

# ANIMALS

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***Performing Animals Protection Act 24 of 1935***, as amended in South Africa to November 1979

**Summary:** This Act ([SA GG 2271](#)) regulates the exhibition and training of performing animals.

**Applicability to SWA:** Section 11A inserted by *Act 7 of 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:** Section 11 of the Act defines “Minister” as “the Minister to whom the administration of this Act has been assigned”. The administration of the Act was assigned to the Minister of Justice by SA GN 1426/1935 ([SA GG 2299](#)). Therefore, the administration of this Act was transferred to SWA by the Executive Powers (Justice) Transfer Proclamation (AG 33/1979), dated 12 November 1979.

There were two amendments to the Act in South Africa after the date of transfer and prior to Namibian independence – the *Animals Protection Amendment Act 54 of 1983* ([RSA GG 8691](#)) and the *Animals Protection Amendment Act 20 of 1985* ([RSA GG 9653](#)) – neither of which was made expressly applicable to SWA.

The *Protection of Animals Amendment Act 7 of 1991* ([RSA GG 13112](#)) was assented to by the State President on 15 March 1991 and gazetted on 28 March 1991; there were two different proclamations bringing different portions of it into force, but both took effect after the date of Namibian independence. In any event, this amending Act was not made expressly applicable to SWA.

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

- *General Law Amendment Act 62 of 1955* ([SA GG 5512](#))
- *Animals Protection Amendment Act 7 of 1972* ([RSA GG 3414](#)).

**Regulations:** Prior to the date of transfer, regulations contained in RSA GN R.1914/1972 ([RSA GG 3686](#)) were issued pursuant to section 2(d) of the Act.

These regulations repealed the regulations contained in RSA GN R.1205/1961 ([RSA GG 136](#)), which in turn repealed the regulations contained in SA GN 432/1956 ([SA GG 5648](#).)

There are no post-independence regulations under this Act.

**Cases:** In South Africa, sections 2 and 3 of the Act were declared unconstitutional in *NSPCA v Minister of Agriculture, Forestry and Fisheries & Others* 2013 (5) SA 571 (CC), to the extent that they require a magistrate to decide applications for, and issue, animal training and exhibition licences.

**Commentary:** David Bilchitz, “What was left unsaid: the unconstitutionality of the Performing Animals Protection Act in *NSPCA v Minister of Agriculture, Forestry and Fisheries*”, 30 (1) *South African Journal on Human Rights* 2014.

## **Trespass of Animals Ordinance 16 of 1939**

**Summary:** The Ordinance ([OG 796](#)) regulates trespass by animals, provides for the recovery of fees and damages and establishes pounds.

**Amendments:** This Ordinance is amended by Proc. 21/1943 ([OG 1065](#)) and Ord. 9/1944 ([OG 1115](#)).

**Regulations:** Pre-independence regulations have not been researched. There are no post-independence regulations under this Act.

## ***Animals Protection Act 71 of 1962***, as amended in South Africa to November 1979

**Summary:** This Act ([RSA GG 271](#)) is concerned with the prevention of cruelty to animals.

**Applicability to SWA:** Section 10A which was inserted by the *Animals Protection Amendment Act 7 of 1972*, states “This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.” The act thus became applicable to SWA when Act 7 of 1972 was brought into force on 1 January 1973 by RSA Proc R.275/1972 ([RSA GG 3686](#)).

**Transfer of administration to SWA:** The administration of this Act was transferred to SWA by the Executive Powers (Justice) Transfer Proclamation (AG 33/1979), dated 12 November 1979, as amended. None of the amendments to the Act in South Africa after that date – the *Animals Protection Amendment Act 54 of 1983* (RSA GG 8691), the *Animals Protection Amendment Act 20 of 1985* (RSA GG 9653) or the *Animals Protection Second Amendment Act 84 of 1985* (RSA GG 9821) – were made expressly applicable to SWA.

The *Protection of Animals Amendment Act 7 of 1991* (RSA GG 13112) was assented to by the State President on 15 March 1991 and gazetted on 28 March 1991; there were two different proclamations bringing different portions of it into force, but both took effect after the date of Namibian independence. In any event, this amending Act was not made expressly applicable to SWA. It repealed section 10A which made the Act applicable to SWA, in the version of the Act in force in South Africa.

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

- *Animals Protection Amendment Act 7 of 1972* ([RSA GG 3414](#))
- *General Law Amendment Act 102 of 1972* ([RSA GG 3610](#)).

**Regulations:** The only pre-independence regulations issued under the Act in South Africa were made after the date of transfer and were not made explicitly applicable to SWA.

The regulations which post-dated the date of transfer related to the seizure of animals by an officer of a society for the prevention of cruelty to animals, and were issued in RSA GN R.468/1986 (RSA GG 10121), as corrected by RSA GN R.654/1986 (RSA GG 10185).

No SWA regulations prior to independence could be located.

No post-independence regulations have been issued under this Act.

**Notice:** RSA GN R.1246/1972 ([RSA GG 3612](#)), issued in terms of section 2(3) of the Act, prohibits the killing of dogs with the intention of using their skin, meat or any other body part for commercial purposes.

**Cases:** *Ex Parte Attorney-General, Namibia: In Re Corporal Punishment by Organs of State*, 1991 NR 178 (SC) (references to whipping in section 2(1) unconstitutional).

## **Municipal Dog Tax Ordinance 13 of 1967**

**Summary:** The Ordinance ([OG 2798](#)) provides for the control and taxation of the keeping of dogs within municipal areas. It came into force on 1 April 1968 (section 19).

**Amendments:** Ord. 41/1967 ([OG 2837](#)) amends sections 1, 4, 15 and 19 and substitutes section 2.

Ord. 12/1973 ([OG 3335](#)) substitutes the term “Executive Committee” for the word “Administrator” throughout, amends section 1 and substitutes section 16.

Ord. 8/1978 ([OG 3783](#)) substitutes sections 3 and 14, amends sections 4 and 15. This amendment was initially brought into force by GN 305/1978 ([OG 3882](#)). However, this notice was repealed by the Postponement of the Commencement of the Municipal Dog Tax Amendment Ordinance, 1978, Ordinance 1/1979 ([OG 3906](#)), which amended section 5 of Ord. 8/1978 to provide that it would come into force on 1 January 1980. Section 5 of Ord. 8/1978 was further amended by the Municipal Dog Tax Amendment Ordinance 2/1980 ([OG 4104](#)) to provide that it would come into force on 1 January 1981.

Ord. 15/1980 ([OG 4165](#)) substitutes section 3 and amends section 15.

AG 19/1983 ([OG 4842](#)) amends section 6.

The Dog Tax Ordinance, 1927, Repeal Act 14 of 1987 ([OG 5411](#)) repeals section 17.

Act 30/1987 ([OG 5478](#)) amends sections 6, 14 and 15.

The Local Authorities Act 23 of 1992 ([GG 470](#)), which was brought into force on 31 August 1992 (GN 118/1992, [GG 472](#)), repeals section 18.

**Application of law:** AG 8/1986 ([OG 5168](#)) applies sections 1-15 to all peri-urban areas to which they were not already applicable, with effect from 1 January 1986.

**Regulations: Regulations for the Control of Dogs in Municipal Areas** are contained in GN 131/1968 (OG 2921), as amended by GN 108/1973 ([OG 3335](#)), GN 33/1978 (OG 3705), GN 108/1988 (OG 5556), GN 119/1988 (OG 5569) and GN 159/1992 ([GG 527](#)).

**Regulations on Municipal Dog Tax (Maximum Amount)** are contained in GN 145/1980 (OG 4243). These regulations are amended by AG GN 7/1985 ([OG 4992](#)), GN 36/1986 (OG 5175) and GN 60/1987 ([OG 5348](#)).

Model Regulations for the Control of Dogs in Local Authority Areas are contained in GN 166/2008 ([GG 4077](#)).

Note that there is a corrected version of [GG 4077](#). The correct version states at the top: “*This gazette replaces Government Gazette No. 4077 of 3 July 2008.*”

## **Animal Health Act 1 of 2011**

**Summary:** This Act ([GG 4694](#)) provides for the prevention, detection and control of animal diseases and the maintenance and improvement of animal health. It repeals the *Animal Diseases and Parasites Act 13 of 1956*. It was brought into force on 30 April 2013 by GN 100/2013 ([GG 5183](#)).

**Regulations:** Regulations made under the repealed legislation survive pursuant to section 37(2) of this Act.

The Animal Diseases and Parasites Ordinance 14 of 1958, was repealed by the Animal Diseases and Parasites Ordinance 34 of 1959 ([OG 2199](#)), which was then repealed by the *Animal Diseases and Parasites Amendment Act 9 of 1973*, which was subsequently repealed by the Animal Health Act 1 of 2011.

Section 36(2) of the Animal Diseases and Parasites Ordinance 34 of 1959 preserves the regulations issued under the repealed Animal Diseases and Parasites Ordinance 14 of 1958. It states: “Any proclamation, regulation, order and notice issued, made or given under any law repealed by subsection (1) and in force at the commencement of this Ordinance, shall remain in force until withdrawn under this Ordinance, and any other thing done or action taken under any provision of a law so repealed, shall be deemed to have been taken or done under the corresponding provision of this Ordinance.”

The *Animal Diseases and Parasites Amendment Act 9 of 1973* inserted section 35A into the *Animal Diseases and Parasites Act 13 of 1956*, which made that Act applicable to SWA. Section 6(1) of the *Animal Diseases and Parasites Amendment Act 9 of 1973* repeals the SWA Animal Diseases and Parasites Ordinance 34 of 1959 (and the Animal Diseases and Parasites Amendment Ordinance 14 of 1967), and section 6(2) states: “Anything done under a provision of any law repealed by subsection (1), shall be deemed to have been done under the corresponding provision of the principal Act.”

However, pre-independence regulations have not been fully researched. The following regulations have been made since independence.

**Animal Identification Regulations** are contained in GN 29/2009 ([GG 4217](#)), as amended by GN 201/2009 ([GG 4350](#)) (Regs 3 and 16) and GN 5/2011 ([GG 4645](#)) (Regs 16, 31, new Reg 31A). These regulations and their amendments were repealed and replaced with new Animal Identification Regulations by GN 307/2017 ([GG 6476](#)) but, as explained below, the repealed regulations continue to have some ongoing relevance.

New **Animal Identification Regulations** are contained in GN 307/2017 ([GG 6476](#)). These regulations repeal the previous Animal Identification Regulations contained in GN 29/2009 ([GG 4217](#)), as amended. However, it should be noted that regulation 8(2) of the 2017 regulations states:

Despite the repeal [of the] Animal Identification Regulations published under Government Notice No. 29 of 5 March 2009 by these regulations, the obligation[s] imposed on the owner of

- (a) cattle by regulation 16(5);
- (b) sheep and goats by regulation 17(4); and
- (c) pigs by regulation 18(4),

of the repealed regulations to identify cattle, sheep, goats and pigs continue to have effect.

Thus, the repealed 2009 Animal Identification Regulations continue to have some ongoing relevance.

New **Animal Health Regulations** are contained in GN 358/2018 ([GG 6803](#)). These regulations repeal the previous Animal Health Regulations contained in GN 144/2013 ([GG 5218](#)) (which were amended by GN 306/2016 ([GG 6209](#)), substituting Schedule 2).

**Notices:** Restricted materials in terms of section 1(2)(d) are declared in GN 177/2013 ([GG 5239](#)), which replaces GN AG 88/1982.

Protected areas for the purposes of preventing foot and mouth disease, corridor disease and bovine tuberculosis, and the classes of animals and animal products restricted from those protected areas, are declared in terms of section 20 in GN 178/2013 ([GG 5239](#)).

Animal vaccines are declared to be animal products in terms of section 1(2)(b) in GN 179/2013 ([GG 5239](#)).

Notifiable diseases in respect of particular classes of animals are declared in terms of section 1(2)(e) in GN 180/2013 ([GG 5239](#)).

A quarantine area is declared in GN 154/2015 ([GG 5788](#)), because of the presence of Foot and Mouth Disease.

A protected area is declared in GN 155/2015 ([GG 5788](#)), for preventing the spread of Foot and Mouth Disease.

Emergency restrictions prohibiting importation or entry into Namibia of live poultry, poultry products, birds, ostriches and ostrich products from South Africa and Belgium are published in GN 201/2017 ([GG 6376](#)), in response to the outbreak of Highly Pathogenic Avian Influenza (HPAI) H5N8 in poultry.

**Cases:** The case of *S v Lofty-Eaton & Others (1)* 1993 NR 370 (HC) was decided under the previous Act.

## **Veterinary and Veterinary Para-Professions Act 1 of 2013**

**Summary:** This Act ([GG 5139](#)) establishes the Namibian Veterinary Council and regulates the qualifications and registration of persons practising veterinary professions and para-professions. It repeals the Veterinary and Para-Veterinary Professions Proclamation 14 of 1984 ([OG 4915](#)). It was brought into force on 27 February 2014 by GN 16/2014 ([GG 5415](#)).

It should be noted that this law was first promulgated in GN 318/2012 as the Veterinary and Veterinary Para-Professions Act 16 of 2012 in [GG 5115](#). However, GN 318/2012 was withdrawn by GN 32/2013 ([GG 5143](#)) on 1 March 2013. The texts of the Act in the two Gazettes are identical aside from the Act number and year. The Act was initially published in error before being signed by the President; it states at the top “(Signed by the President on ?? December 2012)”. It was signed by the President on 1 February 2013 and then re-published as Act 1 of 2013.

**Regulations:** In terms of section 75(2), regulations, notice, rules, appointments and other acts done under the previous law remain valid unless inconsistent with the new Act or explicitly set aside or repealed. However, the regulations issued under the current Act have repealed all of the surviving regulations made under the previous law.

Regulations relating to Veterinary and Veterinary Para-Professions issued in terms of the current Act are contained in GN 17/2014 ([GG 5415](#)). These regulations are amended by GN 249/2015 ([GG 5865](#)), which substitutes Table 1. (This Table, which appears at the end of the regulations, relates to regulation 18(1), but it is not an “amendment” of “section 18(1)” of the

regulations as the Government Notice erroneously states.) The regulations are also amended by GN 269/2016 ([GG 6171](#)), which substitutes Table 3. GN 54/2018 ([GG 6554](#)) again substitutes Table 3 of the regulations. GN 97/2020 ([GG 7163](#)) again substitutes Table 1 of the regulations.

GN 218/2017 ([GG 6384](#)) substitutes the enacting formula contained in GN 17/2014 so as to repeal the surviving regulations made under the previous Act with effect from 27 February 2014. (The previous regulations were contained in AG GN 76/1985 ([OG 5042](#)), as amended by GN 96/1997 ([GG 1557](#)), GN 133/2002 ([GG 2776](#)) and GN 57/2008 ([GG 4005](#)).

**Rules:** Rules relating to the practice of veterinary and veterinary para-professions are contained in GN 93/2016 ([GG 6005](#)).

**Appointments:** The results of elections to the Veterinary Council under the previous Act are announced in General Notice 132/1990 ([GG 81](#)), General Notice 130/1993 ([GG 657](#)), General Notice 250/1996 ([GG 1395](#)), General Notice 294/1999 ([GG 2204](#)), General Notice 380/2002 ([GG 2867](#)) and General Notice 443/2012 ([GG 5094](#)).

Appointments to the Namibian Veterinary Council are announced in GN 147/2014 ([GG 5559](#)), which also confirms the appointment of a Registrar, in General Notice 313/2017 ([GG 6384](#)) and in General Notice 510/2020 ([GG 7431](#)).

See also **AGRICULTURE**.

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

See also **MARINE AND FRESHWATER RESOURCES**.

See also Controlled Wildlife Products and Trade Act 9 of 2008 (**TRADE AND INDUSTRY**).