

LAND AND HOUSING PROFESSIONS

Estate Agents Act 112 of 1976, as amended in South Africa to April 1978

Summary: This Act ([RSA GG 5221](#)) establishes an Estate Agents Board and an Estate Agents Fidelity Fund and regulates the activities of estate agents.

Applicability to SWA: Section 1 defines “Republic” to include “the territory of South West Africa”. Section 36 states “This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel”. It was amended in SWA by Act 28 of 1987 to state that the Act applied to SWA, but not the amendments: “This Act shall apply in the territory of South West Africa, including the Eastern Caprivi Zipfel.”

Transfer of administration to SWA: The administration of this Act was transferred to SWA by the Executive Powers (Commerce) Transfer Proclamation (AG 28/1978), dated 28 April 1978. There were no amendments to the Act in South Africa prior to the date of transfer. (The *Estate Agents Amendment Act 60 of 1978* came into force on the date of its publication, 17 May 1978, shortly after the date of transfer.) None of the six amendments to the Act in South Africa after the date of transfer and prior to Namibian independence were made expressly applicable to SWA. (This was confirmed by the 1987 amendment referred to above.)

Amendments: Act 28/1987 ([OG 5476](#)), which is brought into force on 1 April 1988 by AG 5/1988 ([OG 5514](#)), amends the Act substantially.

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 estate agents and on the Estate Agents Board.

Regulations: Act 28/1987 ([OG 5476](#)) states: “The regulations published under section 33 of the principal Act in the *Government Gazette* of the Republic of South Africa which were of force and effect in the Republic immediately before the commencement of this Act shall, subject to the provisions of subsection (2), apply in the territory of South West Africa as if it were made by the Cabinet under the said section 33 and published in the *Official Gazette* on the date of commencement of this Act.” This amending Act also contains rules about how certain terms in the South African regulations are to be construed, and amends “the regulations published by Government Notice R.1409 in *Government Gazette* 8783 of 1 July 1983”.

Pre-independence regulations have not been comprehensively researched. The ones listed below have been amended since independence.

Regulations relating to Trust Account of an Estate Agent and Investment of Trust Moneys are contained in RSA Government Notice R.1472 of 1977 (RSA GG 5694), as amended by RSA Government Notice R.604/1979 (RSA GG 6364), RSA Government Notice R.2499/1981 (RSA GG 7913) and GN 221/2015 ([GG 5845](#)) (which states that it amends the regulations in RSA Government Notice R.604/1979). Act 28/1987 ([OG 5476](#)) contains some rules of construction which apply to these regulations.

Regulations relating to the Standard of Training of Estate Agents are contained in RSA GN R.1409/1983 (RSA GG 8783), as amended by Act 28/1987 ([OG 5476](#)), GN 221/1996 ([GG 1395](#)) and GN 220/2015 ([GG 5845](#)). Act 28/1987 ([OG 5476](#)) also contains some rules of construction which apply to these regulations.

Regulations relating to Issue of Fidelity Fund and Registration Certificates are contained in RSA GN R.1798 of 1986 (RSA GG 10403), AG GN 97/1989 ([OG 5844](#)), GN 222/1996 ([GG 1395](#)) and GN 222/2015 ([GG 5845](#)). These Regulations are also affected by a correction notice contained in RSA Government Notice R.2106 of 1986 (RSA GG 10476), but the correction affects only the Afrikaans text. Act 28/1987 ([OG 5476](#)) contains some rules of construction which apply to these regulations.

Rules: The most recent Code of Conduct published under this Act is contained in GN 16/1996 ([GG 1242](#)).

Architects' and Quantity Surveyors' Act 13 of 1979

Summary: This Act ([OG 4029](#)) provides for the establishment of a Namibia Council for Architects and Quantity Surveyors, and for the registration of persons in these professions. It was brought into force, with the exception of section 13(1)(b), on 1 January 1980 by AG 36/1979 ([OG 4057](#)). Section 13(1)(b) was brought into force on 2 May 1983 by AG Proc. 10/1983 ([OG 4773](#)).

Amendments: Act 11/1992 ([GG 420](#)) amends sections 1, 2, 3, 11, and 25, and substitutes certain words and expressions and the long title of the Act to make it consistent with an independent Namibia.

Regulations: Regulations are authorised by section 18 of the Act. Pre-independence regulations have not been researched. No post-independence regulations have been promulgated.

Fees: Minimum fees are contained in GN 250/1998 ([GG 1968](#)), as amended by GN 221/2003 ([GG 3082](#)), which provides that architects shall be remunerated for their standard services at a fee calculated as a percentage of the cost of the works, except where the nature of the work renders percentage fees inapplicable. In the latter case, the fees shall be calculated on an hourly basis in accordance with Annexure 2 of the Notice. Annexure 2 of the Notice provides for payment on the basis of hourly rates determined by the Namibia Council for Architects and Quantity Surveyors.

GN 105/2013 ([GG 5183](#)) provides for a minimum hourly fee as prescribed by the Minister of Works and Transport on the recommendation of the Namibia Council for Architects and Quantity Surveyors.

Note: Previous minimum hourly fees were set in GN 232/2009 ([GG 4386](#)), GN 197/2006 ([GG 3738](#)), GN 145/2005 ([GG 3529](#)), GN 156/2002 ([GG 2810](#)) and GN 237/1997 ([GG 1741](#)) as corrected by GN 94/1992 ([GG 449](#)).

Exemptions: Exemptions from the provisions of section 13 are contained in GN 190/1994 ([GG 948](#)).

Exemptions from the provisions of sections 11 and 13 in respect of work for the Millennium Challenge Account are contained in GN 12/2009 ([GG 4210](#)).

Exemptions of listed persons from registration, pursuant to section 23(1) read with section 11, were originally contained in GN 87/2017 ([GG 6285](#)), but this notice was repealed by GN 297/2017 ([GG 6472](#)).

Appointments: Members of the Namibian Council for Architects and Quantity Surveyors are appointed in GN 15/1990 ([GG 33](#)), GN 143/1992 ([GG 512](#)), GN 61/1993 ([GG 662](#)), GN

114/1994 ([GG 870](#)), GN 86/1995 ([GG 1090](#)), GN 123/1996 ([GG 1320](#)), GN 44/1997 ([GG 1518](#)), GN 48/1998 ([GG 1816](#)), GN 128/1998 ([GG 1885](#)), GN 253/1999 ([GG 2229](#)), GN 280/1999 ([GG 2248](#)), GN 211/2001 ([GG 2630](#)), GN 84/2003 ([GG 2956](#)), GN 45/2004 ([GG 3169](#)), GN 198/2006 ([GG 3738](#)), GN 23/2009 ([GG 4216](#)), GN 207/2009 ([GG 4357](#)), GN 141/2010 ([GG 4523](#)), GN 217/2016 ([GG 6125](#)), GN 280/2019 ([GG 7009](#)) and GN 261/2020 ([GG 7373](#)).

Cases: *Kondjeni Nkandi Architects & Another v Namibian Airports Company Ltd* 2016 (1) NR 223 (HC) (section 13); *Claud Bosch Architects cc v Auas Business Enterprise 123 (Pty) Ltd* (SA 41/2016) [2018] NASC 3 (06 February 2018) (section 13, departing from the approach taken in the *Nkandi* case).

Professional Land Surveyors', Technical Surveyors' and Survey Technicians' Act 32 of 1993

Summary: This Act ([GG 769](#)) provides for the establishment of a Namibian Council for Professional Land Surveyors, Technical Surveyors and Survey Technicians, and sets forth its powers and functions. It also provides for the registration of professional land surveyors, apprentice land surveyors, technical surveyors, survey technicians and apprentice survey technicians, and regulates their qualifications and their professional conduct and practice. The Act repeals the Land Surveyors' Ordinance 10 of 1963 and the Land Surveyors' Registration Act 14 of 1950. It was brought into force on 1 June 1994 by GN 85/1994 ([GG 863](#)).

Amendments: Act 16/1995 ([GG 1155](#)) inserts section 14A and amends section 15. Its primary purpose is to provide for the authorisation of professional land surveyors, technical surveyors and survey technicians in the public service.

Regulations: Regulations are contained in GN 216/1998 ([GG 1945](#)).

Notices: The Institute of Land Surveyors is recognised as an approved society in GN 264/1998 ([GG 1982](#)).

Fees: Tariffs of fees are published from time to time, with the new tariffs replacing the previous ones. The current tariffs (with related regulations) are contained in GN 196/2015 ([GG 5820](#)).

Appointments: The Council is announced in GN 62/1996 ([GG 1273](#)), which is repeated in GN 74/1996 ([GG 1284](#)). Members of the Council are also announced in GN 36/1999 ([GG 2054](#)) and GN 68/2002 ([GG 2734](#)).

Town and Regional Planners Act 9 of 1996

Summary: This Act ([GG 1354](#)) establishes a Namibian Council for Town and Regional Planners and provides for the registration and training of town and regional planners. It was brought into force on 20 July 1998 by GN 170/1998 ([GG 1909](#)).

Amendments: Act 32/1998 ([GG 1994](#)) (which is deemed to have come into force on 20 July 1998) amends section 3.

Regulations: Regulations are contained in GN 126/2001 ([GG 2561](#)), as amended by GN 149/2007 ([GG 3896](#)), GN 82/2010 ([GG 4473](#)) and GN 1/2014 ([GG 5389](#)) (all of which amend Annexure A).

Fees: Minimum fees and related guidelines are set forth in GN 62/2009 ([GG 4237](#)), as amended by GN 240/2009 ([GG 4391](#)) and GN 86/2014 ([GG 5497](#)).

Appointments: Appointments to the Namibian Council for Town and Regional Planners are contained in GN 33/2000 ([GG 2266](#)), with effect from 2 November 1999.

***Property Valuers Profession Act 7 of 2012**

Summary: This Act ([GG 4973](#)) establishes the Namibian Council for Property Valuers Profession and provides for the registration of professional valuers and related professionals and trainees. The Act will be brought into force on a date set by the Minister by notice in the *Government Gazette*.

Amendments: Act 2/2018 ([GG 6563](#)) amends several sections of the Act.

Regulations: Regulations are authorised by section 34 of the Act, but none have yet been promulgated.

Appointments: Appointments to the Namibian Council for Property Valuers Profession are announced in GN 304/2013 ([GG 5344](#)).

See also Namibia Qualifications Authority Act 29 of 1996 (occupational standards) (**EDUCATION**).