



BUITENGEWONE

OFFISIËLE KOERANT

van Suidwes-Afrika.

Uitgegeef op gesag.

OFFICIAL GAZETTE

EXTRAORDINARY

of South West Africa.

Published by Authority.

1/- Maandag, 9 September 1935. WINDHOEK Monday, 9th September, 1935. No. 630

Die volgende Ontwerpordonnansies, wat gedurende die Tweede Sessie van die Derde Wetgewende Vergadering voor-gelê sal word, word vir algemene informasie gepubliseer.

F. P. COURTNEY CLARKE,
Sekretaris vir Suidwes-Afrika.

Kantoor van die Administrateur,
Windhoek.

The following Draft Ordinances, which will be introduced during the Second Session of the Third Legislative Assembly are published for general information.

F. P. COURTNEY CLARKE,
Secretary for South West Africa.

Administrator's Office,
Windhoek.

| | <i>Bladsy.</i> | | <i>Page.</i> |
|--|----------------|--|--------------|
| Egskeidingswette Wysigingsordonnansie 1935 | 9618 | Divorce Laws Amendment Ordinance, 1935 | 9618 |
| Wysigingsordonnansie betreffende die Verkoopsbelasting op Sigarette en Sigarettabak 1935 | 9619 | Cigarettes and Cigarette Tobacco Sales Tax Amendment Ordinance, 1935 | 9619 |

ONTWERPORDONNANSIE

Tot wysiging van die egskeidingswette van die Gebied.

DIT WORD VERORDEN deur die Wetgewende Vergadering vir die Gebied van Suidwes-Afrika, met die toestemming van die Goewerneur-Generaal, insover sodanige toestemming benodig is, nadat dit vooraf ontvang en aan die Wetgewende Vergadering deur boodskap van die Administrateur, ooreenkomstig die bepalings van artikel *ses-en-twintig* van "De Zuidwest-Afrika Konstitutie Wet 1925", van die Parlement van die Unie van Suid-Afrika, meegedeel is, as volg:—

1. (1) Behalwe die ander gronde waarop ingevolge 'n wet wat tans in die Gebied van krag is, 'n order vir egskeiding kan verleen word, kan so 'n order ook verleen word op grond dat die party teen wie die order gevra word —

- (a) gedurende 'n tydperk van minstens sewe jaar aan die bepalings van "De Wet op Geestesgebreken, 1916" van die Parlement van die Unie van Suid-Afrika soos op die Gebied toegepas deur die Wet op Geestesgebreke in Suidwes-Afrika 1926, (Wet No. 22 van 1926), van die vermelde Parlement onderworpe gewees is en ongeneeslik is; of
- (b) ingevolge artikel *driehonderd-vier-en-veertig* van die "Kriminele Procedure en Bewijslevering Wet, 1917", soos op die Gebied toegepas deur die "Criminele Procedure en Bewijslevering Proclamatie, 1919" (Proklamasi No. 20 van 1919), 'n gewoonte-misdadiger verklaar is en gedurende minstens vyf jaar na daardie verklaring in die gevangenis aangehou is:

Met die verstande dat 'n hof geen order vir egskeiding op die in paragraaf (a) vermelde gronde verleen nie tensy hy deur die getuenis van drie geneeskundige praktisyns, twee van wie deur die hof aangestelde psigiaters moet wees, oortuig is dat die verweerder ongeneeslik is en tensy hy tewens oortuig is dat die eiser (indien die eiser die eggenoot is van die verweerder) geensins te blameer is vir die geestes-toestand van die verweerder nie.

(2) Wanneer 'n order gevra word op die grond vermeld in paragraaf (b) van sub-artikel (1) van hierdie artikel, is die hof bevoeg om so 'n order te weier indien hy oortuig is dat die eiser die verweerder vrijwillig behulpsaam gewees is by die begaan van 'n misdaad waarvoor hy of sy veroordeel is.

2. As 'n order vir egskeiding onder paragraaf (a) van sub-artikel (1) van artikel *een* verleen word, kan die hof —

- (a) gelas dat eiser die regskoste van verweerder (as daar koste is) betaal en dat hy ten genoeg van die Meester voorsiening maak vir die behoorlike onderhoud van verweerder en die kind of kinders uit die huwelik en vir die versekering van enige voordele waartoe verweerder geregtig mag wees;
- (b) geen order teen verweerder verleen nie waaronder enige voordele uit die huwelik voortvloeiende verbeurd verklaar word.

3. (1) As iemand aan wie 'n order vir egskeiding ingevolge paragraaf (a) van sub-artikel (1) van artikel *een* verleen is van plan is om te hertrou, moet hy (hetsy die huwelik deur spesiale lisensie of na publikasie van geboorte plaasvind) 'n sertifikaat verkry onderteken deur die Meester van die volgende inhoud, naamlik —

- (a) 'n sertifikaat dat aan die bepalings van paragraaf (a) van artikel *twee* voldaan is; of
- (b) as geen order onder daardie paragraaf verleen is, 'n sertifikaat van daardie feit.

DRAFT ORDINANCE

To amend the divorce laws of the Territory.

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa, with the consent of the Governor-General, in so far as such consent is necessary previously obtained and communicated to the Legislative Assembly by message from the Administrator in accordance with the provisions of section *twenty-six* of the South West Africa Constitution Act, 1925, of the Parliament of the Union of South Africa, as follows:—

1. (1) In addition to any other grounds on which a decree of divorce may by any law at present in force in the Territory be granted such a decree may also be granted on the ground that the party against whom the decree is sought —

- (a) has been subject to the provisions of the Mental Disorders Act, 1916, of the Parliament of the Union of South Africa as extended to the Territory by the South West Africa Mental Disorders Act, 1926 (Act No. 22 of 1926), of the said Parliament, for a period of not less than seven years and is incurable; or
- (b) has been declared to be an habitual criminal under section *three hundred and forty-four* of the Criminal Procedure and Evidence Act, 1917, as applied to the Territory by the Criminal Procedure and Evidence Proclamation, 1919 (Proclamation No. 20 of 1919), and has been detained in prison for at least five years after such declaration:

Provided that a Court shall not grant a decree of divorce on the grounds set forth in paragraph (a) unless it is satisfied by the evidence of three medical practitioners of whom two shall be alienists appointed by the Court that the defendant is incurable and unless it is also satisfied that the plaintiff (if the plaintiff is the husband of the defendant) is in no way to blame for the mental condition of the defendant.

(2) Whenever a decree is sought on the ground mentioned in paragraph (b) of sub-section (1) hereof, it shall be competent for the Court to refuse such decree if it is satisfied that the plaintiff voluntarily assisted the defendant in the commission of any crime of which he or she has been convicted.

2. Whenever a decree of divorce is granted under paragraph (a) of sub-section (1) of section *one*, the Court —

- (a) may order that the plaintiff pay the defendant's costs, if any, and that he make provision to the satisfaction of the Master for the proper maintenance of the defendant and any child or children of the marriage and for the securing of any benefits to which the defendant may be entitled;
- (b) shall not, as against the defendant, order the forfeiture of any benefits arising out of the marriage.

3. (1) Whenever a person who has been granted a decree of divorce under paragraph (a) of sub-section (1) of section *one* intends to marry again, he shall (whether the marriage be by special licence or after publication of banns) obtain a certificate under the hand of the Master to the following effect, namely —

- (a) a certificate that the provisions of paragraph (a) of section *two* have been complied with; or
- (b) if no order has been made under that paragraph a certificate stating that fact.

(2) Elke sodanige sertifikaat moet aan die huweliks-bevestiger of godsdiensteraar voor wie die voorgenome huwelik bevestig sal word besorg word.

(3) Elke sodanige persoon wat hertrou sonder die in-gevolge sub-artikel (1) vereiste sertifikaat te verkry, is strafbaar met 'n boete van hoogstens een honderd pond of by wanbetaling met gevangenisstraf met of sonder harde arbeid vir 'n termyn van hoogstens ses maande en bowendien is die Meester of enige ander persoon wat vir die geskeie eggenoot of kinders optree bevoeg om sodanige stappe te doen as nodig mag wees vir die behoorlike nakoming van sodanige order.

(4) 'n Huweliksbevestiger of godsdiensteraar wat so 'n huwelik bevestig tensy eers aan hom die deur hierdie artikel vereiste sertifikaat ten opsigte van die partye tot die huwelik besorg is, is strafbaar met sodanige boete of by wanbetaling met sodanige gevangenisstraf as voormeld.

4. Hierdie Ordonnansie kan aangehaal word as die Eg-skeidingswette Wysigingsordonnansie 1935.

(2) Every such certificate shall be delivered to the marriage officer or minister of religion before whom the marriage is intended to be solemnized.

(3) Any such person who marries again without obtain- ing such certificate as is required under sub-section (1) shall be liable to a fine of not exceeding one hundred pounds or in default of payment to imprisonment with or without hard labour for a period not exceeding six months, and in addition it shall be competent for the Master or any other person acting for the divorced spouse or children to take such action as maybe necessary for the due fulfilment of such order.

(4) Any marriage officer or minister of religion who solemnizes any such marriage unless there has first been delivered to him the certificate required by this section in respect of the parties to the marriage shall be liable to such fine or in default of payment to such imprisonment as aforesaid.

4. This Ordinance may be cited as the Divorce Laws Amendment Ordinance, 1935.

ONTWERPORDONNANSIE

Om voorsiening te maak vir die wysiging van die wet be- treffende die oplegging van 'n belasting op die verkoop van sigarette.

DIT WORD VERORDEN deur die Wetgewende Ver- gadering van die Gebied Suidwes-Afrika as volg:—

1. In hierdie Ordonnansie beteken “die hoofordonnansie” die Sigarette en Sigarettabak Verkoopsbelasting Ordonnansie 1933 (Ordonnansie No. 11 van 1933).

2. (1) Artikel *twee* van die hoofordonnansie word hier- by gewysig deur die toevoeging van die volgende voorbehoud aan die end daarvan —

“Met die verstande dat enige regulasies uitgevaardig kragtens en ingevolge die voorsiening van die voormelde Ordonnansie sal voortgaan om van krag te wees, totdat regulasies deur die Administrateur uitgevaardig word kragtens en ingevolge die bevoegdhe om verleen by artikel *tien* van hierdie Ordonnansie.”

(2) Die voorsiening van hierdie artikel word geag in werking te gewees het vanaf die twee-en-twintigste dag van September 1933.

3. Artikel *nege* van die hoofordonnansie word hierby gewysig deur die invoeging van die volgende woorde na die woord “andersins” in reël drie daarvan —

“En niemand mag sigarette of sigarettabak van welke aard dan ook, by wyse van gif, beloning of ander- sins van plekke buitekant die Gebied ontvang nie.”

4. Hierdie Ordonnansie kan vir alle doeleindes aan- gehaal word as die Wysigingsordonnansie betreffende die Ver- koopsbelasting op Sigarette en Sigarettabak 1935.

DRAFT ORDINANCE

To provide for the amendment of the law relating to the imposition of a tax on the sale of cigarettes.

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

1. In this Ordinance the expression “the principal Ordi- nance” shall mean the Cigarettes and Cigarette Tobacco Sales Tax Ordinance, 1933 (Ordinance No. 11 of 1933).

2. (1) Section *two* of the principal Ordinance is hereby amended by the addition of the following proviso at the end thereof —

“Provided that any regulations made under and by virtue of the provisions of the said Ordinance shall continue to be in force until regulations are made by the Administrator under and by virtue of the powers granted to him by section *ten* of this Ordinance.”

(2) The provisions of this Section shall be deemed to have been in operation as from the twenty-second day of September, 1933.

3. Section *nine* of the principal Ordinance is hereby amended by the introduction of the following words after the word “otherwise” in line three thereof —

“And no person shall receive by way of gift, remuner- ation or otherwise from places outside the Territory, any cigarettes or cigarette tobacco whatsoever.”

4. This Ordinance may be cited for all purposes as the Cigarettes and Cigarette Tobacco Sales Tax Amendment Ordi- nance, 1935.