



Republic of Namibia
Annotated Statutes

Commissions Act 8 of 1947 (SA)

(SA GG 3800)

brought into force in South West Africa on 29 August 1980
by RSA Proc. R.149/1980 (RSA GG 7199), which inserted section 6A

APPLICABILITY TO SOUTH WEST AFRICA: Section 6A(1), inserted by RSA Proc. R.149 of 1980 with effect from 29 August 1980, states “This Act shall apply also in the Territory of South West Africa, including the Eastern Caprivi Zipfel.” This wording did not make amendments to the Act after 29 August 1980 automatically applicable to South West Africa. However, in any event, there were no amendments to the Act in South Africa after that date and prior to Namibian independence.

TRANSFER TO SOUTH WEST AFRICA: The Administrator-General acquired authority to administer this Act in South West Africa by virtue of RSA Proc. R.149 of 1980. This Proclamation 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. In any event, there were no amendments to the Act in South Africa after the date when RSA Proc. R.149 of 1980 came into force (29 August 1980) and prior to Namibian independence.

as amended by

General Law Amendment Act 80 of 1964 (RSA) (RSA GG 829)

came into force on date of publication: 24 June 1964

General Law Amendment Act 102 of 1967 (RSA) (RSA GG 1771)

came into force on date of publication: 21 June 1967

Commissions Amendment Proclamation,

RSA Proc. R.149 of 1980 (RSA GG 7199)

under the authority of section 38 of the South West Africa Constitution Act 39 of 1968;

came into force on date of publication: 29 August 1980

ACT

To make provision for conferring certain powers on commissions appointed by the Governor-General for the purpose of investigating matters of public concern, and to provide for matters incidental thereto.

(Afrikaans Text signed by the Governor-General)

(Assented to 1st April, 1947)

ARRANGEMENT OF SECTIONS

1. Application of this Act with reference to commissions appointed by the Governor-General
2. Commission's sittings
3. Commission's powers as to witnesses
4. Sittings to be public
5. Hindering or obstructing a commission
6. Offences by witnesses
- 6A. Application of this Act in South West Africa
7. Short title

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

[The Republic of South Africa Constitution Act 32 of 1961 provided in Article 3 that as from 31 May 1961, any reference to the Union of South Africa in any law in force in the Union of South Africa or in any other territory in respect of which Parliament is competent to legislate shall be construed as a reference to the Republic, and a reference to the Governor-General shall be construed as a reference to the Republic or the State President as the circumstances may require.]

Application of this Act with reference to commissions appointed by the Governor-General

1. (1) Whenever the Governor-General or the Administrator-General has, before or after the commencement of this Act, appointed a commission (hereinafter referred to as a "commission") for the purpose of investigating a matter of public concern, he may by proclamation in the *Gazette*

[The introductory phrase of subsection (1) is "deemed to be amended" by section 6A(2) of this Act, inserted by RSA Proc. R.149 of 1980.]

- (a) declare the provisions of this Act or any other law to be applicable with reference to such commission, subject to such modifications and exceptions as he may specify in such proclamation; and

[paragraph (a) inserted by Act 80 of 1964]

- (b) make regulations with reference to such commission -
- (i) conferring additional powers on the commission;
 - (ii) providing for the manner of holding or the procedure to be followed at the investigation or for the preservation of secrecy;
 - (iii) which he may deem necessary or expedient to prevent the commission or a member of the commission from being insulted, disparaged or belittled or to prevent the proceedings or findings of the commission from being prejudiced, influenced or anticipated;
 - (iv) providing generally for all matters which he considers it necessary or expedient to prescribe for the purposes of the investigation.

[paragraph (b) inserted by Act 80 of 1964 and substituted by Act 102 of 1967]

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(2) Any regulation made under paragraph (b) of subsection (1) may provide for penalties for any contravention thereof or failure to comply therewith, by way of -

- (a) in the case of a regulation referred to in subparagraph (i), (ii) or (iv) of the said paragraph, a fine not exceeding two hundred rand or imprisonment for a period not exceeding six months;
- (b) in the case of a regulation referred to in subparagraph (iii) of the said paragraph, a fine not exceeding one thousand rand or imprisonment for a period not exceeding one year.

[subsection (2) inserted by Act 80 of 1964 and substituted by Act 102 of 1967]

(3) Notwithstanding anything to the contrary in any other law contained, a magistrate's court shall have jurisdiction to impose any penalty prescribed by any such regulation.

[subsection (3) inserted by Act 102 of 1967]

Commission's sittings

2. A commission may sit at any place in the Union or the mandated territory of South-West Africa for the purpose of hearing evidence or addresses or of deliberating.

Commission's powers as to witnesses

3. (1) For the purpose of ascertaining any matter relating to the subject of its investigations, a commission shall in the Union have the powers which a Provincial Division of the Supreme Court of South Africa has within its province, and in the mandated territory of South-West Africa have the powers which the High Court of that territory has, to summon witnesses, to cause an oath or affirmation to be administered to them, to examine them, and to call for the production of books, documents and objects.

(2) A summons for the attendance of a witness or for the production of any book, document or object before a commission shall be signed and issued by the secretary of the commission in a form prescribed by the chairman of the commission and shall be served in the same manner as a summons for the attendance of a witness at a criminal trial in a superior court at the place where the attendance or production is to take place.

(3) If required to do so by the chairman of a commission a witness shall, before giving evidence, take an oath or make an affirmation, which oath or affirmation shall be administered by the chairman of the commission or such official of the commission as the chairman may designate.

(4) Any person who has been summoned to attend any sitting of a commission as a witness or who has given evidence before a commission shall be entitled to the same witness fees from public funds, as if he had been summoned to attend or had given evidence at a criminal trial in a superior court held at the place of such sitting, and in connection with the giving of any evidence or the production of any book or document before a commission, the law relating to privilege as applicable to a witness giving evidence or summoned to produce a book or document in such a court, shall apply.

Sittings to be public

4. All the evidence and addresses heard by a commission shall be heard in public: Provided that the chairman of the commission may, in his discretion, exclude from the place where such evidence is to be given or such address is to be delivered any class of persons or all

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persons whose presence at the hearing of such evidence or address is, in his opinion, not necessary or desirable.

Hindering or obstructing a commission

5. Any person who wilfully interrupts the proceedings of a commission or who wilfully hinders or obstructs a commission in the performance of its functions shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

[A fine not exceeding fifty pounds is equivalent to a fine not exceeding N\$100.]

Offences by witnesses

6. (1) Any person summoned to attend and give evidence or to produce any book, document or object before a commission who, without sufficient cause (the onus of proof whereof shall rest upon him) fails to attend at the time and place specified in the summons, or to remain in attendance until the conclusion of the enquiry or until he is excused by the chairman of the commission from further attendance, or having attended, refuses to be sworn or to make affirmation as a witness after he has been required by the chairman of the commission to do so or, having been sworn or having made affirmation, fails to answer fully and satisfactorily any question lawfully put to him, or fails to produce any book, document or object in his possession or custody or under his control, which he has been summoned to produce, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

[A fine not exceeding fifty pounds is equivalent to a fine not exceeding N\$100.]

(2) Any person who after having been sworn or having made affirmation, gives false evidence before a commission on any matter, knowing such evidence to be false or not knowing or believing it to be true, shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding twelve months, or to both such fine and imprisonment.

[A fine not exceeding one hundred pounds is equivalent to a fine not exceeding N\$200.]

Application of this Act in South West Africa

6A. (1) This Act shall apply also in the Territory of South West Africa, including the Eastern Caprivi Zipfel.

(2) Section 1 shall be deemed to be amended by the insertion in subsection (1) before the word "has" of the words "or the Administrator-General".

(3) Anything which may be done under section 1, as it is deemed to be amended in terms of subsection (2) of this section, by the Administrator-General by Proclamation, shall be done by him in the *Official Gazette* of the Territory of South West Africa.

(4) Anything done in terms of subsection (3) by proclamation in the said *Official Gazette*, shall be deemed to have been done by proclamation in the *Gazette*.

[section 6A inserted by RSA Proc. R.149 of 1980]

Short title

7. This Act shall be called the Commissions Act, 1947.