

Namibia

Interpretation of Laws Proclamation, 1920

Proclamation 37 of 1920

Legislation as at 30 June 1961

FRBR URI: /akn/na/act/p/1920/37/eng@1961-06-30

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PDF created on 22 September 2023 at 09:41.

Collection last checked for updates: 1 September 2023.

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Republic of Namibia
Annotated Statutes

Interpretation of Laws Proclamation, 1920 Proclamation 37 of 1920

[Published in Official Gazette 35 on 1 September 1920](#)

[Assented to on 7 August 1920](#)

[Commenced on 1 September 1920](#)

[\[This is the version of this document from 30 June 1961 and includes any amendments published up to 1 September 2023.\]](#)

[\[Amended by Proclamation 28 of 1923 \(Proclamation 28 of 1923\) on 1 October 1923\]](#)

[\[Amended by Interpretation of Laws Amendment Proclamation, 1926 \(Proclamation 11 of 1926\) on 16 August 1926\]](#)

[\[Amended by South West Africa Native Affairs Administration Ordinance, 1955 \(Ordinance 4 of 1955\) on 1 April 1955\]](#)

[\[Amended by Interpretation of Laws Proclamation, 1920, Amendment Ordinance, 1961 \(Ordinance 19 of 1961\) on 30 June 1961\]](#)

PROCLAMATION

BY HIS HONOUR SIR EDMOND HOWARD LACAM GORGES, KNIGHT COMMANDER OF THE MOST DISTINGUISHED ORDER OF SAINT MICHAEL AND SAINT GEORGE, A MEMBER OF THE ROYAL VICTORIAN ORDER, ADMINISTRATOR OF THE PROTECTORATE OF SOUTH WEST AFRICA IN MILITARY OCCUPATION OF THE UNION FORCES

[\[This Proclamation has no long title. The date of signature appears at the bottom of the Proclamation.\]](#)

WHEREAS it is desirable to interpret and shorten the language of Laws now or hereafter in force in this Protectorate.

NOW THEREFORE under and by virtue of the powers in me vested I do hereby declare proclaim and make known as follows:-

1.

In the interpretation of every law (as in this Proclamation defined) now or hereafter in force in the Protectorate or in any portion thereof, and in the interpretation of all bye-laws, rules, regulations, or orders made under the authority of any such law, the definitions and other provisions in this Proclamation contained shall, unless there be something in the language or context of the law, bye-law, rule, regulation or order, repugnant to such definitions or provisions, or unless the contrary intention therein appear, be adopted and applied.

2.

The following expressions shall, unless the context otherwise requires or unless in the case of any law it is otherwise provided therein, have the meanings hereby respectively assigned to them, namely:-

[definition of “Administrator” deleted by Proc. 11 of 1926]

“christian name” shall mean any name prefixed to the surname, whether received at Christian baptism or not;

[The word “christian” in the term “christian name” is not capitalised in the Official Gazette.]

“district” shall mean the area subject to the jurisdiction of the court of any magistrate;

“Gazette” shall mean the Official Gazette of the Protectorate;

“Governor-General” shall mean the officer for the time being administering the government of the Union of South Africa acting by and with the advice of the Executive Council thereof;

“law” shall mean and include any law, proclamation or other enactment having the force of law;

“month” shall mean a calendar month;

“oath” and “affidavit” shall, in the case of persons allowed by law to affirm or declare instead of swearing, include affirmation and declaration, and the expression “swear” shall, in the like case, include “affirm” and “declare”;

“Parliament” shall mean the Parliament of the Union of South Africa;

“person” shall include -

- (a) municipal council, or like authority; or
- (b) any company incorporated or registered as such under any law; or
- (c) any body of persons corporate or unincorporate;

“Province” shall mean a Province of the Union of South Africa;

“The Protectorate” shall mean the territory of South-West Africa lately under the Sovereignty of Germany and at present under the administration of the Government of the Union of South Africa;

“The Union” shall mean the territorial limits of the Union of South Africa as constituted for the time being in accordance with the South Africa Act, 1909, or any amendment thereof.

[Section 1 of Proc. 11 of 1926 provides some independent rules of interpretation, in addition to amending Proc. 37 of 1920:

“1. In the interpretation of every proclamation of the Administrator or ordinance made by the Legislative Assembly now or hereafter in force in the Territory or in any portion thereof, and in the interpretation of all bye-laws, rules, regulations or orders made under the authority of any such proclamation or ordinance, the following expressions shall have the meanings hereby respectively assigned to them, unless there be something in the language or context of the proclamation, ordinance, bye-law, rule, regulation or order, repugnant to such meanings, or unless the contrary intention therein appear-

‘The Administration’ or ‘This Administration’ shall mean the Administration of the Mandated Territory of South West Africa;

‘Administrator’, when used in relation to the administration of those matters in respect of which it is for the time being competent for the Legislative Assembly for the Territory to make ordinances, shall mean the Administrator of the Territory-in-Executive Committee, and when used in relation to the administration of any other matters, shall mean the Administrator of the Territory;

‘The Territory’ or ‘This Territory’ shall mean the Mandated Territory of South West Africa.”]

3.

In every law, expressions relating to writing shall, unless the contrary intention appears, be construed as including also references to typewriting, lithography, photography, and all other modes of representing or reproducing words in a visible form.

4.

When any particular number of days is prescribed for the doing of any act, or for any other purpose, the same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day shall happen to fall on a Sunday or on any other day appointed by or under the authority of a law as a public holiday, in which case the time shall be reckoned exclusively of the first day and exclusively also of every such Sunday or public holiday.

5.

In the measurement of any distance for the purpose of any law, that distance shall, unless the contrary intention appears, be measured in a straight line on a horizontal plane.

6.

In every law, unless the contrary intention appears

- (a) words importing the masculine gender shall include females; and
- (b) words in the singular number shall include the plural, and words in the plural number shall include the singular.

7.

Where any law authorizes or requires any document to be served by post, whether the expression “serve” or “give” or “send”, or any other expression is used, then, unless the contrary intention appears, the service shall be deemed to be effected by properly addressing, prepaying, and posting a registered letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

8.

In every law unless the contrary intention appears, the expression “rules of court”, when used in relation to any court, shall mean rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of that court.

The powers of the said authority to make rules of court, as above defined, shall include a power to make rules of court for the purpose of any law directing or authorizing anything to be done by rules of court.

8bis. Criminal proceedings may be instituted in the name of the State

Any criminal proceedings given as instituted in the name of the State shall for all purposes be deemed to have been instituted in the name of the Republic of South Africa.

[Section 8bis is inserted by Ord. 19 of 1961. This is the only section of Proclamation 47 of 1920 which has been given a heading.]

9.

- (1) When a law confers a power or imposes a duty then, unless the contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.

- (2) Where a law confers a power, jurisdiction, or right, or imposes a duty on the holder of an office as such, then, unless the contrary intention appears, the power, jurisdiction or right may be exercised and the duty shall be performed from time to time by the holder for the time being of the office, or by the person lawfully acting in the capacity of such holder.
- (3) Where a law confers a power to make rules, regulations, or bye-laws, the power shall, unless the contrary intention appears, be construed as including a power exercisable in like manner and subject to the like consent and conditions (if any) to rescind, revoke, amend, or vary the rules, regulations, or bye-laws.

10.

Where an act or omission constitutes an offence under two or more statutes or is an offence against a statute and at common law, the offender shall, unless the contrary intention appears, be liable to be prosecuted, and punished under either statute, or (as the case may be) under the statute or the common law, but he shall not be liable to more than one punishment for the act or omission constituting the offence.

11.

- (1) Where a law repeals and re-enacts, with or without modifications, any provisions of a former law, references in any other law to the provisions so repealed shall, unless the contrary intention appears, be construed as references to the provisions so re-enacted.
- (2) Where a law repeals any other law, then, unless the contrary intention appears, the repeal shall not
 - (a) revive anything not in force or existing at the time at which the repeal takes effect; or
 - (b) affect the previous operation of any law so repealed or anything duly done or suffered under the law so repealed; or
 - (c) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any law so repealed; or
 - (d) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any law so repealed; or
 - (e) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, forfeiture, or punishment as is in this sub-section mentioned;

and any such investigation, legal proceedings, or remedy may be instituted, continued, or enforced, and any such penalty forfeiture, or punishment may be imposed, as if the repealing law had not been passed.

[There should be a comma between the words “penalty” and “forfeiture” in the closing phrase of subsection (2).]

- (3) When a law repeals wholly or partially any former law and substitutes provisions for the law so repealed, the repealed law shall remain in force until the substituted provisions come into operation.

12.

- (1) The expressions “commencement” and “taking effect” when used in any law in reference thereto, shall mean the day on which that law comes or came into operation, and that day shall subject to the provisions of sub-section (2) of this section and unless some other day is fixed by or under the law for the coming into operation thereof, be the day when the law was first published in the Gazette as a law.

- (2) Where any law, or any order, warrant, scheme, rules, regulations, or bye-laws made, granted, or issued under the authority of a law, is expressed to come into operation on a particular day, the same shall be construed as coming into operation immediately on the expiration of the previous day.
- (3) Where a law confers a power
- (a) to make any appointment; or
 - (b) to make, grant, or issue any instrument, order, warrant, scheme, rules, regulations, or bye-laws; or
 - (c) to give notices; or
 - (d) to prescribe forms; or
 - (e) to do any other act or thing for the purpose of the law,

that power may, unless the contrary intention appears, be exercised at any time after the passing of the law so far as may be necessary for the purpose of bringing the law into operation at the commencement thereof, subject to this restriction that any instrument, order, warrant, scheme, rules, regulations, or bye-laws, made, granted, or issued under the power shall not, unless the contrary intention appears in the law or the contrary is necessary for bringing the law into operation, come into operation until the law comes into operation.

13.

When any act, matter or thing is by law directed or authorised to be done by the Governor-General, the Minister or by the Administrator, or by any public officer, the notification that such act, matter, or thing has been done, may unless a specified instrument or method is by that law prescribed for the notification, be by notice in the Gazette.

[Section 13 is amended by Ord. 4 of 1955 to insert the term “the Minister”, with “Minister” being defined in section 1 of that Ordinance as “the Minister of Native Affairs of the Union of South Africa”. The Bantu Laws Amendment Act 42 of 1964 (RSA GG 801), brought into force on 1 January 1965 by RSA Proc. 339/1964 (RSA GG 967) and read together with section 16(1) of the Native Laws Amendment Act 46 of 1962 (RSA GG 240), provided that any reference to the Minister of Native Affairs shall be substituted by a reference to the Minister of Bantu Administration and Development. The Native Laws Amendment Proclamation, AG 3 of 1979(OG 3898), which was deemed to have come into force in relevant part on 1 August 1978 in terms of section 5 of AG 3 of 1979, provided that references to the “Minister of Bantu Administration and Development” shall be substituted by the expression “Minister of Plural Relations and Development”. The References to Plural Relations and Development Act 10 of 1979 (OG 4023), which came into force on 1 July 1979 (section 2 of Act 10 of 1979), provides that a reference in any law to the Minister of Plural Relations and Development shall be construed as a reference to the Minister of Co-operation and Development, without technically amending any laws.]

14.

When any bye-law, regulation, rule or order is authorised by any law to be made by the Governor-General, the Minister, the Administrator, or by any local authority, public body, or person, with the approval of the Governor-General, the Minister, or the Administrator, such bye-law, regulation, rule, or order, shall, subject to the provisions relative to the force and effect thereof in any law, be published in the Gazette and production of a copy of the Gazette containing a notice of the making or approval (as the case may be) of the bye-law, regulation, rule, or order by the Governor-General, the Minister, or the Administrator shall be sufficient evidence of such making or approval.

[Section 14 is amended by Ord. 4 of 1955 to insert the term “the Minister”.
See the annotation note to section 13 on the interpretation of this term.]

This Proclamation may be cited for all purposes as “The Interpretation of Laws Proclamation, 1920”.

GOD SAVE THE KING.

Given under my hand at Windhuk this 7th day of August 1920.

E. H. L. GORGES

Administrator.