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 VAN DIE REPUBLIEK VAN SUID-AFRIKA

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PROCLAMATION

by the

State President of the Republic of South Africa

No. R. 101, 1985

**ESTABLISHMENT AND POWERS OF LEGISLATIVE
 AND EXECUTIVE AUTHORITY FOR TERRITORY OF
 SOUTH WEST AFRICA**

Under the powers vested in me by section 38 of the South West Africa Constitution Act, 1968 (Act 39 of 1968), I hereby make the laws set out in the Schedule.

Given under my Hand and the Seal of the Republic of South Africa at Windhoek this Seventeenth day of June, One thousand Nine hundred and Eighty-five.

P. W. BOTHA,

State President.

By Order of the State President-in-Cabinet:

R. F. BOTHA.

SCHEDULE

Definitions

1. (1) In this Proclamation, unless the context indicates otherwise—

- (i) "Assembly" means the National Assembly; (xii)
- (ii) "Cabinet" means the Cabinet constituted under section 23; (v)
- (iii) "fundamental right" means any of the fundamental rights contemplated in articles 1 to 11 of the Bill of Fundamental Rights and Objectives—
 - (a) which was adopted on 18 April 1984 by what was then known as the Multi-Party Conference; and
 - (b) which is contained in Annexure 1; (i)
- (iv) "identity document" means an identity document issued under section 3 of the Identification of Persons Act, 1979 (Act 2 of 1979); (iii)
- (v) "identity number" means the identity number appearing on an identity document; (iv)
- (vi) "member" means a member of the Assembly nominated in terms of section 4; (vi)

PROKLAMASIE

van die

Staatspresident van die Republiek van Suid-Afrika

No. R. 101, 1985

**INSTELLING EN BEVOEGDHEDE VAN WETGE-
 WENDE EN UITVOERENDE GESAG VIR GEBIED
 SUIDWES-AFRIKA**

Kragtens die bevoegdheid my verleen by artikel 38 van die Wet op die Konstitusie van Suidwes-Afrika, 1968 (Wet 39 van 1968), maak ek hierby die wette in die Bylae vervat.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Windhoek, op hede die Sewentiende dag van Junie Eenduiseend Negehonderd Vyf-en-tagtig.

P. W. BOTHA,

Staatspresident.

Op las van die Staatspresident-in-Kabinet:

R. F. BOTHA.

BYLAE

Woordskrywing

1. (1) In hierdie Proklamasie, tensy uit die samehang anders blyk, beteken—

- (i) "fundamentele reg" enige van die fundamentele regte beoog in artikels 1 tot 11 van die Handves van Fundamentele Regte en Doelstellinge—
 - (a) wat op 18 April 1984 aangeneem is deur wat toe as die Veelpartykonferensie bekend gestaan het; en
 - (b) wat in Aanhangsel 1 vervat word; (iii)
- (ii) "gebied" die gebied Suidwes-Afrika; (xi)
- (iii) "identiteitsdokument" 'n identiteitsdokument kragtens artikel 3 van die Wet op Identifikasie van Persone, 1979 (Wet 2 van 1979), uitgereik; (iv)
- (iv) "identiteitsnommer" die identiteitsnommer wat op 'n identiteitsdokument verskyn; (v)
- (v) "Kabinet" die Kabinet kragtens artikel 23 saamgestel; (ii)
- (vi) "lid" 'n lid van die Vergadering ingevolge artikel 4 benoem; (vi)

(vii) "political organization" means a political party or any association of political parties or of any political party and any other association of or group of persons; (viii)

(viii) "Secretary" means the Secretary of the Assembly appointed under section 15 and, for the purposes of section 4 (2) (b) and, in relation to the first election of a Speaker, section 10, includes a person designated by the Administrator-General; (ix)

(ix) "Speaker" means the Speaker of the Assembly elected under section 10; (x)

(x) "standing committee" means any standing committee established by section 11; (xi)

(xi) "territory" means the territory of South West Africa; (ii)

(xii) "transfer proclamation" means a transfer proclamation as defined in section 1 of the Executive Powers Transfer (General Provisions) Proclamation, 1977 (Proclamation AG. 7 of 1977). (vii)

(2) In this Proclamation and in any other law "National Assembly" means the National Assembly established by section 2.

PART 1

ESTABLISHMENT, POWERS AND CONSTITUTION OF LEGISLATIVE AUTHORITY FOR THE TERRITORY

Establishment of National Assembly

2. There is hereby established a legislative authority for the territory to be known as the National Assembly.

Powers of Assembly

3. (1) The Assembly shall, subject to the provisions of this Proclamation, have power—

(a) to make laws for the territory which shall be entitled Acts; and

(b) in any such law to amend or repeal any legal provision, including any Act of the Parliament of the Republic of South Africa in so far as it relates to or applies in the territory or is connected with the administration thereof or the administration of any matter by an authority therein.

(2) The Assembly shall not have power—

(a) to make any law altering the international status of the territory, or to amend or repeal—

(i) section 38 of the South West Africa Constitution Act, 1968 (Act 39 of 1968);

(ii) any provision of this Proclamation, except sections 5, 6 [excluding paragraph (f) of subsection (1)], 7, 9, 10, 15, 22, 24 (2), 25, 26, 28, 30 and 33;

(b) to make any law abolishing, diminishing or derogating from any fundamental right.

(3) The provisions of paragraph (b) of subsection (2) shall not be construed as prohibiting the Assembly from amending the provisions of any law—

(a) which were in force in the territory immediately before the first meeting of the Assembly;

(b) which abolish, diminish or derogate from any fundamental right; and

(c) which have as their aim the security of the territory, in such a manner that the last-mentioned provisions abolish, diminish or derogate from any such fundamental right to a lesser extent, or to repeal any such law and to re-enact the provisions thereof in any other law which amends some of the provisions so repealed in such a manner that it abolishes, diminishes or derogates from any fundamental right to a lesser extent.

(vii) "oordragproklamasie" 'n oordragproklamasie soos omskryf in artikel 1 van die Proklamasie op die Oordrag van Uitvoerende Gesag (Algemene Bepalings), 1977 (Proklamasie AG. 7 van 1977); (xii)

(viii) "politieke organisasie" 'n politieke party of 'n vereniging van politieke partye of van 'n politieke party en enige ander vereniging van of groep persone; (vii)

(ix) "Sekretaris" die Sekretaris van die Vergadering kragtens artikel 15 aangestel en, by die toepassing van artikel 4 (2) (b) en, met betrekking tot die eerste verkiesing van 'n Speaker, artikel 10, ook 'n persoon deur die Administrateur-generaal aangewys; (viii)

(x) "Speaker" die Speaker van die Vergadering kragtens artikel 10 verkies; (ix)

(xi) "staande komitee" 'n staande komitee by artikel 11 ingestel; (x)

(xii) "Vergadering" die Nasionale Vergadering. (i)

(2) In hierdie Proklamasie en in enige ander wet beteken "Nasionale Vergadering" die Nasionale Vergadering by artikel 2 ingestel.

DEEL I

INSTELLING, BEVOEGDHEDE EN SAMESTELLING VAN WETGEWENDE GESAG VIR DIE GEBIED

Instelling van Nasionale Vergadering

2. Daar word hierby 'n wetgewende gesag vir die gebied ingestel wat die Nasionale Vergadering heet.

Bevoegdhede van Vergadering

3. (1) Die Vergadering is, behoudens die bepalings van hierdie Proklamasie, bevoeg—

(a) om wette vir die gebied te maak wat Wette heet; en

(b) om in so 'n wet enige regsreël, met inbegrip van 'n Wet van die Parlement van die Republiek van Suid-Afrika vir sover dit op die gebied betrekking het of daarin geld of met die administrasie daarvan of die administrasie van 'n aangeleentheid deur 'n gesag daarin in verband staan, te wysig of te herroep.

(2) Die Vergadering is nie bevoeg—

(a) om 'n wet te maak wat die internasionale status van die gebied verander nie, of om—

(i) artikel 38 van die Wet op die Konstitusie van Suidwes-Afrika, 1968 (Wet 39 van 1968);

(ii) enige bepaling van hierdie Proklamasie, behalwe artikels 5, 6 [uitgesonderd paragraaf (f) van subartikel (1)], 7, 9, 10, 15, 22, 24 (2), 25, 26, 28, 30 en 33, te wysig of te herroep nie;

(b) om 'n wet te maak wat enige fundamentele reg ophef, inkort of aan afbreuk doen nie.

(3) Die bepalings van paragraaf (b) van subartikel (2) word nie so uitgelê nie dat dit die Vergadering belet om die bepalings van die een of ander wet—

(a) wat in die gebied gegeld het onmiddellik voor die eerste byeenkoms van die Vergadering;

(b) wat 'n fundamentele reg ophef, inkort of aan afbreuk doen; en

(c) wat die veiligheid van die gebied ten doel het, op so 'n wyse te wysig dat laasgenoemde bepalings so 'n fundamentele reg in 'n mindere mate ophef, inkort of aan afbreuk doen nie, of om so 'n wet te herroep en om die bepalings daarvan in 'n ander wet wat sommige van die aldus herroepe bepalings op so 'n wyse wysig dat dit 'n fundamentele reg in 'n mindere mate ophef, inkort of aan afbreuk doen, te herverorden.

Constitution of Assembly

4. (1) The Assembly shall, subject to the provisions of subsection (5), consist of—

(a) 62 members who shall be persons nominated, subject to the provisions of section 5, in accordance with the provisions of subsection (2) by the political organizations—

(i) which were known on 18 April 1985 under the names specified in column 1 of Annexure 2; and

(ii) which were directly involved on that date in what was then known as the Multi-Party Conference; and

(b) such other members (if any) who may be persons nominated, subject to the provisions of section 5, in accordance with the provisions of subsection (3) by any political organization recognized, under that subsection, by the Assembly for that purpose.

(2) Any political organization referred to in paragraph (a) of subsection (1)—

(a) shall nominate the number of persons specified against its name in column 2 of Annexure 2; and

(b) shall make its nominations by submitting before 10h00 on 17 June 1985 to the Secretary at a place determined by him, with the concurrence of the Administrator-General in writing, in such form as the Secretary may prescribe, in respect of each person nominated by it—

(i) his acceptance of the nomination;

(ii) his full names and surname;

(iii) the date of his birth; and

(iv) his identity number.

(3) (a) The Assembly may allocate such number of additional seats as it may determine, to any political organization, excluding a political organization referred to in subsection (1) (a), which has been recognized by the Assembly for that purpose upon request made on behalf of such organization in accordance with paragraphs (b) to (f).

(b) One or more office-bearers of any political organization may submit to the Speaker a request in writing on behalf of such organization for the recognition of, and the allocation of one or more additional seats to, such organization by the Assembly under paragraph (a) and shall in any such request set out fully the grounds upon which it is made.

(c) Any such request received by the Speaker shall be laid upon the table in the Assembly, whereupon the Assembly may refer the request for investigation, report and a recommendation to a committee of the Assembly or deal with it in such other manner as it may consider suitable.

(d) If no proposal has been moved by any member in connection with the request after it has lain upon the table in the Assembly for at least five days on which the Assembly was in session, the Speaker shall refer the request to a committee consisting of members designated by him, one of whom shall be designated by him as chairman of the committee, and such committee shall be deemed to be a committee of the Assembly to which the request has been referred by the Assembly as contemplated in paragraph (c).

(e) The report of a committee shall be laid upon the table in the Assembly and if, after it has so lain upon the table for at least five days on which the Assembly was in session, no proposal in connection with it has been moved by any member, the chairman of the committee shall upon due notice move the adoption by the Assembly of the recommendation contained in the report.

Samestelling van Vergadering

4. (1) Die Vergadering bestaan, behoudens die bepalings van subartikel (5), uit—

(a) 62 lede wat persone moet wees wat, behoudens die bepalings van artikel 5, ooreenkomstig die bepalings van subartikel (2) benoem is deur die politieke organisasies—

(i) wat op 18 April 1985 onder die name vermeld in kolom 1 van Aanhangsel 2 bekend gestaan het; en

(ii) wat op daardie datum regstreeks betrokke was by wat toe as die Veelpartykonferensie bekend gestaan het; en

(b) die ander lede (indien daar is) wat persone kan wees wat, behoudens die bepalings van artikel 5, ooreenkomstig die bepalings van subartikel (3) benoem is deur 'n politieke organisasie wat kragtens daardie subartikel deur die Vergadering vir dié doel erken is.

(2) 'n Politieke organisasie in paragraaf (a) van subartikel (1) bedoel—

(a) moet die aantal persone benoem wat teenoor sy naam in kolom 2 van Aanhangsel 2 vermeld word; en

(b) moet sy benoemings doen deur voor 10h00 op 17 Junie 1985 aan die Sekretaris op 'n plek deur hom, met die instemming van die Administrateur-generaal bepaal skriftelik, in die vorm deur die Sekretaris voorgeskryf, ten opsigte van elke persoon deur hom benoem, voor te lê—

(i) sy aanvaarding van die benoeming;

(ii) sy volle name en van;

(iii) sy geboortedatum; en

(iv) sy identiteitsnommer.

(3) (a) Die Vergadering kan die aantal addisionele setels wat hy bepaal, toeken aan 'n politieke organisasie, uitgesonderd 'n politieke organisasie in subartikel (1) (a) bedoel, wat vir dié doel deur die Vergadering erken is op versoek ten behoeve van daardie organisasie gedoen ooreenkomstig paragraaf (b) tot (f).

(b) Een of meer ampsbekleders van enige politieke organisasie kan ten behoeve van die organisasie aan die Speaker 'n skriftelike versoek rig vir die erkenning van, en die toekenning van een of meer addisionele setels aan, die organisasie deur die Vergadering kragtens paragraaf (a), en moet in so 'n versoek die gronde waarop dit gedoen word volledig uiteensit.

(c) So 'n versoek wat deur die Speaker ontvang is, word in die Vergadering ter tafel gelê, waarna die Vergadering dit vir ondersoek, verslag en 'n aanbeveling na 'n komitee in die Vergadering kan verwys of op die ander wyse wat die Vergadering geskik ag daarmee kan handel.

(d) Indien geen voorstel in verband met die versoek deur 'n lid gedoen is nie nadat dit vir minstens vyf dae waarop die Vergadering in sitting was, in die Vergadering ter tafel gelê het, verwys die Speaker dit na 'n komitee wat uit lede deur hom aangewys bestaan, een van wie deur hom as voorsitter van die komitee aangewys word, en sodanige komitee word geag 'n komitee van die Vergadering te wees waarna die versoek deur die Vergadering verwys is soos in paragraaf (c) beoog.

(e) Die verslag van 'n komitee word in die Vergadering ter tafel gelê en indien, nadat dit aldus ter tafel gelê het vir minstens vyf dae waarop die Vergadering in sitting was, geen voorstel in verband daarmee deur 'n lid gedoen is nie, stel die voorsitter van die komitee na behoorlike kennisgewing dat die aanbeveling in dié verslag vervat, deur die Vergadering aanvaar word.

(f) The provisions of paragraph (e) shall not be construed as debarring any proposal for the rejection or amendment of a recommendation proposed for adoption in terms of that paragraph.

(g) A political organization which has been recognized by the Assembly under paragraph (a)—

(i) shall be entitled to nominate a person as a member in respect of every additional seat allocated to it under that paragraph;

(ii) shall make its nomination by submitting as soon as possible after a seat has been allocated to it under that paragraph to the Secretary in writing, in such form as the Secretary may prescribe, in respect of the person nominated by it, the particulars referred to in subsection (2) (b).

(h) The nomination of a person in accordance with the provisions of paragraph (g) shall be announced by the Speaker in the Assembly, and thereupon such person shall, subject to the provisions of the rules and orders of the Assembly, be a member of the Assembly.

(4) Every member shall, before taking his seat, at the first meeting of the Assembly make and subscribe before the Judge President or any other judge of the Supreme Court of South West Africa, and thereafter before the Speaker an oath or solemn affirmation in the following form:

I, A.B., do swear/solemnly affirm to be faithful to the inhabitants of this territory and solemnly promise to pursue, respect and uphold the objects of the Bill of Fundamental Rights and Objectives and to perform my duties as a member of the National Assembly to the best of my ability.

(In the case of an oath)

So help me God

(5) When a member vacates for any reason his seat in the Assembly the Assembly shall, subject to the provisions of section 38, consist of the remaining members of the Assembly until such time as another person is nominated as a member in his place in accordance with the provisions of section 7.

Qualifications of members of Assembly

5. (1) Any person—

(a) who is of or over the age of 21 years;

(b) who is in possession of an identity document; and

(c) who is not subject to a disqualification referred to in subsection (2),

shall be qualified for nomination as a member and to be a member of the Assembly.

(2) No person shall be qualified for nomination as a member or to be a member if he is subject to an order of court declaring him to be of unsound mind or mentally disordered or defective, or is detained as a mentally ill person under any law.

(3) Any person who is incapable of sitting as a member and who, while so incapable and knowing or having reasonable grounds for knowing that he is so incapable, sits or votes as a member, shall be liable to a penalty of R50 for each day on which he so sits or votes, which may be recovered on behalf of the Treasury of the territory by action in the Supreme Court of South West Africa.

Vacation of seat by member of Assembly

6. (1) A member shall vacate his seat—

(a) if he is convicted of an offence in respect of which he is sentenced to imprisonment without the option of a fine;

(f) Die bepalings van paragraaf (e) word nie so uitgelê dat dit 'n voorstel vir die verwerping of wysiging van 'n aanbeveling waarvan die aanvaarding ingevolge daardie paragraaf voorgestel is, belet nie.

(g) 'n Politieke organisasie wat kragtens paragraaf (a) deur die Vergadering erken is—

(i) is geregtig om, ten opsigte van elke addisionele setel wat kragtens daardie paragraaf aan hom toegeken is, 'n persoon as lid te benoem;

(ii) moet sy benoeming doen deur so gou doenlik nadat 'n setel kragtens daardie paragraaf aan hom toegeken is aan die Sekretaris skriftelik, in die vorm deur die Sekretaris voorgeskryf, ten opsigte van die persoon deur hom benoem, die besonderhede in subartikel (2) (b) bedoel, voor te lê.

(h) Die benoeming van 'n persoon ooreenkomstig die bepalings van paragraaf (g) word deur die Speaker in die Vergadering aangekondig, en daarop is bedoelde persoon, behoudens die reëls en orders van die Vergadering, 'n lid van die Vergadering.

(4) Elke lid moet, voordat hy sy sitplek inneem, op die eerste byeenkoms van die Vergadering voor die Regter-president of 'n ander regter van die Hooggeregshof van Suidwes-Afrika, en daarna voor die Speaker 'n eed of plegtige verklaring in die volgende vorm aflê en onderteken:

Ek, A.B., sweer/beloof plegtig trou aan die inwoners van hierdie gebied en onderneem plegtig om die oogmerke van die Handves van Fundamentele Regte en Doelstellingen na te streef, te eerbiedig en te handhaaf en om my pligte as lid van die Nasionale Vergadering na my beste vermoë uit te voer.

(In die geval van 'n eed)

So help my God.

(5) Wanneer 'n lid om die een of ander rede sy setel in die Vergadering ontruim, bestaan die Vergadering, behoudens die bepalings van artikel 38, uit die oorblywende lede van die Vergadering tot tyd en wyl 'n ander persoon in sy plek ooreenkomstig die bepalings van artikel 7 as lid benoem word.

Kwalifikasies van lede van Vergadering

5. (1) Enige persoon—

(a) wat 21 jaar oud of ouer is;

(b) wat in besit van 'n identiteitsdokument is; en

(c) wat nie aan 'n in subartikel (2) bedoelde onbevoegdheid onderworpe is nie,

is bevoeg om as lid benoem te word en om 'n lid van die Vergadering te wees.

(2) Geen persoon is bevoeg om as lid benoem te word of om 'n lid te wees nie indien hy onderworpe is aan 'n hofbevel wat hom swaksinnig of geestelik gekrenk of gebrek-kig verklaar, of kragtens die een of ander wet as 'n geestesongestelde persoon aangehou word.

(3) 'n Persoon wat onbevoeg is om as lid sitting te neem en wat, terwyl hy aldus onbevoeg is en weet of redelike gronde het om te weet dat hy aldus onbevoeg is, as lid sitting neem of stem, is vir elke dag waarop hy aldus sitting neem of stem, strafbaar met 'n boete van R50, wat ten behoeve van die Tesourie van die gebied by wyse van aksie in die Hooggeregshof van Suidwes-Afrika verhaal kan word.

Ontruiming van setel deur lid van Vergadering

6. (1) 'n Lid ontruim sy setel—

(a) indien hy skuldig bevind word aan 'n misdryf ten opsigte waarvan hy tot gevangenisstraf sonder die keuse van 'n boete gevonnis word;

(b) if he becomes subject to a disqualification mentioned in section 5 (2);

(c) subject to the rules and orders of the Assembly, if he is absent on 10 consecutive sittings days of the Assembly without its leave, and his absence is not condoned by the Assembly;

(d) if he resigns his seat by writing under his hand addressed to the Speaker;

(e) if his nomination is withdrawn by the political organization concerned; or

(f) on a date fixed by the State President by proclamation in the *Gazette* of the Republic of South Africa which shall be a date not earlier than the date on which any constitutional process which, in the opinion of the State President, may give rise directly to the independence of the territory as a sovereign state commences.

(2) In subsection (1) (c) "sitting days" means separate days on which the Assembly or, in relation to a member who is a member of any committee of the Assembly, any committee of the Assembly is in session.

Filling of vacancies in Assembly

7. (1) If a member vacates for any reason his seat in the Assembly, the Speaker shall declare in the Assembly that such seat has been so vacated and shall at the same time call upon the political organization concerned which is, in terms of section 4, entitled to nominate a person as a member, to nominate in due course a person as a member in the place of the member who has vacated his seat.

(2) A nomination of a person as a member shall be made by submitting to the Secretary in writing, in such form as he may prescribe, in respect of the person nominated by it, the particulars referred to in section 4 (2) (b).

(3) The nomination of a person in accordance with the provisions of subsection (2) shall be announced by the Speaker in the Assembly, and thereupon such person shall, subject to the rules and orders of the Assembly, be a member.

Seat of Assembly

8. Windhoek shall be the seat of the Assembly.

Sessions of Assembly

9. The first meeting of the Assembly shall take place on 17 June 1985 at a time determined by the Administrator-General and thereafter the sittings of the Assembly shall take place at such times as may be determined by the Assembly: Provided that if at any time during an adjournment the Speaker, after consultation with the Cabinet, is satisfied that it is in the public interest that the next ensuing sitting of the Assembly should not take place on the date so determined but upon another date, whether earlier or later than the first-mentioned date, determined by the Speaker, and has given notice or caused notice to be given to the members of the Assembly that he is so satisfied and of such other date, the said sitting shall take place on that other date.

Election of Speaker

10. (1) At the first meeting of the Assembly, every member shall make and subscribe the oath or solemn affirmation prescribed in section 4 (4), and the Administrator-General shall open the proceedings.

(2) Thereafter the Assembly shall proceed to elect a member as Speaker of the Assembly.

(3) The Secretary shall act as chairman until a Speaker is elected, and may adjourn the meeting from time to time as circumstances may require.

(b) indien hy aan 'n onbevoegdheid in artikel 5 (2) genoem, onderworpe word;

(c) behoudens die reëls en orders van die Vergadering, indien hy van 10 opeenvolgende sittingsdae van die Vergadering afwesig is sonder verlof van die Vergadering, en sy afwesigheid nie deur die Vergadering gekondoneer word nie;

(d) indien hy deur 'n bedankingsbrief, deur hom onderteken en aan die Speaker gerig, vir sy setel bedank;

(e) indien sy benoeming deur die betrokke politieke organisasie ingetrek word; of

(f) op 'n datum deur die Staatspresident by proklamasie in die *Staatskoerant* van die Republiek van Suid-Afrika bepaal wat 'n datum moet wees nie vroeër nie as die datum waarop die een of ander staatkundige proses wat na die oordeel van die Staatspresident regstreeks tot die onafhanklikwording van die gebied as 'n soewereine staat aanleiding kan gee, 'n aanvang neem.

(2) In subartikel (1) (c) beteken "sittingsdae" afsonderlike dae waarop die Vergadering of, met betrekking tot 'n lid wat 'n lid van 'n komitee van die Vergadering is, 'n komitee van die Vergadering in sitting is.

Vul van vakatures in Vergadering

7. (1) Indien 'n lid om die een of ander rede sy setel in die Vergadering ontruim, verklaar die Speaker in die Vergadering dat die setel aldus ontruim is en doen hy terselfdertyd 'n beroep op die betrokke politieke organisasie wat ingevolge artikel 4 geregtig is om 'n persoon as lid te benoem om te geleëner tyd 'n persoon in die plek van die lid wat sy setel ontruim het, as lid te benoem.

(2) 'n Benoeming van 'n persoon as lid word gedoen deur aan die Sekretaris skriftelik, in die vorm deur hom voorgeskryf, ten opsigte van die persoon deur hom benoem, die besonderhede in artikel 4 (2) (b) bedoel, voor te lê.

(3) Die benoeming van 'n persoon ooreenkomstig die bepalings van subartikel (2) word deur die Speaker in die Vergadering aangekondig, en daarop is bedoelde persoon, behoudens die reëls en orders van die Vergadering, 'n lid.

Setel van Vergadering

8. Windhoek is die setel van die Vergadering.

Sittings van Vergadering

9. Die eerste byeenkoms van die Vergadering vind plaas op 17 Junie 1985 op 'n tyd deur die Administrateur-generaal bepaal, en daarna vind sittings van die Vergadering plaas op die tyd wat die Vergadering bepaal: Met dien verstande dat indien die Speaker te eniger tyd gedurende 'n verdaging, na oorlegpleging met die Kabinet, oortuig is dat dit in die openbare belang is dat die eersvolgende sitting van die Vergadering nie op die datum aldus bepaal, moet plaasvind nie maar op 'n ander datum, hetsy vroeër of later as eersgenoemde datum, deur die Speaker bepaal, en aan die lede van die Vergadering kennis gegee of laat gee het dat hy aldus oortuig is en van bedoelde ander datum, genoemde sitting op daardie ander datum plaasvind.

Verkieping van Speaker

10. (1) Op die eerste byeenkoms van die Vergadering lê elke lid die eed of plegtige verklaring in artikel 4 (4) voorgeskryf af, en open die Administrateur-generaal die verrigtinge.

(2) Daarna gaan die Vergadering oor tot die verkiesing van 'n lid as Speaker van die Vergadering.

(3) Die Sekretaris tree as voorsitter op tot 'n Speaker gekies is, en kan die byeenkoms van tyd tot tyd verdaag na vereiste van omstandighede.

(4) A proposal of a candidate for election as Speaker shall be moved by a member and seconded by at least five other members.

(5) If only one candidate is proposed and seconded he shall be declared by the Secretary to be duly elected.

(6) If more than one candidate is proposed and seconded, a vote shall be taken, each member present having one vote and no debate being allowed, and the candidate in whose favour a majority of all the votes cast is recorded, shall be declared by the Secretary to be duly elected.

(7) If no candidate receives a majority of all the votes so cast, the candidate or candidates who received the smallest number of votes shall be eliminated and a further vote shall be taken in respect of the remaining candidates, this procedure being repeated as often as may be necessary.

(8) If there are only two candidates, or if only two candidates remain after the elimination of any candidate in terms of subsection (7), and there is an equality of votes between them, neither of them shall be regarded as elected, and the Secretary shall adjourn the meeting to a time fixed by him.

(9) At the resumed meeting the Secretary shall call for fresh proposals of candidates for election as Speaker and, until a Speaker is elected, the provisions of this section, with the exception of subsection (1), shall apply as if the resumed meeting or any further resumed meeting were the first meeting proceeding, as contemplated in subsection (2), to elect a member as Speaker.

(10) Unless the Assembly decides otherwise—

(a) the member elected as Speaker in terms of this section shall hold office as Speaker for so long as he is a member;

(b) any vacancy in the office of Speaker shall be filled *mutatis mutandis* in accordance with the provisions of this section.

(11) The provisions of this section shall not be construed as prohibiting the election or designation in some other manner of any deputy Speaker or acting Speaker or other office-bearer of the Assembly.

Establishment and powers of standing committees of Assembly

11. (1) There shall be at least nine standing committees of the Assembly of which eight shall consider such matters as the Assembly may determine or are referred to it by the Speaker, and the other one shall consider every law which was in force in the territory immediately before the first meeting of the Assembly and which abolishes, diminishes or derogates from any fundamental right and, if any such law should in the opinion of the standing committee be repealed or amended in so far as it abolishes, diminishes or derogates from any fundamental right, shall report thereon to the Assembly, and may submit a bill to the Assembly for that purpose.

(2) Unless the Assembly determines otherwise within seven days after a bill has been introduced in the Assembly, every bill so introduced shall, before it is considered by the Assembly, be considered by at least one of the eight standing committees referred to in subsection (1) which shall report thereon to the Assembly.

(3) (a) A standing committee shall consist of at least one member (not holding the office of Speaker or Minister) in respect of every political organization which nominated a member or members under section 4.

(4) Die voorstel van 'n kandidaat vir verkiesing as Speaker moet deur 'n lid gedoen en deur minstens vyf ander lede gesekondeer word.

(5) Indien slegs een kandidaat voorgestel en gesekondeer word, word hy deur die Sekretaris as behoorlik verkies verklaar.

(6) Indien meer as een kandidaat voorgestel en gesekondeer word, vind 'n stemming plaas waarby elke lid wat teenwoordig is een stem het en geen debat toegelaat word nie, en word die kandidaat ten gunste van wie 'n meerderheid aangeteken word van al die stemme wat uitgebring is, deur die Sekretaris as behoorlik verkies verklaar.

(7) Indien geen kandidaat 'n meerderheid verkry van al die stemme wat aldus uitgebring is nie, word die kandidaat of kandidate wat die minste stemme gekry het, uitgeskakel en word 'n verdere stemming ten opsigte van die oorblywende kandidate gehou, en hierdie prosedure word herhaal so dikwels as wat nodig is.

(8) Indien daar slegs twee kandidate is, of indien slegs twee kandidate oorbly na die uitskakeling van 'n kandidaat ingevolge subartikel (7), en daar 'n staking van stemme tussen hulle is, word geeneen as verkies beskou nie en verdaag die Sekretaris die byeenkoms tot op 'n tyd deur hom vasgestel.

(9) Op die voortgesette byeenkoms vra die Sekretaris nuwe voorstelle van kandidate vir verkiesing as Speaker en, totdat 'n Speaker verkies is, is die bepalings van hierdie artikel, met uitsondering van subartikel (1), van toepassing asof die voortgesette byeenkoms of 'n verdere voortgesette byeenkoms die eerste byeenkoms was wat, soos in subartikel (2) beoog, tot die verkiesing van 'n lid as Speaker oorgaan.

(10) Tensy die Vergadering anders besluit—

(a) beklee die lid wat ingevolge hierdie artikel as Speaker verkies is die amp van Speaker vir solank as wat hy 'n lid is;

(b) word 'n vakature in die amp van Speaker *mutatis mutandis* ooreenkomstig die bepalings van hierdie artikel gevul.

(11) Die bepalings van hierdie artikel word nie so uitgelê dat dit die verkiesing of aanwysing op 'n ander wyse van 'n Adjunk-speaker of waarnemende Speaker of ander ampsbekleder van die Vergadering verbied nie.

Instelling en bevoegdhede van staande komitees van Vergadering

11. (1) Daar is minstens nege staande komitees van die Vergadering waarvan agt die aangeleenthede moet oorweeg wat die Vergadering bepaal of deur die Speaker na hom verwys word, en die ander een elke wet wat in die gebied gegeld het onmiddellik voor die eerste byeenkoms van die Vergadering en wat 'n fundamentele reg ophef, inkort of aan afbreuk doen, moet oorweeg en, indien so 'n wet na sy oordeel herroep of gewysig behoort te word vir sover dit 'n fundamentele reg ophef, inkort of aan afbreuk doen, daarop verslag aan die Vergadering moet doen, en kan vir dié doel 'n wetsontwerp aan die Vergadering voorlê.

(2) Tensy die Vergadering binne sewe dae nadat 'n wetsontwerp by die Vergadering ingedien is anders bepaal, moet elke wetsontwerp wat aldus ingedien is voordat dit deur die Vergadering oorweeg word deur minstens een van die agt staande komitees in subartikel (1) bedoel, oorweeg word wat daarop aan die Vergadering verslag moet doen.

(3) (a) 'n Staande komitee bestaan uit minstens een lid (wat nie die amp van Speaker of Minister beklee nie) ten opsigte van elke politieke organisasie wat 'n lid of lede kragtens artikel 4 benoem het.

(b) Any such member of a standing committee shall be appointed by the Speaker on the recommendation of the members nominated under section 4 by the political organization concerned.

(c) The Speaker shall appoint, at the request of a member nominated under section 4 by a political organization which nominated, under section 4, more members of the Assembly than any other political organization, as many additional members, designated by the other members nominated by that political organization, in a standing committee as the Assembly may determine in order to ensure that the representation of that political organization in that standing committee shall bear the same proportion as its representation in the Assembly.

(4) Unless the Assembly determines otherwise, the majority of the members of a standing committee shall form a quorum for a meeting of the committee.

(5) (a) A standing committee shall at all times have as its aim, and shall so endeavour, to reach unanimity in respect of every bill or other matter which it is, in terms of this section, required to consider, but may, if unanimity cannot be reached, take a decision by a majority of votes of all its members.

(b) In the event of an equality of votes, the question voted upon by the members of a standing committee shall be deemed to have been rejected.

(6) A standing committee may exercise or perform some or all of its powers, duties or functions also while the Assembly is not in session.

Procedure in Assembly

12. (1) Subject to the provisions of subsections (2) and (3), the Assembly may make rules and orders in connection with the order and conduct of its business and proceedings.

(2) At least 33 members, including the Speaker or other presiding member, shall be necessary to constitute a sitting of the Assembly for the exercise of its powers or the performance of its duties or functions.

(3) A decision of the majority of the members, excluding the Speaker or other presiding member who shall, however, in the event of an equality of votes have and exercise a casting vote, shall be a decision of the Assembly, unless the Assembly, in the case of a bill or other matter contemplated in section 11 (1), on the recommendation of the standing committee concerned determines that a greater majority be required.

(4) Unless and until the Assembly by any rule or order contemplated in subsection (1) provides otherwise, and subject to the provisions of section 10—

(a) the Speaker or a member designated by him shall preside at any sitting of the Assembly and regulate the conduct of its business and proceedings;

(b) the Assembly may establish such other committees as it may deem necessary to exercise its powers or to perform its duties or functions;

(c) the Secretary shall keep such record of the proceedings of the Assembly as the Speaker may determine;

(d) the rules and orders adopted under section 12 of the National Assembly Proclamation, 1979 (Proclamation AG. 12 of 1979), as they existed on 18 January 1983, shall apply *mutatis mutandis* and with such amendments, additions or adjustments as the Speaker may approve, with reference to the business and proceedings of the Assembly in so far as they are capable of being so applied.

(b) So 'n lid van 'n staande komitee word deur die Speaker, op aanbeveling van die lede wat deur die betrokke politieke organisasie kragtens artikel 4 benoem is, aangestel.

(c) Die Speaker stel, op versoek van 'n lid wat kragtens artikel 4 deur 'n politieke organisasie benoem is wat meer lede van die Vergadering as 'n ander politieke organisasie kragtens artikel 4 benoem het, soveel addisionele lede, aangewys deur die ander lede wat deur daardie politieke organisasie benoem is, in 'n staande komitee aan as wat die Vergadering bepaal ten einde te verseker dat die verteenwoordiging van daardie politieke organisasie in daardie staande komitee in dieselfde verhouding staan as sy verteenwoordiging in die Vergadering.

(4) Tensy die Vergadering anders bepaal, maak die meerderheid lede van 'n staande komitee 'n kworum vir 'n vergadering van die komitee uit.

(5) (a) 'n Staande komitee moet hom te alle tye ten doel stel, en moet aldus poog, om ten opsigte van elke wetsontwerp of ander aangeleentheid wat hy ingevolge hierdie artikel moet oorweeg eenstemmigheid te bereik, maar kan, indien eenstemmigheid nie bereik word nie, 'n besluit met 'n meerderheid van stemme van al sy lede neem.

(b) In die geval van 'n staking van stemme word die vraag waaroor die lede van 'n staande komitee gestem het, geag verwerp te wees.

(6) 'n Staande komitee kan sommige van of al sy bevoegdhede, pligte of werksaamhede uitoefen of verrig ook terwyl die Vergadering nie in sitting is nie.

Prosedure in Vergadering

12. (1) Behoudens die bepalings van subartikels (2) en (3) kan die Vergadering in verband met die orde en reëlins van sy werksaamhede en verrigtinge reëls en orders aanneem.

(2) Minstens 33 lede, met inbegrip van die Speaker of ander voorsittende lid, moet aanwesig wees om 'n sitting van die Vergadering vir die uitoefening van sy bevoegdhede of die verrigting van sy pligte of werksaamhede bevoeg te maak.

(3) 'n Besluit van die meerderheid van die lede, uitgesonderd die Speaker of ander voorsittende lid wat egter by 'n staking stemme 'n beslissende stem het en uitbring, is 'n besluit van die Vergadering, tensy die Vergadering, in die geval van 'n wetsontwerp of ander aangeleentheid in artikel 11 (1) beoog, op aanbeveling van die betrokke staande komitee, bepaal dat 'n groter meerderheid vereis word.

(4) Tensy en totdat die Vergadering by 'n reël of order in subartikel (1) beoog anders bepaal, en behoudens die bepalings van artikel 10—

(a) sit die Speaker of 'n lid deur hom aangewys op 'n sitting van die Vergadering voor en behartig hy die reëling van die werksaamhede en verrigtinge daarvan;

(b) kan die Vergadering die ander komitees instel wat hy nodig ag om sy bevoegdhede uit te oefen of sy pligte of werksaamhede te verrig;

(c) hou die Sekretaris die notule van die verrigtinge van die Vergadering wat die Speaker bepaal;

(d) is die reglement van orde wat kragtens artikel 12 van die Proklamasie op die Nasionale Vergadering, 1979 (Proklamasie AG. 21 van 1979), aanvaar is, soos dit op 18 Januarie 1983 bestaan het, *mutatis mutandis* en met die wysigings, toevoegings of aanpassings wat die Speaker goedkeur, met betrekking tot die werksaamhede en verrigtinge van die Vergadering van toepassing vir sover dit aldus toegepas kan word.

Freedom of speech

13. (1) Subject to the rules and orders of the Assembly, there shall be freedom of speech in the Assembly and in any committee of the Assembly.

(2) No member shall be liable to any legal proceedings by reason of his speech or vote in the Assembly or any committee of the Assembly.

Proceedings open to public

14. Subject to the rules and orders of the Assembly, the proceedings of the Assembly shall be open to the public.

Secretary and other officers of Assembly

15. (1) Subject to the provisions of the laws on the government service and the directions of the Assembly, the Speaker shall appoint a person, or designate a person in the government service made available for that purpose, as the Secretary of the Assembly, who shall perform the functions and duties assigned to him by this Proclamation or by the Assembly or the Speaker.

(2) Subject to the laws governing the control of public moneys, the Secretary shall perform his functions and duties under the control of the Speaker.

(3) The Secretary shall be assisted by officers of the Assembly who shall be persons in the government service made available for that purpose.

(4) The Secretary may obtain the services of any person, not being an officer of the Assembly referred to in subsection (3), for the purposes of the Assembly on such conditions as may be determined, subject to the provisions of subsection (5), by agreement with such person.

(5) No condition involving expenditure from the moneys referred to in section 16 shall be determined under subsection (4) of this section without the prior approval of the Treasury.

Expenditure in connection with Assembly

16. The expenditure in connection with the Assembly and the exercise of its powers and the performance of its duties or functions shall be defrayed out of moneys appropriated by law for that purpose.

Submission of laws and signing of laws made by Assembly

17. (1) Every bill shall be printed and presented to the Assembly in both the English and the Afrikaans language.

(2) (a) Two fair copies of each law adopted by the Assembly, one being in the English and the other in the Afrikaans language, shall be submitted to the Administrator-General.

(b) When a law is submitted to the Administrator-General, he shall declare that he assents to it or that he withholds assent, but he shall not declare that he withholds assent unless he is satisfied that the law has not been dealt with as provided in this Proclamation, or that such law is contrary to the provisions of this Proclamation.

(c) If the Administrator-General assents to a law he shall sign one copy of the law.

(3) Any reference in this Proclamation to a law signed by the Administrator-General or to the signing of a law by him, shall be construed as a reference to a law of which one copy has been signed by the Administrator-General under subsection (2) or the signing of one copy of the law by him under that subsection, as the case may be.

Vryheid van spraak

13. (1) Behoudens die reëls en orders van die Vergadering is daar vryheid van spraak in die Vergadering en in 'n komitee van die Vergadering.

(2) Geen lid staan bloot aan 'n regsding weens sy uitlatings of stem in die Vergadering of 'n komitee van die Vergadering nie.

Verrigtinge vir publiek toeganklik

14. Behoudens die reëls en orders van die Vergadering is die verrigtinge van die Vergadering vir die publiek toeganklik.

Sekretaris en ander beamptes van Vergadering

15. (1) Behoudens die bepalings van die wette op die regeringsdiens en die voorskrifte van die Vergadering stel die Speaker 'n persoon aan, of wys hy 'n persoon in die regeringsdiens wat vir dié doel beskikbaar gestel is aan, as Sekretaris van die Vergadering wat die werksaamhede en pligte verrig wat by hierdie Proklamasie of deur die Vergadering of die Speaker aan hom opgedra word.

(2) Behoudens die wette op die beheer van staatsgeld verrig die Sekretaris sy werksaamhede en pligte onder beheer van die Speaker.

(3) Die Sekretaris word bygestaan deur beamptes van die Vergadering wat persone in die regeringsdiens moet wees wat vir dié doel beskikbaar gestel is.

(4) Die Sekretaris kan die dienste van enige persoon, wat nie 'n in subartikel (3) bedoelde beampte van die Vergadering is nie, vir die doeleindes van die Vergadering verkry op die voorwaardes wat, behoudens die bepalings van subartikel (5), by ooreenkoms met daardie persoon bepaal word.

(5) Geen voorwaarde wat uitgawe uit die in artikel 16 bedoelde gelde meebring, word sonder die voorafgaande goedkeuring van die Tesourie kragtens subartikel (4) van hierdie artikel bepaal nie.

Uitgawe in verband met Vergadering

16. Die uitgawe in verband met die Vergadering en die uitoefening van sy bevoegdhede en die verrigting van sy pligte of werksaamhede word betaal uit gelde wat by wet vir dié doel bewillig is.

Voorlegging van wette en ondertekening van wette deur Vergadering aangeneem

17. (1) Elke wetsontwerp moet in sowel die Afrikaanse as die Engelse taal gedruk en aan die Vergadering voorgelê word.

(2) (a) Twee skoon eksemplare van elke wet wat deur die Vergadering aangeneem is, die een in die Afrikaanse en die ander in die Engelse taal, word aan die Administrateur-generaal voorgelê.

(b) Wanneer 'n wet aan die Administrateur-generaal voorgelê word, verklaar hy dat hy daarin toestem of dat hy toestemming weerhou, maar hy verklaar nie dat hy toestemming weerhou nie tensy hy oortuig is dat daar nie met die wet ooreenkomstig die voorskrifte van hierdie Proklamasie gehandel is nie, of dat die wet in stryd met die bepalings van hierdie Proklamasie is.

(c) Indien die Administrateur-generaal sy toestemming tot 'n wet verleen, onderteken hy een eksemplaar van die wet.

(3) 'n Verwysing in hierdie Proklamasie na 'n wet wat deur die Administrateur-generaal onderteken is of na die ondertekening van 'n wet deur hom, word uitgelê as 'n verwysing na 'n wet waarvan een eksemplaar kragtens subartikel (2) deur die Administrateur-generaal onderteken is of die ondertekening van een eksemplaar van die wet deur hom kragtens daardie subartikel, na gelang van die geval.

(4) The provisions of this section shall not detract from the powers of the State President to amend or repeal, under section 38 of the South West Africa Constitution Act, 1968 (Act 39 of 1968), any law referred to in subsection (2) to which the Administrator-General has assented.

Promulgation of laws of Assembly

18. (1) The Secretary shall cause every law adopted by the Assembly and signed by the Administrator-General to be published in the *Official Gazette*.

(2) Such a law shall come into operation on the date of its first publication in the *Official Gazette*, unless some other date is fixed or is to be fixed by or under such law for its coming into operation.

Validity of laws of Assembly

19. (1) The Supreme Court of South West Africa shall be competent to inquire into and pronounce upon the validity of an Act of the Assembly in pursuance of the question—

(a) whether the provisions of this Proclamation were complied with in connection with any law which is expressed to be enacted by the Assembly; and

(b) whether the provisions of any such law abolish, diminish or derogate from any fundamental right.

(2) When the Cabinet has any doubt on the question whether any law or provision thereof which was in force in the territory on the date immediately before the date on which the first members of the Cabinet have made and subscribed the oath prescribed in section 23 (4), abolishes, diminishes or derogates from any fundamental right, the Cabinet may cause such question to be submitted to the Supreme Court of South West Africa for argument and decision.

(3) If the court decides that any law or provision referred to in subsection (2) abolishes, diminishes or derogates from any fundamental right so referred to, the Cabinet shall cause such law or provision to be submitted to the standing committee concerned for consideration and report to the Assembly on the question whether such law or provision ought to be repealed or amended.

(4) Save as provided in subsection (1), no court of law shall be competent to inquire into or pronounce upon the validity of an Act of the Assembly.

Registration of laws of Assembly

20. As soon as possible after the Administrator-General has signed a law, the Secretary shall cause the copy thereof which has been signed by the Administrator-General and the other copy which was submitted to him in terms of section 17 (2), to be enrolled of record in the office of the Registrar of the Supreme Court of South West Africa, and the copies so enrolled shall be conclusive evidence as to the provisions of such law, and in case of conflict between the two copies, the copy signed by the Administrator-General shall prevail.

Tabling of documents in Assembly

21. (1) Any reference in a law which has, immediately before the first meeting of the Assembly, been administered by or under the authority of the Administrator-General to the tabling in the Parliament of the Republic of South Africa, or to the submission to the Administrator-General of any proclamation, regulation, rule or other enactment or any report or other document, shall, notwithstanding anything to the contrary contained in any law (including a law in terms of which the provision of the law in which the reference is contained, is deemed to be deleted or not to

(4) Die bepalings van hierdie artikel doen nie afbreuk aan die bevoegdheid van die Staatspresident om kragtens artikel 38 van die Wet op die Konstitusie van Suidwes-Afrika, 1968 (Wet 39 van 1968), enige wet in subartikel (2) bedoel waartoe die Administrateur-generaal toegestem het, te wysig of te herroep nie.

Afkondiging van wette van Vergadering

18. (1) Die Sekretaris laat elke wet wat deur die Vergadering aangeneem en deur die Administrateur-generaal onderteken is, in die *Offisiële Koerant* afkondig.

(2) So 'n wet tree in werking op die datum van die eerste afkondiging daarvan in die *Offisiële Koerant*, tensy 'n ander datum deur of kragtens die wet vir die inwerkingtreding daarvan vasgestel is of vasgestel moet word.

Geldigheid van wette van Vergadering

19. (1) Die Hooggeregshof van Suidwes-Afrika is bevoeg om ondersoek in te stel en uitspraak te doen oor die geldigheid van 'n Wet van die Vergadering na aanleiding van die vraag—

(a) of die bepalings van hierdie Proklamasie nagekom is in verband met 'n wet wat te kenne gee dat dit die bepaling van die Vergadering is; en

(b) of die bepalings van so 'n wet 'n fundamentele reg ophef, inkort of aan afbreuk doen.

(2) Wanneer die Kabinet twyfel oor die vraag of 'n wet of 'n bepaling daarvan wat in die gebied gegeld het op die datum onmiddellik voor die datum waarop die eerste lede van die Kabinet die eed of plegtige verklaring voorgeskryf in artikel 23 (4) afgelê en onderteken het, 'n fundamentele reg ophef, inkort of aan afbreuk doen, kan die Kabinet dié vraag aan die Hooggeregshof van Suidwes-Afrika vir berekening en beslissing laat voorlê.

(3) Indien die hof beslis dat 'n in subartikel (2) bedoelde wet of bepaling 'n fundamentele reg ophef, inkort of aan afbreuk doen, moet die Kabinet die wet of bepaling aan die betrokke staande komitee laat voorlê vir oorweging en verslag aan die Vergadering oor die vraag of die wet of bepaling herroep of gewysig behoort te word.

(4) Behalwe soos in subartikel (1) bepaal, is geen geregshof bevoeg om ondersoek in te stel nie na of uitspraak te doen nie oor die geldigheid van 'n Wet van die Vergadering.

Registrasie van wette van Vergadering

20. So gou moontlik nadat die Administrateur-generaal 'n wet onderteken het, laat die Sekretaris die eksemplaar daarvan wat die Administrateur-generaal onderteken het en die ander eksemplaar daarvan wat ingevolge artikel 17 (2) aan hom voorgelê is, in die register van die kantoor van die Griffier van die Hooggeregshof van Suidwes-Afrika opneem, en die eksemplare aldus opgeneem, is afdoende bewys van die bepalings van daardie wet, en in geval die twee eksemplare strydig met mekaar is, gee die eksemplaar wat deur die Administrateur-generaal onderteken is die deurslag.

Tertafellegging van stukke in Vergadering

21. (1) 'n Verwysing in 'n wet wat onmiddellik voor die eerste byeenkoms van die Vergadering deur of onder die gesag van die Administrateur-generaal uitgevoer is, na die tertafellegging in die Parlement van die Republiek van Suid-Afrika, of na die voorlegging aan die Administrateur-generaal van 'n proklamasie, regulasie, reël of ander verordening of 'n verslag of ander stuk, word, ondanks andersluidende bepalings van die een of ander wet (met inbegrip van 'n wet waarvolgens die bepaling van die wet waarin die verwysing vervat is, geag word geskrap te wees

form part of the relevant law), as from that date be construed as a reference to the tabling of such proclamation, regulation, rule, enactment, report or document in the Assembly.

(2) Unless the rules and orders of the Assembly provide otherwise, anything which in terms of a provision of this Proclamation or any other law is to be laid or may be laid upon the table in the Assembly shall be so laid upon the table by the Speaker or a member of the Assembly designated by him for that purpose.

Offences in relation to Assembly

22. Any person who—

(a) threatens, obstructs or insults a member proceeding to or from the Assembly or on account of his conduct in the Assembly, or endeavours by force, insult or menace to compel a member to declare himself in favour of or against any proposal or matter depending or expected to be brought before the Assembly;

(b) while the Assembly is sitting, creates or joins in any disturbance in or in the vicinity of the Assembly, whereby the proceedings of the Assembly are or are likely to be interrupted;

(c) is guilty of an act or omission which, in terms of the rules and orders of the Assembly, constitutes contempt of the Assembly; or

(d) in any form submitted to the Secretary for the purposes of section 4 (2) (b) or 7 (2) makes a false statement knowing it to be false,

shall be guilty of an offence and liable on conviction to a fine not exceeding R500 or to imprisonment for a period not exceeding six months or both such fine and such imprisonment.

PART II

CONSTITUTION AND POWERS, DUTIES AND FUNCTIONS OF CABINET

Constitution of Cabinet

23. (1) The Cabinet shall, subject to the provisions of subsection (3), consist of—

(a) eight Ministers who shall be persons nominated, in accordance with the provisions of subsection (2) (a), from among the members of the Assembly by the political organizations—

(i) which were known on 18 April 1985 under the names specified in column 1 of Annexure 2; and

(ii) which were directly involved on that date in what was then known as the Multi-Party Conference; and

(b) such other Ministers (if any) who may be persons nominated, in accordance with the provisions of subsection (2) (b), from among the members of the Assembly by any political organization referred to in section 4 (1) (b),

of whom one shall be the chairman.

(2) A political organization—

(a) referred to in paragraph (a) of subsection (1), shall nominate such number of persons as Ministers specified against its name in column 3 of Annexure 2, by tabling, by means of a member designated by it, in the Assembly the surnames and full names of the persons nominated by it at the first meeting of the Assembly;

of nie deel van die betrokke wet uit te maak nie), vanaf daardie datum uitgelê as 'n verwysing na die tertaafellegging van sodanige proklamasie, regulasie, reël, verordening, verslag of stuk in die Vergadering.

(2) Tensy die reëls en orders van die Vergadering anders bepaal, word enigiets wat ingevolge 'n bepaling van hierdie Proklamasie of 'n ander wet in die Vergadering ter tafel gelê moet word of kan word, aldus ter tafel gelê deur die Speaker of 'n lid van die Vergadering deur hom vir dié doel aangewys.

Misdrywe met betrekking tot Vergadering

22. 'n Persoon wat—

(a) 'n lid wat op weg is na of van die Vergadering, of weens sy optrede in die Vergadering, dreig, belemmer of beledig, of poog om 'n lid deur geweld, belediging of bedreiging te dwing om hom ten gunste van of teen 'n voorstel of aangeleentheid te verklaar wat in die Vergadering aanhangig is of na verwagting aanhangig gemaak sal word;

(b) terwyl die Vergadering in sitting is, 'n steurnis in of in die nabyheid van die Vergadering veroorsaak of daaraan deelneem, waardeur die verrigtinge van die Vergadering onderbreek word of waarskynlik onderbreek sal word;

(c) hom skuldig maak aan 'n handeling of versuim wat ingevolge die reëls en orders van die Vergadering minagting van die Vergadering uitmaak; of

(d) in 'n vorm vir die doeleindes van artikel 4 (2) (b) of 7 (2) aan die Sekretaris voorgelê, 'n valse bewering maak, wetende dat dit vals is,

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R500 of met gevangenisstraf vir 'n tydperk van hoogstens ses maande of met sowel daardie boete as daardie gevangenisstraf.

DEEL II

SAMESTELLING EN BEVOEGDHEDE, PLIGTE EN WERKSAAMHEDE VAN KABINET

Samestelling van Kabinet

23. (1) Die Kabinet bestaan, behoudens die bepalings van subartikel (3), uit—

(a) agt Ministers wat persone moet wees wat ooreenkomstig die bepalings van subartikel (2) (a) uit die geledere van die Vergadering benoem is deur die politieke organisasies—

(i) wat op 18 April 1985 onder die name vermeld in kolom 1 van Aanghangsel 2 bekend gestaan het; en

(ii) wat op daardie datum regstreeks betrokke was by wat toe as die Veelpartykonferensie bekend gestaan het; en

(b) die ander Ministers (indien daar is) wat persone kan wees wat ooreenkomstig die bepalings van subartikel (2) (b) uit die geledere van die Vergadering benoem is deur 'n politieke organisasie in artikel 4 (1) (b) bedoel,

waarvan een die voorsitter is.

(2) 'n Politieke organisasie—

(a) in paragraaf (a) van subartikel (1) bedoel, moet die aantal persone as Ministers benoem wat teenoor sy naam in kolom 3 van Aanghangsel 2 vermeld word, deur op die eerste byeenkoms van die Vergadering deur middel van 'n lid deur hom aangewys die vanne en volle name van die persone deur hom benoem in die Vergadering ter tafel te lê;

(b) referred to in paragraph (b) of subsection (1), may nominate such number of persons (if any) as Ministers as the Assembly may, in its discretion, determine at the time of the allocation of additional seats in the Assembly to it under section 4 (3), by tabling, by means of a member designated by the Speaker, in the Assembly the surnames and full names of the persons nominated by it as soon as possible.

(3) When any Minister vacates for any reason his office—

(a) the Cabinet shall, subject to the provisions of section 38, consist of the remaining Ministers;

(b) the Cabinet may designate any other Minister to exercise or perform some or all of the powers, duties or functions of the said Minister, or designate two or more Ministers each to exercise or perform certain of those powers, duties or functions;

(c) if no Minister is designated under paragraph (b) or a Minister or Ministers are not so designated to exercise or perform all the powers, duties or functions of the said Minister, the provisions of any law of which the administration has been assigned, under section 30 (2), to the said Minister, shall be administered by the Cabinet or be so administered in so far as it is connected with the exercise or performance of powers, duties or functions in respect of which no Minister has been designated,

until such time as another Minister is nominated in the place of the said Minister in accordance with the provisions of section 25 (2).

(4) A Minister shall before assuming his duties make and subscribe an oath or solemn affirmation before the Judge President or any other judge of the Supreme Court of South West Africa in the following form:

I, A.B., do swear/solemnly and sincerely declare that I shall hold my office as Minister with honour and dignity in the best interest of the inhabitants of this territory, and that I shall obey and uphold the laws of this territory, be a true and faithful counsellor and not divulge directly or indirectly any matters which are entrusted to me under secrecy and that I shall perform the duties of my office conscientiously and to the best of my ability.

(In the case of an oath)

So help me God.

Nomination and functions of Deputy Ministers

24. (1) A political organization referred to in section 23 (1) shall be entitled to nominate in respect of every Minister nominated by it under that section from among the members of the Assembly a member to hold office as Deputy Minister and to exercise or perform on behalf of any Minister, or when that Minister is for any reason unable to exercise or perform any of the powers, duties or functions of his office, or that Minister has vacated his office and his successor has not yet assumed his office, any power, duty or function assigned and entrusted to that Minister under this Proclamation or by or under any other law or which may, subject to the directions of the Cabinet, be assigned and entrusted to him by that Minister.

(2) A Deputy Minister may in his capacity of Deputy Minister or on behalf of the Minister concerned attend any meeting of the Cabinet and may in his capacity of Deputy Minister, take part, with the concurrence of the Cabinet and

(b) in paragraaf (b) van subartikel (1) bedoel, kan die aantal persone (indien daar is) as Ministers benoem wat die Vergadering ten tyde van die toekenning aan hom van addisionele setels in die Vergadering kragtens artikel 4 (3) na goeddunke bepaal, deur so gou doenlik deur middel van 'n lid deur die Speaker aangewys die vanne en volle name van die persone deur hom benoem in die Vergadering ter tafel te lê.

(3) Wanneer 'n Minister om die een of ander rede sy amp ontruim—

(a) bestaan die Kabinet, behoudens die bepalings van artikel 38, uit die oorblywende Ministers;

(b) kan die Kabinet 'n ander Minister aanwys om sommige van of al die bevoegdhede, pligte of werksaamhede van bedoelde Minister uit te oefen of te verrig, of twee of meer Ministers aanwys om elkeen sekere van daardie bevoegdhede, pligte of werksaamhede uit te oefen of te verrig;

(c) indien geen Minister kragtens paragraaf (b) aangewys word nie of 'n Minister of Ministers nie aldus aangewys word om al die bevoegdhede, pligte of werksaamhede van bedoelde Minister uit te oefen of te verrig nie, word die bepalings van die een of ander wet waarvan die uitvoering kragtens artikel 30 (2) aan bedoelde Minister opgedra is, deur die Kabinet uitgevoer of aldus uitgevoer vir sover dit in verband staan met die uitoefening of verrigting van bevoegdhede, pligte of werksaamhede ten opsigte waarvan nie 'n ander Minister aangewys is nie, tot tyd en wyl 'n ander persoon in bedoelde Minister se plek ooreenkomstig die bepalings van artikel 25 (2) benoem word.

(4) 'n Minister moet, voordat hy sy pligte aanvaar, 'n eed of plegtige verklaring voor die Regter-president of 'n ander regter van die Hooggeregshof van Suidwes-Afrika in die volgende vorm aflê en onderteken:

Ek, A.B., sweer/verklaar plegtig en opreg dat ek my amp as Minister op eervolle en waardige wyse in die beste belang van die inwoners van hierdie gebied sal beklee, en dat ek die wette van hierdie gebied sal eerbiedig en handhaaf, 'n opregte en getroue raadsman sal wees en geen sake wat aan my vir geheimhouding toevertrou word, regstreeks of onregstreeks sal openbaar nie en dat ek my ampspligte met nougesetheid na my beste vermoë sal nakom.

(In die geval van 'n eed)

So help my God.

Benoeming en werksaamhede van Adjunk-ministers

24. (1) 'n Politieke organisasie in artikel 23 (1) bedoel, is geregtig om ten opsigte van elke Minister wat hy kragtens daardie artikel benoem het uit die geledere van die Vergadering 'n lid te benoem om die amp van Adjunk-minister te beklee en om namens 'n Minister, of wanneer daardie Minister om die een of ander rede nie in staat is om enige van die bevoegdhede, pligte of werksaamhede van sy amp uit te oefen of te verrig nie, of daardie Minister sy amp ontruim het en 'n opvolger nog nie sy amp aanvaar het nie, enige bevoegdheid, plig of werksaamheid uit te oefen of te verrig wat kragtens hierdie Proklamasie of by of kragtens 'n ander wet aan daardie Minister opgedra en toegewys is of wat daardie Minister, behoudens die voorskrifte van die Kabinet, van tyd tot tyd aan hom opdra en toewys.

(2) 'n Adjunk-minister kan in sy hoedanigheid van Adjunk-minister of namens die betrokke Minister enige vergadering van die Kabinet bywoon en kan in sy hoedanigheid van Adjunk-minister, met die instemming van die Kabinet en behoudens die reëls kragtens artikel 27 (5) gemaak, aan

subject to the rules made under section 27 (5), in any discussion during any such meeting, or may on behalf of the Minister concerned take part, subject to the said rules, in any such discussion and vote on any matter under consideration during such a meeting.

(3) A Deputy Minister shall before assuming his duties make and subscribe an oath or solemn affirmation, in the form prescribed in section 23 (4) but with reference to his office as Deputy Minister, before the Judge President or any other judge of the Supreme Court of South West Africa.

Vacation of office by Minister or Deputy Minister

25. (1) A Minister or Deputy Minister shall vacate his office—

- (a) if he vacates his seat in the Assembly;
- (b) if he by letter addressed to the Cabinet, resigns as Minister or Deputy Minister, as the case may be;
- (c) if his nomination is withdrawn by the political organization concerned.

(2) When a Minister or Deputy Minister for any reason vacates his office, the Cabinet shall call upon the political organization concerned which is in terms of section 23 or 24 entitled to nominate a Minister or Deputy Minister, to nominate in due course a Minister or Deputy Minister, as the case may be, in the place of the Minister or Deputy Minister who vacated his office.

Chairman of Cabinet

26. (1) The chairman of the Cabinet shall be designated by the Cabinet from among its number but in such a manner that every Minister, unless any such Minister indicates otherwise, holds the office of chairman from time to time for such equal period of not less than a month at a time as the Cabinet may determine.

(2) When the chairman is for any reason unable to exercise or perform his powers, duties or functions the Cabinet may, subject to the provisions of subsection (1), designate from among its number any other Minister to act as acting chairman of the Cabinet and while he so acts he shall exercise the powers and perform the duties and functions of the chairman.

Procedure in Cabinet

27. (1) (a) At least five Ministers shall form a quorum for a meeting of the Cabinet.

(b) The first meeting of the Cabinet shall take place at the time and place determined by the Administrator-General and thereafter meetings of the Cabinet shall take place at such times and places as the Cabinet may determine.

(2) The Cabinet shall at all times have as its aim, and shall so endeavour, to reach unanimity at its meetings, but may, if unanimity cannot be reached, take a decision by a majority of votes of the Cabinet.

(3) If a Minister or Deputy Minister is not in favour or is not in favour in all respects of a decision contemplated in subsection (2) he may in his discretion at any time make known that he was not so in favour of any such decision.

(4) (a) When a Minister at any time during a meeting of the Cabinet shows on the strength of a legal opinion obtained by him from a senior advocate of the Supreme Court of South West Africa or the Supreme Court of South Africa that any decision which the Cabinet is then considering in the exercise or performance of its powers, duties or functions may, if taken, successfully be challenged in terms of any rule of law in the Supreme Court of South West Africa

enige bespreking tydens so 'n vergadering deelneem, of kan wanneer hy namens die betrokke Minister optree, behoudens bedoelde reëls, aan so 'n bespreking deelneem en oor enige aangeleentheid onder oorweging tydens so 'n vergadering stem.

(3) 'n Adjunk-minister moet, voordat hy sy pligte aanvaar, 'n eed of plegtige verklaring in die vorm in artikel 23 (4) voorgeskryf maar met verwysing na sy amp as Adjunk-minister, voor die Regter-president of 'n ander regter van die Hooggeregshof van Suidwes-Afrika aflê en onderteken.

Ontruiming van amp deur Minister of Adjunk-minister

25. (1) 'n Minister of Adjunk-minister ontruim sy amp—

- (a) indien hy sy setel in die Vergadering ontruim;
- (b) indien hy by wyse van 'n brief aan die Kabinet gerig as Minister of Adjunk-minister, na gelang van die geval, bedank;
- (c) indien sy benoeming deur die betrokke politieke organisasie ingetrek word.

(2) Wanneer 'n Minister of Adjunk-minister om die een of ander rede sy amp ontruim, doen die Kabinet 'n beroep op die betrokke politieke organisasie wat ingevolge artikel 23 of 24 geregtig is om 'n Minister of Adjunk-minister te benoem, om te geleëner tyd 'n Minister of Adjunk-minister, na gelang van die geval, te benoem in die plek van die Minister of Adjunk-minister wat sy amp ontruim het.

Voorsitter van Kabinet

26. (1) Die voorsitter van die Kabinet word deur die Kabinet uit sy geledere aangewys maar op so 'n wyse dat elke Minister, tensy so 'n Minister anders aandui, van tyd tot tyd vir die gelyke tydperk van nie minder nie as een maand op 'n keer wat die Kabinet bepaal die amp van voorsitter kan beklee.

(2) Wanneer die voorsitter om die een of ander rede nie in staat is om sy bevoegdhede, pligte of werksaamhede uit te oefen of te verrig nie, kan die Kabinet, behoudens die bepalinge van subartikel (1), uit sy geledere 'n ander Minister aanwys om as waarnemende voorsitter van die Kabinet op te tree en terwyl hy aldus optree oefen hy die bevoegdhede uit en verrig hy die pligte en werksaamhede van die voorsitter.

Prosedure in Kabinet

27. (1) (a) Minstens vyf Ministers maak 'n kworum vir 'n vergadering van die Kabinet uit.

(b) Die eerste vergadering van die Kabinet vind plaas op die tyd en plek wat die Administrateur-generaal bepaal, en daarna vind vergaderings van die Kabinet plaas op die tye en plekke wat die Kabinet bepaal.

(2) Die Kabinet moet hom te alle tye ten doel stel, en moet aldus poog, om op sy vergaderings eenstemmigheid te bereik, maar kan, indien eenstemmigheid nie bereik word nie, 'n besluit neem met 'n meerderheid van stemme van die Kabinet.

(3) Indien 'n Minister of Adjunk-minister nie ten gunste is nie of nie in alle opsigte ten gunste is nie van 'n besluit in subartikel (2) beoog, kan hy te eniger tyd na goeddunke bekend maak dat hy nie aldus ten gunste van so 'n besluit was nie.

(4) (a) Wanneer 'n Minister te eniger tyd tydens 'n vergadering van die Kabinet op grond van 'n regsmeening wat hy van 'n senior advokaat van die Hooggeregshof van Suidwes-Afrika of die Hooggeregshof van Suid-Afrika verkry het, aantoon dat enige besluit wat die Kabinet dan by die uitvoering of verrigting van sy bevoegdhede, pligte of werksaamhede oorweeg, indien dit aangeneem word, ingevolge die een of ander regsreël in die Hooggeregshof van Suidwes-Afrika deur enige persoon of groep persone wat

by any person or group of persons affected thereby, the Cabinet shall cause the matter to be submitted to the Supreme Court of South West Africa by way of a question of law for argument and decision, and the Cabinet shall not take any such decision until such time as final judgement is given on such question.

(b) The Cabinet shall, at the request of a Minister, arrange the times on which a decision referred to in paragraph (a) is to be considered in such a manner that the Minister concerned is afforded a reasonable opportunity to obtain any such legal opinion.

(c) The costs connected with the argument of any such question shall be paid from the Central Revenue Fund.

(5) The Cabinet may make rules in connection with the convening and holding of, and procedure at, meetings of the Cabinet.

Committees of Cabinet

28. (1) The Cabinet may from time to time establish committees to advise it in the exercise of any of its powers or the performance of any of its duties or functions and may appoint such Ministers or such other persons as it may deem fit, to be members of those committees.

(2) The Cabinet may delegate any of its powers, duties or functions to any committee established under subsection (1) but shall not be divested of any power, duty or function so delegated.

Transfer to Cabinet of certain powers, duties, functions, rights and obligations, and of a certain power to the Administrator-General

29. (1) Any power, duty or function—

(a) which—

(i) has been transferred from the State President to the Administrator-General by or under a transfer proclamation;

(ii) has been transferred from a Minister of the Republic of South Africa to the Administrator-General by or under a transfer proclamation;

(iii) is conferred upon or assigned to the Administrator-General by or under any proclamation of the State President or a proclamation of the Administrator-General other than a transfer proclamation or any other law in force in the territory,

and which vested in the Administrator-General immediately before the date on which the first members of the Cabinet have made and subscribed the oath or solemn affirmation prescribed in section 23 (4), shall, subject to the provisions of subsections (2), (3) and (4) of this section and section 30 (2), vest, together with any rights and obligations connected therewith and which so vested in the Administrator-General, in the Cabinet as from that date;

(b) which vested, in terms of section 17 of the Rehoboth Self-Government Act, 1976 (Act 56 of 1976), in the State President immediately before that date, shall subject to the provisions of subsection (3), vest in the Administrator-General as from that date.

(2) Subject to the provisions of subsection (3), the provisions of subsection (1) shall not apply to any power, duty or function—

(a) which may be exercised or shall be performed by proclamation in the *Official Gazette*;

daardeur geraak word, suksesvol aangeveg kan word, moet die Kabinet die aangeleentheid by wyse van 'n regspraak aan die Hooggeregshof van Suidwes-Afrika vir beredenering en beslissing laat voorlê, en neem die Kabinet geen so 'n besluit nie tot tyd en wyl die hof finaal oor die vraag uitspraak gegee het.

(b) Die Kabinet moet op versoek van 'n Minister die tye waarop 'n in paragraaf (a) bedoelde besluit oorweeg moet word op so 'n wyse reël dat die betrokke Minister 'n redelike geleentheid gegun word om so 'n regspraak te verkry.

(c) Die koste verbonde aan die beredenering van so 'n vraag word uit die Sentrale Inkomstefonds betaal.

(5) Die Kabinet kan reëls maak in verband met die byeenroeping en hou van, en prosedure op, vergaderings van die Kabinet.

Komitees van Kabinet

28. (1) Die Kabinet kan van tyd tot tyd komitees instel om hom van raad te dien by die uitoefening van die een of ander van sy bevoegdhede of die verrigting van die een of ander van sy pligte of werksaamhede en kan die Ministers of ander persone aanstel wat hy goed ag om lede van daardie komitees te wees.

(2) Die Kabinet kan enige van sy bevoegdhede, pligte of werksaamhede aan 'n komitee kragtens subartikel (1) ingestel, deleger maar word nie ontdoen nie van enige bevoegdheid, plig of werksaamheid aldus gedelegeer.

Oordrag aan Kabinet van sekere bevoegdhede, pligte, werksaamhede, regte en verpligtinge, en van 'n sekere bevoegdheid aan die Administrateur-generaal

29. (1) 'n Bevoegdheid, plig of werksaamheid—

(a) wat—

(i) by of kragtens 'n oordragproklamasie oorgedra is van die Staatspresident aan die Administrateur-generaal;

(ii) by of kragtens 'n oordragproklamasie oorgedra is van 'n Minister van die Republiek van Suid-Afrika aan die Administrateur-generaal;

(iii) by of kragtens 'n proklamasie van die Staatspresident of 'n ander proklamasie van die Administrateur-generaal as 'n oordragproklamasie of 'n ander wet wat in die gebied geld aan die Administrateur-generaal verleen of opgedra is,

en wat onmiddellik voor die datum waarop die eerste lede van die Kabinet die eed of plegtige verklaring voorgeskryf in artikel 23 (4) afgelê en onderteken het, by die Administrateur-generaal berus het, berus, behoudens die bepalinge van subartikels (2), (3) en (4) van hierdie artikel en artikel 30 (2), tesame met enige regte en verpligtinge wat daarmee in verband staan en wat aldus by die Administrateur-generaal berus het, vanaf daardie datum by die Kabinet;

(b) wat ingevolge artikel 17 van die Wet op Selfregering vir Rehoboth, 1976 (Wet 56 van 1976), onmiddellik voor daardie datum by die Staatspresident berus het, berus, behoudens die bepalinge van subartikel (3), vanaf daardie datum by die Administrateur-generaal.

(2) Behoudens die bepalinge van subartikel (3) is die bepalinge van subartikel (1) nie van toepassing nie op 'n bevoegdheid, plig of werksaamheid—

(a) wat by proklamasie in die *Offisiële Koerant* uitgeoefen kan word of verrig moet word;

(b) which relates to—

(i) the appointment, remuneration, allowances, suspension, discharge, retirement and privileges or other conditions of service of members of the Government Service Commission in terms of the Government Service Act, 1980 (Act 2 of 1980), of the Auditor-General in terms of the State Finance Act, 1982 (Act 1 of 1982), or of judges in terms of the Supreme Court of South West Africa Proclamation, 1981 (Proclamation 222 of 1981), or any other law;

(ii) the appointment and discharge of officers of the South West African Police and the Prisons Service, the award of decorations and medals and other awards connected therewith to members of the South West African Police and the Prisons Service and the suspension and discharge on the ground of misconduct or incompetence of heads of departments;

(iii) the rejection or variation of recommendations of the said Government Service Commission;

(iv) the appointment of commissions contemplated in the Commissions Act, 1947 (Act 8 of 1947);

(v) the designation, in terms of section 3 (1) (c) of the Members of the National Assembly and of Legislative and Executive Authorities Pensions Act, 1981 (Act 11 of 1981), of a body in which a member has had service which may be counted as pensionable service for purposes of that Act; and

(vi) the granting or withholding of consent to laws other than regulations or rules.

(3) The powers, duties and functions which, by virtue of the provisions of this Proclamation or any other law, excluding the powers, duties or functions referred to in section 17 (2), vest in the Administrator-General shall be exercised or performed by the Administrator-General only on the recommendation of, and in accordance with the directions, directives or policy (if any) laid down, by the Cabinet.

(4) Anything purporting to have been done by the chairman of the Cabinet by order of the Cabinet shall be deemed to have been done by the Cabinet.

Establishment of administrative divisions

30. (1) Subject to the provisions of the laws on the government service, the Cabinet may allocate the powers, duties and functions which vest, under section 29 or any other law, in the Cabinet, to different administrative divisions under the names determined by it, and may assign and entrust the administration of the different divisions to the several Ministers.

(2) The Cabinet may by notice in the *Official Gazette* assign the administration of any provision in any law, excluding this section and section 29 (3), which entrusts to the Cabinet any power, duty or function, whether by virtue of the provisions of section 29 or any other law, to any Minister, and may assign the administration of any provision in any law so assigned to a Minister or which is administered by a Minister in terms of any law, to any other Minister or the Cabinet.

PART III

FINANCE

Central Revenue Fund

31. (1) There shall be a Central Revenue Fund, into which shall be deposited—

(a) all revenue as defined in section 1 of the State Finance Act, 1982 (Act 1 of 1982);

(b) wat betrekking het op—

(i) die aanstelling, besoldiging, toelaes, skorsing, ontslag, uitdienststeding en diensvoordele of ander diensvoorwaardes van lede van die Regeringsdienskommissie ingevolge die Regeringsdienswet, 1980 (Wet 2 van 1980), van die Ouditeur-generaal ingevolge die Wet op Staatsfinansies, 1982 (Wet 1 van 1982), of van regters ingevolge die Proklamasie op die Hooggeregshof van Suidwes-Afrika, 1981 (Proklamasie 222 van 1981), of 'n ander wet;

(ii) die aanstelling en ontslag van offisiere van die Suidwes-Afrikaanse Polisie en die Gevangenisdiens, die toekenning van dekorasies en medaljes en ander toekennings in verband daarmee aan lede van die Suidwes-Afrikaanse Polisie en die Gevangenisdiens en die skorsing en ontslag op grond van wangedrag of onbekwaamheid van departementshoofde;

(iii) die verwerping of wysiging van aanbevelings van genoemde Regeringsdienskommissie;

(iv) die aanstelling van kommissies in die Kommissiewet, 1947 (Wet 8 van 1947), beoog;

(v) aanwysing ingevolge artikel 3 (1) (c) van die Wet op Pensioene vir Lede van die Nasionale Vergadering en van Wetgewende en Uitvoerende Owerhede, 1981 (Wet 11 van 1981), van 'n liggaam waarin 'n lid diens gehad het wat vir doeleindes van daardie Wet as pensioengewende diens getel kan word; en

(vi) die verlening of weerhouding van toestemming tot ander wette as regulasies of reëls.

(3) Die bevoegdhede, pligte en werksaamhede wat uit hoofde van die bepalings van hierdie Proklamasie of 'n ander wet, uitgesonderd die bevoegdhede, pligte of werksaamhede in artikel 17 (2) bedoel, by die Administrateur-generaal berus, word deur die Administrateur-generaal uitgeoefen of verrig slegs op aanbeveling van, en ooreenkomstig die voorskrifte, riglyne of beleid (indien daar is) neergelê deur, die Kabinet.

(4) Enigiets wat heet deur die voorsitter van die Kabinet op las van die Kabinet gedoen te wees, word geag deur die Kabinet gedoen te gewees het.

Instelling van administratiewe afdelings

30. (1) Behoudens die bepalings van die wette op die regeringsdiens kan die Kabinet die bevoegdhede, pligte en werksaamhede wat kragtens artikel 29 of 'n ander wet by die Kabinet berus onder verskillende administratiewe afdelings indeel onder die name wat hy bepaal, en die administrasie van die verskillende afdelings aan die onderskeie Ministers opdra en toewys.

(2) Die Kabinet kan by kennisgewing in die *Offisiële Koerant* die uitvoering van 'n bepaling in 'n wet, uitgesonderd hierdie artikel en artikel 29 (3), wat 'n bevoegdheid, plig of werksaamheid, hetsy uit hoofde van die bepalings van artikel 29 of 'n ander wet, aan die Kabinet toewys, aan enige Minister opdra, en kan die uitvoering van 'n bepaling in 'n wet wat aldus aan 'n Minister opgedra is of wat ingevolge 'n wet deur 'n Minister behartig word, aan 'n ander Minister of die Kabinet opdra.

DEEL III

FINANSIES

Sentrale Inkomstefonds

31. (1) Daar is 'n Sentrale Inkomstefonds, waarin—

(a) alle inkomste soos omskryf in artikel 1 van die Wet op Staatsfinansies, 1982 (Wet 1 van 1982);

(b) all deposits in the Post Office Savings Bank referred to in section 52 of the Post Office Act, 1958 (Act 44 of 1958).

(2) No moneys shall be withdrawn from the Central Revenue Fund, except in accordance with an Act of the Assembly.

(3) For the purposes of subsection (2) any law made before the first meeting of the Assembly and authorizing the withdrawal of moneys from the Central Revenue Fund, shall be deemed to be an Act of the Assembly.

Appropriation of moneys in Central Revenue Fund, and imposition of taxes, duties, levies and charges

32. (1) No proposal, whether by way of a bill, vote or motion, which has or would have the effect—

(a) of appropriating any part of the Central Revenue Fund; or

(b) of imposing any tax, duty, levy or charge upon any person,

shall be considered or passed by the Assembly, unless such proposal is introduced or moved by the Minister charged with finance or any other Minister designated by the Cabinet for that purpose.

(2) A bill appropriating revenue or moneys for the ordinary annual requirements of the State in or in respect of the territory shall deal only with such appropriation.

PART IV

GENERAL

Remuneration, allowances and other benefits of Ministers, Deputy Ministers and members of Assembly

33. (1) The Ministers, Deputy Ministers and members of the Assembly shall receive such remuneration and allowances, and such other benefits and on such conditions, as the Administrator-General may determine.

(2) Such remuneration, allowances or benefits may differ according to the office held by a Minister, Deputy Minister or member of the Assembly or the functions performed by him.

(3) (a) The provisions of the Members of the National Assembly and of Legislative and Executive Authorities Pensions Act, 1981 (Act 11 of 1981), and the Medical Aid Scheme for the Government Service Extension Act, 1982 (Act 13 of 1982), shall apply *mutatis mutandis* to any member other than a member who, by virtue of his membership of any legislative or executive authority other than a legislative or executive authority contemplated in those Acts, is, in terms of any other law, a member of a pension or medical scheme, as from the date on which he becomes a member as if on any such date he had become a member or again had become a member of the National Assembly referred to therein.

(b) For the purposes of the provisions of subsection (1) of section 3 of the said Members of the National Assembly and of Legislative and Executive Authorities Pensions Act, 1981, in relation to a person who for the purposes of the first constitution of the Assembly under section 4 (1) (a) of this Proclamation becomes a member, the words "except a member referred to in subsection (3)" shall be deemed not to form part of the subsection.

(b) alle deposito's in die Posspaarbank in artikel 52 van die Poswet, 1958 (Wet 44 van 1958), bedoel,

gestort word.

(2) Geen geld word uit die Sentrale Inkomstefonds getrek nie, behalwe ooreenkomstig 'n Wet van die Vergadering.

(3) By die toepassing van subartikel (2) word 'n wet wat voor die eerste byeenkoms van die Vergadering gemaak is en wat die trekking van geld uit die Sentrale Inkomstefonds magtig, geag 'n Wet van die Vergadering te wees.

Bewilliging van geld in Sentrale Inkomstefonds, en oplegging van belasting, regte, heffings of laste

32. (1) Geen voorstel, hetsy by wyse van 'n wetsontwerp, begrotingspos of mosie, wat die uitwerking het of sal hê—

(a) dat 'n deel van die Sentrale Inkomstefonds bewillig word; of

(b) dat 'n belasting, reg, heffing of las op enige persoon opgelê word,

word deur die Vergadering oorweeg of aangeneem nie, tensy die voorstel deur die Minister wat met finansies belas is of 'n ander Minister deur die Kabinet vir dié doel aangevys, ingedien of voorgestel word.

(2) 'n Wetsontwerp wat inkomste of geld vir die gewone jaarlikse behoeftes van die Staat in of ten opsigte van die gebied bewillig, moet slegs sodanige bewilliging behandel.

DEEL IV

ALGEMEEN

Vergoeding, toelaes en ander voordele van Ministers, Adjunk-ministers en lede van Vergadering

33. (1) Die Ministers, Adjunk-ministers en lede van die Vergadering ontvang die vergoeding en toelaes, en die ander voordele en op die voorwaardes, wat die Administrateur-generaal bepaal.

(2) Sodanige vergoeding, toelaes of voordele kan verskil na gelang die amp wat 'n Minister of Adjunk-minister of lid van die Vergadering beklee of van die werksaamhede wat hy verrig.

(3) (a) Die bepalinge van die Wet op Pensioene vir Lede van die Nasionale Vergadering en van Wetgewende en Uitvoerende Owerhede, 1981 (Wet 11 van 1981), en die Wet op die Uitbreiding van die Mediese Hulpeskema vir die Regeringsdiens, 1982 (Wet 13 van 1982), is *mutatis mutandis* van toepassing op 'n ander lid as 'n lid wat uit hoofde van sy lidmaatskap van 'n ander wetgewende of uitvoerende owerheid as 'n wetgewende of uitvoerende owerheid in daardie wette beoog ingevolge 'n ander wet 'n lid van 'n pensioenskema of mediese skema is, vanaf die datum waarop hy 'n lid word asof hy op so 'n datum 'n lid of weer 'n lid van die daarinbedoelde Nasionale Vergadering geword het.

(b) By die toepassing van die bepalinge van subartikel (1) van artikel 3 van genoemde Wet op Pensioene vir Lede van die Nasionale Vergadering en van Wetgewende en Uitvoerende Owerhede, 1981, met betrekking tot 'n persoon wat vir doeleindes van die eerste samestelling van die Vergadering kragtens artikel 4 (1) (a) van hierdie Proklamasie 'n lid word, word die woorde "behalwe 'n lid in subartikel (3) bedoel" geag nie deel van die subartikel uit te maak nie.

(4) For the purposes of the provisions of the Statutory Institutions Pensions Act, 1980 (Act 3 of 1980)—

(a) any person who for the purposes of the first constitution of the Assembly under section 4 (1) (a) of this Proclamation becomes a member and who immediately before such constitution was a member of the Statutory Institution Pension Fund established by section 2 of that Act, shall as from the date on which he becomes a member be deemed to have retired from the service of any statutory institution as if his membership of the Assembly were a reason which has been prescribed as contemplated in section 5 (1) (b) of that Act; and

(b) subsection (2) of the said section 5 shall be deemed to have been deleted.

Continuation of existing laws

34. Subject to the provisions of this Proclamation or any other law, all laws, including any law made by proclamation by the Administrator-General under Proclamation 181 of 1977, which were in force in the territory immediately before the first meeting of the Assembly shall continue in force until repealed or amended by a competent authority.

Claims against State in or in respect of territory

35. (1) Any claim arising out of any contract lawfully entered into by or on behalf of the Cabinet or any Minister, or out of any delict committed by any servant in the government service acting in his capacity and within the scope of his authority as such servant, which would, if that claim had arisen against a person, be the ground of an action in a competent court, shall be cognizable by such court.

(2) (a) In any action or other proceedings instituted by virtue of the provisions of subsection (1) of this section or section 19, the Cabinet or, if the powers, duties or functions of the Cabinet have, as contemplated in section 30 (1), been divided into administrative divisions, the Minister in charge of the division concerned into which the powers, duties or functions of the Cabinet have so been divided, may be cited as the nominal defendant or respondent.

(b) When any Minister is cited in any action or other proceedings as contemplated in paragraph (a) he shall be cited by his official title and not by name.

(3) No execution, attachment or like process shall in any such action or proceedings be issued against the nominal defendant or respondent or against any property of which the ownership vests in the Government of the territory, but the amount (if any) which may be required to satisfy any judgement or order given or made against the nominal defendant or respondent in any such action or proceedings, may be paid out of the Central Revenue Fund.

(4) Nothing in this section contained shall affect any provision of any law which—

(a) limits the liability of the State in or in respect of the territory or any division of its administration in respect of any act or omission of its servants;

(b) prescribe specified periods within which a claim is to be made in respect of any such liability; or

(c) impose conditions on the institution of any action or proceedings.

(4) By die toepassing van die bepalings van die Wet op Pensioene vir Statutêre Instellings, 1980 (Wet 3 van 1980)—

(a) word 'n persoon wat vir die doeleindes van die eerste samestelling van die Vergadering kragtens artikel 4 (1) (a) van hierdie Proklamasie 'n lid word en wat onmiddellik voor bedoelde samestelling 'n lid van die Statutêre Instellingspensioenfonds ingestel by artikel 2 van daardie Wet was, geag met ingang van die datum waarop hy 'n lid word uit die diens van 'n statutêre instelling te getree het asof sy lidmaatskap van die Vergadering 'n rede is wat voorgeskryf is soos in artikel 5 (1) (d) van daardie Wet beoog; en

(b) word subartikel (2) van genoemde artikel 5 geag geskrap te wees.

Voortbestaan van bestaande wette

34. Behoudens die bepalings van hierdie Proklamasie of 'n ander wet bly alle wette, met inbegrip van 'n wet wat kragtens Proklamasie 181 van 1977 by proklamasie deur die Administrateur-generaal uitgevaardig is, wat in die gebied gegeld het onmiddellik voor die eerste byeenkoms van die Vergadering van krag vir sover dit aldus gegeld het totdat dit deur 'n bevoegde gesag herroep of gewysig word.

Eise teen Staat in of ten opsigte van gebied

35. (1) Enige eis wat ontstaan uit 'n kontrak wat wettiglik deur of namens die Kabinet of 'n Minister aangegaan is, of uit 'n onregmatige daad wat deur 'n dienaar in die regeringsdiens, handelende in sy hoedanigheid van, en binne die omvang van sy bevoegdhede as, so 'n dienaar, en wat, indien daardie eis teen 'n persoon ontstaan het, 'n grond van aksie in 'n bevoegde hof sou uitmaak, is deur daardie hof beregbaar.

(2) (a) In 'n aksie of ander regsgeding uit hoofde van die bepalings van subartikel (1) van hierdie artikel of artikel 19, kan die Kabinet of, indien die bevoegdhede, pligte of werksaamhede van die Kabinet in administratiewe afdelings ingedeel is soos in artikel 30 (1) beoog, die Minister wat in beheer is van die betrokke afdeling waarin die bevoegdhede, pligte en werksaamhede van die Kabinet aldus ingedeel is as nominale verweerder of respondent gesitêr word.

(b) Wanneer 'n Minister in 'n aksie of ander regsgeding soos in paragraaf (a) beoog, gesitêr word, word hy by sy ampstitel gesitêr en nie by name nie.

(3) Geen lasbrief tot ten uitvoerlegging of beslaglegging of soortgelyke prosesstuk kan in so 'n aksie of regsgeding teen die nominale verweerder of respondent of teen eiendom waarvan die eiendomsreg by die Goewerment van die gebied berus, uitgereik word nie, maar die bedrag (indien daar is) wat vereis word om te voldoen aan 'n uitspraak of bevel wat in so 'n aksie of regsgeding teen die nominale verweerder of respondent gedoen of uitgereik is, kan uit die Sentrale Inkomstefonds betaal word.

(4) Die bepalings van hierdie artikel maak geen inbreuk nie op 'n wet wat—

(a) die aanspreeklikheid van die Staat in of ten opsigte van die gebied of 'n afdeling van sy administrasie ten opsigte van 'n handeling of versuim van sy dienaars beperk;

(b) bepaalde tydperke voorskryf waarin 'n eis ten opsigte van sodanige aanspreeklikheid ingestel moet word; of

(c) voorwaardes vir die instelling van 'n aksie of regsgeding oplaë.

Interpretation of laws

36. Subject to the provisions of this Proclamation—

(a) as from the date on which the first meeting of the Assembly takes place—

(i) the provisions of subsection (1) of section 38 of the South West Africa Constitution Act, 1968 (Act 39 of 1968), shall not be construed as prohibiting the State President from conferring in this Proclamation or any other law made under that subsection a power to make laws for the territory upon the Assembly or any other authority;

(ii) section 1 of the South West Africa Constitution Amendment Act, 1977 (Act 95 of 1977), shall be deemed to have been amended by the deletion of paragraph (b); and

(iii) Proclamation 17 of 1980 of the State President shall be deemed to have been repealed;

(b) as from the date on which the first members of the Cabinet have made and subscribed the oath or solemn affirmation prescribed in section 23 (4)—

(i) section 3 of the Executive Powers Transfer Proclamation, 1977 (Proclamation AG. 3 of 1977), shall be deemed to have been amended by the deletion in paragraph (i) of subsection (2) of the words "by the Chief Director of his Office";

(ii) the Executive Powers Transfer (General Provisions) Proclamation, 1977 (Proclamation AG. 7 of 1977), shall be deemed to have been amended—

(aa) by the deletion in paragraph (c) of subsection (2) of section 3 of the words "by the Chief Director of the Office of the Administrator-General";

(bb) by the deletion in paragraph (a) of subsection (6) of section 4 of the words "by the Chief Director of the Office of the Administrator-General"; and

(cc) by the repeal of section 4*bis*;

(iii) section 4 of the Executive Powers Transfer Amendment Proclamation, 1978 (Proclamation AG. 10 of 1978), shall be deemed to have been amended by the deletion of paragraph (c) in so far as that paragraph relates to section 4*bis* mentioned in paragraph (b) (ii) (cc) of this section;

(iv) section 1 of the Second Executive Powers Transfer Amendment Proclamation, 1978 (Proclamation AG. 82 of 1978), shall be deemed to have been repealed;

(v) the State Finance Act, 1982 (Act 1 of 1982), shall be deemed to have been amended—

(aa) by the deletion in paragraph (b) of subsection (6) of section 10 of the word "Administrator-General"; and

(bb) by the substitution in paragraph (a) of subsection (3) of section 27 for the words "the Chairman of the Council of Ministers" of the words "the Minister charged with finance or any other Minister designated by the Cabinet"; and

(vi) the Delegation of Powers Proclamation, 1983 (Proclamation AG. 4 of 1983), shall be deemed to have been repealed;

(vii) any reference in any law to the Council of Ministers of South West Africa or a member thereof, shall be construed as a reference to the Cabinet; and

(viii) the reference to the Administrator-General in section 35 of the South West Africa Constitution Act, 1968 (Act 39 of 1968), shall be construed as a reference to the Cabinet, and in section 37 (2) of that Act, shall be construed—

(aa) in relation to any power, duty or function referred to in section 29 (2) of this Proclamation, as a reference to the Administrator-General; and

Uitleg van wette

36. Behoudens die bepalings van hierdie Proklamasie—

(a) vanaf die datum waarop die eerste byeenkoms van die Vergadering plaasvind—

(i) word die bepalings van subartikel (1) van artikel 38 van die Wet op die Konstitusie van Suidwes-Afrika, 1968 (Wet 39 van 1968), nie so uitgelê nie dat dit die Staatspresident belet om in hierdie Proklamasie of in 'n ander wet kragtens daardie subartikel gemaak aan die Vergadering of 'n ander gesag 'n bevoegdheid te verleen om wette vir die gebied te maak;

(ii) word artikel 1 van die Wysigingswet op die Konstitusie van Suidwes-Afrika, 1977 (Wet 95 van 1977), geag gewysig te wees deur die skapping van paragraaf (b); en

(iii) word Proklamasie 17 van 1980 van die Staatspresident geag herroep te wees;

(b) vanaf die datum waarop die eerste lede van die Kabinet die eed of plegtige verklaring voorgeskryf in artikel 23 (4) afgelê en onderteken het—

(i) word artikel 3 van die Proklamasie op die Oordrag van Uitvoerende Gesag, 1977 (Proklamasie AG. 3 van 1977), geag gewysig te wees deur die skapping in paragraaf (i) van subartikel (2) van die woorde "deur die Hoofdirekteur van sy Kantoor";

(ii) word die Proklamasie op die Oordrag van Uitvoerende Gesag (Algemene Bepalings), 1977 (Proklamasie AG. 7 van 1977), geag gewysig te wees—

(aa) deur die skapping in paragraaf (c) van artikel (2) van artikel 3 van die woorde "deur die Hoofdirekteur van die Kantoor van die Administrateur-generaal";

(bb) deur die skapping in paragraaf (a) van subartikel (6) van artikel 4 van die woorde "deur die Hoofdirekteur van die Kantoor van die Administrateur-generaal"; en

(cc) deur die herroeping van artikel 4*bis*;

(iii) word artikel 4 van die Wysigingsproklamasie op die Oordrag van Uitvoerende Gesag, 1978 (Proklamasie AG. 10 van 1978), geag gewysig te wees deur die skapping van paragraaf (c) vir sover daardie paragraaf op artikel 4*bis* vermeld in paragraaf (b) (ii) (cc) van hierdie artikel betrekking het;

(iv) word artikel 1 van die Tweede Wysigingsproklamasie op die Oordrag van Uitvoerende Gesag, 1978 (Proklamasie AG. 82 van 1978), geag herroep te wees;

(v) word die Wet op Staatsfinansies, 1982 (Wet 1 van 1982), geag gewysig te wees—

(aa) deur die skapping in paragraaf (b) van subartikel (6) van artikel 10 van die woord "Administrateur-generaal"; en

(bb) deur die vervanging in paragraaf (a) van subartikel (3) van artikel 27 van die woorde "die Voorsitter van die Ministersraad" deur die woorde "die Minister belas met finansies of 'n ander Minister deur die Kabinet aange-wys"; en

(vi) word die Proklamasie op die Delegering van Bevoegdhede, 1983 (Proklamasie AG. 4 van 1983), geag herroep te wees;

(vii) word 'n verwysing in die een of ander wet na die Ministersraad van Suidwes-Afrika of 'n lid daarvan, uitgelê as 'n verwysing na die Kabinet; en

(viii) word die verwysing na die Administrateur-generaal in artikel 35 van die Wet op die Konstitusie van Suidwes-Afrika, 1968 (Wet 39 van 1968), uitgelê as 'n verwysing na die Kabinet, en in artikel 37 (2) van daardie Wet, uitgelê—

(aa) met betrekking tot 'n bevoegdheid, plig of werk-saamheid in artikel 29 (2) van hierdie Proklamasie be-doel, as 'n verwysing na die Administrateur-generaal; en

(bb) in relation to any power, duty or function referred to in section 29 (1) of this Proclamation, as a reference to the Cabinet.

Amendment of certain laws

37. The laws specified in Annexure 3 are hereby amended to the extent indicated in the third column of that Annexure.

Validity of certain laws and certain provisions of this Proclamation, and savings

38. (1) Subject to the provisions of subsection (3)—

(a) the provisions of Proclamation 181 of 1977 and subsection (2) of section 38 of the South West Africa Constitution Act, 1968 (Act 39 of 1968), shall cease to be of force and effect in the territory on the date on which the first meeting of the Assembly takes place, and shall so continue to be of no force and effect until the date on which all the members of the Assembly vacate their seats in terms of section 6 (1) (f), or until the date on which, and for so long as, the Assembly is unable to exercise or perform its powers, duties or functions because the number of its members is smaller than the quorum provided for in order to constitute a sitting of the Assembly for the exercise of its powers or the performance of its duties or functions;

(b) the provisions of the Delegation of Powers Proclamation, 1983 (Proclamation AG. 4 of 1983), shall cease to be of force and effect in the territory on the date on which the first members of the Cabinet have made and subscribed the oath or solemn affirmation prescribed in section 23 (4), and shall so continue to be of no force and effect until the date on which all the members of the Assembly vacate their seats in terms of section 6 (1) (f), or until the date on which, and for so long as, the Cabinet is unable to exercise or perform its powers, duties or functions because the number of Ministers is smaller than the quorum provided for any meeting of the Cabinet.

(2) Subject to the provisions of subsection (4)—

(a) the provisions of sections 3, 17, 18, 19, 20, 21, 31 (2) and 36 shall cease to be of force and effect in the territory on the date on which all the members of the Assembly vacate their seats in terms of section 6 (1) (f), or on the date on which the Assembly is unable to exercise or perform its powers, duties or functions because of the number of its members is smaller than the quorum provided for in order to constitute a sitting of the Assembly for the exercise of its powers or the performance of its duties or functions, and shall so continue to be of no force and effect for so long as the number of its members is so smaller;

(b) the provisions of sections 29 and 36 shall cease to be of force and effect in the territory on the date on which all the members of the Assembly vacate their seats in terms of section 6 (1) (f), or on the date on which the Cabinet is unable to exercise or perform its powers, duties or functions because the number of Ministers is smaller than the quorum provided for any meeting of the Cabinet, and shall so continue to be of no force and effect for so long as the number of Ministers is so smaller.

(3) When the provisions referred to in paragraph (a) or (b) of subsection (1) cease to be of force and effect in the territory anything done before such date by or on behalf of the Administrator-General which may, by virtue of the provisions of this Proclamation, be done by the Cabinet, shall be deemed to have been done by the Cabinet.

(bb) met betrekking tot 'n bevoegdheid, plig of werksaamheid in artikel 29 (1) bedoel, as 'n verwysing na die Kabinet.

Wysiging van sekere wette

37. Die wette in Aanhangsel 3 vermeld, word hierby gewysig vir sover in die derde kolom van daardie Aanhangsel aangedui word.

Regskrag van sekere wette en sekere bepalinge van hierdie Proklamasie, en voorbehoude

38. (1) Behoudens die bepalinge van subartikel (3)—

(a) hou die bepalinge van Proklamasie 181 van 1977 en subartikel (2) van artikel 38 van Wet op die Konstitusie van Suidwes-Afrika, 1968 (Wet 39 van 1968), op om in die gebied van krag te wees op die datum waarop die eerste byeenkoms van die Vergadering plaasvind, en bly aldus nie van krag te wees nie tot die datum waarop al die lede van die Vergadering ingevolge artikel 6 (1) (f) hul setels ontruim, of tot die datum waarop, en vir solank, die Vergadering nie in staat is om sy bevoegdhede, pligte of werksaamhede uit te oefen of te verrig nie omdat die getal van sy lede kleiner is as die kworum wat bepaal is om 'n sitting van die Vergadering vir die uitoefening van sy bevoegdhede en die verrigting van sy pligte of werksaamhede bevoeg te maak;

(b) hou die bepalinge van die Proklamasie op die Delegering van Bevoegdhede, 1983 (Proklamasie AG. 4 van 1983), op om in die gebied van krag te wees op die datum waarop die eerste lede van die Kabinet die eed of plechtige verklaring voorgeskryf in artikel 23 (4) afgelê en onderteken het, en bly aldus nie van krag te wees nie tot die datum waarop al die lede van die Vergadering ingevolge artikel 6 (1) (f) hul setels ontruim, of tot die datum waarop, en vir solank, die Kabinet nie in staat is om sy bevoegdhede, pligte of werksaamhede uit te oefen of te verrig nie omdat die getal Ministers kleiner is as die kworum wat bepaal is vir 'n vergadering van die Kabinet.

(2) Behoudens die bepalinge van subartikel (4)—

(a) hou die bepalinge van artikels 3, 17, 18, 19, 20, 21, 31 (2) en 36 op om in die gebied van krag te wees op die datum waarop al die lede van die Vergadering ingevolge artikel 6 (1) (f) hul setels ontruim, of op die datum waarop die Vergadering nie in staat is om sy bevoegdhede, pligte of werksaamhede uit te oefen of te verrig nie omdat die getal van sy lede kleiner is as die kworum wat bepaal is om 'n sitting van die Vergadering vir die uitoefening van sy bevoegdhede of die verrigting van sy pligte of werksaamhede bevoeg te maak, en bly aldus nie van krag te wees nie vir solank sy getal lede aldus kleiner is;

(b) hou die bepalinge van artikels 29 en 36 op om in die gebied van krag te wees op die datum waarop al die lede van die Vergadering ingevolge artikel 6 (1) (f) hul setels ontruim, of op die datum waarop die Kabinet nie in staat is om sy bevoegdhede, pligte of werksaamhede uit te oefen of te verrig nie omdat die getal Ministers kleiner is as die kworum wat bepaal is vir 'n vergadering van die Kabinet, en bly aldus nie van krag te wees nie vir solank die aantal Ministers aldus kleiner is.

(3) Wanneer die bepalinge bedoel in paragraaf (a) of (b) van subartikel (1) ophou om in die gebied van krag te wees word enigiets wat voor bedoelde datum deur of namens die Administrateur-generaal gedoen is en wat uit hoofde van die bepalinge van hierdie Proklamasie deur die Kabinet gedoen kan word, geag deur die Kabinet gedoen te gewees het.

(4) When the provisions referred to in paragraph (a) or (b) of subsection (2) cease to be of force and effect in the territory—

(a) in the case of the provisions referred to in paragraph (b) of subsection (2), the powers, duties, functions, rights and obligations which vested immediately before such date in the Cabinet or a Minister, shall vest in the Administrator-General or shall vest in him for so long as such provisions are so of no force and effect;

(b) in the case of the last-mentioned provisions, anything done before such date by the Cabinet or a Minister in connection with such powers, duties, functions, rights or obligations, shall be deemed to have been done by the Administrator-General or to have been so done for so long as such provisions are so of no force and effect;

(c) in the case of the provisions referred to in paragraph (a) of subsection (2), any law of the Assembly which immediately before such date was in force in the territory, shall continue in force in so far as it was so in force until it is repealed or amended by a competent authority.

Short title

39. This Proclamation shall be called the South West Africa Legislative and Executive Authority Establishment Proclamation, 1985.

ANNEXURE 1

FUNDAMENTAL RIGHTS CONTAINED IN BILL OF FUNDAMENTAL RIGHTS AND OBJECTIVES

[Section 3 (2)]

PREAMBLE

Independence:

WHEREAS we the people of SWA/Namibia desire INDEPENDENCE free from outside domination and direction and wish to constitute our own government;

Peace, Reconciliation:

WHEREAS we likewise urgently desire national RECONCILIATION and lasting PEACE;

Individual Rights:

WHEREAS we are united in the belief that all men are born free and equal and endowed by their Creator with human dignity and inalienable RIGHTS;

Diversity:

WHEREAS lasting peace, stability and progress depend on the recognition of and respect for the rights of all in the prevailing cultural, linguistic and religious DIVERSITY of our society;

Unity:

WHEREAS it is the desire of the people to achieve UNITY in that diversity with common loyalties to a single state;

Purpose and Powers of Government:

WHEREAS GOVERNMENTS are instituted among men for the PURPOSE of promoting the safety and welfare of the people, from whose consent those governments derive their POWERS and capacities;

NOW THEREFORE, we, the people of SWA/Namibia, claim and reserve for ourselves and guarantee to our descendants the following Fundamental Rights which shall be respected and upheld by our successive governments and protected by entrenchment in the Constitution:

(4) Wanneer die bepalings bedoel in paragraaf (a) of (b) van subartikel (2) ophou om in die gebied van krag te wees—

(a) berus, in die geval van die bepalings in paragraaf (b) van subartikel (2) bedoel, die bevoegdhede, pligte, werksaamhede, regte of verpligtinge wat onmiddellik voor bedoelde datum by die Kabinet of 'n Minister berus het, by die Administrateur-generaal of berus dit by hom vir solank bedoelde bepalings nie aldus van krag is nie;

(b) word, in die geval van laasgenoemde bepalings, enigiets wat voor bedoelde datum deur die Kabinet of 'n Minister in verband met bedoelde bevoegdhede, pligte, werksaamhede, regte of verpligtinge gedoen is, geag deur die Administrateur-generaal gedoen te wees het of aldus gedoen te gewees het vir solank bedoelde bepalings nie aldus van krag is nie;

(c) bly, in die geval van die bepalings in paragraaf (a) van subartikel (2) bedoel, 'n wet van die vergadering wat onmiddellik voor bedoelde datum in die gebied gegeld het, van krag vir sover dit aldus gegeld het totdat dit deur 'n bevoegde gesag herroep of gewysig word.

Kort titel

39. Hierdie Proklamasie heet die Proklamasie op die Instelling van Wetgewende en Uitvoerende Gesag vir Suidwes-Afrika, 1985.

AANHANGSEL 1

FUNDAMENTELE REGTE VERVAT IN HANDVES VAN FUNDAMENTELE REGTE EN DOELSTELLINGE

[Artikel 3 (2)]

CONSIDERANS

Onafhanklikheid:

NADEMAAL ons, die mense van SWA/Namibië, ONAFHANKLIKHEID, vry van oorheersing of voorskrif van buite, begeer en 'n eie regering wil daarstel;

Vryheid, Versoening:

NADEMAAL ons eweneens 'n dringende begeerte na VRYHEID en nasionale VERSOENING, koester;

Individuele Regte:

NADEMAAL ons verenig is in die oortuiging dat alle mense vry en gelykwaardig gebore is en deur hulle Skepper met menswaardigheid en onvervreembare REGTE bekleed is;

Verskeidenheid:

NADEMAAL blywende vrede, bestendigheid en vooruitgang afhanklik is van die erkenning van en respek vir die regte van almal in die heersende kulturele, taalkundige en geloofs VERSKEIDENHEID in ons gemeenskap;

Eenheid:

NADEMAAL dit die begeerte van die mense is om EENHEID in daardie verskeidenheid te bewerkstellig met gemeenskaplike trou aan een staat;

Doel en Magte van Regering:

NADEMAAL REGERINGS onder die mensdom ingestel word met die DOEL om die veiligheid en welvaart van die bevolking te bevorder en hul MAGTE en bevoegdhede aan die instemming van die bevolking ontleen;

DERHALWE eis en reserveer ons, die mense van SWA/Namibië, vir onself en waarborg vir ons nageslagte die onderstaande Fundamentele Regte wat deur ons opeenvolgende regerings eerbiedig en gehandhaaf en in die Grondwet verskans sal word:

ARTICLE 1:

The Right to Life

Everyone has the right to life. No one shall be arbitrarily deprived of his life. The sentence of death may only be executed pursuant to a final judgement by a competent court in respect of the most serious crimes in accordance with the law. Nothing in this article shall be invoked to prevent the abolishing of capital punishment by any future Government should they decide to do so.

ARTICLE 2:

The Right to Liberty, Security of Person and Privacy

No one shall be subject to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law.

No one shall be detained for an indefinite period of time without a fair and proper trial by a Court.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

No one shall be subjected to arbitrary interference with his privacy, the privacy of his home, correspondence or communications.

Everyone has the right to the protection of the law against such interference.

ARTICLE 3:

The Right to Equality Before the Law

Everyone shall be equal before the law and no branch or organ of government nor any public institution may prejudice nor afford any advantage to any person on the grounds of his ethnic or social origin, sex, race, language, colour, religion or political conviction.

ARTICLE 4:

The Right to a Fair Trial

4.1 In the determination of his rights and obligations in a civil action and of any criminal charge against him, everyone is entitled to a fair and public hearing by an independent, impartial and competent court established by law; provided that such a court may exclude the press and the public for all or any part of the trial, for reasons of morals, the public order or national security. Any judgement rendered in a criminal or civil action shall be made public, except where the interest of juvenile persons otherwise requires. Everyone charged with an offence has the right to be presumed innocent until proven guilty according to law, after having had the opportunity of presenting witnesses in his favour and cross-examining those testifying against him. Everyone shall be afforded adequate time and facilities for the preparation of his defence, before the commencement of and during his trial. Everyone shall have the right of access to Legal Counsel in the event of charges being preferred against him.

4.2 No one shall be tried, convicted or punished for an offence for which he has already been tried and convicted or acquitted in accordance with the law.

4.3 No one shall be tried or convicted for an offence on account of an act or omission which did not constitute an offence at the time at which it was committed, nor shall a penalty be imposed exceeding that which was applicable at the time when the offence was committed.

ARTIKEL 1:

Die Reg om te Lewe

Elkeen het die reg om te lewe. Niemand se lewe mag arbitrêr ontnem word nie. Die doodsvonnis mag regtens alleenlik ingevolge 'n finale vonnis deur 'n bevoegde hof ten opsigte van die heel ernstigste misdade opgelê word, maar niks in hierdie artikel sal so uitgelê word, dat dit afskaffing van die doodstraf deur 'n toekomstige regering sal verhinder nie.

ARTIKEL 2:

Die Reg op Persoonlike Vryheid, Veiligheid en Privaatheid

Niemand mag arbitrêr, in hegtenis geneem of aangehou word nie. Niemand mag sy vryheid ontnem word nie, behalwe ooreenkomstig regtens neergelegde gronde en prosedures.

Niemand mag vir 'n onbepaalde tyd aangehou word sonder 'n billike en behoorlike verhoor deur 'n hof nie.

Niemand mag onderwerp word aan marteling of wrede onmenslike of vernederende behandeling of straf nie.

Niemand mag onderwerp word aan willekeurige inmenging in sy privaatheid, die privaatheid van sy huis, korrespondensie of mededelings nie.

Elkeen is geregtig op regsbeskerming teen sodanige inmenging.

ARTIKEL 3:

Die Reg op Regsgelykheid

Almal is gelyk voor die reg en geen vertakking of orgaan van die Regering of enige openbare instelling mag enigiemand benadeel of bevoordeel op grond van sy etniese of sosiale oorsprong, geslag, ras, taal, kleur, geloof of politieke oortuiging nie.

ARTIKEL 4:

Die Reg op 'n Billike Verhoor

4.1 Ter vasstelling van sy regte en verpligtinge in enige siviele saak asook van enige kriminele aanklag teen hom is elkeen geregtig op 'n billike en openbare verhoor deur 'n onafhanklike, onpartydige en bevoegde hof. Sodanige hof mag die pers en die publiek vir 'n bepaalde deel of die hele verhoor uitsluit op grond van morele oorwegings, die openbare orde of nasionale veiligheid. Enige uitspraak in 'n kriminele of siviele geding moet geopenbaar word, behalwe waar dit nie in die belang van jeugdige persone is nie. Elkeen wat van 'n strafbare oortreding aangekla word sal geag word onskuldig te wees totdat hy regtens skuldig bewys is en nadat hy die geleentheid gehad het om getuies in sy guns op te roep en diegene wat teen hom getuig te kruisverhoor. Voor die aanvang en vir die duur van sy verhoor sal elkeen tyd en fasiliteite toegelaat word vir die voorbereiding en voorlegging van sy verhoor. Elke aangeklaagde sal geregtig wees op regsverteenvoording.

4.2 Niemand mag vir 'n oortreding verhoor, veroordeel of gestraf word waarvoor hy reeds regtens verhoor, skuldig bevind of vrygespreek is nie.

4.3 Niemand mag verhoor of skuldig bevind word aan 'n oortreding ten opsigte van 'n handeling of 'n late wat nie 'n oortreding daargestel het op die tydstip toe dit begaan was nie. Eweneens mag daar ook nie 'n swaarder straf opgelê word as die wat toepaslik was op die tydstip toe die oortreding gepleeg is nie.

ARTICLE 5:

The Right to Freedom of Expression

Everyone has the right to freedom of expression of opinion, conscience and religious belief, including freedom to seek, receive and impart information and ideas through the press and other media. This right shall be limited only by the obligation to ensure that such expression does not infringe upon the right of others, impair the public order or morals, or constitute a threat to national security.

ARTICLE 6:

The Right to Peaceful Assembly

Everyone has the right to freedom of assembly for peaceful purposes. No restrictions shall be placed on this right except those which, being necessary for the protection of public order, health or morals or the rights of others, are properly prescribed by law.

ARTICLE 7:

The Right to Freedom of Association

Everyone has the right to associate with any other person or group. No one may be compelled to or prevented from associating with others. Everyone has the right to form and to join trade unions for the protection of the interests of employees. No restrictions shall be placed on this right, except those which, being necessary in the interests of national security, public order, public health or morals, and the protection of rights of others, are properly prescribed by law.

ARTICLE 8:

The Right to Participate in Political Activity and Government

Every citizen shall have the right to participate in peaceful political activity intended to influence the composition and policies of the government. Every citizen shall have the right to form and join political parties and, subject to proper qualifications prescribed by law, to participate in the conduct of public affairs, whether directly or through freely chosen representatives. The exercise of the right to participate in political activity shall be limited by the obligation to refrain from any advocacy of ethnic, racial or religious hatred and incitement to discrimination, hostility and violence.

ARTICLE 9:

The Right to Enjoy, Practise, Profess, Maintain and Promote Culture, Language, Tradition and Religion

All ethnic, linguistic and religious groups and all persons belonging to such groups, shall have the right to enjoy, practise, profess, maintain and promote their cultures, languages, traditions and religions, in so far as these do not infringe upon the rights of others or the national interest.

ARTICLE 10:

The Right to Freedom of Movement and Residence

Everyone lawfully present within the borders of the country shall have the right to freedom of movement and choice of residence subject to the obligation not to infringe upon the rights of others and to such provisions as are properly prescribed by law in the interests of public health and public order. No citizen shall be arbitrarily deprived of the right to enter the country. Everyone shall have the right to leave the country in accordance with the procedures properly prescribed by law.

ARTIKEL 5:

Die Reg op Vrye Meningsuiting

Elkeen is geregtig op vrye meningsuiting en uiting van gewete en geloof asook om inligting en idees deur middel van die pers en ander media in te win, te ontvang en vry te stel. Hierdie reg sal slegs beperk word deur die verpligting om te verseker dat sodanige uitdrukking nie inbreuk maak op die regte van ander nie, die openbare orde of sedes ondermyn nie of 'n bedreiging vir die nasionale veiligheid inhou nie.

ARTIKEL 6:

Die Reg op Vreedsame Byeenkoms

Almal is geregtig daarop om te vergader vir vreedsame doeleindes. Behalwe vir sover as wat dit nodig is vir die beskerming van die openbare orde, gesondheid of die sedes, of die regte van ander, en dit behoorlik regtens voorgeskryf is, mag geen beperkinge op hierdie reg gelê word nie.

ARTIKEL 7:

Die Reg op Vryheid van Omgang

Elkeen is geregtig op vrye omgang met enige ander persoon of groep. Niemand mag gedwing word of verbied word om met andere te assosieer nie. Elkeen is geregtig om vakunies vir die beskerming van werknemersbelange te stig of daarby aan te sluit. Geen beperkinge mag op hierdie reg geplaas word nie, behalwe vir sover as dit nodig mag wees in belang van die nasionale veiligheid, openbare orde, openbare gesondheid of sedes en die beskerming van die regte en vryhede van ander en dit regtens behoorlik voorgeskryf is.

ARTIKEL 8:

Die Reg op Deelname aan die Politiek en in die Regering

Elke burger sal geregtig wees om deel te neem aan vreedsame politieke bedrywighede wat daarop gemik is om die samestelling van die regering en die inhoud van regeringsbeleid te beïnvloed. Elke burger sal geregtig wees om politieke partye te stig en daarby aan te sluit, asook om, onderworpe aan die nakoming van behoorlike regtens neergelegde vereistes deel te neem in die behartiging van openbare sake hetsy regstreeks of deur middel van vrylik verkose verteenwoordigers. Die uitoefening van die reg om deel te neem aan die politiek sal beperk wees deur die verpligting tot weerhouding van voorspraak vir etniese, rasse of geloofshaat en aanstigting tot diskriminasie, vyandigheid en geweld.

ARTIKEL 9:

Die Reg om Kultuur, Taal, Tradisie en Godsdienste te Geniet, Beoefen, Bely, Onderhou en Bevorder

Alle etniese-, taal- en godsdienstige groepe asook elkeen wat aan sodanige groepe behoort, sal geregtig wees om hulle kultuur, taal, tradisies en godsdienste te geniet, te beoefen, te onderhou, te beskerm en te bevorder vir sover dit nie op die regte van ander inbreuk maak nie of teen die nasionale belang indruis nie.

ARTIKEL 10:

Die Reg op Bewegings- en Residensiële Vryheid

Elkeen wat wettiglik in die land teenwoordig is, sal geregtig wees op bewegingsvryheid en die keuse van 'n woonplek. Die uitoefening van hierdie reg mag nie inbreuk maak op die regte van ander nie, en is onderhewig aan sodanige voorbehoude as wat in die belang van openbare gesondheid en orde regtens voorgeskryf is.

Geen burger sal willekeurig die reg ontnem word om die land binne te kom nie. Elkeen sal geregtig wees om die land te verlaat ooreenkomstig behoorlik regtens voorgeskrewe prosedures.

ARTICLE 11:***The Right to Own Property***

Everyone has the right to acquire, own and dispose of moveable, immovable and immaterial property, alone or in association with others.

Everyone shall have the right to leave his property to his heirs or legatees. No one shall be arbitrarily deprived of his property. Expropriation shall only be permitted in the public interest and if properly authorised by law.

Fair compensation shall be payable in all cases of expropriation.

ARTIKEL 11:***Die Reg op Eiendomsreg***

Elkeen is geregtig om roerende, onroerende en immateriële eiendom aan te skaf, te besit en van die hand te sit, hetsy as individu of as deelgenoot met ander.

Elkeen sal geregtig wees om sy eiendom aan sy erfgename of legatarisse na te laat. Niemand mag sy eiendom willekeurig ontnem word nie. Onteining sal slegs toelaatbaar wees, in die openbare belang en indien dit regtens behoorlik gemagtig is.

Billike vergoeding sal betaalbaar wees in alle gevalle van onteining.

ANNEXURE 2

POLITICAL ORGANIZATIONS WHICH ARE REQUIRED TO NOMINATE PERSONS AS MEMBERS OF THE ASSEMBLY AND CABINET

[Sections 4 (1) (a) and 23 (1) (a)]

Column 1	Column 2	Column 3
Name of political organization	Number of persons to be nominated as members	Number of persons to be nominated as Ministers
1. Democratic Turnhalle Alliance (DTA).....	22	3
2. Labour Party of South West Africa.....	8	1
3. National Party of South West Africa.....	8	1
4. "Rehoboth Bevryde Demokratiese Party".....	8	1
5. South West African National Union (SWANU).....	8	1
6. SWAPO-Democrats (Swapo-D).....	8	1

ANNEXURE 3**LAWS AMENDED**

(Section 36)

Number of law	Short title	Extent of amendment
Proclamation 85 of 1979 of the State President	Exchequer and Audit Proclamation, 1979	The amendment of section 3 by the deletion of subsections (1) and (2)
Act 1 of 1982 of the National Assembly	State Finance Act, 1982	The repeal of section 36, in so far as it relates to the amendment of subsections (1) and (2) of section 3 of the said Exchequer and Audit Proclamation, 1979
Proclamation AG. 3 of 1983	National Assembly and Council of Ministers Proclamation Repeal Proclamation, 1983	The repeal of section 1, in so far as it relates to the amendment of subsection (2) of section 3 of the said Exchequer and Audit Proclamation, 1979

AANHANGSEL 2

POLITIEKE ORGANISASIES WAT PERSONE AS LEDE VAN DIE VERGADERING EN KABINET MOET BENOEM

[Artikels 4 (1) (a) en 23 (1) (a)]

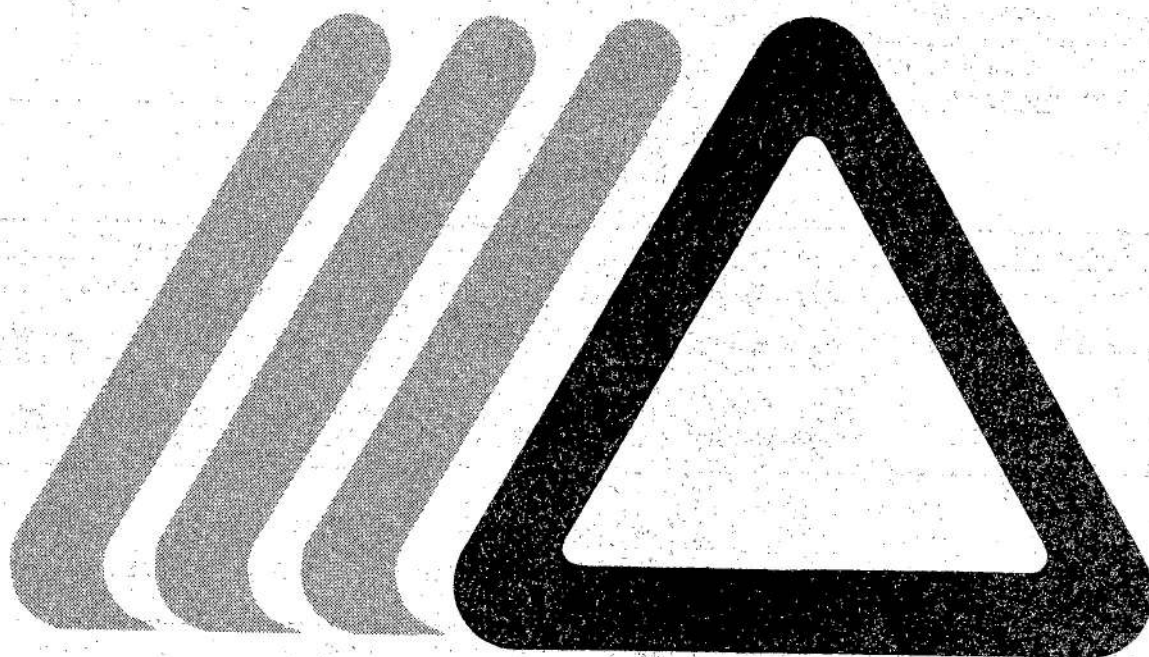
Kolom 1	Kolom 2	Kolom 3
Naam van politieke organisasie	Aantal persone wat as lede benoem moet word	Aantal persone wat as Ministers benoem moet word
1. Arbeidersparty van Suidwes-Afrika.....	8	1
2. Demokratiese Turnhalle Alliansie (DTA).....	22	3
3. Nasionale Party van Suidwes-Afrika.....	8	1
4. Rehoboth Bevryde Demokratiese Party.....	8	1
5. "South West Africa National Union" (SWANU).....	8	1
6. "SWAPO-Democrats" (SWAPO-D).....	8	1

AANHANGSEL 3**WETTE GEWYSIG**

(Artikel 36)

Nummer van wet	Kort titel	Omvang van wysiging
Proklamasie 85 van 1979 van die Staatspresident	Skatkis- en Ouditproklamasie, 1979	Die wysiging van artikel 3 deur subartikels (1) en (2) te skrap.
Wet 1 van 1982 van die Nasionale Vergadering	Wet op Staatsfinansies, 1982	Die herroeping van artikel 36, vir sover dit betrekking het op die wysiging van subartikels (1) en (2) van artikel 3 van genoemde Skatkis- en Ouditproklamasie, 1979.
Proklamasie AG. 3 van 1983	Proklamasie op die Herroeping van die Proklamasie op die Nasionale Vergadering en die Ministersraad, 1983	Die herroeping van artikel 1, vir sover dit betrekking het op die wysiging van subartikel (2) van artikel 3 van genoemde Skatkis- en Ouditproklamasie, 1979.

**Drinking and driving is a criminal
offence**



**Drink en bestuur is 'n kriminele
oortreding**

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