

Urgent

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OFFISIËLE KOERANT

VAN SUIDWES-AFRIKA.

OFFICIAL GAZETTE



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Goewermentskennisgewing.

Government Notice.

Die volgende Goewermentskennisgewing word vir algemene inligting gepubliseer.

The following Government Notice is published for general information.

J. J. KLOPPER,
Sekretaris van Suidwes-Afrika.

J. J. KLOPPER,
Secretary for South West Africa.

Kantoor van die Administrateur,
Windhoek.

Administrator's Office,
Windhoek.

No. 83.]

[3 Julie 1970

No. 83.]

[3 July 1970

ORDONNANSIE 1970: UITVAARDIGING VAN

ORDINANCE 1970: PROMULGATION OF

Dit behaag die Administrateur om sy goedkeuring te heg, ooreenkomstig artikel 27 van die Wet op die Konstitusie van Suidwes-Afrika 1968 (Wet 39 van 1968) aan die volgende Ordonnansie wat hierby vir algemene inligting gepubliseer word ooreenkomstig artikel 29 van genoemde Wet.

The Administrator has been pleased to assent, in terms of section 27 of the South West Africa Constitution Act, 1968 (Act 39 of 1968) to the following Ordinance which is hereby published for general information in terms of section 29 of the said Act:—

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No. 12 van 1970.]

ORDONNANSIE

Om voorsiening te maak vir die beheer oor die binnekoms en verblyf van verbode persone in die Gebied en vir aanverwante aangeleenthede.

(Goedgekeur 22 Junie 1970)

(Afrikaanse teks deur die Administrateur geteken)

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika VERORDEN soos volg:—

Woordbepaling.

1. Tensy uit die samehang anders blyk, beteken in hierdie ordonnansie —

- (i) „binnekoms” om sonder ’n permit die Gebied binne te kom ongeag die tydstip wanneer, die plek waar of die doel waarvoor of om sonder ’n permit daarin te bly, en het „binnebring” ’n ooreenstemmende betekenis;
- (ii) „inspekteur” iemand wat as ’n inspekteur aangestel is ingevolge artikel 4;
- (iii) „hierdie ordonnansie” ook enige regulasie;
- (iv) „permit” ’n permit uitgereik ingevolge artikel 2;
- (v) „polisiebeampte” iemand wat as lid van die Mag aangestel is ingevolge die Polisiewet, 1958 (Wet 7 van 1958), en enige wysigings daarvan;
- (vi) „Rehoboth-Gebiet” of „Gebiet” daardie deel van die Gebied waarvan die grense bepaal word in die ooreenkoms gesluit op 17 Augustus 1923 tussen die Administrateur van die Gebied en Cornelius van Wijk, Kaptein van die Rehoboth-gemeente, en die lede van die Raad van bedoelde Gemeente, en bevestig en bekragtig by Proklamasie 28 van 1923;
- (vii) „verbode persoon” ’n persoon wat ingevolge artikel 4 van die „Native Administration Proclamation 1922” (Proklamasie 11 van 1922) verbied is om die Gebied sonder ’n permit binne te kom maar sluit nie in nie ’n inboorling of iemand wat in die Gebied gebore is;
- (viii) „voorskryf” om by regulasie uitgevaardig kragtens hierdie ordonnansie voor te skryf.

Toestemming
nodig om
Gebied binne
te kom.

2. (1) Nieteenstaande andersluidende bepalings van enige ander wet mag —

- (a) geen verbode persoon die Gebied binnekom nie,
- (b) niemand ’n verbode persoon die Gebied binnebring nie,

sonder ’n voorafgaande permit van die Administrateur of van ’n beampte deur hom gemagtig om sodanige permit uit te reik: Met dien verstande dat elke sodanige permit of ander dokument wat uitgereik is voor die inwerking-treding van hierdie ordonnansie en wat by sodanige inwerking-treding nog geldend is, geag word uitgereik te gewees het ingevolge die bepalings van hierdie ordonnansie.

(2) Elke verbode persoon wat die Gebied binnekom en elkeen wat ’n verbode persoon die Gebied binnebring of

No. 12 of 1970.]

ORDINANCE

To provide for control over the entry into and residence in the Territory of prohibited persons and for matters incidental thereto.

(Assented to 22 June 1970)

(Afrikaans text signed by the Administrator)

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

1. In this ordinance, unless the context otherwise indicates — Definitions.

- (i) "entry" means entry into the Territory without a permit irrespective of the time when, the place where or the purpose for which, or residence therein without a permit and "bring into" shall have a corresponding meaning;
- (ii) "inspector" means a person who has been appointed as an inspector under section 4;
- (iii) "this ordinance" includes any regulation;
- (iv) "permit" means a permit issued under section 2;
- (v) "policeman" means a person who has been appointed a member of the Force under the Police Act, 1958 (Act 7 of 1958), and any amendments thereof;
- (vi) "Rehoboth *Gebiet*" or "*Gebiet*" means that part of the Territory of which the boundaries are defined in the agreement concluded on 17 August 1923 between the Administrator of the Territory and Cornelius van Wijk, Kaptein of the Rehoboth Community, and the members of the "Raad" of the said Community confirmed and ratified by Proclamation 28 of 1923;
- (vii) "prohibited person" means a person prohibited in terms of section 4 of the Native Administration Proclamation 1922 (Proclamation 11 of 1922) from entering the Territory without a permit but shall not include a native or a person born in the Territory;
- (viii) "prescribe" means to prescribe by regulation promulgated under this ordinance.

2. (1) Notwithstanding any provisions to the contrary in any other law —

- (a) no prohibited person may enter the Territory,
- (b) no person may bring any prohibited person into the Territory,

without a prior permit from the Administrator or an officer authorised by him to issue such permit: Provided that every such permit or other document issued before the commencement of this ordinance and which is still valid on such commencement shall be deemed to have been issued under the provisions of this ordinance.

(2) Any prohibited person who enters the Territory and any person who brings a prohibited person into the

Permission
necessary for
entering
Territory.

'n verbode persoon wat die Gebied binnegekom het of binnebring is teenstrydig met die bepalings van hierdie ordonnansie, in diens neem, is skuldig aan 'n misdryf.

(3) Elke permit word uitgereik onderworpe aan sodanige voorwaardes as wat die Administrateur mag voorskryf.

Straf vir medepligtigheid aan verbode immigrasie.

3. (1) Elkeen wat —

- (a) 'n verbode persoon bystaan of help om die Gebied binne te kom teenstrydig met die bepalings van hierdie ordonnansie wetende dat so 'n verbode persoon die Gebied nie mag binnekom nie;
- (b) 'n verbode persoon van wie hy weet dat 'n lasbrief uitgereik is, vir sy uitsetting uit die Gebied, bystaan of help om die lasbrief te ontduik of so 'n verbode persoon huisves,

is skuldig aan 'n misdryf.

(2) Elke verbode persoon wat, met die doel om die Gebied binne te kom, valslik handel deur sy gedrag, 'n verklaring of andersins, is skuldig aan 'n misdryf.

Aanstelling van inspekteurs.

4. (1) Die Administrateur kan by kennisgewing in die *Offisiële Koerant* sodanige inspekteurs aanstel as wat hy vir die behoorlike en doeltreffende toepassing van hierdie ordonnansie nodig ag.

(2) Elke inspekteur kan —

- (a) enige verbode persoon versoek om aan hom te toon 'n permit uitgereik ingevolge artikel 2 waarkragtens sodanige verbode persoon gemagtig word om die Gebied binne te kom;
- (b) vasstel of die voorwaardes vervat in sodanige permit nagekom is.

(3) Elke verbode persoon, of werkgewer, na gelang, wat die voorwaardes vervat in sodanige permit nie nakom nie, is skuldig aan 'n misdryf.

Straf vir dwarsboming van polisiebeampte of inspekteur.

5. Elkeen wat 'n polisiebeampte of inspekteur hinder of dwarsboom in die uitvoering van sy pligte is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete van hoogstens tweehonderd rand of, by wanbetaling van sodanige boete, met gevangenisstraf vir 'n tydperk van hoogstens twaalf maande, of met beide sodanige boete en sodanige gevangenisstraf.

Toestemming om permanent in die Gebied te bly.

6. (1) Onderworpe aan sodanige voorwaardes as wat hy na goeddunke mag bepaal, kan die Administrateur aan enige verbode persoon wat vir sodanige deurlopende tydperk wat die Administrateur voorskryf in die Gebied gewoon het, skriftelik toestemming verleen om permanent in die Gebied te bly woon: Met dien verstande dat die Administrateur na goeddunke sodanige toestemming kan verleen aan enige verbode persoon ongeag die tydperk wat hy voorgeskryf het: Met dien verstande voorts dat die Administrateur te eniger tyd sonder opgaaf van redes, enige toestemming aldus verleen, kan intrek en kan gelas dat sodanige verbode persoon die Gebied onverwyld moet verlaat.

(2) Vir die doeleindes van hierdie artikel sluit „verbode persoon” in die gesin van 'n verbode persoon en beteken „gesin” die vader en die moeder en enige kind wat weens sy ouderdom of ongeskiktheid na die mening van die Administrateur hoofsaaklik van sy vader of sy moeder vir sy onderhoud afhanklik is.

Regulasies.

7. Die Administrateur kan regulasies maak wat bestaanbaar moet wees met hierdie ordonnansie, ten opsigte van al of enige van onderstaande aangeleenhede, naamlik —

Territory or who employs any prohibited person who has entered the Territory or has been brought into the Territory in contravention of the provisions of this ordinance shall be guilty of an offence.

(3) Every permit shall be issued subject to such conditions as the Administrator may prescribe.

3. (1) Any person who —

- (a) assists or aids any prohibited person in entering the Territory in contravention of the provisions of this ordinance knowing that any such prohibited person may not enter the Territory;
- (b) assists or aids any prohibited person of whom he knows that a warrant has been issued for his removal from the Territory, to evade the warrant, or accommodates any such prohibited person,

Penalty for complicity in prohibited immigration.

shall be guilty of an offence.

(2) Any prohibited person who, for the purpose of entering the Territory, acts falsely by his conduct, a declaration or otherwise shall be guilty of an offence.

4. (1) The Administrator may by notice in the *Official Gazette* appoint such inspectors as he may deem necessary for the proper and effectual application of this ordinance.

Appointment of inspectors.

(2) Any inspector may —

- (a) call upon any prohibited person to produce to him a permit issued under section 2 whereby such prohibited person is authorised to enter the Territory;
- (b) ascertain whether the conditions contained in such permit have been complied with.

(3) Any prohibited person, or employer, as the case may be, who does not comply with the conditions contained in such permit shall be guilty of an offence.

5. Any person who hinders or obstructs any policeman or inspector in the execution of his duties shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two hundred rand or in default of payment of such fine to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

Penalty for obstruction of policeman or inspector.

6. (1) Subject to such conditions as he may in his discretion determine the Administrator may grant written permission to any prohibited person who has been residing in the Territory for such continuous period as the Administrator may prescribe, to reside permanently in the Territory: Provided that the Administrator may in his discretion grant such permission to any prohibited person irrespective of the period prescribed by him: Provided further that the Administrator may at any time without giving reasons revoke any permission thus granted and may direct that such prohibited person leave the Territory immediately.

Permission to reside permanently in the Territory.

(2) For the purpose of this section "prohibited person" includes the family of a prohibited person and "family" means the father and mother and any child which on account of its age or disability is in the opinion of the Administrator mainly dependent on its father or its mother for its maintenance.

7. The Administrator may make regulations which shall be consistent with this ordinance in respect of all or any of the following matters, namely —

Regulations.

- (a) die voorwaardes waaronder permitte uitgereik kan word aan verbode persone om die Gebied binne te kom en aan enigiemand om 'n verbode persoon die Gebied binne te bring;
- (b) die vorm van aansoeke om die Gebied binne te kom, of om 'n verbode persoon die Gebied binne te bring, en die vorm van enige permit, lasbrief of ander dokument uitgereik ingevolge die bepalings van hierdie ordonnansie en enige register wat vir die doeleindes van hierdie ordonnansie gehou, en die besonderhede wat daarin aangeteken moet word;
- (c) die prosedure wat gevolg moet word by die uitsetting van 'n verbode persoon uit die Gebied, die plek in die Republiek van Suid-Afrika waarheen so 'n verbode persoon verwyder moet word, en hoe die koste verbonde aan die uitsetting verhaal moet word;
- (d) die tydperk van deurlopende verblyf van 'n verbode persoon in die Gebied voordat toestemming verleen kan word vir sy permanente verblyf in die Gebied, insluitende tydperke wat nie beskou sal word nie as onderbrekings van die deurlopende tydperk: Met dien verstande dat verskillende tydperke vir verbode persone van verskillende beroepe, ambagte of werk voorgeskryf kan word;
- (e) enige ander aangeleentheid wat die Administrateur vir die behoorlike en doeltreffende toepassing van hierdie ordonnansie nodig of dienstig ag.

Strafbepaling.

8. (1) Elkeen wat ingevolge hierdie ordonnansie skuldig bevind word aan 'n misdryf waarvoor daar geen straf uitdruklik bepaal word nie, is by skuldigbevinding strafbaar met 'n boete van hoogstens tweehonderd rand en, by wanbetaling van sodanige boete, met gevangenisstraf vir 'n tydperk van hoogstens twaalf maande, of met beide sodanige boete en sodanige gevangenisstraf, en in die geval van 'n deurlopende misdryf met 'n bykomende boete van hoogstens vier rand per dag vir elke dag waarop die misdryf voortduur.

(2) Benewens enige vonnis opgelê kragtens subartikel (1), ongeag of sodanige vonnis opgelê is ingevolge 'n pleidooi van skuldig al dan nie, kan die voorsittende beampte van die hof waarin die vonnis opgelê is 'n lasbrief uitreik vir die uitsetting van die beskuldigde uit die Gebied na die Republiek van Suid-Afrika.

Vrystellings.

9. Ongeag enige andersluidende bepaling van hierdie ordonnansie kan die Administrateur by proklamasie in die *Offisiële Koerant* enige verbode persoon of enige klas of groep verbode persone vrystel van enige bepaling of van al die bepalings van hierdie ordonnansie.

Kort titel.

10. Hierdie ordonnansie heet die Ordonnansie op die Beheer oor die Binnekoms en Verblyf van Verbode Persone 1970, en is van toepassing ook op die Rehoboth-Gebiet.

- (a) the conditions on which permits may be issued to prohibited persons to enter the Territory and to any person to bring a prohibited person into the Territory;
- (b) the form of applications to enter the Territory, or to bring a prohibited person into the Territory and the form of any permit, warrant or other document issued under the provisions of this ordinance and any register to be kept for the purpose of this ordinance and the particulars to be entered in it;
- (c) the procedure to be followed in the removal of a prohibited person from the Territory, the place in the Republic of South Africa to which such prohibited person is to be removed and how the costs attaching to the removal shall be recovered;
- (d) the period of continuous residence of a prohibited person in the Territory before permission may be granted for his permanent residence in the Territory, including periods which will not be considered interruptions of the continuous period: Provided that different periods may be prescribed for prohibited persons of different professions, trades or work;
- (e) any other matter which the Administrator deems necessary or expedient for the proper and effectual application of this ordinance.

8. (1) Any person who, under this ordinance, is found guilty of an offence for which no penalty is expressly provided shall on conviction be liable to a fine not exceeding two hundred rand and in default of payment of such fine to imprisonment for a period not exceeding twelve months, or to both such fine and such imprisonment and in the case of a continuous offence to an additional fine not exceeding four rand a day for every day on which the offence continues. Penalties.

(2) In addition to any sentence imposed under subsection (1), irrespective of whether such sentence has been imposed on a plea of guilty or not, the presiding officer of the court in which the sentence has been imposed may issue a warrant for the removal of the accused from the Territory to the Republic of South Africa.

9. Notwithstanding any provision to the contrary contained in this ordinance the Administrator may by proclamation in the *Official Gazette* exempt any prohibited person or any class or group of prohibited persons from any provision or all the provisions of this ordinance. Exemptions.

10. This ordinance shall be called the Control over the Entry and Residence of Prohibited Persons Ordinance, 1970, and shall also apply in the Rehoboth *Gebiet*. Short title.

