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Goewermentskennisgewing

The following Government Notice is published for general information.

Die volgende Goewermentskennisgewing word vir algemene inligting gepubliseer.

N. J. DAVIN
*Secretary of the National Assembly
of South West Africa*

N. J. DAVIN
*Sekretaris van die Nasionale Vergadering
van Suidwes-Afrika*

Windhoek

Windhoek

No. AG. 64

11 July 1979

No. AG. 64

11 Julie 1979

PROMULGATION OF ACT OF NATIONAL ASSEMBLY

AFKONDIGING VAN WET VAN NASIONALE VERGADERING

The following Act, which has been adopted by the National Assembly of South West Africa and signed by the Administrator-General in terms of the National Assembly Proclamation, 1979 (Proclamation AG. 21 of 1979), is hereby published in terms of section 19 of that Proclamation:—

Die volgende Wet, wat ingevolge die Proklamasie op die Nasionale Vergadering, 1979 (Proklamasie AG. 21 van 1979), deur die Nasionale Vergadering van Suidwes-Afrika aangeneem en deur die Administrateur-generaal onderteken is, word hierby afgekondig ingevolge artikel 19 van daardie Proklamasie:—

No. 3 of 1979: Abolishment of Racial Discrimination (Urban Residential Areas and Public Amenities) Act, 1979

No. 3 van 1979: Wet op die Afskaffing van Rassediskriminasie (Stedelike Woonbuurte en Openbare Geriewe), 1979

**Act No. 3, 1979 ABOLISHMENT OF RACIAL DISCRIMINATION
(URBAN AREAS AND PUBLIC AMENITIES) ACT,
1979**

*(Afrikaans text signed by the Administrator-General on
9 July 1979)*

ACT

To remove restrictions based on race in connection with residential erven in urban areas and certain public amenities; to prohibit the imposition of such restrictions; and to provide for incidental matters.

BE IT ENACTED by the National Assembly of South West Africa, as follows:—

Definitions.

1. In this Act, unless the context indicates otherwise —

- (i) “accommodation” means bedroom accommodation or other facilities for passing the night, and the services ordinarily associated therewith; (ii)
- (ii) “law” includes any law in force in any part of the territory of South West Africa declared to be a self-governing area by or under any law, or in Damara-land; (viii)
- (iii) “public accommodation establishment” means any hotel, guest-house, pension, rest camp, guest farm, holiday farm, caravan park or other premises in or upon which the business of supplying accommodation with or without meals for reward to tourists, travellers and other members of the public who are ordinarily resident elsewhere, is conducted and which is licensed, registered, established or otherwise authorized by or under any law; (iv)
- (iv) “public amenity” means a public accommodation establishment, public recreation area or public restaurant, and includes any cinema to which members of the public may obtain admission for reward; (iii)
- (v) “public recreation area” means any game park, nature reserve, tourist recreation area, holiday resort or other similar area established or controlled by or under any law, to which members of the public have access or may obtain admission for purposes of recreation, whether or not against the payment of admission or other fees; (v)
- (vi) “public restaurant” means any restaurant, refreshment room, tea room or other premises in or upon which the business of supplying food or drink

**WET OP DIE AFSKAFFING VAN RASSE- Wet No. 3, 1979
DISKRIMINASIE (STEDELIKE WOONBUURTE EN
OPENBARE GERIEWE), 1979**

*(Afrikaanse teks deur die Administrateur-generaal onder-
teken op 9 Julie 1979)*

WET

**Om beperkings wat op ras gegrond is in verband met woon-
erwe in stedelike gebiede en sekere openbare geriewe op
te hef; om die oplê van sodanige beperkings te verbied; en
om vir bykomstige aangeleenthede voorsiening te maak.**

DAAR WORD BEPAAL deur die Nasionale Ver-
gadering van Suidwes-Afrika, soos volg:—

1. Tensy uit die samehang anders blyk, beteken in hier-
die Wet —

Woordomskrywings.

- (i) “dorp” ’n dorp wat as sodanig geproklameer, ver-
klaar, ingestel of goedgekeur is of erken word by of
kragtens enige wet op die stigting van dorpe, en ook
grond wat buite sodanige dorp geleë is maar wat
ingesluit is in die regsgebied van die munisipale
raad, dorpsbestuur, dorpsraad of ander plaaslike
owerheid wat ten opsigte van daardie dorp ingestel
is by of kragtens ’n wet op die bestuur of beheer van
dorpe, en ’n gebied wat kragtens artikel 1 van die
Proklamasie op Inboorlinge in Stedelike Gebiede,
1951 (Proklamasie 56 van 1951), vir die doeleindes
van daardie Proklamasie tot ’n stedelike gebied
verklaar is; (ix)
- (ii) “huisvesting” slaapkamerakkommodasie of ander
geriewe om te oornag, en die dienste wat gewoonlik
daarmee geassosieer word; (i)
- (iii) “openbare gerief” ’n openbare huisvestingsinrig-
ting, openbare ontspanningsgebied of openbare
restaurant, en ook ’n bioskoop waartoe lede van die
publiek toegang teen vergoeding kan verkry; (iv)
- (iv) “openbare huisvestingsinrigting” ’n hotel, gaste-
huis, pension, ruskamp, gasteplaas, vakansie-
plaas, karavaanpark of ander perseel waarin of
waarop die besigheid gedryf word om huisvesting
met of sonder etes teen vergoeding aan toeriste,
reisigers of ander lede van die publiek wat hul ge-
wone verblyf elders het, te verskaf en wat by of
kragtens die een of ander wet gelisensieer, ge-
registreer, ingestel of andersins gemagtig is; (iii)
- (v) “openbare ontspanningsgebied” ’n wildtuin, natuur-
reservaat, toeriste-ontspanningsgebied, vakansie-

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1979**

(whether alcoholic drink or not) for consumption on the premises to members of the public for reward is conducted and which is in respect of such business licensed, registered, established or otherwise authorized by or under any law; (vi)

(vii) "racial group" means any class or group of persons of which the members are generally known as whites, non-whites, Natives, Coloureds, Bastards, Namas, Bushmen, Asiatics or Indians or of which the members are identified according to their race or colour; (vii)

(viii) "residential erf" means any piece of land in a township which may be used lawfully for residential purposes, including any dwelling-house, flat or other building or part of a building thereon; (ix)

(ix) "township" means a township proclaimed, declared, established, approved, or recognized as such by or under any law relating to the establishment of townships, and includes any land situated outside such township but included in the area of jurisdiction of the municipal council, village management board, township council or other local authority established in respect of such township by or under any law relating to the management or control of townships, and any area declared to be an urban area under section 1 of the Natives (Urban Areas) Proclamation, 1951 (Proclamation 56 of 1951), for the purposes of that Proclamation. (i).

Race no bar to the acquisition or transfer of residential erven in townships or rights in respect thereof.

2. No person, association of persons or juristic person shall, on account of the fact that he or it or another person or any such association or juristic person —

- (a) is, or is deemed to be, a member of a particular racial group; or
- (b) is not, or is deemed not to be, a member of a particular racial group; or
- (c) in the case of an association of persons or a juristic person, its members consist of, or any interest in it is held by, persons who are members of a particular racial group or who are not members of a particular racial group or who are members of different racial groups,

be disqualified or debarred from acquiring in any manner the ownership of, or any right in, to or over any residential erf in any township, or possessing or occupying or residing upon any such residential erf or exercising any such right, or from transferring or granting in any manner such ownership or any such right, or giving possession or occupation of any such residential erf, to such other person or such association of persons or juristic person, or enabling or permitting him or it to reside upon any such residential erf or to exercise any such right.

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KRIMINASIE (STEDELIKE WOONBUURTE EN
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oord of ander soortgelyke gebied wat by of kragtens die een of ander wet ingestel is of beheer word en waartoe lede van die publiek vir die doeleindes van ontspanning toegang het of toegang kan verkry het-sy teen betaling van toegangs- of ander gelde of nie; (v)

- (vi) "openbare restaurant" 'n restaurant, verversings-kamer, teekamer of ander perseel waarin of waarop die besigheid gedryf word om voedsel of drank (het-sy alkoholiese drank of nie) teen vergoeding aan lede van die publiek te verskaf vir gebruik op die perseel en wat ten opsigte van sodanige besigheid by of kragtens die een of ander wet gelisensieer, ge-registreer, ingestel of andersins gemagtig is; (vi)
- (vii) "rassegroep" enige klas of groep persone waarvan die lede algemeen bekend is as blankes, nie-blankes, Naturelle, Kleurlinge, Basters, Namas, Boesmans, Asiate of Indiërs of waarvan die lede volgens hul ras of kleur geïdentifiseer word; (vii)
- (viii) "wet" ook 'n wet wat van krag is in enige deel van die gebied Suidwes-Afrika wat by of kragtens 'n wet tot 'n selfregerende gebied verklaar is, of in Damaraland; (ii)
- (ix) "woonerf" enige stuk grond in 'n dorp wat wettiglik vir woondoeleindes gebruik kan word, met inbegrip van enige woonhuis, woonstel of ander gebou of ge-deelte van 'n gebou daarop. (viii)

2. Geen persoon, vereniging van persone of regspersoon is onbevoeg of word verbied, vanweë die feit dat hy of 'n ander persoon of so 'n vereniging of regspersoon —

Ras geen beletsel teen ver-kryging of oordrag van woonerwe in dorpe of regte ten opsigte daarvan.

- (a) 'n lid van 'n bepaalde rassegroep is of geag word dit te wees; of
- (b) nie 'n lid van 'n bepaalde rassegroep is nie of geag word dit nie te wees nie; of
- (c) in die geval van 'n vereniging van persone of 'n regspersoon, die lede daarvan bestaan uit, of 'n belang daarin gehou word deur, persone wat lede van 'n bepaalde rassegroep is of wat nie lede van 'n bepaalde rassegroep is nie of wat lede van ver-skillende rassegroepe is,

om die eiendom van, of enige reg in, op of oor 'n woonerf in 'n dorp op enige wyse te verkry of so 'n woonerf te besit of te okkupeer of daarop te woon of so 'n reg uit te oefen nie, of om daardie eiendom of so 'n reg op enige wyse oor te dra of te verleen, of besit of okkupasie van so 'n woonerf te gee, aan daardie ander persoon of daardie vereniging van per-sone of regspersoon, of hom in staat te stel of toe te laat om op so 'n woonerf te woon of so 'n reg uit te oefen nie.

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Prohibition of racial discrimination in public amenities.

3. No person shall —

- (a) reserve or restrict the right of admission to any public amenity or any part thereof, including such a part where food or drink (whether alcoholic drink or not) is supplied to guests in or visitors to or clients of such public amenity for consumption on the premises, or any service or facility so supplied, including accommodation, the supply of food or drink as aforesaid and any seating or other facility for the consumption of such food or drink, for or to members of a particular racial group or persons other than members of a particular racial group, or in any manner indicate or intimate that it is so reserved or restricted; or
- (b) charge moneys or impose other conditions or requirements for the grant of such right of admission or the supply of such service to, or the use of such facility by, members of a particular racial group, which differ from those charged or imposed in respect of persons who are not members of that racial group; or
- (c) refuse or prohibit the grant of such right or the supply of such service to, or the use of such facility by, any person because such person is a member of a particular racial group or because such person is not a member of a particular racial group.

Offences and penalties.

4. (1) Any person who contravenes any provision of section 3 shall be guilty of an offence and be liable on conviction to a fine not exceeding three hundred rand or imprisonment for a period not exceeding three months.

(2) Subsection (1) shall apply also to any person in the service of the State (including the Administrator-General, the Administration of South West Africa, the Damara Representative Authority and the government of any area declared to be a self-governing area by or under any law) who acts in the course of such service.

(3) If any employee or agent of the owner (except the State as contemplated in subsection (2)) or manager of the business conducted in a public amenity, does an act which is an offence in terms of subsection (1), such owner or manager shall be deemed himself to have done such act and be liable on conviction to the penalties which may be imposed in respect thereof unless he proves to the satisfaction of the court that —

- (a) he did not permit or connive at the doing of such act by such employee or agent; and

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3. Niemand mag —

Verbod op rasediskriminasie in openbare geriewe.

- (a) die reg van toegang tot 'n openbare gerief of enige deel daarvan, met inbegrip van so 'n deel waar voedsel of drank (hetsy alkoholiese drank of nie) aan gaste in of besoekers aan of klante van daardie openbare gerief verskaf word vir gebruik op die perseel, of enige diens of gerief wat aldus verskaf word, met inbegrip van huisvesting, die verskaffing van voedsel of drank soos voormeld en sit- of ander geriewe vir die verbruik van sodanige voedsel of drank, voorbehou vir of beperk tot lede van 'n bepaalde rassegroep of ander persone as lede van 'n bepaalde rassegroep nie, of op enige wyse aandui of te kenne gee dat dit aldus voorbehou of beperk word nie; of
- (b) vir die verlening van sodanige reg van toegang of die verskaffing van sodanige diens aan, of die gebruik van sodanige gerief deur, lede van 'n bepaalde rassegroep, gelde vra of ander voorwaardes of vereistes stel wat verskil van dié wat gevra of gestel word ten opsigte van persone wat nie lede van daardie rassegroep is nie; of
- (c) die verlening van sodanige reg van toegang of die verskaffing van sodanige diens aan, of die gebruik van sodanige gerief deur, enige persoon, weier of belet omdat daardie persoon 'n lid van 'n bepaalde rassegroep is of omdat daardie persoon nie 'n lid van 'n bepaalde rassegroep is nie.

4. (1) Iemand wat 'n bepaling van artikel 3 oortree, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens driehonderd rand of gevangenisstraf vir 'n tydperk van hoogstens drie maande.

Misdrywe en strawwe.

(2) Subartikel (1) is ook van toepassing op 'n persoon in die diens van die Staat (met inbegrip van die Administrateur-generaal, die Administrasie van Suidwes-Afrika, die Damara-Verteenwoordigende Owerheid en die regering van 'n gebied wat by of kragtens wet tot 'n selfregerende gebied verklaar is) wat in die loop van sodanige diens handel.

(3) Indien 'n werknemer of 'n agent van die eenaar (behalwe die Staat soos in subartikel (2) bedoel) of bestuurder van die besigheid wat in 'n openbare gerief gedryf word, 'n handeling verrig wat ingevolge subartikel (1) 'n misdryf uitmaak, word daardie eenaar of bestuurder geag die handeling self te verrig het, en is hy by skuldigbevinding strafbaar met die strawwe wat ten opsigte daarvan opgelê kan word, tensy hy die hof met bewyse oortuig dat —

- (a) hy die verrigting van daardie handeling deur daardie werknemer of agent nie veroorloof of oogluikend toegelaat het nie; en

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(b) he took all reasonable steps to prevent such act; and

(c) it was under no condition and in no circumstance within the scope of the authority or the course of the employment of such employee or agent to do any act, whether lawful or unlawful, of the nature charged.

(4) The provisions of subsection (3) shall not relieve an employee or agent referred to therein from liability in terms of subsection (1) for an act so referred to.

Removal and annulment of restrictions, obligations, conditions, servitudes and provisions repugnant to section 2.

5. (1) Any restriction or obligation which is binding on the owner of a residential erf in any township by virtue of—

(a) a restrictive condition or servitude registered against the title deed of such residential erf; or

(b) a provision of any law; or

(c) a provision of any town planning scheme as defined in the law (if any) on the planning of townships applicable in that part of the territory of South West Africa in which the township concerned is situated; or

(d) a provision of a town planning scheme as so defined and a restrictive condition or servitude registered against the title deed of such residential erf; or

(e) a provision of a town planning scheme as so defined and a provision of any law,

and which is repugnant to the provisions of section 2, is hereby removed in so far as it is so repugnant, and the restrictive condition, servitude or provision concerned is hereby declared to be null and void to the same extent.

(2) The registrar of deeds or other person in charge of any office where deeds in respect of residential erven situated in a township are registered, shall make such notes as he may consider necessary to give effect to the provisions of subsection (1), in or upon all relevant registers or documents kept in such office, and, when a title deed of any residential erf registered in such office is at any time received in such office for any purpose, also on that title deed.

Annulment of conditions, requirements, authorizations and provisions repugnant to section 3.

6. Any condition, requirement, authorization or provision in or of a licence, registration certificate or other authorization granted or issued in respect of a public amenity under any law, which is repugnant to the provisions of section 3, is hereby declared to be null and void in so far as it is so repugnant.

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(b) hy alle redelike stappe gedoen het om daardie handeling te voorkom; en

(c) 'n handeling, hetsy wettig of onwettig, van die soort wat hom ten laste gelê word, op geen voorwaarde en onder geen omstandigheid binne die bevoegdheid of in die loop van die diens van daardie werknemer of agent geval het nie.

(4) Die bepalings van subartikel (3) onthef nie 'n werknemer of agent daarin bedoel van aanspreeklikheid ingevolge subartikel (1) vir 'n aldus bedoelde handeling nie.

5. (1) 'n Beperking of verpligting wat vir die eienaar van 'n woonerf in 'n dorp bindend is uit hoofde van —

Opheffing en nietigverklaring van beperkings, verpligtings, voorwaardes, serwitute en bepalings wat met artikel 2 strydig is.

(a) 'n beperkende voorwaarde of serwituut teen die titelbewys van daardie woonerf geregistreer; of

(b) 'n bepaling van 'n wet; of

(c) 'n bepaling van 'n dorpsbeplanningskema soos omskryf in die wet (indien daar een is) op die beplanning van dorpe wat van toepassing is in dié deel van die gebied Suidwes-Afrika waarin die betrokke dorp geleë is; of

(d) 'n bepaling van 'n dorpsbeplanningskema soos aldus omskryf en 'n beperkende voorwaarde of serwituut teen die titelbewys van daardie woonerf geregistreer; of

(e) 'n bepaling van 'n dorpsbeplanningskema soos aldus omskryf en 'n bepaling van 'n wet,

en wat met die bepalings van artikel 2 strydig is, word hierby opgehef vir sover dit aldus strydig is, en die betrokke beperkende voorwaarde, serwituut of bepaling word in dieselfde mate hierby nietig verklaar.

(2) Die registrateur van aktes of ander persoon in beheer van 'n kantoor waar aktes ten opsigte van woonerwe in 'n dorp geleë, geregistreer word, moet die aantekeninge wat hy nodig ag om aan die bepalings van subartikel (1) gevolg te gee, aanbring in of op alle tersaaklike registers of stukke wat in daardie kantoor gehou word, en, wanneer 'n titelbewys van 'n woonerf wat in daardie kantoor geregistreer is te eniger tyd vir die een of ander doel in daardie kantoor ontvang word, ook op daardie titelbewys.

6. 'n Voorwaarde, vereiste, magtiging of bepaling in of van 'n lisensie, registrasiesertifikaat of ander magtiging kragtens die een of ander wet vir of ten opsigte van 'n openbare gerief verleen of uitgereik, wat met die bepalings van artikel 3 strydig is, word hierby nietig verklaar vir sover dit aldus strydig is.

Nietigverklaring van voorwaardes, vereistes, magtigings en bepalings wat met artikel 3 strydig is.

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Invalidation of statutory provisions repugnant to section 2 or 3.

7. (1) Any provision of a law which is repugnant to section 2 or 3 or which authorizes or requires any act which is so repugnant, shall cease to have the force of law in so far as it is so repugnant or authorizes or requires such an act.

(2) For the purposes of subsection (1) a provision of a law authorizing or effecting the reservation or setting apart of any part of a township as an area for occupation or possession by, or any other needs of, members of a particular racial group, shall not be regarded as repugnant to the provisions of section 2, but the reservation or setting apart of such an area which has been effected or is effected at any time under or by such a provision, shall in no way prejudice the application and operation of the provisions of section 2 in respect of any residential erf in the area concerned.

(3) The provisions of section 22(1)(a) and (2) of the South West Africa Constitution Act, 1968 (Act 39 of 1968), shall not apply with reference to taxation imposed on the land of a Native situated within a township outside an area referred to in section 2(1) of the Development of Self-government for Native Nations in South West Africa Act, 1968 (Act 54 of 1968).

Short title and commencement.

8. (1) This Act shall be called the Abolishment of Racial Discrimination (Urban Residential Areas and Public Amenities) Act, 1979, and shall save as provided in subsection (2), come into operation on the expiration of a period of thirty days after the date on which it is published in the *Official Gazette*.

(2) Sections 3 and 4 shall come into operation on a date to be fixed by the Administrator-General by proclamation in the *Official Gazette*: Provided that section 3 shall for the purposes of sections 6 and 7(1) be deemed to have come into operation on the expiration of the period referred to in subsection (1) of this section.

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7. (1) 'n Bepaling van 'n wet wat met artikel 2 of 3 strydig is of wat 'n handeling magtig of vereis wat aldus strydig is, hou op om regs krag te hê vir sover dit aldus strydig is of so 'n handeling magtig of vereis.

Ongeldigverklaring van wetsbepalings wat met artikel 2 of 3 strydig is.

(2) By die toepassing van subartikel (1) word 'n bepaling van 'n wet wat die reservering of afsondering van 'n gedeelte van 'n dorp as 'n gebied vir okkupasie of besit deur, of ander behoeftes van, lede van 'n bepaalde rassegroep magtig of bewerkstellig, nie geag met die bepalings van artikel 2 strydig te wees nie, maar die reservering of afsondering van so 'n gebied wat te eniger tyd kragtens of by so 'n bepaling gedoen is of gedoen word, doen geensins afbreuk aan die toepassing en werking van die bepalings van artikel 2 ten opsigte van enige woonerf in die betrokke gebied nie.

(3) Die bepalings van artikel 22(1)(a) en (2) van die Wet op die Konstitusie van Suidwes-Afrika, 1968 (Wet 39 van 1968), is nie van toepassing nie met betrekking tot belasting gehef op grond van 'n Naturel wat geleë is in 'n dorp buite 'n gebied vermeld in artikel 2(1) van die Wet op die Ontwikkeling van Selfbestuur vir Naturellevolke in Suidwes-Afrika, 1968 (Wet 54 van 1968).

8. (1) Hierdie Wet heet die Wet op die Afskaffing van Rasediskriminasie (Stedelike Woonbuurte en Openbare Geriewe), 1979, en tree behoudens die bepalings van subartikel (2), in werking by die verstryking van 'n tydperk van dertig dae na die datum van afkondiging daarvan in die *Offisiële Koerant*.

Kort titel en inwerking-treding.

(2) Artikels 3 en 4 tree in werking op 'n datum wat die Administrateur-generaal by proklamasie in die *Offisiële Koerant* bepaal: Met dien verstande dat by die toepassing van artikels 6 en 7(1), artikel 3 geag word in werking te getree het by die verstryking van die tydperk in subartikel (1) van hierdie artikel bedoel.