

Namibia

Namibian Constitution

Stage 3: COVID-19 Regulations: Erongo Region

Proclamation 39 of 2020

Legislation as at 22 July 2020

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Stage 3: COVID-19 Regulations: Erongo Region

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Republic of Namibia
Annotated Statutes

Namibian Constitution

Stage 3: COVID-19 Regulations: Erongo Region

Proclamation 39 of 2020

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Assented to on 22 July 2020

Commenced on 22 July 2020

[This is the version of this document as it was from 22 July 2020 to 2 August 2020.]

[Repealed by [Stage 3: COVID-19 Regulations \(Proclamation 46 of 2020\)](#) on 13 August 2020]

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) -

(a) make the regulations set out in the Schedule; and

(b) repeal the Stage 3: State of Emergency - Covid-19 Regulations published under Proclamation No. 32 of 6 July 2020.

Given under my Hand and the Seal of the Republic of Namibia at Windhoek, this 22nd day of July, Two Thousand and Twenty.

Hage G. Geingob

President

By order of the President

1. Definitions

In these regulations -

"authorised officer" means -

- (a) the Director referred to in section 32 of the Disaster Risk Management Act, 2012 (Act [No. 10 of 2012](#));
- (b) a member of the Namibian Police as defined in section 1 of the Police Act, 1990 (Act [No. 19 of 1990](#));
- (c) a member of the municipal police service referred to in section 43C of the Police Act, 1990 (Act [No. 19 of 1990](#));

- (d) a member of the Defence Force as defined in section 1 of the Defence Act, 2002 (Act [No. 1 of 2002](#));
- (e) a correctional officer as defined in section 1 of the Correctional Service Act, 2012 (Act [No. 9 of 2012](#));
- (f) an immigration officer as defined in section 1 of the Immigration Control Act, 1993 (Act [No. 7 of 1993](#));
- (g) an officer as defined in section 1 of the Customs and Excise Act, 1998 (Act [No. 20 of 1998](#)) charged with the responsibility of enforcing the customs and excise legislation; and
- (h) any other staff member designated or person appointed as an authorised officer under section 32 of the Disaster Risk Management Act, 2012 (Act [No. 10 of 2012](#));

"COVID-19" means the coronavirus disease of 2019 which is caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);

"critical services" means the services listed as critical services in Annexure A;

"Erongo region" means the Erongo region specified in Column 2 of Schedule 1 to the Regional Councils Act, 1992 (Act [No. 22 of 1992](#));

"essential goods" means the goods listed as essential goods in Annexure B;

"head of the institution" means the administrative head of a public institution and the chief executive officer or the equivalent of a chief executive officer of a private institution;

"higher education institution" means a higher education institution as defined in section 1 of the Higher Education Act, 2003 (Act [No. 26 of 2003](#));

"liquor" means any spirits, wine, beer, cider or other beverage, including a traditional beverage which contains alcohol, and intended for human consumption but excludes any substance that contains alcohol but used or is intended to be used for medicinal purposes;

"mask" means a covering made of any suitable material that is worn on and around a person's nose and mouth so as to fully cover that person's nose and mouth for purposes of preventing the transmission of the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);

"restricted area" means the local authority areas of Arandis, Swakopmund and Walvis Bay including the portion of the main tarred road that connects the local authority areas of Arandis and Swakopmund and which portion is situated outside these two local authority areas, as well as the strips of land of five kilometers on either side of that portion of the road;

"school" means a school as defined in section 1 of the Education Act, 2001 (Act [No. 16 of 2001](#));

"specified period" means the period referred to in regulation 3 and indicating Stage 3 of the State of Emergency as determined by Cabinet; and

"vulnerable employee" means a pregnant employee, an employee who is a nursing mother, an employee with a pre-existing condition such as a heart disease, high blood pressure, respiratory problems, obesity, diabetes, tuberculosis or a condition which might compromise the immune system of the employee.

2. Application of regulations

- (1) Except where otherwise indicated, these regulations apply to the whole of the Erongo region during the specified period.
- (2) If there is a conflict between the provisions of these regulations and any other law the provisions of these regulations prevail: Provided that any later regulations made under Article 26 (5) of the Namibian Constitution will prevail if they are in conflict with these regulations.

3. Specified period

The specified period starts at 00:00 of the day on which these regulations come into operation and ends at 24:00 on 3 August 2020.

4. Restrictions on learning in Erongo region

- (1) During the specified period all schools, higher education institutions and other educational institutions in the restricted area must remain closed, except that schools and other educational institutions providing education at grade 11 and 12 levels may resume face to face learning from 22 July 2020.
- (2) In the Erongo region, excluding the restricted area, during the specified period -
 - (a) schools and educational institutions providing early childhood development learning, pre-primary learning and primary education at grade one to three and grade seven levels, or secondary education at grade nine, 11 and 12 levels may continue face to face learning;
 - (b) schools and educational institutions providing primary education at grade four, five and six levels and secondary education at grade eight and 10 levels must remain closed but may resume face to face learning on 3 August 2020.
- (3) The closure of schools, higher education institutions and other educational institutions contemplated in subregulation (1) and (2) does not prevent -
 - (a) in the case of a state school, the relevant minister responsible for education; and
 - (b) in any other case, the governing body of the school or institution in question,from employing other alternative forms of learning that do not involve the physical presence of learners or students at the schools or institutions.
- (4) Every head of a school, higher educational institution and other institution referred to in subregulation (1) and (2) must ensure that all persons accessing the premises and services of the school, higher educational institution and other institutions concerned at all times adhere to the measures to combat, prevent and suppress the spread of COVID-19 as specified in and under these regulations.

5. Wearing of masks

- (1) During the specified period every person must wear a mask whenever he or she is at or in a public place.
- (2) During the specified period, wearing of a see-through face shield is permitted, provided that a mask is worn together with the face shield.
- (3) An authorised officer may instruct a person who is not wearing a mask as contemplated in subregulation (1) or (2) to wear a mask or to leave the public place.
- (4) A person who fails or refuses to comply with an instruction given under subregulation (3) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

6. Gatherings

- (1) For the purpose of this regulation, "gathering", in relation to -
 - (a) the restricted area means a group of more than 10 persons; and

- (b) the Erongo region, except for the restricted area, means a group of more than 50 persons, who meet for a common purpose.
- (2) During the specified period, all gatherings are prohibited, except where -
 - (a) all persons at the gathering are members of the same household gathered at their place of residence;
 - (b) persons are gathered at their workplace;
 - (c) the gathering is by a government institution at national, regional or local level or the Cabinet or the Parliament for purposes of its normal operations;
 - (d) the gathering is for purposes of court or tribunal proceedings; or
 - (e) a group of persons independently or coincidentally find themselves at a specific place.
- (3) Persons who gather in the circumstances referred to in subregulation (2) must at all times adhere to the measures to combat, prevent and suppress the spread of COVID-19 as specified in and under these regulations.
- (4) An authorised officer may instruct a gathering, other than a gathering referred to in subregulation (2), to disperse and may use all reasonable measures to cause a gathering or group to disperse.
- (5) The person organising or hosting a gathering permitted in terms of this regulation, (except a gathering referred to in subregulation (2)(a) and (2)(e)) must -
 - (a) open and maintain a register of the persons who attend the gathering; or
 - (b) ensure that the register of the persons referred to in paragraph (a) is opened and maintained, for the purpose of recording the particulars of persons who attend the gathering.
- (6) The persons who are required to open and maintain a register in accordance with subregulation (5) must -
 - (a) keep the register in a safe place for the duration of the State of Emergency;
 - (b) on request, make the register available for inspection by an authorised officer; and
 - (c) treat the information provided under this regulation as confidential, and may not disclose that information to any other person except as provided in paragraph (b) or when required to so disclose it in terms of any law or by a court.
- (7) The register referred to in subregulation (5) must contain the full name, identification number or passport number and telephone number or cellular phone number of each person who attended the gathering.
- (8) A person who -
 - (a) facilitates, instigates or organises a gathering, except a gathering permitted by subregulation (2);
 - (b) fails or refuses to obey an instruction issued under subregulation (4); or
 - (c) fails or refuses to comply with subregulation (5) or (6),commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment not exceeding six months or to both such fine and such imprisonment.

7. Restrictions relating to liquor

- (1) For the purposes of this regulation, a term defined in the Liquor Act, 1998 (Act [No. 6 of 1998](#)), except for the word "liquor", bears that meaning and any licence issued under that Act authorising

the sale of light liquor is construed to authorise the sale of anything which is outside of the scope of the word "liquor" as defined in that Act, but included in the definition of "liquor" in these regulations.

- (2) During the specified period, a person may only sell liquor and a person may only purchase liquor in the Erongo region, if -
 - (a) the person who sells the liquor holds a liquor licence authorising that sale and the sale and purchase is otherwise in accordance with that licence; and
 - (b) the sale complies with subregulation (3) or (4) as the case may be,or the sale is to a licensee for the purposes of resale in accordance with the Liquor Act, 1998 (Act [No 6 of 1998](#)).
- (3) The sale of liquor in terms of an off-sales licence may -
 - (a) only take place between 12:00 and 18:00 on a week day;
 - (b) only take place between 9:00 and 13:00 on a Saturday; and
 - (c) not take place on a Sunday and on a public holiday.
- (4) Liquor sold in accordance with an on-consumption licence may only be sold by a hotel, restaurant or similar business that lawfully sells food that is intended to be consumed on the premises of the seller and the liquor is sold in relation to a meal sold to be consumed on the premises: Provided that liquor sold as contemplated in this regulation may only be sold between 12:00 and 22:00.
- (5) A person who contravenes or fails to comply with a provision of subregulation (2) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or imprisonment for a period not exceeding six months or to both such fine and such imprisonment.
- (6) An authorised officer who is a peace officer within the meaning of the Criminal Procedure Act, 1977 (Act [No. 51 of 1977](#)) may, without a warrant, seize any liquor that is suspected to have been sold or has been purchased in contravention of this regulation and the seized liquor must, subject to changes required in the context, be dealt with in accordance with the provisions of the Liquor Act, 1998 (Act [No. 6 of 1998](#)) as if it were liquor seized in terms of that Act.

8. Restrictions relating to certain businesses, operations and activities

- (1) Subject to the provisions of regulation 7 and subregulation (3), all businesses, operations and activities, except those listed in subregulation (2), are permitted, during the specified period.
- (2) During the specified period, the following businesses, operations and activities are prohibited:
 - (a) contact sports, which for purposes of this regulation refers to sports in which players may directly or indirectly have physical contact, such as rugby, boxing, football, martial arts, or wrestling;
 - (b) casinos and gambling houses; and
 - (c) nightclubs.
- (3) During the specified period, the following businesses, operations and activities are permitted subject to the condition that the people attending the event inclusive of the organisers do not exceed the applicable number of people stipulated for a gathering in regulation 6(1) and that the head of the institution or organiser keeps and maintains a register that contains the full name, identification number or passport number and telephone number or cellular phone number of each client or customer that visits the business or attends the event:
 - (a) sporting events, other than contact sports;
 - (b) entertainment events and concerts; or

- (c) seminars, conferences, workshops and summits.
- (4) Every head of an institution or the manager or person in control of any business, operation and activity which is permitted during the specified period must ensure that the persons accessing the premises and services of the business, operation or activity at all times adhere to the measures to combat, prevent and suppress the spread of COVID-19 as specified in and under these regulations.
- (5) A person who contravenes or fails to comply with the requirements of subregulation (2), (3) or (4) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

9. Additional provisions relating to workplace

- (1) Heads of institutions are encouraged to allow vulnerable employees to work from home, subject to suitable arrangements between the employer and employee.
- (2) Heads of institutions are encouraged to provide masks to their employees.
- (3) Heads of institutions must ensure that their employees at all times adhere to the measures to combat, prevent and suppress the spread of COVID-19 as specified in and under these regulations.

10. Restrictions relating to entry into and departure from Erongo region

- (1) During the specified period, a person may not -
 - (a) enter into the restricted area; or
 - (b) depart from the restricted area to any other part of Namibia,unless that person is in possession of a valid permit issued by a police officer under subregulation (3) and which permit the person must, on request by a police officer, produce to that police officer.
- (2) Subregulation (1) is not construed as preventing a person from moving within the restricted area as long as that person complies with the requirements of these regulations relating to the movement of persons or goods.
- (3) A person who wishes to enter into or depart from the restricted area, for purposes of -
 - (a) receiving essential medical treatment which cannot reasonably be performed outside or inside the restricted area as the case may be, and which cannot reasonably be postponed;
 - (b) transporting essential goods;
 - (c) performing an action necessary for the enforcement of law or public order;
 - (d) maintaining or repairing infrastructure necessary or useful for the provision of essential goods or critical services;
 - (e) performing a critical service that cannot reasonably be postponed; or
 - (f) performing any other function or doing any other thing which the police officer considers sufficient to warrant the entering into or departing from the restricted area with due consideration of the fact that travel to and from the restricted area must be minimised,may request a police officer nearest to that person or at the point of entry into or exit from the restricted area, to issue a permit authorising entry into or departure from the area.
- (4) A permit referred to in subregulation (3), may contain conditions relating to -
 - (a) the entering of quarantine facilities at a designated place;
 - (b) having a specified test taken at a specified place; and

- (c) entering isolation facilities if the result of the test indicates that the person is infected with COVID-19.
- (5) The Inspector-General of the Namibian Police may after consultation with the Executive Director of the Ministry of Health and Social Services issue directives to police officers relating to the issuing of permits, which directives must be consistent with these regulations, and which Directives may require consultation with any functionary indicated therein.
- (6) During the specified period, a person entering into or departing from the Erongo region or the restricted area must, at every point where so required by an authorised officer, enter into a register kept by an authorised officer, the particulars that are specified in that register.
- (7) A person who contravenes or fails to comply with subregulation (1) or (6), or fails to comply with a condition imposed under subregulation (4), commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.
- (8) If an authorised officer finds a person under circumstances which create a reasonable suspicion that the person is likely to contravene subregulation (1) or (6), that authorised officer may instruct the person to stop the journey in question and failure to obey such an instruction is deemed to be a contravention of, or failure to comply with that subregulation, and that person is liable to the penalties provided for in subregulation (7).

11. Public transport

- (1) A person may not provide a public transport service to any passenger or transport any passenger for reward if such transport would have the effect that any such passenger contravenes regulation 10(1).
- (2) A person commits an offence if that person contravenes subregulation (1) and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

12. Offences and penalties

- (1) A person commits an offence if that person -
 - (a) not being an authorised officer, by words, conduct or demeanour falsely represents himself or herself to be an authorised officer;
 - (b) hinders, obstructs or improperly attempts to influence an authorised officer when exercising or performing a power or function conferred or imposed by or under these regulations or another law;
 - (c) furnishes or gives false or misleading information to an authorised officer; or
 - (d) does anything calculated to improperly influence an authorised officer concerning a matter connected with the functions of the authorised officer.
- (2) A person commits an offence if that person, through any form of media, including social media, knowingly or without having taken reasonable steps to ascertain the correctness of any information -
 - (a) publishes any false or misleading statement about the COVID-19 status of any person; or
 - (b) publishes any false or misleading statement, in connection with measures to combat, prevent and suppress COVID-19 as specified in and under these or other regulations made under Article 26(5) of the Namibian Constitution.

- (3) A person convicted of an offence referred to in subregulation (1) or (2) is liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

13. Savings and transitional provisions

Anything done under the provisions of the State of Emergency Regulations published under Proclamation No. 9 of 28 March 2020, the Stage 1: State of Emergency - Covid-19 Regulations: Erongo Region published under Proclamation No. 24 of 8 June 2020 or the Stage 3: State of Emergency - Covid-19 Regulations: Erongo Region published under Proclamation No. 26 of 22 June 2020, the Stage 3: State of Emergency - Covid-19 Regulations: Erongo Region published under Proclamation No. 32 of 6 July 2020 and that could have been done under these regulations is regarded as having been done under a corresponding provision of these regulations.

14. Applicability of certain provisions of State of Emergency-COVID-19 Regulations

For the purposes of regulation 2 of the Stage 4: State of Emergency Covid-19 Regulations published under Proclamation No. 33 of 14 July 2020 the specified period referred to in that regulation is deemed to refer to the specified period referred to in regulation 3.

15. Regulations to bind State

These regulations bind the State.

Annexure A

Critical services

(Regulation 1)

Part 1

1. Ambulance services
2. Casualties services
3. Operating theatre Services
4. Intensive Care Unit (ICU) services
5. Hospital Wards
6. Laboratory Services
7. Pharmaceutical services
8. Dental Services
9. Radiography services
10. Physiotherapy services
11. Mortuary services
12. Medical services including medical specialised services
13. Hospital Kitchen Services
14. Hospital laundry services

15. Emergency management services
16. Disaster management services
17. Potable water services
18. Waste water management services
19. Scientific services
20. Electricity distribution services
21. Electricity operation services
22. Electricity maintenance services
23. Electricity transmission services
24. Electricity network operation services
25. Electricity system operation services
26. Electricity system security and planning services
27. Electricity engineering services
28. Electricity energy trading services
29. Air navigation services
30. Air traffic management services
31. Communication, navigation and surveillance system services
32. Search and rescue services
33. Aeronautical information services
34. Meteorological services for air navigation services

Part 2

1. Agriculture and forestry

Agricultural production and value chains (animal husbandry, agronomic and horticulture) supply related operations, including farming, veterinary and phyto-sanitary provider services, pest control services, feed and chemical and fertilizer providers. Millers and logistics services.

2. Fishing

Harvesting of fish (including artisanal fishing other than for leisure), cultivation of fish and value chain activities relating to fish, as part of food production for Namibia and for export; maintenance of fishing vessels and maintenance of fishing processing plants.

3. Mining and quarrying

Mining and related activities to maintain mining operations including critical maintenance work on plant and equipment. Normal mining operations, including value chain activities, will be allowed.

4. Manufacturing

Manufacturing of health related products, hygiene and sanitary related products, supplies, devices, equipment, and medicines, including complementary health products and supplements; food, non-

alcoholic beverages and essential products, as well as essential inputs thereto. This includes production for exporting the same product categories. Production for disposable health and hygiene and sanitary related products, as well as for the production of packaging for essential health and food supply chains. Food, beverages and essential goods manufacturing and processing facilities, to the extent they are supporting essential or critical business continuity services to fight COVID-19.

5. Electricity, gas, steam and air conditioning supply

Public and private organisations, their staff and service providers essential to the generation, transmission and distribution of electricity, fuel, gas, steam and air conditioning will need to continue to operate. This includes local authorities and regional councils, and the suppliers of logistics, feedstock and maintenance will be required to continue to operate and provide security of electricity supply.

6. Water supply, purification, desalination, sewerage, waste management and remediation activities

Public and private organisations, their staff and service providers essential to the security of supply of bulk and potable water and sanitation must continue to operate and provide vital water and sanitation services. This includes local authorities and regional councils and those involved in the supply of materials, chemicals and related equipment.

7. Construction

Any maintenance support requirements for retailers, manufacturers producing essential goods, support to medical services; any construction that cannot be reasonably postponed; plumbing and electrical services, security installations and maintenance, water treatment and sewerage. Building of medical infrastructures and quarantine camps in support of essential goods and critical services to fight COVID-19.

8. Wholesale and retail trade, repair of motor vehicles and motorcycles

Retail, wholesale, supermarkets, the open markets and informal traders, home kiosks for food and essential goods. Essential hygiene goods include: toilet paper, cleaners, sanitizers and disinfectants, personal hygiene products, and essential supplies for those taking care of the sick and elderly and in order for people to remain healthy. All services related to the repair of motor vehicles and motorcycles to continue in as far as they are providing support to the fight against COVID-19.

9. Transportation, logistics and storage

Warehousing, transport (including courier services), distribution, cold storage and logistics for essential goods, production inputs and health related goods. This includes operations at all entry points. Humanitarian and relief functions in the fight against COVID-19 will be permitted.

10. Accommodation and food service activities

To the extent that they are supporting essential or critical business continuity services relating to the fight of the COVID-19 subject to take away and not dining in restaurants.

11. Information and communication

Communication and media services on screen, television, radio, print, broadcast and online.

12. Legal, financial, banking, social security and insurance activities

Legal, court, financial, banking and insurance services and health funders required to finance and support essential and critical business continuity and provide short term bridging finance to people and businesses during the restricted period.

13. Professional, scientific and technical activities

Professional, scientific and technical services, to the extent that they are providing support in the COVID-19 response, essential and critical services.

14. Support service activities

Private services to the extent that they are providing support in the COVID-19 response, essential and critical business continuity services.

15. Public administration, defense, safety and security

Public Office Bearers, personnel and functionaries at national, regional and local levels to the extent that they are providing support in the COVID-19 response, essential and critical business continuity services. Safety and security services protecting people and property.

16. Human health and social work activities

All centers providing life and health services; energy, food and water supply, social, transactional, communications, law and order and international critical business continuity services. Care services relating to the sick, frail, children, or other vulnerable persons, in a home or homestead; and care facilities for children of critical service workers.

17. Information communications technology

Data centers, fiber optic infrastructure, towers and antennae will need to operate at high efficiency to ensure connectivity remains stable.

Annexure B**Essential goods*****(Regulation 1)***

1. Food:
 - (a) any food product, including water and non-alcoholic beverages;
 - (b) animal food; and
 - (c) chemicals, packaging and ancillary products used in the production of any food product.
2. Cleaning and hygiene products:
 - (a) toilet paper, sanitary pads, sanitary tampons;
 - (b) hand sanitiser, disinfectants, soap, alcohol for industrial use, household cleaning products, and personal protective equipment;
 - (c) chemicals, packaging and ancillary products used in the production or preservation of any of the above;
 - (d) products for the care of children;
 - (e) personal care including but not limited to, body and face washes, roll-ons, deodorants, toothpaste and any other products ordinarily used for hygiene purposes.
3. Medical:
 - (a) medical and hospital supplies, equipment and personal protective equipment;

- (b) chemicals, packaging and ancillary products used in the production or preservation of any of the above;
 - (c) pharmaceutical supplies, including but not limited to prescribed medication; and
 - (d) contraceptives including condoms.
- 4. Fuel, including coal and gas.
- 5. Wood for cooking purposes.
- 6. Basic goods, including airtime and electricity.
- 7. Fish and fish products.
- 8. Mining products.
- 9. Coffins and related services.
- 10. Plumbing and electrical supplies.
- 11. Educational materials.
- 12. Goods necessary for the effective provision of critical services specified in Part 1 and 2 of Annexure A.