
Summary: This Act (SA GG 3649) gives effect to the Warsaw Convention that governs international air travel. It was brought into force in respect of both South Africa and South West Africa on 22 March 1955 by SA Proc. No. 65 of 1955 (SA GG 5434).

Applicability to SWA: Section 1 originally stated: “In this Act, ‘Union’ includes the Mandated Territory of South-West Africa and the port and settlement of Walvis Bay.” It was amended by Act 5 of 1964 to remove the reference to Union and to define “Republic” to include “any territory in respect of which Parliament is competent to legislate”.

Transfer of administration to SWA: The administration of this Act was transferred to SWA by the Executive Powers (Transport) Transfer Proclamation (AG 14/1978), dated 15 March 1978. There were only two amendments to the Act in South Africa after the date of transfer and prior to Namibian independence – the Carriage by Air Amendment Act 81 of 1979 (RSA GG 6529) and the Transfer of Powers and Duties of the State President Act 97 of 1986 (RSA GG 10438) (section 7) – neither of which was made expressly applicable to SWA.

Section 3(1)(a) of the transfer proclamation excluded section 5 of the Act (which deals with the ratification of amendments to the Warsaw Convention by the State President) from the operation of section 3(1) of the General Proclamation, meaning that the administration of this section was not transferred to SWA.

Section 3(2) of the transfer proclamation excluded the reference to “Republic” throughout the Act from the operation of section 3(1)(c) of the General Proclamation, and specified that it should be read to include SWA as well as South Africa.

Amendments: The following pre-independence South African amendments were applicable to SWA –
- Carriage by Air Amendment Act 5 of 1964 (RSA GG 728)
- RSA Proclamation R. 294 of 1967 (RSA GG 1892) applies the Hague Protocol to “the Republic” from 17 December 1974
- RSA Proclamation R. 93 of 1974 (RSA GG 4276) applies the Guadalajara Convention to “the Republic” from 4 April 1974

Act 14/1992 (GG 430) amends sections 1, 3, 5 and 7 and substitutes certain expressions to make the Act consistent with an independent Namibia, and to provide for the conversion of sums in francs into Namibian currency in respect of claims against carriers.

Regulations: Regulations are authorised by section 8 of the Act. Pre-independence regulations have not been researched. No post-independence regulations have been promulgated.

Notices: See GN 265/1998 (GG 1982), which deals with the conversion of sums into francs in terms of section 3(7).

Related international agreements: The schedule to the Act, as amended, contains the Warsaw Convention as amended and supplemented by the Hague Protocol and the
Guadalajara Convention. However, Namibia has ratified the Convention for the Unification of Certain Rules relating to International Carriage by Air (Montreal Convention), 1999 which supersedes the Warsaw Convention system. This ratification took place on 27 September 2001, according to the international depositary, the International Civil Aviation Organization (ICAO), and became binding on Namibia on 4 November 2003. Article 55 of the Montreal Convention, on the Relationship with other Warsaw Convention instruments) provides:

This Convention shall prevail over any rules which apply to international carriage by air:
1. between States Parties to this Convention by virtue of those States commonly being Party to –
   (a) the Convention for the Unification of Certain Rules relating to International Carriage by Air signed at Warsaw on 12 October 1929 (hereinafter called the Warsaw Convention);
   (b) the Protocol to amend the Convention for the Unification of Certain Rules relating to International Carriage by Air signed at Warsaw on 12 October 1929, done at The Hague on 28 September 1955 (hereinafter called The Hague Protocol);
   (c) the Convention, Supplementary to the Warsaw Convention, for the Unification of Certain Rules relating to International Carriage by Air Performed by a Person other than the Contracting Carrier, signed at Guadalajara on 18 September 1961 (hereinafter called the Guadalajara Convention);
   (d) the Protocol to amend the Convention for the Unification of Certain Rules relating to International Carriage by Air signed at Warsaw on 12 October 1929 as amended by the Protocol done at The Hague on 28 September 1955, signed at Guatemala City on 8 March 1971 (hereinafter called the Guatemala City Protocol);
   (e) Additional Protocol Nos. 1 to 3 and Montreal Protocol No. 4 to amend the Warsaw Convention as amended by The Hague Protocol or the Warsaw Convention as amended by both The Hague Protocol and the Guatemala City Protocol, signed at Montreal on 25 September 1975 (hereinafter called the Montreal Protocols);
2. within the territory of any single State Party to this Convention by virtue of that State being Party to one or more of the instruments referred to in sub-paragraphs (a) to (e) above.


**Summary:** This Act (SA GG 4201) provides for the licensing and control of air carriers.

**Applicability to SWA:** Section 24 states “The provisions of this Act and any amendment thereof shall apply in respect of any air services provided by the Railway Administration, and shall also apply to the Territory of South West Africa”, which is defined in section 1 to include “the Eastern Caprivi Zipfel referred to in section three of the South West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951).”

**Transfer of administration to SWA:** The administration of this Act was transferred to SWA by the Executive Powers (Transport) Transfer Proclamation (AG 14/1978), dated 15 March 1978. There was only one amendment to the Act in South Africa after the date of transfer and prior to Namibian independence – the Transfer of Powers and Duties of the State President Act 97 of 1986 (RSA GG 10438) – which was not made expressly applicable to SWA.
Section 3(1)(b) of the transfer proclamation excluded section 2(2) of the Act (which refers to bilateral agreements between South Africa and other countries) from the operation of section 3(1) of the General Proclamation, meaning that the reference to the “Government of the Republic” in this section was not to be construed as a reference to the Administrator-General. Section 3(1)(h) of the transfer proclamation excluded section 15 of the Air Services Amendment Act 43 of 1973 from the operation of section 3(1) of the General Proclamation.

Section 3(2) of the transfer proclamation excluded the references to the “Republic” throughout the Act from the operation of section 3(1)(c) of the General Proclamation and provided that “Republic” should be deemed to include “the territory”.

**Amendments:** The following pre-independence South African amendment was applicable to SWA—
- Air Services Amendment Act 6 of 1964 (RSA GG 728).

Act 51 of 1959 was also amended by the Air Services Amendment Act 43 of 1973 (RSA GG 3906). However, Act 43 of 1973 was never brought into force in respect of South Africa or South West Africa. Therefore, the amendments contained in it are not incorporated here. Act 43 of 1973 was repealed in South Africa by the Repeal of Laws Act 94 of 1981 (RSA GG 7855), which came into force on its date of publication: 28 October 1981. However, this repeal, which took place after the date of transfer, was not effective in respect of South West Africa.

Act 6/1991 (GG 216) amends the Act substantially to make it consistent with an independent Namibia (affecting sections 1, 2, 3, 4, 7, 8, 11, 13, 16, 17, 19, 20, 22, 24 and the substitution of certain words).


The Road Traffic and Transport Act 22 of 1999 (GG 2251) amends section 1.

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

Civil Air Services Regulations are contained in RSA GN R.449/1964 (RSA GG 752), as amended by the following:
- RSA GN R.1799/1967 (RSA GG 1799)
- GN 224/1995 (GG 1204)

**Application:** Visiting aircraft are excluded from the application of section 2(1) of the Act in terms of modifications set forth in GN 58/1998 (GG 1826).

**Aerodrome Ordinance 12 of 1963.**

**Summary:** This Ordinance (OG 2487) provides for the establishment, management and maintenance of airports.

**Amendments:** Section 3(1) of the Ordinance was assigned to the administration of the...
Minister of Transport by GN 179/1986 (OG 5254).

Regulations: Regulations are authorised by section 6(1) of the Ordinance. Pre-independence regulations have not been researched.


Summary: This Act (GG 1958) provides for the incorporation of a company to undertake the operation, management and control of certain aerodromes in Namibia. The Act came into force on 1 November 1998 (GN 261/1998, GG 1981). However, by virtue of section 19(2) of the Act, sections 5-13 and sections 15-18 came into force on 5 February 1999, in terms of GN 19/1999 (GG 2045), on the date of transfer to the Company of the aerodromes listed in the Schedule set by the Minister in terms of section 14(1). (This date of transfer was originally set as 5 November 1998 by GN 262/1998 (GG 1981), but this notice was withdrawn by GN 275/1998 (GG 1993).)

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 which has since been re-named the Public Enterprises Governance Act 2 of 2006, amends sections 1-11 and 14.

Regulations: Regulations are authorised by section 5(5), but none have yet been promulgated.


Aerodrome and airport charges are contained in GN 20/1999 (GG 2045).

Cases:
Westair Aviation (Pty) Ltd & Others v Namibia Airports Company Ltd & Another 2001 NR 256 (HC)
Fire Tech Systems CC v Namibia Airports Co Ltd & Others 2016 (3) NR 802 (HC)  
(overview of establishment of company under Act in introduction to case concerning tender by Namibia Airports Company)
Anhui Foreign Economic Construction (Group) Corp Ltd v Minister of Works and Transport & Others 2016 (4) NR 1087 (HC) (section 9(1)(b); relationship between section 5(2)(a) of the Airports Company Act 28 of 1998 and section 7(1)(a) of the Tender Board Act 16 of 1996).

Civil Aviation Act 6 of 2016.

Summary: This Act (GG 6047) consolidates the laws relating to civil aviation and civil aviation offences. It establishes the Namibia Civil Aviation Authority (NCAA) and the Air Navigation Services in that Authority, and provides for a civil aviation regulatory and control framework. It implements several international aviation agreements applicable to Namibia. It also establishes the Directorate of Aircraft Accident and Incident Investigations and provides for the establishment of Namibia Register of Aircraft and the Civil Aviation Registry. It repeals the Aviation Act 74 of 1962 and the Civil Aviation Offences Act 10 of 1972. It was brought into force with effect from 1 November 2016 by GN 260/2016 (GG 6164).
**Regulations:** Regulations made in term of the repealed Acts survive in terms of section 236(2) of the Act. Pre-independence regulations have not been comprehensively researched. However, it appears that these regulations made in terms of the *Aviation Act 74 of 1962* remain in force:

**State Airport Regulations** are contained in RSA GN R.1974/1963 (RSA GG 674), as amended by-
- RSA GN R.397/1964 (RSA GG 748)
- RSA GN R.2027/1965 (RSA GG 1319)
- RSA GN R.943/1967 (RSA GG 1773)
- RSA GN R.1031/1970 (RSA GG 2740)
- RSA GN R.2233/1970 (RSA GG 2944)
- RSA GN R.331/1973 (RSA GG 3799)
- RSA GN R.1258/1973 (RSA GG 3983)
- RSA GN R.1564/1973 (RSA GG 4017)
- RSA GN R.1677/1973 (RSA GG 4023)
- RSA GN R.2443/1973 (RSA GG 4124)
- RSA GN R.774/1975 (RSA GG 4674)
- RSA GN R.142/1976 (RSA GG 4976)
- RSA GN R.1472/1976 (RSA GG 5260)
- RSA GN R.2512/1976 (RSA GG 5366)
- RSA GN R.2633/1977 (RSA GG 5846)
- RSA GN R.441/1978 (RSA GG 5915)
- RSA GN 12 of 15 January 1988 (OG 5487)
- GN 223/1995 (GG 1204)
- GN 235/1997 (GG 1739)
- GN 61/1998 (GG 1825)

**Air Navigation Regulations** are contained in RSA GN R.141/1976 (RSA GG 4975), as amended by-
- RSA GN R.1283/1976 (RSA GG 5234)
- RSA GN R.2380/1977 (RSA GG 5804)
- GN 225/1995 (GG 1204)
- GN 60/1998 (GG 1825)
- GN 1/2001 (GG 2467).

These are supplemented by Safety Directive No. DCA 97-1, published in General Notice 223/1997 (GG 1639), effective as from 1 April 1997.


**Namibian Civil Aviation Regulations, 2001** (NAM-CARS) are published in GN 1/2001 (GG 2467). These regulations came into force on 2 March 2001. They are amended by GN 57/2006 (GG 3615), GN 201/2006 (GG 3741), GN 80/2017 (GG 6281), GN 210/2018 (GG 6696), GN 293/2018 (GG 6763) - as amended by GN 369/2018 (GG 6816) and by GN 410/2019 (GG 7086) - and GN 410/2019 (GG 7086). These regulations cover the following topics:

- Procedures
- Aircraft
- Personnel
- Rules of the Air and General Operating Rules
- Certificated Aircraft Operators and Other Flight Operations
• Aerodromes and Heliports
• Organisations
• Air Traffic Services
• Aeronautical Information and Related Services
• Administration.

These regulations repeal Chapters 2-3, 6, 10-11, 12-16, 21-24 of the Air Navigation Regulations, 1976 (as amended), along with the portions of Chapters 1, 2, 3, 4, 5, 7, 8, 9 and 25 relating to pilots and to flight engineers. They also repeal the Rules of the Air, Air Traffic Services, Search and Rescue and Overflight Regulations, 1975 (RSA GN R.1753 of 19 September 1975) and the Air Navigation Regulations, 1963 (RSA GN R.1779 of 1963, as amended by GN 11/1988 (OG 5487) and GN 62/1998 (GG 1825)).

The Civil Aviation Security Regulations, contained in GN 181/1996 (GG 1348) and made in terms of the Civil Aviation Offences Act 10 of 1972, initially remained in force, but were repealed by GN 293/2018 (GG 6763).

**Technical standards:** Standards made in term of the repealed Acts survive in terms of section 236(2) of the Act. The following technical standards were issued in terms of Regulation 11.03.5 of the Namibian Civil Aviation Regulations, 2001:

- **NAM-CATS-CCL**
  - Cabin Crew Licensing (came into force on 1 September 2002)
  - GN 120/2002 (GG 2773)
- **NAM-CAT-DO**
  - Design organisations for products and appliances
  - GN 50/2003 (GG 2939)
- **NAM-CATS-MORG**
  - Manufacturing Organisations
  - GN 51/2003 (GG 2939)
- **NAM-CATS-ARM**
  - Registration and marking
  - GN 52/2003 (GG 2939)
- **NAM-CATS-OPS 98**
  - Operation of powered paragliders
  - GN 53/2003 (GG 2939)
- **NAM-CATS-MR**
  - Medical certification
  - GN 54/2003 (GG 2940)
- **NAM-CATS-OPS 100**
  - Operation of gyroplanes
  - GN 55/2003 (GG 2941)
- **NAM-CATS-OPS 102**
  - Operation of free balloons and airships
  - GN 56/2003 (GG 2941)
- **NAM-CATS-AMO**
  - Aircraft maintenance organisations
  - GN 57/2003 (GG 2941)
- **NAM-CATS-AH**
  - Licensing and operation of aerodromes and heliports
  - GN 58/2003 (GG 2941)
  - as amended by GN 181/2016 (GG 6096), which brought the standards into force on 1 August 2016
- **NAM-CAT-OPS 133**
  - Helicopter external-load operations
  - GN 59/2003 (GG 2944)
- **NAM-CAT-OPS 105**
  - Operation of parachutes
  - GN 60/2003 (GG 2944)
- **NAM-CAT-OPS 106**
  - Operation of hang gliders
  - GN 61/2003 (GG 2944)
- **NAM-CAT-OPS 104**
  - Operation of gliders
  - GN 62/2003 (GG 2944)
- **NAM-CATS-ARO**
  - Aviation recreation organisations
  - GN 63/2003 (GG 2944)
- **NAM-CATS-AIRS**
  - Aeronautical information services
  - GN 64/2003 (GG 2944)
- **NAM-CAT-DG**
  - Conveyance of dangerous goods
  - GN 65/2003 (GG 2944)
- **NAM-CAT-OPS 103**
  - GN 66/2003 (GG 2944)
Operation of microlight aeroplanes
NAM-CATS-GMR  General maintenance rules  GN 67/2003 (GG 2945)
NAM-CATS-ENVIRO  Noise certification  GN 68/2003 (GG 2945)
NAM-CATS-ATO  Aircraft training organisations  GN 157/2003 (GG 3024)
NAM-CATS-OPS  Agricultural Operations  GN 158/2003 (GG 3024)
NAM-CATS-AR  Certification procedures for products and parts and aircraft worthiness  GN 159/2003 (GG 3025) as amended by GN 190/2016 (GG 6096) which brought the standards into force on 1 August 2016  GN 160/2003 (GG 3026)
NAM-CATS-OPS 91  General Operating and Flight Rules  GN 186/2003 (GG 3045) as amended by GN 70/2015 (GG 6273)
NAM-CATS-OPS 135  Air Transport Operations – Small Aeroplanes  GN 187/2003 (GG 3047) as amended by GN 183/2016 (GG 6096) which brought the standards into force on 1 August 2016, and as amended by GN 72/2015 (GG 6273)
NAM-CATS-OPS 121  Air Transport Operations – Large Aeroplanes  GN 257/2003 (GG 3112) as amended by GN 185/2016 (GG 6096), which brought the standards into force on 1 August 2016, and as amended by GN 71/2015 (GG 6273)
NAM-CATS-ATS  Airspace and Air Transport Services  GN 9/2004 (GG 3135)
NAM-CATS-AMEL  Aircraft Maintenance Engineer Licensing  GN 54/2004 (GG 3179)
NAM-CATS-OPS 127  Air Transport Operations – Helicopters  GN 55/2004 (GG 3180) as amended by GN 184/2016 (GG 6096) which brought the standards into force on 1 August 2016  GN 182/2016 (GG 6096) which brought the standards into force on 1 August 2016
NAM-CAT-OPS 136  Air Transport Operations – Free Balloons  GN 186/2016 (GG 6096) which brought the standards into force on 1 August 2016
NAM-CATS-FCL 65  Air Traffic Services Licensing - Proficiency in Languages used for Radiotelephony Communications  GN 187/2016 (GG 6096)
Flight Crew Licencing - which brought the
Proficiency in Languages used standards into force on
for Radiotelephony 1 August 2016
Communications

NAM-CATS-FCL 61
Air Transport Operations – GN 188/2016 (GG 6096)
Designation of Examiners

NAM-CATS-FCL 61
Flight Crew Licencing – GN 189/2016 (GG 6096)
Proficiency in Languages used
for Radiotelephony
Communications

Notices: GN 296/2018 (GG 6767) identifies aviation participants and the dates on which such participants must have aviation security programmes in place.

Designations: The Executive Committee of the United Hang Gliding Association of Namibia is named as the designated body to give effect to regulation 149.01.2(1) of the Civil Aviation Regulations, 2001 (GN 98/2005, GG 3447).

Appointments: Members and alternate members of the Board Of Namibia Civil Aviation Authority are announced in GN 261/2016 (GG 6164).

Relevant international law: Several international treaties are annexed to the Act:

Schedule 1: “Convention on International Civil Aviation, signed at Chicago, on 7 December 1944 (Chicago Convention)”.

Note: See the entry for this Convention in the Namlex Appendix for a discussion of the differences between the international approach to the subsidiary documents issued in terms of the Convention and the approach embodied in the definition of this Convention in section 1 of the Act.
Schedule 2:  “International Air Services Transit Agreement signed in Chicago on 7 December 1944”.

Note that while this Convention may be part of Namibia’s domestic law, Namibia is not a party to the Agreement in terms of international law.

Schedule 3:  “Convention on Offences and Certain Other Acts Committed on Board Aircraft, Signed at Tokyo, on 14 September 1963 (Tokyo Convention)”

Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo Convention), 1963


Convention for the Suppression of Unlawful Seizure of Aircraft (Hague Hijacking Convention), 1970


Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Sabotage Convention), 1971

Note that this Convention is generally referred to as the “Sabotage Convention”, whereas the “Montreal Convention” usually refers to the “Convention for the Unification of Certain Rules relating to International Carriage by Air (Montreal Convention), 1999”. Note also that the Protocol amending this Convention is presented separately in Schedule 6.


Other aviation treaties that Namibia is party to and which have entered into force internationally, but have not been annexed to the Civil Aviation Act include:

- Convention for the Unification of Certain Rules relating to International Carriage by Air (Montreal Convention), 1999

COMMISSIONS

See also GN 153/1997 (GG 1611).

Commission of Enquiry into the Activities, Management and Operations of Air Namibia (Pty) Ltd (Proc. 18/2001, GG 2616)

See also GN 194/2001 (GG 2616) and GN 230/2001 (GG 2647).

INTERNATIONAL LAW

Convention for the Suppression of Unlawful Seizure of Aircraft (Hague Hijacking Convention), 1970
Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Sabotage Convention), 1971
Convention for the Unification of Certain Rules relating to International Carriage by Air (Montreal Convention), 1999
Convention on International Civil Aviation (Chicago Convention), 1944
Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo Convention), 1963

See also Public Enterprises Governance Act 2 of 2006 (BUSINESS), which affects the Namibia Airports Company and Air Namibia (Pty) Ltd.