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PROCLAMATION

by the

ADMINISTRATOR-GENERAL FOR THE
TERRITORY OF SOUTH WEST AFRICA

(Approved by the State President on 27 February 1981)

No. AG. 4

1981

AMENDMENT OF THE REPRESENTATIVE
AUTHORITIES PROCLAMATION, 1980 (PRO-
CLAMATION AG. 8 OF 1980)

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

D. J. HOUGH

Administrator-General

Windhoek, 27 February 1981

PROKLAMASIE

van die

ADMINISTRATEUR-GENERAAL VIR DIE
GEBIED SUIDWES-AFRIKA

(Deur die Staatspresident goedgekeur op 27 Februarie 1981)

No. AG. 4

1981

WYSIGING VAN DIE PROKLAMASIE OP
VERTEENWOORDIGENDE OWERHEDE, 1980
(PROKLAMASIE AG. 8 VAN 1980)

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

D. J. HOUGH

Administrateur-generaal

Windhoek, 27 Februarie 1981

SCHEDULE

Insertion of sections 48bis and 48ter in Proclamation AG. 8 of 1980

1. The following sections are hereby inserted in the Representative Authorities Proclamation, 1980 (hereinafter referred to as the principal Proclamation), after section 48:

“Transfer of property of South African Development Trust and of powers, functions and duties in connection therewith

48bis. (1) As from the date on which the legislative authority of a population group, by virtue of a proclamation issued under section 14(2), becomes empowered to make ordinances in relation to any of or all the matters defined in Item 1 of the Schedule—

- (a) the ownership of land which in terms of the constitution of the representative authority of the population group concerned is communal land of that population group and which immediately before that date vested in terms of section 4 of the South West Africa Native Affairs Administration Act, 1954 (Act 56 of 1954), in the South African Development Trust established by section 4 of the Development Trust and Land Act, 1936 (Act 18 of 1936) (hereinafter referred to as the Trust), shall vest in the Government of the territory;
- (b) any reference in any law which applies to that land —
 - (i) to land of which the Trust is the owner, shall, in so far as that law so applies, be construed as a reference to land of which the Government of the territory is the owner in terms of paragraph (a);
 - (ii) to the South African Development Trust Fund established in terms of section 8 of the Development Trust and Land Act, 1936 (Act 18 of 1936), or the separate account referred to in section 4(4) of the said South West Africa Native Affairs Administration Act, 1954 —
 - (aa) shall, in so far as that law so applies in relation to any matter other than a defined matter, be construed as a reference to the Central Revenue Fund;

BYLAE

Invoeging van artikels 48bis en 48ter in Proklamasie AG. 8 van 1980

1. Die volgende artikels word hierby in die Proklamasie op Verteenwoordigende Owerhede, 1980 (hieronder die Hoofproklamasie genoem), na artikel 48 ingevoeg:

“Oordrag van eiendom van Suid-Afrikaanse Ontwikkelingstrust en van bevoegdheede, werksaamhede en pligte in verband daarmee

48bis. (1) Vanaf die datum waarop die wetgewende owerheid van 'n bevolkingsgroep uit hoofde van 'n proklamasie kragtens artikel 14(2) uitgevaardig, bevoeg word om ordonnansies met betrekking tot enige van of al die aangeleenthede in Item 1 van die Bylae omskryf, te maak —

- (a) berus die eiendomsreg van grond wat ingevolge die grondwet van die verteenwoordigende owerheid van die betrokke bevolkingsgroep gemeenskaplike grond van daardie bevolkingsgroep is, en wat onmiddellik voor daardie datum ingevolge artikel 4 van die Wet op die Administrasie van Naturellesake in Suidwes-Afrika, 1954 (Wet 56 van 1954), by die Suid-Afrikaanse Ontwikkelingstrust by artikel 4 van die Ontwikkelingstrust en Grond Wet, 1936 (Wet 18 van 1936) (hieronder die Trust genoem), ingestel, berus het, by die Goewerment van die gebied;
- (b) word enige verwysing in enige wet wat op daardie grond van toepassing is —
 - (i) na grond waarvan die Trust die eienaar is, uitgelê, vir sover daardie wet aldus van toepassing is, as 'n verwysing na grond waarvan die Goewerment van die gebied ingevolge paragraaf (a) die eienaar is;
 - (ii) na die Suid-Afrikaanse Ontwikkelingstrustfonds ingevolge artikel 8 van die Ontwikkelingstrust en Grond Wet, 1936 (Wet 18 van 1936), ingestel, of die in artikel 4(4) van genoemde Wet op die Administrasie van Naturellesake in Suidwes-Afrika, 1954, bedoelde afsonderlike rekening —
 - (aa) uitgelê, vir sover daardie wet aldus met betrekking tot 'n ander aangeleentheid as 'n omskrewe aangeleentheid van toepassing is, as 'n verwysing na die Sentrale Inkomstefonds;

- (bb) shall, in so far as that law so applies in relation to any defined matter, be construed as a reference to the revenue fund of the representative authority concerned;
- (c) the reference in section 23, subject to the provisions of paragraph (a) of this section, to the Administrator-General, shall be construed as including a reference to the Administrator-General in his capacity of Trustee of the Trust;
- (d) the powers, functions and duties in relation to any matter other than a defined matter which under any law applies to such land and which immediately before that date vested in terms of section 4 of the said South West Africa Native Affairs Administration Act, 1954, read with the Administration of the South African Development Trust in South West Africa Proclamation, 1978 (Proclamation AG. 19 of 1978), in the Administrator-General in his capacity of Trustee of the Trust, shall vest in the Administrator-General;
- (e) the ownership and control of all movable property which immediately before that date vested in terms of section 4 of the said South West Africa Native Affairs Administration Act, 1954, in the Trust and which relates to, or was used in relation to —
- (i) any matter other than a defined matter, shall vest in the Government of the territory;
- (ii) any defined matter, shall vest in the representative authority of the population group concerned.
- (2) The provisions of section 49(1)(b) and (2)(b) shall apply *mutatis mutandis* in respect of land vesting terms of paragraph (a) of subsection (1) in the Government of the territory.
- (3) Notwithstanding the fact that the ownership of land referred to in paragraph (a) of subsection (1) vests in terms of that paragraph in the Government of the territory, the executive authority of a representative authority may in relation to that portion of such land which in terms of the constitution of that representative authority is communal land of the population group concerned, to the extent authorized thereto in terms of any ordinance of the legislative authority of that re-
- (bb) uitgelê, vir sover daardie wet aldus met betrekking tot 'n omskrewe aangeleentheid van toepassing is, as 'n verwysing na die inkomstefonds van die betrokke verteenwoordigende owerheid;
- (c) word die verwysing in artikel 23, behoudens die bepalings van paragraaf (a) van hierdie artikel, na die Administrateur-generaal, uitgelê as 'n verwysing ook na die Administrateur-generaal in sy hoedanigheid van Trustee van die Trust;
- (d) berus met die bevoegdhede, werksaamhede en pligte met betrekking tot 'n ander aangeleentheid as 'n omskrewe aangeleentheid wat kragtens enige wet op daardie grond van toepassing is en wat onmiddellik voor daardie datum ingevolge artikel 4 van genoemde Wet op die Administrasie van Naturellesake in Suidwes-Afrika, 1954, gelees met die Proklamasie op die Bestuur van die Suid-Afrikaanse Ontwikkelingstrust in Suidwes-Afrika, 1978 (Proklamasie AG. 19 van 1978), by die Administrateur-generaal in sy hoedanigheid van Trustee van die Trust berus het, by die Administrateur-generaal;
- (e) berus die eiendomsreg en beheer van alle roerende goed wat onmiddellik voor daardie datum ingevolge artikel 4 van genoemde Wet op die Administrasie van Naturellesake in Suidwes-Afrika, 1954, by die Trust berus het en wat betrekking het op, of gebruik was met betrekking tot —
- (i) 'n ander aangeleentheid as 'n omskrewe aangeleentheid, by die Goewerment van die gebied;
- (ii) 'n omskrewe aangeleentheid, by die verteenwoordigende owerheid van die betrokke bevolkingsgroep.
- (2) Die bepalings van artikel 49(1)(b) en (2)(b) is *mutatis mutandis* van toepassing ten opsigte van grond wat ingevolge paragraaf (a) van subartikel (1) by die Goewerment van die gebied berus.
- (3) Ondanks die feit dat die eiendomsreg van grond in paragraaf (a) van subartikel (1) bedoel ingevolge daardie paragraaf by die Goewerment van die gebied berus, kan die uitvoerende owerheid van 'n verteenwoordigende owerheid met betrekking tot daardie gedeelte van bedoelde grond wat ingevolge die grondwet van daardie verteenwoordigende owerheid gemeenskaplike grond van die betrokke bevolkingsgroep is, in die mate daartoe gemagtig ingevolge 'n ordonnansie

representative authority made under this Proclamation, or any other law administered by or under the control of that executive authority in terms of the provisions of this Proclamation, confer a valid title to the ownership of, or any other right in, to or over, any portion of such land in respect of which the Administrator-General or a person authorized by him has in writing declared that it is communal land of such population group and is not used or required for public or official purposes by any authority, body or other institution established by or under any law, upon any other person as if such representative authority were the owner of the land in question, and a title so conferred shall be deemed to have been conferred by the owner of that land.

Transfer of funds of South African Development Trust

48ter. (1) There shall be paid into the Central Revenue Fund out of the South African Development Trust Fund established in terms of section 8 of the Development Trust and Land Act, 1936 (Act 18 of 1936), the unexpended portion on, and all receipts after, 1 November 1979 of all moneys which in terms of any law accrue to that fund and in respect of which the separate account referred to in subsection (4) of section 4 of the South West Africa Native Affairs Administration Act, 1954 (Act 56 of 1954), is kept, and which are not required to be paid into the revenue fund of a representative authority in terms of section 48bis of this Proclamation and all moneys so paid shall be used for the purposes prescribed by the law by virtue of which such moneys so accrue.

(2) The provisions of section 47 (2) shall apply *mutatis mutandis* in respect of moneys paid into the Central Revenue Fund under subsection (1) of this section.

(3) Section 4 of the said South West Africa Native Affairs Administration Act, 1954, is hereby amended by the deletion of subsection (4) and (5).

(4) This section shall be deemed to have come into operation on 1 November 1979."

Amendment of section 51 of Proclamation AG. 8 of 1980

2. Section 51 of the principal Proclamation is hereby amended by the substitution for the expression "and 48" of the expression "48 and 48bis".

Amendment of section 52 of Proclamation AG. 8 of 1980, as amended by section 5 of Proclamation AG. 41 of 1980

van die wetgewende owerheid van daardie verteenwoordigende owerheid kragtens hierdie Proklamasie gemaak of 'n ander wet wat ingevolge die bepalings van hierdie Proklamasie deur of onder die beheer van daardie uitvoerende owerheid uitgevoer word, 'n geldige titel op die eindomsreg van, of 'n ander reg in, op of oor, enige gedeelte van daardie grond ten opsigte waarvan die Administrateur-generaal of 'n persoon deur hom gemagtig, skriftelik verklaar het dat dit gemeenskaplike grond van daardie bevolkingsgroep is en nie vir openbare of amptelike doeleindes deur 'n by of kragtens wet ingestelde owerheid, liggaam of ander instelling gebruik word of benodig is nie, aan 'n ander persoon verleen asof daardie verteenwoordigende owerheid die eienaar van die betrokke grond was, en 'n titel aldus verleen, word geag deur die eienaar van daardie grond verleen te wees.

Oordrag van fondse van Suid-Afrikaanse Ontwikkelingstrust

48ter. (1) Daar word in die Sentrale Inkomstefonds uit die Suid-Afrikaanse Ontwikkelingstrustfonds ingevolge artikel 8 van die Ontwikkelingstrust en Grond Wet, 1936 (Wet 18 van 1936), ingestel, gestort die onbestede gedeelte op, en alle ontvangste na, 1 November 1979 van alle gelde wat ingevolge enige wet daardie fonds toekom en ten opsigte waarvan die in subartikel (4) van artikel 4 van die Wet op die Administrasie van Naturellesake in Suidwes-Afrika, 1954 (Wet 56 van 1954), bedoelde afsonderlike rekening gehou is, en wat nie ingevolge artikel 48bis van hierdie Proklamasie in die inkomstefonds van 'n verteenwoordigende owerheid gestort moet word nie, en alle gelde aldus gestort, word bestee vir die doeleindes deur die wet uit hoofde waarvan daardie gelde aldus toekom, voorgeskryf.

(2) Die bepalings van artikel 47(2) is *mutatis mutandis* van toepassing ten opsigte van gelde wat kragtens subartikel (1) van hierdie artikel in die Sentrale Inkomstefonds gestort word.

(3) Artikel 4 van genoemde Wet op die Administrasie van Naturellesake in Suidwes-Afrika, 1954, word hierby gewysig deur subartikels (4) en (5) te skrap.

(4) Hierdie artikel word geag op 1 November 1979 in werking te getree het."

Wysiging van artikel 51 van Proklamasie AG. 8 van 1980

2. Artikel 51 van die Hoofproklamasie word hierby gewysig deur die uitdrukking "en 48" deur die uitdrukking "48 en 48bis" te vervang.

Wysiging van artikel 52 van Proklamasie AG. 8 van 1980, soos gewysig deur artikel 5 van Proklamasie AG. 41 van 1980

3. Section 52 of the principal Proclamation is hereby amended by the insertion in subsection (2) after paragraph (d) of the following paragraph:

“(d)*bis* in the area of Damaraland referred to in paragraph (a) of the said subsection, on the date on which the constitution of a representative authority of the Damaras comes into operation;”.

Short title and commencement

4. This Proclamation shall be called the Representative Authorities Amendment Proclamation, 1981, and shall be deemed to have come into operation on 24 April 1980.

3. Artikel 52 van die Hoofproklamasie word hierby gewysig deur in subartikel (2) na paragraaf (d) die volgende paragraaf in te voeg:

“(d)*bis* in die gebied Damaraland bedoel in paragraaf (a) van genoemde subartikel, op die datum waarop die grondwet van ’n verteenwoordigende owerheid van die Damaras in werking tree;”.

Kort titel en inwerkingtreding

4. Hierdie Proklamasie heet die Wysigingsproklamasie op Verteenwoordigende Owerhede, 1981, en word geag op 24 April 1980 in werking te getree het.
