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OF SOUTH WEST AFRICA

BUITENGEWONE

OFFISIËLE KOERANT

VAN SUIDWES-AFRIKA

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PROCLAMATION

PROKLAMASIE

by the

van die

ADMINISTRATOR-GENERAL FOR THE TERRITORY OF SOUTH WEST AFRICA

AMINISTRATEUR-GENERAAL VIR DIE GEBIED SUIDWES-AFRIKA

(Approved by the State President on 6 June 1989)

(Deur die Staatspresident goedgekeur op 6 Junie 1989)

No. AG. 14 1989

No. AG. 14 1989

REPEAL OF LAWS WHICH MAY ABRIDGE OR INHIBIT THE OBJECTIVE OF A FREE AND FAIR ELECTION FOR A CONSTITUENT ASSEMBLY, AND AMENDMENT OF CERTAIN LAWS IN SO FAR AS THEY MAY ABRIDGE OR INHIBIT SUCH OBJECTIVES

HERROEPING VAN WETTE WAT DIE OOGMERK VAN 'N VRYE EN REGVERDIGE VERKIESING VIR 'N GRONDWETGEWENDE VERGADERING KAN VERHINDER OF BEPERK, EN WYSIGING VAN SEKERE WETTE VIR SOVER DIT SODANIGE OOGMERK KAN VERHINDER OF BEPERK

WHEREAS a constituent assembly is to be elected for the territory of South West Africa in a free and fair election;

NADEMAAL 'n grondwetgewende vergadering in 'n vrye en regverdige verkiesing vir die gebied Suidwes-Afrika verkies moet word;

AND WHEREAS I am called upon –

to repeal all laws which are of such a discriminatory or restrictive nature that they may abridge or inhibit the objective of a free and fair election or to amend laws of that nature in so far as they may abridge or inhibit that objective; and

to ensure that all laws which are in force in the territory of South West Africa shall not be applied by way of executive or administrative acts or measures or otherwise that such objective will thereby be abridged or inhibited;

AND WHEREAS I have identified certain laws which may abridge or inhibit such objective;

AND WHEREAS I foresee that further laws which may abridge or inhibit such objective may still be identified;

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

L.A. PIENAAR

Administrator-General

Windhoek, 6 June 1989

EN NADEMAAL ek geroepe is –

om alle wette wat van so 'n diskriminerende of beperkende aard is dat dit die oogmerk van 'n vrye en regverdigte verkiesing kan verhinder of beperk, te herroep of wette van daardie aard te wysig in die mate waarin dit bedoelde oogmerk kan verhinder of beperk; en

om te verseker dat alle wette wat in die gebied Suidwes-Afrika van krag is, nie by wyse van uitvoerende of administratiewe handeling of maatreëls of andersins toegepas word dat bedoelde oogmerk daardeur verhinder of beperk sal word nie;

EN NADEMAAL ek sekere wette geïdentifiseer het wat bedoelde oogmerk kan verhinder of beperk;

EN NADEMAAL ek voorsien dat verdere wette wat bedoelde oogmerk kan verhinder of beperk, steeds geïdentifiseer kan word;

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

L.A. PIENAAR

Administrateur-generaal

Windhoek, 6 Junie 1989

SCHEDULE

Repeal and amendment of certain laws

1. The laws specified in the Annexure which have been identified to be of such a discriminatory or restrictive nature that they may abridge or inhibit the objective of a free and fair election for the constitution of a constituent assembly for the territory of South West Africa, are hereby repealed or amended to the extent indicated in the third column of the Annexure.

Further repeal or amendment of laws

2. (1) Any person having an interest in the election referred to in section 1 who is of the opinion that any provision of any law which is in force in the territory of South West Africa, is of such a discriminatory or restrictive nature that it may abridge or inhibit the objective referred to in that

BYLAE

Herroeping en wysiging van sekere wette

1. Die wette vermeld in die Aanhangel wat geïdentifiseer is om van so 'n diskriminerende of beperkende aard te wees dat dit die oogmerk van 'n vrye en regverdigte verkiesing vir die samestelling van 'n grondwetgewende vergadering vir die gebied Suidwes-Afrika kan verhinder of beperk, word hierby herroep of gewysig in die mate in die derde kolom van die Aanhangel uiteengesit.

Verdere herroeping of wysiging van wette

2. (1) 'n Persoon wat 'n belang het by die verkiesing in artikel 1 bedoel en wat van oordeel is dat die een of ander bepaling van 'n wet wat in die gebied Suidwes-Afrika van krag is, van so 'n diskriminerende of beperkende aard is dat dit die oogmerk in daardie artikel bedoel, kan verhinder of beperk,

section, may at any time in writing and specifying the grounds on which his opinion is based, request the Administrator-General to repeal or amend such a law in so far as it may abridge or inhibit such objective.

(2) The Administrator-General shall consider a request made to him under subsection (1) as soon as possible, but not later than 21 days after receipt of such request, and shall –

- (a) if he is of the opinion that the law specified in the request is of such a discriminatory or restrictive nature that it may abridge or inhibit the said objective, forthwith repeal or amend, subject to the provisions of section 38(2) of the South West Africa Constitution Act, 1968 (Act No. 39 of 1968), such a law in so far as that law may in his opinion abridge or inhibit such objective;
- (b) if he is of the opinion that the law specified in the request is not of such a discriminatory or restrictive nature, as soon as possible notify the person concerned of his decision and of the reasons for that decision.

Application of laws

3. (1) Any person having an interest in the election referred to in section 1 who is of the opinion that any person who –

- (a) is in the government service mentioned in section 2 of the Government Service Act, 1980 (Act No. 2 of 1980);
- (b) is in the employment of a municipality established under section 2 of the Municipal Ordinance, 1963 (Ordinance No. 13 of 1963);
- (c) is in the employment of a village management board established under section 3 of the Village Management Boards Ordinance, 1963 (Ordinance No. 14 of 1963);
- (d) is in the employment of the Peri-Urban Development Board established by section 2 of

kan die Administrateur-generaal te eniger tyd skriftelik en met vermelding van die gronde waarop sy oordeel gegrond is, versoek om so 'n wet te herroep of te wysig in die mate waarin dit bedoelde oogmerk kan verhinder of beperk.

(2) Die Administrateur-generaal moet so gou doenlik, maar nie later nie as 21 dae na die datum van ontvangs van 'n versoek wat kragtens subartikel (1) aan hom gerig is, bedoelde versoek oorweeg, en moet –

- (a) indien hy van oordeel is dat 'n wet in die versoek vermeld van so 'n diskriminerende of beperkende aard is dat dit genoemde oogmerk kan verhinder of beperk, so 'n wet, behoudens die bepalinge van artikel 38(2) van die Wet op die Konstitusie van Suidwes-Afrika, 1968 (Wet No. 39 van 1968), onverwyld herroep of wysig in die mate waarin daardie wet na sy oordeel bedoelde oogmerk kan verhinder of beperk;
- (b) indien hy van oordeel is dat 'n wet in die versoek vermeld, nie van so 'n diskriminerende of beperkende aard is nie, die betrokke persoon so gou doenlik van sy besluit en van die redes vir daardie besluit verwittig.

Toepassing van wette

3.(1) 'n Persoon wat 'n belang het by die verkiesing in artikel 1 bedoel en wat van oordeel is dat 'n persoon wat –

- (a) in die regeringsdiens vermeld in artikel 2 van die Regeringsdienswet, 1980 (Wet No. 2 van 1980), is;
- (b) in diens is van 'n munisipaliteit kragtens artikel 2 van die Munisipale Ordonnansie, 1963 (Ordonnansie No. 13 van 1963), ingestel;
- (c) in diens is van 'n dorpsbestuur kragtens artikel 3 van die Ordonnansie op Dorpsbesture, 1963 (Ordonnansie No. 14 van 1963), ingestel;
- (d) in diens is van die Raad vir Buitestedelike Ontwikkeling by artikel 2 van die Ordon-

the Peri-Urban Development Board Ordinance, 1970 (Ordinance No. 19 of 1970);

- (e) is in the employment of any commission, board, corporation, committee, body or other institution established by or under any law,

has taken any decision or performed any act or has failed to take any decision or to perform any act by virtue of any provision of any law which is in force in the territory of South West Africa or by virtue of the fact that he is in such government service or is so employed, in such a manner that the objective referred to in section 1 is thereby abridged or inhibited, may at any time in writing and specifying the grounds on which his opinion is based, lay the matter before the person holding the office of Ombudsman by virtue of an appointment under section 3 of the Ombudsman for South West Africa Act, 1986 (Act No. 26 of 1986).

(2) The Ombudsman shall *mutatis mutandis* in accordance with the provisions of the said Ombudsman for South West Africa Act, 1986, enquire into, and report to the Administrator-General on, any matter laid before him in terms of subsection (1) as if it is a matter that had been laid before him in terms of the said Act, and may make such recommendations as he may deem necessary or expedient in the circumstances.

(3) If it appears from a report submitted in terms of subsection (2) that any decision, act or failure referred to in subsection (1) is of such a nature that it abridges or inhibits or may abridge or inhibit the said objective, the Administrator-General shall take such steps as he may deem necessary or expedient in order to ensure that such objective is not so abridged or inhibited.

(4) The provisions of this section shall not be construed as prohibiting any person from instituting any judicial proceedings in the Supreme Court of South West Africa whereby an order is sought that any decision, act or failure referred to in subsection (1) is reviewed and corrected or set aside or whereby any other relief is granted on the ground thereof that such a decision, act or failure is unlawful.

nansie op die Raad vir Buitestedelike Ontwikkeling, 1970 (Ordonnansie No. 19 van 1970), ingestel;

- (e) in diens is van die een of ander kommissie, raad, korporasie, komitee, liggaam of ander instelling by of kragtens die een of ander wet ingestel,

uit hoofde van die een of ander bepaling van 'n wet wat in die gebied Suidwes-Afrika van krag is of uit hoofde van die feit dat hy in bedoelde regeringsdiens of aldus in diens is, op so 'n wyse 'n besluit geneem het of 'n handeling verrig het of nagelaat het om 'n besluit te neem of 'n handeling te verrig dat die oogmerk in artikel 1 bedoel, daardeur verhinder of beperk word, kan te eniger tyd skriftelik en met vermelding van die gronde waarop sy oordeel gegrond is, die aangeleentheid aanhangig maak by die persoon wat uit hoofde van 'n aanstelling kragtens artikel 3 van die Wet op die Ombudsman vir Suidwes-Afrika, 1986 (Wet No. 26 van 1986), die amp van Ombudsman bekleed.

(2) Die Ombudsman moet *mutatis mutandis* ooreenkomstig die bepalings van genoemde Wet op die Ombudsman vir Suidwes-Afrika, 1986, ondersoek instel na, en aan die Administrateur-generaal verslag doen oor, die aangeleentheid wat ingevolge subartikel (1) by hom aanhangig gemaak is asof dit 'n aangeleentheid is wat ingevolge daardie Wet by hom aanhangig gemaak is, en kan die aanbevelings doen wat hy in die omstandighede nodig of dienstig ag.

(3) Indien dit uit 'n verslag voorgelê ingevolge subartikel (2) blyk dat 'n besluit, handeling of versuim in subartikel (1) bedoel, van so 'n aard is dat dit genoemde oogmerk verhinder of beperk of kan verhinder of beperk, moet die Administrateur-generaal die stappe doen wat hy nodig of dienstig ag ten einde te verseker dat bedoelde oogmerk nie aldus verhinder of beperk word nie.

(4) Die bepalings van hierdie artikel word nie so uitgelê nie dat dit enige persoon belet om geregtelike verrigtinge in die Hooggeregshof van Suidwes-Afrika in te stel nie waarby 'n bevel gevra word dat 'n besluit, handeling of versuim in subartikel (1) bedoel, hersien en reggestel of ter syde gestel word of waarby enige ander gepaste regshulp verleen word op grond daarvan dat so 'n besluit, handeling of versuim regtens ongeoorloof is.

Application of certain laws relating to aliens

4. For the purposes of any law relating to aliens any person who is the child or spouse of any person born in the territory of South West Africa shall be deemed not to be an alien, as referred to in such a law.

Short title

5. This Proclamation shall be called the First Law Amendment (Abolition of Discriminatory or Restrictive Laws for purposes of Free and Fair Election) Proclamation, 1989.

Toepassing van sekere wette betreffende vreemdelinge

4. By die toepassing van die een of ander wet wat op vreemdelinge betrekking het, word 'n persoon wat die kind of eggenoot is van 'n persoon wat in die gebied Suidwes-Afrika gebore is, geag nie 'n vreemdeling, soos in so 'n wet bedoel, te wees nie.

Kort titel

5. Hierdie Proklamasie heet die Eerste Regswy-sigingsproklamasie (Afskaffing van Diskriminerende of Beperkende Wette vir doeleindes van Vrye en Regverdige Verkiesing), 1989.

ANNEXURE
LAWS REPEALED OR AMENDED
(Section 1)

Column 1	Column 2	Column 3
No. and year of law	Title of law	Extent to which repealed or amended
Proclamation No. 3 of 1917 of the Admini- strator of the Territory of South West Africa	Control and Treat- ment of Natives on Mines and Works	The repeal of the whole
Proclamation No. 6 of 1919 of the Admini- strator of the Territory of South West Africa	Native Locations (Entry of Europeans) Proclamation, 1919	The repeal of the whole
Proclamation No. 6 of 1924 of the Admini- strator of the Territory of South West Africa	Natives employed on Mines and Works	The repeal of the whole

Proclamation No. 6 of 1925 of the Administrator of the Territory of South West Africa	Native Labour Regulation Proclamation, 1925	The repeal of the whole
Proclamation No. 15 of 1928 of the Administrator of the Territory of South West Africa	Native Administration Proclamation, 1928	<p>(a) The amendment of section 1 -</p> <p>(i) by the deletion in paragraph (b) of the words "found guilty of any political offence, or"; and</p> <p>(ii) by the deletion of paragraph (e); and</p> <p>(b) the repeal of section 26, in so far as it relates to section 17(1)(k) of Proclamation No. 3 of 1917</p>
Proclamation No. 33 of 1929 of the Administrator of the Territory of South West Africa	Native Labour Regulation (Mines and Works) Proclamation, 1929	The repeal of the whole
Proclamation No. 35 of 1930	Native Labour Regulation (Mines and	The repeal of the whole

of the Admini- Works) Amendment
 strator of the Proclamation, 1930
 Territory of
 South West
 Africa

Proclamation Native Labour Regu- The repeal of the whole
 No. 27 of 1931 lation Amendment
 of the Admini- Proclamation, 1931
 strator of the
 Territory of
 South West
 Africa

Ordinance No. Criminal Law Amend- The repeal of the whole
 13 of 1933 of ment Ordinance, 1933
 the Legislative
 Assembly of the
 Territory of
 South West
 Africa

Proclamation Native Labour Regu- The repeal of the whole
 No. 16 of 1935 lation (Mines and
 of the Admini- Works) Amendment
 strator of the Proclamation, 1935
 Territory of
 South West
 Africa

Proclamation South West Africa The repeal of the whole
 No. 51 of 1937 Affairs Proclama-
 of the Gover- tion, 1937
 nor-General of
 the Union of

South Africa

- Proclamation. Native Labour Regu- The repeal of the whole
 No. 4 of 1939 ,lations (Mines and
 of the Admini- Works) Amendment
 strator of the Proclamation, 1939
 Territory of
 South West
 Africa
- Act No. 44 of Internal Security The repeal of the whole
 1950 of the Act, 1950
 Parliament of
 the Republic of
 South Africa
- Act No. 3 of Public Safety Act, The repeal of the whole
 1953 of the 1953
 Parliament of
 the Republic of
 South Africa
- Act No. 17 of Riotous Assemblies (a) The repeal of section 2;
 1956 of the Act, 1956. (b) the amendment of section
 Parliament of 4 by the deletion of the
 the Republic of expression "section 2(4)
 South Africa or";
 (c) the amendment of section
 5 by the deletion of the
 expression "2 or";
 (d) the repeal of section 6;
 and

(e) the amendment of section
7 -

(i) by the deletion of
paragraph (a) of
subsection (1); and

(ii) by the deletion in
paragraph (b) of
subsection (1) of the
words "(whether or
not the gathering has
been so prohibited)".

Act No. 44 of Defence Act, 1957
1957 of the
Parliament of
the Republic of
South Africa

(a) The amendment of section
3 by the deletion of sub-
section (1);

(b) the repeal of Chapters IV,
V and VI;

(c) the amendment of section
56 by the addition of the
following subsection:

" (4) The provisions of
this section shall not be
construed that any person
may be required to undergo
training as a cadet.";

(d) the repeal of section 57;

- (e) the repeal of Chapter VIII;
- (f) the repeal of Chapter IX, except in so far as it relates to the payment of salaries, pay and allowances of members of auxiliary services who are such members immediately before the commencement of this Proclamation;
- (g) the repeal of sections 103bis, 103ter and 103quat; and
- (h) the amendment of section 118 by the deletion of paragraph (b) of subsection (1).

Act No. 44 of Post Office Act, The amendment of section 118A -
1958 of the 1958

Parliament of
the Republic of
South Africa

- (a) by the substitution in

subsection (1) for the words "Minister or a Minister who is a member of the State Security Council established under the Security Intelligence and State Security Act, 1972, or an officer delegated thereto by the Minister" of the word "Administrator-General";

(b) by the substitution in paragraph (a) of subsection (2) for the words "said State Security Council" of the word "Administrator-General";

(c) by the substitution in paragraph (a) of subsection (3) for the word "A", where it occurs for the first time, of the word "The";

- (d) by the insertion of the following paragraph after paragraph (a) of subsection (3):

"(aA) The functionary shall not issue a direction under subsection (1) for the interception of any postal article, telegram or communication to or from any person who is entitled to vote at any election or to be registered as a political party or to be a candidate at such election in order to obtain knowledge of anything in connection with such a person's or candidate's political views or the election campaign of such political party or candidate."

- (e) by the deletion in paragraph (b) of subsection (3) of the words "or, if he is not available, any other functionary"; and
- (f) by the substitution in

subsection (4) for the word "a", where it occurs for the first time, of the word "the".

- | | | |
|--|---|---|
| Act No. 34 of 1960 Parliament of the Republic of South Africa | Unlawful Organizations Act, 1960 | The repeal of the whole |
| Act No. 76 of 1962 Parliament of the Republic of South Africa | General Law Amendment Act, 1962 | The repeal of the whole |
| Proclamation No. 148 of 1962 President of the Republic of South Africa | Deportation of Undesirable Persons from South West Africa | The repeal of the whole |
| Act No. 37 of 1963 Parliament of the Republic of South Africa | General Law Amendment Act, 1963 | The repeal of sections 3, 4, 5, 6, 7, 14, 15, 16 and 17 |
| Act No. 62 of 1966 Parliament of the Republic of | General Law Amendment Act, 1966 | The repeal of sections 3, 4, 5, 6, 22 and 23 |

South Africa

Act No. 83 of 1967 of the Parliament of the Republic of South Africa	Terrorism Act, 1967	The repeal of the whole
Ordinance No. 21 of 1975 of the Legislative Assembly for the Territory of South West Africa	Education Ordinance, 1975	The amendment of section 78 by the deletion of subsection (2)
Act No. 42 of 1974 of the Parliament of the Republic of South Africa	Publications Act, 1974	The amendment of section 47 by the deletion in paragraph (e) of subsection (2) of the words "safety of the State"
Proclamation AG. 9 of 1977	Security Districts Proclamation, 1977	The repeal of the whole
Proclamation AG. 26 of 1978	Detention for the Prevention of Political Violence and Intimidation Proclamation, 1978	The repeal of the whole
Proclamation AG. 34 of 1978	Security Districts Amendment Proclamation, 1978	The repeal of the whole

Proclamation AG. 26 of 1979 Detention for the Prevention of Political Violence and Intimidation Amendment Proclamation, 1979 The repeal of the whole

Act No. 9 of 1979 of the National Assembly of South West Africa Security Districts Amendment Act, 1979 The repeal of the whole

Proclamation AG. 23 of 1979 Security Districts Amendment Proclamation, 1979 The repeal of the whole

Proclamation AG. 27 of 1979 Second Security Districts Amendment Proclamation, 1979 The repeal of the whole

Proclamation AG. 3 of 1980 Amnesty Proclamation, 1980 The repeal of the whole

Proclamation AG. 11 of 1980 Security Districts Amendment Proclamation, 1980 The repeal of the whole

Act No. 20 of Security Districts The repeal of the whole

1980 of the Amendment Act, 1980
National Assem-
bly of South
West Africa

Proclamation Second Security Dis- The repeal of the whole
AG. 59 of 1980 tricts Amendment
Proclamation, 1980

Proclamation Defence Matters in The repeal of the whole
131 of 1980 of South West Africa
the State Pre- Proclamation, 1980
sident of the
Republic of
South Africa

Proclamation Second Defence Mat- The repeal of the whole
198 of 1980 of ters in South West
the State Pre- Africa Proclamation,
sident of the 1980
Republic of
South Africa

Act No. 20 of Security Districts The repeal of the whole
1981 of the Amendment Act, 1981
National Assem-
bly of South
West Africa

Act No. 22 of Prohibition and No- The repeal of the whole
1981 of the tification of Mee-
National Assem- tings Act, 1981
bly of South
West Africa

Proclamation AG. 14 of 1983	State Council for South West Africa Proclamation, 1983	The repeal of the whole
Proclamation AG. 5 of 1985	Defence Matters in South West Africa Amendment Proclama- tion, 1985	The repeal of the whole
Proclamation AG. 8 of 1985	Security Districts Amendment Proclama- tion, 1985	The repeal of the whole
Act No. 33 of 1985 of the National Assem- bly	Residence of Certain Persons in South West Africa Regula- tion Act, 1985	The amendment of - (a) section 3 by the substitu- tion for paragraph (a) of subsection (2) of the following paragraph: "(a) who was born in the territory or who is the natural child or the spouse of such a person;" and (b) section 9 by the substi- tution in paragraph (a) of subsection (1) for the expression "3(2)(d) or (e) or any person born in the territory" of the expres-

sion "3(2)(a), (d) or (e)".

Proclamation Defence Matters in The repeal of the whole
204 of 1986 of South West Africa
the State Pre- Amendment Proclama-
sident of the tion, 1986
Republic of
South Africa

Act No. 16 of Protection of Funda- (a) The repeal of section 2;
1988 of the mental Rights Act, and
National Assem- 1988
bly

(b) the amendment of section
3 by the substitution for
the words following on
subparagraph (iv) of para-
graph (e) of the following
words:

"shall be guilty of an
offence and liable on
conviction to a fine not
exceeding R20 000 or to
imprisonment for a period
not exceeding 10 years or
to both such fine and such
imprisonment."