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BUITENGEWONE

OFFISIËLE KOERANT
VAN SUIDWES-AFRIKA

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PROCLAMATION

by the

ADMINISTRATOR-GENERAL FOR THE TERRITORY OF SOUTH WEST AFRICA

(Approved by the State President on 26 September 1977)

No. A.G. 3 1977

TRANSFER OF THE ADMINISTRATION OF CERTAIN GOVERNMENT DEPARTMENTS TO THE ADMINISTRATOR-GENERAL

Under the powers vested in me by Proclamation 181 of 19 August 1977, I hereby make the laws set out in the Schedule.

M. T. STEYN
Administrator-General Windhoek, 26 September 1977

SCHEDULE

Definitions

1. In this Proclamation, unless the context indicates otherwise –

(i) "commencement", in relation to this Proclamation, means its coming into operation on the date on which it is published in the *Official Gazette* of the territory; (iv)

(ii) "department" means the Department of Bantu Administration and Development, the Department of Bantu Education, the Department of Coloured,

PROKLAMASIE

deur die

ADMINISTRATEUR-GENERAAL VIR DIE GEBIED SUIDWES-AFRIKA

(Deur die Staatspresident goedgekeur op 26 September 1977)

No. A.G. 3 1977

OORDRAG VAN DIE ADMINISTRASIE VAN SEKERE STAATSDEPARTEMENTE AAN DIE ADMINISTRATEUR-GENERAAL

Kragtens die bevoegdheid my verleen by Proklamasie 181 van 19 Augustus 1977, maak ek hierby die wette in die Bylae vervat.

M. T. STEYN
Administrateur-generaal Windhoek, 26 September 1977

BYLAE

Woordomskrywings

1. Tensy uit die samehang anders blyk, beteken in hierdie Proklamasie –

(i) "beampte" 'n beampte soos omskryf in die Staatsdienswet, 1957 (Wet 54 van 1957); (iv)

(ii) "departement" die Departement van Bantoe-administrasie en -ontwikkeling, die Departement van Bantoe-onderwys, die Departement van Kleurling-, Rehoboth- en Namabetrekkinge, of die

Rehoboth and Nama Relations, or the Department of Water Affairs, as the context may require; (ii)

(iii) "law" means an Act of the Parliament of the Republic (including the Exchequer and Audit Act, 1975 (Act 66 of 1975)), an ordinance of the Legislative Assembly of the territory and any proclamation, regulation, rule or other enactment issued under such an Act or ordinance, in so far as it relates to or applies in that territory or is connected with its administration or the administration in it of any matter referred to in section 2; (vii)

(iv) "officer" means an officer as defined in the Public Service Act, 1957 (Act 54 of 1957); (i)

(v) "Republic" means the Republic of South Africa; (v)

(vi) "secretary", in relation to a department, means the head of that department in terms of the Public Service Act, 1957; (vi)

(vii) "territory" means the territory of South West Africa. (iii)

Transfer of administration of certain departments

2. Notwithstanding anything to the contrary contained in any other law but subject to the provisions of this Proclamation, the administration of the affairs of the territory relating to any matter which at the commencement of this Proclamation is administered by —

(a) the Minister of Bantu Administration and Development;

(b) the Minister of Bantu Education;

(c) the Minister of Coloured, Rehoboth and Nama Relations; or

(d) the Minister of Water Affairs,

of the Republic, shall be carried on by the Administrator-General.

Application of Laws

3. (1) Subject to the provisions of subsection (2), any reference in any law relating to a matter referred to in section 2 —

(a) to a Minister mentioned in that section or to the Minister of Finance or State President or Parliament (including the Senate or the House of Assembly) or Government of the Republic, shall be construed as a reference to the Administrator-General;

Departement van Waterwese, na gelang die samehang vereis; (ii)

(iii) "gebied" die gebied Suidwes-Afrika; (vii)

(iv) "inwerkingtreding", met betrekking tot hierdie Proklamasie, die inwerkingtreding daarvan op die datum waarop dit in die *Offisiële Koerant* van die gebied afgekondig word; (i)

(v) "Republiek" die Republiek van Suid-Afrika; (v)

(vi) "sekretaris", met betrekking tot 'n departement, die hoof van daardie departement ingevolge die Staatsdienswet, 1957; (vi)

(vii) "wet" 'n Wet van die Parlement van die Republiek, (met inbegrip van die Skatkis- en Ouditwet, 1975 (Wet 66 van 1975)), 'n ordonnansie van die Wetgewende Vergadering van die gebied en 'n proklamasie, regulasie, reël of ander maatreël wat kragtens so 'n Wet of ordonnansie uitgevaardig is, vir sover dit op die gebied betrekking het of daarin geld of met die administrasie daarvan of the administrasie daarin van 'n aangeleentheid in artikel 2 bedoel in verband staan. (iii)

Oordrag van administrasie van sekere departemente

2. Ondanks andersluidende bepalings van enige ander wet maar behoudens die bepalings van hierdie Proklamasie, word die administrasie van die sake van die gebied met betrekking tot 'n aangeleentheid wat by die inwerkingtreding van hierdie Proklamasie geadministreer word deur —

(a) die Minister van Bantoe-administrasie en -ontwikkeling;

(b) die Minister van Bantoe-onderwys;

(c) die Minister van Kleurling-, Rehoboth- en Namabetrekkinge; of

(d) die Minister van Waterwese,

van die Republiek, deur die Administrateur-generaal behartig.

Toepassing van wette

3. (1) Behoudens die bepalings van subartikel (2) word 'n verwysing in 'n wet wat op 'n aangeleentheid in artikel 2 bedoel, betrekking het —

(a) na 'n Minister in daardie artikel genoem of na die Minister van Finansies of Staatspresident of Parlement (met inbegrip van die Senaat of die Volksraad) of Regering van die Republiek, uitgelê as 'n verwysing na die Administrateur-generaal;

(b) to the *Government Gazette* of the Republic, shall be construed as a reference to the *Official Gazette* of the territory;

(c) to the Commissioner-General or his office, shall as from 1 November 1977 be deemed to be deleted.

(2) The provisions of subsection (1) shall not apply with reference to —

(a) section 4 of the South West Africa Native Affairs Administration Act, 1954 (Act 56 of 1954);

(b) the promotion of the Economic Development of Bantu Homelands Act, 1968 (Act 46 of 1968);

(c) the Rehoboth Investment and Development Corporation Act, 1969 (Act 84 of 1969);

(d) section 41 of the Exchequer and Audit Act, 1975 (Act 66 of 1975);

(e) sections 12 and 50(1) of the Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971 (Act 41 of 1971);

(f) the reference to the State President in those provisions of any law providing for or relating to his consent to any enactment or law made by the legislative authority of a self-governing area or an area for which a legislative council has been established;

(g) those provisions of any law providing for or relating to the appointment, promotion, transfer, secondment, remuneration, allowances, discipline, discharge or suspension, the retirement, leave and pension rights and privileges or any other conditions of service of any person who is, or is engaged, in the service of the State or the Government of the Republic or any of its departments in terms of the Public Service Act, 1957 (Act 54 of 1957), or any other law;

(h) those provisions of any law providing for or relating to the institution, constitution or control of any juristic person, board or other body that may exercise or perform powers or functions in terms of such law in or in respect of both the territory and the Republic;

(i) such provisions of any law as the Administrator-General may determine, to such extent or with reference to such matter and with effect from such date (which may be a date earlier than the date of the determination) as he may determine, and made known ~~by the Chief Director of his Office~~ by notice in the *Official Gazette* of the territory. Amended by Proc. R.101/85 s6(b)(i)

(b) na die *Staatskoerant* van die Republiek, uitgelê as 'n verwysing na die *Offisiële Koerant* van die gebied;

(c) na die Kommissaris-generaal of sy kantoor, vanaf 1 November 1977 geag geskrap te wees.

(2) Die bepalings van subartikel (1) is nie van toepassing nie met betrekking tot —

(a) artikel 4 van die Wet op die Administrasie van Naturellesake in Suidwes-Afrika, 1954 (Wet 56 van 1954);

(b) die Wet op die Bevordering van die Ekonomiese Ontwikkeling van Bantoetuislande, 1968 (Wet 46 van 1968);

(c) die Wet op die Rehoboth-beleggings- en -ontwikkelingskorporasie, 1969 (Wet 84 van 1969);

(d) artikel 41 van die Skatkis- en Ouditwet, 1975 (Wet 66 van 1975);

(e) artikels 12 en 50(1) van die Wet op die Misbruik van Afhanklikheidsvormende Stowwe en Rehabilitasiesentrums, 1971 (Wet 41 van 1971);

(f) die verwysing na die Staatspresident in daardie bepalings van 'n wet wat voorsiening maak vir of betrekking het op sy toestemming tot 'n maatreël of wet wat deur die wetgewende gesag van 'n self-regerende gebied of 'n gebied waarvoor 'n wetgewende raad ingestel is, gemaak word;

(g) daardie bepalings van 'n wet wat voorsiening maak vir of betrekking het op die aanstelling, bevordering, verplasing, oorplasing, afstaan, besoldiging, toelaes, tug, ontslag of skorsing, die uitdienstreding-, verlof- en pensioenregte en -voordele of enige ander diensvoorwaardes van iemand wat ingevolge die Staatsdienswet, 1957 (Wet 54 van 1957), of 'n ander wet in die diens van die Staat of die Regering van die Republiek of 'n departement daarvan is of geneem word;

(h) daardie bepalings van 'n wet wat voorsiening maak vir of betrekking het op die instelling of samestelling van of beheer oor 'n regspersoon, raad of ander liggaam wat ingevolge daardie wet bevoegdhede of werksaamhede in of ten opsigte van sowel die gebied as die Republiek kan uitoefen of verrig;

(i) dié bepalings van 'n wet wat die Administrateur-generaal bepaal, in dié mate of met betrekking tot dié aangeleentheid en vanaf dié datum (wat 'n datum vroeër as die datum van die bepaling kan wees) wat hy bepaal, en wat ~~deur die Hoofdirekteur van sy Kantoor~~ by kennisgewing in die *Offisiële Koerant* van die gebied bekendgemaak is.

(3) The provisions of paragraph (g) of subsection (2) shall not prohibit the appointment by or under authority of the Administrator-General, to an office provided for in any law as applied by subsection (1), of any person referred to in that paragraph designated for that purpose by or under authority of the person who but for the provisions of subsection (2) could have made such appointment.

(4) Anything done under a law referred to in subsection (1) before the commencement of this Proclamation shall be deemed to have been done under that law as applied by that subsection.

(5) Any proclamation, regulation or rule which is issued or made after the commencement of this Proclamation by the State President, or by or under authority of a Minister mentioned in section 2, in terms of a law applying both in the territory and in the Republic, and which is published in the *Government Gazette* of the Republic, shall, notwithstanding the provisions of subsection (1) of this section, apply in the territory if such proclamation, regulation or rule or the notice by which it is so published, contains a statement that such proclamation, regulation or rule has been issued or made with the consent of the Administrator-General and applies also in the territory: Provided that for the purposes of the application of such proclamation, regulation or rule in the territory, the provisions of the said subsection (1) shall apply.

Delegation of powers

Subst. by Proc. AG 10/78/1(a)

4. (1) The Administrator-General may delegate any power other than a power to issue a proclamation or to make regulations or rules, which is conferred upon him by any law as applied by section 3 (1), and which but for the provisions of this subsection he would not be empowered to delegate, to the secretary of the department by which such law is administered.

Subst. by Proc. AG 10/78/1(b)

(2) The secretary referred to in subsection (1) may delegate any power delegated to him under that subsection, to an officer of the said department stationed in the territory. words inserted P.AG 7/77/6(b)

(b) Added P.AG 7/77/6(c)

(3) The said secretary shall not be deprived of a power delegated by him to an officer and may alter or withdraw a decision given by that officer in the exercise of that power.

(4) The Administrator-General shall not be deprived of a power delegated by him, and may alter or withdraw any decision given in the exercise of that power, including a decision given by a secretary under subsection (3).

(5) When a power has been delegated to the holder of a post, that power may be exercised by the person

(3) Die bepalings van paragraaf (g) van subartikel (2) belet nie die aanstelling, deur of op gesag van die Administrateur-generaal, in 'n amp waarvoor 'n wet soos deur subartikel (1) toegepas voorsiening maak, van 'n persoon in daardie paragraaf bedoel wat vir dié doel aangewys is deur of op gesag van die persoon wat daardie aanstelling sou kon doen as dit nie vir die bepalings van subartikel (2) was nie.

(4) Enigiets wat voor die inwerkingtreding van hierdie Proklamasie gedoen is kragtens 'n wet in subartikel (1) bedoel, word geag kragtens daardie wet soos deur daardie subartikel toegepas, gedoen te wees.

(5) 'n Proklamasie, regulasie of reël wat na die inwerkingtreding van hierdie Proklamasie deur die Staatspresident of deur of op gesag van 'n Minister in artikel 2 genoem, kragtens 'n wet wat sowel in die gebied as in die Republiek van toepassing is, uitgevaardig of gemaak word en wat in die *Staatskoerant* van die Republiek afgekondig word, is, ondanks die bepalings van subartikel (1) van hierdie artikel, in die gebied van toepassing indien daar in die proklamasie, regulasie of reël of die kennisgewing waarby dit aldus afgekondig word, verklaar word dat dit met die toestemming van die Administrateur-generaal uitgevaardig of gemaak is en ook in die gebied van toepassing is: Met dien verstande dat die bepalings van genoemde subartikel (1) by die toepassing van daardie proklamasie, regulasie of reël in die gebied geld.

Delegering van bevoegdhede

Vervang. Proc. AG 10/78/1(a)

4. (1) Die Administrateur-generaal kan 'n bevoegdheid, behalwe 'n bevoegdheid om 'n proklamasie uit te vaardig of om regulasies of reëls te maak, wat by 'n wet soos deur artikel 3(1) toegepas, aan hom verleen word en wat hy nie sou kon delegeer as dit nie vir die bepalings van hierdie subartikel was nie, aan die sekretaris van die departement waardeur daardie wet uitgevoer word, delegeer.

Vervang. Proc. AG 10/78/1(b)

(2) Die sekretaris in subartikel (1) bedoel, kan 'n bevoegdheid wat kragtens daardie subartikel aan hom gedelegeer is, aan 'n beampte in genoemde departement wat in die gebied diens doen, delegeer. Gew. P.AG 7/77/6(b)

(b) Ing. Proc. AG. 7/77/6(c)

(3) Die gemelde sekretaris word nie ontdoen van 'n bevoegdheid wat hy aan 'n beampte gedelegeer het nie, en kan 'n beslissing deur dié beampte by die uitoefening van daardie bevoegdheid gegee, wysig of intrek.

(4) Die Administrateur-generaal word nie ontdoen van 'n bevoegdheid wat deur hom gedelegeer is nie, en kan 'n beslissing by die uitoefening van daardie bevoegdheid gegee, met inbegrip van 'n beslissing deur 'n sekretaris kragtens subartikel (3) gegee, wysig of intrek.

(5) Waar 'n bevoegdheid aan die bekleër van 'n pos gedelegeer is, kan daardie bevoegdheid uitgeoefen word

who for the time being performs the functions attached to such post.

Functions of Auditor-General

5. The Auditor-General of the Republic, referred to in section 41 of the Exchequer and Audit Act, 1975 (Act 66 of 1975), shall investigate, examine and audit, in accordance with the provisions of the said Act as applied by this Proclamation or any other proclamation of the Administrator-General, all the accounts of all accounting officers in respect of a matter which in terms of this Proclamation or any other proclamation of the Administrator-General is administered by the Administrator-General, and all such accounts of all other persons entrusted with the receipt, custody, payment or issue of State moneys, stamps, securities, equipment and stores.

Short title

6. This Proclamation shall be called the Executive Powers Transfer Proclamation, 1977.

deur die persoon wat te eniger tyd die werksaamhede wat aan daardie pos verbonde is, verrig.

Funksies van Ouditeur-generaal

5. Die Ouditeur-generaal van die Republiek, in artikel 41 van die Skatkis- en Ouditwet, 1975 (Wet 66 van 1975), bedoel, moet al die rekenings van alle rekenpligtige beamptes ten opsigte van 'n aangeleentheid wat ingevolge hierdie Proklamasie of 'n ander proklamasie van die Administrateur-generaal, deur die Administrateur-generaal geadministreer word, en al sodanige rekenings van alle ander persone aan wie die ontvangs, bewaring, uitbetaling of uitreiking van Staatsgeld, seëls, sekuriteite, uitrusting en voorrade toevertrou is, ondersoek, nasien en ouditeer ooreenkomstig die bepalings van genoemde Wet soos toegepas by hierdie Proklamasie of 'n ander proklamasie van die Administrateur-generaal.

Kort titel

6. Hierdie Proklamasie heet die Proklamasie op die Oordrag van Uitvoerende Gesag, 1977.

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