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EXTRAORDINARY

OF SOUTH WEST AFRICA

BUITENGEWONE

OFFISIËLE KOERANT

VAN SUIDWES-AFRIKA



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PROCLAMATION

of the
ADMINISTRATOR-GENERAL FOR THE
TERRITORY OF SOUTH WEST AFRICA
(Approved by the State President on 8 November 1977)

No. AG. 7 1977

PROVISIONS OF GENERAL APPLICATION ON THE TRANSFER OF EXECUTIVE POWERS 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, 11 November 1977

SCHEDULE

Definitions

1. (1) In this Proclamation and in any transfer proclamation, unless the context indicates otherwise —

(i) "commencement", in relation to this Proclamation or a transfer proclamation, means its coming into operation on the date on which it is published in the *Official Gazette*; (v)

(ii) "head", in relation to a department, means the officer who is the head of that department in terms of the Public Service Act,

PROKLAMASIE

van die
ADMINISTRATEUR-GENERAAL VIR DIE
GEBIED SUIDWES-AFRIKA
(Deur die Staatspresident goedgekeur op 8 November 1977)

No. AG. 7 1977

BEPALINGS ALGEMEEN VAN TOEPASSING BY DIE OORDRAG VAN UITVOERENDE GESAG 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, 11 November 1977

BYLAE

Woordomskrywings

1. (1) Tensy uit die samehang anders blyk, beteken in hierdie Proklamasie en in 'n oordragproklamasie —

(i) "beampte", met betrekking tot 'n departement, 'n beampte soos omskryf in die Staatsdienswet, 1957 (Wet 54 van 1957); en, met betrekking tot die Departement van Pos- en Telekommunikasiewese, 'n beampte soos omskryf in die Poskantoor-dienswet, 1974 (Wet 66 van 1974); (iv)

(ii) "die Minister", met betrekking tot 'n wet, die Minister van die Republiek in 'n oordragpro-

1957 (Act 54 of 1957); and, in relation to the Department of Posts and Telecommunications, means the Postmaster General; (iv)

- (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, any proclamation issued under such an Act or ordinance, and any regulation, rule or other enactment issued under such an Act or ordinance or such a proclamation, in so far as it relates to or applies in the territory or is connected with its administration or the administration in it of a matter which in terms of a transfer proclamation is administered by the Administrator-General; (ix)
- (iv) "officer". in relation to a department, means an officer as defined in the Public Service Act, 1957 (Act 54 of 1957); and, in relation to the Department of Posts and Telecommunications, means an officer as defined in the Post Office Service Act, 1974 (Act 66 of 1974); (i)
- (v) "*Official Gazette*" means the *Official Gazette* of the territory; (vi)
- (vi) "Republic" means the Republic of South Africa; (viii)
- (vii) "territory" means the territory of South West Africa; (iii)
- (viii) "the Minister", in relation to a law, means the Minister of the Republic mentioned in a transfer proclamation, whose administration of a matter to which that law relates, is transferred to the Administrator-General by that transfer proclamation; (ii)
- (ix) "transfer proclamation" means a proclamation by the Administrator-General by which the administration of the affairs of the territory in relation to any matter is transferred from a Minister of the Republic to the Administrator-General. (vii)

Application of this Proclamation

2. The provisions of this Proclamation shall, as from the commencement of a transfer proclamation and save in so far as that transfer proclamation provides otherwise, apply in respect of any law relating to a matter which in terms of that transfer proclamation is administered by the Administrator-General.

klamasie genoem, wie se administrasie van 'n aangeleentheid waarop daardie wet betrekking het, by daardie oordragproklamasie aan die Administrateur-generaal oorgedra word; (viii)

- (iii) "gebied" die gebied Suidwes-Afrika; (vii)
- (iv) "hoof", met betrekking tot 'n departement, die beampte wat ingevolge die Staatsdienswet, 1957 (Wet 54 van 1957), die hoof van daardie departement is; en, met betrekking tot die Departement van Pos- en Telekommunikasiewese, die Posmeester-generaal; (ii)
- (v) "inwerkingtreding", met betrekking tot hierdie Proklamasie of 'n oordragproklamasie, die inwerkingtreding daarvan op die datum waarop dit in die *Offisiële Koerant* afgekondig word; (i)
- (vi) "*Offisiële Koerant*" die *Offisiële Koerant* van die gebied; (v)
- (vii) "oordragproklamasie" 'n proklamasie deur die Administrateur-generaal waarby die administrasie van die sake van die gebied met betrekking tot die een of ander aangeleentheid van 'n Minister van die Republiek aan die Administrateur-generaal oorgedra word; (ix)
- (viii) "Republiek" die Republiek van Suid-Afrika; (vi)
- (ix) "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, 'n proklamasie wat kragtens so 'n Wet of ordonnansie uitgevaardig is, en 'n regulasie, reël of ander maatreël wat kragtens so 'n Wet, ordonnansie of proklamasie uitgevaardig is, vir sover dit op die gebied betrekking het of daarin geld of met die administrasie daarvan, of die administrasie daarin van 'n aangeleentheid wat ingevolge 'n oordragproklamasie deur die Administrateur-generaal geadministreer word, in verband staan. (iii)

Toepassing van hierdie Proklamasie

2. Die bepalinge van hierdie Proklamasie is, vanaf die inwerkingtreding van 'n oordragproklamasie en behalwe vir sover daardie oordragproklamasie anders bepaal, van toepassing ten opsigte van 'n wet wat betrekking het op 'n aangeleentheid wat ingevolge daardie oordragproklamasie deur die Administrateur-generaal geadministreer word.

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Application of laws

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

- (a) to the Minister 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;
- (b) to the State, shall be construed as including a reference to the Administrator-General;
- (c) to the Republic, shall be construed as a reference to the territory;
- (d) to the *Government Gazette* of the Republic, shall be construed as a reference to the *Official Gazette*.

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

- (a) those provisions of any law referred to in section 2 which provide for or relate 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 for employment, in the service of the State or the Government of the Republic or any of its departments in terms of that law or any other law;
- (b) those provisions of any law so referred to which provide for or relate to the institution, constitution or control of any juristic person or any board or other body of persons that may exercise powers or perform other functions in or in respect of both the territory and the Republic;
- (c) such provisions of any law so referred to 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 the Office of the Administrator-General by notice in the *Official Gazette*.

(3) The provisions of paragraph (a) of subsection (2) shall not prohibit the appointment by or on the authority of the Administrator-General, to an office provided for in a law referred to in section 2, of any person referred to in that paragraph who has been designated or made available for that purpose by the authority in whose service such person is.

* (4) Any proclamation, regulation or rule which is issued or made after the commencement of any transfer

Toepassing van wette

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

- (a) na die Minister 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) na die Staat, uitgelê as 'n verwysing ook na die Administrateur-generaal;
- (c) na die Republiek, uitgelê as 'n verwysing na die gebied;
- (d) na die *Staatskoerant* van die Republiek, uitgelê as 'n verwysing na die *Offisiële Koerant*.

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

- (a) daardie bepalings van 'n wet in artikel 2 bedoel, wat voorsiening maak vir of betrekking het op die aanstelling, bevordering, verplasing, oorpasing afstaan, besoldiging, toelaes, tug, ontslag of skorsing, die uitdienstredings-, verlof- en pensioenregte en -voordele of enige ander diensvoorwaardes van iemand wat ingevolge daardie wet of 'n ander wet in die diens van die Staat of die Regering van die Republiek of 'n departement daarvan is of geneem word;
- (b) daardie bepalings van 'n aldus bedoelde wet wat voorsiening maak vir of betrekking het op die instelling of samestelling van of beheer oor 'n regs persoon of 'n raad of ander liggaam van persone wat ingevolge daardie wet bevoegdheid of ander werksaamhede in of ten opsigte van sowel die gebied as die Republiek kan uitoefen of verrig;
- (c) dié bepalings van 'n aldus bedoelde 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 die Kantoor van die Administrateur-generaal~~ Administrateur-generaal by kennisgewing in die *Offisiële Koerant* bekendgemaak word.

(3) Die bepalings van paragraaf (a) van subartikel (2) belet nie die aanstelling, deur of op gesag van die Administrateur-generaal, in 'n amp waarvoor 'n wet in artikel 2 bedoel voorsiening maak, van 'n persoon in daardie paragraaf bedoel wat vir dié doel aangewys of beskikbaar gestel is deur die gesag in wie se diens daardie persoon is nie.

(4) 'n Proklamasie, regulasie of reël wat na die inwerkingtreding van 'n oordragproklamasie deur, of op

proclamation by, or on the authority or with the approval of, the State President or the Minister under a law which at such commencement applies 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), apply in the territory if such proclamation, regulation or rule or the notice by which it is so published, contains a statement that it was or is 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 subsection (1) shall apply.

(5) added by sec. 3 AG 19/78
 subst. sec. 1 of Proc. AG-20/82
 Delegation of powers

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 the relevant transfer proclamation, and which but for the provisions of this subsection he would not be empowered to delegate, to the head of the department in which the administration of that law is carried on.

Subst. by P. AG 10/78/4(a)

(2) (a) The said head may delegate any power delegated to him under subsection (1) or, notwithstanding anything to the contrary contained in any other law, delegated to or conferred upon him under or by such other law, to an officer of the department concerned who is stationed in the territory.

Subst. by P. AG 10/78 sec. 4(b)

(b) The provisions of paragraph (a) shall not prohibit any delegation authorized by such other law.

(3) The said head shall not be deprived of a power delegated by him to such an officer, and may alter or withdraw any decision given by such 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 the said head under subsection (3).

(5) Where a power has been delegated to the holder of a post, that power may be exercised by the person who for the time being performs the functions attached to such post.

(6) (a) The Administrator-General may designate the post held by an officer referred to in subsection (2) by such name as he may deem fit,

Subst. by sec. 4(c) Ag. 10/78

gesag of met die goedkeuring van, die Staatspresident of die Minister kragtens 'n wet wat by sodanige inwerkingtreding 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), 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 of word, en ook in die gebied van toepassing is: Met dien verstande dat die bepalings van subartikel (1) by die toepassing van daardie proklamasie, regulasie of reël in die gebied geld.

(5) bygevoeg deur art. 3 Ag 10/78
 Ver. deur art. 1 Prot. Ag 20/82
 Delegering van bevoegdhede

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) en die betrokke oordragproklamasie toegepas, aan hom verleen word en wat hy nie sou kon deleger as dit nie vir die bepalings van hierdie subartikel was nie, deleger aan die hoof van die departement waarin die administrasie van daardie wet behartig word.

Veruug P. AG 10/78/4(a)

(2) (a) Die genoemde hoof kan 'n bevoegdheid wat kragtens subartikel (1) aan hom gedeleger is of, ondanks andersluidende bepalings van enige ander wet, kragtens of by sodanige ander wet aan hom gedeleger is of verleen word, aan 'n beampte van die betrokke departement wat in die gebied diens doen, deleger.

Veruug deur P. AG 10/78 art. 4(b)

(b) Die bepalings van paragraaf (a) belet nie 'n delegering wat deur so 'n ander wet gemagtig word nie.

(3) Die genoemde hoof word nie ontdoen van 'n bevoegdheid wat hy aan so 'n beampte gedeleger 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 gedeleger is nie, en kan 'n beslissing by die uitoefening van daardie bevoegdheid gegee, met inbegrip van 'n beslissing deur genoemde hoof kragtens subartikel (3) gegee, wysig of intrek.

(5) Waar 'n bevoegdheid aan die bekleër van 'n pos gedeleger is, kan daardie bevoegdheid uitgeoefen word deur die persoon wat te eniger tyd die werksaamhede verrig wat aan daardie pos verbonde is.

(6) (a) Die Administrateur-generaal kan die pos wat deur 'n in subartikel (2) bedoelde beampte beklee word, met die naam aanwys wat hy

Veruug deur art. 4(c) P. AG. 10/78

and such name shall be made known by the Chief Director of the Office of the Administrator-General by notice in the Official Gazette.

goedvind, en daardie naam moet deur die Hoofdirekteur van die Kantoor van die Administrateur-generaal by kennisgewing in die Offisiële Koerant bekendgemaak word.

(b) For the purposes of any law by or under which any power is conferred upon the holder of such post, anything done by or on behalf of or in relation to that holder under the name made known as aforesaid, instead of a name or designation provided for in that law, shall be deemed to have been done under the last-mentioned name or designation, and any document issued or submitted or dealt with in any other manner by or on behalf of or in relation to that holder in that connection, shall be construed accordingly.

(b) By die toepassing van 'n wet waarby of waarkragtens 'n bevoegdheid aan die bekleër van daardie pos verleen word, word enigiets wat deur of namens of met betrekking tot daardie bekleër gedoen word onder die naam aldus bekendgemaak, in plaas van 'n naam of aanwysing waarvoor daardie wet voorsiening maak, geag onder laasgenoemde naam of aanwysing gedoen te wees, en word enige stuk wat deur of namens of met betrekking tot daardie bekleër in dié verband uitgereik of ingedien of op 'n ander wyse mee gehandel word, dienoreenkomstig uitgelê.

(c) Paragraphs (a) and (b) shall *mutatis mutandis* apply also with reference to those provisions of any transfer proclamation issued before the commencement of this Proclamation, that provide for the delegation of powers to an officer or other person in the service of the State who is stationed in the territory.

(c) Paragrafe (a) en (b) is *mutatis mutandis* ook van toepassing met betrekking tot daardie bepalings van 'n oordragproklamasie voor die inwerkingtreding van hierdie Proklamasie uitgevaardig, wat voorsiening maak vir die delegering van bevoegdhede aan 'n beampte of ander persoon in diens van die Staat wat in die gebied diens doen.

4 bis + ter inserted by sect 5 AG 10/78
4 bis amended by P. Ag 82/78 + 4 bis Repealed by P.R. 10/85/36
Transitional provisions

4 bis + ter ingevoeg ont. 5 AG 10/78
Oorgangsbepalings
4 bis gewisig deur ont. 1 Prok. Ag hertoep. P.R. 8/85 82/78

5. Anything done under a law referred to in section 2 before the commencement of a transfer proclamation, shall be deemed to have been done under that law as applied by section 3(1) and the relevant transfer proclamation. See Proc. AG. 24/83 § 1(2)

5. Enigiets wat voor die inwerkingtreding van 'n oordragproklamasie gedoen is kragtens 'n wet in artikel 2 bedoel, word geag kragtens daardie wet soos deur artikel 3(1) en die betrokke oordragproklamasie toegepas, gedoen te wees. Sien Proc. AG. 24/83 § 1(2)

Amendment of Proclamation AG. 3 of 1977

Wysiging van Proklamasie AG. 3 van 1977

6. The Executive Powers Transfer Proclamation, 1977, is hereby amended —

6. Die Proklamasie op die Oordrag van Uitvoerende Gesag, 1977, word hierby gewysig —

(a) by the substitution, in the definition of "law" in section 1, for the words "and any proclamation" of the words "any proclamation issued under such an Act or ordinance, and any", and for the words "or ordinance" of the words "ordinance or proclamation";

(a) deur in die omskrywing van "wet" in artikel 1 die woorde "en 'n proklamasie" deur die woorde "'n proklamasie wat kragtens so 'n Wet of ordonnansie uitgevaardig is, en 'n", en die woorde "of ordonnansie" deur die woorde "ordonnansie of proklamasie" te vervang;

(b) by the insertion, in subsection (2) of section 4, after the words "that subsection" of the words "or, notwithstanding anything to the contrary contained in any other law, delegated to him under or conferred upon him by such other law,"; and

(b) deur in subartikel (2) van artikel 4 na die woord "is" die woorde "of, ondanks andersluidende bepalings van enige ander wet, kragtens of by sodanige ander wet aan hom gedelegeer is of verleen word," in te voeg; en

(c) by the addition to the said subsection (2) of the following paragraph, the existing subsection becoming paragraph (a):

(c) deur die volgende paragraaf by genoemde subartikel (2) te voeg, terwyl die bestaande subartikel paragraaf (a) word:

"(b) The provisions of paragraph (a) shall not prohibit any delegation authorized by such other law." Subst. Prok. Ag 10/78/1(b)

"(b) Die bepalings van paragraaf (a) belet nie 'n delegering wat deur sodanige ander wet gemagtig word nie." Vers. Prok. Ag. 10/78/1(b)

Short Title

7. This Proclamation shall be called the Executive Powers Transfer (General Provisions) Proclamation, 1977.

Kort titel

7. Hierdie Proklamasie heet die Proklamasie op die Oordrag van Uitvoerende Gesag (Algemene Bepalings), 1977.
