



Republic of Namibia
Annotated Statutes

REGULATIONS

REGULATIONS SURVIVING IN TERMS OF

Water Resources Management Act 11 of 2013

section 133(3)

General Regulations

RSA Government Notice R.1277 of 1971

[\(RSA GG 3218\)](#)

came into force on date of publication: 23 July 1971

These regulations were originally made in terms of section 180(3) of the South African Water Act 54 of 1956, which was repealed by the Water Resources Management Act 11 of 2013 brought into force on 29 August 2023 by GN 268/2023 [\(GG 8187\)](#). Pursuant to section 133(3) of the Water Resources Management Act 11 of 2013, these regulations are deemed to have been made under that Act.

as amended by

RSA Government Notice R.875 of 1975 [\(RSA GG 4692\)](#)

came into force on date of publication: 2 May 1975

Government Notice AG 16 of 1980 [\(OG 4097\)](#)

came into force on date of publication: 14 March 1980

Water Amendment Act 22 of 1985 [\(OG 5142\)](#)

came into force on date of publication: 18 December 1985

ARRANGEMENT OF REGULATIONS

[The regulations are grouped under headings rather than having individual headings.]

1. Definitions
2. Establishment and purpose of the Advisory Water Board for South-West Africa
- 3.-6. Constitution of the Board
- 7.-13. Proceedings at meetings of the Board
14. Privileges of members of the Board
- 15.-27. **[repealed]**
- 28.-32. Control and use of subterranean water and water found underground

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33. [repealed]
34. Repeal of Ordinances

Schedule

DEFINITIONS

1. In these regulations, unless the context otherwise indicates -

“Board” means the Board established by regulation 2;

“Director” means the Director of the South-West Africa Branch of the Department of Water Affairs or his authorised representative;

[The definition of “public stream” is deleted by Act 22/1985.]

“the Act” means the provisions of the Water Act, 1956 (Act 54 of 1956), which apply in the territory of South-West Africa;

[The definition of “use for domestic purposes” is deleted by Act 22/1985.]

and any other expression to which a meaning has been assigned in the Act bears the same meaning.

ESTABLISHMENT AND PURPOSE OF THE ADVISORY WATER BOARD FOR SOUTH-WEST AFRICA

2. There is hereby established a Board to be known as the Advisory Water Board for South-West Africa for the purpose of advising the Minister on matters in connection with the preservation, conservation, control, supply, distribution and division of water in South-West Africa for use for domestic purposes, agricultural purposes, urban purposes or industrial purposes, on the development of the water resources therein in the public interest, and on any other matter which the Minister may from time to time refer to the Board.

CONSTITUTION OF THE BOARD

3. The Board shall consist of the Director, who shall be the Chairman thereof and not more than ten and not less than eight other members appointed by the Administrator General of whom -

one shall be a person having a knowledge of hydraulic engineering;

one shall be an officer of the Directorate of Agriculture and Forestry;

one shall be a person to represent the Municipal Association of South West Africa;

one shall be a person having knowledge of farming;

one shall be a person having a knowledge of mining and industry; and

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the balance of the members shall be persons who are involved in the general development of the country.

[Regulation 3 is substituted by GN 875/1975 and by AG 16/1980.]

4. (a) The period of office of any member other than the Director shall expire after a period of three years from the date of his appointment, shall be terminated when he resigns of his own accord and may be terminated by the Minister if in his opinion a valid reason therefor exists.

- (b) A member whose period of office has expired shall be eligible for reappointment.

5. A member may, with the approval of the Minister, designate some other person to act in his stead at not more than six meetings of the Board during any year, and at any such meeting a person so designated shall have all the powers and enjoy all the privileges of that member.

6. Any person designated by the Secretary or the Director may attend any meeting of the Board and advise the Board on, or provide information in connection with, any matter under consideration, but may not vote on any matter.

PROCEEDINGS AT MEETINGS OF THE BOARD

7. (a) The first meeting of the Board shall be held at a time and place determined by the Chairman, and all ordinary meetings shall be held at the times and places determined by resolution by the Board.

- (b) The Chairman shall at the request of the Minister, and may when he deems it expedient, convene a special meeting which shall be held at a time and place determined by him.

8. If the Chairman or a person designated by him in terms of regulation 5 is not present at any meeting of the Board, the members present at that meeting shall elect one of their numbers to act as chairman at that meeting.

9. (1) A quorum on a meeting of the Board shall be in the case where the Board consists of nine members, five members thereof of whom two shall be involved in the general development of the country or if the Board consists of eleven members, seven members thereof of whom three shall be involved in the general development of the country.

(2) The decision of a majority of the members present at a meeting of the Board shall constitute a decision of the Board, and in the event of an equality of votes on any matter the Chairman shall have a casting vote in addition to his deliberative vote.

[Regulation 9 is substituted by AG 16/1980.]

10. No member shall attend a meeting of the Board when a matter in which he has a pecuniary or any other interest is being considered.

11. The Chairman shall arrange for minutes to be kept of the proceedings at every meeting of the Board in which shall be furnished the names of all the members present at that meeting and be recorded every resolution of the Board.

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12. As soon as may be after the conclusion of every meeting of the Board the Chairman shall arrange for copy of the minutes of that meeting to be transmitted to each member of the Board, and after errors therein, if any, have been rectified at the next meeting of the Board and the minutes have been signed by the Chairman, the minutes shall be deemed to be a correct record of the proceedings at the meeting of which they purport to be the minutes.

13. The Board may make rules for regulating matters connected with its functions and not provided for in these regulations.

PRIVILEGES OF MEMBERS OF THE BOARD

14. The Secretary may, out of funds appropriated by Parliament for the purpose and at a tariff determined by the Minister in consultation with the Minister of Finance, pay an allowance to a member of the Board, or a person designated in terms of regulation 5, or a person requested in terms of regulation 18 to appear before the Board, who is not in the full-time service of the State, to defray expenses incurred to attend a meeting of the Board.

CONTROL AND UTILISATION OF PUBLIC WATER

[Regulations 15 to 27 are deleted by Act 22/1985.]

CONTROL AND USE OF SUBTERRANEAN WATER AND WATER FOUND UNDERGROUND

28. The provisions of subsections (2) and (3) of section 30 and subsection (1) of section 141 of the Act shall *mutatis mutandis* apply in respect of any area declared to be an artesian area in terms of section 3 of the Artesian Water Control Ordinance, 1955 (Ordinance 35 of 1955), of South-West Africa, as if it had been declared to be a subterranean water control area in terms of section 28(1) of the Act.

29. (1) Any person who sinks, for the purpose of locating water, boreholes on any land by means of a water-boring machine or other apparatus operated for the sinking of boreholes shall, within three months after the commencement of these regulations, or, if he commences to operate any such machine or apparatus on any date after the commencement of these regulations, within one month after the date upon which he so commences to operate, notify the Director of his full name, his permanent address and details of the type and make of the said water-boring machine or apparatus.

(2) Such person shall, within one month after any change in his address, in writing, notify the Director of such change and shall, within one month after having permanently ceased to operate such water-boring machine or apparatus, notify the Director, in writing, thereof.

(3) The Director shall cause a register to be kept of the information furnished to him in terms of subregulation (1) or (2).

(4) The provisions of this regulation shall not apply in respect of the sinking of boreholes by a mining company in connection with mining operations.

30. (1) A person referred to in regulation 29(1) shall, before he commences to sink a borehole, give the Deputy Director of Geological Survey, Windhoek, notice, in writing, of his intention to do so, and shall keep a journal of the progress of the work, which shall indicate -

- (a) the diameter and the final depth of the borehole;

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- (b) measurements of the strata passed through and a description of such strata;
- (c) the levels at which water is struck and subsequently rests;
- (d) particulars of any test made and of the quantity and apparent quality of water obtained;
- (e) the rate of flow throughout the test and the duration of the test;
- (f) where possible, the water levels during the test and thereafter until the water has returned to its natural level.

(2) Where any such borehole is sunk in connection with an existing pumping station or water supply, the particulars of any test required to be kept in terms of subregulation (1)(d) shall also include the rate of pumping at the existing works during such test.

(3) The said person shall allow any person authorised by the said Deputy Director of Geological Survey, for the purpose at all reasonable times -

- (a) to have free access to any such borehole;
- (b) to inspect the borehole and the material excavated or taken therefrom;
- (c) to take specimens of such material and of water abstracted from the borehole;
- (d) to take readings in or in the vicinity of any such borehole with geophysical instruments; and
- (e) to inspect and make copies of or extracts from the journal required to be kept in terms of subregulation (1).

(4) On completion or abandonment of any such borehole, the said person shall send a complete copy of the said journal having reference to the said borehole to the said Deputy Director of Geological Survey.

(5) Where the person sinking a borehole on any land is not the owner or occupier of the land, the obligation to allow a person authorised by the said Deputy Director of Geological Survey to exercise the rights specified in subregulation (3)(a) to (d) shall be the obligation of the owner or occupier as well as the person sinking the borehole.

(6) Where any person contracts or proposes to sink any borehole on land belonging to or occupied by any other person, the contractor shall be deemed for the purpose of this regulation and regulation 29 to be the person sinking the borehole.

(7) The owner or occupier of land on which a borehole referred to in this regulation is sunk, may give notice, in writing, to the said Deputy Director of Geological Survey requiring him to treat as confidential any copy of or extract from the journal referred to in subregulation (1) or any specimen taken under subregulation (3)(c), and the said Deputy Director shall thereupon not allow that copy, extract or specimen, except in so far as it contains or affords information as to water resources or supplies, to be published or shown to any person not being an officer of the Department or of the Division of Geological Survey, unless the owner or occupier giving the notice consents thereto.

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31. Any person who fails to comply with the provisions of regulation 29 or 30, shall be guilty of an offence and liable on conviction to the penalties prescribed in section 170(1) of the Act.

32. The Minister may on the recommendation of the Board assess charges for water abstracted from a borehole located on land being the property of the State or the Administration of the Territory of South-West Africa, whether or not such borehole was sunk and the water is abstracted by (he Department, and recover such charges from the persons permitted by the Minister to abstract or to use the water.

DELEGATION OF MINISTER’S POWERS

33.

[Regulation 33 is deleted by Act 22/1985.]

REPEAL OF ORDINANCES

34. (1) The Ordinances of the Territory of South-West Africa mentioned in the Schedule are hereby repealed.

(2) Any proclamation, right, permit, authority, servitude, determination, condition, order, direction or requirement issued, granted, given, awarded, done, imposed or laid down under any provision of an ordinance mentioned in the said Schedule or any water work constructed or action performed thereunder, shall be deemed to have been issued, granted, given, awarded, done, imposed, laid down, constructed or performed under the corresponding provisions, if any, of these regulations or the Act.

SCHEDULE

The Water Ordinance, 1932 (Ordinance 13 of 1932).

The Water Amendment Ordinance, 1954 (Ordinance 24 of 1954).

The Water Amendment Ordinance, 1955 (Ordinance 13 of 1955).

The Artesian Water Control Ordinance, 1955 (Ordinance 35 of 1955).

The Water Amendment Ordinance, 1957 (Ordinance 29 of 1957).

The Water Further Amendment Ordinance, 1957 (Ordinance 37 of 1957).

The Water Amendment Ordinance, 1959 (Ordinance 11 of 1959).

The Water Amendment Ordinance, 1968 (Ordinance 18 of 1968).