

B U I T E N G E W O N E

OFFISIËLE KOERANT

VAN SUIDWES-AFRIKA.

OFFICIAL GAZETTE



UITGAWE OP GESAG

EXTRAORDINARY
OF SOUTH WEST AFRICA.

PUBLISHED BY AUTHORITY.

10c

Vrydag, 29 Junie 1962.

WINDHOEK

Friday, 29th June, 1962.

No. 2411

I N H O U D

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PROKLAMASIE:—

No. 148 (Republiek) Deporterling van Ongewenste
Persone uit Suidwes-Afrika

PROCLAMATION:—

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from South West Africa 820

PROKLAMASIE

PROCLAMATION

VAN DIE STAATSPRESIDENT VAN DIE REPUBLIEK
VAN SUID-AFRIKA

BY THE STATE PRESIDENT OF THE REPUBLIC OF
SOUTH AFRICA

No. 148, 1962 (Republiek).]

No. 148, 1962 (Republic).]

DEPORTERING VAN ONGEWENSTE PERSONE UIT
SUIDWES-AFRIKA

DEPORTATION OF UNDESIRABLE PERSONS FROM
SOUTH WEST AFRICA

Kragtens die bevoegdheid my verleen by subartikel (1) van artikel twee van die Wysigingswet op Aangeleenthede van Suidwes-Afrika 1951 (Wet 55 van 1951) proklameer ek hierby soos volg:—

Under the powers vested in me by sub-section (1) of section two of the South West Africa Affairs Amendment Act, 1951 (Act No. 55 of 1951), I do hereby proclaim as follows:—

1. Enigeen wat in die Republiek van Suid-Afrika gebore is en wat, hetsy voor of na die inwerkingtreding van hierdie Proklamasie, die Gebied binnegegaan het, kan deur die Administrateur van die Gebied as 'n ongewenste persoon beskou word, as hy —

1. Any person born in the Republic of South Africa and who has, whether before or after the commencement of this proclamation, entered the Territory, may be deemed by the Administrator of the Territory to be an undesirable person, if he has —

- (a) hetsy voor of na die inwerkingtreding van hierdie Proklamasie aan enigeen van die volgende misdrywe skuldig bevind is (tensy aan hom ten opsigte daarvan grasia verleen is) naamlik hoogverraad, sedisie, openbare geweld, muntvervalsing of die uitgee van vals munt wetende dat dit vals munt is, moord, strafbare manslag, aanranding met die doel om moord te pleeg, aanranding met die doel om ernstige liggaamlike letsel aan te doen, verkragting, bloedskande, sodomnie, onsedelike aanranding, onwettige vleeslike gemeenskap of onsedelike of immorele daade met 'n meisie onder 'n bepaalde ouderdom of met 'n vroulike idioot of imbesiel, of die maak van onsedelike voorstelle teenoor, of aanklopping van, so 'n meisie of vrou met die oog op die verrigting van sulke daade, strafregtelike injuria, onbetaamlike ontbloting, brandstigting, roof, diefstal, heling van gesteelde goedere wel wetende dat dit gesteel is, opsetlike saakbeskadiging, bedrog, vervalsing, of die uitgee van 'n vervalste dokument wetende dat dit vervals is, huisbraak met die doel om 'n misdryf te pleeg, omkoperij, afpersing of die verkryging van goedere deur middel van bedreiging van watter aard ook al, of 'n poging of aanhitsing om so 'n misdryf te pleeg; of

- (a) whether before or after the commencement of this proclamation, been convicted of any of the following offences (unless he has received a free pardon therefor) namely high treason, sedition, public violence, counterfeiting coin or uttering counterfeit coin knowing that it is counterfeit, murder, culpable homicide, assault with intent to do grievous bodily harm, assault with intent to do grievous bodily harm, rape, incest, sodomy, indecent assault, unlawful carnal intercourse or indecent or immoral acts with a girl under a specified age or with a female idiot or imbecile, or soliciting or enticing any such girl or female to the commission of such acts, criminal injuria, indecent exposure, arson, robbery, theft, receiving stolen property well knowing it to have been stolen, malicious injury to property, fraud, forgery, or the uttering of a forged document knowing that it is forged, housebreaking with intent to commit an offence, bribery, extortion or the obtaining of any property by means of any threat whatever, or any attempt or incitement to commit any such offence; or

- (b) hetsy voor of na die inwerkingtreding van hierdie Proklamasie tot gevangenisstraf veroordeel is —
- (i) weens 'n misdryf kragtens 'n wet op die onderdrukking van bordele of die straf van onsedelikheid of rasvermenging; of
- (ii) weens die verkoop, ruil, gee, of verskaffing op 'n ander wyse van bedwelmende drank aan 'n naturel in stryd met 'n wet; of

- (b) whether before or after the commencement of this proclamation, been sentenced to imprisonment —
- (i) for any offence under a law for the suppression of brothels or the punishment of immorality or miscegenation; or
- (ii) for selling, bartering, giving or otherwise supplying intoxicating liquor to any native in contravention of any law; or

- (iii) weens 'n misdryf wat gepleeg is deur die verkoop of verskaffing van of handel in of deur in besit te wees van 'n gewoontevormende verdoingsmiddel in stryd met 'n wet:

Met dien verstande dat waar iemand in die Gebied aan enige misdryf skuldig bevind is, die Administrateur so iemand uit hoofde van die omstandighede van sodanige misdryf, as 'n ongewenste persoon kan beskou.

2. Wanneer die Administrateur die bevoegdhede uitoefen wat by artikel *een* aan hom verleen word, kan hy 'n bevel uitreik dat die betrokke persoon gewaarsku moet word om die Gebied binne 'n bepaalde tydperk te verlaat of dat die bedoelde persoon in hegtenis geneem en uit die Gebied verwyder moet word.

3. Wanneer so 'n bevel uitgereik word, moet die Sekretaris die Raad en die persoon teen wie die bevel uitgereik word, onmiddellik skriftelik daarvan in kennis stel.

4. (1) Elkeen teen wie so 'n bevel uitgereik is, het die reg om by die Raad te appelleer en sodanige appèl moet aangeteken word binne sewe dae na ontvangs van die skriftelike kennisgewing ingevolge artikel *drie* en so 'n persoon moet 'n bedrag wat deur die Sekretaris bepaal moet word en wat voldoende is om die Raad se koste in verband met so 'n appèl te dek, by die Sekretaris deponeer.

(2) Die verhoor van 'n appèl deur die Raad moet plaasvind so gou doenlik nadat kennisgewing daarvan ingedien is. Die verhoor moet in die teenwoordigheid van die appellans geskied as hy wil verskyn. Die appellans het die reg om by die appèl deur 'n advokaat of 'n prokureur verteenwoordig te word.

(3) Die Raad kan getuies dagvaar om getuienis te lewer of om dokumente voor te lê en kan, deur bemiddeling van die Voorsitter of iemand anders wat asdan wettig as sodanig optree, enige getuie 'n eed oplê. Elkeen wat, wanneer hy gedagvaar word om getuienis te lewer of om dokumente voor te lê, sonder redelike verskoning versuim om die bepalinge van die dagvaarding na te kom, of wat, hetsy gedagvaar al dan nie, terwyl hy ondervra word, weier om al die vrae wat aan hom gestel word deur of met die instemming van die Raad na sy beste wete en oortuiging te beantwoord, of wat opsetlik die verrigtinge van die Raad onderbreek, begaan 'n misdryf en is by skuldigbevinding strafbaar met 'n boete van hoogstens tien rand of by wanbetaling met gevangenisstraf met of sonder dwangarbeid vir 'n tydperk van hoogstens een maand: Met dien verstande dat 'n getuie dieselfde voorregte ten opsigte van die beantwoording van enige vraag of die voorlegging van enige dokument het as wat hy sou hê as so 'n vraag aan hom gestel is voor, of so 'n dokument deur hom voorgelê moes word aan, 'n hoër hof.

(4) Enige lid van die Raad kan enige getuie sodanige vrae stel as wat hy ter sake beskou en iemand benoem deur die Sekretaris of die appellans kan getuies ondervra en onder kruisverhoor neem.

(5) As enige sodanige getuie wat 'n eed soos voormeld opgelê is, valse getuienis lewer met betrekking tot die aangeleentheid wat die Raad oorweeg, wetende dat sodanige getuienis vals is, begaan hy 'n misdryf en is by skuldigbevinding strafbaar met die straffe wat wetlik vir meened bepaal word.

(6) Alle getuienis wat voor die Raad afgelê word, moet op skrif gestel word. Die beslissing van 'n meerderheid van die Raad oor 'n appèl is finaal en afdoende.

5. Dit is die plig van die Sekretaris om, sodra hy inligting ontvang het dat 'n appèl aangeteken is, te reël dat die Raad so gou moontlik daarna byeenkom om die appèl te verhoor. Die Sekretaris moet ook die appellans in kennis stel van die tyd wanneer en die plek waar sy appèl verhoor sal word en moet, behoudens die bepalinge van subartikel (1) van artikel *vier*, reël dat hy teenwoordig kan wees as hy dit verkies. Die Raad kom byeen op die plek wat die Administrateur algemeen of spesiaal aanwys.

6. Op versoek van die Voorsitter van die Raad moet die Sekretaris enige getuie dagvaar wat 'n party by die verrigtinge aanvra. Sodanige dagvaarding moet bestel

- (iii) for any offence committed by the sale or supply of or dealing in or being in possession of any habit-forming drug in contravention of any law:

Provided that where a person has been convicted in the Territory of any offence, the Administrator may, by reason of the circumstances of such offence, deem such person to be an undesirable person.

2. Whenever the Administrator exercises the powers conferred upon him by section *one* he may issue an order that the person concerned be warned to depart from the Territory within a stipulated period, or that the said person be arrested and removed from the Territory.

3. Upon the issue of such an order, the Secretary shall forthwith give written notice thereof to the Board and to the person against whom the order is made.

4. (1) Every person against whom such an order has been made shall have the right of appeal to the Board which appeal shall be noted within seven days after receipt of the written notice in terms of section *three* and such person shall deposit with the Secretary an amount to be determined by the Secretary, sufficient to cover the costs of the Board incidental to such appeal.

(2) The hearing of an appeal by the Board shall take place as soon as possible after notice thereof is lodged. The hearing shall be in the presence of the appellant if he desires to appear. The appellant shall have the right to be represented at the appeal by counsel or an attorney.

(3) The Board may summon witnesses to give evidence or produce documents and may through the Chairman, or other person for the time being lawfully acting as such, administer an oath to any witness. Any person who, when summoned to give evidence or to produce documents, fails without reasonable excuse to comply with the terms of the summons, or who, whether summoned or not, refuses, while under examination, to answer to the best of his knowledge and belief all questions put to him by or with the concurrence of the Board or who wilfully interrupts the proceedings thereof, shall be guilty of an offence and liable on conviction to a fine not exceeding ten rand or, in default of payment to imprisonment with or without hard labour for a period not exceeding one month: Provided that any witness shall have the same privileges in respect of answering any question or producing any documents as he would have if such question were asked of him or such document was to be produced by him before a superior court.

(4) Any member of the Board may put to any witness such questions as he may consider relevant to the issue, and a person nominated by the Secretary and the appellant may examine or cross-examine witnesses.

(5) If any such witness to whom an oath has been administered as aforesaid, give false evidence regarding the question under the consideration of the Board knowing such evidence to be false, he shall be guilty of an offence and liable on conviction to the penalties prescribed by law for perjury.

(6) All evidence adduced before the Board shall be taken down in writing. The decision of a majority of the Board upon an appeal shall be final and conclusive.

5. It shall be the duty of the Secretary, as soon as he has received information that an appeal has been noted, to arrange for the Board to meet as soon as possible thereafter and hear the appeal. The Secretary shall also give notice to the appellant of the time and place at which his appeal will be heard, and shall, subject to sub-section (1) of section *four*, arrange for him to be present if he so desires. The Board shall sit at such place as may be generally or specially prescribed by the Administrator.

6. The Secretary shall, at the request of the Chairman of the Board, summon any witness that may be required by any party to the proceedings. Such summons

word deur 'n polisiebeampte of deur iemand wie se plig dit is om prosesstukke in strafsake in landdroshowe te bestel.

7. As geen appèl aangeteken word nie, of as appèl aangeteken is maar geen deposito ingevolge subartikel (1) van artikel vier gemaak is nie of die appèl nie binne veertien dae na die datum waarop appèl aangeteken is, voortgesit word nie, of as die Raad die appèl van die hand gewys het, kan die Sekretaris die bedoelde persoon, as hy nie die Gebied verlaat het nie, kragtens lasbrief deur die Sekretaris uitgereik, uit die Gebied na die Republiek van Suid-Afrika laat verwyder, en in afwagting van sodanige verwydering kan die bedoelde persoon aangehou word in die bewaring wat die Sekretaris skriftelik voorskryf.

8. (1) As iemand wat, hetsy voor of na die inwerking-treding van hierdie Proklamasie, wettig beveel is om die Gebied te verlaat of uit die Gebied verwyder is, in die Gebied gevind word, begaan hy 'n misdryf en is by skuldigbevinding strafbaar met gevangenisstraf vir 'n tydperk van hoogstens drie maande, en kan hy te eniger tyd na verstryking van die vonnis uit die Gebied verwyder word kragtens lasbrief deur die Sekretaris uitgereik.

(2) As iemand skuldig bevind is aan 'n misdryf genoem in subartikel (1) en hy na die verstryking van 'n tydperk van tien dae na die datum van sodanige skuldigbevinding weer in die Gebied gevind word, kan hy weer vervolgd en gevonnisd word soos bepaal in subartikel (1): Met dien verstande dat as so 'n persoon 'n tydperk van gevangenisstraf as gevolg van enige sodanige skuldigbevinding uitdien, voormelde tydperk van tien dae bereken moet word vanaf die datum van sy ontslag uit die gevangenis.

(3) As iemand behoudens die bepalinge van subartikel (2) by 'n derde of daaropvolgende geleentheid strydig met subartikel (1) binne die Gebied gevind word, begaan hy afsonderlike misdrywe ten opsigte van elke en iedere sodanige geleentheid waarby hy aldus binne die Gebied gevind word en staan hy by skuldigbevinding aan dieselfde strawwe bloot soos in subartikel (1) bepaal.

9. In hierdie Proklamasie, tensy uit die samehang anders blyk, beteken —

„Raad” 'n raad vir die Gebied ingestel ingevolge artikel twee van die Wet tot Regeling van de Toelating van Personen tot de Unie, 1913 (Wet 22 van 1913);

„Sekretaris” die Sekretaris, Adjunksekretaris of Ondersekretaris van die Gebied of 'n beampte wat optree in opdrag van die Sekretaris.

„Gebied” die Gebied Suidwes-Afrika.

10. Proklamasie 267 van 1954 en Proklamasie 224 van 1960 word hierby herroep.

Gegee onder my hand en die Seël van die Republiek van Suid-Afrika te Kaapstad op hede die agste dag van Junie Eenduisend Negehoonderd Twee-en-sestig.

C. R. SWART,
Staatspresident.

Op las van die Staatspresident-in-Rade,
J. DE KLERK.

shall be served by a police officer or by any person whose duty it is to serve process in criminal cases in magistrates' courts.

7. If no appeal is noted or, if an appeal has been noted but no deposit in terms of sub-section (1) of section four has been made or the appeal is not prosecuted within fourteen days of the date of noting the appeal, or the Board has dismissed the appeal, the Secretary may cause the said person, if he has not departed from the Territory, to be removed from the Territory to the Republic of South Africa under warrant issued by the Secretary and pending such removal, the said person may be detained in such custody as may be prescribed in writing by the Secretary.

8. (1) If any person, whether before or after the taking effect of this proclamation, has lawfully been ordered to leave or been removed from the Territory, is found in the Territory, he shall be guilty of an offence and liable on conviction to imprisonment for a period not exceeding three months, and he may at any time after the expiration of the sentence, be removed from the Territory by warrant issued by the Secretary.

(2) If any person has been convicted of an offence mentioned in sub-section (1), and after the lapse of a period of ten days from the date of such conviction he is again found within the Territory, he may again be prosecuted and sentenced as provided in sub-section (1): Provided that if such person serves a period of imprisonment as a result of any such conviction, the aforesaid period of ten days shall be calculated from the date of release from prison.

(3) Subject to the provisions of sub-section (2) if a person is found in the Territory on a third or subsequent occasion in contravention of sub-section (1), he shall be guilty of separate offences in respect of each and every such occasion upon which he is so found in the Territory and he shall be liable on conviction to the same penalties as prescribed in sub-section (1).

9. In this proclamation, unless the context otherwise indicates —

“Board” means a board for the Territory constituted in terms of section two of the Admission of Persons to the Union Regulation Act, 1913 (Act No. 22 of 1913);

“Secretary” means the Secretary, Deputy Secretary or Under Secretary for the Territory or an official who acts on instructions of the Secretary;

“Territory” means the Territory of South West Africa.

10. Proclamation 267 of 1954 and Proclamation 224 of 1960 are hereby repealed.

Given under my hand and the Seal of the Republic of South Africa at Cape Town on this eighth day of June One thousand Nine hundred and Sixty-two.

C. R. SWART,
State President.

By Order of the State President-in-Council,
J. DE KLERK.