



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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#### GOVERNMENT NOTICE

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### Government Notice

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#### OFFICE OF THE PRIME MINISTER

No. 111

2005

#### PROMULGATION OF ACT OF PARLIAMENT

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

No. 10 of 2005: Animal Diseases and Parasites Amendment Act, 2005.

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**Act No. 10, 2005 ANIMAL DISEASES AND PARASITES AMENDMENT ACT, 2005****EXPLANATORY NOTE:**

\_\_\_\_\_ Words underlined with a solid line indicate insertions in existing provisions.

[ ] Words in bold type in square brackets indicate omissions from existing provisions.

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**ACT**

**To amend the Animal Diseases and Parasites Act, 1956, so as to redefine certain expressions; to prohibit the searching of the homes of individuals without a warrant; to increase penalties; and to provide for matters connected therewith.**

*(Signed by the President on 22 August 2005)*

**BE IT ENACTED** by the Parliament of the Republic of Namibia, as follows:-

**Amendment of section 1 of Act No. 13 of 1956, as amended by section 1 of Act No. 18 of 1967, section 1 of Act No. 51 of 1969, section 1 of Act No. 46 of 1970, section 1 of Act No. 9 of 1973 and section 1 of Act No. 3 of 1996**

1. Section 1 of the Animal Diseases and Parasites Act, 1956, is amended -
  - (a) by the substitution for the definition of "Minister" of the following definition:

“ ‘Minister’ means the Minister responsible for agriculture;”;
  - (b) by the substitution for the definition of "Ministry" of the following definition:

“ ‘Ministry’ means the Ministry charged with the administration of affairs relating to agriculture;”;

and
  - (c) by the substitution for the definition of "Permanent Secretary" of the following definition:

“ ‘Permanent Secretary’ means the Permanent Secretary of the Ministry;”.

**Amendment of section 19 of Act No. 13 of 1956, as amended by section 8 of Act No. 51 of 1969 and section 9 of Act No. 3 of 1996**

2. Section 19 of the Animal Diseases and Parasites Act, 1956, is amended by the insertion after subsection (1) of the following subsection:

- “(1A) (a) No search of the home of any person shall be carried out under the provisions of subsection (1) unless such search is authorised by a search warrant which has been issued by a magistrate or a judge of the High Court upon information on oath that -
- (i) there are reasonable grounds for believing that any animal, parasite, infectious thing or other thing or the progeny of any animal, parasite or infectious thing referred to in that subsection is in or at such home within the area of jurisdiction of that magistrate or judge; and

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- (ii) such search is necessary for any purpose referred to in article 13(1) of the Namibian Constitution:

Provided that this paragraph shall not be so construed as to prohibit the carrying out of any such search without a warrant in the circumstances contemplated in Article 13(2)(b) of the Namibian Constitution.

- (b) (i) A search warrant issued in terms of paragraph (a) shall be executed by day, unless the person who issues the warrant authorises the execution thereof by night, at times which shall be reasonable.
- (ii) A search of any home under such search warrant shall be conducted with strict regard to decency and order, including the protection of a person's right to respect for human dignity and to privacy.
- (c) A search warrant under paragraph (a) may be issued on any day and shall be of force until -
- (i) it is executed; or
- (ii) it is cancelled by the person who issued it, or if such person is not available, by any person with similar authority; or
- (iii) the expiry of one month from the date of its issue; or
- (iv) the purpose for which the warrant was issued, no longer exists, whichever may occur first.
- (d) To the extent that the provisions of this subsection provide for a limitation of the fundamental right to privacy contemplated in Sub-Article (1) of Article 13 of the Namibian Constitution, in that they authorise interference with the privacy of a person's home, such limitation is enacted on the authority of Sub-Article (2) of the said Article 13."

**Amendment of section 28 of Act No. 13 of 1956, as amended by section 3 of Act No. 18 of 1967, section 12 of Act No. 51 of 1969, section 3 of Act No. 9 of 1973 and section 9 of Act No. 3 of 1996**

3. Section 28 of the Animal Diseases and Parasites Act, 1956, is amended by the substitution for paragraphs (i) and (ii) of subsection (1) of the following paragraphs:

- "(i) in the case of an offence referred to in paragraph (a) to a fine not exceeding N\$ 1 000 000 or to imprisonment for a period not exceeding [five] ten years or to both such fine and such imprisonment; and
- (ii) in the case of an offence referred to in any other paragraph of subsection (1), if it is -

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- (aa) a first conviction under this Act, to a fine not exceeding [**one thousand rand**] N\$20 000 or [**in default of payment,**] to imprisonment for a period not exceeding [**six months**] one year or to both such fine and such imprisonment [, or, in the case of an offence referred to in paragraph (b) of this subsection, or of a contravention of, or failure to comply with, the provisions of section 2(1), 3(c) or (e), 7, 8 or 9, to such fine or to such imprisonment without the option of a fine or to both such fine and such imprisonment];
- (bb) a second conviction under this Act, to a fine not exceeding [**two thousand rand**] N\$40 000 or to imprisonment for a period not exceeding [**one year**] two years, or to both such fine and such imprisonment;
- (cc) a third or subsequent conviction under this Act, to a fine not exceeding [**five thousand rand**] N\$100 000 or to imprisonment for a period not exceeding [**two**] five years, or to both such fine and such imprisonment.”.

**Short title**

- 4. This Act is called the Animal Diseases and Parasites Amendment Act, 2005.
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