BUITENGEWONE

OFFISIËLE KOERANT

VAN SUIDWES-AFRIKA

OFFICIAL GAZETTE

EXTRAORDINARY

OF SOUTH WEST AFRICA

UITGAWE OP GESAG. *PUBLISHED BY AUTHORITY*

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Ontwerpordonnansie

Die volgende Ontwerpordonnansie word vir algemene inligting gepubliseer.

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

Kantoor van die Administrateur,
Windhoek.

Draft Ordinance

The following Draft Ordinance is published for general information.

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

Administrator's Office,
Windhoek.

ALGEMENE VERDUIDELIKENDE NOTA:

——— Woorde met volstreep daaronder dui aan invoegings voorgestel.

[ ] Woorde tussen vierkantige hake dui aan skrappings voorgestel.

ONTWERPORDONNANSIE

Tot wysiging van die Munisipale Ordonnansie 1963 om die woord „Administrateur" deur die uitdrukking „Uitvoerende Komitee" te vervang; om die uitdrukking „Uitvoerende Komitee" te omskryf; om duideliker te bepaal wanneer 'n raadslid wat agterstallig is met munisipale belastings, gelde of bedrae (insluitende rente) wat aan die munisipaliteit verskuldig is, sy amp ontruim; om voorsiening te maak dat 'n stemopnemer die stemme van kiesers wat weens blindheid of ander liggaamlike gebrek onbekwaam is om op die voorgeskrewe wyse te stem, op 'n stembrief kan merk; om die betekenis van die uitdrukking „hoof van 'n departement" uit te brei; om voorsiening te maak dat 'n huurder wat versuim om die huurgeld wat deur hom betaalbaar is op die vervaldag te betaal, sonder 'n hofbevel uitgesit kan word uit 'n woning in 'n behuisingskema; om voorsiening te maak vir die kansellering van endossemente en inskrywings op die titelbewys van 'n woning in 'n behuisingskema waar sodanige woning aan 'n raad te koop aangebied en die aanbod verwerp is; om die uitdrukking „eethuis vir nie-blankes" te omskryf en om te bepaal dat rade regulasies kan maak betreffende die omheining van woonpersele met soliede grensmure; en om vir bykomende aangeleenthede voorsiening te maak.

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika VERORDEN SOOS VOLG:—

Wysiging van Ordonnansie 13 van 1963 om die woord „Administrateur" deur die uitdrukking „Uitvoerende Komitee" te vervang.

1. Die Munisipale Ordonnansie 1963 (Ordonnansie 13 van 1963) — hieronder die Hoofordonnansie genoem — word hierby gewysig deur die woord „Administrateur" oral waar dit voorkom deur die uitdrukking „Uitvoerende Komitee" te vervang.

Wysiging van artikel 1 van Ordonnansie 13 van 1963.

2. Artikel 1 van die Hoofordonnansie word hierby gewysig deur die volgende woordbepaling na die woordbepaling van „verkiesing" in te voeg:

„beteken „Uitvoerende Komitee" die Administrateur-in-Uitvoerende Komitee soos bedoel in artikel 6 van die Wet op die Konstitusie van Suidwes-Afrika, 1968 (Wet 39 van 1968);".

Wysiging van artikel 14 van Ordonnansie 13 van 1963, soos gewysig deur artikel 1 van Ordonnansie 5 van 1964.

3. Artikel 14 van die Hoofordonnansie word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

„(1) Niemand kan as raadslid verkies word of, behoudens die bepalings van subartikel (3), raadslid bly nie as —

GENERAL EXPLANATORY NOTE:

——— Words underlined with solid line indicate insertions proposed.

[ ] Words in square brackets indicate omissions proposed.

DRAFT ORDINANCE

To amend the Municipal Ordinance, 1963, so as to substitute the expression "Executive Committee" for the word "Administrator"; to define the expression "Executive Committee"; to provide more clearly when a councillor who is in arrear in respect of municipal rates, fees or moneys (including interest) due to the municipality vacates office; to provide that a polling officer may cause the votes of voters who are incapacitated by blindness or other physical cause from voting in the prescribed manner to be marked on a ballot paper; to extend the meaning of the expression "head of a department"; to provide that a tenant who fails to pay the rental payable by him on the due date may be ejected from a dwelling in a housing scheme without an order of court; to provide for the cancellation of endorsements and entries on the title deed of a dwelling in a housing scheme where such dwelling was offered for sale to a council and the offer rejected; to define the expression "eating house for non-Europeans" and to provide that councils may make regulations relating to the enclosure of residential premises with solid boundary walls; and to provide for incidental matters.

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

1. The Municipal Ordinance, 1963 (Ordinance 13 of 1963) — hereinafter referred to as the principal Ordinance — is hereby amended by the substitution for the word "Administrator" wherever it appears of the expression "Executive Committee".

Amendment of Ordinance 13 of 1963 to substitute the expression "Executive Committee" for the word "Administrator".

2. Section 1 of the principal Ordinance is hereby amended by the insertion after the definition of "election" of the following definition:

Amendment of section 1 of Ordinance 13 of 1963.

""Executive Committee" means the Administrator-in-Executive Committee as referred to in section 6 of the South West Africa Constitution Act, 1968 (Act 39 of 1968);".

3. Section 14 of the principal Ordinance is hereby amended by the substitution for subsection (1) of the following subsection:

Amendment of section 14 of Ordinance 13 of 1963, as amended by section 1 of Ordinance 5 of 1964.

"(1) No person shall be capable of being elected as councillor or, [continuing] subject to the provisions of subsection (3) continue to be a councillor if —

(a) hy nie 'n blanke is nie;

(b) hy 'n lid is van die raad van enige ander munisipaliteit;

(c) hy 'n lid is van enige dorpsbestuur;

(d) sy boedel oorgegee is in trust vir sy krediteure;

(e) hy insolvent is en nog nie gerehabiliteer is nie;

(f) hy te eniger tyd skuldig bevind is aan enige misdaad waarvoor gevangenisstraf sonder die keuse van 'n boete as straf opgelê is tensy sy tydperk van gevangenisstraf minstens vyf jaar voor sy verkiesing verstryk het;

(g) as 'n bevel van die hof wat hom kranksinnig of geestelik gekrenk of gebrekkig verklaar, op hom van toepassing is, of as hy wettig kragtens die Wet op Geestesgebreken, 1916 (Wet 38 van 1916) soos op die Gebied toegepas by die Wet op Geestesgebreke in Suidwes-Afrika, 1926 (Wet 22 van 1926), as geestelik gekrenk of gebrekkig aangehou word;

(h) hy drie maande lank agterstallig is met munisipale belastings, gelde of bedrae (insluitende rente) wat aan die munisipaliteit verskuldig is;

(i) hy onbevoeg is of ingevolge hierdie ordonnansie gediskwalifiseer word.".

Vervanging van artikel 64 van Ordonnansie 13 van 1963.

4. Artikel 64 van die Hoofordonnansie word hierby deur die volgende artikel vervang:

„Kiesbeampte of stemopnemer moet kiesers help wat nie kan lees of skryf nie.

64. Die kiesbeampte, of 'n stemopnemer, moet op versoek van enige kieser wat nie kan lees of skryf nie, of wat deur blindheid of ander liggaamlike gebrek onbekwaam is om te stem op die wyse voorgeskryf by hierdie ordonnansie, in die teenwoordigheid van die kandidate of agente van kandidate wat aanwesig is die stem of stemme van sodanige kieser op 'n stembrief laat merk op die wyse wat sodanige kieser aandui en die stembrief in die stembus laat sit en die naam en nommer op die kieserslys van elke kieser wie se stem ooreenkomstig die bepalings van hierdie artikel gemerk is en die rede waarom dit aldus gemerk is, moet op 'n lys genoem die „lys van stemme gemerk deur die kiesbeampte" geskryf word.".

Wysiging van artikel 148 van Ordonnansie 13 van 1963, soos gewysig deur artikel 3 van Ordonnansie 5 van 1964, artikel 3 van Ordonnansie 17 van 1970 en artikel 1 van Ordonnansie 7 van 1971.

5. Artikel 148 van die Hoofordonnansie word hierby gewysig deur subartikel (15) deur die volgende subartikel te vervang:

„(15) By die toepassing van hierdie ordonnansie en die daaruitvloeiende regulasies beteken en omvat „hoof van 'n departement" die stadstesourier, die stadsingenieur, die elektrotegniese stadsingenieur, die werknemer wat toesig het oor die munisipaliteit se openbare gesondheidsdepartement, [en] die werknemer wat toesig het oor die munisipaliteit se departement van nie-blanke sake en enige ander werknemer van die raad wat deur die Uitvoerende Komitee as hoof van 'n departement erken word,

(a) he is not a European;

(b) he is a member of the council of any other municipality;

(c) he is a member of any village management board;

(d) his estate is under assignment in trust for his creditors;

(e) he is an insolvent who has not obtained his rehabilitation;

(f) he has been convicted at any time of any offence for which imprisonment without the option of a fine has been imposed as a punishment unless his period of imprisonment has expired at least five years prior to his election;

(g) he is subject to an order of court declaring him to be of unsound mind or mentally disordered or defective or is lawfully detained as mentally disordered or defective under the Mental Disorder Act, 1916 (Act 38 of 1916) as applied to the Territory by the South West Africa Mental Disorders Act, 1926 (Act 22 of 1926);

(h) he [shall be] is in arrear for a period of three months in respect of rates, fees or moneys (including interest) due to the municipality;

(i) he is not qualified or is disqualified by this Ordinance.".

Substitution of section 64 of Ordinance 13 of 1963.

4. The following section is hereby substituted for section 64 of the principal Ordinance:

"Returning officer or polling officer to assist voters who can not read or write.

64. The returning officer, or a polling officer, on the application of any voter who is unable to read or write or who is incapacitated by blindness or other physical cause from voting in the manner prescribed by this Ordinance shall, in the presence of such candidates or agents of candidates as may be present, cause the vote or votes of such voter to be marked on a ballot paper in the manner directed by such voter and the ballot paper shall be placed in the ballot box and the name and number on the voters' roll of every voter whose vote is marked in pursuance of the terms of this section and the reason why it is so marked shall be entered on a list called the "list of votes marked by returning officer".".

Amendment of section 148 of Ordinance 13 of 1963, as amended by section 3 of Ordinance 5 of 1964, section 3 of Ordinance 5 of 1964, section 3 of Ordinance 17 of 1970 and section 1 of Ordinance 7 of 1971.

5. Section 148 of the principal Ordinance is hereby amended by the substitution for subsection (15) of the following subsection:

"(15) For the purpose of this Ordinance and the regulations thereunder "head of a department", shall mean and include the town treasurer, town engineer, town electrical engineer, the employee in charge of the public health department of the municipality, [and] the employee in charge of the non-European affairs department of the municipality and any other employee of the council recognised by the Executive Committee as head of a department and "fixed establishment" shall mean

en beteken „vaste diensstaat" die betrekkings wat die raad bepaal as nodig vir die gewone en gereelde vereistes van die munisipale diens.".

Wysiging van artikel 233 van Ordonnansie 13 van 1963, soos gewysig deur artikel 2 van Ordonnansie 37 van 1967, artikel 1 van Ordonnansie 11 van 1968 en artikel 6 van Ordonnansie 17 van 1970.

6. Artikel 233 van die Hoofordonnansie word hierby gewysig —

(a) deur subartikel (3)E deur die volgende subartikel te vervang:

„(3)E Indien die huurder van 'n woning wat deur die raad ingevolge paragraaf (a) van subartikel (1) verhuur word, versuim om die huurgeld wat deur hom betaalbaar is, op die vervaldag te betaal, kan die raad —

(a) stappe doen om die bedrag van die verskuldigde huurgeld te verhaal deur aksie in 'n bevoegde hof;

(b) nadat sewe dae kennis gegee is per brief gelewer òf aan die huurder persoonlik òf aan 'n volwasse inwoner van die woning of per vooruitbetaalde aangetekende brief gerig aan die huurder by die plek waar die woning geleë is, deur middel van 'n beampte wat skriftelik deur die raad gemagtig is en sonder dat 'n vonnis of bevel van die hof verkry is, die woning ten opsigte waarvan die huurgeld verskuldig is, betree en in besit neem.";

en

(b) deur subparagraaf (ii) van paragraaf (h) van subartikel (4) deur die volgende subparagraaf te vervang:

„(ii) enige sodanige endossemente en inskrywings kanselleer waar 'n vrystelling ingevolge paragraaf (g) ten opsigte van 'n woning verleen is of waar die stadsklerk van die betrokke raad 'n sertifikaat ingedien het dat 'n woning ingevolge paragraaf (a) te koop aangebied is en dat die aanbod verwerp is.".

Wysiging van artikel 242 van Ordonnansie 13 van 1963, soos gewysig deur artikel 18 van Ordonnansie 13 van 1967, artikel 4 van Ordonnansie 37 van 1967 en artikel 7 van Ordonnansie 7 van 1971.

7. Artikel 242 van die Hoofordonnansie word hierby gewysig —

(a) deur subartikel (14) deur die volgende subartikel te vervang:

„Eethuise.

(14) (i) die verbod op, die reëling van, en die beheer oor, eethuise vir nie-blankes;

(ii) vir die doeleindes van hierdie subartikel sluit „eethuis vir nie-blankes", sonder om die gewone betekenis van die uitdrukking enigsins te beperk, ook in enige perseel waar etes, voedsel of verversings gratis verskaf word aan nie-blankes wat nie as bona fide bediendes of werknemers van die eienaar, huurder of okkupeerder van sodanige perseel daarop woon of werk nie;";

(b) deur paragraaf (b) van subartikel (37) deur die volgende paragraaf te vervang:

„(b) die reëling van, beheer oor, registrasie en lisensiëring van fietse —

the posts determined by the council as necessary for the normal and regular requirements of the municipal service.".

6. Section 233 of the principal Ordinance is hereby amended —

Amendment of section 233 of Ordinance 13 of 1963, as amended by section 2 of Ordinance 37 of 1967, section 1 of Ordinance 11 of 1968 and section 6 of Ordinance 17 of 1970.

(a) by the substitution for subsection (3)E of the following subsection:

"(3)E If the tenant of a dwelling leased by the council under paragraph (a) of subsection (1) fails to pay the rental payable by him on the due date, the council may —

(a) take steps to recover the amount of the rental due by action in a competent court;

(b) after giving seven days' notice by letter delivered either to the tenant personally or to some adult inmate of the dwelling or by prepaid registered letter addressed to the tenant at the place where the dwelling is situated, by an officer authorized in writing by the council and without having obtained any judgement or order of the court, enter upon and take possession of the dwelling in respect of which the rental is owing.";

and

(b) by the substitution for subparagraph (ii) of paragraph (h) of subsection (4) of the following subparagraph:

"(ii) cancel any such endorsements and entries where an exemption has been granted in terms of paragraph (g) in respect of a dwelling or where the town clerk of the council concerned has submitted a certificate that a dwelling had been offered for sale in terms of paragraph (a) and that the offer had been rejected.".

7. Section 242 of the principal Ordinance is hereby amended —

Amendment of section 242 of Ordinance 13 of 1963, as amended by section 18 of Ordinance 13 of 1967, section 4 of Ordinance 37 of 1967 and section 7 of Ordinance 7 of 1971.

(a) by the substitution for subsection (14) of the following subsection:

"Eating houses.

(14) (i) prohibiting, regulating and controlling of eating houses for non-Europeans;

(ii) for the purposes of this subsection "eating house for non-Europeans" shall, without in any way restricting the ordinary meaning of the expression, also include any premises where meals, food or refreshments are supplied free of charge to non-Europeans who do not, as bona fide servants or employees of the owner, tenant or occupier of such premises, reside or work thereon;";

(b) by the substitution for paragraph (b) of subsection (37) of the following paragraph:

"(b) regulating, controlling, registering and licensing cycles —

(i) wat nie deur meganiese krag voortbeweeg word nie;

(ii) wat twee of meer wiele het; en

(iii) wat 'n raamgrootte van meer as [agttien duim] vyf-en-veertig sentimeter het of waarvan enige wiel, met die buiteband, 'n wieldiameter van meer as [vier-en-twintig duim] dertig sentimeter het;

met die bevoegdheid om 'n jaarlikse lisensiegeld vir elke fiets te hef: Met dien verstande dat 'n fiets wat gelisensieer is ten opsigte van die gebied van enige plaaslike bestuur gedurende die jaar van geldigheid van sodanige lisensie ten opsigte van die gebied van enige ander plaaslike bestuur van lisensiëring vrygestel is;"; en

(c) deur subartikel (41) deur die volgende subartikels te vervang:

„Soliede grensmure.

(41) (i) die verpligte omheining van woonpersele met soliede grensmure;

(ii) die reëling en voorskrywing van die hoogte, metode van konstruksie en die afwerking van sodanige grensmure; en

(iii) die reëling en voorskrywing van die verdeling tussen die eienaars van aangrensende persele van die koste van oprigting en instandhouding van gemeenskaplike soliede grensmure; en

Algemeen.

(42) die reëling van enige van die sake genoem in hierdie ordonnansie.".

Kort titel.

8. Hierdie Ordonnansie heet die Munisipale Wysigingsordonnansie, 1972.

(i) not being propelled by mechanical power;

(ii) having two or more wheels; and

(iii) having a frame size exceeding [eighteen inches] forty-five centimetres or any wheel of which has with the tyre, a wheel diameter exceeding [twenty-four inches] thirty centimetres;

with the power to impose an annual licence fee for each cycle: Provided that a cycle licensed in respect of the area of any local authority shall, during the year of validity of such licence be exempt from being licensed in respect of the area of any other local authority;"; and

(c) by the substitution for subsection (41) of the following subsections:

"Solid boundary walls.

(41) (i) the compulsory enclosing of residential premises with solid boundary walls;

(ii) regulating and prescribing the height, method of construction and the trimming of such boundary walls; and

(iii) regulating and prescribing the distribution between the owners of adjoining premises, of the cost of erection and maintenance of mutual solid boundary walls; and

Generally.

(42) regulating any of the matters mentioned in this Ordinance.".

8. This Ordinance shall be called the Municipal Amendment Ordinance, 1972. Short title.