GG 7346](#)). These regulations were applicable from 00:00 on 24 September 2020 to 24:00 on 21 October 2020 (regulation 2(2)).

They were then amended by GN 256/2020 ([GG 7367](#)) and made applicable as amended from 00:00 on 22 October 2020 to 24:00 on 30 November 2020 (regulation 2(2) as amended).

They were further amended by GN 309/2020 ([GG 7404](#)) and made applicable as amended from 1 December 2020 to 24:00 on 25 January 2021 (regulation 2(2) as amended).

This version of the regulations was superseded by further amendments made by GN 319/2020 ([GG 7421](#)), with these amended regulations made applicable with effect from 00:00 on 17 December 2020 to 24:00 on 30 December 2020 (regulation 2(2) as amended).

This version of the regulations was superseded by amendments made by GN 326/2020 ([GG 7429](#)), with these amended regulations made applicable from 00:00 on 24 December 2020 to 24:00 on 13 January 2021 (regulation 2(2) as amended).

The regulations were then amended by GN 1/2021 ([GG 7436](#)) and made applicable as amended from 00:00 on 14 January 2021 to 24:00 on 3 February 2021 (regulation 2(2) as amended).

They were further amended by GN 9/2021 ([GG 7451](#)) and made applicable as amended from 00:00 on 4 February 2021 to 24:00 on 24 February 2021 (regulation 2(2) as amended).

The regulations were again amended by GN 29/2021 ([GG 7467](#)) and made applicable as amended from 00:00 on 25 February 2021 to 24:00 on 31 March 2021 (regulation 2(2) as amended). GN 29/2021 was amended by GN 35/2021 ([GG 7472](#)) to change the Government Notice number from 9, as it incorrectly appeared, to 29.

The regulations were next amended by GN 54/2021 ([GG 7495](#)) and made applicable as amended from 00:00 on 1 April 2021 to 24:00 on 30 April 2021 (regulation 2(2) as amended).

The amended set of Public Health Covid-19 General Regulations was then replaced by a new set of similar **Public Health Covid-19 General Regulations** contained in Government Notice 91/2021 ([GG 7522](#)), with the new regulations being applicable from 00:00 on 1 May 2021 to 31 May 2021 (regulation 2(2)).