

# GAMBLING

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## Licensing of Totalisators Ordinance 5 of 1938

**Summary:** This Ordinance ([OG 748](#)) provides for the licensing of “the instrument, machine or contrivance commonly known as a totalisator”. This Ordinance and its amendments are repealed by the Gaming and Entertainment Control Act 13 of 2018 ([GG 6793](#)), which has not yet been brought into force.

**Amendments:** The Ordinance is amended by Ord. 32/1952 ([OG 1691](#)) and Ord. 13/1953 ([OG 1771](#)).

**Regulations:** The Act makes no provision for regulations.

**Application of law:** The application of this law is affected by the Financial Intelligence Act 13 of 2012 ([GG 5096](#)), which places certain duties on persons carrying on the business of a totalisator or bookmaker.

## Gambling Act 51 of 1965

**Summary:** This Act ([RSA GG 1108](#)) prohibits lotteries, sports pools and games of chance. It repeals the SWA Lotteries Ordinance 13 of 1937. It also repeals a number of other laws, including the *Prohibition of Sports Pools Act 38 of 1949* and section 38 of the *General Law Amendment Act 62 of 1955* (relating to prosecutions in connection with gambling houses). This Act is repealed by the Gaming and Entertainment Control Act 13 of 2018 ([GG 6793](#)), which has not yet been brought into force. (The amendments to the Act are not explicitly repealed, but they would have no independent effect.)

**Applicability to SWA:** Section 1 defines “Republic” to include “the territory of South West Africa”. Section 12 states “This Act (with the exception of section thirteen) shall apply also in the territory of South West Africa (including the Eastern Caprivi Zipfel 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’ and defined in the First Schedule to Proclamation No. 28 of 1923 of the said territory”. (The excluded section is an amendment to another Act. Despite not being applicable to South West Africa and thus not applicable to Namibia, section 13 was repealed by Act 17 of 1992.)

**Transfer of administration to SWA:** The administration of this Act was transferred to SWA by Executive Powers (Justice) Transfer Proclamation (AG 33/1979), dated 12 November 1979, as amended. The only amendment to the Act in South Africa after this date and prior to Namibian independence – the *Gambling Amendment Act 39 of 1988* ([RSA GG 11238](#)) – was not made expressly applicable to SWA.

**Amendments:** Prior to the date of transfer the Act was amended in South Africa by *General Law Amendment Act 70 of 1968* ([RSA GG 2106](#)).

The Posts and Telecommunications Companies Establishment Act 17 of 1992 ([GG 447](#)) repeals section 13.

**Regulations:** The Act makes no provision for regulations, and there is no savings clause pertaining to regulations which may have been issued under any of the repealed laws.

**Application of law:** The application of the Act is affected by the Casinos and Gambling Houses Act 32 of 1994, the Lotteries Act 15 of 2002 and the Lotteries Act 13 of 2017 (GAMBLING). See also the Licensing of Totalisators Ordinance 5 of 1938 (GAMBLING).

## Casinos and Gambling Houses Act 32 of 1994

**Summary:** This Act ([GG 983](#)) makes provision for the licensing, supervision and control of casinos and gambling houses and provides for the establishment of a Casino Board. It was brought into force on 2 December 1994 by GN 230/1994 ([GG 984](#)). This Act and its amendments are repealed by the Gaming and Entertainment Control Act 13 of 2018 ([GG 6793](#)), which has not yet been brought into force.

**Amendments:** Act 12/1995 ([GG 1118](#)) amends sections 1, 10, 14, 15, 18, 22, 41, 44, 45 and 54 and inserts section 51A. Act 28/1996 ([GG 1475](#)) inserts section 21A, which suspends the granting of gambling house licences until a date fixed by notice in the *Government Gazette*.

**Regulations:** Regulations are contained in GN 231/1994 ([GG 984](#)), as amended by GN 84/1995 ([GG 1084](#)), GN 136/1995 ([GG 1124](#)), GN 121/1996 ([GG 1317](#)), GN 76/2010 ([GG 4460](#)), GN 95/2017 ([GG 6295](#)) and GN 255/2020 ([GG 7361](#)).

**Application of law:** The application of this law is affected by the Financial Intelligence Act 13 of 2012 ([GG 5096](#)), which places certain duties on casinos and gambling houses and on the Casino Board.

**Related laws:** See *Gambling Act 51 of 1965* (GAMBLING) and Licensing of Totalisators Ordinance 5 of 1938 (GAMBLING).

## \*Lotteries Act 15 of 2002

**Summary:** This Act ([GG 2885](#)) establishes a Lotteries Board for the promotion and conduct of the National Lottery, and provides for the administration of the National Lottery Trust Fund and the Social Upliftment Fund. The National Lottery is to be conducted for the benefit of social welfare, sport and cultural activities and for the social upliftment of the Namibian people. The Act will be brought into force on a date set by the Minister by notice in the *Government Gazette*.

**Regulations:** Regulations are authorised by section 36 of the Act, but none have yet been promulgated.

**Related laws:** See *Gambling Act 51 of 1965* (GAMBLING).

**Commentary:** Max Weylandt, “The State Lottery comes to Namibia”, *Perspectives on Parliament*, Issue No. 6, Institute for Public Policy Research, June 2017, available at [www.ippr.org.na](http://www.ippr.org.na) (on the new law on lotteries which will replace this Act).

## **\*Lotteries Act 13 of 2017**

**Summary:** This Act ([GG 6500](#)) establishes a Lotteries Board for the promotion and conduct of the National Lottery, and provides for the administration of the National Lottery and sports pool by this Board. It also provides for and regulates other lotteries and promotional competitions. Proceeds from the State Lottery are paid into a State Lottery Trust Fund, which is to be used for funding –

- charitable expenditures;
- arts, culture, sport, national heritage and conservation;
- youth empowerment, psycho-social disorders, science and innovation; and
- national emergencies such as droughts and floods.

The Act repeals the Lotteries Act 15 of 2002 ([GG 2885](#)), which was never brought into force. This Act will be brought into force on a date set by the Minister by notice in the *Government Gazette*.

**Regulations:** Regulations are authorised by section 85 of the Act, but none have yet been promulgated.

**Related laws:** See *Gambling Act 51 of 1965* (GAMBLING).

**Commentary:** Max Weylandt, “The State Lottery comes to Namibia”, *Perspectives on Parliament*, Issue No. 6, Institute for Public Policy Research, June 2017, available at [www.ippr.org.na](http://www.ippr.org.na).

## **\*Gaming and Entertainment Control Act 13 of 2018**

**Summary:** This Act ([GG 6793](#)) regulates gambling and gambling activities in Namibia. It also establishes the Gambling Board and the Gambling Trust Fund. It repeals the *Gambling Act 51 of 1965*, the *Casinos and Gambling Houses Act 32 of 1994* and the *Licensing of Totalisators Ordinance 5 of 1938*. It will be brought into force on a date set by the Minister in the *Government Gazette*.

Note that the *Government Gazette* containing this Act was initially issued with the incorrect number 6792. The *Gazette* was re-issued with the correct number 6793.

**Amendments:** Act 5 of 2020 ([GG 7269](#)) amends sections 1, 6, 17 and 20 and inserts sections 40A and 88A. However, this amending Act is not yet in force. It will be brought into force on a date determined by the Minister in the *Government Gazette*.

**Regulations:** Any regulation or any other thing done under a provision of a law repealed by this Act which could have been done under a corresponding provision of this Act survives in terms of section 110(1) of this Act.

Note that the *Gambling Act 51 of 1965* and the *Licensing of Totalisators Ordinance 5 of 1938* make no provision for regulations.

Regulations issued under the *Casinos and Gambling Houses Act 32 of 1994* are contained in GN 231/1994 ([GG 984](#)), as amended by GN 84/1995 ([GG 1084](#)), GN 136/1995 ([GG 1124](#)), GN 121/1996 ([GG 1317](#)), GN 76/2010 ([GG 4460](#)) and GN 95/2017 ([GG 6295](#)).

Regulations issued pursuant to this Act are authorised by section 108, but none have yet been promulgated.

**Application of law:** The application of this law is affected by the Financial Intelligence Act 13 of 2012 ([GG 5096](#)), which places certain duties on casinos, gambling houses and persons carrying on the business of a totalisator or bookmaker.