

Namibia

## Departure from Namibia Regulation Act, 1955

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Republic of Namibia  
Annotated Statutes

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## Departure from Namibia Regulation Act, 1955

### Act 34 of 1955

Published in [South African Government Gazette no. 5509](#) on 1 July 1955

**Assented to on 8 June 1955**

**Commenced on 1 July 1955**

*[Up to date as at 17 September 2021]*

*[Amended by [Commonwealth Relations Act, 1962 \(Act 69 of 1962\)](#) on 1 July 1963]*

*[Amended by [Residence in the Republic Regulation Act, 1964 \(Act 23 of 1964\)](#) on 13 March 1964]*

*[Amended by [Border Control Act, 1967 \(Act 61 of 1967\)](#) on 1 February 1969]*

*[Amended by [Admission of Persons to and Departure from the Republic Regulation Amendment Act, 1969 \(Act 38 of 1969\)](#) on 30 April 1969]*

*[Amended by [Departure from the Union Regulation Amendment Act, 1979 \(Act 7 of 1979\)](#) on 14 March 1979]*

*[Amended by [Aliens and Immigration Laws Amendment Act, 1984 \(Act 49 of 1984\)](#) on 18 June 1984]*

*[Amended by [Transfer of Powers and Duties of the State President Act, 1986 \(Act 97 of 1986\)](#) on 3 October 1986]*

*[Amended by [Departure from Namibia Regulation Amendment Act, 1993 \(Act 4 of 1993\)](#) on 22 September 1994]*

*[APPLICABILITY TO SOUTH WEST AFRICA: Section 1 originally defined “Union” to include “the territory of South West Africa”. Section 10 of the original Act stated “This Act shall apply also in the territory of South-West Africa.” Section 10, as amended by Act 69 of 1962, stated “This Act and any amendment thereof shall apply also in the territory of South West Africa, including that portion thereof known as the Eastern Caprivi Zipfel.” These provisions were repealed after Namibian independence.]*

*[TRANSFER TO SOUTH WEST AFRICA: The relevant Transfer Proclamation is the Executive Powers (Interior) Transfer Proclamation, AG 17 of 1978, dated 30 March 1978. However, section 3(1)(6) of this Proclamation excluded the Act from the operation of section 3(1) of the General Proclamation Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977, meaning that the administration of the Act was not transferred to South West Africa. Thus, amendments to the Act in South Africa continued to apply to South West Africa by virtue of section 10 of the Act (as amended by Act 69 of 1962).]*

ACT

**To regulate the departure of persons from Namibia and to provide for matters incidental thereto.**

*[long title substituted by Act 4 of 1993; not all of the changes are indicated by amendment markings]*

(Afrikaans text signed by the Governor-General)

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:-

*[Act 4 of 1993 makes the following substitutions throughout the Act: (a) "Namibia" for the expression "the Union"; (b) "Minister" for "Minister of Internal Affairs" and "said Minister"; and (c) "Permanent Secretary" for "Secretary for the Interior" and "said Secretary".]*

## 1. Definitions

In this Act, unless the context otherwise indicates -

"**Minister**" means the Minister of Home Affairs;

*[definition of "Minister" inserted by Act 4 of 1993]*

"**passport**" means any passport or other travel document of identity issued -

- (a) to a person on behalf of the Government of Namibia;
- (b) on behalf of the government of any country recognized by the Government of Namibia, to a person who is a citizen of the country concerned, but not also a Namibian citizen;
- (c) on behalf of any international organization of which Namibia is a member, to a person who is not a Namibian citizen,

and which contains a personal description of such person, the name of the country in which he or she was born and the date of his or her birth, and to which a photograph of such person is attached in which all the features or his or her face are clearly and correctly depicted;

*[definition of "passport" amended by Act 49 of 1984 and substituted by Act 4 of 1993]*

"**Permanent Secretary**" means the Permanent Secretary: Home Affairs;

*[definition of "Permanent Secretary" inserted by Act 4 of 1993]*

"**permit**" means a permit issued under section five and which has not lapsed or been withdrawn in terms of that section;

"**port**" means -

- (a) any place on the coast of Namibia;
- (b) any railway station or place in Namibia at or near any of the borders thereof; or
- (c) any airport or aerodrome in Namibia,

where an immigration officer is stationed.

*[definition of "port" inserted by Act 61 of 1967 and substituted by Act 4 of 1993]*

*[definition of "Union" deleted by Act 4 of 1993]*

## 2. Prohibition of departure from Namibia without passport or permit at a place other than a port

No person shall leave Namibia for the purpose of proceeding to another country -

- (a) unless such person is, at the time when he or she leaves Namibia, in possession of a valid passport or a permit; or
- (b) unless, if such person is a person under the age of 16 years who does not hold a passport issued to himself or herself, he or she is accompanied by his or her parent who holds a passport in which his or her name was entered on behalf of the Government of Namibia or a government recognized by the Government of Namibia; and
- (c) except at a port where such person shall appear before an immigration officer as defined in section 1 of the Immigration Control Act, 1993, unless such person's passport or permit bears an endorsement, or he or she is in possession of a document issued to him or her by a person authorized thereto by the Minister or such an immigration officer, to leave Namibia at a place other than a port and for such purposes and during such period as may be set forth in that endorsement or document.

*[section 2 amended by Act 69 of 1962, substituted by Act 61 of 1967, amended by Act 7 of 1979 and by Act 49 of 1984, and substituted by Act 4 of 1993]*

### **3. Prohibition of conveyance from Namibia of persons not in possession of passports or permits or via places other than ports**

No person shall convey from any place in Namibia to another country, any person proceeding to another country in contravention of the provisions of section 2.

*[section 3 amended by Act 69 of 1962, substituted by Act 61 of 1967, and amended by Act 7 of 1979 and by Act 4 of 1993]*

### **4. Prohibition of rendering assistance to persons to leave Union without passports or permits at places other than ports**

No person shall in any manner whatsoever assist any other person to leave Namibia for the purpose of proceeding to another country in contravention of the provisions of section 2

*[Section 4 is amended by Act 69 of 1962, substituted by Act 61 of 1967, and amended by Act 7 of 1979 and by Act 4 of 1993. The word "Union" in the heading should be "Namibia"; however, Act 4 of 1993 directs only that "Namibia" be substituted for the phrase "the Union".]*

### **5. Permit to leave Namibia**

- (1) The Permanent Secretary or any person authorized thereto by the Permanent Secretary, may issue to any person over the age of sixteen years who applies therefor in the form prescribed by the Permanent Secretary and who pays the fee prescribed therefor, a permit to leave Namibia: Provided that the Permanent Secretary or any person authorized by him as aforesaid shall issue such a permit to any person who satisfies him that he intends to leave Namibia permanently.
- (2) Any person whose application for a permit under subsection (1) is refused by the Permanent Secretary or any person authorized by him as aforesaid, may, within one month after being notified of such refusal, appeal in writing against such refusal to the Minister of the Interior.  
  
*[Act 4 of 1993 directs that "Minister" be substituted for "Minister of Internal Affairs", but there is no direction to make any substitution for "Minister of the Interior".]*
- (3) The Minister may confirm the refusal of the Permanent Secretary or other authorized person or may direct that a permit to leave Namibia be issued to the applicant.
- (4) A permit under this section may be issued for such period of not exceeding five years as the Permanent Secretary may in each case determine, and any permit so issued shall lapse on the expiration of the period for which it has been issued.
- (5) The Minister may at any time by written notice to the holder thereof withdraw any permit issued to him

under this section, and may in such notice call upon such holder to return to the Minister the said permit within a period specified in the notice.

- (6) A permit issued to any person by reason of the fact that he intends to leave Namibia permanently, shall be endorsed accordingly.
- (7) The Permanent Secretary shall keep or cause to be kept duplicate copies of all permits issued under this section and any such copy shall on its mere production in any prosecution under this Act, be prima facie proof of the contents thereof.
- (8)
  - (a) The Minister may from time to time in consultation with the Minister of Finance prescribe by notice in the Gazette the fees payable in respect of any permit issued under this section.
  - (b) The Minister may prescribe different fees in respect of permits issued for different periods or for permits endorsed in terms of sub-section (6).

*[section 5 amended by Act 4 of 1993]*

## **6. Return by person who has a permit to leave Namibia permanently**

Any person to whom a permit endorsed as provided in section 5(6) has been issued and who has left Namibia for the purpose of proceeding to another country, shall

- (a) if he thereafter returns to Namibia, be deemed, for the purposes of section 2, to have left Namibia without a valid passport or a permit;
- (b) for all purposes become a prohibited immigrant within the meaning of the Immigration Control Act, 1993, in Namibia with effect from the time he or she left Namibia.

*[section 6 amended by Act 69 of 1962, substituted by Act 23 of 1964, and amended by Act 7 of 1979 and by Act 4 of 1993]*

## **6A. Notification of departure of non-citizens in case of ships**

- (1) The master of any ship embarking passengers for a destination outside Namibia, at any port in Namibia, shall furnish to an immigration officer, in such manner as may be determined by the Minister, a return giving the particulars so determined with respect to any passenger who is not a Namibian citizen, and every passenger shall upon demand furnish to the master of the ship any information required by him or her for the purposes of such return.
- (2) Every person departing from Namibia shall furnish to such immigration officer and in such manner as may be so determined a return giving the particulars so determined with respect to himself or herself.

*[section 6A inserted by Act 4 of 1993]*

## **7. Presumptions**

If in any prosecution for a contravention of section 2 it is proved that the accused left Namibia, it shall be presumed, until the contrary is proved, that he left Namibia for the purpose of proceeding to another country.

*[section 7 amended by Act 69 of 1962, Act 7 of 1979 and Act 4 of 1993]*

## **8. Penalties**

- (1) Any person who contravenes any provision of this Act or who fails to comply with a notice under sub-section (5) of section five, shall be guilty of an offence and liable on conviction -
  - (a) in the case of a contravention of section 2, to a fine not exceeding R10 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment;

*[paragraph (a) amended by Act 49 of 1984]*

- (b) in the case of a contravention of section 3 or 4, to a fine not exceeding R5 000 or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment;

*[paragraph (b) amended by Act 49 of 1984; not all of the changes are indicated by amendment markings]*

- (c) in the case of a failure to comply with a notice under subsection (5) of section 5, or of a contravention of section 6A or failure to comply with that section, to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

*[paragraph (c) amended by Act 49 of 1984 and by Act 4 of 1993]*

- (2) The registrar or clerk of any court convicting any air carrier of a contravention of section 3 shall within fourteen days after such conviction furnish the Permanent Secretary: Works, Transport and Communication with full particulars relating to such conviction.

*[subsection (2) amended by Act 4 of 1993]*

- (3) It shall in any prosecution for a contravention of the provisions of section three or four, be a defence if the accused proves that he did not know or had no reason to believe and could not reasonably ascertain that the person whom he is alleged to have conveyed or assisted in contravention of the said provisions, was over the age of sixteen years or not in possession of a valid passport or a permit or that any document in possession of such a person was not a valid passport or a permit.

- (4) *[subsection (4) deleted by Act 4 of 1993]*

## 9. Exemptions

- (1) The passport or permit prescribed by section 2 shall not be required in the case of any person who
- (a) leaves Namibia as a member of the crew of any ship, aircraft or other public vehicle and who was a member of such crew when he last entered the Union and remained a member of such crew while he was in Namibia;
- (b) is a passenger on board any ship calling at a Namibian port.

*[subsection (1) amended by Act 4 of 1993]*

- (2) The Minister or any officer, or any officer belonging to a class of officers, in the public service authorized thereto by the Minister, may from time to time exempt any person or any class of persons from all or any of the provisions of this Act for a specified or unspecified period and either unconditionally or subject to such conditions as the Minister or such officer, as the case may be, may impose.

*[subsection (2) amended by Act 49 of 1984 and by Act 4 of 1993]*

- (3) The Minister or an officer contemplated in subsection (2) may exclude from any exemption granted to a class of persons under subsection (2) any person belonging to that class.

*[subsection (3) amended by Act 49 of 1984 and by Act 4 of 1993]*

- (4) The Minister or an officer referred to in subsection (2) may withdraw any exemption granted under that subsection to any class of persons or to any person, whether as an individual or as a member of a class of persons.

*[subsection (4) amended by Act 49 of 1984 and by Act 4 of 1993]*

*[section 9 substituted by Act 61 of 1967]*

## 9A. Regulations

- (1) The Minister may make regulations prescribing the steps to be taken to prevent the departure from Namibia of a person not in possession of a valid passport or permit, and generally for the better

achievement of the objects and purposes of this Act.

*[subsection (1) amended by Act 97 of 1986 and by Act 4 of 1993]*

- (2) Any regulations made under subsection (1) may prescribe penalties for any contravention thereof or failure to comply therewith not exceeding the penalty mentioned in section 8(1)(c).

*[section 9A inserted by Act 38 of 1969]*

## 10. \*\*\*

*[section 10 amended by Act 69 of 1962 and deleted by Act 4 of 1993]*

## 11. Short title

This Act shall be called the Departure from Namibia Regulation Act, 1955.

*[section 11 amended by Act 4 of 1993]*

*[Section 11 of Act 4 of 1993 provides the following transitional provision: "Anything done before the commencement of this Act [Act 4 of 1993] under a provision of the principal Act shall be deemed to have been done under any such provision, as amended by this Act."]*