

HEALTH

Venereal Diseases Prevention Proclamation 5 of 1919.

Summary: This Proclamation ([OG 24](#)) authorised military magistrates to order persons infected with venereal disease to obtain medical treatment. It is still technically in force.

Public Health Act 36 of 1919, as amended by SWA Proclamation 36 of 1920.

Summary: This Act ([SA GG 979](#)) makes provision for the prevention and control of infectious diseases, venereal diseases and epidemics. It also regulates sanitation, food and public water supplies. It will be repealed by the Public and Environmental Health Act 1 of 2015 when that Act comes into force.

Applicability to SWA: This Act was made applicable to South West Africa by the SWA Public Health Proclamation 36 of 1920 ([OG 37](#)) which also amended the Act as it applied to SWA. This Proclamation did not make future amendments to the Act in South Africa automatically applicable to SWA, and none of the subsequent amending acts were made expressly so applicable. The Health Act 21 of 1988 ([OG 5651](#)) extended the application of the Act to all parts of SWA.

Transfer of administration to SWA: Section 159 defines “Minister” as “the Minister holding the portfolio of Health”. Therefore the administration of this Act was probably transferred to SWA by the Executive Powers (Health) Transfer Proclamation (AG 14/1977), dated 1 December 1977.

The Act was replaced in South Africa by the *Health Act 63 of 1977*. This repealing act came into force on 1 September 1977, prior to the probable date of transfer. However, it was not made expressly applicable to SWA and would not have applied automatically.

Amendments: SWA Proclamation 36 of 1920 ([OG 37](#)) amends the Act as it applies to SWA. (Proc. 28/1923 ([OG 118](#)) makes SWA Proclamation 36 of 1920 applicable to the Rehoboth Gebiet.)

Ord. 7/1932 ([OG 476](#)) amends section 36 of the Act.

Proc. 16/1936 ([OG 676](#)) amends section 71.

Proc. 20/1938 ([OG 761](#)) amends section 86 and inserts sections 26*bis* and 34*bis*.

Ord. 50/1957 ([OG 2094](#)) amends section 50 and section 51.

Ord. 35/1958 ([OG 2153](#)) amends sections 5, 115, and 159, and inserts sections 8, 8*bis*, 8*ter*, 17*bis*, 91*bis*, 92*bis*, 96*bis* and 124*bis*.

Ord. 10/1964 ([OG 2565](#)) amends section 16.

Ord. 2/1971 ([OG 3147](#)) amends section 130.

Regulations: Regulations concerning slaughtering and meat inspection are contained in SA GN 140 of 10 November 1926, as applied to SWA by GN 94 of 18 June 1927. ([OG 238](#)) These regulations are amended by AG GN 76/1989 ([OG 5800](#)).

Ordinance for Prevention and Combating of Alcoholism and Anti-Social Conduct 11 of 1965.

Summary: This Ordinance ([OG 2614](#)) provides for the certification of institutions for the treatment of person addicted to drink, drugs, gambling, etc. and the detention of such persons for treatment. It was brought into force on 1 September 1965 by Proc. 78/1965 ([OG 2674](#)).

Amendments: Section 63 (1) of the *Abuse of Dependence-Producing Substances and Rehabilitation Centres Act 41 of 1971* states:

Subject to the provisions of subsections (2) and (3), the Retreats and Rehabilitation Centres Act, 1963 (Act No. 86 of 1963), is, except in so far as it is necessary for the administration thereof by the Minister of Coloured Affairs in terms of Proclamation No. 57 of 1964, and the Ordinance for the Prevention and Combating of Alcoholism and Anti-social Conduct, 1965 (Ordinance No. 11 of 1965), of the territory, hereby repealed.

Although the wording may seem at first glance to be somewhat ambiguous, this provision is understood to mean that Act 86 of 1963 is repealed – except insofar as that Act is relevant to the administration of the other two laws cited (Proc. 57 of 1964 and Ord. 11 of 1965). This interpretation is supported by the use of the verb “is....repealed” – which indicates that the provision refers to only a single repealed law – and by the placement of commas in the provision. Thus, Act 41 of 1973 does *not* repeal this Ordinance as has been assumed in some sources.

Regulations: Regulations are contained in GN 182 of 1965 ([OG 2670](#)).

International Health Regulations Act 28 of 1974, as amended to December 1977.

Summary: This Act ([RSA GG 4219](#)) applies the International Health Regulations adopted by the World Health Assembly in 1969 to South Africa. These 1969 regulations have been largely superseded by 2005 regulations. According to the World Health Organisation: “In response to the exponential increase in international travel and trade, and emergence and reemergence of international disease threats and other health risks, 196 countries across the globe have agreed to implement the International Health Regulations (2005). This binding instrument of international law entered into force on 15 June 2007.”

www.who.int/ihr/publications/9789241596664/en/

Namibia is one of the States Parties to the International Health Regulations (2005).

www.who.int/ihr/legal_issues/states_parties/en/

Article 58(1)(k) of the 2005 regulations states that they “shall replace as between the States bound by these Regulations and as between these States and WHO, the provisions of... the International Health Regulations of 1969 and the amendments of 1973 and 1981”.

http://whqlibdoc.who.int/publications/2008/9789241580410_eng.pdf?q=international

Applicability to SWA: Section 1 defines “Republic” to include “the territory of South West Africa”. Section 5 states “This Act and any amendment thereof shall apply also 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 (Health) Transfer Proclamation (AG 14/1977), dated 1 December 1977. 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.

Regulations: The regulations are amended by RSA Proc. R.139/1975 ([RSA GG 4741](#)). Supplementary regulations are contained in RSA GN R.2001/1975 ([RSA GG 4878](#)), and amended by RSA GN R.2069/1978 ([RSA GG 6188](#)) and RSA GN R.790/1980 ([RSA GG 6954](#)). The 1975 and 1980 Notices specifically mention that they are being effected with the consent of the Administrator-General for the Territory of South-West Africa and that they also apply in the Territory.

Notices: Designations of approved ports and airports are contained in RSA Proc 241/1975 ([RSA GG 4877](#)).

Foodstuffs, Cosmetics and Disinfectants Ordinance 18 of 1979.

Summary: This Ordinance ([OG 4011](#)) controls the sale, manufacture and import of foodstuffs, cosmetics and disinfectants. It replaces the Food, Drugs and Disinfectants Ordinance 36 of 1952.

Amendments: This Ordinance originally authorised local authorities to enforce it locally. It was extended to all of SWA by the Health Act 21 of 1988 ([OG 5651](#)).

Regulations: Basic regulations are contained in GN 195/1968 ([OG 2949](#)), as amended prior to independence.

Notices: Standards regarding salt and iodised salt are amended in GN 124/1994 ([GG 883](#)).

Related laws: See GN 179/2008 ([GG 4088](#)) for exemptions from the application of section 29 of the Medicines and Related Substances Control Act 13 of 2003 ([GG 3051](#)) to certain substances approved under this Act.

Public and Environmental Health Act 1 of 2015.

Summary: This Act ([GG 5740](#)) provides a framework for a structured uniform public and environmental health system in Namibia. It covers notification, prevention and control of diseases and sexually-transmitted infections; maternal, ante-natal and neonatal care; water and food supplies; infant nutrition; waste management; health nuisances; public and environmental health planning and reporting. It repeals the *Public Health Act 36 of 1919* ([SA GG 979](#)), the SWA Public Health Proclamation 36 of 1920 ([OG 37](#)) (which made the *Public Health Act 36 of 1919* applicable to South West Africa as well as amending it) and some of its other amendments. The Act does

not amend any other laws, but section 91 states: “If any other law is in conflict or inconsistent with this Act, this Act prevails.” The Act will come into force on a date set by the Minister in the *Gazette*.

The amending Acts repealed are Ord. 50/1957 ([OG 2094](#)), Ord. 35/1958 ([OG 2153](#)), and Ord. 2/1971 ([OG 3147](#)). The amendments made by Ord. 7/1932 ([OG 476](#)), Proc. 16/1936 ([OG 676](#)), Proc. 20/1938 ([OG 761](#)) and Ord. 10/1964 ([OG 2565](#)) are not repealed.

Regulations: Section 94 provides that anything done under a law repealed by this Act which could have been done under a corresponding provision of this Act will be deemed to have been done under this Act. There are ten sets of regulations which were applicable to South West Africa under the *Public Health Act 36 of 1919*:

Notices: Section 94 provides that anything done under a law repealed by this Act which could have been done under a corresponding provision of this Act will be deemed to have been done under this Act.

SELECTED CASES

LM and Others v Government of the Republic of Namibia 2012 (2) NR 527 (HC).

SELECTED COMMENTARY

Chantal J Badul & Ann Strode, “LM and Others v Government of the Republic of Namibia: the first sub-Saharan African case dealing with coerced sterilisations of HIV-positive women - Quo vadis?: recent developments”, 13(1) *African Human Rights Law Journal* 214 (2013)

COMMISSIONS

Commission of Inquiry into Health Services (AG 19/1981)
Commission of Inquiry into Activities, Affairs, Management and Operations of Ministry of Health and Social Service (Proc. 20/2012, [GG 5013](#)).

INTERNATIONAL LAW

International Sanitary Regulations, 1951

Constitution of the World Health Organization, 1946

- *Amendment to article 7 of the Constitution of the World Health Organization, 1965*
- *Amendment to article 74 of the Constitution of the World Health Organization, 1978*
- *Amendments to articles 24 and 25 of the Constitution of the World Health Organization, 1986*
- *Amendments to articles 24 and 25 of the Constitution of the World Health Organization, 1998*

Commonwealth Regional Health Community for East, Central and Southern Africa

WHO Framework Convention on Tobacco Control, 2003

International Convention against Doping in Sport, 2005

SADC Protocol on Health, 1999

See also **DISABILITIES**.

See also Atomic Energy and Radiation Protection Act 5 of 2005 (**ENVIRONMENT**).

See also **HEALTH PROFESSIONS**.

See also **HOSPITALS**.

See also **LABOUR** (health and safety at workplaces).

See also **MEDICINE**.

See also **MENTAL HEALTH AND MENTAL DISORDERS**.