

OFFICIAL GAZETTE

EXTRAORDINARY

OF SOUTH WEST AFRICA

BUITENGEWONE

OFFISIËLE KOERANT

VAN SUIDWES-AFRIKA



PUBLISHED BY AUTHORITY

UITGAWE OP GESAG

10c

Friday 1 April 1977

WINDHOEK

Vrydag 1 April 1977

No. 3607

CONTENTS

INHOUD

Page/Bladsy

No. 131 Petition for the Establishment of an Interim Government.

No. 131 Petisie vir die Instelling van 'n Tussentydse Regering. 303

Government Notice

Goewermentskennisgewing

No. 131]

[1 April 1977

No. 131]

[1 April 1977

For general information notice is hereby given that the principles accepted by the Constitutional Conference with regard to the establishment of an interim government and independence for South West Africa are set out in the Petition for the Establishment of an Interim Government, which has been approved by the Constitutional Conference and is published in the Schedule.

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

Administrators Office,
Windhoek.

SCHEDULE

PETITION FOR THE ESTABLISHMENT OF AN INTERIM GOVERNMENT

CONSIDERANS

Based on our *Declaration of Intent* and with the acknowledgement of the supremacy of God,

AND WITH THE EARNEST DESIRE to -

+ lead South West Africa to full independence;

+ implement the resolutions of the Constitutional Conference as speedily as possible; and to

Hierby word vir algemene inligting bekend gemaak dat die beginsels wat deur die Staatkundige Beraad aanvaar is vir die instelling van 'n tussentydse regering en onafhanklikheid vir Suidwes-Afrika, uiteengesit word in die Petisie vir die Instelling van 'n Tussentydse Regering, wat deur die Staatkundige Beraad goedgekeur is en wat in die Bylae verskyn.

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

Kantoor van die Administrateur
Windhoek.

BYLAE

PETISIE VIR DIE INSTELLING VAN 'N TUSSENTYDSE REGERING

CONSIDERANS

OP DIE GRONDSLAG van ons *Verklaring van Voorneme* en met die erkenning van die oppergesag van God

EN DIE ERNSTIGE BEGEERTE om -

+ Suidwes-Afrika na volle onafhanklikheid te lei;

+ die Besluite van die Staatkundige Beraad so spoedig moontlik uit te voer;

+ draft a final Constitution for our country which will be accepted by all the population groups as at present represented in the Constitutional Conference,

the Government of the Republic of South Africa is requested to establish an interim government for South West Africa on the following constitutional basis:-

CHAPTER I

Introductory Provisions

1. *Name and Definition of the Country:*

The area of jurisdiction of the interim government shall be that territory known as the Mandated Territory of South West Africa as defined in Article 1 of the Mandate of 17 December 1920, and it shall, in the interim period, be known as South West Africa/Namibia until, before independence, a final decision is taken on the name.

2. *Nature of the constitutional order:*

South West Africa/Namibia shall be a republican democratic state accepting the principle of a free economic structure and the inviolability of the possession of land and property. The Roman-Dutch law and traditional law as at present existing in the country, shall be the common law which is in force.

3. *Flag and National Anthem:*

These items shall be referred to a committee of experts as soon as possible for recommendations to the Conference.

4. *Official Languages:*

For the period of the interim government the status quo shall be maintained.

5. *Seat of the Central Government:* Windhoek

Second tier governments (representative authorities) may establish their seats of government according to their own choice.

CHAPTER II

Protection of Fundamental Rights

The following fundamental rights shall be binding on the legislative, executive and judicial authorities in respect of the inhabitants of the Republic of South West Africa/Namibia:

1. The rights of every population group, whether a minority or a majority group, are fully recognised and the right to protection thereof is guaranteed.

+ en om 'n finale Grondwet vir ons land op te stel wat deur al die bevolkingsgroepe soos tans in die Staatskundige Beraad verteenwoordig aanvaar sal word,

word die Regering van die Republiek van Suid-Afrika versoek om 'n tussentydse regering vir Suidwes-Afrika op die volgende Konstitusionele Basis in te stel:

HOOFSTUK I

Inleidende Bepalings

1. *Naam en Omskrywing van die Land:*

Die gesagsgebied van die tussentydse regering is daardie gebied wat bekend staan as die Mandaatgebied van Suidwes-Afrika soos omskryf in Artikel 1 van die Mandaat van 17 Desember 1920, en sal in die interim periode bekend staan as Suidwes-Afrika/Namibië totdat voor onafhanklikheid 'n finale besluit oor 'n naam geneem word.

2. *Aard van die Staatsorde:*

Suidwes-Afrika/Namibië is 'n republikeinse demokratiese staat wat die beginsel van 'n vrye ekonomiese struktuur en die onskendbaarheid van grond-en-goedere-besit aanvaar, en die Romeins-Hollandse reg en tradisionele reg soos dit tans in die land bestaan, sal die geldende gemene reg wees.

3. *Vlag en Volkslied:*

Hierdie items moet so spoedig moontlik aan 'n deskundige komitee vir aanbeveling aan die Beraad oorgedra word.

4. *Amptelike Tale:*

Vir die tydperk van die tussentydse regering word die huidige reëling behou.

5. *Setel van die Sentrale Regering:* Windhoek

Tweede vlakregerings (Verteenwoordigende Owerhede) mag hul setels van regering na eie keuse vasstel.

HOOFSTUK II

Beskerming van Fundamentele Regte

Die volgende fundamentele regte is bindend op die wetgewende, uitvoerende en regsprekende gesag ten opsigte van die inwoners van die Republiek van Suidwes-Afrika/Namibië:

1. Die regte van elke bevolkingsgroep, hetsy dit 'n minderheidsgroep of 'n meerderheidsgroep is, word ten volle erken en die reg tot beskerming daarvan word gewaarborg.

2. The principle of human dignity is inviolable and shall be respected by all incumbents of state authority.
3. Every person shall have the right to the free development of his personality in so far as this does not violate the rights of others or offend against the public order and moral code.
4. The life, freedom and inviolability of the person of every one is unassailable and may only be encroached upon pursuant to a law.
5. All persons are equal before the law. No person may be favoured or prejudiced by reason of his origin, sex, language, race, colour, creed or political convictions.
6. Freedom of faith is guaranteed.
7. Freedom of movement is guaranteed.
8. Every person shall have the right to express his opinion by speech, writing or pictures in so far as it does not infringe the rights of others or is not harmful to the state.
9. Freedom of the press is guaranteed; this right is limited by the general laws, the protection of the constitutional order, youth and personal honour and dignity.
10. The right to ownership, whether individually or collectively, of movable or immovable (land) property is guaranteed.
11. Expropriation may take place only if public interest so requires and if authorised by law. In the case of expropriation just compensation shall be payable.
12. Every person shall have the right to be active in the community, to assemble and to establish political parties. Political parties or groupings with Marxist-Leninist ideologies shall be prohibited as being inimical to the state.
13. Where a fundamental right is restricted by law, such law shall apply generally and not to an individual case only.
14. In no case may a fundamental right be infringed upon in its essential content or be revoked.
- 15.1 A Constitutional Court, composed of not more than 3 members, shall be appointed by the Ministers' Council.
- 15.2 Only persons who -
 - (a) are or have been judges; or
2. Die beginsel van menswaardigheid is onaantasbaar en sal deur alle beklaers van staatsgesag eerbiedig word.
3. Elkeen het die reg op die vrye ontvouing van sy persoonlikheid vir sover dit nie die regte van andere aantast of strydig is met die openbare orde en sedes nie.
4. Die lewe, vryheid en liggaamlike onskendbaarheid van elkeen is onaantasbaar en mag slegs op grond van 'n regsvoorskrif aangetas word.
5. Alle mense is gelyk voor die reg. Niemand mag op grond van sy herkoms, geslag, taal, ras, kleur, geloof of politieke oortuiging bevoordeel of benadeel word nie.
6. Vryheid van geloof word gewaarborg.
7. Vryheid van beweging word gewaarborg.
8. Elkeen het die reg om sy mening in woord, skrif of beeld uit te spreek vir sover dit nie die regte van andere aantast of staatskadelik is nie.
9. Persvryheid word gewaarborg; hierdie reg vind sy grense in algemene regsvoorskrifte, beskerming van die staatsorde, die jeug en persoonlike eer en aansien.
10. Die reg op eiendomsreg, hetsy individueel of kollektief oor roerende of onroerende (grond) eiendom word gewaarborg.
11. Onteiening mag slegs plaasvind indien die openbare belang dit vereis en indien 'n wetsvoorskrif dit magtig; in die geval van onteiening is billike vergoeding betaalbaar.
12. Elkeen sal die reg hê om aktief in die samelewing doende te wees, om te vergader en om politieke partye te stig; politieke partye of groeperings met 'n Marxistiese-Leninistiese ideologie word as staatsvyandig verbied.
13. Waar 'n fundamentele reg deur wetgewing ingekort word, moet so 'n wetsvoorskrif algemeen van aard wees en nie vir 'n enkelgeval geld nie.
14. In geen geval mag 'n fundamentele reg in sy wese aangetas of afgeskaf word nie.
- 15.1 'n Konstitusionele Hof bestaande uit hoogstens 3 lede sal deur die Ministersraad aangestel word.
- 15.2 Slegs persone wat -
 - (a) regters is of was; of

- (b) are competent to be admitted as advocates, and have at least 20 years experience in one or more branches of the legal profession,
- may be appointed as members of the Constitutional Court.
- 15.3 No person -
- (a) who is a member of the National Assembly;
- (b) who is a member of a Representative Authority;
- (c) who is in the full-time employ of the state, with the exception of a judge, may be appointed as a member of the Constitutional Court.
- 16.1 The Constitutional Court shall advise the National Assembly, Representative Authorities and Local Authorities as to whether proposed legislation is compatible with the declaration of fundamental rights in the context of the other provisions of this act.
- 16.2 Advice from the Constitutional Court may only be applied for by means of a written request by -
- (a) in the case of bills of the National Assembly, at least ten members of the National Assembly, this number to include members of at least 3 delegations;
- (b) in the case of draft legislation of a Representative Authority, at least one-third of the members of such Representative Authority;
- (c) in the case of draft by-laws of Local Authorities at least one-third of the members of such Local Authority.
- 16.3 Until such time as the written advice and recommendations of the Constitutional Court have been tabled in the relevant assembly, proposed legislation cannot be proceeded with.
- 16.4 Legislation which remains in force at the inception of the Interim Government in respect of matters over which the National Assembly or Representative Authorities or Local Authorities, as the case may be, have legislative powers, may be submitted to the Constitutional Court for advice and recommendations, in the manner set out in paragraph 16.2, if such legislation is considered to be repugnant to the declaration of fundamental rights in the context of the other provisions of this act, unless such legislation appears or is placed on the legislative program for amendment or repeal.
- (b) bevoeg is om as advokate toegelaat te word en oor minstens 20 jaar ondervinding in een of meer vertakkings van die regsprofessie beskik,
- kan as lede van die Konstitusionele Hof aangestel word.
- 15.3 Geen persoon -
- (a) wat lid van die Nasionale Vergadering is;
- (b) wat lid van 'n Verteenwoordigende Owerheid is;
- (c) met die uitsondering van 'n regter, wat heeltyds in die diens van die Staat is, mag as lid van die Konstitusionele Hof aangestel word nie.
- 16.1 Die Konstitusionele Hof adviseer die Nasionale Vergadering, Verteenwoordigende Owerhede en Plaaslike Owerhede oor die bestaanbaarheid van voorgename wetgewing met die verklaring van fundamentele regte in samehang met die ander bepalinge van hierdie Wet.
- 16.2 Aansoek om advies van die Konstitusionele Hof geskied slegs op skriftelike versoek van -
- (a) in die geval van wetsontwerp van die Nasionale Vergadering, minstens tien lede van die Nasionale Vergadering, wat lede van minstens 3 afvaardigings moet insluit;
- (b) in die geval van wetsontwerp van 'n Verteenwoordigende Owerheid, minstens een-derde van die lede van sodanige Verteenwoordigende Owerheid;
- (c) in die geval van Konsepverordeninge van Plaaslike Owerhede, minstens een-derde van die lede van sodanige Plaaslike Owerheid;
- 16.3 Totdat die skriftelike advies en enige aanbeveling van die Konstitusionele Hof in die betrokke vergadering ter tafel gelê is, kan nie met die voorgename wetgewing voortgegaan word nie.
- 16.4 Wetgewing wat tydens die totstandkoming van die Tussentydse Regering bly voortbestaan en ten aansien van aangeleenthede geld waaroor die Nasionale Vergadering of Verteenwoordigende Owerhede of Plaaslike Owerhede na gelang van geval, wetgewende bevoegdheids besit en ten opsigte waarvan daar bedenkinge bestaan dat sodanige wetsbepalinge strydig is met die verklaring van fundamentele regte in samehang met die ander bepalinge van hierdie wet mag vir advies en aanbeveling aan die Konstitusionele Hof voorgelê word op die wyse in paragraaf 16.2 hierbo vermeld tensy sodanige wet op die wetgewende program vir herroeping of wysiging verskyn of geplaas word.

- | | |
|--|---|
| <p>17. Should the Ministers' Council consider it expedient the Constitutional Court could also serve as a Law Revision Commission, having such duties as are entrusted to it by law.</p> <p>18. No court of law shall be competent to declare any existing legislation or legislation which has been adopted in the prescribed manner null and void on the grounds of alleged infringement of fundamental rights.</p> <p>19. An independent Government Commissioner shall be appointed by the Ministers' Council to investigate any complaint of an alleged infringement of any right contained in this Act, arising from some or other administrative practice or action, and shall enter into the necessary negotiations and mediation with the authority in question. He shall submit an annual written report on his activities, with such recommendations as he may consider necessary, to the National Assembly and the Representative Authorities.</p> <p>20. Procedure, remuneration and functions of the Constitutional Court, and the Government Commissioner shall be regulated by way of legislation by the National Assembly.</p> | <p>17. Indien die Ministersraad dit goed ag kan die Konstitusionele Hof ook as regshersieningskommissie dien met sodanige pligte soos by Wet aan hom opgedra.</p> <p>18. Geen geregshof het die bevoegdheid om bestaande wetgewing of wetgewing wat op die voorgeskrewe wyse aangeneem is, op grond van 'n beweerde aantasting van fundamentele regte nietig te verklaar nie.</p> <p>19. 'n Onafhanklike Regeringskommissaris sal deur die Ministersraad aantestel word wat enige klage van 'n beweerde aantasting van enige reg vervat in hierdie wet wat uit een of ander administratiewe praktyk of handeling voortspruit ondersoek en die nodige onderhandelinge en bemiddeling met die betrokke owerheidsinstansie aanknoop. Hy moet jaarliks verslag van sy werksaamhede, tesame met die aanbevelings wat hy nodig ag, skriftelik aan die Nasionale Vergadering en Verteenwoordigende Owerhede voorlê.</p> <p>20. Prosedure, vergoeding en werksaamhede van die Konstitusionele Hof en die Regeringskommissaris word deur wetgewing van die Nasionale Vergadering gereël.</p> |
|--|---|

CHAPTER III

Central Government

1. *Definition of the various authorities of the Central Government*

The Central Government shall consist of the following authorities, namely:

- (a) A head of state called the President;
- (b) an executive authority called the Ministers' Council;
- (c) a legislative authority called the National Assembly;
- (d) a judicial authority vesting in the Supreme Court of the Republic of S.W.A./Namibia.

2. *Executive Authority*

(a) *President:*

- (i) *Manner of appointment:* The President of the Interim Government shall be appointed by the South African State President after consultation with the Ministers' Council.

Term of office: For the duration of the Interim Government.

HOOFSTUK III

Sentrale Regering

1. *Omskrywing van die verskillende gesagsorgane van die Sentrale Regering*

Die Sentrale Owerheid bestaan uit die volgende organe, naamlik:

- (a) 'n staatshoof wat die President genoem word;
- (b) 'n uitvoerende gesag wat die Ministersraad genoem word;
- (c) 'n wetgewende gesag wat die Nasionale Vergadering genoem word;
- (d) 'n regsprekende gesag wat onder die Hooggeregshof van die Republiek van SWA/-Namibië val.

2. *Uitvoerende Gesag*

(a) *President*

- (i) *Wyse van aanstelling:* Die President van die tussentydse regering word deur die Suid-Afrikaanse Staatspresident na oorlegpleging met die Ministersraad aangestel.

Ampstermyn: Vir die duur van die tussentydse regering.

Discharge: In the same manner as the appointment, viz. by South Africa's State President after consultation with the Ministers' Council.

Deputy in the case of illness or absence: The Chief Justice of the Republic of S.W.A./Namibia.

(ii) *Qualifications:* The President shall be eligible to be elected to the National Assembly.

(iii) *Oath of Office:* A suitable oath of office shall be designed.

(iv) *Powers and Functions:*

(aa) The President shall be the symbol of unity and shall represent the governments of both the Republic of South Africa and the Republic of S.W.A./Namibia.

(bb) The President shall exercise and perform all powers and functions conferred upon him by law.

(cc) The President shall have the power to enter into agreements on behalf of the government.

(dd) All powers and functions of the President shall be exercised and performed on the advice and with the permission of the Executive Council of the Republic of South Africa, or the Ministers' Council.

(v) *Remuneration of the President:* The President shall be remunerated by the National Assembly from funds appropriated for the purpose.

(b) *Ministers' Council*

Number, manner of appointment and discharge:

1. The Ministers' Council shall be composed of:-

(a) A minister, chosen by the National Assembly for the duration of the Interim Government, who shall act as Chairman and Leader, having such functions as may be entrusted to him from time to time by the Ministers' Council;

In the case of absence, the Ministers' Council shall from its ranks designate a deputy, who shall retain his rights as an ordinary minister.

Ontslag: Op dieselfde wyse as aanstelling, te wete deur Suid-Afrika se Staatspresident na oorlegpleging met die Ministersraad.

Plaasvanger in geval van siekte of afwesigheid: Die Hoofregter van die Republiek van (SWA/Namibië).

(ii) *Kwalifikasies:* Die President moet kan kwalifiseer om as lid van die Nasionale Vergadering verkies te word.

(iii) *Ampseed:* 'n Gepaste ampseed moet ontwerp word.

(iv) *Magte en Funksies:*

(aa) Die president tree as simbool van eenheid op en verteenwoordig die regerings van sowel die Republiek van Suid-Afrika as die Republiek van SWA/Namibië.

(bb) Die president oefen alle magte en funksies uit wat by wet aan hom opgedra word.

(cc) Die president het die bevoegdheid om ooreenkomste namens die regering te sluit.

(dd) Alle magte en funksies van die president word op advies en toestemming van die Uitvoerende Raad van die Republiek van Suid-Afrika of die Ministersraad uitgeoefen.

(v) *Vergoeding van die President:* Die president word deur die Nasionale Vergadering vergoed uit fondse wat vir die doel bewillig word.

(b) *Ministersraad*

Aantal, wyse van aanstelling en ontslag:

1. Die Ministersraad bestaan uit:

(a) 'n Minister verkies vir die duur van die Tussentydse Regering deur die Nasionale Vergadering wat as Voorsitter en Leier sal optree met sodanige funksies wat deur die Ministersraad van tyd tot tyd aan hom opgedra word;

In die geval van afwesigheid wys die Ministersraad uit sy eie geledere 'n plaasvanger aan met behoud van sy regte as minister; en

(b) One minister for each population group represented in the National Assembly.

2. Members of the various population groups as represented in the National Assembly, acting in consultation with their electoral colleges, shall each elect and discharge their own representative in the Ministers' Council, provided that in the case of the discharge of a serving minister, he shall remain in office until a new member is appointed by the representatives concerned.

3. In consultation with its electoral college, every deputation in the National Assembly shall have the right to designate a Deputy Minister from its own members in the National Assembly.

4. Such a Deputy Minister shall hold office on a full-time basis in the case of a population group which chooses not to nominate a minister from its own members, or if that population group is more than 200 000 in number. In all other cases he shall hold office on a part-time basis.

5. Such a Deputy Minister shall deputise for any minister who for some or other reason is absent or unable to carry out his duties.

(c) *Qualifications of members of the Ministers' Council*

Members of the Ministers' Council shall be members of the National Assembly and consequently also comply with the requirements of membership of the National Assembly.

(d) *Powers and functions of the Ministers' Council*

(i) The Ministers' Council shall perform all functions entrusted to it by law (i.e. laws of both the South African Government and the Interim Government).

(ii) The Ministers' Council shall have the power to enter into negotiations with the South African Government with a view to final independence, and to enter into agreements (which in most cases will take place in the name of the President).

(iii) The Ministers' Council shall draft legislation and submit the same to the National Assembly.

(iv) The Ministers' Council shall prepare the budget and submit the same to the National Assembly for approval.

(b) een minister vir elke bevolkingsgroep wat in die Nasionale Vergadering verteenwoordig is.

2. Lede van die verskillende bevolkingsgroepe soos in die Nasionale Vergadering verteenwoordig, handelende in oorleg met hul kieskolleges, verkies en ontslaan elkeen hul eie verteenwoordiger in die Ministersraad met dien verstande dat in die geval van ontslag van 'n diensdoende Minister, hy sy amp beklee tot tyd en wyl 'n nuwe lid deur die betrokke verteenwoordigers aangestel is.

3. Elke deputasie in die Nasionale Vergadering het die reg om in oorleg met sy kieskollege, 'n Adjunk-Minister aan te wys uit eie lede van die Nasionale Vergadering.

4. So 'n Adjunk-Minister beklee sy pos in 'n voltydse hoedanigheid in die geval van 'n bevolkingsgroep wat nie sy Minister uit eie geleedere benoem nie, of waarvan die bevolkingsgetal meer as 200 000 is. In alle ander gevalle beklee hy sy pos in 'n deeltydse hoedanigheid.

5. So 'n Adjunk-Minister tree as plaasvervanger vir die betrokke Minister op indien die betrokke Minister om een of ander rede nie in staat is of teenwoordig is om sy funksies te vervul nie.

(c) *Kwalifikasies van lede van die Ministersraad:*

Lede van die Ministersraad moet lede van die Nasionale Vergadering wees en gevolglik ook aan die vereistes van lidmaatskap van die Nasionale Vergadering voldoen.

(d) *Magte en Funksies van die Ministersraad:*

(i) Die Ministersraad verrig alle handeling wat by wet aan hul opgedra word (d.w.s. wette van sowel die Suid-Afrikaanse as tussentydse regering).

(ii) Die Ministersraad het die bevoegdheid om onderhandelinge met die Suid-Afrikaanse Regering met die oog op finale onafhanklikheid aan te knoop en ooreenkomste te sluit (die sluiting sal natuurlik in die meeste gevalle in die naam van die President geskied).

(iii) Die Ministersraad stel wetgewing op en dien dit by die Nasionale Vergadering in.

(iv) Die Ministersraad stel die begroting op vir die voorlegging aan en goedkeuring deur die Nasionale Vergadering.

(e) *Signing of official documents by the President and the Ministers' Council*

All executive documents shall be signed by the President and counter signed by a member of the Ministers' Council.

(f) *Organisation and functions of the Ministers' Council*

All decisions of the Ministers' Council shall be taken by way of consensus but the Ministers' Council may also, by way of consensus, agree that a particular decision be taken by means of an ordinary, or a two-thirds or a three-quarters majority vote; provided that for the sake of preserving the principle of equal say for all population groups, the Chairman shall not have an ordinary or casting vote, unless the members of the Ministers' Council should decide otherwise.

(g) *Remuneration of members of the Ministers' Council shall be determined by the National Assembly.*3. *Legislative Authority*(a) *Composition*

1. Each of the eleven population groups shall designate its own members for the National Assembly by means of its Representative Authority or electoral college, according to its own procedure.
2. If the national Assembly is satisfied that there are persons who cannot under the present arrangement be represented in the National Assembly, the National Assembly is authorised, to establish by law and in accordance with the Declaration of Fundamental Rights, further electoral college(s) and to make arrangements for the manner in which these persons are to be represented in the National Assembly and on the Ministers' Council.
3. (a) Equal say and also equal representation in the National Assembly is accepted in principle.

Taking into account the fact that the National Assembly makes its decisions by way of consensus and taking practical administrative considerations into account it is resolved that additional representatives shall be allotted to larger population groups.

Representation is determined as follows:

- (i) The National Assembly shall consist of 60 members.

(e) *Ondertekening van Amptelike Stukke deur die President en die Ministersraad:*

Alle uitvoerende stukke word deur die President onderteken en mede-onderteken deur 'n lid van die Ministersraad.

(f) *Inrigting en Werksaamhede van die Ministersraad:*

Alle besluite van die Ministersraad word by wyse van consensus geneem maar die Ministersraad kan ook by wyse van consensus ooreenkom dat 'n bepaalde besluit by wyse van 'n gewone of 'n twee-derde of 'n drie-kwart-meerderheid geneem word, met dien verstande dat terwille van die behoud van die beginsel van gelyke seggenskap vir alle bevolkingsgroepe die Voorsitter nie 'n gewone of beslissende stem sal hê nie tensy die Ministersraad anders besluit.

(g) *Vergoeding van lede van die Ministersraad word deur die Nasionale Vergadering vasgestel.*3. *Wetgewende Gesag*(a) *Samestelling:*

1. Dat elkeen van die elf bevolkingsgroepe sy eie lede in die Nasionale Vergadering deur middel van sy verteenwoordigende owerheid of kieskollege, volgens eie prosedure sal aanwys.
2. Dat indien die Nasionale Vergadering oortuig is dat daar persone is wat nie in die Nasionale Vergadering volgens die huidige reëling verteenwoordig kan word nie, word die Nasionale Vergadering gemagtig om by Wet ooreenkomstig die Verklaring van Fundamentele Regte verdere kieskollege(s) in te stel en reëlings te tref vir die wyse waarop hierdie persone in die Nasionale Vergadering en die Ministersraad verteenwoordig sal word.
3. Gelyke seggenskap en ook gelyke verteenwoordiging in die Nasionale Vergadering word as beginsel aanvaar.

In aanmerking geneem die feit dat die Nasionale Vergadering besluite by wyse van consensus neem en verder in aanmerking geneem praktiese administratiewe oorwegings, word daar besluit dat daar addisionele verteenwoordigers vir groter bevolkingsgroepe toegeken sal word.

Verteenwoordiging word as volg vasgestel:

- (i) Die Nasionale Vergadering bestaan uit 60 lede.

- (ii) Each of the eleven population groups at present represented shall be entitled to 4 representatives in the National Assembly.
- (iii) The remaining 16 members are distributed amongst population groups proportionally according to their population figures as determined by the 1970 census.
- (iv) For the period of interim government the representation shall therefore be as follows:

Ovambo	12
Whites	6
Damaras	5
Hereros	5
Kavangos	5
Coloureds	5
Namas	5
Caprivians	5
Bushmen	4
Basters	4
Tswanas	4

(b) *Term of National Assembly*

For the duration of the Interim Government.

(c) *Summoning, dissolution and prorogation*

The National Assembly shall meet at least once a year and shall be summoned, prorogued or dissolved by the President on the advice of the Ministers' Council.

(d) *Qualifications for members of National Assembly*

No person shall be qualified to be designated as a member of the National Assembly, unless he -

- (a) is at least 18 years old;
- (b) has lawfully been ordinarily resident in the Republic of S.W.A./Namibia for a period of at least five years immediately prior to his designation;
- (c) (i) is qualified to be registered as a voter for the election of members of the relevant Representative Authority, in the case of a Representative Authority of which some or all of the members are elected; or
- (ii) is qualified to be appointed, designated or nominated as a member of the relevant Representative Authority of which all the members are appointed, or

(ii) Elk van die elf bevolkingsgroepe tans verteenwoordig is geregtig op 4 verteenwoordigers in die Nasionale Vergadering.

(iii) die orige 16 lede word tussen bevolkingsgroepe proporsioneel verdeel ooreenkomstig bevolkingsgetalle soos vasgestel in die 1970 sensus.

(iv) Vir die tydperk van die tussentydse regering is die verteenwoordigers dan as volg:

Owambos	12
Blankes	6
Damaras	5
Hereros	5
Kavangos	5
Kleurlinge	5
Namas	5
Caprivi	5
Boesmans	4
Basters	4
Tswanas	4

(b) *Termyn van Nasionale Vergadering:*

Vir die duur van die tussentydse regering.

(c) *Byeenroeping, ontbinding en prorogering*

Die Nasionale Vergadering vergader minstens een maal per jaar en word byeengeroep, prorogeer of ontbind deur die President op advies van die Ministersraad.

(d) *Kwalifikasies vir lede van Nasionale Vergadering*

Niemand is bevoeg om as lid van die Nasionale Vergadering aangewys te word nie, tensy hy -

- (a) minstens 18 jaar oud is;
- (b) vir 'n periode van minstens vyf jaar, onmiddellik voor sy aanwysing wettiglik gewoonweg in die Republiek van SWA/-Namibië woonagtig is.
- (c) (i) Bevoeg is om as kieser vir die verkiesing van lede van die betrokke Verteenwoordigende Owerheid geregistreer te word in die geval van 'n Verteenwoordigende Owerheid waarvan sommige of al die lede verkies word; of
- (ii) bevoeg is om as lid van die betrokke Verteenwoordigende Owerheid aangestel, aangewys of benoem te word in dié geval van 'n Verteenwoordigende Owerheid

of which some members are elected and other members are designated or nominated; or

- (iii) is a member of the relevant electoral college in the case of members designated by an electoral college.

(e) *Disqualifications of members of National Assembly*

No person shall be qualified to be designated a member of the National Assembly or if elected, to take his seat as a member, if he -

- (1) has at any time been convicted of an offence for which he has been sentenced to death or to imprisonment for a period of not less than 12 months without the option of a fine, unless he has received a grant of amnesty or a free pardon, or unless the period of imprisonment expired at least five years prior to his designation; or
- (2) is an unrehabilitated insolvent; or
- (3) has been declared mentally disordered by a competent court; or
- (4) is an official in the full-time service of the Central Authority or any Representative Authority in the Republic of S.W.A./-Namibia: Provided that any person who is such an official and has to vacate his post as a result of the provisions of this paragraph in order to become a member of the National Assembly for the duration of the period of the interim government, shall be entitled to return to his post after expiry of his term of office as member of the National Assembly and shall retain his seniority.
- (5) Any member nominated for the National Assembly may retain his seat in the Representative Authority, provided the constitution of such Representative Authority permits it.

(f) *Legislative powers and functions of National Assembly*

1. The National Assembly shall be the central legislative authority in the Republic of S.W.A./Namibia.
2. The South African parliament and Government shall retain, for the duration of the Interim Government, legislative and executive powers in respect of:
Defence; external affairs; transport; currency and foreign exchange; internal security,

waarvan al die lede aangestel word of waarvan sommige lede verkies en ander lede aangewys of benoem word; of

- (iii) lid is van die betrokke kieskollege in die geval van lede wat deur 'n kieskollege aangewys word.

(e) *Diskwalifikasies van Lede van Nasionale Vergadering*

Niemand is bevoeg om as lid van die Nasionale Vergadering aangewys te word, of, indien gekies, om as lid sitting te neem nie, as hy -

- (1) te eniger tyd skuldig bevind is aan 'n misdryf waarvoor hy ter dood veroordeel is of tot gevangenisstraf vir 'n tydperk van nie minder as 12 maande nie sonder die keuse van 'n boete gevonnies is, tensy amnestie of algehele gracie aan hom verleen is of tensy die tydperk van gevangenisstraf minstens vyf jaar voor sy aanwysing verstryk het; of
- (2) 'n ongerehabiliteerde insolvent is; of
- (3) deur 'n bevoegde hof geestelik gekrenk verklaar is; of
- (4) hy 'n amptenaar is wat heelyds in diens is van die Sentrale Owerheid van of enige Verteenwoordigende Owerheid in die Republiek van SWA/Namibië met dien verstande dat enige persoon wat sy pos as sodanige amptenaar as gevolg van die bepalinge van hierdie paragraaf moet ontruim ten einde lid van die Nasionale Vergadering te kan wees vir die tydperk van die Tussentydse Regering geregtig is om na verstryking van sy ampstermyn as lid van die Nasionale Vergadering na sodanige pos terug te keer, met behoud van senioriteit.
- (5) Enige lid wat tot die Nasionale Vergadering benoem word, kan sy setel in die Verteenwoordigende Owerheid behou indien sodanige Verteenwoordigende Owerheid se konstitusie dit toelaat.

(f) *Wetgewende magte en Funksies van Nasionale Vergadering*

1. Die Nasionale Vergadering is die Sentrale Wetgewende Gesag in die Republiek.
2. Die Suid-Afrikaanse Parlement en Regering behou vir die duur van die Tussentydse Regering wetgewende en uitvoerende bevoegdhedes ten aansien van:
Verdediging, buitelandse sake, vervoerwese, geldwese en deviese, binnelandse veiligheid

including the South African Defence Force and the South African Police; telecommunications including radio services, postal services and customs, excise and sales policy.

3. All other matters shall fall under the authority of either the Central Government of the Republic of S.W.A./Namibia or the Representative Authorities.
4. In respect of the following matters the National Assembly shall have full legislative powers which shall automatically devolve on this body on the commencement of this act:

Companies tax, immigration and passport control; mining except for surface rights; national roads; water, power and energy; information; economic affairs; trade and industry; control over financial institutions; third-party insurance and general insurance; labour; traffic legislation and co-ordination of traffic control; national health; geological survey; registration and control of companies; trademarks and patents; finance and distribution; loans and audit; sea fisheries; public service of departments transferred; sport and recreation; prisons; agricultural marketing and veterinary service; population registration and statistics; national and tertiary education, except pre-primary and primary teachers' training; community development public works; surveyor-general and trigonometric survey; revenue; supplies and transport; planning and co-ordination of nature conservation and environmental control; tourism; metropolitan areas; high courts and laying down a uniform policy in respect of the administration of justice; registration of deeds, planning, civil defence, settlement of disputes.

5. The Central Government may delegate legislative powers or executive powers in respect of the matters referred to in paragraph 4 to Representative or Local Authorities, but may at any time withdraw such delegated powers: Provided that in respect of registration of Deeds, the Central Government shall delegate legislative and executive powers to a Representative Authority which request such powers.

6. In respect of the following matters, or aspects thereof, the Representative Authorities shall have original legislative and executive powers:

insluitende die Suid-Afrikaanse Weermag en die Suid-Afrikaanse Polisie, telekommunikasie insluitende radiowese, poswese en doeane, aksyns en verkoopsbeleid.

3. Alle ander aangeleenthede sal ressorteer onder die gesag van of die Sentrale Regering van die Republiek van SWA/Namibië of die Verteenwoordigende Owerhede.
4. Ten opsigte van die volgende aangeleenthede het die Nasionale Vergadering volle wetgewende bevoegdhede wat outomaties op hierdie liggaam oorgaan by inwerking-treding van hierdie wet:

Maatskappybelasting, immigrasie en paspoortbeheer; mynwese uitgesonderd oppervlakteregte; nasionale paaie; ekonomiese sake, water, krag en energie; inligting, handel en nywerheid; beheer oor finansiële instellings; derde party-versekering en versekering; arbeid; verkeerswetgewing en koördinering van verkeersbeheer; nasionale en beheer van maatskappye; handelsmerke en patente; finansies en distribusie; lenings en oudit; seevisserye; staatsdiens van die departemente wat oorgedra word; sport en ontspanning; gevangeniswese; landboubeheer en veeartsenydiens; bevolkingsregistrasie en statistieke; nasionale en tersiëre onderwys uitgesonderd pre-primêre en primêre onderwysersopleiding; gemeenskapsontwikkeling; openbare werke; landmetergeneraal en driehoeksmeting; inkomste; voorrade en vervoer, beplanning en koördinering van natuurbewaring en omgewingsbeheer; toerisme; metropolitaanse gebiede, hoërhowe en eenvormige beleidsbepaling ten opsigte van regspleging, registrasie van aktes, beplanning, burgerlike beskerming, beslegting van geskille.

5. Die Sentrale Regering mag wetgewende bevoegdhede of uitvoerende bevoegdhede ten opsigte van die aangeleenthede na verwys in paragraaf 4, aan Verteenwoordigende of Plaaslike Owerhede deleger maar mag sodanige gedelegeerde bevoegdhede ter enige tyd herroep; met dien verstande dat ten opsigte van registrasie van Aktes, die Sentrale Regering, wetgewende en uitvoerende bevoegdhede aan 'n Verteenwoordigende Owerheid wat daarom vra, moet deleger.

6. Ten opsigte van die volgende aangeleenthede of aspekte daarvan het die Verteenwoordigende Owerhede oorspronklike wetgewende en uitvoerende bevoegdhede:

Agricultural credit and land tenure; agricultural economics and agricultural technical services; forestry; education, except post-secondary education but including pre-primary and primary teachers' training; social welfare, pensions and housing; art and culture; traditional administration of justice; control over surface rights; loan powers, staff; traditional local authorities, local authorities; finance, revenue; public works; supplies and transport; roads; traffic control; administration of nature conservation and environmental control; administration of lower courts; local security and general law administration; curative services; economic development; planning; civil defence. The Representative Authority shall further have the power to institute as many departments as may be necessary to undertake its functions effectively.

7. If a Representative Authority, on the commencement of this act, does not already have original powers in respect of the matters mentioned in the foregoing paragraph, it may request the National Assembly for the transfer thereof. Such request may not be refused, and the transfer shall take place at the beginning of the financial year following upon such request.
8. Where a Representative Authority at present has original powers in respect of matters mentioned in paragraph 6, it shall retain them during the period of the Interim Government in respect of its area of jurisdiction and the persons over whom it may exercise such powers, unless it relinquishes them.
9. A Representative Authority may at any time return to the National Assembly the control and administration of original powers or aspects thereof in respect of the matters mentioned in paragraph 6 which it requested. Such a transfer shall take effect at the end of the financial year within which the return takes place.
10. No population group shall be obliged to institute a Representative Authority. If a population group as represented by its electoral college prefers not to institute a Representative Authority, original powers in respect of matters mentioned in paragraph 6 shall be exercised by the Central Government on behalf of that population group.

Landboukrediet en grondbesit, landbou-
 ekonomie en landboutegniesedienste;
 bosbou; onderwys behalwe na-skoolse
 onderwys en insluitende pre-premiere en
 primiere onderwysersopleiding; volkswelsyn,
 pensioene en behuising; kuns en kultuur;
 tradisionele regspleging; beheer oor op-
 pervlakteregte; leningsbevoegdheid, per-
 soneel, tradisionele plaaslike owerhede,
 plaaslike besture; finansies; inkomste;
 openbare werke; voorrade en vervoer; paaie;
 verkeersbeheer; administrasie van
 natuurbewaring en omgewingsbeheer;
 administrasie van Laerhowe; plaaslike
 veiligheid en algemene regsadministrasie;
 helende dienste; ekonomiese ontwikkeling,
 beplanning, burgerlike beskerming.

Die Verteenwoordigende Owerheid het verder die bevoegdheid om soveel departemente in te stel as wat nodig is om sy funksies doeltreffend te kan behartig.

7. Indien 'n Verteenwoordigende Owerheid by die inwerkingtreding van hierdie wet nie reeds oorspronklike bevoegdhede ten aansien van die aangeleenthede genoem in voorafgaande paragraaf het nie, kan hy 'n versoek tot oordrag daarvan aan die Nasionale Vergadering rig. Sodanige versoek mag nie geweier word nie, en die oordrag sal geskied aan die begin van die finansiële jaar volgende op so 'n versoek.
8. Waar 'n Verteenwoordigende Owerheid tans reeds oor oorspronklike bevoegdhede ten opsigte van aangeleenthede in paragraaf 6 genoem beskik, sal hulle dit behou gedurende die tydperk van die Tussentydse Regering ten aansien van hulle gesagsgebied en die persone oor wie hulle dit mag uitoefen tensy hulle daarvan afstand doen.
9. 'n Verteenwoordigende Owerheid kan ter eniger tyd die beheer en administrasie van oorspronklike bevoegdhede of aspekte daarvan ten aansien van die aangeleenthede in paragraaf 6 wat hy aangevra het, teruggee aan die Nasionale Vergadering. So 'n oordrag sal in werking tree aan die einde van die finansiële jaar waarbinne die teruggawe geskied.
10. Geen bevolkingsgroep is verplig om 'n Verteenwoordigende Owerheid in te stel nie. Indien 'n bevolkingsgroep soos verteenwoordig deur sy kieskollege verkies om nie 'n Verteenwoordigende Owerheid in te stel nie sal oorspronklike bevoegdhede ten aansien van aangeleenthede genoem in paragraaf 6 vir daardie bevolkingsgroep deur die Sentrale Regering behartig word.

11. The Central Government shall control and administer all unclaimed powers in respect of matters mentioned in paragraph 6 and Representative Authorities may, by choice, leave any number of these matters, or of aspects thereof, under the control of the central government.

12. The Central Government shall have the power by legislation or agreement, to transfer control and administration of any matter mentioned in paragraph 4 to utility companies or other companies or bodies on such conditions as may be determined in the legislation or agreement. If the transfer takes place by agreement, such agreement shall be a public document.

13. Any existing function not mentioned in paragraphs 4 and 6 or any future function shall be allocated by the National Assembly.

(g) Procedure of the National Assembly

(i) Manner of voting in the National Assembly

1. The National Assembly shall exercise its powers by majority vote: Provided that such majority shall include the majority of the members present of each deputation which is present.

2. If the National Assembly cannot take a decision because the required number of members of one or more, but at most three deputations, do not support the measure, such measure may be referred to the Representative Authority or electoral college of the deputation concerned for decision.

3. A Representative Authority or Electoral College to which a measure is referred by the National Assembly for decision shall, within one month after such reference, take a decision thereon.

4. If the relevant Representative Authority/Electoral College should, according to its own procedural rules, decide in favour of the approval of the measure, the majority of the members of the relevant deputation shall be deemed to have voted in favour of the approval of the measure concerned.

11. Die Sentrale Regering beheer en administreer alle onopgeëide bevoegdhede ten aansien van aangeleenthede genoem in paragraaf 6 en Verteenwoordigende Owerhede kan na keuse meerdere van hierdie aangeleenthede of aspekte daarvan onder beheer van die Sentrale Regering laat.

12. Die Sentrale Regering het die bevoegdheid om by wetgewing of ooreenkoms die beheer en administrasie van enige aangeleentheid genoem in paragraaf 4, aan nutsmaatskappye of ander maatskappye of liggame oor te dra op sodanige voorwaardes as wat in die wetgewing of ooreenkoms vasgelê is. Indien die oordrag by ooreenkoms geskied sal sodanige ooreenkoms 'n openbare dokument wees.

13. Enige bestaande funksie wat nie in paragrawe 4 en 6 vermeld is nie of enige toekomstige funksie sal deur die Nasionale Vergadering ingedeel word.

(g) Prosedure van die Nasionale Vergadering

(i) Wyse van Stemming in die Nasionale Vergadering

(1) Die Nasionale Vergadering oefen sy bevoegdhede uit by meerderheidstem met dien verstande dat sodanige meerderheid die meerderheid van die aanwesige lede van elke deputasie wat teenwoordig is, insluit.

(2) Indien die Nasionale Vergadering nie 'n besluit kan neem nie omdat die vereiste aantal lede van een of meer, maar hoogstens drie deputasies nie die maatreeël steun nie, kan daardie maatreeël na die Verteenwoordigende Owerheid of Kieskollege van die betrokke deputasie verwys word vir beslissing.

(3) 'n Verteenwoordigende Owerheid of Kieskollege na wie 'n maatreeël deur die Nasionale Vergadering vir beslissing verwys is, moet binne een maand na sodanige verwysing 'n besluit daaroor neem.

(4) Indien die betrokke Verteenwoordigende Owerheid/Kieskollege dan volgens sy eie prosedurereëls ten gunste van die goedkeuring van die maatreeël beslis, word die meerderheid van die lede van die betrokke deputasie in die Nasionale Vergadering geag ten gunste van die goedkeuring van die betrokke maatreeël te gestem het.

(ii) *Chairman and Standing Rules*

The National Assembly shall elect a chairman from its ranks and shall frame its own standing rules and orders.

(iii) *Quorum*

At least 35 (thirty-five) of the members of the National Assembly shall form a quorum.

(iv) *Freedom of speech*

(i) There shall be freedom of speech and debate in the National Assembly.

(ii) No member of the National Assembly shall be subject to any legal action because of his assertions or vote in the assembly.

(h) *Vacating of seat by member of the National Assembly*

A member of the National Assembly shall vacate his seat if he -

(a) resigns his seat by submitting his resignation in writing to the Chairman, who shall inform the relevant Representative Authority or electoral college in writing of such resignation; or

(b) no longer possesses the qualifications mentioned in paragraph 1; or

(c) becomes subject to a disqualification mentioned in paragraph 2; or

(d) remains absent for a whole session from the sittings of the National Assembly without the leave of the National Assembly; or

(e) is discharged by his Representative Authority or electoral college.

(i) *Conflicting legislation*

(i) The provisions of the act instituting the Interim Government may be repealed or amended by the South African Parliament only; laws of the National Assembly and of the Representative Authorities, and by-laws of Local Authorities which are in conflict with this law shall be invalid.

(ii) Laws of the National Assembly in conflict with the provisions in South African legislation in respect of those matters over

(ii) *Voorsitter en Reglement van Orde*

Die Nasionale Vergadering kies 'n Voorsitter uit sy eie geledere en stel sy eie reglement van orde op.

(iii) *Kworum*

Minstens 35 van die lede van die Nasionale Vergadering maak 'n kworum.

(iv) *Vryheid van spraak*

(i) Daar bestaan vryheid van spraak en debat in die Nasionale Vergadering.

(ii) Geen lid van die Nasionale Vergadering staan bloot aan 'n regsgeding weens sy uitlatings of stem in die vergadering nie.

(h) *Ontruiming van setel deur lid van Nasionale Vergadering:*

'n Lid van die Nasionale Vergadering ontruim sy setel indien hy -

(a) sy setel bedank deur sy bedanking skriftelik in te dien by die Voorsitter, wat die betrokke Verteenwoordigende Owerheid of Kieskollege skriftelik van so 'n bedanking in kennis stel; of

(b) nie meer dié in paragraaf 1 genoemde kwalifikasies besit nie; of

(c) onderhewig word aan 'n diskwalifikasie genoem in paragraaf 2; of

(d) 'n hele gewone sessie sonder die verlof van die Nasionale Vergadering afwesig bly van die sittings van die Nasionale Vergadering; of

(e) deur sy Verteenwoordigende Owerheid of Kieskollege ontslaan is.

(i) *Botsende wetgewing:*

(i) Die bepalings van die wet ter instelling van die Tussentydse Regering mag net deur die Suid-Afrikaanse Parlement herroep of gewysig word; wette van die Nasionale Vergadering, Verteenwoordigende Owerhede sowel as verordeninge van Plaaslike Owerhede wat in stryd met hierdie wet is, is ongeldig.

(ii) Wette van die Nasionale Vergadering wat met die bepalings in Suid-Afrikaanse Wetgewing bots ten aansien van daardie

which the South African legislature has reserved legislative and executive powers, shall be invalid.

(iii) Laws of the National Assembly and Representative Authorities in respect of those matters which have been conferred on the Interim Government, may repeal or amend South African legislation with regard to such matters.

(iv) In the case of conflict between laws of the National Assembly and of Representative Authorities (second tier authorities) in respect of matters allocated to the relevant Representative Authorities as original, the legislation of the Representative Authorities shall have superior force of law, but in all other cases the laws of the National Assembly shall have superior force of law.

(j) *Financial year*

The National Assembly shall in consultation with Representative Authorities determine a concurrent financial year.

4. *Judicial Authority:*

(a) *Supreme Court:*

- (i) There shall be a Supreme Court of South West Africa consisting of as many judges as the Ministers' Council may determine from time to time.
- (ii) Unless provided otherwise by law, the Supreme Court of South West Africa shall have jurisdiction in criminal and civil matters and all other matters in which jurisdiction is conferred upon it by law.
- (iii) The Supreme Court of South West Africa shall have jurisdiction in regard to the validity of legislation by the National Assembly as well as by Representative Authorities and by other subordinate legislators.
- (iv) Until such time as the National Assembly shall provide otherwise by law, the Appellate Division of the Supreme Court of South Africa shall retain the same power to hear appeals against the decisions of the Supreme Court of South West Africa and to pronounce thereon, as it has in respect of decisions of courts of provincial and local divisions of the Supreme Court of South Africa, and any provision of law or rules of court applying in respect of any appeal against a decision of a court of such a

aangeleentede waaroor die Suid-Afrikaanse wetgewer wetgewende en uitvoerende magte voorbehou het, is ongeldig.

(iii) Wette van die Nasionale Vergadering en Verteenwoordigende Owerhede ten aansien van daardie aangeleentede wat aan die Tussentydse Regering opgedra is, mag Suid-Afrikaanse Wetgewing in dié verband herroep of wysig.

(iv) In die geval van botsings tussen wette van die Nasionale Vergadering en Verteenwoordigende Owerhede (2e Vlakowerhede) ten aansien van aangeleentede wat aan die betrokke Verteenwoordigende Owerhede as oorspronklik toegeken is, het die wetgewing van die Verteenwoordigende Owerhede die meerdere regsrag, maar in al die ander gevalle het die wette van die Nasionale Vergadering die meerdere regsrag.

(j) *Finansiële jaar:*

Die Nasionale Vergadering sal in oorleg met Verteenwoordigende Owerhede 'n gelyklopende finansiële jaar vasstel.

4. *Regsprekende Gesag*

(a) *Hooggeregshof:*

- (i) Daar is 'n Hooggeregshof van Suidwes-Afrika bestaande uit soveel regters soos die Ministersraad van tyd tot tyd bepaal.
- (ii) Tensy by wet anders bepaal het die Hooggeregshof van Suidwes-Afrika jurisdiksie oor kriminele en siviele aangeleentede en al die ander aangeleentede waaroor jurisdiksie by wet aan hom verleen word.
- (iii) Die Hooggeregshof van Suidwes-Afrika het jurisdiksie oor alle aangeleentede waarin die geldigheid van wetgewing deur die Nasionale Vergadering sowel as Verteenwoordigende Owerhede en ander ondergeskikte wetgewers ter sprake kom.
- (iv) Tot tyd en wyl die Nasionale Vergadering by wet anders bepaal, behou die Appèl-Afdeling van die Hooggeregshof van Suid-Afrika dieselfde bevoegdheid om appèlle teen beslissings van die Hooggeregshof van Suidwes-Afrika te verhoor en daaroor te beslis as wat hy ten opsigte van beslissings van howe van Provinsiale en Plaaslike Afdelings van die Hooggeregshof van Suid-Afrika het, en enige wetsbepaling of hofreëls wat ten opsigte van appèl teen 'n beslissing van 'n hof van so 'n Provinsiale

provincial or local division, shall *mutatis mutandis* apply in regard to an appeal against a decision of the Supreme Court of South West Africa.

(v) Judges of the Supreme Court of South West Africa shall be appointed by the Ministers' Council.

(vi) The Ministers' Council may suspend a judge from office only on the grounds of misconduct or incompetence and any such suspension shall be confirmed or withdrawn by the National Assembly, and if confirmed such judge will be discharged.

(vii) The retirement age of judges shall be 70 years.

(viii) The remuneration and other conditions of service of judges shall be determined by the Ministers' Council.

(ix) The seat of the Supreme Court of South West Africa shall be Windhoek.

(b) *Lower Courts:*

Lower Courts shall be instituted by law.

(c) *Traditional Courts:*

Traditional Courts and their composition according to traditional law shall be recognised.

CHAPTER IV

Representative Authorities (or Decentralised Authorities) – the so-called second tier authorities

1. *Composition and structure:*

(i) For population groups such as the Basters, Whites, Bushmen, Caprivians, Kavango, Coloureds, Nama and Owambo, the existing authorities instituted by law shall be accepted as the Representative Authorities for those population groups and the laws in terms of which they were established shall be retained as their constitutions until such time as they are amended by the Representative Authorities concerned. Any amendments which Representative Authorities may effect to their constitutions shall be tabled in the National Assembly.

(ii) For population groups such as the Damara, Tswana and Herero for which, on the establishment of an Intermin Government, no Representative Authorities are as yet in existence the present delegations to the Conference shall

of Plaaslike Afdeling van toepassing is geld *mutatis mutandis* met betrekking tot 'n appèl teen 'n beslissing van die Hooggeregshof van Suidwes-Afrika.

(v) Regters van die Hooggeregshof van Suidwes-Afrika word deur die Ministersraad aangestel.

(vi) Die Ministersraad kan 'n regter slegs op grond van wangedrag of onbekwaamheid uit sy amp skors en enige sodanige skorsing moet deur die Nasionale Vergadering bekragtig of ingetrek word en indien bekragtig, dan sal sodanige regter ontslaan wees.

(vii) Die aftree-ouderdom van regters is 70 jaar.

(viii) Die vergoeding en ander diensvoorwaardes van regters word deur die Ministersraad bepaal.

(ix) Die setel van die Hooggeregshof van Suidwes-Afrika is Windhoek.

(b) *Laerhowe:*

Laerhowe word volgens wet ingestel.

(c) *Tradisionelehowe:*

Tradisionelehowe en hulle samestelling volgens tradisionele reg word erken.

HOOFSTUK IV

VERTEENWOORDIGENDE OWERHEDE (of Gedesentraliseerde Owerhede) - die sg. Tweedevlak Owerhede

1. *Samestelling en Inrigting:*

(i) Vir die bevolkingsgroepe soos die Basters, Blankes, Boesmans, Capriviane, Kavango, Kleurlinge, Namas, en Owambo sal die bestaande by wet ingestelde Owerheidsliggame aanvaar word as die Verteenwoordigende Owerhede vir daardie bevolkingsgroepe en sal die betrokke wette waarkragtens hulle ingestel is, as hul konstitusies behou word tot tyd en wyl dit deur die betrokke Verteenwoordigende Owerhede gewysig word. Enige wysigings wat deur Verteenwoordigende Owerhede aan hulle konstitusies aangebring word moet in die Nasionale Vergadering ter tafel gelê word.

(ii) Vir bevolkingsgroepe soos die Damaras, Tswanas, en Hereros waar daar by instelling van 'n Tussentydse Regering nog geen Verteenwoordigende Owerhede bestaan nie, sal die huidige Afvaardigings tot die Beraad die Kieskollege vir

form the electoral colleges for the purpose of electing members of the Ministers' Council and National Assembly, until such time as Representative Authorities for such population groups are instituted.

2. *Qualifications for members of the Representative Authorities*

Representative Authorities shall themselves decide on the qualifications of their members, except for the following *minimum* qualifications: A member shall be a person who -

- (a) is at least 18 years old;
- (b) (i) was born in the Republic of S.W.A./Namibia and ordinarily resident in the Republic of S.W.A./Namibia for at least one year immediately prior to his designation; or
 - (ii) has been lawfully admitted for permanent residence in the Republic of S.W.A./Namibia and has been ordinarily resident in the Republic of S.W.A./Namibia for at least five years immediately prior to his designation;
- (c) (i) is qualified to be registered as voter for the election of members of the relevant Representative Authority in the case of a Representative Authority of which some or all the members are elected.
 - (ii) Persons who on the commencement of this Act are already on a voters' list of a Representative Authority and/or are qualified to be placed on such voters' list, shall be entitled to be placed on the new voters' list compiled under this Act and such Representative Authority's legislation.

3. *Area of Jurisdiction of a Representative Authority:*

- (i) A Representative Authority shall have personal authority over all those persons who in terms of legislation of the relevant Representative Authority are members of the population group for which the authority concerned has been established and in respect of the matters conferred on the authority concerned.
- (ii) In so far as the powers and functions of Representative Authorities refer to territory and land tenure they shall have reference only to that land (except land situated within certain local authority areas) which forms part of traditional territories and to land owned by members of the population groups falling under the jurisdiction of the relevant Representative Authority.

doeleindes van verkiesing van lede van die Ministersraad en Nasionale Vergadering uitmaak, tot tyd en wyl daar Verteenwoordigende Owerhede vir sodanige bevolkingsgroepe ingestel is.

2. *Kwalifikasies vir lede van die Verteenwoordigende Owerhede:*

Verteenwoordigende Owerhede besluit self oor die kwalifikasies van hul lede, behalwe vir die volgende minimum kwalifikasies:

- (a) minstens 18 jaar oud is;
- (b) (i) in die Republiek van SWA/Namibië gebore is en vir minstens een jaar onmiddellik voor sy aanwysing gewoonweg in die Republiek van SWA/Namibië woonagtig is; of
 - (ii) wettiglik toegelaat is vir permanente verblyf in die Republiek van SWA/Namibië en vir minstens vyf jaar onmiddellik voor sy aanwysing gewoonweg in die Republiek van SWA/Namibië woonagtig is.
- (c) (i) Bevoeg is om as kieser vir die verkiesing van lede van die betrokke Verteenwoordigende Owerheid geregistreer te word in die geval van 'n Verteenwoordigende Owerheid waarvan sommige of al die lede verkies word;
 - (ii) persone wat by die inwerkingtreding van hierdie wet alreeds op 'n kieserslys van 'n Verteenwoordigende Owerheid ingeskrywe is en/of kwalifiseer om op sodanige kieserslys geplaas te word, sal geregtig wees om op die nuwe kieserslys geplaas te word wat in-gevolge hierdie wet en sodanige Verteenwoordigende Owerheid se wetgewing opgestel is.

3. *Gesagsgebied van 'n Verteenwoordigende Owerheid:*

- (i) 'n Verteenwoordigende Owerheid het persoonlike gesag oor al daardie persone wat volgens wetgewing van die betrokke Verteenwoordigende Owerheid lede uitmaak van die bevolkingsgroep waarvoor die betrokke Owerheid ingestel is en wel ten opsigte van die aangeleenthede wat aan die betrokke Owerheid toegeken is.
- (ii) Vir sover die bevoegdhe en funksies van Verteenwoordigende Owerhede ook oor grondgebied en grondbesit strek het dit slegs betrekking op dié grond (behalwe grond binne sekere plaaslike bestuursgebiede) wat deel uitmaak van tradisionele grondgebiede en grond wat deur lede van die bevolkingsgroep besit word wat onder die betrokke Verteenwoordigende Owerheid se Jurisdiksie resorteer.

4. *Seats of Representative Authorities:*

The choice of seats of the various Representative Authorities shall be left to the relevant authorities themselves.

5. *Powers and functions of Representative Authorities:*

- (i) Representative Authorities shall serve as electoral colleges for the election of members of the National Assembly.
- (ii) Representative Authorities shall advise the National Assembly in respect of all those matters referred to them by the National Assembly for such advice.
- (iii) Representative Authorities shall have legislative and executive powers as set out in Chapter III paragraph 3(f), 5 and 6.

6. *Procedure:*

The procedure of existing Representative Authorities with reference to meetings, elections, the passing of legislation, quorum, convening of meetings, and so forth, shall be retained or left to the Authorities concerned themselves.

CHAPTER V

Local Authorities (the so-called 3rd tier authorities)

1. (a) The factual reality that white, brown and black townships at present exist is acknowledged and accepted, as also the principle of the acquisition of property.
- (b) Business and industrial premises in towns shall be available to any person, whether by way of the acquisition of proprietary or of possessory rights.
2. (a) Every town existing at present and every town to be established in future will be managed by its own authority.
- (b) (i) Where necessary the relevant authority shall establish urban areas where any person may acquire proprietary rights, and/or open up any existing urban areas or portions thereof for the acquisition of proprietary rights by any person.
- (ii) Where in the opinion of the Central Government there is a need for the establishment of such an urban area the Central Government may request the relevant authority to establish such an area.

4. *Setels van Verteenwoordigende Owerhede:*

Die keuse van setels van die verskillende Verteenwoordigende Owerhede word aan die betrokke Owerhede self oorgelaat.

5. *Bevoegdhe en Funksies van Verteenwoordigende Owerhede:*

- (i) Verteenwoordigende Owerhede tree op as Kieskollege vir die verkiesing van lede van die Nasionale Vergadering.
- (ii) Verteenwoordigende Owerhede adviseer die Nasionale Vergadering ten aansien van al daardie aangeleenthede wat deur die Nasionale Vergadering na hul verwys word vir sodanige advies.
- (iii) Verteenwoordigende Owerhede het wetgewende en uitvoerende bevoegdhe soos uiteengesit in Hoofstuk III, paragraaf 3(f), 5 en 6.

6. *Prosedure:*

Die prosedure van bestaande Verteenwoordigende Owerhede met betrekking tot die hou van vergaderings, verkiesings, aanname van wetgewing, kworum, reelings van vergaderings ensovoorts word behou of aan die betrokke Owerhede self oorgelaat.

HOOFSUK V

Plaaslike Owerhede (die sg. 3de Owerheid)

1. (a) Die feitlike werklikheid dat wit, bruin en swart dorpe op die oomblik bestaan word erken en aanvaar asook die beginsel van eiendomsverkryging;
- (b) sake en nywerheidspersele in dorpe sal beskikbaar wees vir enige persoon, hetsy by wyse van verkryging van eiendomsreg of by wyse van besitreg.
2. (a) Elke dorp wat op die oomblik bestaan en elke dorp wat in die toekoms gestig word sal deur 'n eie gesagsliggaam bestuur word.
- (b) (i) Waar nodig sal die betrokke gesagsliggaam dorpsgebiede daarstel waar enige persoon eiendomsreg kan verkry en/of enige bestaande dorpsgebiede of gedeeltes daarvan, oop te stel vir verkryging van eiendomsreg deur enige persoon;
- (ii) waar daar volgens die oordeel van die Sentrale Regering behoefte bestaan vir die daarstelling van so 'n dorpsgebied mag die Sentrale Regering die betrokke gesagsliggaam versoek om so 'n gebied daar te stel;

- (iii) If the authority concerned unreasonably refuses to establish an urban area for free acquisition of proprietary rights by any person the Central Government shall have the power to do so.
3. These arrangements shall, however, not apply to Authorities on the local level, which are managed according to traditional customary laws. Development of such local authorities shall be done by the Representative Authority for the area concerned after consultation with the Traditional Authority. The following arrangements shall apply specifically to these traditional local authorities:
- (a) Local authorities governing according to customary law in homogenous areas shall fall under the power and control of the Representative Authority concerned.
- (b) The acquisition of property within such areas shall be controlled by the Representative Authority concerned.
- (c) (i) Where necessary the Representative Authority concerned shall establish urban areas where any person can acquire property rights;
- (ii) where in the opinion of the Central Government there is need for the establishment of such an urban area, the Central Government may request the Representative Authority concerned to establish such area;
- (iii) if the Representative Authority concerned unreasonably refuses to establish an urban area for free acquisition of proprietary rights by any person, the Central Government shall have the power to do so.
- (d) In the case where such towns are open for free acquisition of proprietary rights, local government shall be undertaken by an elected town council or village management board and the said town council or village management board shall be elected by all who are entitled to vote.
4. The local authorities for towns, referred to in paragraphs 1, 2 and 3 (d), shall be elected by voters of the area over which the local authority concerned has jurisdiction.
5. The local authority of every town may exercise its powers in regard to the following matters:
- Supply of electricity, water and sewerage; construction and maintenance of streets, bridges, etc.; the application of traffic measures and the
- (iii) indien die betrokke gesagsliggaam op onredelike wyse weier om 'n gebied vir vrye eiendomsverkryging daar te stel, sal die Sentrale Regering die bevoegdheid hê om dit te doen.
3. Hierdie reëling sal egter nie geld vir Owerheidsinstellings op Plaaslike Vlak wat volgens Tradisionele gewoontereg bestuur word nie. Ontwikkeling van sulke Plaaslike Instellings sal geskied deur die Verteenwoordigende Owerheid vir die betrokke gebied na raadpleging met die Tradisionele Owerheid. In besonder sal die volgende reëlings vir hierdie Tradisionele Plaaslike Owerhede geld:
- (a) Plaaslike Owerhede wat in homogene gebiede regeer volgens gewoontereg, sal onder die gesag en beheer van die betrokke Verteenwoordigende Owerheid val.
- (b) Verkryging van eiendom binne sulke gebiede sal deur die betrokke Verteenwoordigende Owerheid beheer word.
- (c) (i) Waar nodig sal die betrokke Verteenwoordigende Owerheid dorpsgebiede daarstel waar enige persoon dan eiendomsreg kan verkry;
- (ii) waar daar volgens die oordeel van die Sentrale Regering behoefte bestaan vir die daarstelling van so 'n dorpsgebied mag die Sentrale Regering die betrokke Verteenwoordigende Owerheid versoek om so 'n gebied daar te stel;
- (iii) indien die betrokke Verteenwoordigende Owerheid op onredelike wyse weier om 'n gebied vir vrye eiendomsverkryging daar te stel, sal die Sentrale Regering die bevoegdheid hê om dit te doen.
- (d) in die geval waar sulke dorpe vir vrye eiendomsverkryging oopgestel is, sal Plaaslike bestuurssake deur 'n verkose stads- of dorpsraad behartig word en vermeldde Stads- of dorpsraad sal deur alle stemgeregtigdes verkies word.
4. Die gesagsliggame vir dorpe waarna verwys word in paragraaf 1, 2, en 3(d), word verkies deur die stemgeregtigdes van die gebied waarvoor die betrokke plaaslike gesagsliggaam jurisdiksie het.
5. Die gesagsliggaam vir elke dorp sal oor die volgende aangeleenthede bevoegdhede kan uitoefen:
- Verskaffing van elektrisiteit, water en riolering; bou en instandhouding van strate, brûe ens.; toepassing van verkeersmaatreëls en die verfraaiing en ontwik-

beautification and development of the town for community purposes; purchase of property and expropriation under the authority of law for permissible public purposes; establishment of milk depots, refrigeration rooms, production and distribution of ice and any other functions which are normally regarded as the functions of a Municipality.

6. For towns adjacent to one another or in close proximity to one another, which are interdependent, the National Assembly shall establish a co-ordinating council by law, to which the local authority of every such town shall nominate an equal number of representatives. The organisation and procedure of such council shall likewise be determined in the law establishing the council. The functions and powers of the co-ordinating council shall be to -

- (a) bring about co-ordination between the various towns;
- (b) co-ordinate and control the activities and the rendering of services in such a way as to eliminate overlapping;
- (c) co-ordinate planning;
- (d) arranging of administrative functions and rendering of services between interdependent towns;
- (e) ensure that valuations for purposes of property rates will be made on the same basis for all the towns concerned;
- (f) take steps in collaboration with the relative authorities of the towns and other authorities to prevent undesirable social conditions;
- (g) plan the creation and lay-out of new urban areas;
- (h) co-ordinate the budgets of the various towns;
- (i) exercise any other powers conferred upon the council by law.

7. The authorities of Windhoek and Walvis Bay, and any other Local authorities which may be declared as such by the Ministers' Council, shall be metropolitan areas.

keling van die dorp vir 'n gemeenskapsdoel; aankoop van eiendom en onteiening kragtens wetsmagtigting vir geoorloofde openbare doelstellings; instellings van melkdepots, koelkamers, vervaardiging en verspreiding van ys; en enige ander funksies wat gewoonweg as die funksies van 'n Munisipaliteit beskou word.

6. Vir dorpe wat aangrensend of naby mekaar geleë is en onderling afhanklik is, word daar deur die Nasionale Vergadering by wet 'n oorkoepelende raad ingestel waarop die gesagsliggaam van elke sodanige dorp 'n gelyke aantal Verteenwoordigers sal benoem; die inrigting werkswyse en prosedure van sodanige raad sal insgelyks deur die wet ter instelling van die raad gereël word. Die funksies en bevoegdheide van die oorkoepelende Raad sal wees, om:-

- (a) koördinerings tussen die verskillende dorpe te bewerkstellig;
- (b) aktiwiteite en die lewering van dienste te koördineer en te beheer en die oorvleueling daarvan uit te skakel;
- (c) beplanning te koördineer;
- (d) reëlings tussen onderling afhanklike dorpe te tref in verband met die lewering van dienste en administratiewe funksies;
- (e) toe te sien dat waardasies vir doeleindes van eiendomsbelasting op dieselfde grondslag vir alle betrokke dorpe gedoen word;
- (f) in samewerking met die betrokke gesagsliggame van die dorpe en ander Owerhede stappe te doen om onwenslike maatskaplike toestande te voorkom;
- (g) die skepping en aanleg van nuwe dorpsgebiede te beplan;
- (h) die begrotings van die verskillende dorpe te koördineer;
- (i) enige ander bevoegdheid uit te oefen wat by wet aan die Raad opgedra word.

7. Metropolitaanse gebiede sal die Owerhede van Windhoek en Walvisbaai wees asook enige ander Plaaslike Owerhede wat as sulks deur die Ministersraad verklaar word.