

# AGRICULTURE

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## Cold Storage Works and Abattoirs Proclamation 50 of 1921

**Summary:** This Proclamation ([OG 74](#)) places limits on the construction and operation of cold storage works used for the export of meat.

**Amendments:** The Proclamation is amended by Proc. 3/1923 ([OG 101](#)) (which repeals section 5), and Ord. 13/1928 ([OG 283](#)) (which repeals section 4).

**Regulations:** No regulations under this Proclamation could be located.

## Agricultural Produce Export Ordinance 13 of 1928

**Summary:** This Ordinance ([OG 283](#)) regulates the export of agricultural produce and meat. It was brought into force on 1 April 1929 by Proc. 4/1929 ([OG 309](#)) and extended to the Rehoboth Gebiet by the Rehoboth *Gebiet* (Extension of Laws Proclamation 12 of 1930 ([OG 365](#))).

**Regulations:** Pre-independence regulations have not been researched.

**Notices:** Subsidiary notices relating to butter are contained in Proc. 35/1929, as amended by Proc. 3/1930 and Proc. 61/1931 ([OG 441](#)). It is not clear if these have any ongoing relevance.

## Karakul Sheep Farming Industry Protection Proclamation 31 of 1930

**Summary:** This Proclamation ([OG 388](#)) governs the export of Karakul sheep capable of breeding.

**Amendments:** The Proclamation is amended by Ord. 11/1938 ([OG 748](#)), Proc. 24/1951 ([OG 1600](#)) and Ord. 25/1952 ([OG 1690](#)).

It was extended to the Rehoboth Gebiet by Proc. 30/1963 ([OG 2474](#)).

**Regulations:** This Proclamation contains no authorisation for regulations.

## Tobacco Growers Protection Ordinance 2 of 1933

**Summary:** This Ordinance ([OG 515](#)) regulates the importation and sale of tobacco used for farming purposes.

**Amendments:** The Ordinance is amended by Ord. 7/1933 ([OG 529](#)).

## Karakul Pelt Export Duty Amendment Proclamation 34 of 1939

**Summary:** This Proclamation ([OG 801](#)) regulates the export of karakul pelts. It seems to have

been superseded by the Karakul Pelts and Wool Act 14 of 1982.

**Amendments:** The Proclamation is amended by Ord. 5/1941 ([OG 897](#)), Ord. 7/1943 ([OG 1055](#)), Ord. 7/1953 ([OG 1755](#)), Ord. 13/1957 ([OG 2072](#)) and Ord. 9/1965 ([OG 2614](#)).

**Regulations:** Pre-independence regulations have not been researched.

## **Cattle Improvement Consolidation Ordinance 14 of 1941**

**Summary:** This Ordinance ([OG 898](#)) makes provision for the establishment and regulation of “cattle improvement areas”.

**Amendments:** The Ordinance is amended by Proc. 14/1941 ([OG 905](#)).

**Regulations:** Pre-independence regulations have not been researched.

## **Abattoirs Restriction Proclamation 8 of 1944**

**Summary:** This Proclamation ([OG 1097](#)) places restrictions on the types of animals which can be slaughtered in abattoirs.

**Regulations:** The Proclamation does not include authorisation for regulations.

## **Bonemeal and Superphosphates Control Proclamation 37 of 1944**

**Summary:** This Proclamation ([OG 1147](#)) controls the importation, sale and supply of bonemeal, bonemeal products and superphosphates. It is still in force, but there is some overlap with the provisions of the *Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act 36 of 1947*.

**Amendments:** The Proclamation is amended by Proc. 33/1947 ([OG 1322](#)).

**Regulations:** The Proclamation does not include authorisation for regulations.

## ***Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act 36 of 1947*, as amended in South Africa to March 1978**

**Summary:** This Act ([SA GG 3834](#)) governs the registration, importation, sale and use of the items listed in the title. It was originally called the *Fertilizers, Farm Feeds, Seeds and Remedies Act 36 of 1947*. However, the name was changed several times by various amendments to the Act. The Act repeals the *Fertilizers, Farm Foods, Seeds and Pest Remedies Act 21 of 1917*. The *RSA Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Amendment Act 17 of 1972* (RSA GG 3459), which made this Act applicable to South West Africa, also repealed the SWA Fertilisers, Farm Foods, Seeds and Pest Remedies Ordinance 15 of 1930.

**Applicability to SWA:** Section 1, as added in 1972, defines “Republic” to include “the territory of South West Africa”. Section 24, as inserted in 1972, 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 the Act was transferred to SWA by the Executive Powers (Agricultural Technical Services) Transfer Proclamation (AG 11/1978), dated **2 March 1978**.

Section 3(1)(b) of the transfer proclamation excluded section 2 of the Act (which deals with the designation of a Registrar of Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies by the Minister) from the operation of section 3(1) of the General Proclamation, meaning that this section of the Act continued to be administered by the South African Minister of Agriculture.

Section 3(1)(b) of the transfer proclamation also excluded the references to the “Republic” in sections 16(1) and 16(6)(a)(i) of the Act from the operation of section 3(1) of the General Proclamation, meaning that in these sections “Republic” retained the meaning it was given in the definition section of the Act (South Africa and SWA).

Section 3(1)(g) of the transfer proclamation exempted section 23 of the *Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Amendment Act 24 of 1977* (regarding regulations) from the operation of section 3(1) of the General Proclamation.

There was only one South African amendment to the Act after the date of transfer and prior to Namibian independence – the *Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Amendment Act 4 of 1980* – which was not made expressly applicable to SWA.

**Amendments:** The following pre-independence South African amendments were applicable to SWA –

- *Fertilizers, Farm Feeds, Seeds and Remedies Amendment Act 48 of 1950* ([SA GG 4422](#))
- *Seeds Act 28 of 1961* ([SA GG 6673](#))
- *Fertilizers, Farm Feeds and Remedies Amendment Act 60 of 1970* ([RSA GG 2845](#))
- *Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Amendment Act 17 of 1972* ([RSA GG 3459](#))
- *Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Amendment Act 24 of 1977* ([RSA GG 5461](#))

Section 15 of this amending Act, which amends section 16 of Act 36 of 1947, was brought into force in South Africa on 3 October 1980 by RSA Proc. R.189/1980 ([RSA GG 7243](#)). This date is after the date of transfer of Act 36 of 1947. Therefore, in terms of section 3(4) of the Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977, section 15 of the amending Act was not thereby brought into force in South West Africa because the proclamation in question did not contain an express statement that it was issued with the consent of the Administrator-General and applies also in the territory.

The Act was amended by the *Animal Slaughter, Meat and Animal Products Hygiene Amendment Act 13 of 1975* ([RSA GG 4632](#)). However, this Act was never brought into force in South Africa or South West Africa. The portions of the amending Act relevant to Act 36 of 1947 (section 16 and the Schedule to Act 13 of 1975) were repealed by the *Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Amendment Act 4 of 1980* ([RSA GG 6907](#)), but this repeal was not effective in respect of South West Africa because it occurred after the date of transfer and was not made expressly applicable to South West Africa.

After Namibian independence, the Medicines and Related Substances Control Act 13 of 2003 ([GG 3051](#)) amended sections 1, 3, 7, 15, 23, and 26, deleted section 7(2)(b) and amended the

short title of the Act – but these amendments were all repealed by the Medicines and Related Substances Control Amendment Act 13 of 2003 ([GG 3051](#)). These amendments would have removed “stock remedies” from the Act’s coverage. However, section 47 of Act 13 of 2003 was amended by the Namibian Medicines and Related Substances Control Amendment Act 8 of 2007 ([GG 3968](#)), brought into force on 1 August 2008 by GN 187/2008 ([GG 4091](#)). The amended section states in relevant part that “all amendments to the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947), contained in the Schedule are repealed”. Thus, it appears that the amendments to Act 36 of 1947 by Act 13 of 2003 are no longer applicable.

**Regulations:** Pre-independence regulations which appear to remain in force are listed below. Note that section 23 of the Act, which gives the Minister power to make regulations, was excluded from transfer by section 3(1)(g) of the transfer proclamation. Thus, regulations which came into force after the date of transfer were applicable to SWA.

Note also that there are no savings clauses for regulations made under the laws repealed by this Act or by the *Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Amendment Act 17 of 1972* which applied it to SWA.

**Regulations on returns to be rendered by manufacturers of fertilizers** are contained in SA GN 1522/1951 (SA GG 4636). No amendments or repeals in respect of these regulations have been located.

**Regulations on returns by manufacturers and importers of farm feeds and prohibitions in connection with farm feeds of animal origin** are contained in SA GN 1229/1955 (SA GG 5491), as amended by SA GG 643/1956 (SA GG 5662), which substitutes Schedule 1.

**Regulations on the registration and sale of agricultural remedies** are contained in SA GN 1243/1951 (SA GG 4614). No amendments or repeals in respect of these regulations have been located.

**Regulations relating to the registration and sale of stock remedies** are contained in RSA GN R. 857/1971 (RSA GG 3121), as amended by RSA GN R.1012/1971 (RSA GG 3153), RSA GN R.2296/1977 (RSA GG 5800) (which repeals regulation 10), RSA GN R.1679/1978 (RSA GG 6133), RSA GN R.2042/1980 (RSA GG 7243) and RSA GN R.1449/1983 (RSA GG 8783).

**Regulations relating to the registration, importation, manufacture, movement and sale of farm feeds and the registration of sterilizing plants** are contained in RSA GN R.987/1973 (RSA GG 3927), as amended by RSA GN R.1373/1973 (RSA GG 3994), RSA GN R.1996/1974 (RSA GG 4478) (which erroneously cites RSA GN R.897/1973 as being the original regulations), RSA GN R.254/1976 (RSA GG 4984), RSA GN R.2296/1977 (RSA GG 5800), and RSA GN R.1679/1978 (RSA GG 6133). RSA GN R.2296/1977, which contains a provision repealing regulation 3 of these regulations, was repealed by RSA GN R.1449/1983 (RSA GG 8783). These regulations were *repealed except insofar as they relate to sterilizing plants* by the regulations relating to farm feeds contained in RSA GN R.1359/1980 (RSA GG 7105). These 1980 regulations post-dated the relevant date of transfer, but, in addition to the exemption from transfer of the Minister’s power to make regulations (as noted above), regulation 27 of these 1980 regulations states: “These regulations are made with the consent of the Administrator-General for the Territory of South West Africa and shall also apply in the Territory.”

**Regulations relating to the registration and sale of fertilizers** are contained in GN R.799/1977 (RSA GG 5552), as corrected by RSA GN R.1371/1977 (RSA GG 5680), and as amended by RSA GN R.2296/1977 (RSA GG 5800) (which repeals regulation 6), RSA GN R.775/1978 (RSA GG 5996), RSA GN R.473/1980 (RSA GG 6880), RSA GN R.2042/1980 (RSA

GG 7243) and RSA GN R.1449/1983 (RSA GG 8783). (RSA GN R.473/1980 erroneously refers to the original regulations as being contained in RSA GN R.779 of 20 May 1977.)

**Regulations relating to farm feeds** are contained in GN R.1359/1980 (RSA GG 7105). These 1980 regulations post-dated the relevant date of transfer, but regulation 27 states: “These regulations are made with the consent of the Administrator-General for the Territory of South West Africa and shall also apply in the Territory.” These regulations are amended by RSA GN R.1420/1981 (RSA GG 7655) and RSA GN R.1449/1983 (RSA GG 8783).

**Regulations relating to agricultural remedies** are contained in RSA GN R.2561/1981 (RSA GG 7934). Regulation 24 states that these regulations “(a) shall come into operation on 2 January 1982; and (b) shall apply in the territory of South West Africa and are, in so far as they thus apply, made with the consent of the Administrator-General of that territory”. These regulations are amended by RSA GN R.1449/1983 (RSA GG 8783).

**Regulations relating to the registration of fertilizers, farm feeds, agricultural remedies, stock remedies, sterilising plants and pest control operators, appeals and imports** are contained in RSA GN R.1449/1983 (RSA GG 8783). These regulations make no specific reference to South West Africa. They are amended by RSA GN R.96/1984 (RSA GG 9035), RSA GN R.2055/1984 (RSA GG 9419) and RSA GN R.1053/1988 (RSA GG 11326).

Post-independence regulations concerning the **registration of fertilizers, farm feeds, sterilizing plants and agricultural remedies** are contained in GN 112/2007 ([GG 3863](#)), which repeals GN 202/2001 ([GG 2624](#)) and replaces GN 58/2007 ([GG 3812](#)) – which had previously repealed GN 202/2001. (None of the post-independence regulations repeal any pre-independence regulations.) GN 112/2007 is amended by GN 311/2020 ([GG 7409](#)).

**Repealed regulations:** The following list of *repeals* of pre-independence regulations may be helpful, although it is not comprehensive.

- Regulations on returns by manufacturers and importers of farm feeds and prohibition in connection with farm feeds of animal origin were published in SA GN 630/1949 (SA GG 4137), but *repealed* by GN 1229/1955 (SA GG 5491).
- **Regulations in connection with the registration and sale of fertilizers** were published in RSA GN R.2105/1971 (RSA GG 3314) but *repealed* by RSA GN R.799/1977 (RSA GG 5552).
- Regulations pertaining to the registration, importation, manufacture, movement and sale of agricultural remedies were published in RSA GN R.538/1974 (RSA GG 4241) but *repealed* by RSA GN R.2561/1981 (RSA GG 7934).
- **Regulations relating to appeals against decisions of the Registrar** were published in RSA GN R.2296/1977 (RSA GG 5800) but *repealed* by RSA GN R.1449/1983 (RSA GG 8783).
- Regulations relating to the importation of fertilizers, farm feeds, agricultural remedies and stock remedies were published in RSA GN R.2042/1980 (RSA GG 7243) but *repealed* by RSA GN R.1449/1983 (RSA GG 8783).
- **Regulations relating to pest control operators** were published in RSA GN R.663/1983 (RSA GG 8617) but *repealed* by RSA GN R.1449/1983 (RSA GG 8783).

**Notices:** Some pre-independence notices made prior to the date of transfer appear to remain in force.

SA Proc. 204/1950 (SA GG 4435) confers upon the Secretary for Agriculture the power to prohibit by notice in the *Gazette* the acquisition, disposal or use of any Group I fertilizer, as defined in SA GN 1156/1948 (SA GG 3977).

- SA GN 1156/1948 (SA GG 3977) contained regulations on the registration and sale of fertilizers, which were repealed and replaced by regulations in SA GN 2099/1955 (SA GG 5564), repealed and replaced in turn by regulations in RSA GN

R.1541/1963 (RSA GG 622), repealed and replaced in turn by regulations in RSA GN R.2105/1971 (RSA GG 3314), repealed and replaced in turn by regulations in RSA GN R.799/1977 (RSA GG 5552).

SA Proc. 122/1952 (SA GG 4860) confers upon the Secretary for Agriculture the power to prohibit by notice in the *Gazette* the acquisition, disposal or use of farm feeds except on such conditions as he may determine.

Section *7bis*, added to the Act in 1950, gave the Minister power to prohibit by notice in the *Gazette* the acquisition, disposal, sale or use of certain fertilizers, farm feeds, agricultural remedies and stock remedies. A notice was issued pursuant to section *7bis* of the Act in SA GN 1886/1950 (SA GG 4435), but the controls on fertilizer were lifted with respect to all fertilizers *other than bonemeal* by SA GG 2392/1953 (SA GG 5172). A notice was issued pursuant to section *7bis* of the Act in RSA GN R.1933/1970 (RSA GG 2916) prohibiting the acquisition, disposal or use of certain farm feeds without a permit. (This notice was repealed in respect of South Africa after the date of transfer by RSA GN R.472/1980 (RSA GG 6880).)

After independence, prohibitions on certain types of farm feeds were issued in terms of section *7bis* in GN 199/1998 ([GG 1927](#)) and GN 201/2003 ([GG 3060](#)).

**Application of law:** Certain farm feeds are excluded from the operation of the Act by SA Proc. 218/1948 (SA GG 4016).

Certain remedies are excluded from the operation of the Act by SA Proc. 109/1948 (SA GG 3977), as amended by SA GN 111/1951 (SA GG 4614).

Certain fertilizers are excluded from the operation of the Act by RSA GN R.1651/1977 (SA GG 5721).

Exclusions issued after the date of transfer would presumably not have applied to SWA and so are not listed here.

**Related laws:** See GN 179/2008 ([GG 4088](#)) for exemptions from the application of section 29 of the Medicines and Related Substances Control Act 13 of 2003 ([GG 3051](#)) to certain substances registered under this Act.

**Related international agreements:**

*Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention), 1998.*

## **Weeds Ordinance 19 of 1957**

**Summary:** This Ordinance ([OG 2087](#)) provides for the eradication of plants which are identified as “weeds” by proclamation in the *Gazette*.

**Regulations:** Pre-independence regulations have not been researched.

## ***Dairy Industry Act 30 of 1961***, in part, as amended in South Africa to December 1977

**Summary:** This Act ([SA GG 6673](#)) governs the registration of dairy premises, the marketing of dairy products, and the dairy industry in general. ***Only the portions of the Act relating to margarine apply to Namibia.*** The Act repeals the RSA *Dairy Industry Act 63 of 1957*.

**Applicability to SWA:** The Act was applied to SWA only in so far as it relates to margarine, as a result of amendments made to the Act by the *Dairy Industry Amendment Act 7 of 1976* ([RSA GG 5015](#)), brought into force on 1 July 1976 by RSA Proc. R.103/1976 ([RSA GG 5161](#)). Section 1 as amended defines “Republic” as including the territory “in relation to margarine”, and the “territory” is defined as “the territory of South West Africa, including the Eastern Caprivi Zipfel”. Section 35A, inserted by Act 7 of 1976, states “This Act, and any amendment thereof which may be made from time to time, in so far as it relates to margarine or to a margarine factory, shall apply also in the territory.”

**Transfer of administration to SWA:** The administration of this Act was transferred to SWA by the Executive Powers (Agricultural Economics and Marketing) Transfer Proclamation (AG 18/1977), dated **20 December 1977**.

Section 3(1) of the transfer proclamation excluded section 13 of the Act (which deals with the sale of falsely marked dairy produce) from the operation of section 3(1) of the General Proclamation, meaning that in this section “Republic” retained the meaning it was given in the definition section of the Act.

There were two amendments to the Act in South Africa after the date of transfer and prior to Namibian independence – the *Dairy Industry Amendment Act 37 of 1983* ([RSA GG 8662](#)) and the *Transfer of Powers and Duties of the State President Act 97 of 1986* ([RSA GG 10438](#)) – which were not made expressly applicable to South West Africa.

The Act was repealed in South Africa, after Namibian independence, by the *Agricultural Product Standards Act 119 of 1990* ([RSA GG 12641](#)), gazetted on 13 July 1990.

**Amendments:** The following pre-independence South African amendments were applicable to SWA –

- *Proclamation R.21 of 1961* ([RSA GG 36](#)), under the authority of section 28(1) of the Act
- *Proclamation R.293 of 1964* ([RSA GG 943](#)), under the authority of section 28(1) of the Act
- *Dairy Industry Amendment Act 34 of 1965* ([RSA GG 1079](#))
- *Dairy Industry Amendment Act 1 of 1969* ([RSA GG 2287](#))
- *Marketing Amendment Act 52 of 1969* ([RSA GG 2384](#))
- *Proclamation R.158 of 1970* ([RSA GG 2733](#)), under the authority of section 28(1) of the Act
- *Dairy Industry Amendment Act 96 of 1971* ([RSA GG 3212](#))
- *Proclamation R.194 of 1971* ([RSA GG 3238](#)), under the authority of section 28(1) of the Act
- *Dairy Industry Laws Amendment Act 32 of 1972* ([RSA GG 3492](#))
- *Dairy Industry Amendment Act 7 of 1976* ([RSA GG 5015](#)).

The Importation of Margarine Amendment Proclamation, AG 32/1978 ([OG 3754](#)), amends section 15 to prohibit the importation of margarine into South West Africa without a permit from the Administrator-General.

Section 15(3) is deleted by the Dairy Industry Amendment Act 6 of 1997 ([GG 1685](#)).

**Regulations:** Regulations made in terms of the repealed RSA *Dairy Industry Act 63 of 1957* survive pursuant to section 35 of this Act provided that they “are not inconsistent with the provisions of this Act”. However, no such regulations appear to remain in force.<sup>1</sup>

There is one set of pre-independence regulations relating specifically to margarine made under this Act. Margarine and margarine factories would also appear to fall under the general regulations on registration, inspection and sampling, noting that the definition of “dairy produce” in section 1 of the Act includes margarine.

**Regulations relating to the structure, sanitation, drainage, ventilation, lighting and equipment of, the accommodation in, and the equipment, instruments, appliances and utensils to be used on premises registered in terms of the Dairy Industry Act, 1961** are contained in RSA GN R.2061/1964 (RSA GG 973) and include provision on margarine factories. These regulations were not amended in South Africa prior to the date of transfer. They were amended in South Africa after the date of transfer by RSA GN R.1254/1989 (RSA GG 11954) which was not made specifically applicable to SWA.

**Regulations providing for the manner of registration, and renewal of registration, of premises under the Dairy Industry Act, 1961** are contained in RSA GN R.2062/1964 (RSA GG 973), as corrected by RSA GN R.328/1965 (RSA GG 1056) and as amended by RSA GN R.176/1971 (RSA GG 2991). They were amended in South Africa after the date of transfer by RSA GN R.1256/1989 (RSA GG 11954) which was not made specifically applicable to SWA.

**Regulations prescribing the form of an inspector's order for a prohibition under the Dairy Industry Act, 1961** are contained in RSA GN R.2063/1964 (RSA GG 973). No amendments were located.

**Regulations relating to the taking of samples of dairy produce for the purpose of analysis or examination under the Dairy Industry Act, 1961** are contained in RSA GN R.2070/1964 (RSA GG 973), as amended by RSA GN R.176/1971 (RSA GG 2991).

**Regulations relating to the manufacture, composition, packing and marking of margarine** are contained in RSA GN R.1716/1977 (RSA GG 5725, dated 2 September 1977, which was prior to the date of transfer). These regulations repeal those published in RSA GN R.1495/1971 (RSA GG 3238), as amended by RSA GN R.2186/1972 (RSA GG 3718), RSA GN R.2100/1973 (RSA GG 4074) and RSA GN R.1132/1976 (RSA GG 5194). The 1977 regulations were amended in South Africa only after the date of the transfer proclamation (20 December 1977), by RSA GN R. 2121/1985 (RSA GG 9935), which was corrected by RSA GN R. 2850/1985 (RSA GG 10048); this amendment is not made explicitly applicable to SWA. These regulations were repealed in South Africa by RSA GN 562/1990 (RSA GG 12341), dated 16 March 1990 – which was after the date of transfer and would not have been effective in SWA. No repeal in respect of SWA has been located, so these regulations appear to remain in force.

Regulations providing for the manner of registration, and renewal of registration, of premises under the Dairy Industry Act, 1961 (in respect of premises under section 3, which covers margarine) were contained in RSA GN R.2080/1964 (RSA GG 973). However, this notice was cancelled by GN. R.100/1965 (RSA GG 1011), which

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<sup>1</sup> *Juta's Index to the South African Government and Provincial Gazettes* (formerly “The Windex”), 1920-1989 at 352-353.



explained that they were inadvertently published. RSA GN R.2080/1964 was also subsequently repealed by RSA GN R.1254/1989 (RSA GG 11954), which was not made specifically applicable to SWA.

### ***Canned Fruit Export Marketing Act 100 of 1967***, as amended in South Africa to April 1978

**Summary:** This Act ([RSA GG 1778](#)) provides for the control and promotion of the marketing of canned fruit on export markets. It was brought into force in both South Africa and South West Africa on 16 February 1968 by RSA Proc. R. 22 of 1968 ([RSA GG 1982](#)), read together with section 11 of the Act. It repeals the *Canned Fruit and Vegetables Export Control Act 66 of 1956* ([SA GG 5715](#)).

**Note:** This Act repeals the *Canned Fruit and Vegetables Export Control Act 66 of 1956* ([SA GG 5715](#)), which applied to South West Africa by virtue of the definition of “the Union” in section 1, which included “the territory of South-West Africa”, and by virtue of section 7, which stated: “This Act shall apply also in the territory of South-West Africa.” Act 66 of 1956 was amended by the *Canned Fruit and Vegetables Export Control Amendment Act 83 of 1957* ([SA GG 5908](#)), the *Canned Fruit and Vegetables Export Control Amendment Act 28 of 1958* ([SA GG 6109](#)) and the *Canned Fruit and Vegetables Export Control Amendment Act 69 of 1959* ([SA GG 6259](#)); Act 69 of 1959 expressly made all three amending Acts applicable to South West Africa. The three amending Acts do not seem to have been repealed in South West Africa or Namibia; thus, they remain in force, but they have no independent relevance given the repeal of the principal Act which they amended.

**Applicability to SWA:** Section 11 of the Act originally stated: “This Act shall apply also in the territory of South-West Africa, including the Eastern Caprivi Zipfel referred to in section 3 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.”

Section 11 (as substituted by *Act 48 of 1971*, [RSA GG 3135](#), which was brought into force on 2 August 1971 by Proc. R.168 of 1971, [RSA GG 3221](#)), states that “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 (which was the responsibility of the Minister of Economic Affairs) was transferred to SWA by the Executive Powers (Commerce) Transfer Proclamation (AG 28/1978), dated **28 April 1978**. The only amendment to the Act in South Africa after the date of transfer and prior to Namibian independence – the *Canned Fruit Export Marketing Amendment Act 15 of 1981* ([RSA GG 7436](#)) – was not made expressly applicable to SWA. The Act and its amendments were repealed in South Africa by the *Marketing Amendment Act 79 of 1987* ([RSA GG 10956](#)), which was not made expressly applicable to SWA.

**Amendments:** The following pre-independence South African amendments were applicable to SWA –

- *Canned Fruit Export Marketing Amendment Act 48 of 1971* ([RSA GG 3135](#))
- *Finance Act 111 of 1977* ([RSA GG 5663](#)).

**Regulations:** There is no savings clause regarding regulations made under the repealed Act. Regulations on meetings of the South African Canned Fruit Export Board were made in terms of this Act in South Africa prior to independence and prior to the date of transfer, and are

contained in RSA GN R.1336/1971 ([RSA GG 3224](#)), which withdraws RSA GN R.660/1968 (RSA GG 2053).

**Notices:** Certain canned products are declared to be canned fruit for the purposes of the Act in RSA GN R.2230/1971 ([RSA GG 3327](#)), which withdraws RSA GN R. 819/1968 (RSA GG 2072).

A notice on export licences for canned fruit, which covered both RSA and SWA, was issued in terms of section 8 of the Act in RSA GN 723/1978 ([RSA GG 5981](#)) (dated 14 April 1978, just before the date of transfer). This notice is amended in South Africa by RSA GN R.1384/1980 ([RSA GG 7112](#)), which postdates the date of transfer but makes specific mention of SWA (without discussing its applicability to SWA explicitly).

This notice withdraws RSA GN R.1846/1975 (RSA GG 4856), which withdrew RSA GN R.1933/1971 (RSA GG 3296), which in turn withdrew RSA GN R.818/1968 (GG 2072).

**Note:** Canned fruit is also covered by other laws listed under AGRICULTURE.

### ***Marketing Act 59 of 1968***, as amended in South Africa to December 1977

**Summary:** This Act ([RSA GG 2107](#)) regulates the production and sale of agricultural products, as well as the grading and standardisation of such products. It also establishes various boards and control bodies. It repeals the *Marketing Act 26 of 1937* and its amendments.

**Applicability to SWA:** Section 99 of the original Act stated “The provisions of this Act, in so far as they relate to karakul pelts, shall also apply in the territory of South-West Africa.” Section 99(1), as amended by *Act 78 of 1971*, states “This act and any amendments thereof shall apply also in the territory, including the Eastern Caprivi Zipfel.” Section 99(2) states “Any proclamation, regulation or notice issued or made under this Act prior to the commencement of the Marketing Amendment Act, 1971, and which does not apply in the territory immediately prior to such commencement, shall, subject to the provisions of this Act, not apply in the territory.” In definitions inserted by *Act 78 of 1971*, “Republic” is defined to include the “territory”, which is defined as “the territory of South West Africa”.

**Transfer of administration to SWA:** The administration of this Act was transferred to SWA by the Executive Powers (Agricultural Economics and Marketing) Transfer Proclamation (AG 18/1977), dated **20 December 1977**.

The provisions of the Act which relate to the Karakul Scheme published under the Act in Proclamation R.172 of 1968 ([RSA GG 2112](#)), and the Wool Scheme published under the Act in Proc. R.155 of 1972 ([RSA GG 3585](#)) were excluded from the operation of section 3(1) of the General Proclamation, meaning that they were not transferred to SWA. However, the Executive Powers (Agricultural Economics and Marketing) Transfer Proclamation (AG 18/1977) was amended by the Karakul Scheme Amendment Proclamation AG 41 of 1978 ([OG 3771](#)), to remove the references to the Karakul Scheme from this exemption with effect from 1 July 1978.

The provisions of the Act relating to boards and control bodies relevant to these schemes were excluded from transfer by section 3(2)(b) of the General Proclamation, which exempted from the operation of section 3(1) of the General Proclamation “those provisions of any law... which provide for or relate to the institution, constitution or control of any juristic person or any board or any other body of persons that may exercise powers or perform other functions in or in respect of both the territory and the Republic”.

None of the amending acts in South Africa after the date of transfer were made expressly applicable to SWA. The *Marketing Amendment Act 79 of 1987* ([RSA GG 10956](#)) repealed section 99 of the Act (concerning applicability to SWA) in South Africa, but this amending Act was not made expressly applicable to SWA.

**Amendments:** The following pre-independence South African amendments were applicable to SWA –

- *Marketing Amendment Act 52 of 1969* ([RSA GG 2384](#))
- *Marketing Amendment Act 69 of 1970* ([RSA GG 2864](#))
- *Marketing Amendment Act 78 of 1971* ([RSA GG 3189](#))
- *Marketing Amendment Act 68 of 1972* ([RSA GG 3558](#))
- *Marketing Amendment Act 31 of 1973* ([RSA GG 3860](#))
- *Marketing Amendment Act 73 of 1974* ([RSA GG 4501](#))
- *Marketing Amendment Act 38 of 1975* ([RSA GG 4701](#))
- *Marketing Amendment Act 50 of 1976* ([RSA GG 5075](#))
- *Marketing Amendment Act 109 of 1977* ([RSA GG 5661](#))

This Act came into force on its date of publication (20 July 1977), with the exception of section 10 of the amending Act (which amended section 28 of the Act), which came into force on 1 July 1978, after the date of transfer to South West Africa and so was not applicable to South West Africa.

Schedule 1 of the Act was amended in South Africa after the date of transfer by RSA Proc. 119/1986 (RSA GG 10279), RSA GN 1177/1987 (RSA GG 10753), RSA GN 2579/1987 (RSA GG 11037) and RSA GN 119/1989 (RSA GG 1673) – but none of these amendments were made explicitly applicable to SWA.

The Meat Industry Act 12 of 1981 ([OG 4506](#)) repealed the Act insofar as it relates to controlled products, which it defines as being “livestock, meat or meat products”.

The Karakul Pelts and Wool Act 14 of 1982 ([OG 4707](#)) repealed the Act insofar as it relates to karakul pelts or wool.

The Marketing Amendment Act 19 of 1980 ([OG 4293](#)) amends section 46D.

**Regulations:** Section 100(2) of the Act includes a savings provision in respect of regulations issued under the repealed *Marketing Act 26 of 1937* and its amendments. Pre-independence regulations have not been researched.

The **import of vegetable oil** is governed by AG 31/1979 ([OG 4031](#)) (as amended by AG 20/1986 ([OG 5182](#))), which is issued under the authority of the principal Act).

See also AG GN 112/1980 ([OG 4160](#)), read together with the Marketing Amendment Act 19 of 1980 ([OG 4293](#)) (re: levies and regulations); section 2 of Act 19 of 1980 states: “The general levy imposed by Government Notice AG. 112 of 1980 and the directions, regulations and determinations made thereby, shall be deemed to have been so imposed and made with effect from 17 July 1980.”

***Abattoir Industry Act 54 of 1976***, as amended in South Africa to December 1977

**Summary:** This Act ([RSA GG 5077](#)) covers a wide range of matters relating to abattoirs.

**Applicability to SWA:** Section 1 defines “the territory” as “the territory of South West Africa”. Section 75 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 (Agricultural Economics and Marketing) Transfer Proclamation (AG 18/1977), dated **20 December 1977**. None of the amendments to the Act in South Africa after the date of transfer and prior to Namibian independence – the *Abattoir Industry Amendment Act 69 of 1982* ([RSA GG 8214](#)), the *Abattoir Industry Amendment Act 32 of 1984* ([RSA GG 9169](#)) and the *Transfer of Powers and Duties of the State President Act 97 of 1986* ([RSA GG 10438](#)) – were made expressly applicable to SWA.

Section 3(2) of the transfer proclamation provided that, notwithstanding section 3(2)(b) of the General Proclamation, references to the Minister of Agriculture in sections 3(1)(c) and (e) and sections 46(j) and (l) of the Act (which deal with certain powers and functions of the Abattoir Commission and the South African Abattoir Corporation) should be construed as a reference to the Administrator-General.

**Regulations:** General regulations are contained in RSA GN R.93/1977 ([RSA GG 5387](#)), as amended by RSA GN R.625/1977 ([RSA GG 5516](#)) and RSA GN R.1122/1977 ([RSA GG 5607](#)). Unless there was a repeal in SWA which has not been located, these regulations remain in force in Namibia.

These regulations were substituted *after the date of transfer* in South Africa by RSA GN R.2555/1977 ([RSA GG 5835](#)), dated 23 December 1977, meaning that this substitution did not apply to SWA.

**Application of law:** RSA Proclamation R.15/1977 ([RSA GG 5387](#)) declares South West Africa to be a proclaimed area for purposes of the Act.

RSA Proclamation R.624/1977 ([RSA GG 5516](#)) determines, in terms of section 35 read with section 43(b), that Chapter I of the said Act does not apply to abattoirs where not more than eight units are slaughtered per month.

RSA Proclamation R. 63/1977 ([RSA GG 5486](#)) also limits the application of the Act, in terms of section 42 of the Act. (In South Africa, this notice was amended after the date of transfer by RSA GN R.70/1980 ([RSA GG 6928](#)), which makes no mention of SWA.)

**\*\*Livestock Improvement Act 25 of 1977**, as amended in South Africa to March 1978

**Summary:** This Act ([RSA GG 5462](#)) provides for the development and promotion of the livestock industry and regulates breeding. There is some question as to whether it is in force in Namibia. The 1993 judgement of *S v Lofty-Eaton & Others (1)* 1993 NR 370 (HC) (dated 1 November 1993) found that the Act had never been brought into operation in South West Africa or Namibia by proclamation, as section 38 of the Act requires. This case also found that the organs and procedures mentioned in section 16 must be in place before the Act can be operational. However, the Act was amended in independent Namibia in 1993, and the Ministry continues to issue subsidiary notices under the Act as if it were in force.

**Applicability to SWA:** Prior to the 1993 amendments to the Act, section 1 of the Act defined “Republic” to include “the territory”, which was defined as “the territory of South West Africa”. Section 35 stated: “This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.” However, section 38 stated that the

Act would come into operation only on a date fixed by the State President by Proclamation in the South African *Government Gazette*.

Portions of the Act were brought into force in South Africa as of 1 May 1979 by RSA Proc. R.80/1979 ([RSA GG 6416](#)):

I hereby declare that all the provisions of the said Act except –

- (a) the definitions of “Stud Book Association” and “livestock breeders’ society” in section 1;
- (b) section 9(3)(b) in so far as it relates to other animals than those of which the pedigree and performance records have been evaluated in terms of a scheme, irrespective of whether the scheme concerned was established under the said Act or not;
- (c) sections 18, 19, 20, 21, 22, 23, 30(1)(q), (r) and (s), 34(1)(k) and 36;
- (d) sections 30(1)(i) in so far as it relates to section 30(1)(q), (r) and (s); and
- (e) section 37 in so far as it relates to (i) the Registration of Pedigree Livestock Act, 1957 (Act 28 of 1957); (ii) the Registration of Pedigree, Livestock Amendment Act, 1962 (Act 27 of 1962); and (iii) the Registration of Pedigree Livestock Amendment Act, 1967 (Act 1 of 1967):

shall come into operation on 1 May 1979.

The State President was acting in terms of section 38 of the Act, which was excluded from transfer to SWA, and so had the authority to bring the Act in force with respect to SWA. However, the Proclamation which brought the Act into force in part in RSA was arguably not applicable to SWA because it occurred after the date of transfer and yet made no explicit reference to SWA or to the consent of the SWA Administrator-General. Section 3(4) of the General Proclamation provides as follows:

(4) Any proclamation, regulation or rule which is issued or made after the commencement of any transfer proclamation by, or on the authority of, the State President or Minister under a law which at such commencement applies both in the territory and in the Republic, and which is published in the *Government Gazette* of the Republic, shall, notwithstanding the provisions of subsection (1) apply in the territory if such proclamation, regulation or rule or the notice by which it is so published, contains a statement that it was or is issued or made with the consent of the Administrator-General, and applies also in the territory: Provided that for the purposes of the application of such proclamation, regulation or rule in the territory, the provisions of subsection (1) shall apply.

A possible counterargument might be that the Act did not “apply” in either RSA or SWA before it was brought into force and so did not fall under section 3(4) of the General Proclamation. However, it should be noted that the post-independence case of *S v Lofty-Eaton & Others (1)* 1993 NR 370 (HC) (discussed below) drew a distinction between “applying” and being “operative”, and found that the Act is *not* actually in force in Namibia.

**Transfer of administration to SWA:** The administration of this Act was transferred to SWA by the Executive Powers (Agricultural Technical Services) Transfer Proclamation (AG 11/1978), dated **2 March 1978**.

Section 3(1)(h) of the transfer proclamation excluded section 4(1), the references to the “Minister” in section 33, and section 38 of the Act from the operation of section 3(1)(c) of the General Proclamation. Section 3(2) of the transfer proclamation excluded the Act from the operation of section 3(1)(c) of the General Proclamation, meaning that “Republic” retained the meaning given to it in the definition section of the Act (South Africa and SWA).

The provisions of the Act relating to the Advisory Board for Animal Production were excluded from transfer by section 3(2)(b) of the General Proclamation, which exempted from the operation of section 3(1) of the General Proclamation “those provisions of any law ... which provide for or relate to the institution, constitution or control of any juristic person or any board or any other body of persons that may exercise powers or perform other functions in or in respect of both the territory and the Republic”.

There was only one amendment to the Act in South Africa after the date of transfer and prior to Namibian independence – the *Livestock Improvement Amendment Act 31 of 1984* ([RSA GG 9168](#)) – which was not made expressly applicable to SWA. (This amending Act does not apply to SWA despite the continuing definition of “Republic” to include SWA, by virtue of section 3(5) of the General Proclamation, as amended.)

After independence, the Act was substantially amended by Act 25/1993 ([GG 753](#)), which establishes a Livestock Improvement Board. However, Act 25/1993 does not repeal section 38, which requires that a date for the commencement of the Act be set by a Proclamation of the State President, nor does it otherwise expressly bring the primary Act into force.

The nature of the notices issued under the Act indicates that Government believes the Act to be operative. However, we have not been able to locate any legal instrument bringing the Act into force in Namibia in light of the ruling in *S v Loftly-Eaton & Others (1)* 1993 NR 370 (HC).

**Amendments:** As noted above, in South Africa, the Act was amended after the relevant date of transfer, and prior to Namibian independence, by the *Livestock Improvement Amendment Act 31 of 1984* ([RSA GG 9168](#)) – which was not made expressly applicable to SWA. This amending Act was to be brought into force by Proclamation of the State President. It was brought into force in part as of 29 June 1984 by RSA Proc. R.107/1984 ([RSA GG 9277](#)):

Under the powers vested in me by section 23 of the Livestock Improvement Amendment Act, 1984 (Act 31 of 1984), I hereby declare that the provisions of sections 1, 3, 15, 16, 17, 18, 19, 20(h), (i), (j) and (k), 21 and 22(h) of the said Act shall come into operation on the date of publication hereof.

The remainder of the amending Act was brought into force as of 1 July 1986 by RSA Proc. R.104/1986 ([RSA GG 10288](#)):

By virtue of the powers vested in me by section 23 of the Livestock Improvement Amendment Act, 1984 (Act 31 of 1984), I hereby declare that the provisions of sections 2, 4 to 14, 20(a) to (g) and 22(a) to (g) and (i) of the said Act shall come into operation on 1 July 1986.

There is no indication that the amendments made in South Africa in terms of this amending Act were made applicable to SWA.

After Namibian independence, the Act was substantially amended by Act 25/1993 ([GG 753](#)).

**Regulations:** In South Africa, regulations relating to the artificial insemination and ino-vulation of animals and the import and export of animals, semen, ova and eggs were promulgated in RSA GN R.851/1979 ([RSA GG 6416](#)), effective as of 1 May 1979. These regulations *post-date* the relevant date of transfer, coming into force at the same time as the Act came into force in part in South Africa, *but they have been amended in independent Namibia*. Prior to independence, these regulations were amended in South Africa by RSA GN R.1753/1979 (RSA GG 6620), RSA GN R.580/1981 (RSA GG 7494), RSA GN R.516/1982 (RSA GG 8111), RSA GN R.568/1983 (RSA GG 8604) and RSA GN R.1109/1985 (RSA GG 9744). After independence, they were amended by GN 60/1993 ([GG 653](#)). The status of this regulation set in Namibia, like the status of the Act, is unclear.

In South Africa, this set of regulations was repealed and replaced, prior to the date of Namibian independence, by RSA GN R.1181/1986 (RSA GG 10288). Like the 1979 regulations, the 1986 regulations were issued in terms of section 34(1) of the Act (which was not excluded from transfer) and make no reference to SWA. Prior to Namibian independence, the 1986 regulations were corrected by RSA GN R.1441/1986 (RSA GG 10341), amended by RSA GN R.1245/1987 (RSA GG 10759), corrected by RSA GN R.1305/1987 (RSA GG 10779) and RSA GN R.1536/1987 (RSA GG 10827), and amended by RSA GN R.1602/1989 (RSA GG 12024) and by RSA GN R.2506/1989 (RSA GG 12181). However, it would seem that these regulations were not applicable to SWA because of the effect of the relevant transfer proclamation – which is reinforced by the fact that the previous set of regulations is the one which has been amended in Namibia since independence.

**Notices:** See AG GN 61/1979 ([OG 3991](#)), concerning kinds and breeds of animals to which the Act applies.

The following have been declared to be breeds of animals in Namibia (with capitalisation reproduced as it appears in the respective Government Notices):

- dorper breed-GN 238/2009 ([GG 4391](#)).
- Gellaper breed-GN 63/2010 ([GG 4451](#)).
- indigenous goat breed-GN 220/2010 ([GG 4574](#))
- nguni breed-GN 2/2011 ([GG 4645](#))
- Damara Sheep breed-GN 68/2011 ([GG 4725](#))
- Meatmaster Breed-GN 59/2014 ([GG 5455](#))
- Draughtmaster Breed-GN 104/2015 ([GG 5760](#))
- Veldmaster Breed-GN 105/2015 ([GG 5760](#))
- Pinto Horse-GN 38/2017 ([GG 6254](#))
- Boerboel Breed-GN 83/2017 ([GG 6285](#)).

The karakoel breed was renamed swakara breed by GN 202/2011 ([GG 4823](#)).

Notices have been issued under this Act in 2005 (GN 61/2005, [GG 3439](#)), 2006 (GN 172/2006, [GG 3721](#)), 2010 (GN 144/2010, [GG 4530](#)) and 2011 (GN 171-172/2011, [GG 4792](#); GN 192/2011, [GG 4808](#)), issuing certificates of incorporation to livestock breeders' societies.

**Cases:** *S v Lofty-Eaton & Others (1)* 1993 NR 370 (HC).

The relevant passage is quoted here at length as it may be relevant to the applicability of other South African statutes which mention "South West Africa":

"The problem is that s 35 applied the Act to Namibia, but did not make it operative in Namibia because s 38 of the said Act provided:

- (1) This Act shall be called the Livestock Improvement Act, 1977, and shall come into operation on a date to be fixed by the State President by proclamation in the Gazette.
- (2) Different dates may be fixed under s (1) in respect of different provisions of this Act.'

The proclamation which put part of the said Act into operation was Proc R80 of 1979, but only in South Africa. It must be assumed that the State President deliberately did not put the Act into operation in Namibia. He could have done so by merely stating in Proc R80 of 1979 that Proc R80 of 1979 applies in the territory of South West Africa, and is made with the consent of the Administrator-General.

Even in South Africa the said Livestock Improvement Act was passed and assented to by the State President and published in Government Gazette 5462 of 23 March 1977. Part of it was, however, only put into operation in South Africa by Proc R80 of 1979 on 1 May 1979.

The question is why? Again the answer is obvious. It was provided for in the Act itself that a large number of administrative organs and the appointment of officials to carry on the day-to-day administration of the Act would be in place once it, or a relevant part of it, would come into operation. So, for example:

- (a) The Minister had to appoint 16 members to the Advisory Board in s 3 of that Act, of which two had to be officers of the Department of Agriculture and one had to be an officer of the Department of Agriculture, Economics and Marketing.
- (b) The Minister had to appoint a Registrar in terms of s 4 of that Act.
- (c) The Registrar had to invite a list of names of three persons to be submitted to him by each one of the 13 associations, Boards or companies contemplated in s 3(2)(b)(i)-(xiii).
- (d) The Minister had to appoint the executive committee of the Studbook Association and the other committees contemplated in s 3(5)(c)(i)-(iii) read with s 16(2)(b).
- (e) A register had to be prepared as contemplated in s 5 of the Act.
- (f) Notices as contemplated in s 2 and regulations contemplated in s 34 had to be prepared to be ready for promulgation before, on or shortly after the date on which the Livestock Improvement Act had come into operation.

(g) The application forms in terms whereof one could apply for –  
 (i) registration as an inseminator;  
 (ii) registration of premises as an artificial insemination centre;  
 (iii) a certificate for the approval of an animal to collect semen;  
 (iv) the renewal of a registration of an artificial insemination centre;  
 (v) the renewal of certificates in respect of animals for the collection of ova, and the like – see, for example, the numerous forms and certificates contemplated in Schedules I-XVI of Government Gazette 6416, dated 27 April 1979.

It is important to note that, when a law provides for certain organs and procedures to be established without which the Act cannot be implemented properly, the Legislature usually provides that the law will only become ‘operative’, as distinguished from ‘applicable’, on a date to be determined by the President, Administrator, Minister or similar entity by proclamation or notice in the Gazette.

The Legislature that enacts an Act may even provide for bringing different parts of an Act into operation on different dates, as was the case in the Livestock Improvement Act, 1977. This last procedure should of course only be used if the various sections or parts of such an Act are severable and would not be applicable to s 16(1) and (2)(a) and (b) of the Livestock Improvement Act 1977 and its various parts.

That an Act is capable of being administered (notwithstanding the fact that it has not as yet come into operation) is furthermore explicitly envisaged in s 12(3) of the Interpretation of Laws Proclamation 37 of 1920 [OG 35], which provides as follows:

‘(3) Where a law confers a power –

- (a) to make any appointments; or
- (b) to make . . . rules, regulations or by-laws; or
- (c) to give notices; or
- (d) to prescribe forms; or
- (e) to do any other act or thing for the purpose of the law,

*that power may, unless the contrary intention appears, be exercised at any time after the passing of the law so far as may be necessary for the purpose of bringing the law into operation at the commencement thereof, subject to this restriction that any instrument . . . rules, regulations or by-laws made . . . under the power shall not . . . come into operation until the law comes into operation.’* (My emphasis.)

See also s 14 of the equivalent South African Act 33 of 1957, and *S v Manelis* 1965 (1) SA 748 (A) at 753.

It is common cause between the State and defence that at the time of the alleged offences, ie in April 1993, about six years after the Act was passed, the crucial organs and procedures for receiving, considering and deciding applications for written authorisation to import, as provided for in s 16 of the said Act, had still not been established in Namibia.

Mr Small is correct in contending that the Administrator-General had the power himself to declare the Act operative in Namibia, but for that an AG proclamation expressly stating that the Act is operative from a certain date would have been necessary. I do not understand Mr Small to contend that such an AG proclamation was ever issued. ***[With respect, this contention appears to be incorrect. Section 3(1)(h) of the transfer proclamation excluded section 38 from the operation of section 3(1) of the Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977, meaning that the reference to the State President in section 38 was not to be construed as referring to the Administrator-General.]***

In conclusion on this issue I must point out that the provision in an Act of Parliament that the date of operation is to be decided on and promulgated by an organ of the Executive may be regarded as an administrative function or as delegated legislation or a combination of both. In all instances, however, the decision to declare operative, and the declaration itself, must comply with the provisions of the enabling Act, and must in itself be reasonable and not ambiguous, particularly where it provides for criminal offences and criminal sanctions for non-compliance with the provisions of the Act.

To declare an Act operative, when essential organs or procedures for complying with the law and for avoiding a contravention and avoiding criminal sanctions are not yet established, appears to me not only to be *ultra vires* the enabling Act but in conflict with art 18 of the Namibian Constitution. See also art 21 of the Namibian Constitution; Steyn Die Uitleg van Wette 5th ed at 238-49.

Even if the State President, or the Administrator-General in this instance, declared the Act as a whole or parts of it operative at any point in time, when the organs and procedures to be set up under s 16 were not yet established, it seems to me that such declaration would in itself be *ultra vires* or unconstitutional, particularly insofar as it purported or purports to make s 16(1) and 16(2)-(8) of the said Act operative.”



## Meat Industry Act 12 of 1981

**Summary:** This Act ([OG 4506](#)) establishes a meat board and sets forth its objects, powers, duties and functions. It also provides for control over the grading, sale, import and export of livestock, meat and meat products, and the levies on these items. It repeals the Meat Trade Control Ordinance 20 of 1962 ([OG 2409](#)). The Act was brought into force by AG 30/1981 ([OG 4553](#)), and applied to Rehoboth by the Meat Industry in Rehoboth Act 5 of 1986 (Rehoboth) (Official Gazette 152 of Rehoboth, dated 10 April 1987).

**Amendments:** Prior to independence, the Act was amended by Act 3/1987 ([OG 5349](#)).

Act 21/1992 ([GG 466](#)), which was brought into force by GN 125/1992 ([GG 482](#)), amends sections 1, 2, 4, 8, 10, 12 and 21, inserts section 10A, and substitutes certain expressions and the long title to make the Act consistent with an independent Namibia and to extend the powers of inspectors in certain circumstances.

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 sections 4 and 8, and deletes sections 5, 7(1) and 15.

**Regulations:** Regulations made in terms of the Meat Trade Control Ordinance 20 of 1962, which was repealed by this Act, survive pursuant to section 26(2) of this Act. However, pre-independence regulations have not been comprehensively researched.

General regulations made under this Act are contained in AG GN 153/1981 ([OG 4554](#)) as amended by GN 110/1992 ([GG 468](#)), GN 126/1992 ([GG 482](#)) and GN 4/2013 ([GG 5119](#)).

**Notices:** A notice of certain record-keeping requirements and prohibitions relating to livestock is contained in General Notice 8/1982 ([OG 4613](#)), as amended by General Notice 90/1982.

AG GN 20/1983 ([OG 4735](#)) prohibited the import and export of certain controlled products, but was withdrawn by GN 129/2004 ([GG 3214](#)).

A notice concerning record-keeping in respect of controlled products and livestock is contained in General Notice 3/1993 ([GG 567](#)).

A notification of measures to promote the interests of the meat industry in Namibia is contained in General Notice 115/2004 ([GG 3214](#)).

Prohibitions relating to abattoirs, factories and refrigeration plants of unregistered producers are addressed in General Notice 91/2006 ([GG 3620](#)).

GN 94/2007 ([GG 3841](#)) prohibits the import and export of certain controlled products.

Levies are periodically set in terms of the Act but have not been recorded here.

**Cases:** *Matador Enterprises (Pty) Ltd v Minister of Trade and Industry & Others* 2015 (2) NR 477 (HC); upheld on different reasoning in *Minister of Trade and Industry v Matador Enterprises (Pty) Ltd (SA 44-2014)* [2020] NASC (19 March 2020) (both judgments discuss *in dicta* the relationship between this Act and the more generalised Import and Export Control Act 30 of 1994).

**Notes:** See the related Swameat Corporation Ordinance 2 of 1986 (*Official Gazette 75 of the Representative Authority of the Whites*), which has since been repealed by the Meat Corporation of Namibia Act 1 of 2001 ([GG 2522](#)).

## **Karakul Pelts and Wool Act 14 of 1982**

**Summary:** This Act ([OG 4707](#)) establishes a Karakul Board and regulates classification, sale, marketing, packing, and the import and export of karakul pelts and wool. It was brought into force by AG 30/1982 ([OG 4709](#)).

**Amendments:** This Act is amended by Act 15/1986 ([OG 5237](#)) and Act 22/1986 ([OG 5277](#)). 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 sections 4 and 8, and deletes sections 5, 7(1) and 16.

**Regulations:** Pre-independence regulations have not been researched.

**Notices:** A levy and a special levy on wool are contained in GN 117/1991 ([GG 289](#)), replaced by GN 87/2002 ([GG 2754](#)). A levy and special levy on karakul pelts are contained in GN 40/2010 ([GG 4440](#)), as corrected by GN 66/2010 ([GG 4451](#)).

## **Control of the Importation and Exportation of Dairy Products and Dairy Product Substitutes Act 5 of 1986**

**Summary:** This Act ([OG 5195](#)) controls the import and export of dairy products and dairy product substitutes.

**Regulations:** Pre-independence regulations have not been researched.

**Cases:** *Matador Enterprises (Pty) Ltd v Minister of Trade and Industry & Others* 2015 (2) NR 477 (HC) (Act 5 of 1986 not impliedly repealed by Import and Export Control Act 30 of 1994 because of its specialised nature, and should be the basis for controlling the import of dairy products rather than the more general 1994 legislation); on appeal, in *Minister of Trade and Industry v Matador Enterprises (Pty) Ltd (SA 44-2014)* [2020] NASC (19 March 2020), the Supreme Court agreed that the Import and Export Control Act 30 of 1994 did not repeal Act 5 of 1986, but distinguished the two law as follows (at para 49, Shivute, CJ):

...although the Dairy Products Act remains the main or primary legislation which must be invoked when regulating the importation and exportation of dairy products, Government may invoke either of the two Acts depending on the intention or purpose of restricting or prohibiting the importation of dairy products. The Dairy Products Act only gives power to restrict or prohibit dairy products from being imported into Namibia *for purposes of trade* and therefore, the power conferred by this Act cannot be invoked to prohibit or restrict the importation of dairy products into Namibia for *general use*.

## **Prevention of Undesirable Residue in Meat Act 21 of 1991**

**Summary:** This Act ([GG 322](#)) controls the administration of certain products to animals which may cause undesirable residue in meat and meat products, and further regulates the marketing of meat and meat products. It was brought into force on 28 November 1994 by Proc. 29/1994

([GG 975](#)).

**Amendments:** Act 11/1994 ([GG 923](#)) amends sections 1 and 2. This amending Act is deemed to have come into operation on the date of commencement of the principal Act.

**Regulations:** Pre-independence regulations have not been researched. Post-independence regulations are contained in GN 219/1994 ([GG 975](#)).

**Notices:** Prohibited substances are listed in GN 220/1994 ([GG 975](#)), as amended and supplemented by GN 58/2011 ([GG 4711](#)) and amended by GN 278/2020 ([GG 7386](#)).

## **Agronomic Industry Act 20 of 1992**

**Summary:** This Act ([GG 465](#)) establishes the Namibian Agronomic Board and sets forth its powers and functions. It repeals the Agronomic Industry Proclamation, AG 11/1985. The Act was brought into force on 5 October 1992 by Proc. 33/1992 ([GG 496](#)).

**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 1, 4, 5, 7 and 8 and deletes section 15.

The State-owned Enterprises Act inconsistently refers to this Act as the “Agronomic Industry Act” in Schedule 1 and the “Namibian Agronomic Industry Act” in Schedule 2. The correct name is the Agronomic Industry Act. However, the Act establishes the “Namibian Agronomic Board”.

**Regulations:** Regulations made under the repealed Proclamation survive under section 25(2) of this Act, but none have been located as yet.

In terms of the current Act, regulations relating to the grading and classification of **maize** are contained in GN 71/1994 ([GG 854](#))

Regulations relating to the composition and quality of **pearl millet (mahangu)** products are contained in GN 97/2016 ([GG 6015](#)).

**Notices:** Notices and other actions under the repealed Proclamation survive under the new Act. The pre-independence notices are not comprehensively recorded here, but one which was referred to in post-independence case law is GN 58/1986 (OG 5186).

Standards for maize products in terms of section 19(1) of the Act are contained in GN 72/1994 ([GG 854](#)).

Agronomic crops are addressed in GN 45/1993 ([GG 626](#)), GN 293/1996 ([GG 1435](#)), GN 146/2002 ([GG 2802](#)) and GN 109/2008 ([GG 4047](#)).

Controlled products levies have been announced from time to time in terms of section 18(3) of the Act. The levies currently in force are contained in GN 147/2002 ([GG 2802](#)), GN 116/2003 ([GG 2990](#)) and GN 111/2008 ([GG 4047](#)).

Paragraph 3 of the Schedule to GN 147/2002 is amended by GN 125/2012 ([GG 4947](#)). The entire Schedule to GN 147/2002 is substituted by GN 268/2014 ([GG 5645](#)), which repeals GN 125/2012.

GN 116/2003 is amended by GN 36/2015 ([GG 5681](#)).

The importation of certain products without a permit is prohibited by GN 101/2006 ([GG 3661](#)) and GN 110/2008 ([GG 4047](#)).

**Appointments:** The appointment of agents to assist the Namibian Agronomic Board with certain specified functions is announced in General Notice 247/2014 ([GG 5523](#)).

**Cases:** *Matador Enterprises (Pty) Ltd t/a National Cold Storage v Chairman of the Namibian Agronomic Board* 2010 (1) NR 212 (HC).

## **Stock Brands Act 24 of 1995**

**Summary:** This Act ([GG 1227](#)) consolidates and amends the laws relating to the branding of stock. It was brought into force on 9 April 1999 by GN 57/1999 ([GG 2078](#)). It repealed the Native Stock Brands Proclamation 15 of 1923 and the Stock Brands Ordinance 8 of 1931.

**Amendments:** Act 7/2001 ([GG 2569](#)) inserts sections 20A and 21A and amends section 22.

**Regulations:** There is no savings provision in respect of any regulations or notices which might have been made under the repealed laws.

Regulations made under this Act are contained in GN 73/2004 ([GG 3187](#)), which repeals the regulations in GN 58/1999 ([GG 2078](#)). Regulation 7 is amended by GN 39/2007 ([GG 3799](#)), GN 239/2009 ([GG 4391](#)) and GN 145/2015 ([GG 5783](#)).

**Notices:** GN 72/2004 ([GG 3187](#)) declares sheep and goats to be stock in terms of section 2.

## **Meat Corporation of Namibia Act 1 of 2001**

**Summary:** This Act ([GG 2522](#)) establishes the Meat Corporation of Namibia (“Meatco”) to establish and manage abattoirs and other meat factories. This law repeals the Swameat Corporation Ordinance 2 of 1986 (*Official Gazette 75 of the Representative Authority of the Whites*). It was brought into force on 3 May 2001 by GN 80/2001 ([GG 2521](#)).

**Amendments:** Act 21/2004 ([GG 3353](#)) amends sections 5 and 9 and inserts section 30A. 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 1, 5, 7, 9 and 12, and substitutes section 8.

**Regulations:** Regulations made under the repealed Ordinance survive under section 33(2) of this Act, but none have been located.

**Appointments:** The Board of Directors is announced in GN 182/2001 ([GG 2607](#)).

## **Agricultural Bank of Namibia Act 5 of 2003**

**Summary:** This Act ([GG 3003](#)) provides for the Agricultural Bank of Namibia (Agribank). It repeals the *Agricultural Bank Act 13 of 1944*. It was brought into force on 15 November 2003

by GN 225/2003 ([GG 3092](#)).

**Amendments:** Act 22/2004 ([GG 3355](#)) amends sections 7, 8, 16, 22 and 29 and substitutes section 10. 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, substitutes section 7, and amends sections 8, 10, 11, 16 and 17.

**Regulations:** Notices made under the repealed law survive pursuant to section 30(4) of this Act, which states: “Any notice made under a provision of a law repealed by this Act is deemed to have been made under a corresponding provision of this Act.” This savings clause does not seem to apply to regulations – and even if it did, it would have no effect since the current Act does not make any provision for regulations to be issued.

**Notices:** Notices made under the repealed law survive pursuant to section 30(4) of this Act (quoted above). Certain activities are declared to be “activities related to agriculture” as defined in section 1 of the Act in GN 109/2006 ([GG 3672](#)).

**Appointments:** The re-appointment of board members is announced in GN 191/2012 ([GG 5005](#)). No previous appointments could be located in the *Government Gazettes*.

Note that GN 191/2012 ([GG 5005](#)) erroneously refers to the Act as the “Agribank Act”.

**Application of law:** Structures established under this Act are affected by directives issued in terms of 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, on remuneration for chief executive officers and senior managers of state-owned enterprises and annual fees and sitting allowances for board members.

The Financial Intelligence Act 13 of 2012 ([GG 5096](#)) places certain duties on the Agricultural Bank of Namibia.

#### **Cases:**

The following case concerns this Act –

*Witvlei Meat (Pty) Ltd v Agricultural Bank of Namibia* 2014 (2) NR 464 (SC)

The following case concerns previous legislation –

*Du Plessis v Government of the Republic of Namibia* 1994 NR 227 (HC) (section 10 of the previous *Agricultural Credit Act 28 of 1966* and section 23 of the *Agricultural Bank Amendment Act 27 of 1991* ([GG 329](#)), which amended the previous *Agricultural Bank Act 13 of 1944* and repealed the *Agricultural Credit Act 28 of 1966*).

#### **Commentary:**

Sidney Harring & Willem Odendaal, “*One Day We Will All Be Equal*”: *A Socio-Legal Perspective on the Namibian Land Reform and Resettlement Process*, Legal Assistance Centre, 2002, available at [www.lac.org.na](http://www.lac.org.na)

Legal Assistance Centre, *Our Land We Farm: An analysis of the Namibian Commercial Agricultural Land Reform Process*, 2005, Legal Assistance Centre, available at [www.lac.org.na](http://www.lac.org.na)

Sidney L Harring & Willem Odendaal, “*No Resettlement Available*”: *An assessment of the expropriation principle and its impact on land reform in Namibia*, Legal Assistance Centre, 2007, available at [www.lac.org.na](http://www.lac.org.na)

Wolfgang Werner & Willem Odendaal, *Livelihoods after Land Reform*, Legal Assistance Centre, 2010, available at [www.lac.org.na](http://www.lac.org.na).

#### **Related international agreements:**

*Agreement Establishing the International Fund for Agricultural Development, 1976.*

## **\*Seed and Seed Varieties Act 23 of 2018**

**Summary:** This Act ([GG 6814](#)) establishes a Registrar of seed and seed varieties and provides for the registration of producers, processors and dealers of seed. It also establishes a Namibia Seed Council and a Seed Varieties Committee, a National Seed Varieties Register and a Seed Certification Service. It also covers the import and export of seed. It will be brought into force on a date set by the Minister in the *Government Gazette*.

The correct name of the Act is the “Seed and Seed Varieties Act”, according to section 54(1) of the Act. However, the table of contents and the header of the *Government Gazette* erroneously refer to the “Seeds and Seeds Varieties Act” (with the word “seed” being plural instead of singular).

**Regulations:** Section 53 provides for regulations, but none have yet been promulgated.

## **COMMISSIONS**

Commission of Inquiry into the Meat Industry in South West Africa (AG 1/1984).

## **MISCELLANEOUS**

Grading standards for whole and decorticated pearl millet (mahangu) grains are published for general information for prospective buyers and sellers in General Notice 89/2000 ([GG 2353](#)).

## **INTERNATIONAL LAW**

*Charter Establishing the Centre for Coordination of Agricultural Research and Development (CCARDESA), 2010*

*†Constitution of the Food and Agriculture Organization of the United Nations (FAO), 1945*  
*Free Trade Agreement between the European Free Trade Association (EFTA) and the Southern African Customs Union (SACU), 2006*

*Agricultural Agreement between the Southern African Customs Union (SACU) States and Iceland, 2006*

*Agricultural Agreement between the Southern African Customs Union (SACU) States and Norway, 2006*

*Agricultural Agreement between the Southern African Customs Union (SACU) States and Switzerland, 2006*

*International Agreement for the Creation of an International Office for dealing with Contagious Diseases of Animals (Arrangement international pour la création, à Paris, d'un Office international des epizooties), 1925*

*International Plant Protection Convention, 1951, as revised in 1979 and 1997*

*International Treaty on Plant Genetic Resources for Food and Agriculture, 2001*

*Statutes of the International Centre for Genetic Engineering and Biotechnology (ICGEB), 1983*

*Protocol of the Reconvened Plenipotentiary Meeting on the Establishment of the International Centre for Genetic Engineering and Biotechnology, 1984*

*Protocol to the Statutes of the International Centre for Genetic Engineering and Biotechnology on the Seat of the Centre, 2007*

See also **ANIMALS**.

See also Stock Theft Act 12 of 1990 (**CRIMINAL LAW AND PROCEDURE**).

See also **ENVIRONMENT**.

See also Labour Act 11 of 2007 (collective agreements setting minimum wages for agricultural industry) (**LABOUR**).

See also Agricultural (Commercial) Land Reform Act 6 of 1995 (**LAND AND HOUSING**).

See also Aquaculture Act 18 of 2002 and Inland Fisheries Resources Act 1 of 2003 (**MARINE AND FRESHWATER RESOURCES**).

See also *Sugar Act 28 of 1936* (**TRADE AND INDUSTRY**).