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EXTRAORDINARY

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BUITENGEWONE

OFFISIËLE KOERANT

VAN SUIDWES-AFRIKA



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DRAFT ORDINANCE

ONTWERPORDONNANSIE

The following Draft Ordinance is published for general information.

Die volgende Ontwerpordonnansie word vir algemene inligting gepubliseer.

H. P. F. GOUS,
Secretary for South West Africa.

H. P. F. GOUS,
Sekretaris van Suidwes-Afrika.

Administrator's Office,
Windhoek.

Kantoor van die Administrateur,
Windhoek.

GENERAL EXPLANATORY NOTE:

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

DRAFT ORDINANCE

To amend the Accommodation Establishments and Tourism Ordinance, 1973, so as to define the word "tourist officer"; to provide for the appointment of tourist officers; to grant certain powers to tourist officers; to provide for the disposal of articles seized by tourist officers; and to provide for matters incidental thereto.

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa, with the consent of the State President, in so far as such consent is necessary, previously obtained and communicated to the Assembly by message from the Administrator, as follows:-

Amendment of section 1 of Ordinance 20 of 1973, as amended by section 1 of Ordinance 25 of 1973.

1. Section 1 of the Accommodation Establishments and Tourism Ordinance, 1973 (hereinafter referred to as the principal Ordinance), is hereby amended by the insertion after the definition of "tourist" of the following definition:

"tourist officer" means any person appointed as a tourist officer under section 55A;"

Insertion of sections 55A, 55B and 55C in Ordinance 20 of 1973.

2. The following sections are hereby inserted in the principal Ordinance after section 55:

"Appointment of tourist officers.

55A. (1) The Executive Committee may, subject to the provisions of the Public Service Act, 1957 (Act 54 of 1957), and the Administration Employees Ordinance, 1957 (Ordinance 17 of 1957), appoint such persons as it may deem necessary and suitable as tourist officers for the proper enforcement of the provisions of this Ordinance relating to tourist recreation areas.

(2) Every tourist officer shall be furnished with a certificate of appointment and a badge by the Director.

(3) A tourist officer shall, when exercising any power or performing any duty or function in terms of this Ordinance, exhibit the certificate of appointment

ALGEMENE VERDUIDELIKENDE NOTA:

Woorde met 'n volstreep daaronder dui aan invoegings voorgestel.

ONTWERPORDONNANSIE

Tot wysiging van die Ordonnansie op Huisvestigingsinrigtings en Toerisme 1973, ten einde die woord "toeristebeampte" te omskryf; om voorsiening te maak vir die aanstelling van toeristebeamptes; om sekere bevoegd-hede aan toeristebeamptes te verleen; om voorsiening te maak vir die beskikking oor voorwerpe deur toeristebeamptes in beslag geneem; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika, met die toestemming van die Staatspresident dermate sodanige toestemming nodig is vooraf verkry en by boodskap van die Administrateur aan die Vergadering meegedeel, VERORDEN SOOS VOLG:-

1. Artikel 1 van die Ordonnansie op Huisvestigingsinrigtings en Toerisme 1973 (hieronder die Hoofordonnansie genoem), word hierby gewysig deur na die woordbepaling van "toeris" die volgende woordbepaling in te voeg:

Wysiging van artikel 1 van Ordonnansie 20 van 1973, soos gewysig deur artikel 1 van Ordonnansie 25 van 1973.

"toeristebeampte" iemand wat kragtens artikel 55A as 'n toeristebeampte aangestel is;".

2. Die volgende artikels word hierby in die Hoofordonnansie na artikel 55 ingevoeg:

Invoeging van artikels 55A, 55B en 55C in Ordonnansie 20 van 1973.

"Aanstelling van toeristebeamptes.

55A. (1) Die Uitvoerende Komitee kan, behoudens die bepalings van die Staatsdienswet, 1957 (Wet 54 van 1957), en die Administrasiewerknemersordonnansie 1957 (Ordonnansie 17 van 1957), die persone wat hy nodig en geskik ag aanstel as toeristebeamptes vir die behoorlike uitvoering van die bepalings van hierdie Ordonnansie betreffende toeristeontspanningsgebiede.

(2) Elke toeristebeampte word deur die Direkteur van 'n aanstellingsertifikaat en 'n kenteken voorsien.

(3) 'n Toeristebeampte moet by die uitoefening van enige bevoegdheid of die vervulling van enige plig of funksie ingevolge hierdie Ordonnansie die aan-

referred to in subsection (2) if requested to do so by any person affected by the exercise of such power or the performance of such duty or function.

Powers of tourist officers.

55B. (1) A tourist officer may exercise and perform all those powers, duties and functions granted to or imposed on him by or in terms of this Ordinance and may, in addition thereto, within a tourist recreation area -

- (a) at any time conduct any investigation which he deems necessary in order to determine whether the provisions of this Ordinance are being complied with;
- (b) at any reasonable time enter any bungalow, caravan stand or camping site in any tourist recreation area and any caravan and tent thereon and there conduct such inspection as he may deem necessary to ascertain whether the provisions of this Ordinance are being complied with: Provided that such tourist officer shall first audibly demand admission to the bungalow, caravan or tent in question and notify the purpose for which he seeks to enter such bungalow, caravan or tent;
- (c) at any time require any vehicle or other means of conveyance to be brought to a standstill, board such vehicle or other means of conveyance and search such vehicle or other means of conveyance and any container therein on thereupon and any person therein or thereupon if he has reasonable grounds to suspect that -
 - (i) any tree, plant, shrub, herb or other object of botanical, zoological, geological, archaeological historical or other scientific interest which was picked or collected in such tourist recreation area contrary to any provision of this Ordinance; or
 - (ii) any furniture, fittings, towel, costume or other article belonging to the Administration which was removed or taken away from any bungalow, building, camping site or caravan stand in such tourist recreation area contrary

stellingsertifikaat bedoel in subartikel (2) toon indien hy daartoe versoek word deur iemand wat deur die uitoefening van sodanige bevoegdheid of die vervulling van sodanige plig of funksie geraak word.

Bevoegdheede van toeristebeamptes

55B. (1) 'n Toeristebeampte kan al daardie bevoegdhede, pligte en funksies uitoefen en vervul wat by of ingevolge hierdie Ordonnansie aan hom verleen of opgedra word en kan daarbenewens in 'n toeristeontspanningsgebied -

- (a) te eniger tyd enige ondersoek instel wat hy nodig ag ten einde vas te stel of die bepalinge van hierdie Ordonnansie nagekom word;
- (b) te enige redelike tyd 'n rushuis, karavaanstaanplek of kampeerplek in 'n toeristeontspanningsgebied en enige karavaan en tent daarop betree en aldaar die inspeksie uitvoer wat hy nodig ag om vas te stel of die bepalinge van hierdie Ordonnansie nagekom word: Met dien verstande dat so 'n toeristebeampte eers hoorbaar toegang tot die betrokke rushuis, karavaan of tent moet eis en die doel waarvoor hy sodanige rushuis, karavaan of tent wil betree, bekend moet maak;
- (c) te eniger tyd vereis dat enige voertuig of ander vervoermiddel tot stilstand gebring word, sodanige voertuig of ander vervoermiddel bestyg en sodanige voertuig of ander vervoermiddel, enige houer daarin of daarop en enige persoon wat hom daarin of daarop bevind deursoek as hy redelike gronde het om te vermoed dat -
 - (i) enige boom, plant, struik of kruid of enige ander voorwerp van plantkundige, dierkundige, geologiese, argeologiese, historiese of ander wetenskaplike belang wat in stryd met 'n bepaling van hierdie Ordonnansie in sodanige toeristeontspanningsgebied gepluk of versamel is; of
 - (ii) enige meubelstuk, toebehore, handdoek, kostuum of ander artikel wat in stryd met 'n bepaling van hierdie Ordonnansie uit 'n rushuis of gebou of vanaf 'n

to any provision of this Ordinance, is in or on such vehicle, other means of conveyance or container or in possession of such person, and seize such tree, plant, shrub, herb, other object of botanical, zoological, geological, archaeological, historical or other scientific interest, furniture, fittings, towel, costume or other article (hereinafter referred to as an article);

- (d) at any time question any person who, in his opinion, may be capable of furnishing any information which he may require in connection with the enforcement of any provision of this Ordinance or the commission of any offence in terms of this Ordinance, and for that purpose require any vehicle or other means of conveyance to be brought to a standstill;
- (e) demand his name and address from any person -
 - (i) who has committed an offence in terms of this Ordinance, or who is reasonably suspected of having committed such an offence;
 - (ii) who is reasonably considered to be able to give evidence in connection with an offence committed in terms of this Ordinance, or which is reasonably suspected of having been so committed;
- (f) at anytime seize anything (hereinafter referred to as an article) which in his opinion may afford evidence of the commission or suspected commission of an offence in terms of this Ordinance;
- (g) at any time require any person who performs or has performed or is reasonably suspected of performing or having performed an act which may be performed solely under the authority of permission granted under this Ordinance, to exhibit such permission;

kampeer- of karavaanstaanplek in sodanige toeriste-ontspanningsgebied verwyder of weggeneem is,

in of op sodanige voertuig, ander vervoermiddel of houer of in besit van sodanige persoon is en daardie boom, plant, struik, kruid, ander voorwerp van plantkundige, dierkundige, geologiese, argeologiese, historiese of ander wetenskaplike belang, meubelstuk, toebehore, handdoek, kostuum of ander artikel (hieronder 'n voorwerp genoem) in beslag neem;

- (d) te eniger tyd iemand ondervra wat na sy oordeel moontlik in staat is om inligting te verstrek wat hy verlang in verband met die toepassing van 'n bepaling van hierdie Ordonnansie of die pleging van 'n misdryf ingevolge hierdie Ordonnansie, en vir daardie doel vereis dat enige voertuig of ander vervoermiddel tot stilstand gebring word;
- (e) sy naam en adres vereis van iedereen
 - (i) wat 'n misdryf ingevolge hierdie Ordonnansie gepleeg het of ten opsigte van wie redelikerwys vermoed word dat hy so 'n misdryf gepleeg het;
 - (ii) ten opsigte van wie redelikerwys vermoed word dat hy getuienis sal kan lewer in verband met 'n misdryf wat ingevolge hierdie Ordonnansie gepleeg is of na redelikerwys vermoed word aldus gepleeg is:
- (f) te eniger tyd enigiets (hieronder 'n voorwerp genoem) wat na sy oordeel tot bewys kan strek van die pleging of vermeende pleging van 'n misdryf ingevolge hierdie Ordonnansie in beslag neem;
- (g) te eniger tyd van iemand wat 'n handeling verrig of verrig het of ten opsigte van wie redelikerwys vermoed word dat hy 'n handeling verrig of verrig het wat slegs op gesag van verlof verleen ingevolge hierdie Ordonnansie verrig kan word, vereis dat hy sodanige verlof toon;

(h) order any person who, in that tourist recreation area, in his opinion performs an act which -

(i) is prohibited by or in terms of this Ordinance;

(ii) is or may be dangerous or causes or may cause damage, injury or inconvenience or gives or may give offence to other persons in that tourist recreation area,

to stop performing such act immediately or within such period as may be determined by such tourist officer and to remove anything by means of which the said danger, damage, injury or inconvenience is or may be caused or the said offence is or may be given and may further -

(aa) order any person who refuses or fails to stop performing any act in accordance with an order so given to him, to leave such tourist recreation area immediately along the shortest route to which the public have a right of access;

(bb) remove and seize anything (hereinafter referred to as an article) which is not removed in accordance with an order given by a tourist officer under this paragraph;

(i) at any time catch or destroy any animal which is or may be dangerous to man;

(j) if it is necessary or he considers it necessary for the exercise of his powers or the performance of his duties or functions carry a fire-arm with him;

(k) for the exercise of any power or the better performance of any duty or function take an interpreter or assistant, who shall be an officer, with him, and such interpreter or assistant shall, while acting under the lawful command and supervision of such tourist officer have the same powers, duties and functions as such tourist officer;

(h) iemand wat na sy oordeel in daardie toeristeontspanningsgebied 'n handeling verrig wat -

(i) by of ingevolge hierdie Ordonnansie verbied word; of

(ii) vir ander persone in daardie toeristeontspanningsgebied gevaar inhou of kan inhou of skade, besering of ongerief veroorsaak of kan veroorsaak of aanstoot gee of kan gee,

beveel om onmiddellik of binne die tydperk deur sodanige toeristebeampte bepaal, daardie handeling te staak en enigiets deur middel waarvan bedoelde gevaar geskep, of skade, besering of ongerief veroorsaak of aanstoot gegee word of kan word, te verwyder, en kan verder -

(aa) iemand wat weier of versuim om enige handeling te staak ooreenkomstig 'n bevel aldus aan hom gegee, beveel om sodanige toeristeontspanningsgebied onmiddellik te verlaat met die kortste roete waartoe die publiek die reg van toegang het;

(bb) enigiets (hieronder 'n voorwerp genoem) wat nie ooreenkomstig 'n bevel kragtens hierdie paragraaf deur 'n toeristebeampte gegee, verwyder word nie, verwyder en in beslag neem;

(i) te eniger tyd enige dier wat 'n gevaar vir mense is of kan wees, vang of vernietig;

(j) indien dit vir die uitoefening van sy bevoegdheid of die vervulling van sy pligte of funksies nodig is of hy dit daarvoor nodig ag, 'n vuurwapen by hom dra;

(k) vir die uitoefening van enige bevoegdheid of die beter vervulling van enige plig of funksie, 'n tolk of assistent wat 'n beampte moet wees, met hom saamneem en sodanige tolk of assistent het, terwyl hy onder die wettige bevel en toesig van sodanige toeristebeampte optree, dieselfde bevoegdheid, pligte en funksies as sodanige toeristebeampte.

(2) Any person who assaults or resists or hinders or impedes a tourist officer or the interpreter or assistant of a tourist officer in the exercise of his powers or the performance of his duties or functions or wilfully interferes with such tourist officer, assistant or interpreter, shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(3) Any person who -

- (a) falsely pretends to be a tourist officer or the assistant or interpreter of a tourist officer;
- (b) refuses or fails to comply forthwith with any lawful order, direction, requirement or request given or put to him by a tourist officer or the assistant or interpreter of a tourist officer in the exercise of any power or the performance of any duty or function in terms of this Ordinance, or who furnishes untrue or misleading information when complying with any such order, direction, requirement or request,

shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Disposal of article seized in terms of this Ordinance.

55C. (1) A tourist officer who seizes any article in terms of section 55(1)(c), (f) or (h) -

- (a) may, if the article is a perishable, with due regard to the interests of the persons concerned, dispose of the article in such manner as the circumstances may require; or
- (b) may, if the article was removed or taken away from any bungalow, building, camping site or caravan stand in a tourist recreation area contrary to any provision of this Ordinance, with the consent of the person from whom it was seized, deliver the article to the officer in charge of the tourist recreation area concerned and shall warn such officer to hold such article available

(2) Iemand wat 'n toeristebeampte of die tolk of assistent van 'n toeristebeampte by die uitoefening van sy bevoegdheid of die vervulling van sy pligte of funksies aanrand of weerstaan of hinder of belemmer of hom opsetlik met so 'n toeristebeampte, assistent of tolk bemoei, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens tweehonderd rand of met gevangenisstraf vir 'n tydperk van hoogstens ses maande of met sowel sodanige boete as sodanige gevangenisstraf.

(3) Iemand wat -

- (a) valslik voorgee dat hy 'n toeristebeampte is of dat hy die assistent of tolk van 'n toeristebeampte is;
- (b) weier of versuim om onverwyld aan enige wettige bevel, opdrag, lasgewing, vereiste of versoek wat 'n toeristebeampte of die assistent of tolk van 'n toeristebeampte aan hom gee of stel by die uitoefening van enige bevoegdheid of die vervulling van enige plig of funksie ingevolge hierdie Ordonnansie of wat onjuiste of misleidende inligting verstrek wanneer hy aan so 'n bevel, opdrag, lasgewing, vereiste of versoek voldoen,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens tweehonderd rand of met gevangenisstraf vir 'n tydperk van hoogstens ses maande of met sowel sodanige boete as sodanige gevangenisstraf.

Beskikking oor voorwerp ingevolge hierdie Ordonnansie in beslag geneem.

55C. (1) 'n Toeristebeampte wat 'n voorwerp kragtens artikel 55B (1) (c), (f) of (h) in beslag neem -

- (a) kan, indien die voorwerp bederfbaar is, met behoorlike inagneming van die belange van die betrokke persone, oor die voorwerp beskik op die wyse wat die omstandighede vereis; of
- (b) kan, indien die voorwerp in stryd met 'n bepaling van hierdie Ordonnansie uit 'n rushuis of gebou of vanaf 'n kampeer- of karavaanstaanplek in 'n toeristeontspanningsgebied verwyder of weggeneem is, met die toe-

for production at any resultant criminal proceedings, if required to do so; or

- (c) shall, if the article is not disposed of or delivered in terms of the provisions of paragraph (a) or (b), give it a distinctive identification mark and deliver it to a policeman, who shall retain it in police custody or make such other arrangements with regard to the custody thereof as the circumstances may require, whereupon the provisions of sections 50D, 50E, 50F and 50G of the Criminal Procedure Ordinance, 1963 (Ordinance 34 of 1963), shall apply *mutatis mutandis* with reference to any such article and such article shall for the purposes of the said sections be deemed to be an article referred to in section 50C(c) of the said Ordinance: Provided that any such article which may be forfeited in terms of any of the said sections, shall be forfeited to the Administration.

(2) The Executive Committee may dispose of any article so forfeited to the Administration at its discretion and the proceeds (if any) shall be paid into the Territory Revenue Fund referred to in section 31 of the South-West Africa Constitution Act, 1968 (Act 39 of 1968).”.

Short title.

3. This Ordinance shall be called the Accommodation Establishments and Tourism Amendment Ordinance, 1977.

stemming van die persoon van wie dit in beslag geneem is, die voorwerp oorhandig aan die beampte in beheer van die betrokke toeriste-ontspanningsgebied en moet daardie beampte waarsku om bedoelde voorwerp vir voorlegging by enige gevolglike strafregtelike verrigtinge beskikbaar te hou, indien hy aangesê word om dit te doen; of

- (c) moet, indien die voorwerp nie ingevolge die bepalings van paragraaf (a) of (b) oor beskik of oorhandig word nie, 'n onderskeidende uitkenningsteken daarop aanbring en dit aan 'n polisiebeampte oorhandig, wat dit in polisiebewaring moet hou of sodanige ander reëlins met betrekking tot die bewaring daarvan moet tref as wat die omstandighede vereis, waarop die bepalings van artikels 50D, 50E, 50F en 50G van die Strafprosesordonnansie 1963 (Ordonnansie 34 van 1963), *mutatis mutandis* met betrekking tot sodanige voorwerp van toepassing is en sodanige voorwerp by die toepassing van bedoelde bepalings geag word in 'n artikel 50C(c) van genoemde Ordonnansie bedoelde voorwerp te wees: Met dien verstande dat enige sodanige voorwerp wat ingevolge enige van die genoemde bepalings verbeur word, aan die Administrasie verbeur word.

(2) Die Uitvoerende Komitee kan na goeddunke beskik oor enige voorwerp aldus aan die Administrasie verbeur en die opbrengs (as daar is) word in die in artikel 31 van die Wet op die Konstitusie van Suidwes-Afrika, 1968 (Wet 39 van 1968), bedoelde Inkomstefonds van die Gebied gestort."

3. Hierdie Ordonnansie heet die Wysigingsordonnansie op Huisvestingsinrigtings en Toerisme, 1977.

Kort titel.

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