

OFFICIAL GAZETTE

EXTRAORDINARY
OF SOUTH WEST AFRICA.

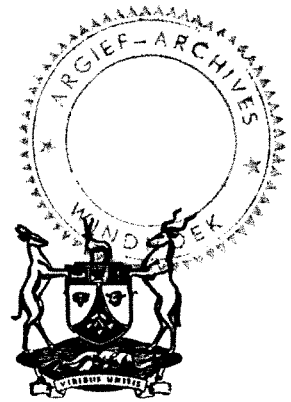
BUITENGEWONE

OFFISIËLE KOERANT

UITGAWE OP GESAG.

VAN SUIDWES-AFRIKA.

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The following Draft Ordinances are published for general information.

J. J. KLOPPER,
Secretary for South West Africa.

Administrator's Office,
Windhoek.

Die volgende Ontwerpordonnansies word vir algemene inligting gepubliseer.

J. J. KLOPPER,
Sekretaris van Suidwes-Afrika.

Kantoor van die Administrateur,
Windhoek.

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DRAFT ORDINANCE

To amend the Sealing and Fisheries Ordinance, 1949 by amending the definition of "catch" or "capture"; to prohibit the suspension of certain penalties; to substitute certain words in section 23; to provide that evidence tendered by the prosecution shall be conclusive proof unless the contrary is proved; to provide that data obtained by means of any instrument or chart shall be correct unless the contrary is proved.

—

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa, with the consent of the State President in so far as such consent is necessary previously obtained and communicated to the Legislative Assembly by message from the Administrator in accordance with the provisions of section 22 of the South West Africa Constitution Act, 1968 (Act 39 of 1968), of the Parliament of the Republic of South Africa as follows:—

Amendment of section 1 of Ordinance 12 of 1949 as amended by section 1 of Ordinance 26 of 1967 and section 1 of Ordinance 38 of 1967.

1. Section 1 of the Sealing and Fisheries Ordinance, 1949 (Ordinance 12 of 1949) — hereinafter referred to as the principal ordinance — is hereby amended by the substitution for the definition of 'catch' or 'capture' of the following definition:—

" 'catch' or 'capture' includes to land, to take out of the sea in any manner whatsoever, to have in a net whether the net is in or out of the water or to have in possession in or on a boat;".

Amendment of section 18 of Ordinance 12 of 1949 as amended by section 5 of Ordinance 26 of 1967 and section 5 of Ordinance 38 of 1967.

2. Section 18 of the principal ordinance is hereby amended by the insertion after subsection (2) of the following subsection:—

"(3) Notwithstanding anything to the contrary contained in any law no minimum penalty inflicted in terms of section 2B or 18 shall be suspended."

Amendment of section 23 of Ordinance 12 of 1949.

3. Section 23 of the principal ordinance is hereby amended by the substitution for the words "at any place beyond the territorial waters of the Territory" of the words "on or in the sea".

Insertion of new sections 23 A and 23 B in Ordinance 12 of 1949.

4. The principal ordinance is hereby amended by the insertion after section 23 of the following sections:—

"23A. In any prosecution for a contravention of this ordinance which is based on an act performed within the territorial waters of the Territory and the fishing zone as defined in the Territorial Waters Act, 1963 (Act 87 of 1963) the evidence tendered by the prosecution to prove that the act concerned was performed within the said territorial waters or the fishing zone shall be accepted by the court hearing the charge as conclusive proof unless the contrary is proved.

23B. In any prosecution for a contravention of this ordinance the data obtained by means of any instrument or chart used in determining any distance or depth shall be deemed to be correct unless the contrary is proved."

Short title.

5. This ordinance shall be called the Sealing and Fisheries Amendment Ordinance, 1969.

ONTWERPORDONNANSIE

Ter wysiging van die Ordonnansie op Robbevangs en Visserye 1949 om die woordbepaling van "vang" te wysig; om die opskorting van sekere strawwe te verbied; om sekere woorde in artikel 23 te vervang; om te bepaal dat die getuienis deur die vervolging aangebied afdoende bewys is tensy die teendeel bewys word; om te bepaal dat die gegewens verkry deur middel van enige instrument of kaart juis is tensy die teendeel bewys word.

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika, met die toestemming van die Staatspresident dermate sodanige toestemming nodig is, voorafverkreë en deur boodskap van die Administrateur aan die Wetgewende Vergadering meegedeel ooreenkomstig die bepaling van artikel 22 van die Wet op die Konstitusie van Suidwes-Afrika 1968 (Wet 39 van 1968), van die Parlement van die Republiek van Suidwes-Afrika, VERORDEN:—

1. Artikel 1 van die Ordonnansie op Robbevangs en Visserye 1949 (Ordonnansie 12 van 1949) — hierna die hoofordonnansie genoem — word hierby gewysig deur die woordbepaling van "vang" deur die volgende woordbepaling te vervang:—

„,vang' ook om aan land te bring, om op enige wyse hoegenaamd uit die see te haal, om in 'n net te hê hetsy die net in of uit die water is of om in of op 'n boot in besit te hê;”.

Wysiging van artikel 1 van Ordonnansie 12 van 1949 soos gewysig by artikel 1 van Ordonnansie 26 van 1967 en artikel 1 van Ordonnansie 38 van 1967.

2. Artikel 18 van die hoofordonnansie word hierby gewysig deur die invoeging van die volgende subartikel na subartikel (2):—

„(3) Ondanks enige andersluidende wetsbepaling word geen minimumstraf wat kragtens artikel 2B of 18 opgelê word, opgeskort nie.”.

Wysiging van artikel 18 van Ordonnansie 12 van 1949 soos gewysig by artikel 5 van Ordonnansie 26 van 1967 en artikel 5 van Ordonnansie 38 van 1967.

3. Artikel 23 van die hoofordonnansie word hierby gewysig deur die woorde „op 'n plek buite die territoriale waters van die Gebied” deur die woorde „op of in die see” te vervang.

Wysiging van artikel 23 van Ordonnansie 12 van 1949.

4. Die hoofordonnansie word hierby gewysig deur na artikel 23 die volgende artikels in te voeg:—

„23A. In enige vervolging weens 'n oortreding van hierdie ordonnansie gegrond op 'n handeling verrig binne die territoriale waters van die Gebied en die visserysone soos bepaal in die Wet op Territoriale Waters 1963 (Wet 87 van 1963) word die getuienis wat deur die vervolging aangebied word om te bewys dat die betrokke handeling binne genoemde territoriale waters of die visserysone verrig is, deur die hof wat die aanklag verhoor, as afdoende bewys aanvaar tensy die teendeel bewys word.

Invoeging van nuwe artikels 23 A en 23 B in Ordonnansie 12 van 1949.

23B. In enige vervolging weens 'n oortreding van hierdie ordonnansie word die gegewens verkry deur middel van enige instrument of kaart wat gebruik is om enige afstand of diepte te bepaal, geag juis te wees tensy die teendeel bewys word.”.

5. Hierdie ordonnansie heet die Wysigingsordonnansie op Robbevangs en Visserye 1969.

Kort titel.

DRAFT ORDINANCE

To amend the Accommodation Establishments and Tourism Ordinance, 1967 (Ordinance 29 of 1967) to provide for the amendment of the definition of "accommodation establishment"; to define "guest"; to correct the name of the Tourism Advisory Board in the English text; to empower the Administrator to extend the period for registration of accommodation establishments; to provide for the keeping of guest registers; to provide for the disposal of property left by guests in accommodation establishments and to provide for matters incidental thereto.

—————

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa, as follows:—

Amendment of section 1 of Ordinance 29 of 1967.

1. Section 1 of the Accommodation Establishments and Tourism Ordinance, 1967 (Ordinance 29 of 1967) — hereinafter called the principal ordinance — is hereby amended —

(a) by the deletion in paragraph (iii) in the definition of "accommodation establishment" of the comma and the words, "holiday farm";

(b) by the insertion after the definition of "accommodation establishment" of the following definition:—

"(iiiA) 'guest' means any person who *bona fide* and against payment lives and sleeps in an accommodation establishment;".

Amendment of section 2 of Ordinance 29 of 1967.

2. Section 2 of the principal ordinance is hereby amended by the substitution for the words "Tourism Board" where they appear in the section and in the marginal note of the words "Tourism Advisory Board".

Amendment of section 12 of Ordinance 29 of 1967.

3. Section 12 of the principal ordinance is hereby amended by the insertion after paragraph (s) of the following paragraphs:—

"(sA) the form of the guest register to be kept in respect of any accommodation establishment and the particulars to be entered in such register;

(sB) the conditions upon and the circumstances under which property deposited with the owner or other person in charge of an accommodation establishment or otherwise left in such establishment by a guest may be sold or otherwise disposed of whether or not in settlement of any debt due to such owner or other person in respect of board and lodging;".

Amendment of section 13 of Ordinance 29 of 1967.

4. Section 13 (1) of the principal ordinance is hereby amended by the substitution for the words "or has been exempted from registration by regulation made under section 12 (1) (h)" of the words "or has, by regulation made under section 12 (1) (h), been exempted from all or any of the requirements for registration: Provided that if he deems it necessary to do so the Administrator may from time to time by notice in the *Official Gazette*

ONTWERPORDONNANSIE

Om die Ordonnansie op Huisvestingsinrigtings en Toerisme 1967 (Ordonnansie 29 van 1967) te wysig om voorsiening te maak vir die wysiging van die woordbepaling van „huisvestingsinrigting”; om „gas” te omskryf; om die naam van die Adviesraad op Huisvestingsinrigtings en Toerisme in die Engelse teks te korreger; om die Administrateur te magtig om die tydperk vir registrasie van huisvestingsinrigtings te verleng; om voorsiening te maak vir die hou van gasteregisters; om voorsiening te maak vir die beskikbaarheid oor eiendom wat deur gaste in huisvestingsinrigtings gelaat word en om voorsiening te maak vir verbandhoudende sake.

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika VERORDEN:—

1. Artikel 1 van die Ordonnansie op Huisvestingsinrigtings en Toerisme 1967 (Ordonnansie 29 van 1967) — hierna genoem die hoofordonnansie — word hierby gewysig —

Wysiging van artikel 1 van Ordonnansie 29 van 1967.

- (a) deur die skraping in paragraaf (iii) in die woordbepaling van „huisvestingsinrigting” van die komma en die woord „vakansieplaas”;
- (b) deur die invoeging na die woordbepaling van „huisvestingsinrigting” van die volgende woordbepaling:—

„(iiiA) „gas’ enige persoon wat *bona fide* en teen betaling in ’n huisvestingsinrigting woon en slaap”;

2. Artikel 2 van die hoofordonnansie word hierby gewysig deur die vervanging van die woorde „Tourism Board” waar dit in die Engelse teks van die artikel en die kantskrif voorkom deur die woorde „Tourism Advisory Board”.

Wysiging van artikel 2 van Ordonnansie 29 van 1967.

3. Artikel 12 van die hoofordonnansie word hierby gewysig deur die invoeging na paragraaf (s) van die volgende paragrafe:—

Wysiging van artikel 12 van Ordonnansie 29 van 1967.

- “(sA) die vorm van die gasteregister wat ten opsigte van enige huisvestingsinrigting gehou en die besonderhede wat in so ’n register aangeteken moet word;
- (sB) die voorwaardes waarop en die omstandighede waaronder eiendom wat by die eienaar of ander persoon in beheer van ’n huisvestingsinrigting in bewaring gegee of op ’n ander wyse deur ’n gas in so ’n inrigting gelaat word, verkoop of op ’n ander wyse oor beskik kan word, afgesien daarvan of dit ter vereffening is van enige bedrag verskuldig aan so ’n eienaar of ander persoon ten opsigte van losies en inwoning, al dan nie.

4. Artikel 13 (1) van die hoofordonnansie word hierby gewysig deur die vervanging van die woorde „of ingevolge regulasie uitgevaardig kragtens artikel 12 (1) (h) van registrasie vrygestel is nie” deur die woorde „of ingevolge regulasie uitgevaardig kragtens artikel 12 (1) (h), vrygestel is van al of enige van die vereistes vir registrasie nie: Met dien verstande dat as hy dit nodig ag, die Administrateur van tyd tot tyd deur middel van ’n

Wysiging van artikel 13 van Ordonnansie 29 van 1967.

extend that period for such further periods as he may determine.”.

Insertion of sections 14 A, 14 B and 14 C in Ordinance 29 of 1967.

5. The principal ordinance is hereby amended by the insertion after section 14 of the following sections:—

“Guest registers shall be kept.

14A. (1) Any owner or other person in charge of an accommodation establishment shall keep or cause to be kept a guest register in the form prescribed by regulation and shall, on the arrival of any guest, enter or cause to be entered the requisite particulars in respect of such guest register.

(2) Any such owner or other person who fails to keep such register or fails to enter or cause to be entered such particulars in such register and any guest who furnishes or enters in such register any information which is not correct, shall be guilty of an offence.

“Property of guest may be sold.

14B. (1) Any owner or other person in charge of an accommodation establishment to whom any guest shall be indebted for board and lodging, may cause to be sold any property deposited with him or left in such accommodation establishment by such guest upon such conditions and under such circumstances as may be prescribed by regulation.

(2) The provisions of subsection (1) shall apply *mutatis mutandis* to property deposited with such owner or other person in terms of section 14C or left in such accommodation establishment and not reclaimed within six months from the date it has been so deposited or left.

“Limitation of liability in respect of property of guest.

14C. (1) No owner or other person in charge of an accommodation establishment shall be liable to compensate any person in respect of any loss of or injury to the property of such person sustained while such person was a guest in such accommodation establishment in any greater amount than the sum of forty rand, unless —

- (a) the loss or injury is proved to have been caused by the wilful act or as the result of the default or negligence of such owner or other person or any person in his employ; or
- (b) the loss or injury was sustained while the property was deposited with such owner or other person, or
- (c) such owner or other person refused, save in the circumstances set out in subsection (2), to receive the property offered for deposit, or failed to make adequate provision whereby the property could be deposited with him; or
- (d) such owner or other person failed to comply with the requirements of subsection (3).

(2) The owner or other person in charge of an accommodation establishment to whom any property is offered for deposit by any

kennisgewing in die *Offisiële Koerant* daardie tydperk kan verleng vir sodanige verdere tydperke soos hy bepaal."

5. Die hoofordonnansie word hierby gewysig deur die invoeging na artikel 14 van die volgende artikels:—

„Gasteregisters moet gehou word.

14A. (1) Enige eienaar of ander persoon in beheer van 'n huisvestingsinrigting moet 'n gasteregister hou of laat hou in die vorm by regulasie voorgeskrywe en moet by die aankoms van enige gas die nodige besonderhede ten opsigte van so 'n gas in so 'n register aanteken of laat aanteken.

(2) Enige sodanige eienaar of ander persoon wat versuim om so 'n register te hou of versuim om sodanige besonderhede in so 'n register aan te teken of te laat aanteken, en enige gas wat enige inligting wat nie juis is nie verstrek of in so 'n register aanteken, is skuldig aan 'n misdryf.

„Eiendom van gas kan verkoop word.

14B. (1) Enige eienaar of ander persoon in beheer van 'n huisvestingsinrigting aan wie enige gas 'n bedrag geld verskuldig is vir losies en inwoning, kan enige eiendom wat deur so 'n gas aan hom vir bewaring gegee is of in so 'n huisvestingsinrigting gelaat is, laat verkoop op sodanige voorwaardes en onder sodanige omstandighede soos by regulasie voorgeskryf word.

(2) Die bepalings van subartikel (1) is *mutatis mutandis* van toepassing op eiendom wat aan so 'n eienaar of ander persoon ingevolge artikel 14C vir bewaring oorhandig is, of wat in so 'n huisvestingsinrigting gelaat en nie binne ses maande na die datum waarop dit aldus vir bewaring oorhandig of gelaat is, opgeëis word nie.

„Beperking van aanspreeklikheid ten opsigte van 'n gas se eiendom.

14C (1) Geen eienaar of ander persoon in beheer van 'n huisvestingsinrigting is aanspreeklik om enige persoon te vergoed ten opsigte van enige verlies van of skade aan die eiendom van so 'n persoon gely terwyl so 'n persoon 'n gas in so 'n huisvestingsinrigting was, teen 'n groter bedrag as die som van veertig rand nie, tensy —

- (a) daar bewys word dat die verlies of skade veroorsaak is deur 'n opsetlike handeling of as gevolg van die versuim of nalatigheid van so 'n eienaar of ander persoon of enige persoon in sy diens; of
- (b) die verlies of skade gely is terwyl die eiendom in bewaring van so 'n eienaar of ander persoon was; of
- (c) so 'n eienaar of ander persoon geweier het, behalwe in die omstandighede uiteengesit in subartikel (2), om die eiendom wat vir bewaring aangebied is, te ontvang of versuim het om toereikende voorsiening te maak waardeur die eiendom by hom in bewaring gelaat kon word; of
- (d) so 'n eienaar of ander persoon versuim het om te voldoen aan die vereistes van subartikel (3).

(2) Die eienaar of ander persoon in beheer van 'n huisvestingsinrigting aan wie enige eiendom vir bewaring aangebied word

Invoeging van artikels 14 A, 14 B en 14 C in Ordonnansie 29 van 1967.

guest in such accommodation establishment may require that the property shall be contained in a suitable receptacle, closed and sealed by the depositor, and any refusal by such owner or other person to accept property for deposit based upon the failure of such guest to comply with such requirement shall not deprive such owner or other person of the benefits of the limitation of liability in respect of loss of or injury to such property conferred by subsection (1).

(3) Such owner or other person shall exhibit a copy of subsections (1) and (2) in at least the two official languages in such manner and in such part of the hall or entrance of the accommodation establishment that it may be readily seen and easily read by any guest in such accommodation establishment.”.

Short title.

6. This ordinance shall be called the Accommodation Establishments and Tourism Amendment Ordinance 1969.

deur enige gas in so 'n huisvestingsinrigting kan vereis dat die eiendom in 'n geskikte houer, toegemaak en verseël deur die aanbieder, verpak moet word, en enige weiering deur so 'n eienaar of ander persoon om eiendom vir bewaring te ontvang, gebaseer op die versuim van so 'n gas om te voldoen aan so 'n vereiste, ontnem nie sodanige eienaar of ander persoon van die voordele van die beperking van aanspreeklikheid verleen deur subartikel (1) ten opsigte van die verlies van of skade aan sodanige eiendom nie.

(3) So 'n eienaar of ander persoon moet 'n afskrif van subartikels (1) en (2) in minstens die twee amptelike tale op so 'n manier en in so 'n deel van die portaal of ingang van die huisvestingsinrigting vertoon dat dit geredelik gesien en maklik gelees kan word deur enige gas in so 'n huisvestingsinrigting."

6. Hierdie ordonnansie heet die Wysigingsordonnansie Kort titel.
op Huisvestingsinrigtings en Toerisme 1969.

