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Government Notice

Goewermentskennisgewing

DEPARTMENT OF GOVERNMENTAL
AFFAIRS

DEPARTEMENT VAN OWERHEIDSAKE

No. 141 1985

No. 141 1985

PROMULGATION OF ACT OF
NATIONAL ASSEMBLY

AFKONDIGING VAN WET VAN
NASIONALE VERGADERING

The following Act, which has been adopted by the National Assembly and signed by the Administrator-General in terms of the South West Africa Legislative and Executive Authority Establishment Proclamation, 1985 (Proclamation R.101 of 1985), is hereby published in terms of section 18 of that Proclamation: —

Die volgende Wet, wat ingevolge die Proklamasie op die Instelling van Wetgewende en Uitvoerende Gesag vir Suidwes-Afrika, 1985 (Proklamasie R.101 van 1985), deur die Nasionale Vergadering aangeneem en deur die Administrateur-generaal onderteken is, word hierby afgekondig ingevolge artikel 18 van daardie Proklamasie: —

No. 27 of 1985: Native Administration Proclamation Amendment Act, 1985

No. 27 van 1985: Wysigingswet op die Naturelle-Administrasie-Proklamasie, 1985

Act No. 27, 1985

**NATIVE ADMINISTRATION PROCLAMATION
AMENDMENT ACT, 1985**

EXPLANATORY NOTE:

- Words underlined with solid line indicate insertions proposed.
- [] Words in bold typing in square brackets indicate omissions proposed.

ACT

To amend the Native Administration Proclamation, 1928, so as to replace a certain obsolete designation; to abolish native commissioner courts; and to make provision for the transfer of the duties, powers and functions of native commissioners to magistrates or other officers or persons; and to provide for incidental matters.

*(English text signed by the Administrator-General
on 25 November 1985)*

BE IT ENACTED by the National Assembly, as follows:-

Amendment of section 3 of
Proclamation 15 of 1928.

1. Section 3 of the Native Administration Proclamation, 1928 (hereinafter referred to as the Proclamation), is hereby amended -

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

“ (1) The orders and directions of the **[Administrator]** Cabinet or, in relation to a defined matter as defined in section 1 of the Representative Authorities Proclamation, 1980 (Proclamation AG. 8 of 1980), the executive authority concerned issued under this Proclamation may be carried into execution by **[or under the supervision of the Chief Native Commissioner or by a magistrate, native commissioner or an assistant native commissioner or by]** any **[other]** officer authorized thereto by the **[Administrator, the Chief Native Commissioner, a magistrate, a native commissioner or an assistant native commissioner, or such other officer, and in respect of any such act any officer so employed shall be regarded as the deputy or representative of the Administrator]** Cabinet or, in relation to any such defined matter, the executive authority concerned.”; and

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WYSIGINGSWET OP DIE NATURELLE-
ADMINISTRASIE-PROKLAMASIE, 1985

Wet No. 27, 1985

VERDUIDELIKENDE NOTA:

- _____ Woorde met 'n volstreep daaronder dui aan in-voegings voorgestel.
- [] Woorde in vet druk tussen vierkantige hake dui aan skrappings voorgestel.

WET

Tot wysiging van die Naturelle-administrasie-Proklamasie, 1928, ten einde 'n sekere verouderde benaming te vervang; naturellekommissarishowe af te skaf; en voorsiening te maak vir die oordrag van die bevoegdhede, pligte en werksaamhede van naturellekommissarisse aan landdroste of ander beamptes of persone; en om vir bykomstige aangeleenthede voorsiening te maak.

(Engelse teks deur die Administrateur-generaal onderteken op 25 November 1985)

DAAR WORD BEPAAL deur die Nasionale Vergadering, soos volg:-

1. Artikel 3 van die Naturelle-administrasie-Proklamasie, 1928 (hieronder die Proklamasie genoem), word hierby gewysig -

Wysiging van artikel 3 van Proklamasie 15 van 1928.

(a) deur subartikel (1) deur die volgende subartikel te vervang:

5 “ (1) Die bevele en instruksies van die [Administrateur] Kabinet of, met betrekking tot 'n omskrewe aangeleentheid soos omskryf in artikel 1 van die Proklamasie op Verteenwoordigende Owerhede, 1980 (Proklamasie AG. 8 van 1980), die betrokke uitvoerende owerheid, wat kragtens hierdie Proklamasie uitgevaardig is, mag deur [of onder toesig van die Hoof-Naturellekommissaris, of deur 'n 10 magistraat, naturellekommissaris of 'n assistent-naturellekommissaris of deur] enige [ander] amptenaar, wat daartoe deur die [Administrateur, die Hoof-naturellekommissaris, 'n magistraat, 'n 15 naturelle-kommissaris of 'n assistent-naturellekommissaris, of sodanige ander amptenaar] Kabinet of, met betrekking tot so 'n omskrewe aangeleentheid, 20 die betrokke uitvoerende owerheid gemagtig is, voltrek word [en ten opsigte van enige sodanige handeling word die aldus werksame amptenaar as die plaasvervanger of verteenwoordiger van die Ad- 25 ministrateur beskou].”; en

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

“ (3) Any magistrate [**native commissioner or assistant native commissioner**] within whose area of jurisdiction the place from which the removal is to be made is situate, may, upon the conviction of any Native for failing, neglecting or refusing to comply with any order issued under paragraph (b) or (d) of section 1, take all such steps as may be necessary to effect the removal in terms of the order.”. 10

Amendment of section 4 of Proclamation 15 of 1928, as amended by section 2 of Proclamation 25 of 1937 and section 2 of Ordinance 4 of 1955.

2. Section 4 of the Proclamation is hereby amended -

- (a) by the deletion of subsections (1), (2), (3) and (4); and
(b) by the substitution for subsection (6) of the following subsection:

“ (6) Any person obstructing any [**officer in this section mentioned or in] superintendent or person appointed under subsection (5) of this section or paragraph (a) of section 1 [of this Proclamation]** in the lawful execution of his duty shall be guilty of an offence.”. 20

Repeal of section 7 of Proclamation 15 of 1928.

3. Section 7 of the Proclamation is hereby repealed.

Repeal of section 8 of Proclamation 15 of 1928, as amended by section 1 of Proclamation 24 of 1941, section 6 of Ordinance 11 of 1954 and section 1 of Proclamation AG. 46 of 1978.

4. (1) Subject to the provisions of subsection (2), section 8 of the Proclamation is hereby repealed.

(2) Notwithstanding the repeal of section 8 of the Proclamation by subsection (1) of this section any civil action instituted before the commencement of this Act in accordance with the provisions of the said section 8 shall be continued as if this Act had not been passed.

Repeal of sections 9, 10, 11, 12, 13, 14, 15 and 16 of Proclamation 15 of 1928.

5. Sections 9, 10, 11, 12, 13, 14, 15 and 16 are hereby repealed. 30

Amendment of section 17 of Proclamation 15 of 1928.

6. Section 17 of the Proclamation is hereby amended by the deletion of the words “or native commissioner” and “native commissioner or”, wherever they occur.

Amendment of section 18 of Proclamation 15 of 1928.

7. Section 18 of the Proclamation is hereby amended -

- (a) by the deletion of subsections (3), (4), (5), (6), (7) and (8); and
(b) by the deletion of paragraph (c) of subsection (9).

Repeal of sections 19, 20, 21 and 22 of Proclamation 15 of 1928.

8. Sections 19, 20, 21 and 22 of the Proclamation are hereby repealed.

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(b) deur subartikel (3) deur die volgende subartikel te vervang:

5 “ (3) Enige magistraat [**naturellekommissaris, of assistent-naturellekommissaris,**] binne wie se regsgebied die plek geleë is waaruit die verwydering moet plaasvind, mag na die veroordeling van enige naturel weens versuim, nalating of weiering om aan enige bevel, uitgevaardig kragtens paragrawe (b) en (d) van artikel 1, te voldoen, alle maatreëls tref wat nodig mag wees om die verwydering ooreenkomstig die bevel te bewerkstellig.”

2. Artikel 4 van die Proklamasie word hierby gewysig -

(a) deur subartikels (1), (2), (3) en (4) te skrap; en

15 (b) deur subartikel (6) deur die volgende subartikel te vervang:

20 “ (6) Iemand wat 'n [**in hierdie artikel of in artikel een(a) van hierdie Proklamasie vermelde amptenaar**] superintendent of persoon aangestel kragtens subartikel (5) van hierdie artikel of paragraaf (a) van artikel 1 in die wettige verrigting van sy werksaamhede belemmer, is aan 'n misdryf skuldig.”

3. Artikel 7 van die Proklamasie word hierby herroep.

Wysiging van artikel 4 van Proklamasie 15 van 1928, soos gewysig deur artikel 2 van Proklamasie 25 van 1937 en artikel 2 van Ordonnansie 4 van 1955.

Herroeping van artikel 7 van Proklamasie 15 van 1928.

4. (1) Behoudens die bepalings van subartikel (2) word artikel 8 van die Proklamasie hierby herroep.

25 (2) Ondanks die herroeping van artikel 8 van die Proklamasie deur subartikel (1) van hierdie artikel word enige siviele aksie wat voor die inwerkingtreding van hierdie Wet ooreenkomstig genoemde artikel 8 ingestel is, voortgesit asof hierdie Wet nie aangeneem is nie.

Herroeping van artikel 8 van Proklamasie 15 van 1928, soos gewysig deur artikel 1 van Proklamasie 24 van 1941, artikel 6 van Ordonnansie 11 van 1954 en artikel 1 van Proklamasie AG. 46 van 1978.

30 5. Artikels 9, 10, 11, 12, 13, 14, 15 en 16 van die Proklamasie word hierby herroep.

Herroeping van artikels 9, 10, 11, 12, 13, 14, 15 en 16 van Proklamasie 15 van 1928.

6. Artikel 17 van die Proklamasie word hierby gewysig deur die woorde “of naturellekommissaris” en “naturellekommissaris of”, waar hulle ookal voorkom, te skrap.

Wysiging van artikel 17 van Proklamasie 15 van 1928.

35 7. Artikel 18 van die Proklamasie word hierby gewysig -

(a) deur subartikels (3), (4), (5), (6), (7) en (8) te skrap; en

(b) deur paragraaf (c) van subartikel (9) te skrap.

Wysiging van artikel 18 van Proklamasie 15 van 1928.

8. Artikels 19, 20, 21 en 22 van die Proklamasie word hierby herroep.

Herroeping van artikels 19, 20, 21 en 22 van Proklamasie 15 van 1928.

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Amendment of section 25 of Proclamation 15 of 1928, as amended by section 3 of Proclamation 25 of 1937.

Construction of certain references in laws.

9. Section 25 of the Proclamation is hereby amended by the deletion of the definition of "native commissioner".

10. (1) Subject to the provisions of subsection (2) and unless it would in any particular case obviously be inappropriate, any reference in any law - 5

(a) to a native commissioner's court, shall be construed reference to a magistrate;

(b) to a native commissioner's court, shall be construed as a reference to a magistrate's court.

(2) The Administrator-General may by proclamation in 10 the *Official Gazette* and, in relation to a defined matter as defined in section 1 of the Representative Authorities Proclamation, 1980 (Proclamation AG. 8 of 1980), with the concurrence of the executive authority concerned, assign 15 any power, duty or function to be exercised or performed by a magistrate or a magistrate's court by virtue of the provisions of subsection (1) to any other officer or person, including any such executive authority, mentioned in the Proclamation.

Short title.

11. This Act shall be called the Native Administration Proclamation Amendment Act, 1985. 20

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9. Artikel 25 van die Proklamasie word hierby gewysig deur die omskrywing van "naturellekommissaris" te skrap.

Wysiging van artikel 25 van Proklamasie 15 van 1928, soos gewysig deur artikel 3 van Proklamasie 25 van 1937.

10. (1) Behoudens die bepalings van subartikel (2) en tensy dit in 'n bepaalde geval klaarblyklik onvanpas is, word 'n verwysing in enige wet -

Uitleg van sekere verwysings in wette.

(a) na 'n naturellekommissaris, uitgelê as 'n verwysing na 'n landdros;

(b) na 'n naturellekommissarishof, uitgelê as 'n verwysing na 'n landdroshof.

10 (2) Die Administrateur-generaal kan by proklamasie in die *Offisiële Koerant* en, met betrekking tot 'n omskrewe aangeleentheid omskryf in artikel 1 van die Proklamasie op Verteenwoordigende Owerhede, 1980 (Proklamasie AG. 8 van 1980), met die instemming van die betrokke uitvoerende owerheid, 'n bevoegdheid, plig of werksaamheid wat uit hoofde van die bepalings van subartikel (1) deur 'n landdros of 'n landdroshof uitgeoefen of verrig moet word, aan 'n ander beampte of persoon, met inbegrip van so 'n uitvoerende owerheid, in die Proklamasie vermeld, opdra.

20 **11.** Hierdie Wet heet die Wysigingswet op die Naturelle-administrasie-Proklamasie, 1985.

Kort titel.