



Republic of Namibia
Annotated Statutes

Civil Defence Act 39 of 1966 (RSA)

(RSA GG 1567)

initially came into force in South Africa and South West Africa on
date of publication: 19 October 1966 (section 19 of original Act);
after being amended to change method of applicability to South West Africa,
again brought into force in South West Africa on 1 April 1969
by RSA Proc. 205/1969 (RSA GG 2495)

APPLICABILITY TO SOUTH WEST AFRICA: Section 19 of the original Act stated: “This Act and any amendments thereof 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).” This section was substituted by the *Civil Defence Amendment Act 69 of 1967* to give the State President power to declare any or all of the provisions of the Act and any of its amendments applicable in the territory of South West Africa. The Act was again made applicable to South West Africa by *RSA Proc. 205/1969 (RSA GG 2495)*, which stated: “Under the powers vested in me by section 19 of the Civil Defence Act, 1966 (Act 39 of 1966), I hereby declare that, subject to the provisions of the Schedule to this Proclamation, all the provisions of the said Act shall apply *mutatis mutandis* in the territory of South-West Africa [including the Eastern Caprivi Zipfel referred to in section 38(5) of the South-West Africa Constitution Act, 1968 (Act 39 of 1968)], 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 28 of 1923 of the Administrator of the said territory, with effect from the first day of April 1969.” [words in square brackets appear in the *Government Gazette* with the brackets].

TRANSFER TO SOUTH WEST AFRICA: The Administrator-General acquired authority to administer this Act in South West Africa by virtue of *RSA Proc. 205 of 1969*. This did not qualify as a “transfer proclamation” in terms of the **Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977**, which defines “transfer proclamation” in section 1 as “a proclamation by the Administrator-General by which the administration of the affairs of the territory in relation to any matter is transferred from a Minister of the Republic to the Administrator-General” (emphasis added). Therefore, the **Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977**, was not applicable to this Act.

After the amendment to section 19, the Act was amended in South Africa prior to Namibian independence by the *Defence Amendment Act 85 of 1967 (RSA GG 1776)*, the *Civil Defence Amendment Act 5 of 1969 (RSA GG 2301)* and the *Defence Further Amendment Act 83 of 1974 (RSA GG 4508)*. However, section 19 as amended by *Act 69 of 1967* made amendments to the Act in South Africa applicable to South West Africa only if they were declared to be so applicable by proclamation, and no such proclamations could be located. The *Civil Protection Act 67 of 1977 (RSA GG 5555)*, which repealed the statute in South Africa, was not made applicable to South West Africa.

as amended by

Civil Defence Amendment Act 69 of 1967 (RSA) (RSA GG 1754)

came into force on date of publication: 1 June 1967

Defence Act 1 of 2002 (GG 2749)

brought into force on 15 July 2002 by GN 109/2002 (GG 2765)

The Application of the Provisions of the Civil Defence Act, 1966 (Act 39 of 1966), to the Territory of South-West Africa Proclamation 205 of 1969 (RSA) (RSA GG 2495), effective 1 April 1969, provides that certain provisions in the Act shall be construed in certain ways in the application of the Act to South West Africa, without technically amending the Act. See annotations to individual sections.

ACT

To provide for the establishment of a Directorate of Civil Defence in the Public Service with power to take, with reference to time of emergency, certain measures for the protection of the Republic and its inhabitants; to provide for incidental matters; to amend sections 1(1)(a), 2(1)(b), 82bis, 87(1)(a), (e) and (s), 87(3), 121(a), 122(1)(a), 123, 136(1) and 144bis (1) of the Defence Act, 1957, to repeal section 82 of that Act and to amend section 6 (2) of the Defence Amendment Act, 1961, in order to vest civilian protective services in the said Directorate of Civil Defence; and to repeal section 18 of the General Law Amendment Act, 1963, in order to entrust the said Directorate of Civil Defence with the protection of certain places and areas.

*(English text signed by the State President)
(Assented to 6th October, 1966)*

ARRANGEMENT OF SECTIONS

1. Definitions
2. Establishment of Directorate of Civil Defence
3. Object and purpose of division and steps for the achievement thereof
4. Indemnity against loss or damage
5. Delegation of powers
6. Assistance in connection with application of Act
7. Power of Minister on default to cause act to be performed himself
8. Appointment of committees and remuneration of members
9. Compulsory training and service
10. Voluntary training and service
11. Duties of employers of persons undergoing training or rendering service
12. Training institutions
13. Entering of premises
14. Detention of unauthorized persons
15. Act does not apply with reference to certain persons and property
16. State bound by certain provisions
17. Offences and punishments
18. Regulations
19. Application of Act to South-West Africa
20. [deleted]
21. [deleted]
22. [deleted]
23. Repeal of section 18 of Act 37 of 1963
24. Short title

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:-

[Proc. 205 of 1969 provides that any reference in the Act to the Republic shall be construed as a reference to the territory of South-West Africa.]

Definitions

1. In this Act, unless the context otherwise indicates -

“director” means the Director of Civil Defence appointed under section 2;

“disaster” includes an act of God, the influx of refugees into the Republic and any form of sabotage as defined in section 21 of the General Law Amendment Act, 1962 (Act No. 76 of 1962);

[The General Law Amendment Act 76 of 1962 is not in force in Namibia.]

“division” means the Directorate of Civil Defence established by section 2;

“Minister” means the Minister of Defence;

[definition of “Minister” substituted by Act 69 of 1967]

“prescribed” means prescribed by regulation;

“regulation” means a regulation made under this Act;

[definition of “Republic” deleted by Act 69 of 1967]

“state of emergency” means the state which exists during -

- (a) a state of emergency referred to in section 2 of the Public Safety Act, 1953 (Act No. 3 of 1953);

[The Public Safety Act 3 of 1953 is not in force in Namibia. States of emergency are covered by Article 26 of the Namibian Constitution.]

- (b) “time of war” as defined in section 1 (1) of the Defence Act, 1957 (Act No. 44 of 1957); or

[The Defence Act 44 of 1957 has been replaced by the Defence Act 1 of 2002.]

- (c) any internal riots or any disaster, whether local or national in character, which have or has been declared by the Minister by notice in the *Gazette* to be a state of emergency for the purposes of this Act;

“this Act” includes the regulations.

Establishment of Directorate of Civil Defence

2. (1) There is hereby established in Pretoria in the Public Service a division to be known as the Directorate of Civil Defence.

(2) The division shall be under the control of the Minister who may, subject to the laws governing the Public Service -

Civil Defence Act 39 of 1966 (RSA)

- (a) appoint as director of the division any officer as defined in section 1 of the Public Service Act, 1957 (Act No. 54 of 1957);
- (b) appoint so many persons as he may consider necessary to give effect to the objects and purposes of this Act;
- (c) designate any officer attached to any department of State including a provincial administration to perform such functions in connection with any matter referred to in subparagraphs (i) to (x), inclusive, of section 3(1) as the Minister may determine: Provided that the Minister shall designate such officer in consultation with the Minister of the department in question or, in the case of a provincial administration, the administrator of the province in question.

[paragraph (c) substituted by Act 69 of 1967]

(3) Any person appointed in terms of subsection (2)(b) who is not a person within the meaning of section 3(1) of the Public Service Act, 1957, shall be appointed on the terms and conditions which the Minister may in consultation with the Minister of Finance determine.

(4) The Minister may from time to time, at the places which he may deem fit, establish the branches of the division that are necessary for the proper achievement of the objects and purposes of this Act.

[The "Administration of South West Africa" and the "Secretary for South West Africa" were removed from the coverage of the Public Service Act 54 of 1957 by RSA Proc. R 112/1980 (RSA GG 7097). The public service in South West Africa was then governed by the Government Service Act 2 of 1980 (OG 4116), which was re-named the Public Service Act 2 of 1980 and replaced by the Public Service Act 13 of 1995.]

Object and purpose of division and steps for the achievement thereof

3. (1) The object and purpose of the division is to take measures other than measures taken under the Public Safety Act, 1953 (Act No. 3 of 1953), the Defence Act, 1957 (Act No. 44 of 1957), or the Police Act, 1958 (Act No. 7 of 1958), for the purpose of -

[The Public Safety Act 3 of 1953 is not in force in Namibia. The Defence Act 44 of 1957 has been replaced by the Defence Act 1 of 2002. The Police Act 7 of 1958 has been replaced by the Police Act 19 of 1990.]

- (a) providing the Republic and its inhabitants with regard to a state of emergency with the greatest possible measure of protection and assistance; and
- (b) combating in the most effective manner civilian disruption during a state of emergency,

and to this end the Minister shall, subject to the provisions of subsection (2), have power to take the steps which he deems necessary with regard to -

- (i) fire-fighting;
- (ii) rescue and evacuation work;
- (iii) shelters against air-raids and radio-active fall-out;
- (iv) medical treatment and care of injured and sick persons, and health services;

- (v) the provision of emergency housing, food and clothing;
- (vi) the readjustment of communities and individuals;
- (vii) the maintenance of essential services and the protection of essential industries, places and areas;
- (viii) transport, communications and warnings;
- (ix) the continuation of existing central, provincial and local government;
- (x) any other matter which the State President may designate by proclamation in the *Gazette*,

and he may, without prejudice to the aforesaid general powers -

- (aa) direct any person to furnish him with such information as he may specify with regard to employees, buildings, premises, equipment, turnover, vehicles, aircraft, vessels, food, animals, fodder, fuel, oil, material, articles or anything in such person's possession or under his control;
- (bb) direct any person who is the owner of or who has custody of or control over any land, building, tent, conveyance, bedding, hospital equipment, medicament, food, oil, fuel, material or other article which is required for the purposes of any matter referred to in subparagraphs (i) to (x), to surrender the use of the said land or building or to deliver or make available any of the said articles to any person referred to in the direction, at the compensation determined by the Minister: Provided that the said direction may be issued only during a state of emergency: Provided further that any dispute as to the amount of such compensation shall be referred to a body designated by the Minister or to a committee appointed by him in terms of section 8(1), the decision of such body or committee to be final;
- (cc) if he considers it necessary in the public interest, direct the management of any industry which in his opinion is an essential industry, or of any organization which in his opinion renders an essential service, to take with regard to that industry or that service the steps which he may, with reference to any matter referred to in subparagraphs (i) to (x), or the continuation of the industry or the service itself, direct or prescribe.

(2) If any of the matters referred to in subparagraphs (i) to (x), inclusive, or (bb) of subsection (1) have, or any aspect of any such matter has, whether before or after the commencement of this Act, been entrusted to any department of State (including the Railways and Harbours Administration and a provincial administration), the powers of the Minister with reference to such matter or aspect shall be exercised only in consultation with the department of State in question.

[Subsection (2) is substituted by Act 69 of 1967. Proc. 205 of 1969 provides that subsection (2) shall be "construed as if the words 'the administration of the territory of South-West Africa' appear after the words 'Railways and Harbours Administration'".]

(3) Any expenditure in connection with subsection (1) shall be incurred in consultation with the Minister of Finance.

Indemnity against loss or damage

4. (1) The State or the Minister or any person in the service of the State shall not be liable for any loss or damage as a result of bodily injury, loss of life or loss of or damage to property, which is caused by or arises out of or in connection with -

(a) any direction; or

(b) any action by the Minister under section 7 with reference to any direction,

issued under section 3(1).

(2) The provisions of subsection (1) shall *mutatis mutandis* apply with reference to any person acting in terms of a direction issued under section 3(1)(cc).

(3) The provisions of subsections (1) and (2) shall not apply with reference to loss or damage caused negligently.

Delegation of powers

5. Subject to the provisions of section 3(2), the Minister may in writing delegate to the director any of the powers conferred upon him in terms of section 2(2)(b), and to the director or an officer contemplated in section 2(2)(c) any of the powers conferred upon him in terms of section 3(1), and the director may, if steps taken or about to be taken in terms of section 3(1) include the division of the Republic into regions or areas, in writing delegate any of the powers thus delegated to him, other than the power under section 2(2)(b), to any person appointed under this Act in respect of any such region or area.

Assistance in connection with application of Act

6. The Minister may in consultation with the Minister of Finance render to any person who at the request or direction of the Minister, the director or other officer of the division, takes part in connection with anything done under this Act, or has taken part in connection with anything done under this Act, the financial assistance with regard to such taking part as the Minister, after consultation with that person, may determine.

Power of Minister on default to cause act to be performed himself

7. If any person who has been directed under this Act to perform any act (including the delivery or making available of anything), refuses or fails, after written notice from the Minister, to perform that act within a period mentioned in the said notice, the Minister may himself have that act performed and recover the costs thereof from the person concerned.

Appointment of committees and remuneration of members

8. (1) The Minister may appoint such committees as he may deem fit, to report to him, the director or any officer of the division, or to advise him, the director or the said officer on any matter which he may refer to any such committee.

(2) A member of a committee who is not a person within the meaning of section 3(1) of the Public Service Act, 1957 (Act No. 54 of 1957), shall be paid the remuneration and allowances which the Minister may in consultation with the Minister of Finance determine.

(3) Subject to any directions by the Minister, a committee shall determine its own procedure.

Compulsory training and service

Civil Defence Act 39 of 1966 (RSA)

9. (1) Subject to the provisions of subsection (2) every person within the Republic shall, as from the date on which he becomes seventeen years of age until the date on which his sixty-fifth year expires, be liable to undergo training, as prescribed, in connection with any matter referred to in section 3(1), and to render service in connection with any such matter; and the manner in which such person shall be called up for the said training or service, the conditions of training and service and all other matters pertaining thereto, shall be as prescribed: Provided that the director may exempt in the prescribed manner any person from the said training and service.

(2) There shall be exempt from the provisions of subsection (1) -

(a) a member of the Senate or the House of Assembly or of a provincial council or an officer of Parliament as defined in section 1 of the Powers and Privileges of Parliament Act, 1963 (Act No. 91 of 1963);

[Paragraph (a) is substituted by Act 69 of 1967. The Powers and Privileges of Parliament Act 91 of 1963 is not in force in Namibia; the analogous law is the Powers, Privileges and Immunities of Parliament Act 17 of 1996.]

(b) an administrator of a province and any member of an executive committee for a province;

[paragraph (b) substituted by Act 69 of 1967]

[Proc. 205 of 1969 provides that subsection (2) shall be construed as if paragraphs (bA)-(bC) appear after paragraph (b):

“(bA) a member of the Legislative Assembly of the territory of South-West Africa;

(bB) the Administrator of the territory of South-West Africa and any member of the Executive Committee for the said territory;

(bC) the Secretary for the territory of South-West Africa;”.]

(c) a judge of the Supreme Court of South Africa or a judicial officer of any other court of law of the Republic;

(d) the secretary of a department of State or of a provincial administration;

[paragraph (d) substituted by Act 69 of 1967]

(e) the general manager, the deputy general managers and the assistant general managers of the Railways and Harbours Administration;

(f) a member of the South African Police or of the Railways and Harbours Police Force as defined in section 57(9) of the Railways and Harbours Control and Management (Consolidation) Act, 1957 (Act No. 70 of 1957);

[The Railways and Harbours Control and Management (Consolidation) Act 70 of 1957 is not in force in Namibia. It was repealed in South Africa by the South African Transport Services Act 65 of 1981, which was made expressly applicable to South West Africa by virtue of section 78.]

(g) any person contemplated in the definition of “the Prisons Service” in section 1 of the Prisons Act, 1959 (Act No. 8 of 1959);

[Paragraph (g) is substituted by Act 69 of 1967.]

The Prisons Act 8 of 1959 was replaced by the Prisons Act 17 of 1998, which was replaced in turn by the Correctional Service Act 9 of 2012.]

[Proc. 205 of 1969 provides that subsection (2) shall be construed as if paragraph (gA) appears after paragraph (g):

“(gA) any person contemplated in the definition of ‘the Prisons Service’ in section 1 of the Prisons Act, 1959 (Act 8 of 1959), as applied to the territory of South-West Africa in terms of section 96 of the said Prisons Act, 1959;”.

The Prisons Act 8 of 1959 was replaced by the Prisons Act 17 of 1998, which was replaced in turn by the Correctional Service Act 9 of 2012.]

- (h) any person who has been certified medically unfit for training and service by a district surgeon;
- (i) a member of the South African Defence Force, the Reserve of Officers, the Permanent Force Reserve or the Citizen Force Reserve as defined in sections 5, 46, 47 and 48, respectively, of the Defence Act, 1957 other than a member exempted from training and service in terms of section 74*bis* of the said Defence Act, and also any person who is in the full-time service of the Department of Defence in any section of the South African Defence Force;

[The Defence Act 44 of 1957 has been replaced by the Defence Act 1 of 2002.]

- (j) a member of the National Reserve referred to in section 49 of the Defence Act, 1957, who is under an age limit determined for the purposes of this paragraph by the Minister: Provided that the provisions of this subparagraph shall not apply with reference to any such member -
 - (i) who has been subjected to the ballot in terms of the said Act and who is not liable or cannot be compelled under that Act to undergo training or to render service; or
 - (ii) who has been exempted from training or service in terms of section 74*bis* of the said Act.

[Paragraph (j) is amended by Act 69 of 1967. The Defence Act 44 of 1957 has been replaced by the Defence Act 1 of 2002.]

Voluntary training and service

10. Any person, other than a person who is exempted in terms of paragraph (f), (g), (i) or (j) of section 9(2) may voluntarily enrol in the prescribed manner to undergo training, as prescribed, in connection with any matter referred to in section 3(1) or to render service in connection with any such matter; and such person shall be subject to the conditions of training and service as are prescribed.

Duties of employers of persons undergoing training or rendering service

11. (1) If any person is called up under this Act to undergo training or to render service as contemplated in section 9(1), his employer shall grant him the leave which is necessary to undergo that training or to render that service.

- (2) Any employer who -
 - (a) does not comply with the provisions of subsection (1);

- (b) dismisses any employee from his service or reduces his salary or wage or changes his position to his disadvantage or penalizes him in any other way on account of his having been called up for the said training or service or his being about to be so called up;
- (c) in any manner attempts to persuade an employee to evade the said training or service or not to undergo or to render it, as the case may be,

shall be guilty of an offence and liable to the punishment prescribed by section 17.

(3) The provisions of this section shall not be construed so as to render an employer liable to pay to an employee referred to in subsection (1) any salary or wage in respect of any period during which the said employee undergoes the said training or renders the said service.

Training institutions

12. (1) The State President may establish or designate institutions for the training of persons in connection with any matter referred to in section 3(1).

(2) The conditions with reference to admission to the said institutions, the nature and extent of the training and all matters pertaining to discipline, supervision, control and good management, shall be as prescribed.

Entering of premises

13. (1) Any person who in a state of emergency acts in the execution of his duties under this Act, may enter or break and enter any premises if he believes on reasonable grounds that such conduct is necessary for the preservation of life or for the prevention of injury to persons or for the removal of injured persons or for the protection of property.

(2) The provisions of subsection (1) shall apply also with reference to any animal.

Detention of unauthorized persons

14. Any person who is employed at any place with regard to the protection of which the Minister has under this Act directed or prescribed any steps, shall be competent to arrest and to search any person entering or attempting to enter the said place without the authority prescribed by the Minister, and to seize anything which is in the possession of the said person.

Act does not apply with reference to certain persons and property

15. No provision of this Act shall apply with reference to any person or the property (including immovable property which is leased) of any person or of the government of any person who is in terms of the Diplomatic Privileges Act, 1951 (Act No. 71 of 1951), entitled to diplomatic immunity.

State bound by certain provisions

16. The provisions of subparagraphs (aa), (bb) and (cc) of section 3(1) shall bind the State.

[Proc. 205 of 1969 provides that the reference to the State in section 16 "shall be construed as a reference to the Administration of the territory of South-West Africa".]

Offences and punishments

17. Any person who -
- (a) hinders, obstructs or resists any person in the execution of his duties or functions under this Act;
 - (b) by words, conduct or actions, falsely represents himself as a person employed under this Act;
 - (c) without reasonable cause, with regard to which the onus of proof shall be on him, fails to comply with a direction given under subparagraph (aa), (bb) or (cc) of section 3(1);
 - (d) contravenes or fails to comply with any provision of this Act or of any direction under this Act,

shall be guilty of an offence and, except where otherwise expressly provided, liable to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months, or to such imprisonment without such fine.

Regulations

18. (1) The Minister may make regulations not inconsistent with this Act with regard to any matter which may be prescribed under this Act, or with regard to any matter which in his opinion is necessary for the realization of any object or purpose of this Act or for the achievement of any step taken or contemplated under section 3(1), and the said regulations may prescribe the punishments which shall apply in respect of a failure to comply therewith: Provided that no such punishment shall exceed the punishment referred to in section 17.

(2) Any regulation made under subsection (1) shall be laid on the Tables of both Houses of Parliament within fourteen days after promulgation thereof if Parliament is then in ordinary session, or if Parliament is not then in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session, and shall remain on the said Tables for at least twenty-eight consecutive days, and if Parliament is prorogued before the necessary twenty-eight days have elapsed, such regulation shall again be laid on the said Tables as aforesaid within fourteen days after the commencement of its next ensuing ordinary session.

- (3) (a) If such regulation is not approved in both Houses of Parliament by resolution passed in the same session (being a session during which such regulation has been laid on the Tables of both Houses of Parliament in terms of subsection (2)) such regulation shall cease to be of force and effect -
- (i) as from the date of any resolution of either House of Parliament disapproving thereof to the extent of such disapproval; or
 - (ii) as from the date on which Parliament is prorogued at the end of any session during which such regulation has been on the Tables of both Houses of Parliament for at least twenty-eight days,

whichever is the earlier date.

- (b) The provisions of paragraph (a) are without prejudice to the validity of anything done in terms of such regulation or any provision thereof up to the date upon which it so ceased to be of force or effect, or to any right, privilege, obligation or liability

acquired, accrued or incurred as at the said date under and by virtue of such regulation or such provision thereof.

Application of Act to South-West Africa

19. (1) The State President may by proclamation in the *Gazette* declare any of or all the provisions of this Act and of any amendment thereof to be *mutatis mutandis* applicable in the territory of South-West Africa (including the Eastern Caprivi Zipfel referred to in section 3 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 Administrator of the said territory.

(2) The said provisions may be declared to be applicable subject to such conditions, modifications or exceptions and with retrospective effect from any date, not earlier than the date of commencement of this Act, specified in the proclamation.

(3) The State President may in like manner withdraw or amend any proclamation issued under this section.

[section 19 substituted by Act 69 of 1967]

20.

[section 20 deleted by Act 1 of 2002]

21.

[section 21 deleted by Act 1 of 2002]

22.

[section 22 deleted by Act 1 of 2002]

Repeal of section 18 of Act 37 of 1963

23. Section 18 of the General Law Amendment Act, 1963, is hereby repealed.

[The General Law Amendment Act 37 of 1963 was not directly applicable to South West Africa, although it did amend some South African laws which applied to South West Africa.]

Short title

24. This Act shall be called the Civil Defence Act, 1966.