

# OFFICIAL GAZETTE

EXTRAORDINARY

OF SOUTH WEST AFRICA

BUITENGEWONE

# OFFISIËLE KOERANT

VAN SUIDWES-AFRIKA



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## PROCLAMATION

by the

ADMINISTRATOR-GENERAL FOR THE TERRITORY OF SOUTH WEST AFRICA

*(Approved by the State President on 25 November 1977)*

No. AG.12 1977

AMENDMENT OF THE NATIVES (URBAN AREAS) PROCLAMATION, 1951, IN ORDER TO REMOVE CERTAIN RESTRICTIONS ON THE ACQUISITION OF THE OWNERSHIP OF LAND BY NATIVES, AND TO PROVIDE FOR INCIDENTAL MATTERS

Under the powers vested in me by Proclamation 181 of 19 August, 1977, I hereby make the laws set out in the Schedule.

M. T. STEYN  
Administrator-General Windhoek, 25 November 1977

## SCHEDULE

*Amendment of section 2 of Proclamation 56 of 1951, as amended by section 3 of Proclamation AG.5 of 1977*

1. Section 2 of the Natives (Urban Areas) Proclamation, 1951 (hereinafter referred to as the Urban Areas Proclamation), is hereby amended —

## PROKLAMASIE

van die

ADMINISTRATEUR-GENERAAL VIR DIE GEBIED SUIDWES-AFRIKA

*(Deur die Staatspresident goedgekeur op 25 November 1977)*

No. AG.12 1977

WYSIGING VAN DIE PROKLAMASIE OP INBOORLINGE IN STEDELIKE GEBIEDE, 1951, TEN EINDE SEKERE BEPERKINGS OP DIE VERKRYGING VAN DIE EIENDOM VAN GROND DEUR INBOORLINGE OP TE HEF, EN VOORSIENING TE MAAK VIR BYKOMSTIGE AANGELEENTHEDE

Kragtens die bevoegdheid my verleen by Proklamasie 181 van 19 Augustus 1977, maak ek hierby die wette in die Bylae vervat.

M. T. STEYN  
Administrateur-Generaal Windhoek, 25 November 1977

## BYLAE

*Wysiging van artikel 2 van Proklamasie 56 van 1951, soos gewysig deur artikel 3 van Proklamasie AG.5 van 1977*

1. Artikel 2 van die Proklamasie op Inboorlinge in Stedelike Gebiede, 1951 (hieronder die Stadsgebiede-proklamasie genoem), word hierby gewysig —

(a) by the addition to subsection (1) of the following paragraph:

“(f) sell or otherwise alienate erven in a location or native village to natives, including any company contemplated in section 6(1), upon such conditions, including conditions of title, as the Administrator-General may prescribe after consultation with the Executive Committee of South West Africa, or as the urban local authority may prescribe by regulation with the approval of the Administrator-General given after such consultation.”;

(b) by the insertion after subsection (1) of the following subsection:

“(1) *bis* Any location or native village existing at the commencement of the Natives (Urban Areas) Amendment Proclamation, 1977 (Proclamation AG. 12 of 1977), shall be deemed to be a location or native village in respect of which the approval contemplated by subsection (1)(f) was granted.”; and

(c) by the substitution in subsection (3) for the expression “Townships Ordinance No. 11 of 1928, as amended,” of the expression “Townships and Division of Land Ordinance, 1963 (Ordinance 11 of 1963)”.

*Insertion of section 2 bis in Proclamation 56 of 1951*

2. The following section is hereby inserted in the Urban Areas Proclamation after section 2:

“Procedure for proclamation of location or native village as a township under Ordinance 11 of 1963.

2 *bis* (1) Notwithstanding the provisions of section 2(3) but subject to the provisions of subsection (2) of this section, the provisions of the Townships and Division of Land Ordinance, 1963 (in this section referred to as the Ordinance), shall apply in respect of a location or native village in which erven are to be sold or otherwise alienated to natives as is contemplated in section 2(1)- (f).

(2) The provisions of sections 3 to 8 of the Ordinance shall not apply in respect of a location or native village referred to in section 2(1) *bis* in which erven are to be sold or otherwise alienated as aforesaid.

(3) An urban local authority intending to sell or otherwise alienated erven as aforesaid in a location or native village referred to in subsection (1) *bis* of section 2, shall submit to the Executive

(a) deur die volgende paragraaf by subartikel (1) te voeg:

“(f) erwe in ’n lokasie of inboorlingdorp aan Inboorlinge, met inbegrip van ’n maatskappy in artikel 6(1) beoog, verkoop of andersins vervreem op die voorwaardes, met inbegrip van titelvoorwaardes, wat die Administrateur-generaal na oorleg met die Uitvoerende Komitee van Suidwes-Afrika voorskryf, of wat die stedelike plaaslike bestuur met die goedkeuring van die Administrateur-generaal, verstrek na sodanige oorleg, by regulasie voorskryf.”;

(b) deur die volgende subartikel na subartikel (1) in te voeg:

“(1) *bis* ’n Lokasie of inboorlingdorp wat by die inwerkingtreding van die Wysigingsproklamasie op Inboorlinge in Stedelike Gebiede, 1977 (Proklamasie AG. 12 van 1977), bestaan, word geag ’n lokasie of inboorlingdorp te wees ten opsigte waarvan die in subartikel (1)(f) bedoelde goedkeuring verleen is.”; en

(c) deur in subartikel (3) die uitdrukking “Dorpe Ordonnansie No. 11 van 1928, soos gewysig” deur die uitdrukking “Ordonnansie op Dorpe en Grondverdeling, 1963 (Ordonnansie 11 van 1963)” te vervang.

*Invoeging van artikel 2 bis in Proklamasie 56 van 1951*

2. Die volgende artikel word hierby in die Stadsgebiedeproklamasie na artikel 2 ingevoeg:

“Prosedure vir proklamering van lokasie of inboorlingdorp as ’n dorp kragtens Ordonnansie 11 van 1963.

2 *bis*. (1) Ondanks die bepalinge van artikel 2(3) maar behoudens die bepalinge van subartikel (2) van hierdie artikel, is die bepalinge van die Ordonnansie op Dorpe en Grondverdeling, 1963 (in hierdie artikel die Ordonnansie genoem), van toepassing ten opsigte van ’n lokasie of inboorlingdorp waarin erwe aan Inboorlinge verkoop of andersins vervreem staan te word soos in artikel 2(1)(f) beoog.

(2) Die bepalinge van artikels 3 tot 8 van die Ordonnansie is nie ten opsigte van ’n lokasie of inboorlingdorp in artikel 2(1) *bis* bedoel waarin erwe soos voormeld verkoop of andersins vervreem staan te word, van toepassing nie.

(3) ’n Stedelike plaaslike bestuur wat van voorneme is om erwe in ’n lokasie of inboorlingdorp in subartikel (1) *bis* van artikel 2 bedoel, soos voormeld te verkoop of andersins te vervreem, moet

Committee of South West Africa the general plan of that location or native village together with a statement containing the conditions subject to which that plan or the establishment of that location or native village was approved under subsection (1) read with subsection (2) of that section, and which would be relevant for the purposes of sections 3(1) and 6(3) of the Ordinance in the case of an application for permission to establish a township.

(4) The Executive Committee may thereupon, after such consultation with the Townships Board established in terms of the Ordinance as the Executive Committee may deem necessary, and subject to the provisions of subsection (5), impose any condition that could have been recommended by the Townships Board under section 6(1)(a) of the Ordinance or could have been imposed by the Executive Committee under section 6(3), read without the proviso, of the Ordinance if the submission of the said general plan and statement had been an application in terms of the Ordinance for permission to establish a township.

(5) (a) No condition that requires an undue alteration of the general plan or conditions referred to in subsection (3), or the removal or an undue alteration of or interference with any existing building, works or other improvements or amenities, shall be imposed under subsection (4).

(b) Any disagreement between the urban local authority and the Executive Committee as to the effect, with due regard to the provisions of paragraph (a), of any proposed condition, shall at the request of either party be referred to the Administrator-General and his decision upon the matter shall be final.

(6) When the Executive Committee has concluded its business in connection with the general plan of and the condi-

aan die Uitvoerende Komitee van Suidwes-Afrika die algemene plan van daardie lokasie of inboorlingdorp voorlê tesame met 'n opgawe wat die voorwaardes bevat waarop daardie algemene plan of die instelling van daardie lokasie of inboorlingdorp kragtens subartikel (1) gelees met subartikel (2) van daardie artikel goedgekeur is, en wat by die toepassing van artikels 3(1) en 6(3) van die Ordonnansie tersake sou wees in die geval van 'n aansoek om verlof om 'n dorp te stig.

(4) Die Uitvoerende Komitee kan daarop, na dié oorleg met die Dorperaad ingevolge die Ordonnansie ingestel wat die Uitvoerende Komitee nodig ag, en behoudens die bepalings van subartikel (5), enige voorwaarde oplê wat die Dorperaad kragtens artikel 6(1)(a) van die Ordonnansie sou kon aanbeveel of die Uitvoerende Komitee kragtens artikel 6(3), gelees sonder die voorbehoudsbepaling, van die Ordonnansie sou kon oplê indien die voorlegging van genoemde algemene plan en opgawe 'n aansoek om verlof om 'n dorp te stig ingevolge die Ordonnansie was.

(5) (a) Geen voorwaarde wat 'n oormatige verandering van die algemene plan of voorwaardes in subartikel (3) bedoel, of die verwydering of 'n oormatige verandering of belemmering van 'n bestaande gebou, werke of ander verbeterings of geriewe vereis, word kragtens subartikel (4) opgelê nie.

(b) Enige meningsverskil tussen die stedelike plaaslike bestuur en die Uitvoerende Komitee oor die uitwerking, met inagneming van die bepalings van paragraaf (a), van 'n voorgestelde voorwaarde, word op versoek van enigiemand van die partye na die Administrateur-generaal verwys, en sy beslissing oor die aangeleentheid is afdoende.

(6) Wanneer die Uitvoerende Komitee sy werksaamhede in verband met die algemene plan van en die voor-

tions relating to a location or native village in terms of subsection (4), it shall cause the urban local authority to be notified in writing accordingly, and thereupon, for the purpose of the application in respect of the location or native village concerned of those provisions of the Ordinance that are applicable in respect of it in terms of this section —

- (a) such notification shall be deemed to be the granting of an application for permission to establish a township in accordance with that general plan, and upon those conditions, as amended or extended (if at all) under subsection (4);
- (b) those conditions, as so amended or extended (if at all), shall be deemed to be the conditions upon which the application was granted; and
- (c) the design shown on that general plan, as so amended (if at all), shall be deemed to be the proposed design of such township approved by the Townships Board under section 10(1) of the Ordinance: Provided that the reference to the Townships Board in subsection (2) of that section shall, for the purpose of the application of that subsection to that general plan, be construed as a reference to the Executive Committee.”

#### *Amendment of section 6 of Proclamation 56 of 1951*

3. Section 6 of the Urban Areas Proclamation is hereby amended by the addition to subsection (3) of the following paragraph:

- “(e) a mortgage over any erf in respect of which a native or a company referred to in subsection (1) is or, under a deed of transfer to be registered simultaneously with the mortgage, will be registered in a deeds office as owner, and which is situated in a location or native village in respect of which the approval contemplated in subsection (1)(f) of section 2 was granted or is in terms of subsection (1) *bis* of that section deemed to have been granted, may be registered in such deeds office in favour of any person: Provided that the rights conferred by such mortgage shall not include a right to transfer the erf in question to a person other than a native or such a company without the Administrator-General's approval or other-

waardes betreffende 'n lokasie of inboorlingdorp ingevolge die bepalings van subartikel (4) afgehandel het, laat hy die stedelike plaaslike bestuur skriftelik dienooreenkomstig in kennis stel, en daarop word, by die toepassing ten opsigte van die betrokke lokasie of inboorlingdorp van dié bepalings van die Ordonnansie wat ingevolge hierdie artikel daarop van toepassing is —

- (a) die inkennisstelling geag die toestaan te wees van 'n aansoek om verlof om 'n dorp te stig ooreenkomstig daardie algemene plan, en op daardie voorwaardes, soos kragtens subartikel (4) gewysig of uitgebrei (indien wel aldus gewysig of uitgebrei);
- (b) daardie voorwaardes, soos aldus gewysig of uitgebrei (indien wel aldus gewysig of uitgebrei), geag die voorwaardes te wees waarop die aansoek toegestaan is; en
- (c) die aanleg op daardie algemene plan, soos aldus gewysig (indien wel aldus gewysig), getoon, geag die voorgestelde aanlegplan van bedoelde dorp te wees wat kragtens artikel 10(1) van die Ordonnansie deur die Dorperaad, goedgekeur is: Met dien verstande dat die verwysing in subartikel (2) van daardie artikel na die Dorperaad, by die toepassing van daardie subartikel op daardie algemene plan, uitgelê word as 'n verwysing na die Uitvoerende Komitee.”

#### *Wysiging van artikel 6 van Proklamasie 56 van 1951*

3. Artikel 6 van die Stadsgebiedeproklamasie word hierby gewysig deur die volgende paragraaf by subartikel (3) te voeg:

- “(e) kan 'n verband oor 'n erf ten opsigte waarvan 'n Inboorling of 'n in subartikel (1) bedoelde maatskappy in 'n aktekantoor as eienaar geregistreer is of, kragtens 'n transportakte wat gelyktydig met die verband geregistreer staan te word, aldus as eienaar geregistreer sal word, en wat geleë is in 'n lokasie of inboorlingdorp ten opsigte waarvan die goedkeuring in subartikel (1)(f) van artikel 2 bedoel, verleen is of ingevolge subartikel (1) *bis* van daardie artikel geag word verleen te wees, ten gunste van enige persoon in daardie aktekantoor geregistreer word: Met dien verstande dat die regte wat by sodanige verband verleen word, nie 'n reg insluit om die betrokke erf sonder die Administrateur-generaal se goedkeuring of anders as

wise than in accordance with conditions determined by him.”.

ooreenkomstig voorwaardes deur hom bepaal aan 'n ander persoon as 'n Inboorling of so 'n maatskappy oor te dra nie.”.

*Amendment of section 7 of Proclamation 56 of 1951*

*Wysiging van artikel 7 van Proklamasie 56 van 1951*

4. Section 7 of the Urban Areas Proclamation is hereby amended –

4. Artikel 7 van die Stadsgebiedeproklamasie word hierby gewysig –

(a) by the substitution, in the Afrikaans text of subsection (1), for the word “deur” of the word “van”; and

(a) deur in subartikel (1) die woord “deur” deur die woord “van” te vervang; en

(b) by the insertion in subsection (1) after the word “township” of the words “but outside a location or native village in respect of which the approval contemplated in subsection (1)(f) of section 2 was granted or is in terms of subsection (1) *bis* of that section deemed to have been granted.”.

(b) deur in subartikel (1) na die woord “dorp” die woorde “maar buite 'n lokasie of inboorlingdorp ten opsigte waarvan die goedkeuring in subartikel (1)(f) van artikel 2 bedoel, verleen is of ingevolge subartikel (1) *bis* van daardie artikel geag word verleen te wees, geleë,” in te voeg.

*Amendment of section 31 of Proclamation 56 of 1951*

*Wysiging van artikel 31 van Proklamasie 56 van 1951*

5. Section 31 of the Urban Areas Proclamation is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

5. Artikel 31 van die Stadsgebiedeproklamasie word hierby gewysig deur die volgende subartikel by te voeg, terwyl die bestaande artikel subartikel (1) word:

“(2) The provisions of subsection (1) shall not prohibit the sale or the alienation in any other manner to a native or a company referred to in section 6(1), for trading or other business purposes, of any erf situated in a location or native village in respect of which the approval contemplated in subsection (1)(f) of section 2 was granted or is in terms of subsection (1) *bis* of that section deemed to have been granted, or the use of such an erf so sold or alienated, for the said purposes.”.

“(2) Die bepalings van subartikel (1) verbied nie die verkoop of die vervreemding op 'n ander wyse, aan 'n Inboorling of 'n maatskappy in artikel 6(1) bedoel vir handels- of ander sakedoeleindes, van 'n erf wat geleë is in 'n lokasie of inboorlingdorp ten opsigte waarvan die goedkeuring in subartikel (1)(f) van artikel 2 bedoel, verleen is of ingevolge subartikel (1) *bis* van daardie artikel geag word verleen te wees, of die gebruik van so 'n erf wat aldus verkoop of vervreem is, vir genoemde doeleindes nie.”.

*Short title*

*Kort titel*

6. This Proclamation shall be called the Natives (Urban Areas) Amendment Proclamation, 1977.

6. Hierdie Proklamasie heet die Wysigingsproklamasie op Inboorlinge in Stedelike Gebiede, 1977.

