

No. 55, 1951.]

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ACT

To amend the law relating to the Territory of South-West Africa.

(Afrikaans text signed by the Governor-General.)
(Assented to 27th June, 1951.)

BE IT ENACTED by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Amendment of section 44 of Act 42 of 1925 as substituted by section 22 of Act 23 of 1949.

1. Section *forty-four* of the South-West Africa Constitution Act, 1925, is hereby amended—

- (a) by the insertion in sub-section (3) after the words "*twenty-six*" of the words "of this Act and sections *two* and *three* of the South-West Africa Affairs Amendment Act, 1951"; and
- (b) by the addition thereto of the following sub-section:

"(7) No proclamation issued by or under delegation of the Governor-General under the Treaty of Peace and South-West Africa Mandate Act, 1919, and in force in the territory immediately prior to the date referred to in sub-section (3) of this section shall lapse by reason only of the provisions of the said sub-section (3)."

Governor-General may make laws for the Territory of South-West Africa in relation to certain matters.

2. (1) The Governor-General may, as from the date referred to in sub-section (3) of section *forty-four* of the South-West Africa Constitution Act, 1925 (Act No. 42 of 1925), by proclamation in the *Gazette* and in the *Official Gazette* of the Territory of South-West Africa, make laws applicable to the said territory in relation to any matter in regard to which it is in terms of section *twenty-six* of the said Act not competent for the Legislative Assembly of the territory to make Ordinances.

(2) A proclamation issued under sub-section (1) shall, subject to the provisions of sub-section (2) of section *five*, have effect in and for the said territory so long and as far only as it is not repugnant to or inconsistent with an Act of Parliament applicable to the said territory.

Governor-General's powers to make laws for the Eastern Caprivi Zipfel.

3. (1) As from the date referred to in sub-section (1) of section *two*, the Governor-General may, notwithstanding anything to the contrary in any law contained but subject to the provisions of sub-section (2) of this section, by proclamation in the *Gazette* and in the *Official Gazette* of the Territory of South-West Africa, repeal or amend any law then in force or subsequently coming into force within the area known as the Eastern Caprivi Zipfel and described in the Eastern Caprivi Zipfel Administration Proclamation, 1939 (Governor-General's Proclamation No. 147 of 1939), and make, amend or repeal new laws applicable to the said area.

(2) A proclamation issued in terms of sub-section (1) shall, subject to the provisions of sub-section (2) of section *five*, have effect in and for the said Eastern Caprivi Zipfel so long and as far only as it is not repugnant to or inconsistent with an Act of Parliament applicable to the said Eastern Caprivi Zipfel and passed after the date referred to in sub-section (1) of section *two*.

(3) No Act of Parliament and no Ordinance of the Legislative Assembly of the Territory of South-West Africa passed on or after the date referred to in sub-section (1) of section *two* shall apply to the said Eastern Caprivi Zipfel, unless it is expressly declared to be so applicable.

The Transvaal Provincial Division of the Supreme Court of South Africa and the Attorney-General of the Transvaal to exercise jurisdiction in the Eastern Caprivi Zipfel.

4. (1) The High Court of South-West Africa shall as from the date referred to in sub-section (1) of section *two*, cease to have jurisdiction in the said Eastern Caprivi Zipfel and as from that date the Transvaal Provincial Division of the Supreme Court of South Africa and any circuit court referred to in section *eight* of the General Law Amendment Act, 1949 (Act No. 54 of 1949), shall exercise within the said Eastern Caprivi Zipfel the same jurisdiction as it has in the province of the Transvaal.

(2) For the purpose of section *eight* of the General Law Amendment Act, 1949, the area of the said Eastern Caprivi Zipfel may be constituted a separate circuit district or may be included in any other circuit district of the Transvaal: Provided that notwithstanding anything in the said section contained, a circuit court referred to in the said section shall be held in the said Eastern Caprivi Zipfel only as and when the Judge-President of the Transvaal Provincial Division of the Supreme Court of South Africa determines that it is necessary for such a court to be held therein.

(3) Any reference in any law applicable to the said Eastern Caprivi Zipfel to the High Court of South-West Africa shall be deemed to be a reference to the Transvaal Provincial Division or a circuit local division of the Supreme Court of South Africa having jurisdiction in the said Eastern Caprivi Zipfel by virtue of the provisions of sub-section (1).

(4) The Attorney-General appointed for the province of the Transvaal shall as from the date referred to in sub-section (1) and subject to the control and directions of the Minister of Justice, exercise in relation to the said Eastern Caprivi Zipfel all the powers vested in the Attorney-General of the Territory of South-West Africa in relation to the said Eastern Caprivi Zipfel.

Proclamations to be submitted to Parliament.

5. (1) Any proclamation issued under section *two* or *three* shall be laid on the Tables of both Houses of Parliament within fourteen days after promulgation thereof 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 remain on the said Tables for a period of at least twenty-eight consecutive days, and if Parliament is prorogued before the necessary twenty-eight days have elapsed, such proclamation shall again be laid on the said Tables as aforesaid within fourteen days after the commencement of its next ensuing ordinary session.

(2) If both Houses of Parliament by resolutions passed in the same session (being a session during which a proclamation has been laid on the Tables of both Houses of Parliament in terms of sub-section (1)) disapprove of any such proclamation or of any provision in any such proclamation, such proclamation or such provision thereof shall thereafter cease to be of force and effect to the extent to which it is so disapproved, but without prejudice to the validity of anything done in terms of such proclamation or of such provision thereof up to the date upon which it so ceased to be of force and effect, or to any right, privilege, obligation or liability acquired, accrued or incurred as at the said date under and by virtue of such proclamation or such provision thereof.

Amendment of section 35 of Act 23 of 1949.

6. Section *thirty-five* of the South-West Africa Affairs Amendment Act, 1949, is hereby amended by the substitution for sub-section (3), of the following sub-section:

“(3) As soon as practicable after the commencement of the South-West Africa Affairs Amendment Act, 1951, the Governor-General shall issue a proclamation declaring that the provisions of sub-section (3) of section *forty-four* of the principal Act shall be of force and effect.”

Short title.

7. This Act shall be called the South-West Africa Affairs Amendment Act, 1951.