

# OFFICIAL GAZETTE

EXTRAORDINARY  
OF SOUTH WEST AFRICA.



# BUITENGEWONE OFFISIËLE KOERANT

UITGAWE OP GESAG.

VAN SUIDWES-AFRIKA.

PUBLISHED BY AUTHORITY.

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WINDHOEK

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### Government Notice.

### Goewermentskennisgewing.

The following Government Notice is published for general information.

J. NESER,  
*Secretary for South West Africa.*

Administrator's Office,  
Windhoek.

Die volgende Goewermentskennisgewing word vir algemene inligting gepubliseer.

J. NESER,  
*Sekretaris van Suidwes-Afrika.*

Kantoor van die Administrateur,  
Windhoek.

No. 98.]  
ORDINANCES, 1955: PROMULGATION OF.

The Administrator has been pleased to assent, in terms of section *thirty-two* of the South-West Africa Constitution Act, 1925 (Act No. 42 of 1925), to the following Ordinances which are hereby published for general information in terms of section *thirty-four* of the said Act:—

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1.	Additional Appropriation (1954/55) Ordinance, 1955 . . . . .	347
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No. 98.]  
ORDONNANSIES, 1955: UITVAARDIGING VAN.

Dit het die Administrateur behaag om sy goedkeuring te heg, ooreenkomstig artikel *twee-en-dertig* van „De Zuidwest-Afrika Konstitutie Wet 1925” (Wet 42 van 1925), aan die volgende Ordonnansies wat hiermee vir algemene inligting gepubliseer word, ooreenkomstig artikel *vier-en-dertig* van gemelde Wet:—

No.	Titel.	Bladsy.
1.	Addisionele Middele (1954/55) Ordonnansie 1955 . . . . .	347
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5. The following section is hereby substituted for section *eleven* of the principal Ordinance:—

"Offence of applying for or obtaining a licence while disqualified, etc.

11. Any person who, during the period of suspension of his driver's licence under this Ordinance or while disqualified under this Ordinance from obtaining a driver's licence, or whose licence has been cancelled and not reinstated, applies for or obtains such a licence, or any person whose licence having been endorsed under this Ordinance applies for or obtains a driver's licence without giving particulars of the endorsement, shall be guilty of an offence, and any such licence issued to him shall be void and he shall be deemed to have been an unlicensed person while holding the same."

6. Section 27 of the principal Ordinance is hereby amended by the insertion of the following new section:—

„(4) In any proceedings in which the question whether or not a motor vehicle is a heavy motor vehicle arises for decision, it shall be presumed, unless and until the contrary is proved, that such motor vehicle is a heavy motor vehicle."

7. This Ordinance shall be called the Motor Vehicle and Wheel Tax Amendment Ordinance, 1955, and shall come into operation from the 1st day of April, 1955.

No. 6 of 1955.]

## ORDINANCE

To amend the law relating to the Administration of Justice.

(Assented to 15th April, 1955.)

(English text signed by the Administrator.)

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa, with the consent of the Governor-General, in so far as such consent is necessary, previously obtained and communicated to the Legislative Assembly by message from the Administrator in accordance with the provisions of section *twenty-six* of the South West Africa Constitution Act, 1925, as amended by section *sixteen* of the South West Africa Affairs Amendment Act, 1949, of the Parliament of the Union of South Africa, as follows:—

1. The following section is hereby substituted for section *three* of the Administration of Justice Proclamation, 1919 (Proclamation 21 of 1919):—

"3. (1) There shall be and there is hereby created and constituted for the Territory a Superior Court to be known as the High Court of South West Africa which shall be a court of record and which shall consist of two or more judges appointed by the Administrator, one of whom shall be designated by the Administrator as judge president.

(2) The judge president and judges of the High Court of South West Africa shall receive as annual salary in respect of their office the sum as is for the time being received by the judge president or puisne judge respectively of the provincial or local division of the Supreme Court of South Africa as annual salary, and they shall in regard to fixity of salary, leave of absence, tenure of office and pension, have all such rights as are held by any judge of the provincial or local division of the Supreme Court of South Africa appointed after commencement of the Judge's Salaries and Pensions Act, 1912, of the Union Parliament, and shall be under all such obligations and disabilities as any such judge.

(3) The said High Court shall have and use as occasion may require a seal bearing a device and impression of the Arms of the Union of South Africa within an exergue or label surrounding the same with this inscription: "The Seal of the High Court of South

5. Artikel *elf* van die hoofordonnansie word hierby vervang deur die onderstaande artikel:—

„Aansoek om lisensie of verkryging daarvan gedurende onbevoegdheid ens., is oortreding.

11. Elkeen wat binne die tydperk waarvoor sy bestuurderslisensie ingevolge hierdie Ordonnansie geskors is of onderwyl hy ingevolge hierdie Ordonnansie onbevoeg is om 'n bestuurderslisensie te verkry, of wie se lisensie ingetrek en nie herstel is nie, om so 'n lisensie aansoek doen of dit verkry, en elkeen op wie se lisensie daar inskrywings ingevolge hierdie Ordonnansie staan, wat aansoek doen om 'n bestuurderslisensie of dit verkry, sonder opgaaf van besonderhede oor die inskrywings, is skuldig aan oortreding, en elk so 'n lisensie wat aan hom uitgereik word, is nietig, en hy word gehou vir ongelisensieër solank hy so 'n lisensie het."

6. Artikel *sewen-en-twintig* van die hoofordonnansie word hierby gewysig deur die invoeging van die onderstaande nuwe sub-artikel:—

„(4) As daar by 'n strafregtelike vervolging die vraag beslis moet word of 'n motorvoertuig 'n swaar motorvoertuig is al dan nie, geld die vermoede dat so 'n motorvoertuig wel 'n swaarmotorvoertuig is tensy en totdat die teendeel bewys word."

7. Hierdie Ordonnansie heet die Wysigingsordonnansie op Motorvoertuie en Wielbelasting 1955, en het regskrag met ingang van die eerste dag van April 1955.

No. 6 van 1955.]

## ORDONNANSIE

Om die wet met betrekking tot regsbedeling te wysig.

(Goedgekeur 15 April 1955.)

(Engelse teks deur die Administrateur geteken.)

Die Wetgewende Vergadering van die Gebied Suidwes Afrika, met die toestemming van die Goewerneur-generaal dermate sodanige toestemming nodig is, vooraf verkree deur boodskap van die Administrateur aan die Wetgewende Vergadering meegedeel ooreenkomstig die bepalinge van artikel *ses-en-twintig* van die „Zuidwest Afrika Konstitusie Wet 1925", soos gewysig by artikel *sestien* van die Wysigingswet op Aangeleenthede van Suidwes-Afrika 1949, van die Parlement van die Unie van Suid-Afrika, VERORDEN:—

1. Artikel *drie* van die „Rechtsbedeeling Proclamatie 1919" (Proklamasie 21 van 1919) word hiermee vervang deur die onderstaande artikel:—

„3. (1) Daar moet 'n hoërhof vir die Gebied wees en so 'n hof word hierby geskep en ingestel, en dit heet die Hoë Hof van Suidwes-Afrika, en dit is 'n notulerende hof van twee of meer regters deur die Administrateur aangestel, en een van wie deur die Administrateur aangewys word as regter-president.

(2) Die regter-president en die regters van die Hoë Hof van Suidwes-Afrika ontvang ten opsigte van hul ampsbekleding 'n jaarlikse salaris gelyk aan die bedrag wat die regter-president of onderregter van die provinsiale of plaaslike afdeling van die Hooggeregshof van Suid-Afrika dan onderskeidelik as jaarlikse salaris ontvang, en wat betref vastheid van salaris, verloop ampstermyn en pensioen het hulle dieselfde regte as 'n regter van die provinsiale of plaaslike afdeling van die Hooggeregshof van Suid-Afrika, wat aangestel na die inwerkingtrekking van die „Rechtens' Salariss en Pensioen Wet 1912" van die Unie-Parlement, en is hulle onderhewig aan dieselfde verpligtinge en laste as so 'n regter.

(3) Die vermelde Hoë Hof moet 'n seël hê waar die devies en indruk van die Wapen van die Unie van Suid-Afrika staan binne 'n omringende randskild wat lui: „The Seal of the High Court of South West Africa. Het Zegel van het Hooggerechtshof van Zuid-

West Africa. Het Zegel van het Hooggerechtshof van Zuid West Afrika". The said seal shall be delivered to and shall be kept in the custody of the Registrar of the said Court or the officer for the time being acting as such.

(4) The seat of the High Court shall be at Windhoek, and, subject to the provisions of this Proclamation, it shall exercise within the Territory all such jurisdiction as may lawfully be exercised within the province of the Cape of Good Hope by the judges of the Cape Provincial Division of the Supreme Court.

(5) The judge president of the High Court shall, subject to the approval of the Administrator, frame rules for the conduct of the proceedings of the said Court. Until such rules shall have been promulgated, the rules relating to practice and procedure in force in the Cape Provincial Division of the Supreme Court of South Africa shall govern the practice and procedure in the High Court.

(6) The law of procedure and evidence in civil proceedings before the High Court shall be that for the time being followed by the Cape Provincial Division of the Supreme Court of South Africa.

(7) Whenever for any reason it becomes expedient to do so, the Administrator may appoint some fit and proper person being an advocate of not less than seven years standing and entitled to practice within the area of jurisdiction of any provincial or local division of the Supreme Court of South Africa or the High Court of South West Africa to act as judge of the High Court in addition to or in the place of any judge of the High Court appointed in terms of sub-section (1) of this section.

(8) Whenever in terms of any law any cause, proceeding or matter is required to be heard or determined before a court consisting of more than two judges, the Administrator shall appoint one or more fit and proper persons holding the qualifications specified in sub-section (7) to act as a judge or judges of the High Court to form in addition to the judges of the High Court, the requisite number of judges to constitute such court. When the court so constituted consists of three judges the decision of the majority of such judges, in the event of any difference of opinion, shall be deemed and taken to be the decision of the whole court.

(9) There shall be a Registrar of the High Court who shall be appointed by the Administrator and shall have all such powers and perform all such duties as may be assigned to or imposed upon him by the rules of the said Court or by any law. The Registrar shall receive on behalf of the Administration such fees as shall be prescribed by the Administrator by notice in the *Official Gazette*.

(10) It shall be competent for one or two judges of the High Court of South West Africa to hear any civil cause, proceeding or matter and any criminal appeal or criminal review.

(11) Whenever any matter as is mentioned in sub-section (10) is heard before two judges, the judge president, or in his absence, the next senior judge shall preside."

2. The Criminal Procedure and Evidence Proclamation, 1935 (Proclamation 30 of 1935), is hereby amended by the insertion of the word "president" after the word "judge" where it appears in sub-sections (1) and (3) of section *three hundred and fifty-five* thereof.

3. The Magistrate's Court Proclamation, 1935 (Proclamation 31 of 1935) is hereby amended by the insertion of the word "President" after the word "Judge" where it appears in sub-section (1) of section *twenty-three* thereof.

4. Notwithstanding anything in any other law contained, whenever in any law the expressions "the judge" or "the judge of the High Court" are used, these shall mean a judge of the High Court.

5. This Ordinance shall be called the Administration of Justice Proclamation Amendment Ordinance, 1955.

West Afrika.", en hierdie seël moet by elke aangewese geleentheid gebruik word. Voorts moet hierdie seël aan die Griffier van die vermelde hof, of aan die beampte wat dan as sodanig optree besorg word, en hy moet dit in bewaring hou.

(4) Die Hoë Hof setel in Windhoek, en oefen, behoudens die bepalings van hierdie Proklamasie, binne die Gebied dieselfde regsbevoegdheid uit as wat die regters van die Kaapse Provinsiale Afdeling van die Hooggeregshof wetlik binne die Provinsie van die Kaap die Goeie Hoop uitoefen.

(5) Die regter-president van die Hoë Hof moet, onderhewig aan Administrateursgoedkeuring, reëls opstel waarvolgens die verrigtinge van die vermelde hof moet geskied. Voordat die reëls afgekondig is, geld die reëls op praktyk en prosedure van die Kaapse Provinsiale Afdeling van die Hooggeregshof van Suid-Afrika vir die praktyk en prosedure in die Hoë Hof.

(6) Die wet op prosedure en bewyslewering in siviele verrigtinge voor die Hoë Hof is dieselfde as dié wat die Kaapse Provinsiale Afdeling van die Hooggeregshof van Suid-Afrika volg.

(7) Wanneer dit om enige rede raadsaam geag word, kan die Administrateur 'n geskikte persoon wat minstens sewe jaar lank as advokaat gepraktiseer het en wat geregtig is om te praktiseer binne die regsgebied van enige provinsiale of plaaslike afdeling van die Hooggeregshof van Suid-Afrika of van die Hoë Hof van Suidwes-Afrika, aanstel as waarnemende regter van die Hoë Hof buiten en behalwe, of in die plek van, enige regter van die Hoë Hof aangestel ingevolge paragraaf (1) van hierdie artikel.

(8) Telkens wanneer 'n saak, proses of aangeleentheid, ingevolge 'n wet deur 'n hof van meer as twee regters verhoor of uitgewys moet word, stel die Administrateur een of meer allesins bevoegde persone met die kwalifikasies wat sub-artikel (7) vereis, aan om waar te neem as 'n regter of regters van die Hoë Hof om saam met die regters van die Hoë Hof die nodige getal regters van so 'n hof uit te maak. Waar drie regters so 'n hof uitmaak, word, by 'n meningsverskil, die beslissing van die meerderheid van sodanige regters as die beslissing van die hele hof beskou en aanvaar.

(9) Daar moet 'n Griffier van die Hoë Hof wees wat deur die Administrateur aangestel word, en hy het al die bevoegdhede en moet al die amppligte nakom wat die reëls van die vermelde hof of 'n wet aan hom ople. Die Griffier moet namens die Administrasie die gelde ontvang wat die Administrateur by kennisgewing in die *Offisiële Koerant* voorskryf.

(10) Een of meer regters van die Hoë Hof van Suidwes-Afrika is bevoeg om enige siviele saak, proses of aangeleentheid en enige strafregtelike appel- of hersieningsaak te verhoor.

(11) Telkens wanneer 'n saak in sub-artikel (10) genoem, deur twee regters verhoor word, moet die regter-president voorsit, en by sy afwesigheid die senior onder die ander regters."

2. Die Kriminele Prosedure en Bewyslewering Proklamasie 1935 (Proklamasie 30 van 1935) word hierby gewysig deur die vervanging van die woord „regter” in sub-artikels (1) en (3) van artikel *driehonderd vyf-en-vyftig* deur die woord „regter-president”.

3. Die Magistraatshowe Proklamasie 1935 (Proklamasie 31 van 1935) word hierby gewysig deur die vervanging van die woord „regter” in sub-artikel (1) van artikel *drie-en-twintig* deur die woord „regter-president”.

4. Ondanks andersluidende wetsbepalings dui die uitdrukkings „die regter” of „die regter van die Hoë Hof”, waar hulle in 'n wet voorkom, op 'n regter van die Hoë Hof.

5. Hierdie Ordonnansie heet die Wysigingsordonnansie op die „Rechtshedeeling Proklamasie”, 1955.