

CURRENCY

Payment of Bank Notes Proclamation 3 of 1933

Summary: This Proclamation ([OG 498](#)) provides that the holder of a bank note shall not be entitled to be paid in gold. It is probably obsolete since it applies to bank notes issued under the Banks Proclamation, 1930 (Proclamation No. 29 of 1930), which is no longer in force.

Currency and Exchanges Act 9 of 1933, section 9, in part, as amended in South Africa prior to Namibian independence

Summary: This Act ([SA GG 2098](#)) regulates legal tender, currency, exchange and banking. The only section applicable to Namibia is section 9 which authorises the making of regulations on these matters.

Applicability to SWA: Section 9 of the Act was made applicable to SWA by the addition of subsection 9(6) by *Act 36 of 1950* ([SA GG 4413](#)), with effect from 23 June 1950, which states that “the provisions of this section shall apply also to the Territory of South-West Africa”. The wording of this provision did not seem to make South African amendments to section 9 automatically applicable to SWA after section 9 was applied to SWA in 1950.

Transfer of administration to SWA: The administration of the Act does not appear to have been transferred to South West Africa. No Minister is mentioned in the Act. In any event, since the wording of section 9(6) does not make amendments to the Act automatically applicable to South West Africa, the issue of transfer would not affect the content of the Act.

Amendments: Prior to and contemporaneous with section 9 being applied to SWA, it was amended in South Africa by the following –

- *Finance Act 27 of 1940* ([SA GG 2762](#))
- *Finance Act 43 of 1941* ([SA GG 2911](#))
- *Finance Act 36 of 1950* ([SA GG 4413](#)).

Regulations: Pre-independence regulations have not been comprehensively researched. However, the following pre-independence regulations remain in force and have been amended since independence.

Exchange Control Regulations are contained in RSA GN R.1111/1961 (RSA GG 123, republished in OG 2355), as amended by-

- RSA GN R.872/1966 (RSA GG 1458)
- RSA GN R.1647/1966 (RSA GG 1570)
- RSA GN R.650/1968 (RSA GG 2048)
- RSA GN R.355/1976 (RSA GG 4996)
- RSA GN R.357/1981 (RSA GG 7415)
- RSA Proc R.157/1985 (RSA GG 9926)
- RSA GN R.2868/1985 (RSA GG 10054)
- RSA GN R.957/1987 (RSA GG 10730)
- RSA GN R.1416/1987 (RSA GG 10803)
- RSA GN R.224/1988 (RSA GG 11140)
- RSA GN R.881/1988 (RSA GG 11287)
- RSA GN R.1472/1988 (RSA GG 11434)

GN 111/1995 ([GG 1095](#))
GN 135/2004 ([GG 3232](#))
GN 126/2011 ([GG 4767](#)).

Note that some additional exchange control regulations are contained in RSA GN R.2868/1985 (RSA GG 10054), which also repeals Regulation 4A of the Exchange Control Regulations contained in RSA GN R.1112/1961.

Rules: Orders and Rules made under the **Exchange Control Regulations** are contained in RSA GN R.1112/1961 (RSA GG 123, are published in OG 2355). Pre-independence amendments to these orders and rules have not been researched. They have been amended since independence by -

GN 4/1990 ([GG 24](#))
GN 20/1990 ([GG 49](#))
GN 49/1990 ([GG 76](#))
GN 52/1991 ([GG 196](#))
GN 218/1996 ([GG 1387](#))
GN 19/2005 ([GG 3386](#))
General Notice 251/2007 ([GG 3900](#))
General Notice 254/2009 ([GG 4364](#))
GN 251/2007 ([GG 3900](#))
GN 254/2009 ([GG 4364](#))
General Notice 335/2010 ([GG 4632](#))
General Notice 443/2013 ([GG 5344](#))
General Notice 95/2014 ([GG 5454](#))
General Notice 558/2015 ([GG 5892](#))
General Notice 361/2016 ([GG 6118](#))
General Notice 75/2018 ([GG 6538](#)).

Notices: Authorised dealers in foreign exchange are appointed in General Notice 335/2010 ([GG 4632](#)), General Notice 443/2013 ([GG 5344](#)), General Notice 95/2014 ([GG 5454](#)), General Notice 558/2015 ([GG 5892](#)), General Notice 361/2016 ([GG 6118](#)) and General Notice 75/2018 ([GG 6538](#)).

Application of law: The application of this law is affected by the Financial Intelligence Act 13 of 2012 ([GG 5096](#)).

Cases:

Ruch v Ferrari 1993 NR 103 (HC), 1994 NR 287 (SC)
Samco Import & Export CC & Another v Magistrate of Eenhana & Others 2009 (1) NR 290 (HC) (Exchange Control Regulations)
S v Mfuka 2013 (4) NR 965 (HC) (Exchange Control Regulations).

Prevention of Counterfeiting of Currency Act 16 of 1965, sections 1-4 and 12, as amended in South Africa prior to Namibian independence

Summary: This Act ([RSA GG 1060](#)) sets forth various offences relating to counterfeiting.

Applicability to SWA: Section 11 states “Sections *one to four*, inclusive, and section *twelve*, and any amendment thereof, shall apply also in the territory of South West Africa, including that portion thereof known as the Eastern Caprivi Zipfel and referred to in section *three* of the South West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951), and in relation to all persons in that portion of the said territory known as the ‘Rehoboth Gebiet’ which is defined in

the First Schedule to Proclamation No. 28 of 1923 of the Administrator of that territory.” (Those sections which do *not* apply to SWA are all amendments to other acts.)

Transfer of administration to SWA: It is not clear what transfer proclamation, if any, applied to this Act. However, the sections applicable to South West Africa were not amended in South Africa prior to Namibian independence.

Regulations: The portions of this Act in force in Namibia make no provision for regulations.

Application of law: The application of this law is affected by the Financial Intelligence Act 13 of 2012 ([GG 5096](#)).

Related international agreements: South Africa became a party to the *International Convention for the Suppression of Counterfeiting Currency* on 28 August 1967, after the termination of its mandate over South West Africa in 1966. South Africa was not a predecessor state to Namibia, but an illegal occupying power as from that date, thus making it impossible for it to bind Namibia. The UN Institute for Namibia made a few exceptions to this approach for “general conventions of a humanitarian character”, on the basis of the 1971 advisory opinion of the International Court of Justice – but this Convention was not amongst them. There is, in any case, no indication that South Africa made any attempt to expressly extend the treaty to South West Africa (ie, no declaration and no note under “territorial application”). Accordingly, Namibia does not appear to be a party to the *International Convention for the Suppression of Counterfeiting Currency*.

NOTES AND COINS

issued in terms of the Bank of Namibia Act 8 of 1990 ([GG 42](#))
Proclamation 19/1993 ([GG 682](#)) (repealed by Act 11/2004)
General Notice 339/1996 ([GG 1452](#))
General Notice 8/2000 ([GG 2258](#))
General Notice 108/2012 ([GG 4936](#)).

COMMEMORATIVE NOTES AND COINS

(issued in terms of the Bank of Namibia Act 8 of 1990)
General Notice 74/1995 ([GG 1057](#))
General Notice 125/1995 ([GG 1083](#))
General Notice 91/1996 ([GG 1308](#))
General Notice 54/1999 ([GG 2067](#))
General Notice 7/2000 ([GG 2258](#))
General Notice 166/2010 ([GG 4520](#)).

See also Bank of Namibia Act 1 of 2020 (**FINANCIAL INSTITUTIONS**).