BUITENGEWONE

OFFISIËLE KOERANT

VAN SUIDWES-AFRIKA

OFFICIAL GAZETTE

EXTRAORDINARY

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PROKLAMASIE

van die

ADMINISTRATEUR-GENERAAL VIR DIE GEBIED SUIDWES-AFRIKA

(Deur die Staatspresident goedgekeur op 12 Junie 1980)

No. AG. 19 1980

INSTELLING EN BEVOEGDHEDE VAN 'N MINISTERSRAAD VIR SUIDWES-AFRIKA

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

G. van N. VILJOEN
Administrateur-generaal — Windhoek, 12 Junie 1980

BYLAE

Woordomskrywings

1. (1) Tensy uit die samehang anders blyk, beteken in hierdie Proklamasie —

(i) "gebied" die gebied Suidwes-Afrika; (iv)

(ii) "oordragproklamasie" 'n oordragproklamasie soos omskryf in artikel 1(1) van die Proklamasie op die Oordrag van Uitvoerende Gesag

PROCLAMATION

by the

ADMINISTRATOR-GENERAL FOR THE TERRITORY OF SOUTH WEST AFRICA

(Approved by the State President on 12 June 1980)

No. AG. 19 1980

ESTABLISHMENT AND POWERS OF A COUNCIL OF MINISTERS FOR SOUTH WEST AFRICA

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

G. van N. VILJOEN
Administrator-General — Windhoek, 12 June 1980

SCHEDULE

Definitions

1. (1) In this Proclamation, unless the context indicates otherwise —

(i) "Assembly" means the National Assembly of South West Africa established by section 2 of the National Assembly Proclamation, 1979 (Proclamation AG. 21 of 1979); (iv)

(Algemene Bepalings), 1977 (Proklamasie AG. 7 van 1977); (v)

(iii) "Raad" die Ministersraad; (iii)

(iv) "Vergadering" die by artikel 2 van die Proklamasie op die Nasionale Vergadering, 1979 (Proklamasie AG. 21 van 1979), ingestelde Nasionale Vergadering van Suidwes-Afrika; (i)

(v) "Voorsitter" die Voorsitter van die Raad. (ii)

(2) In hierdie Proklamasie en in enige ander wet beteken "Ministersraad" die by artikel 2 ingestelde Ministersraad van Suidwes-Afrika.

(3) 'n Verwysing in die een of ander wet na die in artikel 3(5) van die Proklamasie op die Nasionale Vergadering, 1979 (Proklamasie AG. 21 van 1979), bedoelde liggaam, word uitgelê as 'n verwysing na die Raad.

Instelling en samestelling van Ministersraad

2. (1) Hierby word 'n raad ingestel, bekend as die Ministersraad van Suidwes-Afrika, met die bevoegdhede, werksaamhede en pligte wat by hierdie Proklamasie of 'n ander wet aan die Raad verleen of opgedra word.

(2) Die Raad bestaan uit twaalf lede waarvan een die Voorsitter is.

(3) Die Voorsitter word deur die Vergadering uit sy geledere verkies en die ander lede van die Raad word op voorstel van die Voorsitter aldus verkies.

(4) 'n Vakature in die Raad word gevul deur die verkiesing van 'n nuwe lid op dieselfde wyse as dié waarop die lid verkies was wat sy amp ontruim het.

(5) 'n Lid van die Raad moet, voordat hy sy pligte as lid aanvaar, 'n eed in die volgende vorm voor die Administrateur-generaal of voor 'n persoon wat hy aangewys het, aflê en onderteken:

" Ek, A.B., sweer / verklaar plegtig en opreg dat ek

my amp as lid van die Ministersraad op eervolle en waardige wyse in die beste belang van die gebied Suidwes-Afrika en sy inwoners sal beklee, en dat ek die wette van bedoelde gebied sal eerbiedig en handhaaf, 'n opregte en getroue raadsman sal wees en geen sake wat voor die Ministersraad dien en wat aan my vir geheimhouding toevertrou word, regstreeks of onregstreeks sal openbaar nie en dat ek my ampspligte met nougesetheid na my beste vermoë sal nakom.

(ii) "Chairman" means the Chairman of the Council; (v)

(iii) "Council" means the Council of Ministers; (iii)

(iv) "territory" means the territory of South West Africa; (i)

(v) "transfer proclamation" means a transfer proclamation as defined in section 1(1) of the Executive Powers Transfer (General Provisions) Proclamation, 1977, (Proclamation AG. 7 of 1977). (ii)

(2) In this Proclamation and in any other law "Council of Ministers" means the Council of Ministers of South West Africa established by section 2.

(3) Any reference in any law to the body referred to in section 3(5) of the National Assembly Proclamation, 1979 (Proclamation AG. 21 of 1979), shall be construed as a reference to the Council.

Establishment and constitution of Council of Ministers

2. (1) There is hereby established a council to be known as the Council of Ministers of South West Africa, having such powers, functions and duties as may be conferred upon or assigned to it by this Proclamation or any other law.

(2) The Council shall consist of twelve members of which one shall be Chairman.

(3) The Chairman shall be elected by the Assembly from amongst its members and the other members of the Council shall be so elected on the proposal of the Chairman.

(4) Any vacancy in the Council shall be filled by the election of a new member in the same manner as that in which the vacating member was elected.

(5) Any member of the Council shall, before assuming his duties as a member, make and subscribe an oath before the Administrator-General or a person designated by him, in the following form:

"I, A.B., do swear / solemnly and sincerely declare that I

shall hold my office as member of the Council of Ministers with honour and dignity in the best interest of the territory of South West Africa and its inhabitants, and that I shall obey and uphold the laws of the said territory, be a true and faithful counsellor and not divulge directly or indirectly any matters brought before the Council of Ministers which are entrusted to me under secrecy and that I shall perform the duties of my office conscientiously and to the best of my ability.

(In die geval van 'n eed)

So help my God."

Ontruiming van amp deur lid van Raad

3. (1) 'n Lid van die Raad ontruim sy amp —

(a) indien hy sy setel in die Vergadering ontruim;

(b) indien die Raad of die Vergadering besluit dat hy van sy amp onthef word;

(c) indien, in die geval van 'n ander lid as die Voorsitter, die Voorsitter te sterwe kom of ingevolge hierdie subartikel sy amp ontruim;

(d) indien hy by wyse van 'n brief aan die President van die Vergadering gerig, as lid van die Raad bedank; of

(e) indien die Administrateur-generaal by boodskap aan die President van die Vergadering, die Vergadering versoek om die Raad opnuut saam te stel.

(2) Indien die Voorsitter te sterwe kom of ingevolge subartikel (1) sy amp ontruim, roep die President van die Vergadering die Vergadering onverwyld byeen om die Raad opnuut saam te stel.

Oordrag van uitvoerende gesag aan Raad

4. (1) Die administrasie van die sake van die gebied met betrekking tot die een of ander aangeleentheid —

(a) wat by of kragtens 'n oordragproklamasie van 'n Minister van die Republiek van Suid-Afrika aan die Administrateur-generaal oorgedra is; of

(b) wat by of kragtens 'n proklamasie van die Staatspresident of 'n ander proklamasie van die Administrateur-generaal as 'n oordragproklamasie of 'n Wet van die Vergadering by die Administrateur-generaal berus; of

(c) wat by die Administrateur-generaal berus maar nie by paragraaf (a) of (b) ingesluit word nie en wat hy van tyd tot tyd by proklamasie in die *Offisiële Koerant* bepaal,

word, behoudens die bepalings van subartikels (2), (3) en (4), deur of namens die Administrateur-generaal behartig ooreenkomstig die voorskrifte, riglyne of beleid, indien daar is, wat die Raad by besluit van tyd tot tyd bepaal.

(2) Die bepalings van subartikel (1) is nie op die administrasie van die sake van die gebied van toepassing nie, vir sover daardie administrasie betrekking het op bevoegdhede van die Administrateur-generaal —

(In the case of an oath)

So help me God."

Vacation of office by member of Council

3. (1) Any member of the Council shall vacate his office —

(a) if he vacates his seat in the Assembly;

(b) if the Council or the Assembly passes a resolution that he be removed from office;

(c) if, in the case of any member other than the Chairman, the Chairman dies or vacates his office in terms of this subsection;

(d) if he by letter addressed to the President of the Assembly, resigns as a member of the Council; or

(e) if the Administrator-General by message to the President of the Assembly requests the Assembly to constitute the Council afresh.

(2) If the Chairman dies or vacates his office in terms of subsection (1), the President of the Assembly shall forthwith summon a meeting of the Assembly in order to constitute the Council afresh.

Transfer of executive power to Council

4. (1) The administration of the affairs of the territory in relation to any matter —

(a) which has been transferred from a Minister of the Republic of South Africa to the Administrator-General by or under a transfer proclamation; or

(b) which vests in the Administrator-General by or under any proclamation of the State President or any proclamation of the Administrator-General other than a transfer proclamation or any Act of the Assembly; or

(c) which vests in the Administrator-General but is not included under paragraph (a) or (b) and which he may from time to time specify by proclamation in the *Official Gazette*,

shall, subject to the provisions of subsections (2), (3) and (4), be carried on by or on behalf of the Administrator-General in accordance with the directions, directives or policy, if any, which the Council may by resolution from time to time determine.

(2) The provisions of subsection (1) shall not apply to the administration of the affairs of the territory, in so far as such administration relates to the powers of the Administrator-General —

(a) wat van die Staatspresident aan hom oorgedra is of betrekking het op aangeleenthede wat na die oordeel van die Administrateur-generaal van 'n konstitusionele aard is of met die veiligheid van die gebied in verband staan; of

(b) wat hom verleen word om ander wette as regulasies of reëls te maak of toestemming daartoe te verleen of te weerhou of om wette in werking te stel; of

(c) wat hom verleen word by of kragtens hierdie Proklamasie of —

(i) die Proklamasie op die Nasionale Vergadering, 1979 (Proklamasie AG. 21 van 1979); of

(ii) die Proklamasie op Verteenwoordigende Owerhede, 1980 (Proklamasie AG. 8 van 1980); of

(iii) die grondwet van 'n in bedoelde proklamasie omskrewe verteenwoordigende owerheid; of

(iv) die Regeringsdienswet, 1980 (Wet 2 van 1980), of die Wet op Pensioene vir Statutêre Instellings, 1980 (Wet 3 van 1980); of

(v) die een of ander wet wat hy van tyd tot tyd by proklamasie in die *Offisiële Koerant* bepaal.

(3) Die Administrateur-generaal kan 'n in subartikel (1) bedoelde besluit na die Raad vir heroorweging terugverwys met die aanbevelings wat hy nodig of dienstig ag.

(4) Die bepalings van subartikel (1) is nie van toepassing nie —

(a) ten opsigte van 'n bepaalde aangeleentheid, indien die Raad in gebreke bly om binne 'n deur die Administrateur-generaal bepaalde tydperk 'n besluit op sy versoek ten opsigte van daardie aangeleentheid te neem;

(b) indien die aantal persone wat die amp van lid van die Raad beklee, minder is as die kworum wat vir 'n vergadering van die Raad bepaal word.

(5) Wanneer die in subartikel (4)(b) bedoelde omstandighede aanwesig is, word die bevoegdhede, werksaamhede of pligte wat by 'n ander wet as hierdie Proklamasie aan die Raad verleen of opgedra word, deur die Administrateur-generaal of 'n persoon deur hom aangewys, uitgeoefen of verrig.

(a) which have been transferred to him from the State President or relate to matters which in the opinion of the Administrator-General are of a constitutional nature or are connected with the safety of the territory; or

(b) which are conferred upon him to make laws other than regulations or rules or to grant or withhold consent in respect thereof or to bring laws into operation; or

(c) which are conferred upon him by or under this Proclamation or —

(i) the National Assembly Proclamation, 1979 (Proclamation AG. 21 of 1979); or

(ii) the Representative Authorities Proclamation, 1980 (Proclamation AG. 8 of 1980); or

(iii) the constitution of any representative authority as defined in the said proclamation; or

(iv) the Government Service Act, 1980 (Act 2 of 1980), or the Statutory Institutions Pensions Act, 1980 (Act 3 of 1980); or

(v) any other law which he may from time to time specify by proclamation in the *Official Gazette.*

(3) The Administrator-General may refer any resolution referred to in subsection (1) back to the Council for reconsideration, together with such recommendations as he may deem necessary or expedient.

(4) The provisions of subsection (1) shall not apply —

(a) in respect of any particular matter, if the Council fails to pass a resolution at the request of the Administrator-General in respect of such matter within such period as he may specify;

(b) if the number of persons holding the office of member of the Council is less than the quorum provided for any meeting of the Council.

(5) Whenever the circumstances referred to in subsection (4)(b) are present, the powers, functions or duties conferred upon or assigned to the Council by any law other than this Proclamation, shall be exercised or performed by the Administrator-General or any person designated by him.

(6) Ondanks andersluidende bepalings van die een of ander wet kan die Administrateur-generaal na goeddunke die administrasie van ander as die in subartikel (1) bedoelde sake van die gebied wat by hom berus, na oorlegpleging met die Raad behartig.

Prosedure in Raad

5. (1) Sewe lede vorm 'n kworum vir 'n vergadering van die Raad, hetsy daar vakatures in die Raad bestaan, al dan nie.

(2) Die Voorsitter of in sy afwesigheid 'n ander lid van die Raad deur die Voorsitter aangewys of, indien die Voorsitter nie daartoe in staat is nie, deur die lede uit hul geledere verkies, sit voor op 'n vergadering van die Raad.

(3) Vrae wat by 'n vergadering van die Raad ontstaan, word by meerderheid van stemme van die aanwesige lede beslis, en by 'n staking van stemme het die persoon wat op die vergadering voorsit benewens sy beraadslagende stem ook 'n beslissende stem.

(4) Alle agendas van vergaderings van die Raad word vooraf aan die Administrateur-generaal verstrek.

(5) Alle besluite van die Raad word onverwyld skriftelik aan die Administrateur-generaal meegedeel.

(6) Die Administrateur-generaal kan na oorlegpleging met die Voorsitter 'n vergadering van die Raad bywoon en aan die verrigtinge deelneem maar oefen geen stem uit nie.

Komitees van die Raad

6. Die Raad kan van tyd tot tyd 'n komitee instel om hom van raad te dien by die uitoefening van die een of ander van sy bevoegdhede of die verrigting van die een of ander van sy werksaamhede of pligte en kan sodanige lede van die Raad of ander persone aanstel as wat hy goed ag om lede van so 'n komitee te wees.

Besoldiging van lede van Raad

7. Die Administrateur-generaal bepaal van tyd tot tyd die besoldiging of toelaes wat aan lede van die Raad of aan ander lede van komitees van die Raad as lede van die Raad betaal word en kan verskillende besoldiging of toelaes ten opsigte van die Voorsitter en die ander lede van die Raad bepaal.

Wysiging van artikel 3 van Proklamasie AG. 21 van 1979, soos gewysig deur artikel 1 van Proklamasie AG. 7 van 1980

8. Artikel 3 van die Proklamasie op die Nasionale Vergadering, 1979, word hierby gewysig —

(a) deur in subartikel (2)*ter* na die woord "voorstel" waar dit die tweede keer voorkom, die woorde

(6) Notwithstanding anything to the contrary in any law contained, the Administrator-General may at his discretion carry on the administration of the affairs of the territory vesting in him, other than those referred to in subsection (1), after consultation with the Council.

Procedure in Council

5. (1) Seven members shall constitute a quorum for any meeting of the Council, whether or not there are any vacancies in the Council.

(2) The Chairman or in his absence any other member of the Council designated by the Chairman or, if the Chairman is unable to do so, elected by the members from amongst themselves shall preside at any meeting of the Council.

(3) Questions arising at a meeting of the Council shall be determined by a majority of votes of the members present, and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(4) All agendas of meetings of the Council shall be furnished to the Administrator-General beforehand.

(5) All resolutions of the Council shall forthwith be communicated to the Administrator-General in writing.

(6) The Administrator-General may after consultation with the Chairman attend any meeting of the Council and take part in the proceedings but shall not exercise any vote.

Committees of Council

6. The Council may from time to time establish a committee to advise it in the exercise of any of its powers or the performance of any of its functions or duties and may appoint such of its members or such other persons as it may deem fit, to be members of any such committee.

Remuneration of members of Council

7. The Administrator-General shall from time to time determine the remuneration or allowances to be paid to members of the Council or to members of committees of the Council other than members of the Council and may determine different remuneration or allowances in respect of the Chairman and the other members of the Council.

Amendment of section 3 of Proclamation AG. 21 of 1979, as amended by section 1 of Proclamation AG. 7 of 1980

8. Section 3 of the National Assembly Proclamation, 1979, is hereby amended —

(a) by the insertion in subsection (2)*ter* after the word "motion" where it occurs for the second

"deur 'n lid van die Ministersraad ingedien of voorgestel word of" in te voeg;

(b) deur subartikel (5) te herroep.

Kort titel en inwerkingtreding

9. Hierdie Proklamasie heet die Proklamasie op die Ministersraad, 1980, en tree in werking op 'n datum wat die Administrateur-generaal by proklamasie in die *Offisiële Koerant* bepaal.

time, of the words "is introduced or moved by a member of the Council of Ministers or";

(b) by the repeal of subsection (5).

Short title and commencement

9. This Proclamation shall be called the Council of Ministers Proclamation, 1980, and shall come into operation on a date to be fixed by the Administrator-General by proclamation in the *Official Gazette*.

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