

**OFFICIAL GAZETTE**  
 EXTRAORDINARY  
 OF SOUTH WEST AFRICA  
 BUITENGEWONE  
**OFFISIËLE KOERANT**  
 VAN SUIDWES-AFRIKA

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**General Notice**

**Algemene Kennisgewing**

**DRAFT CONSTITUENT ASSEMBLY  
 PROCLAMATION**

**KONSEPPROKLAMASIE OP DIE  
 GRONDWETGEWENDE VERGADERING**

No. 91

1989

No. 91

1989

The following Draft Constituent Assembly Proclamation is hereby published for general information and comment. Any comment or representations thereon should be lodged in writing and in duplicate, with the Secretary: Department of Civic Affairs and Manpower, Private Bag 13200, Windhoek, 9000, or at Room 3, Ground Floor, Cohen Building, cor. Kaiser and Kasino Streets, Windhoek, within 21 days from the date of publication of this notice.

Die volgende Konsepproklamasie op die Grondwetgewende Vergadering word hierby vir algemene inligting en kommentaar gepubliseer. Enige kommentaar of versoë daaromtrent moet binne 21 dae vanaf die datum van publikasie van hierdie kennisgewing skriftelik en in duplikaat by die Sekretaris: Departement van Burgersake en Mannekrag, Privaatsak 13200, Windhoek, 9000, of Kamer 3, Grondvloer, Cohengebou, h/v Kaiser en Kasinostraat, Windhoek, ingedien word.

**DRAFT PROCLAMATION**

**KONSEPPROKLAMASIE**

**PROVISION FOR THE ESTABLISHMENT  
 AND POWERS OF A CONSTITUENT ASSEMBLY  
 FOR THE TERRITORY OF SOUTH WEST AFRICA,  
 AND FOR INCIDENTAL MATTERS**

**VOORSIENING VIR DIE INSTELLING EN  
 BEVOEGDHEDE VAN 'N GRONDWETGEWENDE  
 VERGADERING VIR DIE GEBIED SUIDWES-AFRIKA,  
 EN VIR BYKOMSTIGE AANGELEENTHEDE**

*Definitions*

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

- (i) "Assembly" means the Constituent Assembly referred to in section 2; (ix)
- (ii) "Election Proclamation" means the Election (Constituent Assembly) Proclamation, 1989; (x)
- (iii) "member" means an elected member of the Assembly; (iv)
- (iv) "President" means the President of the Assembly; (v)
- (v) "registered party" means a political organization that has registered for an election by complying with the provisions of the Election Proclamation, and has not withdrawn its registration before the closing of the registration court; (iii)
- (vi) "register of voters" means the register of voters referred to in section 15(2) of the Registration Proclamation; (vii)
- (vii) "registered voter" means a person registered as a voter in terms of the registration Proclamation; (ii)
- (viii) "Registration Proclamation" means the Registration of Voters (Constituent Assembly) Proclamation, 1989 (Proclamation AG. 19 of 1989); (vi)
- (ix) "Secretary" means the Secretary of the Assembly referred to in section 14(1); (viii)
- (x) "territory" means the territory of South West Africa. (1)

*Establishment and powers of Constituent Assembly*

2. (1) The persons elected with due regard to the provisions of section 3 of this Proclamation in accordance with the provisions of section 36 of the Election Proclamation shall, subject to the provisions of this Proclamation, be a Constituent Assembly with power to draw up and adopt, subject to the provisions of subsection (2), a consti-

*Woordomskrywings*

1. In hierdie Proklamasie, tensy uit die samehang anders blyk, beteken —

- (i) "gebied" die gebied Suidwes-Afrika; (x)
- (ii) "geregisteerde kieser" 'n persoon wat ingevolge die Registrasieproklamasie as kieser geregistreer is; (vii)
- (iii) "geregisteerde party" 'n politieke organisasie wat vir verkiesing geregistreer het deur aan die bepalings van die Verkiesingsproklamasie te voldoen, en nie sy registrasie voor die sluiting van die sitting van die registrasiehof teruggetrek het nie; (v)
- (iv) "lid" 'n verkose lid van die Vergadering; (iii)
- (v) "President" die President van die Vergadering; (iv)
- (vi) "Registrasieproklamasie" die Proklamasie op die Registrasie van Kiesers (Grondwetgewende Vergadering), 1989 (Proklamasie AG. 19 van 1989); (viii)
- (vii) "register van kiesers" die register van kiesers in artikel 15(2) van die Registrasieproklamasie bedoel; (vi)
- (viii) "Sekretaris" die Sekretaris van die Vergadering in artikel 14(1) bedoel; (ix)
- (ix) "Vergadering" die Grondwetgewende Vergadering in artikel 2 bedoel; (1)
- (x) "Verkiesingsproklamasie" die Verkiesingsproklamasie (Grondwetgewende Vergadering), 1989. (ii)

*Instelling en bevoegdheede van Grondwetgewende Vergadering*

2. (1) Die persone wat met inagneming van die bepalings van artikel 3 van hierdie Proklamasie ooreenkomstig die bepalings van artikel 36 van die Verkiesingsproklamasie verkies word, is, behoudens die bepalings van hierdie Proklamasie, 'n Grondwetgewende Vergadering met die bevoegdheid om, behoudens die bepalings

tution for the territory with a view to its becoming independent as a unitary, sovereign and democratic state in accordance with the provisions of that constitution.

(2) The constitution contemplated in subsection (1) shall —

(a) contain provisions by virtue of which —

- (i) the territory will be a unitary, sovereign and democratic state;
- (ii) the constitution will be the supreme law of the State;

(b) make provision —

- (i) for the establishment of a legislative authority which will be elected by all adult citizens of the territory without discrimination and free from fear of intimidation from any source by way of regular periodic secret ballot and in which the legislative powers of the territory will vest;
- (ii) for the election of an executive authority which will in respect of the exercise or performance of its powers, duties or functions be responsible to the legislative authority;
- (iii) for the recognition of an independent judiciary which will be responsible for the interpretation of the provisions of the constitution and will ensure the supremacy of the constitution and the authority of law, including the fundamental rights of aggrieved individuals;

(c) contain a declaration of fundamental rights which will include —

- (i) the right to life;
- (ii) the right to personal freedom and freedom of movement;
- (iii) the right to freedom of conscience;
- (iv) the right to freedom of expression, including the right of freedom of speech and a free press;

van subartikel (2), 'n grondwet vir die gebied op te stel en aan te neem met die oog op die onafhanklikwording van die gebied ooreenkomstig die bepalings van daardie grondwet as 'n soewereine en demokratiese eenheidstaat.

(2) Die grondwet in subartikel (1) beoog, moet —

(a) bepalings bevat uit hoofde waarvan —

- (i) die gebied 'n soewereine en demokratiese eenheidstaat sal wees;

(b) voorsiening maak —

- (i) vir die instelling van 'n wetgewende gesag wat deur alle volwasse burgers van die gebied sonder diskriminasie en vry van enige vrees vir intimidasie vanuit enige bron by wyse van gereëlde periodieke geheime stemmings verkies sal word en by wie die wetgewende bevoegdheid van die gebied sal berus;
- (ii) vir die verkiesing van 'n uitvoerende gesag wat ten opsigte van die uitoefening of verrigting van sy bevoegdhede, pligte en werksaamhede teenoor die wetgewende gesag verantwoordelik sal wees;
- (iii) vir die erkenning van 'n onafhanklike regsprekende gesag wat vir die vertolking van die bepalings van die grondwet verantwoordelik sal wees en die oppergesag daarvan en die gesag van die reg, met inbegrip van die fundamentele regte van verontregte individue, sal verseker;

(c) 'n verklaring van fundamentele regte bevat wat sal insluit —

- (i) die reg om te lewe;
- (ii) die reg op persoonlike vryheid en op vryheid van beweging;
- (iii) die reg op vrye uiting van gewete;
- (iv) die reg op vrye meningsuiting, met inbegrip van die reg op vryheid van spraak en van 'n vrye pers;

- (v) the right to free assembly and association, including the right to establish trade unions and political parties;
- (vi) the right to equality before the law, without discrimination on the ground of race, ethnic origin, religion or sex;
- (vii) the right to protection against arbitrary deprivation of private property without due compensation;
- (d) contain a prohibition to create offences with retrospective effect or to increase penalties with retrospective effect;
- (e) make provision for the establishment of a balanced structure of the public service, police service and defence services and for equal opportunities for all to be appointed therein and for the establishment of independent bodies which will ensure a fair administration personnel policy in relation to those services;
- (f) make provision for the establishment of elected bodies which will be charged with the administration of matters on a local or regional basis or on a local as well as a regional basis;
- (g) determine a procedure by virtue of which the constitution may be amended, whether by the legislative authority alone or by virtue of a majority decision of all enfranchised citizens determined by way of a referendum.
- (3) The Assembly may submit to the Administrator-General requests, recommendations or proposals as to any course of action it desires to be followed or any steps it desires to be taken with a view to the attainment of independence by the territory as a sovereign state.
- (4) The Administrator-General shall not be obliged to give effect to any request, recommendation or proposal submitted by the Assembly under subsection (3).
- (v) die reg om vryelik te vergader en op vrye assosiasie, met inbegrip van die reg om vakverenigings en politieke partye te stig;
- (vi) die reg op gelykheid voor die reg, sonder diskriminasie op grond van ras, etniese afkoms, godsdiens of geslag;
- (vii) die reg op beskerming teen willekeurige ontneming van private eiendom sonder behoorlike vergoeding;
- (d) 'n verbod om misdrywe met terugwerkende krag in te stel of strawwe met terugwerkende krag te verhoog;
- (e) voorsiening maak vir die instelling van 'n gebalanseerde struktuur van die regeeringsdiens, polisdienste en verdedigingsdienste en vir gelyke geleenthede vir almal om daarin aangestel te word en vir die instelling van onafhanklike liggame wat 'n billike administrasie van personeelbeleid met betrekking tot daardie dienste sal verseker;
- (f) voorsiening maak vir die instelling van verkose liggame wat die administrasie van aangeleenthede op plaaslike of streekgrondslag of op plaaslike sowel as streekgrondslag sal behartig;
- (g) 'n prosedure bepaal uit hoofde waarvan die grondwet gewysig kan word, hetsy deur die wetgewende gesag alleen of op grond van 'n meerderheidsbesluit van alle stemgeregtigde burgers by wyse van 'n referendum bepaal.
- (3) Die Vergadering kan aan die Administrateur-generaal versoeke, aanbevelings of voorstelle voorlê aangaande die gedragslyn wat die Vergadering verlang gevolg moet word of die stappe wat hy verlang gedoen moet word met die oog op die onafhanklikwording van die gebied as 'n soewereine staat.
- (4) Die Administrateur-generaal is nie verplig om aan enige versoek, aanbeveling of voorstel deur die Vergadering kragtens subartikel (3) voorgelê, gevolg te gee nie.

#### *Constituent of Assembly*

3. The Assembly shall consist of 72 members

#### *Samestelling van Vergadering*

3. Die Vergadering bestaan uit 72 lede wat

who shall be persons nominated on a list of candidates by the registered parties elected for that purpose by registered voters at the election held in accordance with the provisions of the Election Proclamation and declared as duly elected in terms of the said Proclamation.

#### *Qualification of members of Assembly*

4. (1) Any person whose name appears on the register of voters and who is of or over the age of twenty-one years and is not subject to a qualification mentioned in subsection (2), shall be qualified to be elected as or to be a member of, the Assembly.

(2) No person shall be qualified to be elected as or to be a member of, the Assembly if he —

- (a) has been convicted of an offence referred to in Schedule 1 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or
- (b) has been convicted of an offence and sentenced to a period of imprisonment of more than twelve months without the option of a fine or ordered to be detained in a rehabilitation centre under any law and such period has not finally ceased to be operative at least three years before the date of the completion of his application to be registered; or
- (c) has been convicted of any corrupt or illegal practice under any electoral law or has been declared unqualified of being registered as a voter or of voting at an election during any period and the said period has not expired; or
- (d) is subject to an order of court declaring him to be of unsound mind or mentally disordered or defective or is lawfully detained as mentally disordered or defective.

(3) For the purposes of paragraphs (a) and (b) of subsection (2) —

- (a) a person who has been granted a free pardon shall be deemed not to have been convicted of the offence in respect of which he has been pardoned; and

persone moet wees wat genomineer is op 'n lys van kandidate deur die geregistreerde partye vir dié doel deur geregistreerde kiesers gekies by die verkiesing ooreenkomstig die bepalings van die Verkiesingsproklamasie gehou en wat ingevolge die bepalings van genoemde Proklamasie as verkose verklaar is.

#### *Kwalifikasies van lede van Vergadering*

4. (1) Enige persoon wie se naam op die register van kiesers verskyn en wat een-en-twintig jaar oud of ouer is, en nie aan 'n in subartikel (2) genoemde onbevoegdheid onderhewig is nie, is bevoeg om as lid van die Vergadering verkies te word of dit te wees.

(2) Niemand is bevoeg om as lid van die Vergadering verkies te word of dit te wees nie, indien hy —

- (a) veroordeel is weens 'n misdryf in Bylae 1 van die Strafproseswet, 1977 (Wet 51 van 1977), bedoel; of
- (b) veroordeel is weens enige misdryf en gevonnissen is tot gevangenisstraf vir 'n tydperk van meer as twaalf maande sonder die keuse van 'n boete of gelas is om aangehou te word in 'n rehabilitasiesentrum kragtens enige wet en sodanige tydperk nie ten minste drie jaar voor die datum van voltooiing van sy aansoek om geregistreer te word finaal ten einde geloop het nie; of
- (c) veroordeel was weens enige korrupte of onwettige handeling kragtens enige kieswet of onbevoeg verklaar is om as kieser geregistreer te word of om te stem tydens 'n verkiesing gedurende enige tydperk en sodanige tydperk nog nie verstryk het nie; of
- (d) onderhewig is aan 'n hofbevel wat hom as geestelik gekrenk of verstandelik versteurd of onstabiel verklaar of wettiglik aangehou word as verstandelik versteurd of onstabiel.

3. Vir die doeleindes van paragrawe (a) en (b) van subartikel (2) —

- (a) word 'n persoon wat begenadig is, geag nie veroordeel te gewees het ten opsigte van die misdryf waarvoor hy begenadig was nie; en

(b) a period of imprisonment means the full term of a sentence of imprisonment notwithstanding any suspension or remission of the whole or any portion of such sentence.

(4) Any person who is disqualified to sit as a member and who, while so disqualified and knowing or having reasonable grounds for knowing that he is so disqualified, sits or votes as a member, shall be liable to a penalty of R500 for each day on which he so sits or votes, which may be recovered on behalf of the Treasury of the territory by action in the Supreme Court of South West Africa.

*Vacation of seat by member of Assembly*

5. (1) A member shall vacate his seat —

- (a) if he is convicted of an offence in terms of section 16;
- (b) if he becomes subject to a disqualification referred to section 4(2);
- (c) subject to the rules and options and orders of the Assembly, if he is absent from three consecutive sittings of the Assembly without its leave, and his absence is not condoned by the Assembly;
- (d) if he resigns his seat in writing under his hand addressed to the President;
- (e) if he no longer represents the political party in the Assembly by which he was nominated as a candidate at the election or by which he was nominated in terms of section 6.

(2) The validity of a decision of or any proceedings in the Assembly shall not be affected by the vote or participation of a member who subsequently vacated his seat in terms of subsection (1), or by the fact that a vacancy existed in the Assembly at the time of such decision or proceedings.

(3) When a member vacates for any reason his seat in the Assembly the Assembly shall consist of the remaining members of the Assembly until such time as another person is declared a member in his place in accordance with the provisions of section 6.

(b) beteken 'n tydperk van gevangenisstraf die volle duur van 'n vonnis van gevangenisstraf ongeag enige opskorting of kwytskelding van die geheel of enige gedeelte van sodanige vonnis.

(4) 'n Persoon wat onbevoeg is om as lid sitting te neem en wat, terwyl hy aldus onbevoeg is en weet of redelike gronde het om te weet dat hy aldus onbevoeg is, as lid sitting neem of stem, strafbaar met 'n boete van R500 vir elke dag waarop hy aldus sitting het of stem, wat ten behoeve van die Tesourie van die gebied by wyse van aksie in die Hooggeregshof van Suidwes-Afrika verhaal kan word.

*Ontruiming van setel deur lid van Vergadering*

5. (1) 'n Lid ontruim sy setel —

- (a) indien hy skuldig bevind word aan 'n misdryf ingevolge artikel 16;
- (b) indien hy aan 'n bevoegdheid in artikel 4(2) bedoel, onderhewig word;
- (c) behoudens die reëls en orders van die Vergadering, indien hy van drie agtereenvolgende sittings van die Vergadering afwesig is sonder verlof van die Vergadering, en sy afwesigheid nie deur die Vergadering gekondoneer word nie;
- (d) indien hy deur 'n bedankingsbrief, deur hom onderteken en aan die President gerig, vir sy setel bedank;
- (e) indien hy nie meer die party wat hom as kandidaat by die verkiesing of, wat hom ingevolge artikel 6 genomineer het, in die Vergadering verteenwoordig nie.

(2) Die geldigheid van 'n besluit van of verrigtinge in die Vergadering word nie deur die stem van of deelname deur 'n lid wat daarna sy setel ingevolge subartikel (1) ontruim het, of deur die feit dat daar ten tyde van sodanige besluit of verrigtinge 'n vakature in die Vergadering bestaan het, geraak nie.

(3) Wanneer 'n lid om die een of ander rede sy setel in die Vergadering ontruim bestaan die Vergadering uit die oorblywende lede van die Vergadering tot tyd en wyl 'n ander persoon in sy plek ooreenkomstig die bepalings van artikel 6 as lid verklaar word.

*Filling of casual vacancies in Assembly*

6. (1) A casual vacancy in the Assembly shall be filled in the manner referred to in subsection (2) within 14 days after it has occurred or within such further period as the Administrator-General may approve from time to time.

(2) A vacancy in the Assembly shall, notwithstanding anything to the contrary in any law contained, be filled by the chief electoral officer declaring to be a duly elected member of the Assembly with effect from the date of the declaration, any qualified person who —

- (a) has been nominated in writing for that purpose by the registered party of which the vacating member was a candidate at the election in respect of the Assembly or which had nominated the vacating member under this section; and
- (b) has accepted his nomination in writing.

(3) The chief electoral officer shall forthwith by notice in the *Official Gazette* make known particulars of any declaration referred to in subsection (2).

*Members of Assembly may be paid remuneration and allowances*

7. (1) A member of the Assembly may be paid such remuneration and allowances and may be afforded such facilities as may be determined by the Administrator-General.

(2) The Administrator-General may determine different remuneration, allowances and facilities in respect of members holding different offices in the Assembly.

*Seat in Assembly*

8. Windhoek shall be the seat of the Assembly.

*First meeting of Assembly*

9. (1) The first meeting of the Assembly shall take place on a day and at a time determined by the Administrator-General by proclamation in the *Official Gazette*.

(2) Every member shall, before taking his seat, at the first meeting of the Assembly make

*Vul van toevallige vakatures in Vergadering*

6. (1) 'n Toevallige vakature in die Vergadering moet binne 14 dae nadat dit ontstaan het of binne die verdere tydperk wat van tyd tot tyd deur die Administrateur-generaal goedgekeur word, gevul word op die wyse in subartikel (2) bedoel.

(2) 'n Vakature in die Vergadering word, ondanks andersluidende wetsbepalings, gevul deur die verklaring deur die hoofverkiegingsbeampte, tot behoorlik verkose lid van die Vergadering, met ingang van die datum van die verklaring, van 'n bevoegde persoon wat —

- (a) vir dié doel skriftelik genomineer is deur die geregistreerde party waarvan die uit-tredende lid 'n kandidaat by die verkiesing ten opsigte van die Vergadering was of wat die uittredende lid kragtens hierdie artikel genomineer het; en
- (b) sy nominasie skriftelik aanvaar het.

(3) Die hoofverkiegingsbeampte maak besonderhede van 'n in subartikel (2) bedoelde verklaring onverwyld by kennisgewing in die *Offisiële Koerant* bekend.

*Aan lede van Vergadering kan besoldiging en toelaes betaal word*

7. (1) Aan 'n lid van die Vergadering kan die besoldiging en toelaes betaal word en die geriewe verskaf word wat die Administrateur-generaal bepaal.

(2) Die Administrateur-generaal kan verskillende besoldiging, toelaes en geriewe bepaal ten opsigte van lede wat verskillende ampte in die Vergadering beklee.

*Setel van Vergadering*

8. Windhoek is die setel van die Vergadering.

*Eerste byeenkoms van Vergadering*

9. (1) Die eerste byeenkoms van die Vergadering vind plaas op 'n dag en tyd deur die Administrateur-generaal by proklamasie in die *Offisiële Koerant* bepaal.

(2) Elke lid moet, voordat hy sy sitplek inneem, op die eerste byeenkoms van die Verga-

and subscribe before the Judge President or any other judge of the Supreme Court of South West Africa, and thereafter before the president an oath or solemn affirmation in the following form:

I, A.B., do swear/solemnly affirm to be faithful to the inhabitants of the territory and solemnly promise to perform my duties as a member of the Constituent Assembly to the best of my ability.  
(In case of an oath)

So help me God.

#### *Election of President*

10. (1) At the first meeting of the Assembly, the Administrator-General shall read the proclamation summoning the Assembly, and the Administrator-General shall open the proceedings.

(2) Thereafter the Assembly shall proceed to elect a member as President of the Assembly.

(3) The Administrator-General shall act as chairman until a President is elected, and may adjourn the meeting from time to time as circumstances may require.

(4) A proposal of a candidate for election as President shall be moved in writing by a member and seconded by at least five other members.

(5) If only one candidate is proposed and seconded, he shall be declared by the Administrator-General to be duly elected.

(6) If more than one candidate is proposed and seconded, a vote shall be taken, each member present having one vote and no debate being allowed, and the candidate in whose favour a majority of all the votes cast is recorded, shall be declared by the Administrator-General to be duly elected.

(7) If no candidate receives a majority of all the votes so cast, the candidate or candidates who received the smallest number of votes shall be eliminated and a further vote shall be taken in respect of the remaining candidates, this procedure being repeated as often as may be necessary.

dering voor die Regter-president of 'n ander regter van die Hooggeregshof van Suidwes-Afrika, en daarna voor die President 'n eed of plegtige verklaring in die volgende vorm aflê en onderteken:

Ek, A.B., sweer/beloof plegtig trou aan die inwoners van die gebied en onderneem plegtig om my pligte as lid van die Grondwetgewende Vergadering na my beste vermoë uit te voer.  
(In die geval van 'n eed)

So help my God.

#### *Verkiesing van President*

10. (1) Op die eerste byeenkoms van die Vergadering lees die Administrateur-generaal die proklamasie waarby die Vergadering byeengeroep word, en open die Administrateur-generaal die verrigtinge.

(2) Daarna gaan die Vergadering oor tot die verkiesing van 'n lid as President van die Vergadering.

(3) Die Administrateur-generaal tree as voorsitter op tot 'n President gekies is, en kan die byeenkoms van tyd tot tyd verdaag na vereiste van omstandighede.

(4) Die voorstel van 'n kandidaat vir verkiesing as President moet deur 'n lid skriftelik gedoen en deur minstens vyf ander lede gesekondeer word.

(5) Indien slegs een kandidaat voorgestel en gesekondeer word, word hy deur die Administrateur-generaal as behoorlik verkies verklaar.

(6) Indien meer as een kandidaat voorgestel en gesekondeer word, vind 'n stemming plaas waarby elke lid wat teenwoordig is een stem het en geen debat toegelaat word nie, en word die kandidaat ten gunste van wie 'n meerderheid aangeteken word van al die stemme wat uitgebring is, deur die Administrateur-generaal as behoorlik verkies verklaar.

(7) Indien geen kandidaat 'n meerderheid verkry van al die stemme wat aldus uitgebring is nie, word die kandidaat of candidate wat die minste stemme gekry het, uitgeskakel en word 'n verdere stemming ten opsigte van die oorblywende candidate gehou, en hierdie prosedure word herhaal so dikwels as wat nodig is.



(8) If there are only two candidates, or if only two candidates remain after the elimination of any candidate in terms of subsection (7), and there is an equality of votes between them, neither of them shall be regarded as elected, and the Administrator-General shall adjourn the meeting to a time determined by him.

(9) At the resumed meeting the Administrator-General shall call for fresh proposals of candidates for election as President and, until a President is elected, the provisions of this section, with the exception of subsection (1), shall apply as if the resumed meeting or any further resumed meeting were the first meeting proceeding, as contemplated in subsection (2), to elect a member as President.

(10) If at any stage of the proceedings under this section any member proposes that the voting for the election of a President be by secret ballot, and such proposal is seconded by at least ten other members, the vote shall be taken by secret ballot in such manner as the Administrator-General may think fit.

(11) Unless the Assembly determines otherwise —

- (a) the member elected as President in terms of this section shall hold office as President for as long as he is a member;
- (b) any vacancy in the office of President shall be filled *mutatis mutandis* in accordance with the provisions of this section.

(12) The provisions of this section shall not be construed as prohibiting the election or the designation in some other manner of any vice-president or acting president or other office-bearer of the Assembly.

(13) For the purposes of the filling of any vacancy in the office of President in accordance with the provisions of subsection 11(b) and without derogating from the provisions of that subsection, a reference to the Administrator-General in this section shall be construed as a reference to the Secretary.

#### *Rules and orders of Assembly*

11. (1) The Assembly may make rules and orders with respect to the order and conduct of its business and proceedings.

(8) Indien daar slegs twee kandidate is, of indien slegs twee kandidate oorbly na die uitskakeling van 'n kandidaat ingevolge subartikel (7) en daar 'n staking van stemme tussen hulle is, word geeneen as verkies beskou nie, en verdaag die Administrateur-generaal die byeenkoms tot op 'n tyd deur hom vasgestel.

(9) Op die voortgesette byeenkoms vra die Administrateur-generaal nuwe voorstelle van kandidate vir verkiesing as President en, totdat 'n President verkies is, is die bepalings van hierdie artikel, met uitsondering van subartikel (1), van toepassing asof die voortgesette byeenkoms of 'n verdere voortgesette byeenkoms die eerste byeenkoms was wat, soos in subartikel (2) beoog, tot die verkiesing van 'n President oorgaan.

(10) Indien 'n lid in enige stadium van die verrigtinge kragtens hierdie artikel voorstel dat die stemming vir die verkiesing van 'n President geheim moet wees, en die voorstel deur minstens tien ander lede gesecondeer word, vind die stemming in die geheim plaas op die wyse wat die Administrateur-generaal goed ag.

(11) Tensy die Vergadering anders bepaal —

- (a) beklee die lid wat ingevolge hierdie artikel as President verkies is, die amp van President vir solank as wat hy 'n lid is;
- (b) word 'n vakature in die amp van President *mutatis mutandis* ooreenkomstig die bepalings van hierdie artikel gevul.

(12) Die bepalings van hierdie artikel word nie so uitgelê dat dit die verkiesing of aanwysing op 'n ander wyse van 'n vise-president of waarnemende president of ander ampsbekleeder van die Vergadering verbied nie.

(13) Vir die doeleindes van die vul van 'n vakature vir die amp van President ooreenkomstig die bepalings van subartikel (11)(b), en sonder om afbreuk te doen aan die bepalings van daardie subartikel, word 'n verwysing in hierdie artikel na die Administrateur-generaal uitgelê as 'n verwysing na die Sekretaris.

#### *Reëls en orders van Vergadering*

11. (1) Die Vergadering kan reëls en orders aanneem in verband met die orde en reëling van sy werksaamhede en verrigtinge.

(2) Unless and until the Assembly by any such rule or order provides otherwise, and subject to the provisions of section 10 —

- (a) all meetings of the Assembly shall take place on such times and at such places as may be determined by the Assembly;
- (b) the President or a member designated by him shall preside at any sitting of the Assembly and regulate the conduct of its business and proceedings;
- (c) the Assembly may establish committees to perform such functions as the Assembly may determine;
- (d) the Secretary shall cause such record of the proceedings of the Assembly to be kept as the Assembly may determine.

(3) Subject to the provisions of section 10 —

- (a) the presence of at least 48 members shall be necessary to constitute a sitting of the Assembly for the exercise of its powers;
- (b) all questions in the Assembly shall be determined by a decision of at least 48 members of the Assembly present and voting at a meeting thereof, including the President or other presiding officer.

#### *Freedom of speech*

12. (1) Subject to the rules and orders of the Assembly, there shall be freedom of speech in the Assembly and in any committee of the Assembly.

(2) No member shall be liable to any legal proceedings by reason of his speech or vote in the Assembly or any committee of the Assembly.

#### *Proceedings open to public*

13. Subject to the rules and orders of the Assembly, the proceedings of the Assembly shall be open to the public.

#### *Secretary and other officers of Assembly*

14. (1) The Administrator-General shall, subject to the recommendation of the Assembly,

(2) Tensy en totdat die Vergadering by 'n reël of order in subartikel (1) bedoel anders bepaal, en behoudens die bepalings van artikel 10 —

- (a) vind alle vergaderings van die Vergadering plaas op die tye en plekke wat die Vergadering bepaal;
- (b) sit die President of 'n lid deur hom aangewys op 'n sitting van die Vergadering voor en behartig hy die reëling van die werksaamhede en verrigtinge daarvan;
- (c) kan die Vergadering komitees instel om die werksaamhede te verrig wat die Vergadering bepaal;
- (d) laat die Sekretaris die aantekeninge van die verrigtinge van die Vergadering hou wat die Vergadering bepaal.

(3) Behoudens die bepalings van artikel 10 —

- (a) moet minstens 48 lede aanwesig wees om 'n sitting van die Vergadering vir die uitoefening van sy bevoegdhede bevoeg te maak;
- (b) word alle vrae in die Vergadering beslis deur 'n besluit van minstens 48 lede van die Vergadering wat by 'n vergadering daarvan aanwesig is en stem met inbegrip van die President of ander voorsittende beampte.

#### *Vryheid van spraak*

12. (1) Behoudens die reëls en orders van die Vergadering, is daar vryheid van spraak in die Vergadering en in 'n komitee van die Vergadering.

(2) Geen lid staan bloot aan 'n regsgeeding weens sy uitlatings of stem in die Vergadering of 'n komitee van die Vergadering nie.

#### *Verrigtinge vir publiek toeganklik*

13. Behoudens die reëls en orders van die Vergadering, is die verrigtinge van die Vergadering vir die publiek toeganklik.

#### *Sekretaris en ander beamptes van Vergadering*

14. (1) Behoudens die aanbeveling van die Vergadering, stel die Administrateur-generaal 'n

appoint a person on such conditions as the Administrator-General may determine, or designate a person in the government service made available for that purpose, as the Secretary of the Assembly, who shall perform the functions and duties assigned to him by this Proclamation or by the Assembly or the President.

(2) Subject to the provisions of the State Finance Act, 1982 (Act 1 of 1982), the Secretary shall perform his functions and duties under the control of the President.

(3) The Secretary shall be assisted by officers of the Assembly who shall be persons in the government service made available for that purpose or persons appointed by the Secretary on such conditions as he may determine subject to the provisions of subsection (5).

(4) The Secretary may obtain the services of any person, not being an officer of the Assembly referred to in subsection (3), for the purposes of the Assembly on such conditions as may be determined, subject to the provisions of subsection (5), by agreement with such person.

(5) No condition involving expenditure from the moneys referred to in section 15 shall be determined under subsection (3) or (4) of this section without the prior approval of the Administrator-General.

#### *Finance*

15. The expenditure in connection with the Assembly and the performance by it of its functions shall be defrayed out of moneys appropriated by the Administrator-General for that purpose.

#### *Offences relating to Assembly*

16. Any person who —

- (a) threatens, obstructs or insults a member proceeding to or from the Assembly on account of his conduct in the Assembly, or endeavours by force, insult or menace to compel a member to declare himself in favour of or against any proposition or matter pending or expected to be brought before the Assembly; or

persoon aan op die voorwaardes wat die Administrateur-generaal bepaal, of wys 'n persoon in die regeringsdiens wat vir dié doel beskikbaar gestel is aan, as Sekretaris van die Vergadering, wat die werksaamhede en pligte verrig wat by hierdie Proklamasie of deur die Vergadering of die President aan hom opgedra word.

(2) Behoudens die bepalings van die Wet op Staatsfinansies, 1982 (Wet 1 van 1982), verrig die Sekretaris sy werksaamhede en pligte onder beheer van die President.

(3) Die Sekretaris word bygestaan deur beamptes van die Vergadering wat persone in die regeringsdiens moet wees wat vir dié doel beskikbaar is of persone moet wees wat deur die Sekretaris aangestel is op die voorwaardes wat hy behoudens die bepalings van subartikel (5) bepaal.

(4) Die Sekretaris kan die dienste van enige persoon, wat nie 'n in subartikel (3) bedoelde beampte van die Vergadering is nie, vir die doeleindes van die Vergadering verkry op die voorwaardes wat behoudens die bepalings van subartikel (5) by ooreenkoms met daardie persoon bepaal word.

(5) Geen voorwaarde wat uitgawe uit die in artikel 15 bedoelde gelde meebring, word sonder die voorafgaande goedkeuring van die Administrateur-generaal kragtens subartikel (3) of (4) van hierdie artikel bepaal nie.

#### *Finansies*

15. Die uitgawe in verband met die Vergadering en die verrigting deur hom van sy werksaamhede word betaal uit gelde wat die Administrateur-generaal vir dié doel bewillig.

#### *Misdrywe met betrekking tot Vergadering*

16. Iemand wat —

- (a) 'n lid wat op weg is na of van die Vergadering, of weens sy optrede in die Vergadering, dreig, belemmer of beledig, of poog om 'n lid deur geweld, belediging of bedreiging te dwing om hom ten gunste van of teen 'n voorstel of aangeleentheid te verklaar wat in die Vergadering ahangig is of na verwagting ahangig gemaak sal word; of

- (b) while the Assembly is in sitting, creates or joins in any disturbance or in the vicinity of the Assembly, whereby the proceedings of the Assembly are or are likely to be interrupted, obstructed or disturbed; or
- (c) is guilty of an act or omission which in terms of the rules and orders of the Assembly constitutes contempt of the Assembly; or
- (d) on days when the Assembly is in sitting, uses any form of loudspeaker, otherwise than for official purposes, or who organizes or takes part in any procession of or demonstration by persons, within a radius of two kilometres from the Assembly,

shall be guilty of an offence and liable on conviction to a fine not exceeding R6 000 or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

*Short title*

17. This Proclamation shall be called the Constituent Assembly Proclamation, 1989.

- (b) terwyl die Vergadering in sitting is, 'n steurnis in of in die nabyheid van die Vergadering veroorsaak of daaraan deelneem, waardeur die verrigtinge van die Vergadering onderbreek, belemmer of versteur word of waarskynlik onderbreek, belemmer of versteur sal word; of
- (c) hom skuldig maak aan 'n handeling of versuim wat ingevolge die reëls en orders van die Vergadering minagting van die Vergadering uitmaak; of
- (d) op dae wat die Vergadering in sitting is, uitgesonderd vir amptelike doeleindes, enige vorm van luidspreker gebruik of wat enige optog van of betoging deur persone reël of daaraan deelneem binne 'n radius van twee kilometer vanaf die Vergadering,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R6 000 of met gevangenisstraf vir 'n tydperk van hoogstens drie jaar of met sowel daardie boete as daardie gevangenisstraf.

*Kort titel*

17. Hierdie Proklamasie heet die Proklamasie op die Grondwetgewende Vergadering, 1989.

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