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PROKLAMASIE

No. AG. 20 Om voorsiening te maak vir die meer doelteeffende Administrasie van die sake van die Capriviane 1

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PROKLAMASIE

van die

ADMINISTRATEUR-GENERAAL VIR DIE GEBIED SUIDWES-AFRIKA

(Deur die Staatspresident goedgekeur op 29 Junie 1984)

No. AG. 20 1984

OM VOORSIENING TE MAAK VIR DIE MEER DOELTREFFENDE ADMINISTRASIE VAN DIE SAKE VAN DIE CAPRIVIANE

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

W.A. VAN NIEKERK
Administrateur-generaal — Windhoek, 28 Junie 1984

PROCLAMATION

by the

ADMINISTRATOR-GENERAL FOR THE TERRITORY OF SOUTH WEST AFRICA

(Approved by the State President on 29 June 1984)

No. AG. 20 1984

TO PROVIDE FOR THE MORE EFFICIENT ADMINISTRATION OF THE AFFAIRS OF THE CAPRIVIANS

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

W.A. VAN NIEKERK
Administrator-General — Windhoek, 28 June 1984

BYLAE

Woordomskrywings

1. In hierdie Proklamasie, tensy uit die samehang anders blyk, beteken -

(i) "Hoofproklamasie" die Proklamasie op die Verteenwoordigende Owerheid van die Capriviane, 1980 (Proklamasie AG. 29 van 1980);

(ii) "Kommissaris" -

(a) met betrekking tot 'n amp, die amp van Kommissaris vir die Administrasie van die Sake van die Capriviane by artikel 2(1) ingestel; en

(b) met betrekking tot 'n persoon, die persoon wat kragtens artikel 3(1) in die amp van Kommissaris aangestel is en ook 'n persoon wat kragtens artikel 3(2) aangewys is om die bevoegdhede, pligte en werksaamhede van die Kommissaris uit te oefen en te verrig wanneer eersbedoelde persoon afwesig is of nie in staat is om op te tree nie soos in genoemde artikel 3(2) beoog;

(iii) "Uitvoerende Komitee" die Uitvoerende Komitee van die Capriviane by artikel 2(b) van die Hoofproklamasie ingestel;

(iv) "Vergadering" die Wetgewende Vergadering van die Capriviane by artikel 2(a) van die Hoofproklamasie ingestel.

Instelling van Amp van Kommissaris

2. (1) Daar word hierby 'n amp van Kommissaris vir die Administrasie van die Sake van die Capriviane ingestel.

(2) Die amp van Kommissaris bly bestaan tot tyd en wyl die Administrateur-generaal dit by proklamasie in die *Offisiële Koerant* afskaf.

(3) In 'n proklamasie kragtens subartikel (2) kan ook voorsiening gemaak word vir dié maatreëls of bepalings wat die Administrateur-generaal nodig of dienstig ag ten einde die Uitvoerende Komitee in staat te stel om die uitoefening van sy bevoegdhede of die verrigting van sy pligte of werksaamhede sonder onderbreking of ontwrigting voort te sit wanneer die amp van Kommissaris afgeskaf word.

SCHEDULE

Definitions

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

(i) "Assembly" means the Legislative Assembly of the Caprivians established by section 2(a) of the principal Proclamation;

(ii) "Commissioner" -

(a) in relation to an office, means the office of Commissioner for the Administration of the Affairs of the Caprivians established by section 2(1); and

(b) in relation to a person, means the person appointed to the office of Commissioner under section 3(1) and includes any person designated under section 3(2) to exercise and perform the powers, duties and functions of the Commissioner when the first-mentioned person is absent or unable to act, as contemplated in the said section 3(2);

(iii) "Executive Committee" means the Executive Committee of the Caprivians established by section 2(b) of the principal Proclamation;

(iv) "principal Proclamation" means the Representative Authority of the Caprivians Proclamation, 1980 (Proclamation AG. 29 of 1980).

Establishment of Office of Commissioner

2. (1) There is hereby established an office of Commissioner for the Administration of the Affairs of the Caprivians.

(2) The office of Commissioner shall exist until such time as the Administrator-General may abolish it by proclamation in the *Official Gazette.*

(3) In any proclamation under subsection (2) provision may also be made for such measures and provisions as the Administrator-General may deem necessary or expedient in order to enable the Executive Committee to continue the exercise of its powers or the performance of its duties or functions without interruption or disruption when the office of Commissioner is abolished.

Aanstelling van Kommissaris

3. (1) Die amp van Kommissaris word beklee deur die persoon wat die Administrateur-generaal van tyd tot tyd in dié amp aanstel.

(2) Wanneer die Kommissaris afwesig is of om 'n ander rede nie in staat is om op te tree nie, word die bevoegdhede, pligte en werksaamhede van die Kommissaris onderworpe aan die gesag van die Administrateur-generaal en op die voorwaardes (as daar is) wat hy bepaal, uitgeoefen en verrig deur die persoon wat die Administrateur-generaal vir dié doel aanwys.

Tussentydse bepalings met betrekking tot Vergadering en Uitvoerende Komitee

4. (1) Ondanks die bepalings van die Hoofproklamasie, en tot tyd en wyl die Administrateur-generaal die amp van Kommissaris afskaf soos in artikel 2(2) beoog -

(a) maak agt lede 'n kworum vir 'n sitting van die Vergadering uit;

(b) bestaan die Uitvoerende Komitee ui sewe lede, naamlik -

(i) die Kommissaris;

(ii) die kaptein van die Mafwe-stam;

(iii) die kaptein van die Basubia-stam; en

(iv) vier ander lede deur die Administrateur-generaal uit die lede van die Vergadering of andersins aangestel, van wie twee lede van die Mafwe-stam en twee lede van die Basubia-stam moet wees;

(c) is die Kommissaris die Voorsitter van die Uitvoerende Komitee en berus al die bevoegdhede, pligte en werksaamhede wat kragtens die Hoofproklamasie of enige ander wet by die Voorsitter van die Uitvoerende Komitee berus, behoudens die bepalings van hierdie Proklamasie, by die Kommissaris;

(d) beklee 'n lid van die Uitvoerende Komitee (behalwe die Kommissaris) sy amp tot tyd en wyl hy dit ingevolge paragraaf (e) ontruim;

(e) ontruim 'n lid van die Uitvoerende Komitee -

(i) wat 'n kaptein in paragraaf (b)(ii) of (iii) genoem is, sy amp as lid van die Uitvoerende Komitee -

Appointment of Commissioner

3. (1) The office of Commissioner shall be held by such person as the Administrator-General may from time to time appoint to that office.

(2) Whenever the Commissioner is absent or for any other reason unable to act, the powers, duties and functions of the Commissioner shall, subject to the authority of the Administrator-General and on the conditions (if any) he may determine, be exercised and performed by such person as the Administrator-General may designate for that purpose.

Interim provisions in relation to Assembly and Executive Committee

4. (1) Notwithstanding the provisions of the principal Proclamation, and until such time as the Administrator-General may abolish the office of Commissioner as contemplated in section 2(2) -

(a) eight members shall form a quorum for a sitting of the Assembly;

(b) the Executive Committee shall consist of seven members, namely -

(i) the Commissioner;

(ii) the chief of the Mafwe tribe;

(iii) the chief of the Basubia tribe; and

(iv) four other members appointed by the Administrator-General from among the members of the Assembly or otherwise, two of whom shall be members of the Mafwe tribe and two of whom shall be members of the Basubia tribe;

(c) the Commissioner shall be the Chairman of the Executive Committee and all the powers, duties and functions which under the principal Proclamation or any other law vests in the Chairman of the Executive Committee, shall, subject to the provisions of this Proclamation, vest in the Commissioner;

(d) any member of the Executive Committee (except the Commissioner) shall hold his office until such time as he may vacate it in terms of paragraph (e);

(e) a member of the Executive Committee -

(i) who is a chief mentioned in paragraph (b)(ii) or (iii), shall vacate his office as a member of the Executive Committee -

(aa) indien hy ophou om kaptein van die betrokke aldus genoemde stam te wees;

(bb) indien hy kragtens paragraaf (f) deur die Administrateur-generaal van sy amp as sodanige lid onthef word;

(ii) wat nie 'n kaptein in paragraaf (b)(ii) of (iii) genoem is nie, sy amp as lid van die Uitvoerende Komitee -

(aa) indien hy 'n lid van die Vergadering was toe hy as lid van die Uitvoerende Komitee aangestel is en hy sy setel in die Vergadering ontruim;

(bb) indien hy as lid van die Uitvoerende Komitee bedank by kennisgewing deur hom onderteken en aan die Kommissaris gerig of deur 'n aankondiging te dien effekte op 'n vergadering van die Uitvoerende Komitee te doen;

(cc) indien hy by besluit van die Vergadering op 'n mosie met minstens elf stemme aangeneem, van sy amp onthef word;

(dd) indien hy kragtens paragraaf (f) deur die Administrateur-generaal van sy amp onthef word;

(ee) indien hy verkies, benoem of andersins aangewys word as lid van die wetgewende owerheid, soos in artikel 1 van die Proklamasie op Verteenwoordigende Owerhede, 1980 (Proklamasie AG. 8 van 1980), omskryf, van 'n ander bevolkingsgroep as die Capriviane;

(f) kan die Administrateur-generaal 'n lid van die Uitvoerende Komitee (behalwe die Kommissaris) van sy amp onthef -

(i) indien hy sonder die spesiale verlof van die Uitvoerende Komitee afwesig is van enige vergadering van die Uitvoerende Komitee; of

(ii) om enige ander rede wat die Administrateur-generaal goed en voldoende ag;

(g) word 'n toevallige vakature wat in die Uitvoerende Komitee ontstaan deurdat 'n lid van die Uitvoerende Komitee -

(aa) if he ceases to be chief of the relevant tribe so mentioned;

(bb) if he is removed from his office as such a member by the Administrator-General under paragraph (f);

(ii) who is not a chief mentioned in paragraph (b)(ii) or (iii), shall vacate his office as a member of the Executive Committee -

(aa) if he was a member of the Assembly when he was appointed as a member of the Executive Committee and he vacates his seat in the Assembly;

(bb) if he resigns as a member of the Executive Committee by notice under his hand addressed to the Commissioner or by making an announcement to that effect at a meeting of the Executive Committee;

(cc) if he is removed from office by resolution of the Assembly on a motion adopted with at least eleven votes;

(dd) if he is removed from office by the Administrator-General under paragraph (f);

(ee) if he is elected, nominated or otherwise designated as a member of the legislative authority, as defined in section 1 of the Representative Authorities Proclamation, 1980 (Proclamation AG. 8 of 1980), of any population group other than the Caprivians;

(f) the Administrator-General may remove any member of the Executive Committee (except the Commissioner) from office -

(i) if he is absent from any meeting of the Executive Committee without the special leave of the Executive Committee;

(ii) for any other reason which the Administrator-General may deem fit and sufficient;

(g) a casual vacancy which occurs in the Executive Committee because a member of the Executive Committee -

(i) wat 'n kaptein in paragraaf (b)(ii) of (iii) genoem, is -

(aa) te sterwe kom of sy amp ingevolge paragraaf (e)(i)(aa) ontruim, gevul deur die verklaring van sy opvolger in die betrokke kapteinskap tot lid van die Uitvoerende Komitee op die datum van sy erkenning of aanstelling as kaptein van die betrokke stam ingevolge die wette op die erkenning en aanstelling van kapteins van die Capriviane;

(bb) kragtens paragraaf (f) deur die Administrateur-generaal van sy amp onthef word, nie gevul nie: Met dien vertande dat die Administrateur-generaal so 'n kaptein wat sy amp aldus ontruim het, te eniger tyd na goeddunke kan herstel in die amp wat hy aldus ontruim het;

(ii) wat nie 'n aldus genoemde kaptein is nie sy amp om welke rede ook al ontruim, gevul deur aanstelling deur die Administrateur-generaal *mutatis mutandis* ooreenkomstig die bepalings van paragraaf (b)(iv);

(h) maak vier lede, waarvan die Kommissaris een moet wees, 'n kworum uit vir 'n vergadering van die Uitvoerende Komitee;

(i) sit die Kommissaris voor op alle vergaderings van die Uitvoerende Komitee;

(j) word vergaderings van die Uitvoerende Komitee gehou op die tye en plekke wat die Kommissaris bepaal;

(k) word vrae wat by 'n vergadering van die Uitvoerende Komitee ontstaan, beslis deur 'n meerderheid van stemme van lede wat aanwesig is met die uitsondering van die Kommissaris, wat egter by 'n staking van stemme 'n beslissende stem het;

(l) word die verwysing -

(i) in artikel 16(2)(b) van die Hoofproklamasie na Voorsitters en lede van die Uitvoerende Komitee, geag nie 'n verwysing na die Kommissaris in sy hoedanigheid van sodanige Voorsitter of so 'n lid in te sluit nie;

(i) who is a chief mentioned in paragraph (b)(ii) or (iii) -

(aa) dies or vacates his office in terms of paragraph (e)(i)(aa), shall be filled by the declaration of his successor in the chieftainship in question to be a member of the Executive Committee on the date of his recognition or appointment as chief of the tribe concerned in terms of the laws governing the recognition and appointment of chiefs of the Caprivians;

(bb) is removed from office by the Administrator-General under paragraph (f), shall not be filled: Provided that the Administrator-General may at any time in his discretion reinstate any such chief who has so vacated his office, in the office he has so vacated;

(ii) who is not a chief so mentioned, vacates his office for any reason whatsoever, shall be filled by appointment by the Administrator-General *mutatis mutandis* in accordance with the provisions of paragraph (b)(iv);

(h) four members, one of whom shall be the Commissioner, shall form a quorum for a meeting of the Executive Committee;

(i) the Commissioner shall preside at all meetings of the Executive Committee;

(j) meetings of the Executive Committee shall be held at such times and places as the Commissioner may determine;

(k) questions arising at any meeting of the Executive Committee shall be determined by a majority of votes of the members present other than the Commissioner who shall, however, in the event of an equality of votes, have a casting vote;

(l) the reference-

(i) in section 16(2)(b) of the principal Proclamation to Chairmen and members of the Executive Committee, shall be deemed not to include a reference to the Commissioner in his capacity of such Chairman or such a member;

(ii) in artikel 24 van die Hoofproklamasie na 'n lid van die Uitvoerende Komitee, geag 'n verwysing na die Kommissaris in sy hoedanigheid van so 'n lid in te sluit; en

(iii) in artikel 26 van die Hoofproklamasie na die Voorsitter en lede van die Uitvoerende Komitee, geag 'n verwysing na die Kommissaris in sy hoedanigheid van sodanige Voorsitter of so 'n lid in te sluit; en

(m) word die Hoofproklamasie geag gewysig te gewees het -

(i) deur die vervanging in artikel 14(2) van die woorde "wat die Voorsitter van die Uitvoerende Komitee voorlê of goedkeur" deur die woorde "wat die Uitvoerende Komitee goedkeur"; en

(ii) deur die skrapping van artikels 15(2), 18, 19, 20, 21, 22, 23 en 25(1) tot (4).

(2) 'n Persoon wat op die datum onmiddellik voor die datum van inwerkingtreding van hierdie Proklamasie -

(a) Voorsitter van die Uitvoerende Komitee was, hou op bedoelde datum van inwerkingtreding op om Voorsitter van die Uitvoerende Komitee te wees, maar bly, behoudens die bepalings van subartikel (1)(f), 'n lid van die Uitvoerende Komitee en word vanaf daardie datum geag 'n lid van die Uitvoerende Komitee te wees ingevolge paragraaf (b)(ii) of (iii), na gelang van die geval, van subartikel (1);

(b) 'n lid van die Uitvoerende Komitee was, bly, behoudens die bepalings van subartikel (1)(f), 'n lid van die Uitvoerende Komitee en word vanaf bedoelde datum van inwerkingtreding geag 'n lid van die Uitvoerende Komitee te wees ingevolge paragraaf (b)(ii) of (iii) of as lid van die Uitvoerende Komitee aangestel te wees kragtens paragraaf (b)(iv), na gelang van die geval, van subartikel (1).

Kort titel en inwerkingtreding

5. Hierdie Proklamasie heet die Proklamasie op die Administrasie van die Sake van die Capriviane, 1984, en tree in werking op 1 Julie 1984.

(ii) in section 24 of the principal Proclamation to a member of the Executive Committee, shall be deemed to include a reference to the Commissioner in his capacity of such a member; and

(iii) in section 26 of the principal Proclamation to the Chairman and members of the Executive Committee shall be deemed to include a reference to the Commissioner in his capacity of such Chairman or such a member; and

(m) the principal Proclamation shall be deemed to have been amended -

(i) by the substitution in section 14(2) for the words "as the Chairman of the Executive Committee may submit or approve" of the words "as the Executive Committee may approve"; and

(ii) by the deletion of sections 15(2), 18, 19, 20, 21, 22, 23 and 25(1) to (4).

(2) A person who on the date immediately before the date of commencement of this Proclamation -

(a) was Chairman of the Executive Committee, shall on the said date of commencement cease to be Chairman of the Executive Committee, but shall, subject to the provisions of subsection (1)(f), remain a member of the Executive Committee and shall as from that date be deemed to be a member of the Executive Committee in terms of paragraph (b)(ii) or (iii), as the case may be, of subsection (1);

(b) was a member of the Executive Committee, shall, subject to the provisions of subsection (1)(f), remain a member of the Executive Committee and shall as from the said date of commencement be deemed to be a member of the Executive Committee in terms of paragraph (b)(ii) or (iii) or to have been appointed as a member of the Executive Committee under paragraph (b)(iv), as the case may be, of subsection (1).

Short title and commencement

5. This Proclamation shall be called the Administration of the Affairs of the Caprivians Proclamation, 1984, and shall come into operation on 1 July 1984.