

Namibia

Namibian Constitution

Suspension of Operation of Provisions of Certain Laws and Ancillary Matters Regulations

Proclamation 36 of 2020

Legislation as at 16 July 2020

FRBR URI: /akn/na/act/p/2020/36/eng@2020-07-16

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PDF created on 18 April 2024 at 13:09.

Collection last checked for updates: 12 April 2024.

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Republic of Namibia
Annotated Statutes

Namibian Constitution

Suspension of Operation of Provisions of Certain Laws and Ancillary Matters Regulations Proclamation 36 of 2020

[Published in Government Gazette 7275 on 16 July 2020](#)

Assented to on 14 July 2020

Commenced on 16 July 2020

**[This is the version of this document from 16 July 2020 and
includes any amendments published up to 12 April 2024.]**

Under the powers vested in me by Sub-Article (5) of Article 26 of the Namibian Constitution, I, subsequent to having declared by Proclamation No. 7 of 18 March of 2020 that a State of Emergency exists in the whole of Namibia following a worldwide outbreak of the disease known as Coronavirus Disease 2019 (COVID-19), make the regulations set out in the Schedule.

Given under my Hand and the Seal of the Republic of Namibia at Windhoek, this 14th day of July, Two Thousand and Twenty.

Hage G. Geingob

President

By order of the President

Part 1 – Preliminary matters

1. Definitions

In these regulations unless the context indicates otherwise -

"Stage 3 State of Emergency Regulations: Erongo Region" means Stage 3: State of Emergency - Covid-19 Regulations: Erongo Region published under Proclamation No. 32 of 6 July 2020;

"specified period" means the period referred to in regulation 3 of the Stage 3: State of Emergency Regulations: Erongo Region;

"restricted area" means restricted area as defined in regulation 1 of the Stage 3 State of Emergency Regulations: Erongo Region; and

"State of Emergency" means the State of Emergency that was declared by the President by Proclamation No. 7 of 18 March of 2020, and which came into effect on 17 March 2020.

2. Purpose of regulations

The purpose of these regulations is to -

- (a) suspend the operation of provisions of certain laws; and
- (b) deal with incidental matters arising from the suspension of the operation of the laws by the President pursuant to Article 26(5)(b) of the Namibian Constitution, subject to such conditions as are reasonably justifiable, for the purpose of combating, preventing and suppressing the spread of COVID-19, for the duration of the periods specified in these regulations or the State of Emergency, as applicable.

Part 2 – Suspension of operation of provisions of certain laws

3. Suspension of operation of certain provisions of Magistrates' Courts Act, 1944

- (1) The procedures and time periods specified in the Rules of Court published under Government Notice No. R.1108 of 21 June 1968 (hereafter "the Rules of Court"), are suspended in respect of the restricted area for the duration of the specified period insofar as they relate to -
 - (a) a party or witness who is not ordinarily resident in the restricted area and who, for the duration of the specified period, is refused entry into Namibia or is unable to enter the restricted area due to the restrictions on movement of persons imposed by the Stage 3 State of Emergency Regulations: Erongo Region; or
 - (b) any other party or witness, including a Namibian citizen, a person domiciled in Namibia or any other person who in terms of any law has the right to residency in Namibia, and who, for the duration of the specified period, is not -
 - (i) in the restricted area; and
 - (ii) able to return to the restricted area because of any Covid-19 related reason.
- (2) Any sale in execution and the time periods specified in -
 - (a) sections 63, 65E, 66 and 71A of the Magistrates' Courts Act, 1944 (Act [No. 32 of 1944](#)); and
 - (b) rules 36, 38, 39, 40, 41, 42, 43 and 45(4) of the Rules of Court,are suspended in the restricted area for the duration of the specified period.
- (3) The computation of any time period or time limit or days required for the completion of any process or the doing of anything as contemplated in subregulation (1) or (2) interrupted during the specified period commences after the expiry of that period.

4. Suspension of operation of certain provision of Price Control Act, 1964

Despite section 2 of the Price Control Act, 1964 (Act [No. 25 of 1964](#)) that requires the Minister to appoint a Price Controller subject to the laws governing the public service, the Minister responsible for administering that Act, may appoint a Price Controller for the duration of the State of Emergency, without complying with the requirements of that section.

5. Suspension of operation of certain provisions of Criminal Procedure Act, 1977

- (1) Any time period, time limit and process relating to the operations of the Magistrates' Courts in criminal matters as contemplated in Chapters 15, 11, 18, 19A, 20, 21, 22, 25, 26, 27, 28 and 29 of

the Criminal Procedure Act, 1977 (Act [No. 51 of 1977](#)) (hereafter "the Act"), are suspended in the restricted area for the duration of the specified period insofar as they relate to -

- (a) an accused person or a witness who, for the duration of the specified period, is refused entry into Namibia or is unable to enter the restricted area due to the restrictions on movement of persons imposed by the Stage 3 State of Emergency Regulations: Erongo Region; or
 - (b) any other accused person or witness, including a Namibian citizen, a person domiciled in Namibia or any other person who in terms of any law has the right to residency in Namibia, and who, for the duration of the specified period, is not -
 - (i) in the restricted area; and
 - (ii) able to return to the restricted area because of any Covid-19 related reason.
- (2) The time periods contained in sections 303, 306 and 310 of the Act, are suspended in the restricted area for the duration of the specified period insofar as they relate to -
- (a) an accused person or a witness who is not ordinarily resident in Namibia and who, for the duration of the specified period, is refused entry into the restricted area; or
 - (b) any other accused person or witness, including a Namibian citizen, a person domiciled in Namibia or any other person who in terms of any law has the right to residency in Namibia, and who, for the duration of the specified period, is not -
 - (i) in the restricted area; and
 - (ii) able to return to the restricted area because of any Covid-19 related reason.
- (3) The computation of any time period or time limit or days required for the completion of any process or the doing of anything as contemplated in subregulation (1) or (2) interrupted during the specified period commences after the expiry of that period.

6. Suspension of operation of certain provisions of Social Security Act, 1994

- (1) The provisions of section 21(4) and (5) of the Social Security Act, 1994 (Act [No. 34 of 1994](#)), insofar as they relate to the obligation of the employer to deduct and pay over both the employees' and employer's contributions to the Social Security Commission, are suspended from 1 May 2020 to 31 July of 2020, except that this benefit only extends to an employer who has suffered or is likely to suffer financial losses due to the impact of COVID-19 on the employer's operations.
- (2) An employer who is exempted from deducting and paying over contributions to the Social Security Commission pursuant to subregulation (1) is discharged from liability to pay money to the Commission as contemplated in section 26(1) of the Act referred to in subregulation (1) for the period from 1 May 2020 to 31 July 2020.
- (3) The conducting of training schemes and employment schemes approved by the President for the benefit of socio-economically disadvantaged persons who are unemployed as contemplated in section 37(4) of the Act referred to in subregulation (1) is deemed to be extended to include a member of any of the funds who was registered on or before 17 March 2020, and who has suffered or is likely to suffer financial losses due to the impact of COVID-19 during the State of Emergency.

7. Suspension of operation of certain provisions of Medical Aid Funds Act, 1995

- (1) Section 30(1)(d) of the Medical Aid Funds Act, 1995 (Act [No. 23 of 1995](#)) and any rules embodying the prohibition under section 30(1)(d), which provides that every registered fund as defined in section 1 of that Act must have rules in which provision must be made that no portion of any surplus realised by the fund in any financial year may be distributed to its members or any other persons, is suspended from 28 March 2020 to 17 September 2020.

- (2) For the duration of the period referred to in subregulation (1) registered funds referred to in that subregulation may allocate a portion of any surplus realised by the funds -
 - (a) to transactions that may be regarded as critical and essential and to the extent that it relates to the COVID-19 pandemic;
 - (b) to voluntarily provide financial assistance or donate or sponsor medical equipment, medical consumables, including but not limited to gloves, masks, testing kits or any other aid that will complement and assist the fight against the COVID-19 pandemic, subject to the medical aid funds remaining in a sound financial position.
- (3) A registered fund referred to in subregulation (1) may select beneficiaries of its choice to receive assistance referred to in subregulation (2) and in so doing registered funds are encouraged to implement fair and objective criteria in selecting beneficiaries.

8. Suspension of operation of certain provision of Identification Act, 1996

The operation of section 14(2) of the Identification Act, 1996 (Act [No. 21 of 1996](#)) is suspended for the duration of the State of Emergency, except that the Minister responsible for administering that Act may, whenever he or she considers it necessary, disclose specific information such as the name, surname and identity number of any person contained in the Population Register for Namibia to any institution, public or private, for the validation and verification of such information for the purpose of payment of any grant made available by the State.

9. Suspension of operation of certain provision of Short-term Insurance Act, 1998

- (1) Regulation 6(1) of the Short-term Insurance Regulations published under Government Notice No. 143 of 18 June 1998 in relation to the limitation of remuneration to an insurance agent, insurance broker, reinsurance broker or Lloyd's intermediary or any other person for rendering services as an intermediary towards effecting, maintaining or servicing any short-term insurance policy, is suspended from 28 March 2020 to 11 September 2020.
- (2) A registered insurer or registered reinsurer as defined in section 1 of the Short-term Insurance Act, 1998 (Act [No. 4 of 1998](#)), may voluntarily, directly or indirectly, pay, allow or give financial assistance or any other aid it considers appropriate, which may be accepted by or on behalf of, an insurance agent, insurance broker, reinsurance broker or Lloyd's intermediary or any other person whether or not they are able to render services as an intermediary towards effecting, maintaining or servicing any short-term insurance policy.
- (3) The giving of financial assistance or aid referred to in subregulation (2) is subject to -
 - (a) the registered insurers or registered reinsurers remaining in a sound financial position; and
 - (b) the policyholders' premiums not being increased or the policyholders not being prejudiced in any other way due to the assistance or aid provided as contemplated in subregulation (2).

10. Suspension of operation of certain provision of Long-term Insurance Act, 1998

- (1) Regulation 13(1) of the Long-term Insurance Regulations published under Government Notice No. 145 of 18 June 1998 in relation to the limitation of remuneration to an insurance agent, insurance broker, reinsurance broker or Lloyd's intermediary or any other person for rendering services as an intermediary towards effecting, maintaining or servicing any long-term insurance policy, is suspended from 28 March 2020 to 17 September 2020.
- (2) A registered insurer or registered reinsurer as defined in section 1 of the Long-term Insurance Act, 1998 (Act [No. 5 of 1998](#)) may voluntarily, directly or indirectly, pay, allow or give financial assistance or any other aid it considers appropriate, which may be accepted by or on behalf of, an insurance agent, insurance broker, reinsurance broker or Lloyd's intermediary or any other person

whether or not they are able to render services as an intermediary towards effecting, maintaining or servicing any long-term insurance policy.

- (3) The giving of financial assistance or aid referred to in subregulation (2) is subject to -
- (a) the registered insurers or registered reinsurers remaining in a sound financial position;
 - (b) the policyholder's premiums not being increased or the policy holders not being prejudiced in any other way due to the assistance or aid provided as contemplated in subregulation (2).

11. Suspension of operation of certain provisions of Standards Act, 2005

The Namibian Standards Institution may, for the duration of the State of Emergency, under section 20(1) of the Standards Act, 2005 (Act [No. 18 of 2005](#)) set, establish, and issue a Namibian Standard or amend or withdraw a Namibian Standard issued under that section, without having to follow the procedures for the setting, establishing, issuing, amending or withdrawing of a Namibian Standard as set out in the Standards Regulations published under Government Notice No. 249 of 20 September 2013.

12. Suspension of operation of certain provisions of Vocational Education and Training Act, 2008

The provisions of sections 35(1), 36(1), 37, 38, 39 and 40 of the Vocational Education and Training Act, 2008 (Act [No. 1 of 2008](#)) and the Imposition of Vocational Education and Training Levy on Employers notice published under Government Notice No. 6 of 27 January 2014 are suspended as from 1 June 2020 up to 31 July 2020 insofar as they relate to the imposition or variation of a levy to be paid by employers in general or specific categories of employers, for the purpose of facilitating and encouraging vocational education and training.

Part 3 – General provisions

13. Provisions relating to expiry of licences, permits and other authorisations

- (1) Despite any provision to the contrary in any law, any licence, permit, approval, or other form of authorisation, issued to any person under any law and which licence, permit, approval or other form of authorisation expires during the specified period, is deemed to be valid for the duration of the specified period.
- (2) Any penalty applicable for failure to renew any licence, permit or authorisation contemplated in subregulation (1) is suspended for the duration of the period contemplated in subregulation (1).
- (3) Subregulation (1) and (2) only apply to the restricted area as defined in regulation 1 of the Stage 3 State of Emergency Regulations: Erongo Region.

14. Effect of suspension of operation of provisions of certain laws

Any suspension of a law effected by a regulation made under Article 26(5) of the Namibian Constitution and which is in force immediately before the commencement of these regulations in any part of Namibia and which is similar to a suspension effected by these regulations is deemed to continue without interruption.