

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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GOVERNMENT GAZETTE

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DEPARTEMENT VAN DIE EERSTE MINISTER

DEPARTMENT OF THE PRIME MINISTER

No. 409.

17 Maart 1976.

No. 409.

17 March 1976.

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

No. 4 van 1976: Wysigingswet op Bantowetgewing, 1976.

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

No. 4 of 1976: Bantu Laws Amendment Act, 1976.

ACT

To repeal Natal Law No. 19 of 1891; to amend the Bantu Administration Act, 1927, so as to provide that the Schedule to Natal Law No. 19 of 1891 shall remain in force as Bantu Law in Natal; and to regulate the laying before Parliament of lists of proclamations issued under the said Bantu Administration Act; to amend the Bantu Trust and Land Act, 1936, in order to provide for the transfer of certain Trust property to self-governing territories; and to provide for the recovery of certain losses or damages suffered by the Trust Fund under that Act; to amend the Bantu (Urban Areas) Consolidation Act, 1945, in order to transfer from the State President to the Minister the power to make regulations and in this respect to curtail the Minister's power of delegation; to amend the Bantu Beer Act, 1962, with regard to definitions; and to regulate the sale of Bantu beer in Bantu eating-houses; to amend the Bantu Labour Act, 1964, with regard to definitions; to amend the Promotion of the Economic Development of Bantu Homelands Act, 1968, in order to extend the powers of the Bantu Investment Corporation; to provide for guarantees in connection with certain loans; and to empower the Bantu Investment Corporation to be a shareholder in a development corporation and a corporation; to amend the Development of Self-government for Native Nations in South-West Africa Act, 1968, in order to regulate the matter of consultation in connection with the withdrawal or amendment of certain proclamations; to regulate the legislative authority of legislative councils; to regulate the executive authority concerning certain matters; and to regulate the Tabling in Parliament of lists of proclamations issued under that Act; to amend the Bantu Authorities' Service Pensions Act, 1971, with regard to definitions; to give certain officers of a local authority a choice in connection with the recognition of pensionable service acquired with a municipal pension fund; and to regulate the payment of transfer values in respect of pensionable service with a municipal pension fund; to amend the Bantu Homelands Constitution Act, 1971, in order to regulate certain matters in respect of land included in the area of a legislative assembly; to regulate the matter of consultation in connection with the withdrawal or amendment of certain proclamations; to regulate the executive authority concerning certain matters; and to regulate the Tabling in Parliament of lists of proclamations issued under that Act; to amend the Bantu Affairs Administration Act, 1971, in order to regulate the constitution of Bantu Affairs Administration Boards; and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 4 March 1976.)

BANTU LAWS AMENDMENT ACT, 1976

Act No. 4, 1976

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

1. Law No. 19 of 1891 of Natal is hereby repealed. Repeal of Law
19 of 1891 of
Natal.

2. Section 24 of the Bantu Administration Act, 1927, is hereby amended by the substitution for subsection (1) of the following subsection: Amendment of
section 24 of
Act 38 of 1927.

“(1) Notwithstanding the repeal of Natal Law No. 19 of 1891 by section 1 of the Bantu Laws Amendment Act, 1976, the Schedule to that Act, as substituted by Proclamation R.195 of 1967, shall remain of full force as Bantu Law in Natal, and the State President may from time to time by proclamation in the *Gazette* amend, repeal or substitute the provisions of the said Schedule; which shall be known as the Natal Code of Bantu Law: Provided that no such proclamation shall have any force or effect until one month has elapsed from the date of its promulgation in the *Gazette*.”

3. The following section is hereby substituted for section 26 of the Bantu Administration Act, 1927: Substitution of
section 26 of
Act 38 of 1927.

“List of proclamations to be laid before Parliament. 26. (1) A list of proclamations issued by the State President under the authority of this Act shall be laid upon the Tables of both Houses of Parliament in the same manner as the list referred to in section 17 of the Interpretation Act, 1957 (Act No. 33 of 1957), and every such proclamation shall be in operation unless and until both Houses of Parliament have, by resolutions passed in the same session, requested the State President to repeal such proclamation or to modify its operation, in which case such proclamation shall forthwith be repealed or modified, as the case may be, by a further proclamation in the *Gazette*.

(2) If the Bantu Affairs Commission established in terms of section 2 of the Bantu Affairs Act, 1959 (Act No. 55 of 1959), has dissented from any provision contained in a proclamation issued under section 25, the record of, and the reasons for, such dissent shall, when the list of proclamations is laid upon the Tables of both Houses of Parliament as aforesaid, simultaneously be so presented to Parliament.”

4. The following section is hereby substituted for section 4bis of the Bantu Trust and Land Act, 1936: Substitution of
section 4bis
of Act 18 of 1936,
as inserted by
section 7 of Act
46 of 1959.

“Transfer of Trust property to self-governing territories. 4bis. The State President may by proclamation in the *Gazette* direct that as from a date determined by him any right or obligation of the Trustee in respect of any land or other property of the Trust in an area which is or was in terms of any law a self-governing territory within the Republic or a self-governing territory, shall, subject to the provisions of this Act and the conditions prescribed in such proclamation, vest in the government of such self-governing territory.”

5. (1) The following section is hereby inserted after section 9bis of the Bantu Trust and Land Act, 1936: Insertion of
section 9ter in
Act 18 of 1936.

“Recovery of loss or damage. 9ter. The provisions of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975); relating to a loss or damage within the meaning of section 34 of

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that Act, shall *mutatis mutandis* apply with reference to any corresponding loss or damage by the fund.”

(2) Subsection (1) shall come into operation on 1 April 1976.

6. (1) Section 10 of the Bantu Trust and Land Act, 1936, is hereby amended—

(a) by the substitution for paragraph (c) of subsection (3) of the following paragraph:

“(c) all land which, while it was held by the Trust, was transferred or alienated to the government of an area which is or was in terms of any law a self-governing territory within the Republic, shall be deemed to be held by the Trust;” and

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

“(e) all land situated outside a scheduled Bantu area but within an area which was in terms of any law a self-governing territory within the Republic and which is not held by the Trust or which is not in terms of any other provision of this section deemed to be held by the Trust, shall be deemed to be held by the Trust.”

(2) Subsection (1) shall be deemed to have come into operation on 1 July 1939.

7. Section 1 of the Bantu (Urban Areas) Consolidation Act, 1945, is hereby amended by the substitution for the definition of “Minister”, of the following definition:

“Minister” means the Minister of Bantu Administration and Development and includes, except with respect to section 38 (1), any officer of the Department of Bantu Administration and Development acting under his authority;”

8. Section 38 of the Bantu (Urban Areas) Consolidation Act, 1945, is hereby amended—

(a) by the substitution in subsection (1) for all the words preceding paragraph (a) of the following words:

“(1) The Minister may make regulations, not inconsistent with this Act, as to all or any of the following matters;” and

(b) by the deletion of paragraph (f) of subsection (1).

9. Section 1 of the Bantu Beer Act, 1962, is hereby amended by the insertion after the definition of “Bantu Beer” of the following definition:

“‘general dealer’ includes an employer of more than 25 Bantu over the age of 18 years;”

10. Section 5 of the Bantu Beer Act, 1962, is hereby amended by the insertion after subsection (1A) of the following subsection:

“(1B) The holder of a Bantu eating-house licence who has been authorized by the Minister in writing under this section to do so, may supply packaged Bantu beer acquired from a Bantu Affairs Administration Board or from a corporation, a development corporation or the investment corporation as defined in section 1 of the Promotion of the Economic Development of Bantu Homelands Act, 1968 (Act No. 46 of 1968), on all days between the hours of ten o’clock in the morning and eight o’clock in the evening to a person *bona fide* having or about to have, in the Bantu eating-house, an ordinary meal purchased at the eating-house, for consumption with, or immediately before or after, such meal: Provided that the hours of supply on a Sunday or on Christmas Day, Good Friday, Ascension

Amendment of section 10 of Act 18 of 1936, as amended by section 5 of Act 17 of 1939, section 11 of Act 46 of 1962, section 2 of Act 19 of 1970 and section 3 of Act 7 of 1973.

Amendment of section 1 of Act 25 of 1945, as amended by section 23 of Act 36 of 1957, section 20 of Act 63 of 1962, section 39 of Act 42 of 1964 and section 8 of Act 70 of 1974.

Amendment of section 38 of Act 25 of 1945, as substituted by section 67 of Act 42 of 1964.

Amendment of section 1 of Act 63 of 1962.

Amendment of section 5 of Act 63 of 1962, as amended by section 2 of Act 30 of 1972 and section 11 of Act 70 of 1974.

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Day or the Day of the Covenant shall be between twelve o'clock midday and half past two o'clock in the afternoon and between six o'clock and eight o'clock in the evening."

11. Section 1 of the Bantu Labour Act, 1964, is hereby amended by the substitution for the definition of "Minister" of the following definition: Amendment of section 1 of Act 67 of 1964.

"Minister" means the Minister of Bantu Administration and Development and, except with respect to sections 20A and 28, includes any officer of the Department of Bantu Administration and Development acting under the authority of the Minister;"

12. Section 4 of the Promotion of the Economic Development of Bantu Homelands Act, 1968, is hereby amended by the insertion after paragraph (d) of subsection (1) of the following paragraph: Amendment of section 4 of Act 46 of 1968.

"(dA) to lend money and, on such conditions as the Minister may determine in consultation with the Minister of Finance of the Republic, to raise or borrow money;"

13. The following section is hereby inserted in the Promotion of the Economic Development of Bantu Homelands Act, 1968, after section 4: Insertion of section 4A in Act 46 of 1968.

"Guarantees 4A. The Minister may, on such conditions as he may determine in consultation with the Minister of Finance of the Republic, guarantee the repayment of the capital of, and the payment of the interest on and any charges incurred in connection with, any loan negotiated or to be negotiated by the investment corporation, a development corporation or a corporation."

14. Section 16 of the Promotion of the Economic Development of Bantu Homelands Act, 1968, is hereby amended by the substitution for subsection (3) of the following subsection: Amendment of section 16 of Act 46 of 1968.

"(3) Only the Trust is capable of becoming a shareholder in the investment corporation and only the Trust and the investment corporation are capable of becoming shareholders in a development corporation and a corporation."

15. The following section is hereby substituted for section 17 of the Promotion of the Economic Development of Bantu Homelands Act, 1968: Substitution of section 17 of Act 46 of 1968.

"Liability 17. The liability of a shareholder in the investment corporation or in a development corporation or in a corporation shall in each case be limited to the amount unpaid on the shares held by it."

16. Section 4 of the Development of Self-government for Native Nations in South-West Africa Act, 1968, is hereby amended by the substitution for subsection (3) of the following subsection: Amendment of section 4 of Act 54 of 1968, as amended by section 5 of Act 9 of 1975.

"(3) A proclamation in terms of subsection (1) may be withdrawn or amended by the State President by proclamation in the Gazette at the request of a legislative council or after consultation between the Minister and the legislative council concerned."

17. Section 5A of the Development of Self-government for Native Nations in South-West Africa Act, 1968, is hereby amended by the substitution for paragraph (f) of the following paragraph: Amendment of section 5A of Act 54 of 1968, as inserted by section 3 of Act 20 of 1973.

"(f) railways, harbours, proclaimed roads to the extent determined by the Minister of Bantu Administration and Development, and civil aviation;"

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18. Section 10F of the Development of Self-government for Native Nations in South-West Africa Act, 1968, is hereby amended by the substitution for all the words preceding the proviso of the following words:

Amendment of section 10F of Act 54 of 1968, as inserted by section 5 of Act 20 of 1973.

"Subject to the provisions of this Act, all rights, powers, authorities, duties, obligations and functions which are vested by any law in a Minister or in any other person or body in the Republic or the territory of South-West Africa, and which have reference to matters in respect of which the legislative council of an area is, on the date of its establishment, empowered or becomes, on a later date, empowered to make enactments in terms of this Act, shall, as from the relevant date, in the said area be vested in the executive council concerned, or in the person or body, as the case may be, exercising similar powers, authorities and functions in that area or, in the absence of any such person or body, the person or body designated by the last-mentioned council for the purpose:"

19. The following section is hereby substituted for section 10G of the Development of Self-government for Native Nations in South-West Africa Act, 1968:

Substitution of section 10G of Act 54 of 1968, as inserted by section 5 of Act 20 of 1973.

Administrative control, powers, authorities and functions of executive council.

10G. Subject to the provisions of this Act, the administrative control, powers, authorities and functions which are vested in or exercised by the State President in relation to matters in respect of which the legislative council of an area is, on the date of its establishment, empowered or becomes, on a later date, empowered to make enactments in terms of this Act, shall, as from the relevant date, in the said area be vested in the executive council concerned."

20. The following section is hereby substituted for section 15 of the Development of Self-government for Native Nations in South-West Africa Act, 1968:

Substitution of section 15 of Act 54 of 1968.

Tabling of list of proclamations.

15. A list of proclamations, issued by the State President under this Act shall be laid upon the Table of the Senate and of the House of Assembly in the same manner as the list referred to in section 17 of the Interpretation Act, 1957 (Act No. 33 of 1957), and if both the Senate and the House of Assembly by resolution passed in the same session disapprove of any such proclamation or any provision thereof, such proclamation or provision shall cease to be of force and effect, but without prejudice to the validity of anything done in terms of such proclamation or such provision before it so ceased to be of force and effect, or to any right or liability acquired or incurred in terms of such proclamation or such provision before it so ceased to be of force and effect."

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

Amendment of the Schedule to Act 54 of 1968, as amended by section 9 of Act 23 of 1972, section 8 of Act 20 of 1973 and section 6 of Act 71 of 1974.

(a) by the substitution for item 7 of the following item:

"7. The construction and maintenance of roads, bridges and furrows to the extent determined by the Minister of Bantu Administration and Development, and dams and any works considered necessary for purposes of sanitation or of securing a satisfactory water supply or of preventing or combating soil erosion."

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(b) by the substitution for item 20F of the following item: "20F. The regulation and control of road traffic, including the licensing and control of vehicles and the drivers of vehicles, but excluding, subject to the provisions of item 20FA, all matters dealt with in the Motor Carrier Transportation Act, 1930 (Act No. 39 of 1930), or the Compulsory Motor Vehicle Insurance Act, 1972 (Act No. 56 of 1972)."; and

(c) by the insertion after the said item 20F of the following item:

"20FA. With effect from a date to be determined by the Minister of Bantu Administration and Development by notice in the *Gazette* in respect of any particular area, motor carrier transportation: Provided that if the Motor Carrier Transportation Act, 1930 (Act No. 39 of 1930), continues to apply in the area in question after a date so determined by the Minister, there shall be no appeal in terms of section 6 (2) of the said Act to the Board referred to therein: Provided further that after a date so determined by the Minister the said Motor Carrier Transportation Act, 1930, shall in all cases continue to apply in the area in question in respect of any certificate or exemption granted thereunder prior to such date, but any certificate or exemption so granted shall lapse on the 30th June immediately following upon such date."

22. (1) Section 1 of the Bantu Authorities' Service Pensions Act, 1971, is hereby amended by the substitution in subsection (1) for the definition of "municipal pension fund" of the following definition:

Amendment of section 1 of Act 6 of 1971, as amended by section 26 of Act 20 of 1972.

"municipal pension fund" means any superannuation, pension or provident fund or scheme with which a local authority is associated or which has been established by a local authority for the benefit of its employees, or by or under any ordinance for the benefit of the employees of one or more local authorities and which, in the case of the employees of a local authority which is not an institution, council or body referred to in section 84 (1) (f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), has been approved by the Minister for the purposes of this Act;

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1975.

23. (1) Section 3 of the Bantu Authorities' Service Pensions Act, 1971, is hereby amended—

Amendment of section 3 of Act 6 of 1971.

(a) by the substitution for paragraphs (a) and (b) of subsection (7) of the following paragraphs:

(a) the period of such person's service recognized in terms of such ordinance or rules as pensionable service, shall be included in such person's pensionable service for the purposes of the pension fund or of the superannuation fund, as the case may be, unless such a person notifies the Secretary in writing before the relative date of take-over that he does not wish his previous pensionable service to be reckoned as pensionable service in terms of this subsection;

(b) an amount equal to the transfer value which would have been payable in terms of such ordinance or rules if such person had been transferred or directly appointed to the service of any other local authority having a different municipal pension fund or associated with a different

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...municipal pension fund, shall be paid out of the ... municipal pension fund concerned to the pension ... fund or to the superannuation fund, as the case ... may be or, if no amount would have been so ... payable, an amount which the Minister determines ... after consultation with the management of the ... municipal pension fund concerned, with due ... regard to the circumstances of a specified case or ... category of cases;"; and

(b) by the insertion after subsection (7) of the following subsection:

“(7A) If the total of the amounts payable to the pension fund or the superannuation fund in terms of paragraphs (b) and (c) of subsection (7)—

(a) is less than the amount payable in terms of the regulations governing the pension fund or the superannuation fund, as the case may be, in respect of the previous pensionable service of the member of a municipal pension fund concerned in order to reckon such previous pensionable service for the purposes of the pension fund or superannuation fund, the deficiency shall be paid from revenue to the pension fund or superannuation fund, as the case may be;

(b) exceeds the amount referred to in paragraph (a), the surplus shall be paid to the member concerned by the municipal pension fund.”.

(2) Subsection (1) shall be deemed to have come into operation on 1 April 1975.

24. The following section is hereby inserted in the Bantu Homelands Constitution Act, 1971, after section 1:

Insertion of section 1A in Act 21 of 1971.

“Provisions relating to areas included in the area of a legislative assembly after the establishment of the first legislative assembly for the area.

1A. (1) In respect of any area included in an area after the establishment of the first legislative assembly for the last-mentioned area—

(a) the reference in section 3 (3) to ‘after the constitution of the first executive council for an area’, or in sections 11 and 12 to ‘the date on which the first executive council for an area is constituted’, or in section 13 (1) to ‘the date on which the first executive council is constituted in terms of this Act’, or in section 14 (1) to ‘the date on which the first executive council is constituted for such area’, or in section 18 to ‘immediately prior to the constitution of the first executive council’, or in sections 21 and 22 to ‘immediately prior to the date of the constitution of the first executive council for an area’, or in section 24 (2) to ‘immediately prior to the establishment of a legislative assembly’ or to ‘from the date of the establishment of the legislative assembly’, or in section 30 (3) to ‘after the date on which an area is in terms of section 26 declared a self-governing territory’, shall be construed as a reference to the date on which such area was so included;

(b) the reference in section 21 to ‘the Republic’ shall be deemed to include a reference to the area so included;

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(c) any reference in this Act to 'paramount chiefs', 'chiefs' or 'headmen' shall be deemed to be a reference to paramount chiefs, chiefs or headmen, as the case may be, duly recognized or appointed in terms of any law in force in the area so included; and

(d) any reference in this Act to 'tribal authority' or 'regional authority' shall be deemed to be a reference to a tribal authority or a regional authority, as the case may be, duly established in terms of any law in force in the area so included."

25. Section 2 of the Bantu Homelands Constitution Act, 1971, is hereby amended by the substitution for subsection (3) of the following subsection: Amendment of section 2 of Act 21 of 1971.

"(3) A proclamation in terms of subsection (1) may be withdrawn or amended by the State President by proclamation in the Gazette at the request of a legislative assembly or after consultation by the Minister with the legislative assembly concerned."

26. Section 21 of the Bantu Homelands Constitution Act, 1971, is hereby amended by the substitution for all the words preceding the proviso of the following words: Amendment of section 21 of Act 21 of 1971.

"Subject to the provisions of this Act, all rights, powers, authorities, duties, obligations and functions which are vested by any law in a Minister or in any other person or body in the Republic, and which have reference to matters in respect of which the legislative assembly of an area is, on the date of the constitution of the first executive council for that area, empowered or becomes, on a later date, empowered to make laws in terms of this Act, shall, as from the relevant date, in the said area, be vested in the executive council or in the person or body, as the case may be, exercising similar powers, authorities and functions in the said area or, in the absence of any such person or body, the person or body designated by the last-mentioned council for the purpose:"

27. The following section is hereby substituted for section 22 of the Bantu Homelands Constitution Act, 1971: Substitution of section 22 of Act 21 of 1971.

22. Subject to the provisions of this Act, the administrative control, powers, authorities and functions (other than legislative powers) which are vested in or exercised by the State President in relation to matters in respect of which the legislative assembly of an area is, on the date of the constitution of the first executive council for that area, empowered or becomes, on a later date, empowered to make laws in terms of this Act, shall, as from the relevant date, in the said area be vested in its executive council."

28. The following section is hereby substituted for section 37 of the Bantu Homelands Constitution Act, 1971: Substitution of section 37 of Act 21 of 1971.

37. A list of proclamations issued by the State President under this Act shall be laid upon the Table of the Senate and of the House of Assembly in the same manner as the list referred to in section 17 of the Interpretation Act, 1957 (Act No. 33 of 1957), and if both the Senate and the House of Assembly by resolution passed in the same session disapprove of any such proclamation or any provision thereof,

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such proclamation or provision shall cease to be of force and effect, but without prejudice to the validity of anything done in terms of such proclamation or such provision before it so ceased to be of force and effect, or to any right or liability acquired or incurred in terms of such proclamation or such provision before it so ceased to be of force and effect.”.

29. Section 3 of the Bantu Affairs Administration Act, 1971, is hereby amended—

(a) by the substitution for paragraph (c) of subsection (1) of the following paragraph: Amendment of section 3 of Act 45 of 1971, as amended by section 16 of Act 7 of 1973.

“(c) one or more shall be appointed in accordance with the provisions of subsection (2); and”;

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

“(a) shall be or shall have been a member of a body contemplated in section 11 (1) (e) the whole or part of whose area of jurisdiction is included in the board’s administration area;”.

30. Section 4 of the Bantu Affairs Administration Act, 1971, is hereby amended by the substitution for paragraph (e) of subsection (2) of the following paragraph: Amendment of section 4 of Act 45 of 1971.

“(e) if he was appointed in terms of section 3 (1) (d) and ceases to hold the qualification by virtue of which he was appointed as a member of a board.”.

31. This Act shall be called the Bantu Laws Amendment Act, 1976. Short title.