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DEPARTEMENT VAN DIE EERSTE MINISTER

No. 483. 15 Maart 1978.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 12 van 1978: Wysigingswet op Bantowetgewing, 1978.

DEPARTMENT OF THE PRIME MINISTER

No. 483. 15 March 1978.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 12 of 1978: Bantu Laws Amendment Act, 1978.

BANTU LAWS AMENDMENT ACT, 1978.

Act No. 12, 1978

GENERAL EXPLANATORY NOTE:

[Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Bantu Administration Act, 1927, so as to extend the jurisdiction of a Bantu Affairs Commissioner's Court in respect of garnishee orders; to amend the Bantu (Urban Areas) Consolidation Act, 1945, so as to extend exemption from the operation of section 12 of the said Act, further define the expression "idle person", regulate the suspension of certain orders, further regulate certain enquiries in regard to the summoning of assessors, and provide for the granting of exemptions from the provisions of the said Act; to amend the Bantu (Abolition of Passes and Co-ordination of Documents) Act, 1952, so as to further regulate the issue of reference books and identity documents; to amend the Promotion of Bantu Self-government Act, 1959, so as to further regulate the appointment of commissioners-general; to repeal section 16 of the Bantu Labour Act, 1964; to amend the said Act so as to extend exemption from the operation of section 26 thereof; to amend the Promotion of the Economic Development of Bantu Homelands Act, 1968, so as to further regulate the indemnification of certain persons against loss; to repeal section 46 of the Bantu Taxation Act, 1969; to amend the Bantu Homelands Constitution Act, 1971, so as to further regulate the withdrawal of moneys from a revenue fund and the auditing of accounts, regulate the creation of new paramount chieftainships and chieftainships, provide for extension of the powers of legislative assemblies, and regulate the exercise of their legislative powers in respect of tribes and office-bearers therein; to regulate certain matters in areas excised from Bantu areas; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)
(Assented to 7 March 1978.)*

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

1. Section 10 of the Bantu Administration Act, 1927, is hereby amended by the substitution for subsection (6) of the following subsection:

“(6) Notwithstanding the provisions of subsection (1) a Bantu Affairs Commissioner's Court may issue an order for the attachment of—

10 (a) any debt which is or becomes due to the judgment debtor also by a person who is not a Bantu;

(b) any emoluments which are or become due to the judgment debtor also by the State or a person who is not a Bantu.”

Amendment of section 10 of Act 38 of 1927, as amended by section 5 of Act 9 of 1929, section 3 of Act 21 of 1943, section 21 of Act 56 of 1949, section 3 of Act 79 of 1957 and section 2 of Act 70 of 1974.

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2. Section 12 of the Bantu (Urban Areas) Consolidation Act, 1945, is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

Amendment of section 12 of Act 25 of 1945, as substituted by section 50 of Act 42 of 1964.

5 “(1) Notwithstanding the provisions of section 10 but subject to the provisions of section 13, a Bantu **[not born in the Republic or in the territory of South-West Africa]** who is not a South African citizen, or who is not a former
10 South African citizen who is a citizen of a state the territory or part of the territory of which formerly formed part of the Republic, shall not enter, be or remain in a prescribed area, and no person shall employ or continue to employ any such Bantu within such an area: Provided that—”.

3. Section 29 of the Bantu (Urban Areas) Consolidation Act, 1945, is hereby amended—

Amendment of section 29 of Act 25 of 1945, as substituted by section 61 of Act 42 of 1964.

15 (a) by the substitution for subparagraph (i) of paragraph (a) of subsection (2) of the following subparagraph:

20 “(i) though capable of being employed, is **[normally unemployed]** not lawfully employed and has, for a period, or for periods in the aggregate, of not less than 122 days during the preceding twelve months, not been lawfully employed and is not *bona fide* engaged in any business, trade, profession or other remunerative activity for which he is in terms of any law licensed or registered with the authority of a labour bureau: Provided that this subparagraph shall not apply in the case of a Bantu who is registered as a work seeker and was not lawfully offered employment in the preceding 122 days or who is a pupil or student at an educational institution, or who, having completed a course of study at one institution, is awaiting admission to another institution; or”;

25 (b) by the substitution for subsection (10) of the following subsection:

30 “(10) Any Bantu Affairs Commissioner having jurisdiction in the area in question may, if a sound reason exists therefor, suspend the execution of any warrant or order issued in terms of subsection (7) for any period and on any conditions determined by him: Provided that the fact that such a warrant or order so issued against a Bantu is the first such warrant or order so issued against him, shall not in itself be regarded as such a sound reason.”; and

35 (c) by the substitution for paragraph (c) of subsection (14) of the following paragraph:

40 “(c) shall keep a record of the proceedings and may, in his discretion, summon **[to his assistance]** Bantu **[or an urban Bantu council established under subsection (1) of section two of the Urban Bantu Councils Act, 1961 (Act No. 79 of 1961),]** to sit as assessors with him and to assist him in an advisory capacity.”.

4. Section 38 of the Bantu (Urban Areas) Consolidation Act, 1945, is hereby amended by the insertion after paragraph (k) of subsection (1) of the following paragraph:

Amendment of section 38 of Act 25 of 1945, as substituted by section 67 of Act 42 of 1964 and amended by section 8 of Act 4 of 1976.

45 “(kA) the manner and circumstances in which a Bantu or a group or category of Bantu may be exempted from any of or all the provisions of this Act.”.

5. The following section is hereby inserted in the Bantu (Urban Areas) Consolidation Act, 1945, after section 41:

Insertion of section 41A in Act 25 of 1945.

“Exemptions by Minister.

41A. The Minister may in his discretion exempt any Bantu or any group or category of Bantu from any of or all the provisions of this Act and may likewise withdraw any such exemption.”.

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6. Section 3 of the Bantu (Abolition of Passes and Co-ordination of Documents) Act, 1952, is hereby amended—

(a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

5 “(b) (i) if that Bantu **[was born in the Republic or the territory of South-West Africa]** is a South African citizen, issue to him a reference book in which shall be recorded the appropriate prescribed particulars relating to that Bantu; or

10 (ii) if that Bantu **[was not born in the Republic or the territory of South-West Africa]** is not a South African citizen, issue to him, in lieu of such a book as is contemplated in subparagraph (i), an identity document.”; and

15 (b) by the substitution for paragraph (b) of subsection (1) *bis* of the following paragraph:

20 “(b) who **[was not born in the Republic or the territory of South-West Africa]** is not a South African citizen, and who enters **[the Republic or the said territory]** or has after the thirtieth day of June, 1963 entered the Republic;”.

Amendment of section 3 of Act 67 of 1952, as amended by section 12 of Act 79 of 1957, section 15 of Act 76 of 1963, section 84 of Act 42 of 1964 and section 7 of Act 119 of 1977.

7. Section 6 of the Bantu (Abolition of Passes and Co-ordination of Documents) Act, 1952, is hereby amended by the substitution in subsection (3) for the words preceding paragraph (a) of the following words:

25 “(3) Whenever it comes to the notice of a Bantu Affairs Commissioner or an officer referred to in subsection (2) that a reference book has been issued to a Bantu who is not

30 **[born in the Republic or the territory of South-West Africa]** a South African citizen and that such Bantu is or is required to be in possession of a passport, permit, document of identity or other travel document referred to in the Admission of Persons to the Republic Regulation Act, 1972 (Act No. 59 of 1972), he may—”

35

Amendment of section 6 of Act 67 of 1952, as amended by section 14 of Act 79 of 1957 and section 17 of Act 76 of 1963.

8. Section 12 of the Bantu (Abolition of Passes and Co-ordination of Documents) Act, 1952, is hereby amended by the substitution for paragraph (e) of subsection (1) of the following paragraph:

40 “(e) the surrender, disposal or seizure of reference books relating to deceased Bantu or to Bantu departing from the Republic, other than Bantu **[born in the Republic or the territory of South-West Africa]** who are South African citizens, or to Bantu in possession of passports, permits, documents of identity or other travel documents referred to in the Admission of Persons to the Republic Regulation Act, 1972 (Act No. 59 of 1972);”.

45

Amendment of section 12 of Act 67 of 1952, as amended by section 21 of Act 79 of 1957, section 22 of Act 76 of 1963, section 86 of Act 42 of 1964 and section 8 of Act 119 of 1977.

9. Section 2 of the Promotion of Bantu Self-government Act, 1959, is hereby amended by the substitution for subsection (2) of the following subsection:

50 “(2) The State President shall appoint a commissioner-general in respect of

55 (a) the North-Sotho unit;

(b) the Tswana and South-Sotho units;

(c) the Venda and Tsonga units;

(d) the Xhosa unit; and

(e) the Zulu and Swazi units,

60 each of the units mentioned in subsection (1) but [and] may, at any time whenever he deems it necessary or expedient, and instead of appointing a commissioner-general in respect of each of such units, appoint [a separate commissioner-general] a commissioner-general in respect

Amendment of section 2 of Act 46 of 1959.

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of **[each of] two or more** of the said units **[referred to in paragraph (b), (c) or (e)]**."

10. Section 16 of the Bantu Labour Act, 1964, is hereby repealed.

Repeal of section 16 of Act 67 of 1964.

5 11. Section 26 of the Bantu Labour Act, 1964, is hereby amended by the substitution for subsection (1) of the following subsection:

Amendment of section 26 of Act 67 of 1964.

10 "1) A Bantu **[not born in the Republic or in the territory of South-West Africa]** who is not a South African citizen or a citizen of a state the territory or part of the territory of which formerly formed part of the Republic, shall not enter, be or remain in any part of any district outside a prescribed area, and no person shall employ or continue to employ any such Bantu within any such part of any district without the written permission of the Secretary or a person authorized thereto by him, who may impose such conditions as he may deem fit."

12. The following section is hereby substituted for section 7A of the Promotion of the Economic Development of Bantu Homelands Act, 1968:

Substitution of section 7A of Act 46 of 1968, as inserted by section 16 of Act 70 of 1974.

"Indemnification of certain persons.

25 7A. (1) The Corporation for Economic Development, Limited, a development corporation or a corporation may, with the prior approval of the Minister and subject to the conditions determined by him, indemnify any person with whom such corporation entered into an agreement in terms of which such person undertakes to establish an industrial, commercial, financial, mining or other business undertaking in a Bantu homeland, against any loss which such person may incur in connection with such undertaking while such contract is of force and effect, and which, by reason of the costs connected therewith, is, in the opinion of the Minister, **[is]** not economically insurable and cannot be prevented by such person and in respect of which he, in the opinion of the Minister, would have a right to damages if such undertaking were established elsewhere in the Republic **[he has no effective]** but will, in such Bantu homeland, have no such right to damages or not be able to enforce any such right effectively."

13. Section 46 of the Bantu Taxation Act, 1969, is hereby repealed.

Repeal of section 46 of Act 92 of 1969.

14. The following section is hereby substituted for section 8 of the Bantu Homelands Constitution Act, 1971:

Substitution of section 8 of Act 21 of 1971.

45 "Requirements for withdrawal of moneys from Revenue Fund. 8. Save as provided in this Act or **[by the State President by proclamation in the Gazette]** any other law in force at the commencement of section 14 of the Bantu Laws Amendment Act, 1978, no moneys shall be withdrawn from a Revenue Fund except **[under appropriation made by]** in terms of a law of the legislative assembly."

15. Section 10 of the Bantu Homelands Constitution Act, 1971, is hereby amended by the substitution for subsection (2) of the following subsection:

Amendment of section 10 of Act 21 of 1971.

55 "(2) In carrying out an audit in terms of subsection (1) the provisions of section 8A of the principal Act shall *mutatis mutandis* apply as if the executive council and tribal and regional authorities in the area in respect of which such

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- 5 council is the executive authority, were a territorial authority and tribal and regional authorities in the area of the territorial authority: Provided that subsection (4) (a) of that section shall be construed as meaning that a report contemplated therein shall be submitted to the legislative assembly concerned within the period **[prescribed by the State President by proclamation in the Gazette]** determined by the legislative assembly."
- 10 **16.** The following section is hereby inserted in the Bantu Homelands Constitution Act, 1971, after section 11: Insertion of section 11A in Act 21 of 1971.
- 11A.** No new paramount chieftainships or chieftainships shall be created otherwise than by a law or a resolution of the legislative assembly."
- 15 **17.** The following section is hereby substituted for section 28 of the Bantu Homelands Constitution Act, 1971: Substitution of section 28 of Act 21 of 1971.
- 28.** The legislative assembly of a self-governing territory may declare any literary work to be the National Anthem of that territory."
- 20 **18.** The following section is hereby inserted in the Bantu Homelands Constitution Act, 1971, after section 37: Insertion of section 37A in Act 21 of 1971.
- 37A.** (1) The State President may from time to time by proclamation in the Gazette amend Schedule 1, and may for the purpose of giving effect to any such amendment, amend any other provisions of this Act.
- 25 (2) Any amendment in terms of subsection (1) shall come into operation in such areas as may be determined by the Minister by notice in the Gazette and on such date in a particular area as the Minister may so determine."
- 30 **19.** Schedule 1 to the Bantu Homelands Constitution Act, 1971, is hereby amended— Amendment of Schedule 1 to Act 21 of 1971, as amended by section 12 of Act 23 of 1972, section 15 of Act 7 of 1973, section 24 of Act 70 of 1974 and section 10 of Act 71 of 1974.
- (a) by the substitution for item 27 of the following item:
- 35 "27. The division of existing Bantu tribes, the amalgamation of Bantu tribes, the constitution of new Bantu tribes, and the recognition, appointment, conditions of service, discipline, retirement, deposition, dismissal and pensioning of paramount chiefs, chiefs and headmen: Provided that no law of the legislative assembly shall authorize or grant authority for the
- 40 division of existing Bantu tribes, the amalgamation of Bantu tribes, the constitution of new Bantu tribes or the recognition, appointment, conditions of service, discipline, retirement, deposition, [or] dismissal or pensioning of paramount chiefs, [or] chiefs or headmen
- 45 [without the prior approval of the State President first had and obtained] except after consultation with the tribal authority or community authority concerned."; and
- (b) by the substitution for item 33 of the following item:
- 50 "33. Any matter **[including any matter in respect of which the State President, a Minister or any other person or authority may in terms of any law make regulations or bye-laws, which the State President with the approval of the Senate and the House of Assembly by resolution passed in the same session, by proclamation in the Gazette declares to fall]** which by virtue of the provisions of section 37A falls within the power of [a particular] the legislative assembly."
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20. (1) If any portion of any area for which a legislative assembly has been established is excised from such area, all laws which were in force in such portion or in any part thereof immediately prior to such excision, shall continue in force in such portion or part thereof until repealed or except in so far as they may be amended by the competent authority. Provisions in respect of areas excised from the area of a legislative assembly.
- (2) The administrative control of, and all rights, powers, authorities, duties, obligations and functions in connection with, any matter which, by virtue of any law, were immediately prior to the excision of any portion of an area as contemplated in subsection (1) vested in such area in any executive council or person or body, shall from the date of such excision vest in the Minister or a person or body designated by him: Provided that the provisions of this section shall not be construed as preventing any department, establishment, council, body or person under the control of the government of an area for which a legislative assembly has been established, from exercising any power or performing any function or duty in connection with such a matter, subject to the terms and conditions agreed upon between such government and the Government of the Republic.
- (3) If the State President deems it necessary for the administration of any matter in any portion of an area contemplated in subsection (1), he may by proclamation in the *Gazette* issue such transitory provisions in connection therewith as he may deem fit.
- (4) Any reference in any law of the Republic to "paramount chiefs", "chiefs" or "headmen" shall be deemed to be a reference also to paramount chiefs, chiefs or headmen, as the case may be, recognized or appointed in terms of any law which is or was in force in any such portion.
- (5) Any reference in any law of the Republic to "tribal authority" or "regional authority" shall be deemed to be a reference also to a tribal authority or regional authority, as the case may be, established in terms of any law which is or was in force in any such portion.
- (6) Any moneys obtained by virtue of the performance of any functions referred to in subsection (2), shall be dealt with in accordance with the directions of the Minister, and any expenses incurred in connection with the execution of such functions shall be met from the source determined by the Minister.
21. This Act shall be called the Bantu Laws Amendment Act, Short title. 1978.