



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 7

1990

PROMULGATION OF ACT OF THE NATIONAL ASSEMBLY

The following Act which has been passed by the National Assembly and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

- No. 3 of 1990: Territorial Sea and Exclusive Economic Zone of Namibia Act,
1990.
-

Act No. 3, 1990

**TERRITORIAL SEA AND EXCLUSIVE
ECONOMIC ZONE OF NAMIBIA ACT, 1990**

EXPLANATORY NOTE:

_____ Words underlined with solid line indicate insertions proposed.

[] Words in bold type in square brackets indicate omissions proposed.

ACT

To determine and define the territorial sea, internal waters, exclusive economic zone and continental shelf of Namibia; and to provide for matters incidental thereto.

(Signed by the President on 6 June 1990)

BE IT ENACTED by the National Assembly of the Republic of Namibia, as follows:-

Definitions.

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

“Convention” means the United Nations Convention on the Law of the Sea, 1982, adopted on 30 April 1982 by the United Nations Conference on the Law of the Sea;

“low water line” means the line of lowest astronomical tide;

“Namibia” means the Republic of Namibia as defined in Article 1 (4) of the Namibian Constitution, and in relation to any right or power, the authority in which the right or power in question or a right or power of the nature in question is vested;

“nautical mile” means the international nautical mile of 1 852 metres.

Territorial sea of Namibia.

2. (1) The sea within a distance of 12 nautical miles measured from the low water line shall be the territorial sea of Namibia.

(2) (a) In determining the extent of the territorial sea of Namibia due regard shall be had to the rules embodied in the Convention, or as it may from time to time be embodied in any international convention binding on Namibia, and, with due regard

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to the said international rules, base lines other than the low water line from which the 12 nautical miles contemplated in subsection (1) are to be measured, may be recognized by Namibia;

(b) Any base line referred to in this section may be marked or indicated by appropriate symbols on scale charts officially recognized by Namibia;

(c) In any proceedings before a court of law any chart referred to in paragraph (b), shall be *prima facie* evidence of the matters referred to therein.

(3) Any law in force in Namibia at the commencement of this Act relating to territorial waters or to the sea within a specified distance but less than 12 nautical miles from the low water mark, shall apply within the territorial sea of Namibia, and any reference in any such law to the territorial waters or low water mark shall be deemed to be a reference to the territorial sea or low water line as defined in this Act, respectively.

Internal waters of
Namibia.

3. (1) The waters landward from its low water line or any other base line from which the territorial sea was measured, shall form part of the internal waters of Namibia.

(2) The provisions of subsection (1) shall be in addition to and not in substitution for any other law relating to or defining the internal waters of Namibia.

Exclusive economic zone
of Namibia.

4. (1) The sea outside the territorial sea of Namibia but within a distance of two hundred nautical miles from the low water line or any other base line from which the territorial sea was measured shall constitute the exclusive economic zone of Namibia.

(2) In determining the extent of the exclusive economic zone the provisions of section 2 (2) shall *mutatis mutandis* apply.

(3) Within the exclusive economic zone -

(a) any law of Namibia which relates to the exploitation, exploration, conservation or management of the natural resources of the sea, whether living or non-living, shall apply;

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(b) Namibia shall have the right to exercise any powers which it may consider necessary to prevent the contravention of any fiscal law or any law relating to customs, immigration, health or the natural resources of the sea.

(4) Any law in force in Namibia at the commencement of this Act relating to any fishing zone, shall apply within the exclusive economic zone of Namibia, and any reference in any such law to any fishing zone shall be deemed to be a reference to the exclusive economic zone as defined in this Act.

Delimitation of territorial sea or exclusive economic zone.

5. If, in determining the extent of the territorial sea or exclusive economic zone of Namibia or after having so determined it, it infringes or overlaps with the territorial sea, exclusive economic zone or any other maritime zone, as the case may be, of any other State, the extent of the territorial sea or exclusive economic zone of Namibia may be determined or altered by agreement with the State concerned, and pending the conclusion of such an agreement or if no such agreement can be reached, the extent of the territorial sea or exclusive economic zone of Namibia, as the case may be, may be determined or altered by Namibia as it deems fit.

Continental shelf of Namibia.

6. (1) The continental shelf as defined in the Convention, or as it may from time to time be defined by international convention and binding on Namibia, shall be the continental shelf of Namibia.

(2) The continental shelf referred to in subsection (1) shall be regarded as part of Namibia and shall for the purposes of -

- (a) the exploitation of the natural resources of the sea; and
- (b) any provision of any law relating to mining, precious stones, metals or minerals, including natural oil, which applies in that part of Namibia which adjoins the continental shelf,

be deemed to be State land.

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Repeal or amendment of laws.

7. The laws specified in the Schedule are hereby repealed or amended to the extent set out in the third column of the Schedule.

Short title and commencement.

8. This Act shall be called the Territorial Sea and Exclusive Economic Zone of Namibia Act, 1990, and shall come into operation on a date to be determined by the President by proclamation in the *Gazette*.

SCHEDULE

LAWS REPEALED OR AMENDED

(Section 7)

No. and Year	Short title	Extent of repeal of amendment
Act 58 of 1973.	Sea Fisheries Act, 1973.	<p>(a) The substitution for section 17 of the following section:</p> <p>“Forfeiture and seizure.</p> <p style="margin-left: 40px;">17. (1) <u>The court convicting any person of any offence in terms of this Act may, in addition to any other penalty it may impose, declare any fish, sea-weed, shells or implement or any fishing boat or other vessel or vehicle in respect of which the offence was committed or which was used in connection with the commission thereof, or any rights of the convicted person thereto, to be forfeited to the State, and cancel or suspend for such period as the court may think fit, any registration done in respect of the convicted person or any licence or permit issued or granted to such person in terms of this Act: Provided that such a declaration of forfeiture shall not</u></p>

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affect any rights which any person other than the convicted person may have to such implement, boat, vessel or vehicle, if it is proved that such other person took all reasonable steps to prevent the use thereof in connection with the offence.

(2) The provisions of section 35 (3) and (4) of the Criminal Procedure Act, 1977 (Act 51 of 1977), shall *mutatis mutandis* apply in respect of any such rights.

(3) Any fish, seaweed, shells, boat, vessel, vehicle or implement or any right thereto forfeited to the State under the provisions of this section or section 6 (6), may be sold or destroyed or may be dealt with in such other manner as the President may direct."

(b) the amendment of section 22A -

(i) by the substitution in subsection (4) for the amount "R50 000" of the words "one million rand";

(ii) by the deletion in subsection (4) of the expression "or to imprisonment for a period not exceeding 7 years or to both such fine and such imprisonment."; and

(iii) by the substitution for subsection (5) of the following subsection:

"(5) (a) The President may by notice in the *Gazette* make regulations in respect of vessels authorized in terms of subsection (2), relating to any of the matters referred to in sections 10 (1), 11 (a), (b)

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and (e) and 13 (1) (a), (c), (d), (f),
(g), (h), (i), (j), (l), (m) and (n)
of this Act.

(b) Different regulations may
under paragraph (a) be made in
respect of different vessels or
vessels of different foreign States
or in respect of different species
of fish or fish products.

(c) Any person using a vessel
authorized in terms of subsection
(2) in contravention of or with-
out complying with any regula-
tion referred to in paragraph (a)
of this subsection, shall be guilty
of an offence and liable on con-
viction to the penalty prescribed
in subsection (4)."

Proclamation AG.
32 of 1979.

Territorial Waters
of South West Afri-
ca Proclamation,
1979.

The repeal of the whole.