



Republic of Namibia
Annotated Statutes

Gambling Act 51 of 1965 (RSA)

(RSA GG 1108)

brought into force in South Africa and South West Africa
on 1 July 1969 by RSA Proc. R.83/1969 (RSA GG 2352)
(see section 12 of Act)

APPLICABILITY TO SOUTH WEST AFRICA: Section 1 defines “Republic” to include “the territory of South West Africa”. Section 12 states “This Act (with the exception of section *thirteen*) shall apply also in the territory of South West Africa (including the Eastern Caprivi Zipfel referred to in section *three* of the South West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951), and in relation to all persons in that portion of the said territory known as the ‘Rehoboth Gebiet’ and defined in the First Schedule to Proclamation No. 28 of 1923 of the said territory”. (The excluded section is an amendment to another Act. Despite not being applicable to South West Africa and thus not applicable to Namibia, section 13 was repealed by Act 17 of 1992.)

TRANSFER TO SOUTH WEST AFRICA: The administration of this Act was transferred to South West Africa by Executive Powers (Justice) Transfer Proclamation, AG 33 of 1979, dated 12 November 1979. The only amendment to the Act in South Africa after this date and prior to Namibian independence – the *Gambling Amendment Act 39 of 1988* (RSA GG 11238) – did not apply to South West Africa because it was not made expressly so applicable.

as amended by

General Law Amendment Act 70 of 1968 (RSA) (RSA GG 2106)

with effect from 1 July 1969 (section 57 of Act 70 of 1968)

Posts and Telecommunications Companies

Establishment Act 17 of 1992 (GG 447)

brought into force on 31 July 1992 by GN 88/1992 (GG 446)

ACT

To prohibit lotteries, sports pools and games of chance and to provide for other incidental matters.

(Afrikaans text signed by the State President)

(Assented to 5th May, 1965)

ARRANGEMENT OF SECTIONS

Gambling Act 51 of 1965 (RSA)

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3. Prohibition of advertisements of lotteries or sports pools
4. Prohibition of distribution or delivery of notices of lotteries or sports pools
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13. **[deleted]**
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Schedule

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:-

Definitions

1. In this Act, unless the context otherwise indicates -

“game of chance” includes any game which the Minister may from time to time by notice in the *Gazette* declare to be a game of chance;

“lottery” means any lottery in the generally accepted meaning of the word, and more particularly every scheme, arrangement, system, plan or device by which any prize is or may be gained, won, drawn, thrown or competed for by lot, dice or any other method of chance, either with or without reference to the happening of any uncertain event other than the result of the application or use of such lot, dice or other method of chance and also includes any scheme, arrangement, system, plan or device, which the Minister may from time to time by notice in the *Gazette* declare to be a lottery;

“Minister” means the Minister of Justice;

“place” means any place, whether or not it is a public place, and includes any premises, building, dwelling, flat, room, office, shop, structure, vessel, aircraft or vehicle and any part of a place;

“prize” means any movable or immovable property;

“Republic” includes the territory of South-West Africa;

“sporting event” means any football, cricket, hockey, tennis or base-ball match, any boxing, wrestling, shooting or swimming contest, any foot, cycle, motor, boat, dog or horse race, and any other sporting or athletic contest, competition, tournament or game usually attended by the public;

“sports pool” means any scheme under which -

- (a) any person is invited or undertakes to forecast the result of any sporting event or series or combination of sporting events (whether or not in conjunction with any event other than a

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sporting event or series or combination of events other than sporting events) in competition with other participants; and

- (b) a prize is to be awarded to the competitor who forecast the said result correctly or whose forecast is more nearly correct than the forecasts of other competitors, or a number of prizes are to be awarded on the basis aforesaid,

and for the purposes of this definition the forecast of a result includes not only the forecast of the person or team that is to be victorious or otherwise, but also any forecast relating to the system of scoring employed in the sporting event concerned, or to any person responsible for the score;

“subscription” means the payment or delivery of any money, article, matter or thing (including any ticket, coupon or entrance form purporting to be supplied free of charge to the readers of any newspaper or other periodical publication) for and in consideration of the right to compete;

“ticket” means any symbol, sign, token, coupon, warrant or list or any other means or device of whatsoever nature purporting or intended to confer upon or to recognize in any person the right to compete for or receive a prize.

Prohibition of participation in a lottery or sports pool and presumptions relating thereto

2. (1) No person shall -

- (a) establish or commence a lottery or sports pool, or be a partner or shareholder or have any financial interest in any organization conducting a lottery or sports pool;
- (b) manage, conduct or in any way assist in managing or conducting a lottery or sports pool;
- (c) allow any place under his control or in his charge to be used in any way for the management or conduct of any lottery or sports pool or for any business purpose connected therewith;
- (d) sell or dispose of or have in his possession or purchase or have any interest in any ticket in a lottery or sports pool;
- (e) perform any act with the object of acquiring or assisting any other person to acquire from any source in the Republic or elsewhere any ticket in a lottery or sports pool or any interest in any such ticket.

(2) Any ticket which by any word, code, figure or any sign whatsoever indicates that such ticket is a ticket in a lottery or sports pool shall, until the contrary is proved, be presumed to be a ticket in a lottery or sports pool.

(3) Whenever in any prosecution for a contravention of paragraph (b) of sub-section (1) any person is proved to have been the occupier of any place in which a lottery or sports pool was managed or conducted at the time when such person occupied such place, it shall, until the contrary is proved, be presumed that such person assisted in managing or conducting such lottery or sports pool.

Prohibition of advertisements of lotteries or sports pools

3. No publisher or proprietor of any newspaper or other periodical publication, and no other person having the control or management of any newspaper or other periodical publication,

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or of any printing press, shall print or publish, either in such newspaper or periodical publication, or in any printed document, any notice or advertisement of any lottery or sports pool to be conducted in the Republic or elsewhere.

Prohibition of distribution or delivery of notices of lotteries or sports pools

4. No person shall distribute or cause to be distributed or deliver or cause to be delivered to any person any hand-bill or entrance form or other document conveying in print, writing or in any other way, notice of or information with regard to any lottery or sports pool.

Prohibition of activities in the Republic in relation to a lottery or sports pool conducted outside the Republic

5. No person shall be exempt from liability under any provision of this Act in respect of any act or thing done or authorized or permitted by him to be done in the Republic in connection with any lottery or sports pool, merely by reason that the management, conduct or business of or concerning such lottery or sports pool is in whole or in part carried on at some place outside the Republic.

Prohibition in respect of the playing of games of chance and presumptions relating thereto

6. (1) Subject to the provisions of sub-section (2), no person shall permit the playing of any game of chance for stakes at any place under his control or in his charge and no person shall play any such game at any place or visit any place with the object of playing any such game.

(2) In any prosecution for a contravention of sub-section (1), it shall be a defence that the place to which the charge relates -

- (a) is not available for the use of persons other than subscribers or members or a group of members of a club or association of persons or for use by the public in general; or
- (b) is not used except by personal friends of the person in control or in charge of such place and such person,

if it is proved that such place is not habitually used for playing any game of chance for stakes.

(3) When any cards, dice, balls, counters, tables or other instruments or requisites used or capable of being used for playing any game of chance are found at any place or on the person of any one found at any place, it shall be *prima facie* evidence in any prosecution for a contravention of sub-section (1) that the person in control or in charge of such place permitted the playing of such game for stakes at such place and that any person found at such place was playing such game for stakes at such place and was visiting such place with the object of playing such game for stakes.

(4) If any policeman authorized to enter any place is wilfully prevented from or obstructed or delayed in entering such place, the person in control or in charge of such place shall on being charged with permitting the playing of any game of chance for stakes, be presumed, until the contrary is proved, to have permitted the playing of such game of chance for stakes at such place.

(5) Upon proof at the trial of any person charged with contravention of sub-section (1), that any game of chance was played or intended to be played, it shall be presumed, until the contrary is proved, that such game was played or intended to be played for stakes.

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(6) Any person supervising or directing or assisting at or acting as banker, dealer, croupier or in any like capacity at the playing of any game of chance at any place and any person acting as porter, doorkeeper or servant or holding any other office at any place where any game of chance is played, shall be deemed to be in control or in charge of such place.

(7) Any person found at any place where any game of chance is played, shall be deemed, until the contrary is proved, to be playing such game for stakes at such place and to be visiting such place with the object of playing such game for stakes.

Minister may prohibit keeping or use of pin-tables, etc

7. (1) The Minister may by notice in the *Gazette* prohibit the keeping or use at any place or class or kind of place specified in the notice, or at any place or class or kind of place other than a place or class or kind of place so specified, of all pin-tables, whether or not intended for the playing of games of chance, or of all pin-tables other than pin-tables described in such notice, or of all pin-tables, machines, contrivances or instruments of any class or kind described in such notice which in his opinion are intended for the playing of games of chance, and of any pin-table, machine, contrivance or instrument resembling or having anything in common with any pin-table, machine, contrivance or instrument contemplated in such notice.

(2) For the purposes of section *six* -

- (a) the person in control or in charge of any place specified in any notice under sub-section (1) at which any pin-table, machine, contrivance or instrument contemplated in such notice is found, shall be presumed to have permitted the playing of games of chance for stakes at such place and any person found at any such place shall be presumed, until the contrary is proved, to have played a game of chance for stakes at such place and to have visited such place with the object of playing a game of chance for stakes;
- (b) any game played at any place specified in any notice aforesaid by means of any pin-table, machine, contrivance or instrument contemplated in such notice shall be presumed to be a game of chance.

Offences

8. Any person who -

- (a) contravenes any provision of paragraph (a), (b) or (c) of sub-section (1) of section *two*;
- (b) contravenes any provision of paragraph (d) or (e) of sub-section (1) of section *two*;
- (c) contravenes any provision of section *three* or *four*;
- (d) permits the playing of any game of chance in contravention of sub-section (1) of section *six*;
- (e) plays any game of chance or visits any place with the object of playing any such game in contravention of sub-section (1) of section *six*,

shall be guilty of an offence and liable on conviction -

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- (i) in the case of an offence referred to in paragraph (a), (c) or (d), to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment;
- (ii) in the case of an offence referred to in paragraph (b) or (e), to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Jurisdiction as to punishments

9. Notwithstanding anything to the contrary in any other law contained, a magistrate's court shall have jurisdiction to impose any penalty prescribed by this Act.

Savings

10. Nothing in this Act contained -
- (a) shall be construed as restricting the powers conferred under paragraph 7 of the First Schedule or paragraph 12 of the Second Schedule to the Financial Relations Consolidation and Amendment Act, 1945 (Act No. 38 of 1945);

[The Financial Relations Consolidation and Amendment Act 38 of 1945 (RSA GG 3510) was not applicable to South West Africa. It was repealed by the Financial Relations Act 65 of 1976 (RSA GG 5122).]

- (b) shall apply in relation to any lottery or sports pool in respect of which no subscription is to be made.

Repeal of laws

11. The laws specified in the Schedule are hereby repealed to the extent set out in the third column thereof.

Application of Act to South-West Africa

12. This Act (with the exception of section *thirteen*) shall apply also in the territory of South-West Africa (including the Eastern Caprivi Zipfel referred to in section *three* of the South-West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951)), and in relation to all persons in that portion of the said territory known as the "Rehoboth Gebiet" and defined in the First Schedule to Proclamation No. 28 of 1923 of the said territory.

13.

[Section 13 was not made applicable to South West Africa (see section 12 of the Act). It was nevertheless deleted by Act 17 of 1992.]

Short title and date of commencement

14. This Act shall be called the Gambling Act, 1965, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.

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Schedule
[section of Schedule pertaining to South West Africa amended by Act 70 of 1968]

No. and year.	Title or Subject Matter.	Extent of Repeal.
CAPE.		
Act No. 28 of 1860.	Act for Legalizing Art Unions.	The whole.
Act No. 9 of 1889.	Lotteries Prohibition Act, 1889.	The whole.
Act No. 36 of 1902.	Betting Houses, Gaming Houses and Brothels Suppression Act, 1902.	Sections <i>one</i> to <i>four</i> , inclusive, and <i>six</i> , <i>nine</i> , <i>eleven</i> and <i>thirteen</i> and the Schedule.
NATAL.		
Law No. 25 of 1878.	Law to provide for the Discouragement of Gambling.	The whole except sections <i>one</i> , <i>two</i> and <i>three</i> in so far as they relate to betting stands or betting booths.
Act No. 3 of 1902.	Act to amend the Law against Gambling.	The whole.
Act No. 31 of 1909.	Act to amend the Law relating to Gambling.	So much as is unrepealed.
ORANGE FREE STATE.		
Chapter CXLIII of the Law Book.	“Wet Over Loterijen en Sweepstakes”.	The whole.
Chapter CXLIV of the Law Book.	“Wet Over Dobbelarij”.	The whole.
Ordinance No. 21 of 1902.	Police Offences Ordinance, 1902.	Sections <i>twelve</i> to <i>fourteen</i> , inclusive, and <i>seventeen</i> and <i>eighteen</i> .
TRANSVAAL.		
Law No. 6 of 1889.	“Wet Tegen Hazardspelen”.	The whole except section <i>seven</i> (a).
Law No. 7 of 1890.	“Wet Tegen Het Houden van Loterijen”.	So much as is unrepealed.
Law No. 1 of 1892.	Amendment of Law No. 6 of 1889.	The whole.
Act No. 38 of 1909.	Criminal Law Amendment Act, 1909.	Sub-section (3) of section <i>five</i> .
SOUTH-WEST AFRICA.		
Ordinance No. 13 of 1937.	Lotteries Ordinance, 1937.	The whole.

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<p>Ordinance No. 19 of 1952. [Act number substituted by Act 70 of 1968]</p>	<p>Lotteries Amendment Ordinance, 1952.</p> <p style="text-align: center;">REPUBLIC.</p>	<p>The whole.</p>
<p>Act No. 1 of 1927.</p>	<p>Natal Gambling Law Amendment Act, 1927.</p>	<p>The whole.</p>
<p>Act No. 26 of 1933.</p>	<p>Gambling Amendment Act, 1933.</p>	<p>The whole.</p>
<p>Act No. 5 of 1939.</p>	<p>Gambling Amendment Act, 1939.</p>	<p>The whole.</p>
<p>Act No. 38 of 1949.</p>	<p>Prohibition of Sports Pools Act, 1949.</p>	<p>The whole.</p>
<p>Act No. 62 of 1955.</p>	<p>General Law Amendment Act, 1955.</p>	<p>Section <i>thirty-eight</i>.</p>
<p>Act No. 74 of 1961.</p>	<p>Prohibition of Sports Pools Amendment Act, 1961.</p>	<p>The whole.</p>
