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STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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[No. 3447.

DEPARTEMENT VAN DIE EERSTE MINISTER.

DEPARTMENT OF THE PRIME MINISTER.

No. 539. 30 Maart 1972.

No. 539. 30th March, 1972.

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

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

No. 23 van 1972: Wysigingswet op Bantowetgewing, 1972.

No. 23 of 1972: Bantu Laws Amendment Act, 1972.

BANTU LAWS AMENDMENT ACT, 1972.

Act No. 23, 1972

ACT

To amend the Bantu Administration Act, 1927, so as to repeal the provision that every Bantu Affairs Commissioner in the Transvaal shall have the power to solemnize marriages; and to provide that a Bantu female, who is of age, shall not, in the provinces of Natal and the Transvaal, enter into a marriage without the consent of her father or legal guardian; to amend the Bantu Trust and Land Act, 1936, so as to increase the extent of the released areas; to amend the South-West Africa Native Affairs Administration Act, 1954, so as to provide for the interpretation of the word "Bantu" and certain expressions of which that word forms a part; to amend the Transkei Constitution Act, 1963, so as to empower the Legislative Assembly of the Transkei to make laws in relation to prisons for Bantu persons, and in relation to motor carrier transportation; to amend the Development of Self-government for Native Nations in South-West Africa Act, 1968, so as to change the names of certain areas in the territory of South-West Africa and to extend the powers of legislative councils; to amend the Second Bantu Laws Amendment Act, 1970, so as further to regulate the transfer of certain property from the State or the administration of South-West Africa to a Bantu authority, legislative council, legislative assembly, executive council, cabinet or government; to amend the Bantu Authorities' Service Pensions Act, 1971, so as to provide for further delegation of powers by certain officers; to amend the Bantu Homelands Constitution Act, 1971, so as to extend the powers of legislative assemblies referred to therein; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)
(Assented to 28th March, 1972.)*

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

1. Section 2 of the Bantu Administration Act, 1927, is hereby amended by the deletion of subsection (4).
- Amendment of section 2 of Act 38 of 1927, as substituted by section 2 of Act 21 of 1943 and amended by section 19 of Act 56 of 1949, section 19 of Act 54 of 1952, section 1 of Act 79 of 1957, section 6 of Act 46 of 1959 and section 9 of Act 46 of 1962.

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2. The following section is hereby inserted in the Bantu Administration Act, 1927, after section 22*bis*:

Insertion of section 22*ter* in Act 38 of 1927.

"Consent to marriage of Bantu female. 22*ter*. (1) Subject to the provisions of this section, a marriage officer shall not in the province of Natal or the Transvaal solemnize a marriage to which a Bantu female who is of age, is a party, unless her father or legal guardian (including a guardian in terms of Bantu law and custom) has granted written consent to that marriage and such consent has been furnished to the marriage officer.

(2) If the Minister or any person authorized thereto by the Minister, either generally or in respect of a particular area, is after proper enquiry satisfied that a Bantu female referred to in subsection (1) has no father or such guardian or that her father or such guardian unreasonably withholds his consent to her entering into a marriage or that for any other good reason she is unable to obtain the consent of her father or such guardian to her entering into a marriage, the Minister or such person may in his discretion grant written consent to her to marry a specified person.

(3) Notwithstanding the provisions of subsection (2), a Bantu female referred to in subsection (1) may apply to a judge of the Supreme Court of South Africa for consent to marry a specified person, and that judge may grant the application if he is of opinion that refusal of such consent will be contrary to the interests of that female.

(4) The provisions of this section shall not derogate from the provisions of any rule of law relating to the solemnization of marriages."

3. (1) The First Schedule to the Bantu Trust and Land Act, 1936, is hereby amended by the addition to Part I of the following area:

Amendment of First Schedule to Act 18 of 1936, as amended by section 11 of Act 73 of 1956, section 12 of Act 46 of 1962, section 5 of Act 76 of 1963 and section 37 of Act 42 of 1964.

"AREA NO. 55.

DISTRICT OF MAFEKING.

Description.—The area comprising the following farms: Hartebeest Laagte Maf. Q. 2-30, Knowle Park Maf. Q. 2-22, Drumard Maf. Q. 2-23, Westwood Park Maf. Q. 3-31, Heathfield Maf. Q. 2-28, New Park Maf. Q. 2-24, Roslin Maf. Q. 2-25, Trumpeters Post Maf. Q. 2-26, Oak Lands Maf. Q. 2-27 and Bugler's Post Maf. Q. 2-29."

(2) Any land comprised in Area No. 55 of Part I of the First Schedule to the Bantu Trust and Land Act, 1936, and acquired or purporting to have been acquired by the South African Bantu Trust prior to the addition, by subsection (1) of this section, of the said area to the said Part I, shall, for the purposes of acquisition thereof by the said Trust, be deemed at all relevant times to have been land included in the released areas referred to in section 2 of the said Act.

4. The following section is hereby inserted in the South-West Africa Native Affairs Administration Act, 1954, after section 3:

Insertion of section 3A in Act 56 of 1954.

"Construction of certain expressions in connection with 3A. (1) Any reference in any law in force in the territory, including the Eastern Caprivi Zipfel, or in any document, with reference to any matter in such territory, to—

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tion with
certain
official
titles and
the word
'Bantu'.

- (a) a Chief Bantu Affairs Commissioner or an Assistant Chief Bantu Affairs Commissioner shall be construed as a reference to a chief native commissioner or an assistant chief native commissioner, respectively;
- (b) a Bantu Affairs Commissioner, an Additional Bantu Affairs Commissioner or an Assistant Bantu Affairs Commissioner shall be construed as a reference to a native commissioner, an additional native commissioner or an assistant native commissioner, respectively;
- (c) a Bantu shall be construed as a reference to a native;

and any word or expression in any such law or in any document with reference to any such matter, and connected with the holder of an office referred to in any of the preceding paragraphs or a Bantu shall be construed accordingly.

(2) Unless a contrary intention appears from the provisions of any law or a document, the word 'native' for the purpose of the application of subsection (1) (c), shall have the meaning assigned thereto in section 25 of the Native Administration Proclamation, 1928 (Proclamation No. 15 of 1928), of the territory."

5. The Transkei Constitution Act, 1963, is hereby amended by the substitution for the heading to Part VII of the following heading:

Substitution
of heading to
Part VII of
Act 48 of 1963.

"ADMINISTRATION OF JUSTICE AND PRISONS.

Administration of Justice."

6. The following heading and section are hereby inserted in the Transkei Constitution Act, 1963, after section 50:

Insertion of
new heading and
section 50A in
Act 48 of 1963.

"Prisons.

Prisons.

50A. (1) A reference in any law to a prison established or deemed to have been established in terms of the Prisons Act, 1959 (Act No. 8 of 1959) (hereinafter referred to as a prison of the Republic), shall be construed as including a reference to a prison which has in terms of the said Act or a law of the Legislative Assembly been established by an authority of the Transkei (hereinafter referred to as a prison of the Transkei).

(2) A convicted Bantu person who has been sentenced to imprisonment and is still liable to serve the sentence imposed or part thereof may—

- (a) if he is detained in a prison of the Republic, be transferred on the authority of the Minister of Prisons of the Republic and with the concurrence of the Minister of the Transkei responsible for the administration of prisons, from that prison to a prison of the Transkei indicated by the last-mentioned Minister;
- (b) if he is detained in a prison of the Transkei, be transferred on the authority of the Minister of the Transkei referred to in paragraph (a), and with the concurrence of the Minister of Prisons of the Republic, from that prison to a prison of the Republic indicated by the last-mentioned Minister,

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and thereupon such person shall be detained in the prison to which he has been transferred and be dealt with in every respect as if, and shall be subject to the laws to which he would have been subject if, he had been received in the last-mentioned prison in terms of the said sentence.

(3) Without prejudice to the provisions of sections 65 and 67, the Prisons Act, 1959, shall also continue to apply in the districts mentioned in section 2 of this Act as if section 7 (1) (a) of the Bantu Laws Amendment Act, 1972, had not been enacted.

(4) The Minister of Prisons of the Republic may by notice in the *Gazette* declare that a prison established or deemed to have been established by an authority in the Republic under the Prisons Act, 1959, in any district mentioned in section 2 of this Act, excluding any area in the district of Matatiele or Port St. Johns which is not a Bantu area, shall, subject to such conditions as may be specified in such notice, be deemed to have been established by an authority in the Transkei under the said Act or a law of the Legislative Assembly relating to prisons, and thereupon such prison shall be deemed to have been so established."

7. (1) Part B of the First Schedule to the Transkei Constitution Act, 1963, is hereby amended—

(a) by the insertion after item 4 of the following item:

"4A. Subject to the provisions of section 50A of this Act, the establishment, disestablishment, administration and control of prisons, for Bantu persons, in the districts mentioned in section 2, excluding any area in the district of Matatiele or Port St. Johns which is not a Bantu area.";

(b) by the substitution for item 12 of the following item:

"12. The regulation and control of road traffic, including the licensing and control of vehicles and the drivers of vehicles in the Transkei, but excluding all matters dealt with in the Motor Vehicle Insurance Act, 1942 (Act No. 29 of 1942)."; and

(c) by the insertion after item 12 of the following item:

"12A. Motor carrier transportation in the districts mentioned in section 2, excluding any area in the district of Matatiele or Port St. Johns which is not a Bantu area: Provided that if the Motor Carrier Transportation Act, 1930 (Act No. 39 of 1930), continues to apply in the Transkei, there shall be no appeal in terms of section 6 (2) of the said Act to the Board referred to therein."

(2) Notwithstanding the provisions of paragraph (c) of subsection (1), the Motor Carrier Transportation Act, 1930 (Act No. 39 of 1930), shall continue to apply in respect of any certificate or exemption granted thereunder prior to the commencement of the said paragraph, but any certificate or licence so granted shall not continue to be valid after the 30th June immediately following upon such commencement.

8. Section 2 of the Development of Self-government for Native Nations in South-West Africa Act, 1968, is hereby amended—

(a) by the substitution for paragraph (d) of the following paragraph:

"(d) Kavango, consisting of the Okavango area referred to in Proclamation No. 32 of 1937 of the territory of South-West Africa;"; and

Amendment of First Schedule to Act 48 of 1963, as amended by section 4 of Act 36 of 1968, section 9 of Act 27 of 1970 and section 12 of Act 49 of 1970.

Amendment of section 2 of Act 54 of 1968.

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- (b) by the substitution for paragraph (f) of the following paragraph:

“(f) Owambo, consisting of the area referred to in regulation 1 of Proclamation No. 27 of 1929 of the territory of South-West Africa;”.

9. The Schedule to the Development of Self-government for Native Nations in South-West Africa Act, 1968, is hereby amended—

Amendment o
Schedule to
Act 54 of 1968.

- (a) by the substitution for item 2 of the following item:
“2. Matters having as their object the advancement of education and culture, including the establishment, maintenance, management and control of educational institutions and hostels.”;
- (b) by the substitution for item 8 of the following item:
“8. Farming and agricultural methods in general, including the combating of animal diseases.”;
- (c) by the insertion after item 8 of the following items:
“8A. Fish and game preservation.
8B. The conservation of flora and fauna and the destruction of vermin.”;
- (d) by the substitution for item 9 of the following item:
“9. Forestry.”; and
- (e) by the insertion after item 20 of the following items:
“20A. Intoxicating liquor.
20B. The appointment, powers, duties and functions of justices of the peace and commissioners of oaths.
20C. The protection of life, persons and property and the prevention of cruelty to animals.
20D. The administration of deceased estates, the execution of wills and matters relating to succession in respect of members of the native nation in question.
20E. Land settlement, registration of deeds and surveys, but excluding trigonometrical surveys.
20F. The regulation and control of road traffic, including the licensing and control of vehicles and the drivers of vehicles, but excluding all matters dealt with in the Motor Carrier Transportation Act, 1930 (Act No. 39 of 1930), or the Motor Vehicle Insurance Act, 1942 (Act No. 29 of 1942).
20G. Births, deaths, marriages and customary unions in respect of members of the native nation in question.
20H. The division of existing native tribes, the amalgamation of native tribes, the constitution of new native tribes, and the recognition, appointment, deposition and dismissal, with the prior approval of the State President, of paramount chiefs, chiefs and, in respect of Owambo, also of headmen, and the conditions of service, discipline, retirement and pensioning of paramount chiefs, chiefs and headmen.
20I. The establishment of townships with the prior approval of the Minister of Bantu Administration and Development, and the maintenance and administration of townships for members of the native nation in question.
20J. The establishment, with the concurrence of the Minister of Bantu Administration and Development, of public holidays in substitution for public holidays established by or in terms of the Public Holidays Act, 1952 (Act No. 5 of 1952).
20K. The registration and control of dogs.”

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10. The following section is hereby substituted for section 12 of the Second Bantu Laws Amendment Act, 1970: Substitution of section 12 of Act 27 of 1970.

"Transfer of property to certain Bantu bodies.

12. (1) Subject to the provisions of subsection (2), the Minister of Bantu Administration and Development may from time to time direct that any property, the ownership or control of which is vested in or has been acquired by the Government of the Republic, a provincial administration or the administration of the territory of South-West Africa and which, in the opinion of the said Minister, is connected with the functions of any authority, legislative council, legislative assembly, executive council, cabinet or government established, recognized or constituted in terms of the Bantu Authorities Act, 1951 (Act No. 68 of 1951), the Development of Self-government for Native Nations in South-West Africa Act, 1968 (Act No. 54 of 1968), or the Bantu Homelands Constitution Act, 1971 (Act No. 21 of 1971), shall vest in or be transferred to any such authority, council, assembly, cabinet or government designated by him.

(2) No direction shall in terms of subsection (1) be issued, except with the concurrence of the Minister of Finance and, in the case of property the ownership or control of which is vested in or has been acquired by a provincial administration or the administration of the territory of South-West Africa, also of the administrator concerned, and any such direction shall be subject to such conditions (if any) as the Minister of Bantu Administration and Development may with such concurrence determine.

(3) The officer in charge of a deeds registry in which is registered any immovable property to which a direction under subsection (1) relates, shall, on production to him of the title deeds of such property and a statement signed by the Secretary for Bantu Administration and Development that such property has vested in or been transferred in terms of subsection (1) to a body referred to therein, endorse the vesting or transfer on the said deeds and make suitable entries of the vesting or transfer in the records in his office."

11. (1) Section 7 of the Bantu Authorities' Service Pensions Act, 1971, is hereby amended— Amendment of section 7 of Act 6 of 1971.

(a) by the substitution for subsection (2) of the following subsection:

"(2) Any such Secretary may with the approval of the Minister delegate any of the powers conferred by this Act on such Secretary, or which may under subsection (1) be delegated to him, to any other officer of the public service."; and

(b) by the substitution for subsection (3) of the following subsection:

"(3) Any such Secretary may with the approval of the Minister authorize any other officer of the public service to perform any of the functions or duties which are by this Act entrusted to or imposed on such Secretary, or which he may under subsection (1) be authorized to perform."

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(2) Subsection (1) shall be deemed to have come into operation on the seventeenth March, 1971.

12. Schedule 1 to the Bantu Homelands Constitution Act, 1971, is hereby amended by the insertion after item 30 of the following item: Amendment of Schedule 1 to Act 21 of 1971.

“30A. The establishment, with the concurrence of the Minister of Bantu Administration and Development, of public holidays in substitution for public holidays established by or in terms of the Public Holidays Act, 1952 (Act No. 5 of 1952).”.

13. (1) This Act shall be called the Bantu Laws Amendment Act, 1972, and sections 1, 2, 5, 6, and 7 shall come into operation on a date fixed by the State President by proclamation in the *Gazette*. Short title and commencement.

(2) Different dates may in terms of subsection (1) be fixed in respect of the different sections mentioned therein.