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Government Notice

DEPARTMENT OF GOVERNMENTAL AFFAIRS

No. 80 1985

PROMULGATION OF ACT OF NATIONAL ASSEMBLY

The following Act, which has been adopted by the National Assembly and signed by the Administrator-General in terms of the South West Africa Legislative and Executive Authority Establishment Proclamation, 1985 (Proclamation R.101 of 1985), is hereby published in terms of section 18 of that Proclamation:—

No. 8 of 1985: Constitutional Council Act, 1985

Goewermentskennisgewing

DEPARTEMENT VAN OWERHEIDSAKE

No. 80 1985

AFKONDIGING VAN WET VAN NASIONALE VERGADERING

Die volgende Wet, wat ingevolge die Proklamasie op die Instelling van Wetgewende en Uitvoerende Gesag vir Suidwes-Afrika, 1985 (Proklamasie R.101 van 1985), deur die Nasionale Vergadering aangeneem en deur die Administrateur-generaal onderteken is, word hierby afgekondig ingevolge artikel 18 van daardie Proklamasie:—

No. 8 van 1985: Wet op die Konstitusionele Raad, 1985

Act No. 8, 1985

CONSTITUTIONAL COUNCIL ACT, 1985

(Afrikaans text signed by the Administrator-General on 23 September 1985)

ACT

To provide for the establishment of a Constitutional Council; to define its duties and powers; and to provide for incidental matters.

BE IT ENACTED by the National Assembly, as follows:-

Definitions.

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

(i) "Cabinet" means the Cabinet constituted under section 23 of the Proclamation; (v)

(ii) "chairman" means the chairman of the Council; (ix)

(iii) "Council" means the Constitutional Council established by section 2 and, for the purposes of section 5(1)(c), includes any committee of the Council; (viii)

(iv) "identity document" means any identity document issued under section 3 of the Identification of Persons Act, 1979 (Act 2 of 1979); (iii)

(v) "identity number" means the identity number appearing on an identity document; (iv)

(vi) "member" means a member of the Council; (vi)

(vii) "political organization" means any political party or any association of political parties or of any political party and any other association of or group of persons; (vii)

(viii) "territory" means the territory of South West Africa; (ii)

(ix) "the Proclamation" means the South West Africa Legislative and Executive Authorities Establishment Proclamation, 1985 (Proclamation R.101 of 1985). (i)

(Afrikaanse teks deur die Administrateur-generaal onderteken op 23 September 1985)

WET

Om voorsiening te maak vir die instelling van 'n Konstitusionele Raad; om sy pligte en bevoegdhede te omskryf; en om vir bykomstige aangeleenthede voorsiening te maak.

DAAR WORD BEPAAL deur die Nasionale Vergadering, soos volg:-

Woordomskrywing.

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

(i) "die Proklamasie" die Proklamasie op die Instelling van Wetgewende en Uitvoerende Gesag vir Suidwes-Afrika, 1985 (Proklamasie R.101 van 1985); (ix)

(ii) "gebied" die gebied Suidwes-Afrika; (viii)

(iii) "identiteitsdokument" 'n identiteitsdokument kragtens artikel 3 van die Wet op Identifikasie van Persone, 1979 (Wet 2 van 1979), uitgereik; (iv)

(iv) "identiteitsnommer" die identiteitsnommer wat op 'n identiteitsdokument verskyn; (v)

(v) "Kabinet" die Kabinet kragtens artikel 23 van die Proklamasie saamgestel; (i)

(vi) "lid" 'n lid van die Raad; (vi)

(vii) "politieke organisasie" 'n politieke party of 'n vereniging van politieke partye of van 'n politieke party en enige ander vereniging van of groep persone; (vii)

(viii) "Raad" die Konstitusionele Raad by artikel 2 ingestel en, by die toepassing van artikel 5(1)(c), ook 'n komitee van die Raad; (iii)

(ix) "voorsitter" die voorsitter van die Raad. (ii)

Establishment of Constitutional Council.

2. There is hereby established a council to be known as the Constitutional Council.

Objects of Council.

3. The objects of the Council shall be to work out, with due regard to -

(a) the endeavours of the peoples of the territory to bring about independence, peace, freedom, reconciliation, national unity, stability and progress in the territory;

(b) the diversity of cultures, languages, religious beliefs, ways of life, traditions and customs of the inhabitants of the territory,

a basis on which the territory can exist as an independent and sovereign state.

Duties of Council.

4. (1) The Council shall, in order to achieve its objects, investigate the existing constitutional dispensation in the territory with a view to make, subject to the provisions of subsection (2), recommendations to the Cabinet on a constitutional dispensation which may give rise to the attainment of independence by the territory as a sovereign state.

(2) Any recommendation contemplated in subsection (1) -

(a) shall not be of such a nature that it may have the effect that any fundamental right, as defined in section 1 of the Proclamation, is abolished, diminished or derogated from;

(b) shall be contained in a motivated report -

(i) in which all the recommendations of the Council are fully set out; and

(ii) to which shall be attached a draft constitution based on such recommendations,

which has been adopted by the Council by a decision of all its members, excluding the chairman.

(3) The Cabinet shall, not later than three months after the recommendations contemplated in paragraph (b) of subsection (2) were made to it, make such arrangements as in its discretion are necessary to ascertain whether the provisions of the draft constitution referred to in subparagraph (ii) of the said paragraph (b) are acceptable to the inhabitants of the territory.

General duties and powers of Council.

5. (1) The Council -

(a) shall advise the Cabinet or the National Assembly, as the case may be, or make any recommendation to the Cabinet or the National Assembly, as the case may be, as to any matter which is of a constitutional nature and which is referred to the Council by the Cabinet or the National Assembly for its advice in terms of subsection (2);

Instelling van Konstitusionele Raad.

2. Daar word hierby 'n raad met die naam die Konstitusionele Raad ingestel.

Oogmerke van Raad.

3. Die oogmerke van die Raad is om, met inagneming van -

(a) die strewes van die mense van die gebied om onafhanklikheid, vrede, vryheid, versoening, nasionale eenheid, bestendigheid en vooruitgang in die gebied te bewerkstellig;

(b) die verskeidenheid van kulture, tale, geloofsoortuigings, lewenswyses, tradisies en gebruike van die inwoners van die gebied,

'n grondslag uit te werk waarop die gebied as 'n onafhanklike en soewereine staat kan bestaan.

Pligte van Raad.

4. (1) Die Raad moet, ten einde sy oogmerke te bereik, ondersoek instel na die bestaande staatkundige bedeling in die gebied met die oog daarop om, behoudens die bepalings van subartikel (2), aanbevelings aan die Kabinet te doen oor 'n staatkundige bedeling wat tot die onafhanklikwording van die gebied as 'n soewereine staat aanleiding kan gee.

(2) 'n Aanbeveling in subartikel (1) beoog -

(a) mag nie van so 'n aard wees nie dat dit die uitwerking kan hê dat enige fundamentele reg, soos omskryf in artikel 1 van die Proklamasie, opgehef, ingekort of aan afbreuk gedoen word;

(b) moet vervat wees in 'n gemotiveerde verslag -

(i) waarin al die aanbevelings van die Raad volledig uiteengesit word; en

(ii) waarby 'n konsepgrondwet, gegrond op bedoelde aanbevelings, aangeheg is,

wat deur die Raad by 'n besluit van al sy lede, uitgesonderd die voorsitter, aangeneem is.

(3) Die Kabinet moet, nie later nie as drie maande nadat die aanbevelings beoog in paragraaf (b) van subartikel (2) aan hom gedoen is, dié reëlings tref wat na sy oordeel nodig is om so gou doenlik te bepaal of die bepalings van die konsepgrondwet in subparagraaf (ii) van genoemde paragraaf (b) bedoel vir die inwoners van die gebied aanvaarbaar is.

Algemene pligte en bevoegdhede van Raad.

5. (1) Die Raad -

(a) moet die Kabinet of die Nasionale Vergadering, na gelang van die geval, van raad dien of enige aanbeveling aan die Kabinet of die Nasionale Vergadering, na gelang van die geval, doen aangaande enige aangeleentheid wat van 'n staatkundige aard is en wat ingevolge subartikel (2) na die Raad deur die Kabinet of Nasionale Vergadering vir sy advies verwys word;

(b) may, of its own motion, advise the Cabinet or make any recommendation to the Cabinet as to any matter which relates to the powers, duties and functions of the Cabinet and which is of a constitutional nature;

(c) may, in the performance of its duties or the exercise of its powers, request and receive for consideration any submission or proposal from any person, or order any person by notice in writing signed by the chairman or any person authorized by him, to appear before it at a time and place specified in such notice, to administer an oath to, or take an affirmation from, any such person and to question him on any matter connected with the duties and powers of the Council;

(d) may obtain from time to time one or more persons, but not more than five persons at a time, on such terms and conditions as may, with the concurrence of the Treasury, be determined by mutual agreement, to give it such expert advice as it may deem necessary or expedient.

(2) (a) The Cabinet or, in the case of a bill or motion which is under consideration in the National Assembly, the National Assembly shall refer to the Council any submission, bill or motion which is submitted to it or introduced in it for consideration or approval and which relates to a matter which is of a constitutional nature, to advise it in connection with it or to make a recommendation to it in connection with it.

(b) The provisions of section 4(2)(b) and 14(4) shall apply *mutatis mutandis* in respect of any advice or recommendation contemplated in paragraph (a) of this subsection as if such advice or recommendation were a recommendation contemplated in section 4(1): Provided that -

(i) when such advice or recommendation relates to a bill, any reference in subparagraph (ii) of section 4(2)(b) to a draft constitution shall, in such application, be construed as a reference to any such bill;

(ii) when such advice or recommendation does not relate to a bill, the said subparagraph (ii) shall, in such application, be deemed to be deleted.

(3) (a) When for the purposes of this section the question arises in the Cabinet or the National Assembly, as the case may be, whether any matter is of a constitutional nature -

(i) the Cabinet or the National Assembly, as the case may be, shall refer the matter to the chairman for a decision or, if the chairman does not make his decision known within one month as from the date on which the matter was referred to

(b) kan, uit eie beweging, die Kabinet van raad dien of enige aanbeveling aan die Kabinet doen aangaande enige aangeleentheid wat op die bevoegdhede, pligte en werksaamhede van die Kabinet betrekking het en wat van 'n staatkundige aard is;

(c) kan, by die verrigting van sy pligte en die uitoefening van sy bevoegdhede, enige voorlegging of voorstel van enige persoon aanvra en vir oorweging ontvang, of enige persoon by skriftelike kennisgewing onderteken deur die voorsitter of 'n persoon deur hom gemagtig, aansê om op 'n tyd en plek in die kennisgewing vermeld voor hom te verskyn, so 'n persoon 'n eed op te lê of 'n bevestiging van hom af te neem en hom ondervra oor enige aangeleentheid wat met die pligte en bevoegdhede van die Raad in verband staan;

(d) kan van tyd tot tyd op die bedinge en voorwaardes by onderlinge ooreenkoms, met die instemming van die Tesourie, bepaal, een of meer persone, maar hoogstens vyf persone op 'n keer, verkry om hom van die deskundige raad te dien wat die Raad nodig of dienstig ag.

(2) (a) Die Kabinet of, in die geval van 'n wetsontwerp of voorstel wat in die Nasionale Vergadering onder oorweging is, die Nasionale Vergadering moet enige voorlegging, wetsontwerp of voorstel wat vir oorweging of goedkeuring aan hom voorgelê of by hom ingedien word en wat op 'n aangeleentheid betrekking het wat van 'n staatkundige aard is na die Raad verwys om hom in verband daarmee van raad te dien of om 'n aanbeveling in verband daarmee aan hom te doen.

(b) Die bepalings van artikels 4(2)(b) en 14(4) is *mutatis mutandis* van toepassing ten opsigte van enige raad of aanbeveling in paragraaf (a) van hierdie subartikel beoog asof daardie raad of aanbeveling 'n aanbeveling is in artikel 4(1) beoog: Met dien verstande dat -

(i) wanneer bedoelde raad of advies op 'n wetsontwerp betrekking het, 'n verwysing in subparagraaf (ii) van artikel 4(2)(b) na 'n konsepgrondwet, by bedoelde toepassing uitgelê word as 'n verwysing na so 'n wetsontwerp;

(ii) wanneer bedoelde raad of aanbeveling nie op 'n wetsontwerp betrekking het nie, genoemde subparagraaf (ii) by bedoelde toepassing geag word geskrap te wees.

(3) (a) Wanneer by die toepassing van hierdie artikel die vraag in die Kabinet of die Nasionale Vergadering, na gelang van die geval, ontstaan of die een of ander aangeleentheid van 'n staatkundige aard is -

(i) moet die Kabinet of die Nasionale Vergadering, na gelang van die geval, die aangeleentheid na die voorsitter vir 'n beslissing verwys of, indien die voorsitter nie sy beslissing binne een maand vanaf die datum waarop die aangeleentheid na hom vir 'n beslissing verwys is bekend maak nie of indien minstens twee lede van die Kabinet of

him for a decision or if at least two members of the Cabinet or at least nine members of the National Assembly so request within 14 days after the chairman has made known his decision, cause the matter to be submitted to the Supreme Court of South West Africa by way of a question of law for argument and decision and the Court shall pronounce on the question with due regard to the urgency of the matter;

(ii) the Cabinet or the National Assembly, as the case may be, may otherwise by resolution cause such matter to be so submitted to the Supreme Court of South West Africa who shall so pronounce on the question,

and the Cabinet or National Assembly, as the case may be, shall take no decision in connection with the relevant submission, bill or motion until such time as it has been finally decided or judgment has finally been given on the question.

(b) The costs connected with the argument of any such question shall be paid from the Central Revenue Fund.

Constitution of Council.

6. (1) The Council shall consist of -

(a) a judge or former judge of the Supreme Court of South West Africa or any superior court outside the territory appointed by the Administrator-General, who shall be the chairman;

(b) 16 other members who shall be persons nominated, subject to the provisions of section 7, in accordance with the provisions of subsection (2) by the political organizations -

(i) which were known on 18 April 1985 under the names specified in column 1 of the Schedule; and

(ii) which were directly involved on that date in what was then known as the Multi-Party Conference; and

(c) such additional members (if any) who may be persons nominated, subject to the provisions of section 7, in accordance with the provisions of subsection (2) by any political organization recognized, under that subsection, by the Cabinet for that purpose.

(2) Any political organization referred to in subsection (1) shall be entitled to nominate, in the case of a political organization referred to in paragraph (b) of that subsection, the number of persons specified against its name in column 2 of the Schedule and, in the case of a political organization referred to in paragraph (c) of that subsection, the number of persons determined under subsection (3), as members, and shall make its nominations by submitting without delay to the chairman in writing, in such form as

minstens nege lede van die Nasionale Vergadering binne 14 dae nadat die voorsitter sy beslissing bekend gemaak het aldus versoek, die aangeleentheid by wyse van 'n regsvraag aan die Hooggeregshof van Suidwes-Afrika vir beredenering en beslissing laat voorlê en die Hof moet met behoorlike inagneming van die dringendheid van die aangeleentheid uitspraak oor die vraag gee;

(ii) kan die Kabinet of die Nasionale Vergadering, na gelang van die geval, andersins by besluit die aangeleentheid aan die Hooggeregshof van Suidwes-Afrika aldus laat voorlê wat aldus oor die vraag uitspraak moet gee,

en neem die Kabinet of Nasionale Vergadering, na gelang van die geval, geen besluit in verband met die betrokke voorlegging, wetsontwerp of mosie nie tot tyd en wyl finaal oor die vraag beslis of uitspraak gegee is.

(b) Die koste verbonde aan die beredenering van so 'n vraag word uit die Sentrale Inkomstefonds betaal.

Samestelling van Raad.

6. (1) Die Raad bestaan uit -

(a) 'n regter of voormalige regter van die Hooggeregshof van Suidwes-Afrika of enige hoërhof buite die gebied deur die Administrateur-generaal aangestel, wat die voorsitter is;

(b) 16 ander lede wat persone moet wees wat, behoudens die bepalings van artikel 7, ooreenkomstig die bepalings van subartikel (2) benoem is deur die politieke organisasies -

(i) wat op 18 April 1985 onder die name vermeld in kolom 1 van die Bylae bekend gestaan het; en

(ii) wat op daardie datum regstreeks betrokke was by wat toe as die Veelpartykonferensie bekend gestaan het; en

(c) die bykomende lede (indien daar is) wat persone kan wees wat, behoudens die bepalings van artikel 7, ooreenkomstig die bepalings van subartikel (2) benoem is deur 'n politieke organisasie wat kragtens subartikel (3) deur die Kabinet vir dié doel erken is.

(2) 'n Politieke organisasie in subartikel (1) bedoel, is geregtig om, in die geval van 'n politieke organisasie in paragraaf (b) van daardie subartikel bedoel, die aantal persone wat teenoor sy naam in kolom 2 van die Bylae vermeld word en, in die geval van 'n politieke organisasie in paragraaf (c) van daardie subartikel bedoel, die aantal persone kragtens subartikel (3) bepaal, as lede te benoem, en moet sy benoemings doen deur sonder versuim skriftelik, in

the chairman may prescribe, in respect of each one of those persons -

(a) his acceptance of the nomination;
(b) his full names and surname;
(c) the date of his birth; and
(d) his identity number.

(3) The Cabinet may recognize any other political organization at its request and allow it to nominate as members of the Council in accordance with the provisions of subsection (2) such number of persons as the Cabinet may determine.

Qualifications of members of Council.

7. (1) Any person -

(a) who is of or over the age of 30 years;
(b) who is not a member of the Cabinet or the National Assembly;
(c) who is in possession of an identity document;
(d) who is not an unrehabilitated insolvent;
(e) who is not subject to a disqualification referred to in subsection (2),

shall be qualified for nomination as a member and to be a member.

(2) No person shall be qualified to be nominated as a member or to be a member if he is subject to an order of court declaring him to be of unsound mind or mentally disordered or defective, or is detained as a mentally ill person under any law.

(3) Any person who is incapable of sitting as a member and who, while so incapable and knowing or having reasonable grounds for knowing that he is so incapable, sits or votes as a member, shall be liable to a penalty of R50 for each day on which he so sits or votes, which may be recovered on behalf of the Treasury of the territory by action in the Supreme Court of South West Africa.

Vacation of office by member of Council.

8. A member shall vacate his office -

(a) if he is convicted of an offence in respect of which he is sentenced to imprisonment without the option of a fine;

(b) if he resigns his office by writing under his hand addressed and delivered to the chairman;

(c) if he is absent on three consecutive meetings of the Council without leave of the chairman;

(d) if his nomination is withdrawn by the political organization concerned;

(e) if he becomes a member of the Cabinet or the National Assembly;

(f) if his estate is sequestrated;

(g) if he becomes subject to a disqualification mentioned in section 6(2);

die vorm deur die voorsitter voorgeskryf, ten opsigte van elkeen van daardie persone aan die voorsitter voor te lê -

(a) sy aanvaarding van die benoeming;
(b) sy volle voorname en van;
(c) sy geboortedatum; en
(d) sy identiteitsnommer.

(3) Die Kabinet kan 'n ander politieke organisasie op sy versoek erken en hom toelaat om die aantal persone wat die Kabinet bepaal ooreenkomstig die bepalings van subartikel (2) as lede van die Raad te benoem.

Kwalifikasies van lede van Raad.

7. (1) Enige persoon -

(a) wat 30 jaar oud of ouer is;
(b) wat nie 'n lid van die Kabinet of die Nasionale Vergadering is nie;
(c) wat in besit van 'n identiteitsdokument is;
(d) wat nie 'n ongerehabiliteerde insolvent is nie;
(e) wat nie aan 'n in subartikel (2) bedoelde onbevoegdheid onderworpe is nie,

is bevoeg om as lid benoem te word en om 'n lid te wees.

(2) Geen persoon is bevoeg om as lid benoem te word of om 'n lid te wees nie indien hy onderworpe is aan 'n hofbevel wat hom swaksinnig of geestelik gekrenk of gebrekkig verklaar, of kragtens die een of ander wet as 'n geestesongestelde aangehou word.

(3) 'n Persoon wat onbevoeg is om as lid sitting te neem en wat, terwyl hy aldus onbevoeg is en wat redelike gronde het om te weet dat hy aldus onbevoeg is, as lid sitting neem of stem, is vir elke dag waarop hy aldus sitting neem of stem, strafbaar met 'n boete van R50, wat ten behoewe van die Tesourie van die gebied by wyse van aksie in die Hooggeregshof van Suidwes-Afrika verhaal kan word.

Ontruiming van amp deur lid van Raad.

8. 'n Lid ontruim sy amp -

(a) indien hy skuldig bevind word aan 'n misdryf ten opsigte waarvan hy tot gevangenisstraf sonder die keuse van 'n boete gevonnis word;

(b) indien hy, deur 'n bedankingsbrief deur hom onderteken en aan die voorsitter gerig en afgelewer, uit sy amp as lid bedank;

(c) indien hy sonder verlof van die voorsitter van drie agtereenvolgende vergaderings van die Raad afwesig was;

(d) indien sy benoeming deur die betrokke politieke organisasie ingetrek word;

(e) indien hy 'n lid van die Kabinet of die Nasionale Vergadering word;

(f) indien sy boedel gesekwestreer word;

(g) indien hy aan 'n onbevoegdheid in artikel 6(2) genoem, onderworpe word;

(h) if, and for so long as, the provisions of sections 3, 17, 18, 19, 20, 21, 31(2) and 36 of the Proclamation cease, in terms of section 38(2)(a) thereof, to be of force and effect in the territory.

Filling of vacancies in Council.

9. If a member vacates for any reason his office or dies, the chairman shall call upon the political organization concerned which is, in terms of section 6(1), entitled to nominate a person as a member, to nominate in due course in the manner contemplated in section 6(2) a person as a member in the place of the member who has vacated his office or has died.

Meetings of Council and quorum.

10. (1) All meetings of the Council shall take place at such times and places as the chairman may determine.

(2) Subject to the provisions of this Act -

(a) the chairman shall preside at all meetings of the Council and regulate the conduct of its business and proceedings;

(b) the presence of at least 11 of the members referred to in section 6(1)(b) shall be necessary to constitute a meeting of the Council for the performance of its duties or the exercise of its powers or, when additional members have been nominated as contemplated in section 6(1)(c), the presence of at least the said 11 members and as many of such additional members as may be necessary to form two-thirds of the total number of members shall be necessary to so constitute a meeting of the Council;

(c) the Council may establish committees, consisting of such members as it may determine, to advise it in connection with such duties or powers of the Council as the Council may determine;

(d) the chairman shall cause such record of the proceedings of the Council to be kept as the chairman may determine;

(e) the Council may make rules and orders in connection with the order and conduct of its business and proceedings.

Decisions of Council.

11. (1) The Council shall at all times have as its aim, and shall so endeavour, to reach unanimity in respect of every matter which is considered by it in terms of this Act, but if unanimity can not be reached, a decision of -

(a) at least 11 of the members referred to in section 6(1)(b); or

(h) indien, en vir solank, die bepalings van artikels 3, 17, 18, 19, 20, 21, 31(2) en 36 van die Proklamasie ingevolge artikel 38(2)(a) daarvan ophou om in die gebied van krag te wees.

Vul van vakatures in Raad.

9. Indien 'n lid om die een of ander rede sy amp ontruim of sterf, doen die voorsitter 'n beroep op die betrokke politieke organisasie wat ingevolge artikel 6(1) geregtig is om 'n persoon as lid te benoem, om te geleëner tyd op die wyse in artikel 6(2) beoog 'n persoon in die plek van die lid wat sy amp ontruim of gesterf het as lid te benoem.

Vergaderings van Raad en kworum.

10. (1) Alle vergaderings van die Raad vind plaas op die tye en plekke wat die voorsitter bepaal.

(2) Behoudens die bepalings van hierdie Wet -

(a) sit die voorsitter op alle vergaderings van die Raad voor en behartig hy die reëling van die werksaamhede en verrigtinge daarvan;

(b) moet minstens 11 van die in artikel 6(1)(b) bedoelde lede aanwesig wees om 'n vergadering van die Raad vir die verrigting van sy pligte of die uitoefening van sy bevoegdhede bevoeg te maak of, wanneer bykomende lede benoem is soos in artikel 6(1)(c) beoog, moet minstens bedoelde 11 lede en soveel van die bykomende lede as wat nodig is om twee derdes van die totale aantal lede uit te maak by 'n vergadering van die Raad aanwesig wees om so 'n vergadering aldus bevoeg te maak;

(c) kan die Raad komitees, bestaande uit die lede wat hy bepaal, instel om hom van raad te dien in verband met die pligte of bevoegdhede van die Raad wat die Raad bepaal;

(d) laat die voorsitter die notule van die verrigtinge van die Raad hou wat die voorsitter bepaal;

(e) kan die Raad reëls en orders maak in verband met die orde en reëlings van sy werksaamhede en verrigtinge.

Besluite van Raad.

11. (1) Die Raad moet hom te alle tye ten doel stel, en moet aldus poog, om ten opsigte van elke aangeleentheid wat ingevolge hierdie Wet deur hom oorweeg word eenstemmigheid te bereik, maar indien eenstemmigheid nie bereik kan word nie, is 'n besluit, behoudens die bepalings van artikels 4(2)(b) en 5(2)(b), van -

(a) minstens 11 van die in artikel 6(1)(b) bedoelde lede; of

(b) when additional members have been nominated as contemplated in section 6(1)(c), at least the said 11 members and as many of such additional members as may be necessary to form two-thirds of the total number of members,

shall, subject to the provisions of sections 4(2)(b) and 5(2)(b), be a decision of the Council.

(2) No decision of the Council or act performed on the recommendation of the Council shall be invalid by reason only of any vacancy in the Council or by reason only of the fact that any person who is not lawfully entitled to sit as a member, sat as a member at the time when the decision was taken or the act was recommended, if the decision was taken or the act was recommended by the requisite majority of the members out of whom the Council consists who were present at the time and entitled to sit as members.

Proceedings not open to public.

12. The proceedings of the Council shall not be open to the public.

Performance of administrative work of Council.

13. The administrative work connected with the performance of the duties and functions and the exercise of the powers of the Council shall be performed by officers in the Department of Governmental Affairs designated by the Secretary of Governmental Affairs for that purpose.

Reports of Council.

14. (1) The Council shall, as from the date on which its first meeting has taken place, transmit to the Cabinet, at least once every three months, a report signed by the chairman in connection with its functions.

(2) The Cabinet may in its discretion lay upon the table of the National Assembly the report transmitted to it in terms of subsection (1) or any portion thereof.

(3) The report contemplated in subsection (1) shall invite the attention to -

(a) the matters which have been considered by the Council during the said period of three months;

(b) the decisions taken by the Council in connection therewith, mentioning the fact whether unanimity has been reached in respect of such decisions and, if not, the attempts made to reach unanimity and the number of votes noted for and against any proposal in connection with any such decision and the reasons why the vote went against any such proposal;

(c) such other matters as in the opinion of the Council should in the public interest be brought to the attention of the Cabinet.

(b) wanneer bykomende lede benoem is soos in artikel 6(1)(c) beoog, minstens bedoelde 11 lede en soveel van die bykomende lede as wat nodig is om twee derdes van die totale aantal lede uit te maak,

'n besluit van die Raad.

(2) Geen besluit van die Raad of handeling op aanbeveling van die Raad verrig, is ongeldig nie bloot vanweë 'n vakature in die Raad of omdat 'n persoon wat regtens nie sitting as lid kon neem nie, sitting as lid geneem het toe die besluit geneem of die handeling aanbeveel is, indien die besluit geneem of die handeling aanbeveel is deur die vereiste meerderheid van die lede waaruit die Raad bestaan wat toe aanwesig was en wat geregtig was om as lede sitting te neem.

Verrigtinge nie vir publiek toeganklik nie.

12. Die verrigtinge van die Raad is nie vir die publiek toeganklik nie.

Verrigting van administratiewe werk van Raad.

13. Die administratiewe werk verbonde aan die verrigting van die pligte en werksaamhede en die uitoefening van die bevoegdhede van die Raad word verrig deur beamptes in die Departement van Owerheidsake wat vir dié doel deur die Sekretaris van Owerheidsake aangewys word.

Verslae van Raad.

14. (1) Die Raad moet vanaf die datum waarop sy eerste vergadering plaasgevind het minstens een maal elke drie maande 'n verslag deur die voorsitter onderteken in verband met sy werksaamhede aan die Kabinet deurstuur.

(2) Die Kabinet kan na goeddunke die verslag wat ingevolge subartikel (1) aan hom deurgestuur is of enige gedeelte daarvan in die Nasionale Vergadering ter tafel lê.

(3) Die verslag in subartikel (1) beoog, moet die aandag vestig op -

(a) die aangeleenthede wat gedurende bedoelde tydperk van drie maande deur die Raad oorweeg is;

(b) die besluite wat in verband daarmee deur die Raad geneem is, met vermelding van die feit of daar ten opsigte van die besluite eenstemmigheid bereik is en, indien nie, die pogings wat aangewend is om eenstemmigheid te bereik en die aantal stemme wat in verband met so 'n besluit vir en teen 'n voorstel aangeteken is en die redes op grond waarvan daar teen so 'n voorstel gestem is;

(c) die ander aangeleenthede wat na die oordeel van die Raad in die openbare belang onder die aandag van die Kabinet gebring behoort te word.

(4) If the motivated report referred to in section 4(2)(b) is not transmitted to the Cabinet within a period of 17 months as from the date on which the first meeting of the Council took place, the Cabinet may as soon as possible, but not later than 18 months as from such date, order, notwithstanding the provisions of section 4(2)(b), that such report may be adopted by a decision of such smaller number of members, but not less than two-thirds of the total number of members, as the Cabinet may determine.

Duration of Council.

15. (1) The Council shall dissolve on the date on which the motivated report referred to in section 4(2)(b) is adopted by the Council or, if such report is not transmitted to the Cabinet within a period of 17 months as from the date on which the first meeting of the Council took place and the Cabinet -

(a) has not ordered in accordance with the provisions of section 14(4) that such report may be adopted by a decision of a smaller number of members, on a date 18 months after the last-mentioned date; or

(b) has ordered in accordance with the provisions of section 14(4) that such report may be adopted by a decision of a smaller number of members, on a date 21 months after the last-mentioned date or a date determined by the Cabinet by notice in the *Official Gazette* which shall not be a date later than 24 months after the last-mentioned date.

(2) The Cabinet shall not determine any date under paragraph (b) of subsection (1) unless it is satisfied that there are reasonable prospects that the said report will be passed with the requisite majority within the said period.

Expenditure in connection with Council.

16. The expenditure in connection with the Council and the exercise of its powers and the performance of its duties or functions shall be paid from money appropriated for that purpose.

Remuneration of members of Council.

17. (1) (a) Any member, except a chairman who is a judge, shall receive such remuneration and allowances as the Administrator-General may determine.

(b) In addition to the remuneration and allowances payable to a member in terms of paragraph (a) a non-pensionable allowance may be paid to a member at such rate as the Administrator-General may determine.

(c) An allowance payable to a member in terms of paragraph (b) shall not, unless the Administrator-General determines otherwise, be taxable.

(4) Indien die gemotiveerde verslag in artikel 4(2)(b) bedoel nie binne 'n tydperk van 17 maande vanaf die datum waarop die eerste vergadering van die Raad plaasgevind het aan die Kabinet deurgestuur word nie, kan die Kabinet so gou doenlik, maar nie later nie as 18 maande vanaf bedoelde datum, ondanks die bepalings van artikel 4(2)(b), gelas dat bedoelde verslag aangeneem kan word by 'n besluit van die kleiner aantal lede, maar nie minder nie as twee derdes van die totale aantal lede, wat die Kabinet bepaal.

Duur van Raad.

15. (1) Die Raad ontbind op die datum waarop die gemotiveerde verslag in artikel 4(2)(b) bedoel deur die Raad aangeneem word of, indien die verslag nie binne 'n tydperk van 17 maande vanaf die datum waarop die eerste vergadering van die Raad plaasgevind het aan die Kabinet deurgestuur word nie en die Kabinet -

(a) nie ooreenkomstig die bepalings van artikel 14(4) gelas het dat bedoelde verslag by 'n besluit van 'n kleiner aantal lede aangeneem kan word nie, op 'n datum 18 maande na laasbedoelde datum;

(b) ooreenkomstig die bepalings van artikel 14(4) gelas het dat bedoelde verslag by 'n besluit van 'n kleiner aantal lede aangeneem word, op 'n datum 21 maande na laasbedoelde datum of 'n datum wat die Kabinet by kennisgewing in die *Offisiële Koerant* bepaal wat 'n datum nie later nie as 24 maande na laasbedoelde datum mag wees nie.

(2) Die Kabinet bepaal nie 'n datum kragtens paragraaf (b) van subartikel (1) nie tensy hy oortuig is dat daar redelike vooruitsigte bestaan dat bedoelde verslag met die vereiste meerderheid binne bedoelde tydperk aangeneem sal word nie.

Uitgawe in verband met Raad.

16. Die uitgawe in verband met die Raad en die uitoefening van sy bevoegdhede en die verrigting van sy pligte of werksaamhede word betaal uit geld wat vir dié doel bewillig word.

Vergoeding en toelaes van lede van Raad.

17. (1) (a) 'n Lid, behalwe 'n voorsitter wat 'n regter is, ontvang die vergoeding en toelaes wat die Administrateur-generaal bepaal.

(b) Benewens die vergoeding en toelaes wat ingevolge paragraaf (a) aan 'n lid betaalbaar is, kan 'n niepensioengewende toelae aan 'n lid betaal word teen die skaal wat die Administrateur-generaal bepaal.

(c) 'n Toelae wat ingevolge paragraaf (b) aan 'n lid betaalbaar is, is, tensy die Administrateur-generaal anders bepaal, nie belasbaar nie.

(2) Different remuneration and allowances may be determined under subsection (1) in respect of the chairman and the other members.

(3) A member who is a judge shall be paid in respect of the performance of his duties in terms of this Act as such a member, such travelling and subsistence allowances and such other allowances (if any) as the Administrator-General may determine.

Short title.

18. This Act shall be called the Constitutional Council Act, 1985.

(2) Verskillende vergoeding en toelaes kan ten opsigte van die voorsitter en die ander lede kragtens subartikel (1) bepaal word.

(3) Aan 'n lid wat 'n regter is, word ten opsigte van die verrigting van sy pligte ingevolge hierdie Wet as so 'n lid, die reis- en verblyftoelae en die ander toelae (indien daar is) betaal wat die Administrateur-generaal bepaal.

Kort titel.

18. Hierdie Wet heet die Wet op die Konstitusionele Raad, 1985.

SCHEDULE

POLITICAL ORGANIZATIONS WHICH ARE REQUIRED TO NOMINATE MEMBERS OF THE COUNCIL

(Section 6(1)(b))

Column 1	Column 2
Name of political organization	Number of persons to be nominated as members
1. Democratic Turnhalle Alliance (DTA)	6
2. Labour Party of South West Africa	2
3. National Party of South West Africa	2
4. "Rehoboth Bevryde Demokratiese Party"	2
5. South West African National Union (SWANU)	2
6. SWAPO-Democrats (SWAPO-D)	2

BYLAE

POLITIEKE ORGANISASIES WAT LEDE VAN RAAD MOET BENOEM

(Artikel 6(1)(b))

Kolom 1	Kolom 2
Naam van politieke organisasie	Aantal persone wat as lede benoem moet word
1. Arbeidersparty van Suidwes-Afrika	2
2. Demokratiese Turnhalle Alliansie (DTA)	6
3. Nasionale Party van Suidwes-Afrika	2
4. Rehoboth Bevryde Demokratiese Party	2
5. "South West Africa National Union" (SWANU)	2
6. "SWAPO-Democrats" (SWAPO-D)	2