

DAMAGES

Apportionment of Damages Act 34 of 1956, as amended in South Africa to November 1979

Summary: This Act ([SA GG 5689](#)) apportions damages in cases of contributory negligence or joint or several liability.

Applicability to SWA: Section 6 originally stated: “This Act shall apply also in the territory of South-West Africa.” After amendment by *Act 58 of 1971*, section 6 states “This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel.”

Transfer proclamation: Although this Act makes no reference to any minister, it probably fell under the Executive Powers (Justice) Transfer Proclamation (AG 33/1979), dated 12 November 1979, as amended. (Note that it is one of the laws listed in the South African *Justice Laws Rationalisation Act 18 of 1996* ([RSA GG 17129](#)).) There was only one South African amending act after the date of transfer – the *Matrimonial Property Act 88 of 1984* ([RSA GG 9322](#)) – which was not made expressly applicable to SWA.

Amendments: Assuming that the justice transfer proclamation was indeed applicable, the only SA amendment which applied to South West Africa was the *Apportionment of Damages Amendment Act 58 of 1971* ([RSA GG 3150](#)).

Application: Section 37 of the Motor Vehicle Accident Fund Act 10 of 2007 ([GG 3970](#)) affects the application of this Act.

Cases:

Beukes v Mutual & Federal Insurance 1990 NR 105 (HC)

Johannes v South West Transport (Pty) Ltd 1992 NR 358 (HC), confirmed on other points on appeal to a full bench in 1994(1) SA 200 (Nm)

FS v Minister of Safety and Security 2009 (2) NR 417 (SC).

Assessment of Damages Act 9 of 1969, as amended in South Africa to November 1979

Summary: This Act ([RSA GG 2305](#)) amends the law regarding assessment of damages for loss of support as a result of a person’s death.

Transfer proclamation: Although this Act makes no reference to any minister, by virtue of its subject matter it probably fell under the Executive Powers (Justice) Transfer Proclamation (AG 33/1979), dated 12 November 1979, as amended. In any event, there were no amendments to the Act in South Africa prior to Namibian independence.

Application: Section 37 of the Motor Vehicle Accident Fund Act 10 of 2007 affects the application of this Act.

See also Crown Liabilities Act 1 of 1910 (state liability) (**LAW**).