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DEPARTEMENT VAN DIE EERSTE MINISTER.

DEPARTMENT OF THE PRIME MINISTER.

No. 444. 21 Maart 1973.

No. 444. 21st March, 1973.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter 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. 7 van 1973: Wysigingswet op Bantowetgewing, 1973.

No. 7 of 1973: Bantu Laws Amendment Act, 1973.

ACT

To amend the Bantu Administration Act, 1927, so as to further define the circumstances in which a tribe, portion of a tribe, Bantu community or Bantu may be required to withdraw from a place; to amend the Bantu Trust and Land Act, 1936, so as to make new provision for the declaration of land as a released area, and the calculation of the extent of the land which may be acquired by the South African Bantu Trust; and to regulate the lease of land by the said Trust to persons other than Bantu; to amend the Bantu (Abolition of Passes and Co-ordination of Documents) Act, 1952, so as to further regulate the registration of contracts; to amend the South-West Africa Bantu Affairs Administration Act, 1954, so as to vest certain land in the said Trust; to amend the Transkei Constitution Act, 1963, so as to extend the powers of the Legislative Assembly of the Transkei; to elucidate the expression "Bantu education" appearing in item 2 of Part B of the First Schedule thereto; and to make new provision for the constitution of a High Court; to amend the Bantu Labour Act, 1964, so as to regulate in certain respects responsibility for the acts or omissions of a labour agent; to amend the Bantu Homelands Constitution Act, 1971, so as to exempt members of legislative assemblies from liability for certain acts; to provide for the reservation of certain land as land which may be occupied or acquired by Bantu persons; to elucidate the expression "Bantu education" appearing in item 2 of Schedule 1 thereto; to make new provision for the constitution of High Courts; and to extend the powers of legislative assemblies; and to amend the Bantu Affairs Administration Act, 1971, so as to alter the constitution of Bantu Affairs Administration Boards and the executive committees thereof; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)
(Assented to 14th March, 1973.)*

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

Amendment of section 5 of Act 38 of 1927, as substituted by section 20 of Act 54 of 1952 and amended by section 3 of Act 42 of 1956.

1. Section 5 of the Bantu Administration Act, 1927, is hereby amended—

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

“(b) whenever he deems it expedient in the general public interest without prior notice to any person concerned order that, subject to such conditions as he may determine after consultation by the Minister with the Bantu Government concerned, any tribe, portion of a tribe, Bantu community or Bantu shall withdraw from any place to any other place or to any district or province within the

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to any object in any conspicuous place in the area of such tribe or community,

after the original of such order has been exhibited and the contents thereof have been read out and explained to those present at such meeting.”.

Amendment of section 2 of Act 18 of 1936, as amended by section 1 of Act 17 of 1939, section 28 of Act 56 of 1949, section 1 of Act 73 of 1956 and section 15 of Act 42 of 1964.

2. Section 2 of the Bantu Trust and Land Act, 1936, is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) Notwithstanding the provisions of subsection (1), the State President may from time to time by proclamation in the *Gazette* declare any land in an area defined by resolution of both Houses of Parliament for the purposes of this section a released area for the purposes of this Act, and any land so declared shall be added to the First Schedule to this Act by such proclamation.”.

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 and section 2 of Act 19 of 1970.

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

(a) by the substitution for the second proviso to subsection (1) of the following proviso:

“Provided that if in any province land is expropriated under section 13 (2), or land which may be so expropriated is acquired by the State or any person other than a Bantu or the Trust, or land reverts to the State under section 17 (2) (b), the number of morgen which may be so acquired in that province shall be increased by the number of morgen comprised in the land which has been so expropriated or acquired, or has so reverted.”; and

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

“(3) In computing for the purposes of subsection (1) the extent of land held by the Trust—

(a) land in a scheduled Bantu area existing at the commencement of this Act, land vesting in the Trust under the provisions of section 17 and land which, having been held by the Trust, reverts to the State or has been or is alienated to any person other than a Bantu or otherwise than to the Minister or any other person in trust for a Bantu, a Bantu tribe or a Bantu community shall not be taken into account;

(b) all land outside a scheduled Bantu area existing at the commencement of this Act—

(i) which at such commencement was registered in the name of a Bantu or of the Minister or any other person in trust for a Bantu, a Bantu tribe or a Bantu community and which has been or is acquired by the Trust or a Bantu, or in such trust by the said Minister or any other person, shall not be taken into account;

(ii) which is acquired by and transferred to a Bantu, or the Minister or any other person in trust for a Bantu, a Bantu tribe or a Bantu community after the commencement of this Act, otherwise than under the provisions of

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Republic and shall not at any time thereafter or during a period specified in the order return to the place from which the withdrawal is to be made or proceed to any place, district or province other than the place, district or province indicated in the order, except with the written permission of the Secretary for Bantu Administration and Development: Provided that if a tribe which is resident on land referred to in section 25 (1) of this Act or in section 21 (1) of the Bantu Trust and Land Act, 1936 (Act No. 18 of 1936), refuses or neglects to withdraw as aforesaid no such order shall be of any force and effect unless or until a resolution approving of the withdrawal has been adopted by both Houses of Parliament: Provided further that any such order made in respect of a portion of a tribe, Bantu community or a Bantu which is still in force after the expiry of a period of twelve months from the date of service thereof shall be laid upon the Tables of both Houses of Parliament within fourteen days after the expiry of such period if Parliament is then in ordinary session, or if Parliament is not then in ordinary session, within fourteen days after the commencement of its next ensuing ordinary session, and shall, if both Houses of Parliament pass resolutions disapproving thereof during the session in which it is so laid upon the said Tables, cease to have effect on the day on which the last of such resolutions is passed.”; and

- (b) by the addition to subsection (1)*bis* of the following paragraph, the existing subsection becoming paragraph (a):

“(b) Whenever any order is issued under subsection (1) (b) in respect of any tribe, portion of a tribe or any Bantu community, it shall be served at a public meeting convened for that purpose—

- (i) by delivering a copy of such order to the chief of such tribe appointed or recognized in terms of this Act, or, as the case may be, to the chairman of the community authority concerned established in terms of the Bantu Authorities Act, 1951 (Act No. 68 of 1951); or
- (ii) if such chief or such chairman is not present, by delivering a copy of such order to any member of the tribal authority concerned established in terms of the said Act, or, as the case may be, to any member of the said community authority who may be present; or
- (iii) if such chief and no member of such tribal authority or such chairman and no member of such community authority are present or can be identified, by affixing, respectively, a copy of such order to the outer door of such chief's or such chairman's residence or of the office of such tribal authority or community authority or, if no chief has been so appointed or recognized, and no tribal authority or community authority has been so established,

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section 17, or from a person other than a Bantu, or from the said Minister or other person, if he holds it in such trust, shall be deemed to have been acquired by the Trust;

- (c) all land which, while it was held by the Trust, was transferred or alienated to the government of an area which is in terms of any law a self-governing territory within the Republic, shall be deemed to be held by the Trust;
- (d) all land which, in a manner other than that contemplated in paragraph (c), vested or vests in a government referred to in the said paragraph, shall be deemed to be held by the Trust.”

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

Amendment of section 18 of Act 18 of 1936, as amended by section 8 of Act 17 of 1939, section 17 of Act 42 of 1964 and section 19 of Act 55 of 1965.

4. (1) Section 18 of the Bantu Trust and Land Act, 1936, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The Trustee may for the support, advantage or well-being of Bantu or purposes connected therewith, lease, and with the approval of Parliament signified by resolutions of both Houses, grant, sell, exchange or otherwise dispose of land, the property of the Trust, to persons other than Bantu.”

(2) Subsection (1) shall be deemed to have come into operation on 31 August 1936.

Amendment of section 8 of Act 67 of 1952, as amended by section 16 of Act 79 of 1957, section 18 of Act 76 of 1963 and section 85 of Act 42 of 1964.

5. Section 8 of the Bantu (Abolition of Passes and Coordination of Documents) Act, 1952, is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) The provisions of subsections (1) and (2) shall apply only in respect of any contract entered into for an indefinite period (not being a contract with a Bantu who is a casual labourer or works as an independent contractor) or for a fixed period of not less than one month or terminable on not less than one month's notice, if the Bantu concerned is employed or is to be employed in an area which is not a prescribed area, or entered into for a fixed period of not less than three days or terminable on not less than three days' notice, if the Bantu concerned is employed or is to be employed in a prescribed area.”

Amendment of section 4 of Act 56 of 1954, as amended by section 14 of Act 46 of 1962 and section 2 of Act 25 of 1969.

6. Section 4 of the South-West Africa Bantu Affairs Administration Act, 1954, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The land described in the Schedule hereto is hereby reserved and set apart for the sole use and occupation of natives, and that land, and any other land or area in the territory which has at any time prior to the commencement of this Act been so reserved or set apart or which may at any time after such commencement be so reserved or set apart, in terms of any law, and the land referred to in Government Notice No. 2428 of 1972 shall be vested in the South African Bantu Trust established by section 4 of the Bantu Trust and Land Act, 1936 (Act No. 18 of 1936).”

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Amendment of section 39 of Act 48 of 1963.

7. Section 39 of the Transkei Constitution Act, 1963, is hereby amended by the substitution for paragraph (h) of the following paragraph:

“(h) currency, banking and the control of stock exchanges and of financial institutions as defined in section 1 of the Inspection of Financial Institutions Act, 1962 (Act No. 68 of 1962);”.

Amendment of section 50 of Act 48 of 1963, as amended by section 2 of Act 36 of 1968.

8. Section 50 of the Transkei Constitution Act, 1963, is hereby amended—

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

“(1) The State President may, by proclamation in the *Gazette*, constitute a High Court for the Transkei in respect of the districts mentioned in section 2 and may make regulations regulating—

- (a) the constitution of the High Court;
- (b) the appointment, remuneration and tenure of office of judges;
- (c) the area of the High Court's or any other existing court's jurisdiction;
- (d) the persons or classes of persons over whom and the matters in relation to which the High Court or any other existing court shall have or shall not have jurisdiction;
- (e) the High Court's or any other existing court's powers of review and of hearing appeals;
- (f) the appointment, powers and duties of an Attorney-General and other officers of the High Court;
- (g) the records to be kept and the practice and procedure in and appearance before the High Court; and
- (h) generally, all such other matters as may be deemed necessary to be regulated for or in connection with the constitution or functioning of the High Court, the matters mentioned in this paragraph not being limited by the matters mentioned in the preceding paragraphs.”.

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

“(2) (a) The High Court shall consist of so many judges as the State President may from time to time determine.

- (b) The State President may second a judge of the Supreme Court of South Africa, with his concurrence, to serve as a judge of the High Court.
- (c) The State President may by regulation provide that the provisions of any laws which may at any time apply in respect of judges of the Supreme Court of South Africa, shall also apply in respect of judges of the High Court.”; and

(c) by the insertion after the said subsection (2) of the following subsections:

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“(2A) The State President may by regulation provide that any law which applies to the Supreme Court of South Africa or any other court shall also apply, with such amendments and adaptations as he may consider necessary, to the High Court.

(2B) Instead of making any regulation under subsection (1) (g) the State President may authorize a judge of the Supreme Court of South Africa or a judge of the High Court to make regulations by notice in the *Gazette* regulating any matter mentioned in the said subsection (1) (g).”.

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, section 7 of Act 23 of 1972 and Proclamation 258 of 1972.

9. Part B of the First Schedule to the Transkei Constitution Act, 1963, is hereby amended—

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

“2. Bantu education (excluding education provided by a university or a university college established by or in terms of any Act of Parliament) in the districts mentioned in section 2 of this Act, whether within or outside Bantu areas in any such district, but not within any area in the district of Matatiele or Port St. John’s which is not a Bantu area.”;

(b) by the insertion after item 3 of the following item:

“3A. The provision of financial assistance to citizens of the Transkei carrying on or undertaking to carry on farming operations in the Transkei, and the exercising of control in respect of financial assistance provided.”.

(c) by the substitution for item 14 of the following item:

“14. In respect of Bantu, welfare services, including child welfare and the administration of social benefit schemes for the aged, infirm and blind, as well as disability grants, pauper relief and the rehabilitation of persons who are dependent on dependence-producing substances as defined in the Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971 (Act No. 41 of 1971), in the districts referred to in section 2 of this Act, but not within any area in the district of Matatiele or Port St. John’s which is not a Bantu area.”; and

(d) by the addition of the following item:

“39. The raising of loans, with the prior approval of the Minister of Bantu Administration and Development, given in consultation with the Minister of Finance of the Republic, and on such conditions, if any, as the first-mentioned Minister may, in consultation with the last-mentioned Minister, determine.”.

Insertion of section 8A in Act 67 of 1964.

10. The following section is hereby inserted in the Bantu Labour Act, 1964, after section 8:

“Recruiting of Bantu through labour agent for some other person, and responsibility for his acts or omissions. 8A. (1) No person, including a company or a partnership or other association of persons, shall, through a labour agent licensed under this Act, recruit Bantu for employment by any other person in work or labour of any kind within or outside the Republic, unless he is himself, or, as the case may be, all directors of the company or all members of the partnership or association are themselves, licensed under this Act as a labour agent or labour agents.

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(2) If any person referred to in subsection (1) recruits Bantu through a labour agent as contemplated in that subsection, such person, including, in the case of a partnership or other association of persons, the members thereof, shall be responsible for every act or omission by such agent within the scope of his employment or authority and liable to the prescribed penalties, and section 12 shall apply to him or them, as the case may be, in respect thereof, as if it were an act or omission by himself or themselves.”

Insertion of section 3A in Act 21 of 1971.

11. The following section is hereby inserted in the Bantu Homelands Constitution Act, 1971, after section 3:

“Members not liable to proceedings. 3A. No member of a legislative assembly shall be liable to any legal proceedings by virtue of any matter which he may have brought by petition, draft legislation, resolution, motion or otherwise or of what he may have said before such legislative assembly or a select committee thereof or by reason of his vote in such assembly or such committee.”

Amendment of section 4 of Act 21 of 1971.

12. Section 4 of the Bantu Homelands Constitution Act, 1971, is hereby amended by the substitution for paragraph (h) of the following paragraph:

“(h) currency, banking and the control of stock exchanges and of financial institutions as defined in section 1 of the Inspection of Financial Institutions Act, 1962 (Act No. 68 of 1962);”

Amendment of section 34 of Act 21 of 1971.

13. Section 34 of the Bantu Homelands Constitution Act, 1971, is hereby amended—

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

“(1) Subject to the provisions of any other Act of Parliament the State President may, by proclamation in the *Gazette*, constitute in respect of a self-governing territory a High Court and may make regulations regulating—

- (a) the constitution of any such High Court;
- (b) the appointment, remuneration and tenure of office of judges;
- (c) the area of any such High Court's or any other existing court's jurisdiction;
- (d) the persons or classes of persons over whom and the matters in relation to which any such High Court or any other existing court shall have or shall not have jurisdiction;
- (e) any such High Court's or any other existing court's powers of review and of hearing appeals;
- (f) the appointment, powers and duties of an Attorney-General and other officers of any such High Court;
- (g) the records to be kept and the practice and procedure in and appearance before any such High Court; and

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- (h) generally, all such other matters as may be deemed necessary to be regulated for or in connection with the constitution or functioning of any such High Court, the matters mentioned in this paragraph not being limited by the matters mentioned in the preceding paragraphs.”;
- (b) by the substitution for subsection (2) of the following subsection:
- “(2) (a) A High Court shall consist of so many judges as the State President may from time to time determine.
- (b) The State President may second a judge of the Supreme Court of South Africa, with his concurrence, to serve as a judge of any such High Court.
- (c) The State President may by regulation provide that the provisions of any laws which may at any time apply in respect of judges of the Supreme Court of South Africa, shall also apply in respect of judges of any such High Court.”; and
- (c) by the insertion after the said subsection (2) of the following subsections:
- “(2A) The State President may by regulation provide that any law which applies to the Supreme Court of South Africa or any other court shall also apply, with such amendments and adaptations as he may consider necessary, to any such High Court.
- (2B) Instead of making a regulation under subsection (1) (g) the State President may authorize a judge of the Supreme Court of South Africa or a judge of any High Court concerned to make regulations by notice in the *Gazette* regulating any matter mentioned in the said subsection (1) (g).”.

Insertion of
section 36A in
Act 21 of 1971.

14. The following section is hereby inserted in the Bantu Homelands Constitution Act, 1971, after section 36:

“Reserva-
tion of cer-
tain land as
land which
may be
occupied or
acquired by
Bantu per-
sons.

36A. (1) The Minister of Bantu Administration and Development may at any time cause to be investigated by such person or persons as he may deem fit, the desirability of reserving any land within the area of jurisdiction of any municipal council, borough council, town council, village council, town board, village management board, local board, health board or health committee and surrounded by or adjoining a released area or a scheduled Bantu area as defined in the Bantu Trust and Land Act, 1936 (Act No. 18 of 1936), as land which may be occupied or acquired by Bantu persons.

(2) After consideration of a report by the person or persons appointed in terms of subsection (1) the State President may by proclamation in the *Gazette* reserve any land within the area in question as land which may be occupied or acquired by Bantu persons, and he may at any time thereafter by like proclamation so reserve any other land within the said area.

- (3) Any such proclamation may also—
- (a) provide that any land which has been so reserved shall cease to form part of the area of jurisdiction of the institution or body in question;
- (b) provide that any such land shall, under such circumstances as may be specified in the proclamation or with effect from a date so

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specified, be a released area or a scheduled Bantu area or a Bantu area for the purposes of any law relating to released areas, scheduled Bantu areas or Bantu areas;

- (c) provide for the removal of any existing restrictions on the acquisition, ownership or occupation of any such land, or the imposition of any other restrictions on the acquisition, ownership or occupation of any such land;
- (d) provide for the constitution, powers, duties and functions of any body which may be considered necessary for the administration and control of any such land or portion thereof, or for the continued administration and control of such land or portion thereof, subject to such terms and conditions as may be specified in the proclamation, by such institution or body;
- (e) prescribe penalties, by way of criminal sanctions, for the due enforcement of any restriction imposed under paragraph (c) or of any byelaws, rules, orders or directions made or given by any body contemplated in paragraph (d) in the exercise or performance of its powers, duties or functions;
- (f) provide generally for such other matters as may from time to time be necessary to ensure the effective operation of this section, the generality of the powers conferred by this paragraph not being limited by the provisions of the previous paragraphs.

(4) The provisions of the Group Areas Act, 1966 (Act No. 36 of 1966), shall not apply in an area reserved in terms of subsection (2).

(5) If a portion of the area under the jurisdiction of an institution or body has been reserved in terms of subsection (2), a reference to 'Minister' in any provision of the Group Areas Act, 1966, other than a provision of section 2, 4, 9, 10, 23, 28, 29, 30 or 48, shall, in the application of the said Act to the remainder of such area, be construed as a reference to the Minister of Bantu Administration and Development."

Amendment of
Schedule 1 to Act
21 of 1971, as
amended by
section 12 of
Act 23 of 1972.

15. (1) Schedule 1 to the Bantu Homelands Constitution Act, 1971, is hereby amended—

- (a) by the substitution for item 2 of the following item:

"2. Bantu Education (excluding education provided by a university or a university college established by or in terms of any Act of Parliament): Provided that study and training courses, syllabuses, teaching methods, medium of instruction and public examinations prescribed in terms of any law shall be prescribed in consultation with the Minister.";

- (b) by the substitution for item 3 of the following item:

"3. In respect of Bantu, welfare services, including child welfare and social benefit schemes for and the payment of allowances to the aged, blind and indigent and those suffering from mental or physical disabilities, and the rehabilitation of persons who are dependent

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on dependence-producing substances as defined in the Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971 (Act No. 41 of 1971)."; and

(c) by the insertion after item 31 of the following item:

"31A. The raising of loans, with the prior approval of the Minister of Bantu Administration and Development, given in consultation with the Minister of Finance of the Republic, and on such conditions, if any, as the first-mentioned Minister may, in consultation with the last-mentioned Minister, determine."

(2) Subsection (1) (a) shall be deemed to have come into operation on 31 March 1971.

Amendment of section 3 of Act 45 of 1971.

16. 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:

"(c) subject to the provisions of subsection (2), one or more shall be appointed in respect of each magisterial district or part of a magisterial district in the board's administration area; and";

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

"(2) Each member appointed in terms of subsection (1) (c)—

(a) shall be 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;

(b) shall be appointed on the ground mainly of acquaintance with and wide knowledge of the affairs of such a kind of body;

(c) shall be selected by the Minister from persons whose names appear on any of the lists of names of so many persons as may in each case be required by the Minister and to be submitted to him by the bodies contemplated in paragraph (a) when called upon by the Minister to do so in each case."; and

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

"(3) If after having been called upon in terms of subsection (2) (c) any body fails or refuses to submit, within the period specified by the Minister, the list referred to in that subsection, the Minister may in his discretion appoint the persons having the requisite qualifications to be members of a board."

Amendment of section 7 of Act 45 of 1971.

17. Section 7 of the Bantu Affairs Administration Act, 1971, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) There shall be an executive committee of a board consisting of the chairman and the vice-chairman and three other members of the board appointed by the board, and, if the Minister deems it necessary, one or two additional members of the board appointed by the Minister: Provided that if the vice-chairman is not a member referred to in section 3 (1) (c) such a member shall be one of the members appointed by the board: Provided further that two of the members appointed by it shall be respectively a member referred to in section 3 (1) (a) and a member referred to in section 3 (1) (b)."

Short title.

18. This Act shall be called the Bantu Laws Amendment Act, 1973.